

CRYPTOASSETS & BLOCKCHAIN

Singapore



Cryptoassets & Blockchain

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Quick reference guide enabling side-by-side comparison of local insights, including into the legal and regulatory framework; use of cryptoassets for investment, financing, trading and payments; cryptocurrency mining; blockchain and other distributed ledger technologies; and recent trends.

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GENERAL LEGAL AND REGULATORY FRAMEWORK

Legal framework

What legal framework governs cryptoassets? Is there specific legislation governing cryptoassets and businesses transacting with cryptoassets?

In general, persons dealing in cryptoassets should be mindful of the implications under:

- the Commodity Trading Act (CTA);
- the Securities and Futures Act (SFA); and
- the Payment Services Act (PSA).

Among other classifications, a cryptoasset may be:

- a commodity under the CTA;
- a capital markets product under the SFA; or
- a digital payment token (DPT) under the PSA.

A cryptoasset, which is a digital representation of value that is expressed as a unit not denominated in, or pegged, to any currency and intended to be a medium of exchange, is likely to fall within the definition of a DPT. Examples of this include Bitcoin and Ethereum. Any business that deals in DPTs or offers any service facilitating the exchange of DPTs is considered to perform a DPT service, which is a regulated activity under the PSA regime.

Other cryptoassets such as digitised security tokens or digital asset tokens that give the holder rights akin to those of shareholders or debenture holders or other economic rights, or which derive their value from underlying things like commodities, financial instruments and indices, may be considered securities or derivatives contracts under the SFA.

Persons dealing in or providing corporate finance advice on such cryptoassets must hold a capital markets services licence (CMSL) for the regulated activities of dealing in capital market products and advising on corporate finance, respectively. Issuers of such cryptoassets must be mindful of the prospectus requirements for the offer of securities under the SFA.

Businesses that transact in cryptoassets that are digital asset tokens backed by commodities (eg, gold) may fall under the CTA regime and, depending on the activities involved, may be required to be licensed under the CTA.

Law stated - 26 October 2022

Government policy

How would you describe the government's general approach to the regulation of cryptoassets in your jurisdiction?

The financial sector is an integral part of Singapore's Smart Nation vision. In implementing the Smart Nation vision, the transformation of the financial sector has focused on fintech and innovation. The Monetary Authority of Singapore (MAS) has been closely monitoring the developments and the potential risks that cryptocurrencies pose. The MAS recognises that the underlying distributed ledger technology holds much promise for application in areas such as cross-border payments and trade finance, but also acknowledges that the anonymous nature of certain cryptoassets facilitate illicit transactions and that the hype around tokens has sparked speculation and increased the risk of fraud.

The MAS adopts a balanced approach by being open to innovation and helping the industry harness the potential benefits of blockchain technology and cryptoassets, while focusing on activities associated with cryptoassets, evaluating the risks and considering appropriate regulatory responses to manage them.

Singapore has played an active role in the thought-leadership of the Financial Action Task Force (FATF) in cryptoassets. Since 2018, Singapore has been at the forefront of implementing the FATF's guidance on a risk-based approach to virtual assets and virtual asset service providers.

The Financial Services and Markets Act 2022 (FSMA) was passed by Parliament on 5 April 2022 and assented to by the president on 25 April 2022. It provides a licensing regime for certain persons who, from a place of business in Singapore, carry on the business of providing any type of 'digital token service' outside Singapore. The FSMA extends anti-money laundering and counter terrorism financing (AML/CFT) requirements to such persons.

In the FSMA, 'digital token' refers to (1) a digital payment token; or (2) a digital representation of a capital markets product that can be transferred, stored or traded electronically, and that satisfies such other characteristics as the MAS may prescribe. 'Digital token service' covers a wide range of activities, including any service of:

- dealing in digital tokens;
- facilitating the exchange of digital tokens;
- accepting digital tokens from one digital token account (whether in Singapore or elsewhere) for the purposes of transmitting, or arranging for the transmission of, the digital tokens to another digital token account (whether in Singapore or elsewhere);
- brokering or buying and selling any digital tokens in exchange for any money or any other digital tokens;
- safeguarding a digital token or digital token instrument (any kind of cryptographic key to control access or execute transactions involving digital tokens) where the service provider has control over the digital token or digital token instrument;
- carrying out an instruction relating to a digital token for a customer where the service provider has control over the digital token; and
- providing advice relating to any digital token or providing advice by issuing or promulgating research reports relating to any digital token in connection with the sale or the offer for sale of digital tokens.

