Crypto-backed stablecoins

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A crypto-backed stablecoin is issued by a protocol against over-collateralised deposits of other crypto assets. MakerDAO's DAI, now rebranded as USDS under the Sky protocol, is the leading example. A user locks ETH or other collateral worth, say, USD 150 in a smart contract and may mint up to USD 100 of DAI. If the collateral's value falls toward the debt, the protocol auctions the collateral to repay it. The peg is maintained by the over-collateralisation and by market incentives. No issuer gives a redemption promise.

That last phrase is the crux. There is no issuer. The holder of DAI has a claim against no one. She holds a token whose value derives from the protocol's rules and the collateral they control. On the FINMA taxonomy DAI is a payment token with no deposit characterisation, because no one has accepted money and promised to repay it. The user who locks collateral and mints DAI has taken a loan from no one either, because the protocol is not a person. Swiss law has no ready category for this relationship and the author's view is that the minting user and the protocol stand in no contractual relationship at all, with the governance token holders potentially liable as a simple partnership under Art. 530 ff. CO if they can be identified. Chapter VII develops that point.

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Under Singapore law DAI is a DPT. It is denominated in no currency, is used as a medium of exchange and is pegged by its issuer to nothing, because it has no issuer. MAS's SCS framework expressly excludes it, since the framework covers only tokens whose issuer pegs them to a single currency. An exchange that lists DAI provides a DPT service and needs a PSA licence. The protocol itself needs nothing, because it is not a person and does not operate in Singapore.

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