Why classification comes first

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Every regulatory question in this book begins with a classification. Is the token a security, a payment instrument, a claim on money, a right to use a service, or none of these? The answer decides which statute applies, which licence is needed, which disclosure document must be written and which tax rule governs. Switzerland, Singapore and the European Union each run a taxonomy. They overlap substantially and diverge at the edges, and the edges are where clients live. This chapter sets out the three systems, aligns them in a table and then works through the token types that resist classification.

One warning applies throughout. Classification is a function of what the token does and what rights attach to it, as those facts stand at the moment of analysis. The same token can change category. A utility token sold before the platform exists is, in FINMA's view, an asset token until the platform works. A governance token acquires security characteristics when the protocol begins distributing fee revenue to holders. The analysis must be dated and must be repeated when the facts change.

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