The problem cases

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The three taxonomies agree on Bitcoin, on a tokenised share and on a dollar stablecoin. They were written for those cases. Most of the advisory work since 2021 has concerned tokens that fit none of the boxes cleanly. The following subsections take each in turn and set out the analysis the author applies in practice.

Governance tokens

A governance token confers a right to vote on proposals that change a protocol's parameters, allocate its treasury or upgrade its code. UNI, AAVE, MKR and COMP are the leading examples. The token typically confers no claim to revenue, no claim against any person and no access right to the service, which anyone can use without holding it.

On the FINMA analysis the starting point is that a pure governance token is neither a payment token nor a utility token in the strict sense, because it neither pays for anything nor unlocks access. It is an asset token only if the voting right is coupled with an economic entitlement. The analysis therefore turns on two facts: whether the protocol distributes fees or buybacks to holders and whether the governance process can decide to do so. Where the protocol already pays holders, FINMA has treated the token as having an investment function. Where governance merely could vote to pay, the question is open and the author's practice is to document the treasury rules and the historical use of the vote.[1]

Singapore's analysis is similar but runs through the SFA. A governance token is a capital markets product if it is a share, a debenture or a unit in a collective investment scheme. It is none of these unless it confers a right to profits or represents a pooled investment. MAS has not treated voting rights alone as sufficient. A governance token that trades on secondary markets and is accepted as payment anywhere is however a DPT. Its exchanges and custodians therefore fall within the PSA. Part E, Chapter IX and Part K, Chapter IX treat the "sufficient decentralisation" question that governance tokens raise for the protocol itself.

Liquidity-provider tokens

A liquidity-provider (LP) token is minted by an automated market maker when a user deposits a pair of assets into a pool. It represents a pro-rata share of the pool and entitles the holder to withdraw her share, including accumulated trading fees, by burning the token. Chapter VI explains the mechanics. For classification the LP token is the clearest case in the problem set. It represents a share in a pool of assets managed according to fixed rules for the benefit of the holders. That is the economic description

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of a collective investment scheme in both hubs. Under the Swiss Collective Investment Schemes Act (CISA; KAG), the question is whether there is "management by a third party", which an immutable smart contract arguably does not supply. Under the SFA, the equivalent question is whether the participants have "day-to-day control" over the management of the property, which they do not. The author's view is that an LP token in a protocol with an active governance body or an upgradeable contract is a collective investment in Switzerland and a CIS unit in Singapore. An LP token in a fully immutable pool with no governance is outside both definitions. The point has not been decided by either regulator and should be flagged in any opinion.[2]

Wrapped tokens

Chapter I described the mechanics. For classification the wrapped token takes the category of the underlying asset plus the regulatory consequences of the wrapping arrangement. WBTC is economically Bitcoin and is a payment token and a DPT. The custodian that holds the Bitcoin and mints the WBTC is a custodian of crypto-based assets and, because holders may redeem against it, is arguably accepting deposits in kind. FINMA has not published a decision on WBTC-type arrangements. Its stablecoin supplement, which treats a redemption claim against an issuer as the hallmark of a deposit, points toward a deposit analysis unless the holder has a property right in the specific underlying coins.[3] In Singapore, the wrapper's custodian provides a DPT custody service and the wrapped token is itself a DPT.

A wrapped security token is different again. A tokenised share wrapped onto another chain by a third party is a derivative of the share unless the wrapper transfers the share itself into a structure the holder can enforce. Under Swiss law a ledger-based security exists only on the ledger designated in its registration agreement, so the wrapped version on another chain is a new instrument that must be analysed on its own terms.

Liquid staking and restaking receipts

A liquid staking token (stETH, rETH) represents a claim on staked ETH plus accrued rewards against a protocol or a provider. A restaking receipt, as issued by EigenLayer and its successors since 2024, represents a liquid staking token that has in turn been committed as security to additional networks. The holder earns a second layer of reward and bears a second layer of slashing risk. The receipt is therefore a claim on a claim.