Law stated - 26 October 2022

Regulatory authorities

Which government authorities regulate cryptoassets and businesses transacting with cryptoassets?

The MAS supervises the FSMA, SFA and PSA regimes, while Enterprise Singapore administers the CTA regime. The Inland Revenue Authority of Singapore (IRAS) oversees the income tax treatment of the receipt and disposal of digital payment tokens.

Law stated - 26 October 2022

Regulatory penalties

What penalties can regulators impose for violations relating to cryptoassets?

Under the PSA, an offender may face an injunction, an order for specific performance, a fine or a prison term or both. Fines range from S\$2,000 to S\$250,000 with additional fines of up to S\$25,000 per day for continuing offences, while prison terms range from three months to three years.

Under the SFA, an offender may face an injunction, a fine or a prison term or both. Fines range from S\$2,000 to S\$250,000 with additional fines of up to S\$25,000 per day for continuing offences, while prison terms range from three months to seven years.

Under the CTA, an offender may face a fine of between S\$5,000 and S\$500,000 or a prison term of 12 months to seven years or both.

The FSMA expands MAS' authority and powers to regulate digital token service providers, who can be subject to prohibition orders and fines of up to S\$1 million (for violations of AML/CFT and technology risk management requirements) as well as disciplinary sanctions.

Law stated - 26 October 2022

Court jurisdiction

Which courts have jurisdiction over disputes involving cryptoassets?

In the absence of any contractual clauses specifying the jurisdiction for dispute resolution, the Singapore courts have jurisdiction. The District Court has jurisdiction over claims below S\$250,000, while the High Court has jurisdiction over claims above S\$250,000.

Law stated - 26 October 2022

Legal status of cryptocurrency

Is it legal to own or possess cryptocurrency, use cryptocurrency in commercial transactions and exchange cryptocurrency for local fiat currency in your jurisdiction?

The services of buying and selling of cryptocurrencies for fiat currency and the facilitating of exchanges of cryptocurrencies for fiat currency constitute regulated activities under the PSA.

Law stated - 26 October 2022

Fiat currencies

What fiat currencies are commonly used in your jurisdiction?

The official currency of Singapore is the Singapore dollar. The US dollar, yen, euro and the Australian and Singapore dollars are the most-traded currencies in Singapore.

Law stated - 26 October 2022

Industry associations

What are the leading industry associations addressing legal and policy issues relating to cryptoassets?

The leading industry associations addressing legal and policy relations relating to cryptoassets are:

- ACCESS;
- the Blockchain and Crypto Association of Singapore; and
- the Singapore Fintech Association.

CRYPTOASSETS FOR INVESTMENT AND FINANCING

Regulatory threshold

What attributes do the regulators consider in determining whether a cryptoasset is subject to regulation under the laws in your jurisdiction?

Regulators consider whether a cryptoasset contains attributes of, among others:

- a commodity under the Commodity Trading Act (CTA);
- a capital markets product under the Securities and Futures Act (SFA); or
- a digital payment token (DPT) under the Payment Services Act (PSA).

The Monetary Authority of Singapore (MAS) has provided guidance that a cryptoasset may be:

- a share, if it confers or represents ownership interest in a company;
- a debenture, if it evidences the issuer's indebtedness in respect of any money that is or may be lent to the issuer by the token holder;
- a unit in a business trust, if it confers or represents ownership interest in the trust property of a business trust;
- a securities-based derivatives contract, if it is a form of derivatives contract of which the underlying thing is a share or debenture of unit in a business trust; and
- a unit in a collective investment scheme.

The offer of such cryptoassets is subject to the regulatory regime relating to the offers of investments, which contains, among other things, the prospectus and prospectus exempt requirements.

A cryptoasset is a DPT under the PSA if it:

- is expressed as a unit;
- is not denominated in or pegged to any currency;
- is intended to be a medium of exchange accepted by the public; and
- can be transferred or stored electronically.

Service providers that deal in or facilitate the exchange of DPTs, unless otherwise exempted or excluded, must hold a standard payment institution licence or a major payment institution licence, depending on whether the monthly average value of transactions accepted, processed, or executed over a calendar year exceeds S\$3 million or its equivalent in foreign currency.

