Two meanings of tokenisation

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"Tokenisation" describes two quite different operations. Most confusion in the field comes from failing to separate them. In the first, the ledger is the register. The token is the asset, in the sense that the legal right exists in and is transferred through the ledger entry, with no other record having priority. A Swiss ledger-based security under Art. 973d ff. CO is the paradigm. In the second, the ledger is a record. The asset exists elsewhere, in a land register, a share register, a depository account or a vault. The token is a representation of it, a receipt, a claim against whoever holds it, or simply a mirror. Most tokenised funds, tokenised real estate and tokenised gold fall in this class.

The distinction decides who owns what when the ledger and the other record disagree, what a transfer of the token transfers, and whether the holder has a property right or a claim. It is the first question the author asks about any "tokenised" product and it is the organising principle of this chapter.

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