FINMA's 2023 staking guidance addressed custodial staking and said nothing about liquid or restaked receipts. The author's analysis is that a liquid staking token issued by an identifiable provider against a pool of staked assets is a collective investment if the provider manages the pool, and a derivative if it merely passes through the economic result. A receipt issued by an immutable protocol with no manager is a payment-type token whose value depends on the underlying, which brings the AMLA but no securities regime. Restaking receipts aggregate risk in a way that both regulators have described as a financial stability concern, and a Swiss or Singapore provider that offers them to any customer should expect searching questions about disclosure.[4]

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Points and pre-token rewards

Since 2023 many protocols have replaced early token distributions with "points", which are off-chain tallies kept by the project team that record a user's activity and are expected to convert into tokens at a later launch. Points are not on any ledger, cannot be transferred and confer no enforceable right. They are outside every taxonomy in this chapter. The legal risk lies elsewhere. A project that promises or implies a conversion ratio has made a representation that may found a misrepresentation claim. A project that runs a points programme to encourage deposits into its protocol may be marketing a future security without a prospectus. The author advises clients running points programmes to publish explicit terms stating that points confer no right to any token and that any future distribution is at the project's discretion, and to avoid any statement of expected value.

Non-fungible tokens

An NFT is a token whose contract records a unique identifier for each unit, so that units are distinguishable and not interchangeable. The ERC-721 and ERC-1155 standards on Ethereum are the common implementations. An NFT may represent a work of digital art, a ticket, a domain name, a game item, a real-estate deed or a share of a fund. Classification follows the represented right and ignores the token form.

FINMA has stated that NFTs representing unique items are generally outside financial market law but that an NFT series issued in large numbers with identical rights, or an NFT fractionalised into fungible shares, may be a security or a collective investment.[5] MAS took the same position in a parliamentary reply of February 2022, stating that it does not regulate NFTs as such but will regulate an NFT that has the characteristics of a capital markets product.[6] MiCA excludes unique and non-fungible crypto-assets but includes "fractional parts" and assets issued "in a large series or collection" that are in substance fungible.

The practical test in both hubs is the same. If the NFT's value depends on the holder's own enjoyment of a unique item, it is outside financial regulation. If its value depends on the efforts of the issuer or on returns from an underlying pool, it is inside. An NFT that confers access to a club or event is a utility token in Swiss terms and outside the SFA in Singapore. An NFT that confers a share of royalty income is an asset token and a capital markets product.

Soulbound tokens

A soulbound token is a non-transferable NFT bound to one address, proposed by Vitalik Buterin and others in 2022 as a credential or attestation.[7] A university degree, a KYC attestation or a membership can be issued as one. Because it cannot be transferred it cannot be a medium of exchange, cannot be traded and cannot be a DPT or a payment token. It is outside every financial taxonomy. Its legal relevance lies in two fields. In data protection, an attestation bound to a pseudonymous address becomes personal data as soon as the address is linked to a person. In evidence, a soulbound credential may serve as proof of identity verification in an AML programme if the issuer is trustworthy. Part F,

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Chapter III and Part L, Chapter II consider whether a Swiss or Singapore financial intermediary may rely on such attestations for customer due diligence.

ERC-404 and other fungible/non-fungible hybrids

The ERC-404 experimental standard of early 2024 links a fungible token to a set of NFTs so that holding a whole unit of the fungible token mints an NFT and selling a fraction burns it. The result is an asset that is simultaneously divisible and unique. Such hybrids defeat the NFT exclusion in MiCA, because the fungible side is a crypto-asset in a series, and they defeat the Swiss and Singapore assumption that uniqueness takes a token outside the perimeter. The author's approach is to analyse the fungible component as the governing one, because the fungible component is what trades, and to treat the NFT component as an attached feature. If the fungible component has no issuer claim and functions as a medium of exchange it is a payment token and a DPT. If it carries an economic entitlement it is an asset token and a capital markets product.