Investor classification

How are investors in cryptoassets classified and treated differently?

Certain requirements under the SFA and the CTA do not apply to accredited investors. There is also different regulatory

treatment of expert investors and institutional investors under the SFA.

Under the PSA regime, there is no classification of investors.

The SFA regime identifies different classes of investors, namely, retail customers, expert investors, accredited investors and institutional investors:

'Retail customers' are customers who are not accredited investors, expert investors or institutional investors.

'Expert investors' are persons whose business involves the acquisition, disposal or holding of capital markets products as principal or agent, or a trustee of such trust that the MAS may prescribe.

An 'accredited investor' is generally:

- an individual who:
 - has net personal assets exceeding S\$2 million in value (where the value of the individual's primary residence is either S\$1 million or the fair market value of the residence less any credit facility secured by the individual's primary residence, whichever is lower); or
 - whose income in the preceding 12 months is not less than S\$300,000; or
- a corporation with net assets exceeding S\$10 million.

The SFA contains a further segment for accredited investors, defined as parties that have net financial assets exceeding S\$1 million in value.

Institutional investors include investors that are controlled or owned by the government or financial regulated institutions.

Generally, retail customers are afforded the most protection and businesses must satisfy most regulatory requirements to offer any products or services to such customers. There are fewer regulatory requirements vis-a-vis expert, accredited and institutional investors (eg, prospectus exemption provisions).

Law stated - 26 October 2022

Initial coin offerings

What rules and restrictions govern the conduct of, and investment in, initial coin offerings (ICOs)?

Generally, offers of utility tokens are unregulated. However, Singapore's authorities have warned that if ICOs involve tokens that appear to be securities, they will be treated as such. Enforcement action has been taken against some token issuers that breached the SFA. The MAS and other Singapore authorities have also issued warnings to the public to be careful about ICOs that are scams.

As for companies listed on the Singapore Exchange (SGX), the SGX has laid out the following guidelines for companies considering conducting ICOs:

- Listed issuers who intend to conduct digital token sales must first consult with the SGX Regulation (SGX RegCo) and make all relevant disclosures thereto. Issuers must provide legal opinions on the nature of the digital tokens and an auditor opinion on the ICO's accounting treatment.
- The issuer must disclose to its shareholders details of:
 - the rationale for the ICO;
 - any risks (operational and cybersecurity) arising from the ICO;
 - the use of funds raised;
 - accounting and valuation treatments for the ICO;

- know-your-customer checks to address money laundering and terrorist financing risks;
 - the accounting and valuation treatment for ICOs;
 - the use of existing issuer funds to conduct an ICO;
 - the financial impact on the issuer following the token issuance; and
 - any impact on existing shareholders' rights.
- After the ICO, listed issuers must keep their shareholders informed of material information and the use of the ICO proceeds. These companies must also agree with their statutory auditors on the scope of an audit, which should provide assurance that the ICO has been properly accounted for in their financial statements, that associated risks have been adequately addressed and milestones on the utilisation of funds raised have been adhered to.

Law stated - 26 October 2022

Security token offerings

What rules and restrictions govern the conduct of, and investment in, security token offerings (STOs)?

'Securities' has a broad meaning under the SFA and comprises shares, units in a business trust or any instrument conferring or representing a legal or beneficial ownership interest in a corporation, partnership, or limited liability partnership; it excludes units of a collective investment scheme.

Where tokens are considered to be securities, securities-based derivatives contracts or units in a collective investment scheme, the issue of such tokens is subject to the prospectus requirements under the SFA, unless otherwise exempted.

Depending on the issuer's business activities and whether the token amounts to a capital markets product, the issuer may require a CMSL for dealing in capital market products that are securities under the SFA, unless otherwise exempted.

Holders of a CMSL that carry on the business of dealing in tokens that are capital markets products must comply with anti-money laundering and counter terrorism financing (AML/CFT) requirements under MAS' Notice SFA04-N02.

Intermediaries that facilitate offers or the issuance of such security tokens (including operators of platforms on which the security tokens are offered, issued, or traded and those providing financial advice in respect of such tokens) may also be subject to licensing and other regulatory requirements under the SFA or the Financial Advisors Act (Chapter 110).

