One asset class, two vocabularies

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The last difference is one of language. It is the one most likely to cause an error in a cross-border mandate. Swiss law speaks of payment tokens, utility tokens and asset tokens, of ledger-based securities, of crypto-based assets in the DEBA and of financial intermediaries under the Anti-Money Laundering Act (AMLA; GwG). Singapore law speaks of digital payment tokens, of e-money, of capital markets products and of digital tokens under the FSMA, each of which is a defined statutory term with a boundary that does not coincide with any Swiss category. A "payment token" in FINMA's sense is close to a "digital payment token" under the PSA but the two are not identical, because the PSA definition excludes e-money and limited-purpose tokens by express words, while the FINMA category is functional.[1] An "asset token" in FINMA's sense will usually be a "capital markets product" under the Securities and Futures Act, but a utility token with investment features may be a security in Switzerland and nothing at all in Singapore, or the reverse.

Practice note

You should never translate a classification from one hub into the other. A token that counsel in Zug has classified as a utility token under FINMA's guidelines must be classified afresh under the Payment Services Act and the Securities and Futures Act

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before it is offered in Singapore. In the other direction, a digital payment token in Singapore must be tested against the Swiss deposit, securities and AML definitions before a Swiss entity touches it. The classification memoranda should be kept side by side in the data room, because a bank or an acquirer will ask for both. Part B, Chapter III sets out the two taxonomies and the problem cases in detail.

Example

A Zug GmbH issues a token that gives access to a decentralised storage network and can be used to pay for storage. FINMA, on a well-prepared enquiry, confirms that the token is a utility token with a payment function and that the issuer is a financial intermediary under the AMLA, so that the GmbH joins a self-regulatory organisation and identifies its purchasers. The same GmbH then wishes to list the token on a Singapore exchange. Under Singapore law the token is a digital payment token because it is a digital representation of value that is intended to be a medium of exchange, so the exchange needs its DPT licence to list it. The GmbH itself needs no Singapore licence provided it does not carry on a digital token service in or from Singapore. If, however, the GmbH's founders had chosen a Singapore private limited company as the issuer, that company would since 30 June 2025 have needed a DTSP licence to sell the token to overseas purchasers, and MAS would in all likelihood have refused it. The same token, the same business, two outcomes determined entirely by the choice of issuing entity.

Notes

1. Payment Services Act 2019, s. 2(1), definition of "digital payment token" and of "e-money"; FINMA ICO Guidelines of 16 February 2018, section 3.1. ↩

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