Memecoins

A memecoin is a payment-type token with no utility, no issuer claim and no project behind it beyond a community and a joke. Dogecoin, Shiba Inu, PEPE and the thousands of tokens launched on Solana through pump.fun since 2024 fall in this class. Classification is easy. A memecoin is a payment token under FINMA's taxonomy and a DPT in Singapore. Nothing about it is a security, because it promises nothing. The legal problems lie in market conduct and in the position of the launcher.

Consider the launcher who retains a large allocation, promotes the token and sells into the demand he has created. Both Swiss and Singapore law may treat that conduct as market manipulation if the token trades on a regulated venue. If the promotion contains false statements, general criminal law on fraud applies. Switzerland's market abuse provisions in Arts 142 and 143 FinMIA apply to securities admitted to trading on a Swiss venue, which memecoins almost never are. The Swiss analysis therefore runs through Art. 146 of the Criminal Code (SCC; StGB) on fraud and through unfair competition law. Singapore's SFA market misconduct provisions in Part 12 are likewise confined to capital markets products, so the analysis there runs through the Penal Code 1871 offence of cheating.[8] Influencers who promote memecoins for undisclosed payment face advertising-law and, in Switzerland, FinSA conduct questions if the token is a financial instrument, which a memecoin is not. The author's practical advice to a client launching a community token is set out in Part P, Chapter V.

Singapore perspective

A Singapore company that launches a token must ask one further question that a Swiss company need not. Is the company, by issuing and selling the token, "dealing in" a DPT? MAS's position is that an issuer selling its own token is not thereby providing a DPT service, because the service definitions contemplate dealing on behalf of others or operating a platform. The company that goes on to run a secondary market, buy back tokens from the public or custody tokens for users does provide a service and needs a licence. Keep issuance and any ongoing market activity in separate entities and document the separation.

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Notes

1. The analysis follows FINMA ICO Guidelines of 16 February 2018, section 3.2.2 (utility tokens with investment function), and FINMA's published practice on governance tokens in its 2022 and 2023 Annual Reports. No FINMA guidance addresses governance tokens by name as of 30 June 2026.
2. Collective Investment Schemes Act, SR 951.31, Art. 7 para. 1 (definition: assets raised from investors for collective investment and managed for their account by a third party); Securities and Futures Act 2001 (Singapore), s. 2(1), definition of "collective investment scheme", limb (a)(ii) on day-to-day control. Part E, Chapter VI and Part K, Chapter IV.
3. FINMA Supplement of 11 September 2019, section 2.1 (tokens linked to currencies or commodities; redemption claim as deposit indicator). Part E, Chapter II applies the deposit analysis.
4. FINMA Guidance 08/2023 of 20 December 2023 (custodial staking only). On restaking as a stability concern see FSB, The Financial Stability Implications of Multifunction Crypto-asset Intermediaries, 28 November 2023, and MAS, Financial Stability Review 2024, Box on digital assets. Part E, Chapter VIII.
5. FINMA, Annual Report 2021, section on fintech (NFTs; case-by-case assessment; fractionalisation). Part E, Chapter X.
6. MAS, Reply to Parliamentary Question on the regulation of non-fungible tokens, 14 February 2022 (written answer by the Minister in charge of MAS). Part K, Chapter IX.
7. E. Glen Weyl, Puja Ohlhaver and Vitalik Buterin, "Decentralized Society: Finding Web3's Soul", working paper, May 2022.
8. Financial Market Infrastructure Act, SR 958.1, Arts 142–143 (insider trading and market manipulation, confined to securities admitted to trading on a Swiss trading venue); Securities and Futures Act 2001 (Singapore), Part 12 (market conduct). Part E, Chapter X and Part N, Chapter I.

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