Law stated - 26 October 2022

Stablecoins

What rules and restrictions govern the issue of, and investment in, stablecoins?

There is presently no definition of 'stablecoin' in any of Singapore's legislation. The MAS has acknowledged that by exhibiting characteristics typically associated with money, stablecoins may be blurring the line between the e-money and DPT regimes.

Where an issuer of a stablecoin pegged to a currency must buy back tokens from holders, such stablecoin may constitute a debenture if the token represents the issuer's indebtedness to the holder to pay back the holder the monetary value per token. Hence, securities laws may apply.

Regarding stablecoins with values pegged to any fiat currency that falls within the definition of 'e-money' under the PSA, the MAS' general regulatory stance is not to regulate these as a form of debenture.

The provider of an e-money issuance service will have to hold a major payment institution licence if the average daily float over a calendar year exceeds S\$5 million or its equivalent in foreign currency.

Law stated - 26 October 2022

Airdrops

Are cryptoassets distributed by airdrop treated differently than other types of offering mechanisms?

No, cryptoassets distributed by airdrop are not treated differently from other types of offering mechanisms. The applicable regulatory regime depends on the nature and attributes of the cryptoasset.

Law stated - 26 October 2022

Advertising and marketing

What laws and regulations govern the advertising and marketing of cryptoassets used for investment and financing?

The regulation of the advertising or marketing of a cryptoasset depends on whether the cryptoasset falls under any of the relevant laws.

Under the SFA, if the cryptoassets amount to securities, securities-based derivatives contracts or units in a collective investment scheme requiring a prospectus for the offer or intended offer, there can be no advertisement of the offer or publication that is likely to induce people to subscribe to the cryptoassets, unless the prospectus or prospectus exempt requirements are satisfied.

Further, if the cryptoassets amount to capital markets products under the SFA, holders of a capital markets services licence (CMSL) and their representatives should consider whether the advertising or marketing of a cryptoasset amounts to a 'product advertisement' under the regulations, which require that the advertisement not be false or misleading and that it provides a fair and balanced view of the cryptoasset to which it relates.

If a cryptoasset falls under the PSA regime, a business that wishes to advertise or market to the Singapore public in relation to the cryptoasset must be licensed under the PSA before doing so.

Law stated - 26 October 2022

Trading restrictions

Are investors in an ICO/STO/stablecoin subject to any restrictions on their trading after the initial offering?

Generally, investors in ICOs and stablecoins that do not amount to securities, securities-based derivatives contracts or units in a collective investment scheme are not subject to regulations imposing trading restrictions.

Law stated - 26 October 2022

Crowdfunding

How are crowdfunding and cryptoasset offerings treated differently under the law?

Offers of utility tokens are unregulated. Crowdfunding and cryptoasset offerings that amount to offers of securities, securities-based derivatives contracts, or units in a collective investment scheme, are subject to the prospectus requirements under the SFA, unless otherwise exempted.

Law stated - 26 October 2022

Transfer agents and share registrars

What laws and regulations govern cryptoasset transfer agents and share registrars?

General company law and business conduct rules apply to share registrars.

Depending on the transfer agent's business activity, if the cryptoasset amounts to a type of capital markets product, the transfer agent may be required to hold a CMSL for providing custodial services.

Law stated - 26 October 2022

Anti-money laundering and know-your-customer compliance

What anti-money laundering (AML) and know-your-customer (KYC) requirements and guidelines apply to the offering of cryptoassets?

Financial institutions regulated by the MAS must observe the MAS AML/CFT requirements and must put in place robust controls to detect and deter the flow of illicit funds through Singapore's financial system.

Generally, the AML/CFT requirements concern:

- risk identification, assessment and mitigation;
- customer due diligence (including KYC for beneficial owners);
- reliance on third parties;
- correspondent accounts;
- record keeping;
- internal policies, procedures and controls;
- compliance, account review, audit and training; and
- the 'Travel Rule'.

The 'Travel Rule' is an update to the existing Financial Action Task Force (FATF) Recommendation 16, which concerns cross-border and domestic wire transfers. Officially adopted by the FATF in 2019, VASPs, financial institutions and other obliged entities must ensure that the originators and beneficiaries of all transfers of digital funds exchange (and guarantee the accuracy of) identifying information.

