Phase one: discovery, 2013–2017

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Why the history matters

Regulation of digital assets in Switzerland and Singapore was not designed on a blank sheet. Every rule described in this book was written in response to something that happened, usually something that went wrong. A practitioner who knows what the rule was written against will apply it better than one who knows only its text. This chapter tells the story in four phases, pausing at each of the failures that shaped the law, and ends with the global layer that increasingly determines what both hubs do. Part C, Chapters V and VI and Part I, Chapter III tell the Swiss and Singapore stories in greater detail. Annex A1 gives a year-by-year chronology.

Switzerland noticed Bitcoin early and from the top. In June 2014 the Federal Council published a report on virtual currencies in response to parliamentary postulates. It concluded that Bitcoin was neither money nor a security under existing law, that its exchange for fiat was a financial-intermediary activity subject to the AMLA and that no new legislation was needed.[1] The same year the Ethereum Foundation chose Zug, Bitcoin Suisse began brokering for private clients and the first cantonal rulings on the tax treatment of mined and traded coins were issued. The town of Zug's acceptance of Bitcoin for fees in 2016 was a small act with a large signalling effect. The label "Crypto Valley" attached itself to the canton around the same time.

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FINMA's contribution in this phase was quiet: it treated Bitcoin exchanges as financial intermediaries, admitted them to the self-regulatory organisations and otherwise waited.

Singapore's discovery was institutional. In March 2014 MAS announced that it would regulate virtual-currency intermediaries for money-laundering and terrorist-financing risk while declining to regulate the currencies themselves, a position it maintained for six years.[2] In 2016 it launched the FinTech Regulatory Sandbox, held the first Singapore FinTech Festival and began Project Ubin, a multi-year experiment in tokenised interbank payments that became the ancestor of Project Guardian. The decisive move of the phase was the 2017 ICO boom. Zug hosted the Tezos, Bancor and Status offerings, which together raised hundreds of millions of dollars within weeks, while Singapore hosted a comparable wave. Both regulators responded within months. MAS said on 1 August 2017 that tokens which were capital-markets products would be regulated under the Securities and Futures Act and issued its Guide to Digital Token Offerings on 14 November 2017.[3] FINMA published Guidance 04/2017 on 29 September 2017 announcing that it was investigating several ICOs and would apply existing law, and followed with the ICO Guidelines of 16 February 2018.[4]

Notes

1. Federal Council, "Bericht des Bundesrates zu virtuellen Währungen in Beantwortung der Postulate Schwaab (13.3687) und Weibel (13.4070)", 25 June 2014. ↩
2. MAS, media release "MAS to regulate virtual currency intermediaries for money laundering and terrorist financing risks", 13 March 2014. ↩
3. MAS, media release "MAS clarifies regulatory position on the offer of digital tokens in Singapore", 1 August 2017; MAS, "A Guide to Digital Token Offerings", 14 November 2017. ↩
4. FINMA Guidance 04/2017 "Regulatory treatment of initial coin offerings" of 29 September 2017; FINMA, "FINMA publishes ICO guidelines", media

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release of 16 February 2018, introducing the payment, utility and asset token categories. ↩

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