Why compare at all

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A book about two legal systems could simply describe each in turn and leave the comparison to the reader. This book does not, for a practical reason. The clients who need it are almost never choosing between Switzerland and Singapore in the abstract. They are deciding where to put a specific function, a treasury, a licence, a founder's residence or a fund. For that they need to know how the two systems answer the same question. Comparison is therefore built into the structure. Parts C to H and Parts I to N mirror each other chapter by chapter. Part O draws the two together along seven axes, after which Part P uses the result to design structures that span both. This chapter explains the method so that the reader can apply it to a question the book does not cover.

Comparative law has a bad reputation among practitioners because it is often done badly. The common faults are three. The first is comparing a rule in one system with a rule in the other without asking whether the two rules do the same job. That fault produces the false conclusion that Singapore has no insolvency-segregation rule because it has no Art. 242a DEBA, when trust law does the work instead. The second is comparing the text of the law without the practice. That fault produces the false conclusion that Switzerland is more permissive than Singapore on retail crypto because it has no retail restrictions, when the Swiss banks' own onboarding rules achieve much of the same effect. The third is comparing at a single point in time without asking which way each system is moving, which produces structures that are compliant on the day they are built and obsolete within a year. The method described here is designed to avoid all three.

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