All persons must also abide by:

- obligations to report suspicious transactions to the Suspicious Transactions Reporting Office, part of the Commercial Affairs Department of the Singapore Police Force pursuant to Section 39 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 (CDSA); and
- prohibitions on dealing with or providing financial services to designated individuals and entities pursuant to the

Terrorism (Suppression of Financing) Act 2002 (TSOFA) and various regulations giving effect to UN Security Council Resolutions.

Law stated - 26 October 2022

Sanctions and Financial Action Task Force compliance

What laws and regulations apply in the context of cryptoassets to enforce government sanctions, anti-terrorism financing principles, and Financial Action Task Force (FATF) standards?

Singapore is a member of the FATF and takes reference from the norms set by the FATF. For cryptoassets, the MAS takes guidance from, among others, the FATF Updated Guidance for a Risk-Based Approach for Virtual Assets and Virtual Asset Service Providers, published in October 2021.

Broadly, the CDSA and the TSOFA apply. Taking reference from the FATF Recommendations, these statutes:

- strengthen the government's ability to enforce and prosecute offences;
- enhance penalties for AML/CFT offences; and
- facilitate the sharing of financial intelligence with overseas jurisdictions.

In its regulation of financial institutions in Singapore, MAS also gives effect to targeted financial sanctions under the UN Security Council Resolutions through the issue of regulations prohibiting financial services, financial assistance and transfers of assets to designated individuals and entities.

Law stated - 26 October 2022

CRYPTOASSET TRADING

Fiat currency transactions

What rules and restrictions govern the exchange of fiat currency and cryptoassets?

These activities fall under the Payment Services Act (PSA) licensing regime.

Any entity that provides the service of dealing in or facilitating the exchange of digital payment tokens (DPTs), and provides the service of issuing e-money to any person, must hold a standard payment institution licence or a major payment institution licence under the PSA, as the case may be.

Exchanges that facilitate offers to buy or sell cryptoassets considered to be derivatives contracts, securities or units in a collective investment scheme may be considered to be operating an 'organised market' under the Securities and Futures Act (SFA). Such exchanges must be conducted by an approved exchange or a recognised market operator before beginning operations.

Law stated - 26 October 2022

Exchanges and secondary markets

Where are investors allowed to trade cryptoassets? How are exchanges, alternative trading systems and secondary markets for cryptoassets regulated?

There is currently no legislation prohibiting investors from trading cryptoassets. Whether cryptoasset exchanges must

be regulated under the SFA to operate an organised market either as an approved exchange or recognised market operator, or as a DPT service under the PSA, depends on the kind of cryptoassets that are traded on these exchanges.

Law stated - 26 October 2022

Custody

How are cryptoasset custodians regulated?

Depending on the business activity of the cryptoasset custodian, and if the cryptoassets amount to certain capital markets products, the custodian may be required under the SFA to hold a capital markets services licence (CMSL) for providing custodial services, unless otherwise exempted.

The Monetary Authority of Singapore (MAS) has regulatory authority over providers of digital token services (which include the safeguarding of digital tokens and/or digital token instruments), who are now required under the Financial Services and Markets Act (FSMA) to be licensed.

Law stated - 26 October 2022

Broker-dealers

How are cryptoasset broker-dealers regulated?

Depending on the business activity of the cryptoasset broker-dealer, and if the cryptoassets amount to certain capital markets products, the custodian may be required under the SFA to hold a CMSL for dealing in such products, unless otherwise exempted.

MAS has regulatory authority over providers of digital token services (which include the brokering, buying and selling of digital tokens), who are now required under the FSMA to be licensed.

Law stated - 26 October 2022

Decentralised exchanges

What is the legal status of decentralised cryptoasset exchanges?

Generally, decentralised cryptocurrency exchanges are not regulated in Singapore. Under the PSA, which requires cryptocurrency exchanges to be licensed, a 'digital payment token exchange' is a place or facility where offers to trade are made on a centralised basis.

If such exchanges were to provide any 'digital token service' under the new FSMA, licensing would be required.

Depending on the structure and operations of a decentralised cryptoasset exchange, it may be considered to operate an organised market under the SFA and be required to obtain approval as an approved exchange or recognised market operator.

Law stated - 26 October 2022

Peer-to-peer exchanges

What is the legal status of peer-to-peer (person-to-person) transfers of cryptoassets?

