Two reference models

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Swiss issuer, Singapore distributor

A Zug foundation or AG issues a token or a tokenised security. The Singapore subsidiary markets it to Asian investors, onboards them and provides customer support. The Swiss issuer holds the SRO affiliation or complies with FinSA for the offer. The Singapore distributor needs a licence only if its activity falls within the Payment Services Act or the Securities and Futures Act. That depends on whether the token is a digital payment token or a capital markets product and whether the distributor "deals in" it or merely introduces investors to the issuer.[1] The model works for security tokens offered to accredited and institutional investors in Singapore under the SFA exemptions, because the Singapore entity can act as an introducer without a licence if it does not deal. It works less well for payment tokens, because any Singapore entity that arranges the sale of a digital payment token for the issuer is likely to be dealing and needs a licence.

Singapore fund, Swiss manager

A Singapore VCC holds the fund assets and the investors' interests. A Swiss FinIA-licensed manager of collective assets or portfolio manager manages the portfolio under a delegation from the VCC's Singapore fund manager, or acts as the investment adviser. The Singapore fund manager, a licensed fund management company, remains responsible to MAS for the fund and must have the resources to supervise the delegate.[2] The Swiss manager is taxed in Switzerland on its fee. The VCC is taxed in Singapore unless it qualifies for the fund incentives of Part M, Chapter IV, while the investors are taxed at home. Chapter VI develops this model and its mirror image.

Cross-border perspective

A group can test any proposed allocation of functions with three questions. Does the entity that books the revenue have the people who earn it? Does the entity that owns the asset have the board that controls it? Does the entity that holds the licence have the compliance staff that the regulator will interview? If the answer to any of the three is no, the allocation will fail at the first audit, inspection or bank review. The group should then move either the function or the booking so that the answer becomes yes.

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Notes

1. Payment Services Act 2019, First Schedule, Part 3, para. 1 (dealing in digital payment tokens; facilitating the exchange of digital payment tokens); Securities and Futures Act 2001, Second Schedule (dealing in capital markets products; advising on corporate finance). Part K, Chapters I and IV.
2. Variable Capital Companies Act 2018 (2020 Rev. Ed.), s. 46 (a VCC must have a fund manager that is a licensed or registered fund management company, a bank or other permissible manager); MAS, Guidelines on Licensing, Registration and Conduct of Business for Fund Management Companies (SFA 04-G05), section on outsourcing and delegation.

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