Subject to laws and regulations prohibiting crimes such as fraud, money laundering and terrorism financing, the

transfer of cryptoassets between individuals is not regulated in Singapore.

Law stated - 26 October 2022

Trading with anonymous parties

Does the law permit trading cryptoassets with anonymous parties?

Revenue earned in the form of cryptocurrencies from goods and services

Businesses that choose to accept cryptocurrencies as revenue or remuneration for goods and services are subject to normal income tax rules. The prevailing corporate tax rate is 17 per cent.

Capital gains tax

Capital gains derived from long-term investment holdings are not subject to tax. Businesses that buy and sell cryptocurrencies in the ordinary course of business will be taxed on the profit derived from trading in the cryptoassets. Businesses that mine and trade cryptocurrencies in exchange for money are also subject to tax on the profits.

Goods and services tax (GST)

As of 1 January 2020, the use of DPTs to pay for goods or services will no longer give rise to a supply of those tokens and businesses need not account for GST on such use. A supply of DPTs in exchange for fiat currency or other DPTs, and the provision of any loan or credit of DPTs, will be exempt from GST. Hence, the supply of such tokens, being an exempt supply, will not contribute to a business' annual taxable turnover for the determination of its liability for GST registration. The GST treatment for cryptoassets that do not qualify as DPTs remains unchanged (ie, the supplies of such tokens will continue to be regarded as taxable supplies of services, unless they fall under the prescribed list of exempt financial services).

Law stated - 26 October 2022

Foreign exchanges

Are foreign cryptocurrency exchanges subject to your jurisdiction's laws and regulations governing cryptoasset exchanges?

SFA The extraterritoriality of the SFA may apply to foreign cryptocurrency exchanges that offer cryptocurrencies subject to the SFA regime.

Under section 339 of the SFA, a person who carries out an action partly inside and partly outside Singapore that, if done wholly in Singapore, would constitute an offence under the SFA, may be guilty of that offence. Further, a person who carries out an action outside Singapore that would constitute an offence if carried out in Singapore may be guilty of the offence if the act has a substantial and reasonably foreseeable effect in Singapore.

In considering whether an act is substantial, the MAS will consider:

- the number of persons that were made an offer of services or invitation to engage in any conduct that involves an activity regulated under the SFA;
- whether the act has a significant or adverse impact on the soundness, stability and safety of Singapore's financial system, on public or investor confidence, or is detrimental to public interest or the protection of investors.

In considering whether an act is reasonably foreseeable, the MAS will consider whether:

- the above offer was made to persons in Singapore;
- any advertisements or published information was targeted at persons in Singapore; and
- the foreign entity accepts or appears willing to accept orders or applications from persons in Singapore.

PSA Foreign cryptocurrency exchanges that offer DPTs are prohibited from advertising to the Singapore public if they are not licensed under the PSA.

Relevant factors on what constitutes advertising to the public include:

- whether the relevant DPT is available for purchase in Singapore;
- whether the offer is denominated in Singapore dollars; and
- whether reasonable steps are taken to guard against persons in Singapore being provided digital payment token service.

Law stated - 26 October 2022

Under what circumstances may a citizen of your jurisdiction lawfully exchange cryptoassets on a foreign exchange?

Subject to the laws relating to extra-territoriality of the SFA, a Singapore citizen may lawfully exchange cryptoassets on a foreign exchange.

Law stated - 26 October 2022

Taxes

Do any tax liabilities arise in the exchange of cryptoassets (for both other cryptoassets and fiat currencies)?

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for fiat currency or other DPTs and the provision of any loan or credit of DPTs will be exempt from GST. Hence, the supply of such tokens, being an exempt supply, will not contribute to a business' annual taxable turnover for the determination of its liability for GST registration. The GST treatment for cryptocurrencies that do not qualify as DPTs remains unchanged (ie, the supplies of such tokens will continue to be regarded as taxable supplies of services, unless they fall under the prescribed list of exempt financial services).

Law stated - 26 October 2022

CRYPTOASSETS USED FOR PAYMENTS

Government-recognised assets

Has the government recognised any cryptoassets as a lawful form of payment or issued its own cryptoassets?

The MAS has acknowledged that with technology, cryptocurrencies may become money if they gain public trust and acceptance.

Presently, no cryptoasset has met the following functions of money:

- being a widely accepted medium of exchange in any market;
- being a good store of value (cryptocurrencies suffer price fluctuations); and
- being commonly used as a unit of account.

The Inland Revenue Authority of Singapore (IRAS) recognises that the payment for goods and services may be made with DPTs that:

- are expressed as a unit;
- designed to be fungible;
- are not denominated or pegged to any currency;
- can be transferred or stored electronically; and
- are or aim to be a medium of exchange accepted by the public, without any substantial restrictions on their use as consideration.

As Singapore's central bank, the MAS has not issued its own form of digital currency. It has collaborated with the Bank of Canada on a successful trial to see whether distributed ledger technologies and central bank digital currencies can make cross border payments cheaper, faster and safer.

Law stated - 26 October 2022

Bitcoin

Does Bitcoin have any special status among cryptoassets?

Bitcoin has no special status in Singapore.

Law stated - 26 October 2022

Banks and other financial institutions

Do any banks or other financial institutions allow cryptocurrency accounts?

DBS Digital Exchange offers trading services between four fiat currencies (SGD, USD, HKD and JPY) and five established cryptocurrencies (Bitcoin, Ethereum, Bitcoin Cash, Polkadot and XRP).

Law stated - 26 October 2022

CRYPTOCURRENCY MINING

Legal status

What is the legal status of cryptocurrency mining activities?

No regulations specifically govern the mining of cryptocurrencies in Singapore.

Where large amounts of electricity are consumed to operate the machines required for mining, regulations relating to the approved uses of premises, environmental regulations on air and noise pollution may apply.

Where mining activities are considered work, employment law applies.

Law stated - 26 October 2022

Government views

What views have been expressed by government officials regarding cryptocurrency mining?

On 1 February 2021, in a written reply to a parliamentary question on cryptocurrency mining, the Minister for Sustainability and the Environment replied that the activity is currently not regulated in Singapore, as our local conditions are not favourable for such activity, which occurs mainly in markets with a cheap electricity supply.

Law stated - 26 October 2022

Cryptocurrency mining licences

Are any licences required to engage in cryptocurrency mining?

No.

Law stated - 26 October 2022

Taxes

How is the acquisition of cryptocurrency by cryptocurrency mining taxed?

Goods and services tax (GST)

In respect of digital payment tokens (DPTs), where there is no close nexus between the service provided by the miner to the persons whose transactions are verified and the mined tokens that the miner receives from the blockchain ecosystem, and the parties paying the mined tokens are not identifiable, the mining of such tokens does not constitute a supply of services for GST purposes.

However, where mining is performed as a service to an identifiable party in return for a consideration, this constitutes a taxable supply of services. If GST-registered, the miner must charge and account for GST.

The miner's subsequent sale or transfer of the mined tokens to a customer in Singapore will be an exempt supply if it takes place on or after 1 January 2020. If such tokens are exchanged for goods or services on or after 1 January 2020, the miner will not be regarded as making a supply of the tokens.

Income tax

Profits derived by businesses that mine and trade cryptocurrencies in exchange for money are subject to income tax.

Law stated - 26 October 2022

BLOCKCHAIN AND OTHER DISTRIBUTED LEDGER TECHNOLOGIES

Node licensing

Are any licences required to operate a blockchain/DLT node?

Generally, no.

Law stated - 26 October 2022

Restrictions on node operations

Is the operation of a blockchain/DLT node subject to any restrictions?

Generally, the operation of a blockchain/DLT node is subject to no restrictions in Singapore. However, depending on the blockchain system and how and what data is transferred to a node, regulatory considerations relating to privacy and data protection will be relevant.

Financial institutions that use blockchain systems should also be alert to cybersecurity risks and take the appropriate measures required by the relevant notices on cyberhygiene issued by the Monetary Authority of Singapore (MAS).

Law stated - 26 October 2022

DAO liabilities

What legal liabilities do the participants in a decentralised autonomous organisation (DAO) have?

Presently, DAOs are not recognised as legal entities in Singapore. The legal status of a DAO depends on how it is structured and operates, how the DAO code is used and who uses such code. Hence, there is uncertainty as to the legal rights and liabilities attributable to a DAO and the individual members, who may not be identifiable.

Given that a DAO may be created by known and unknown contributors from different jurisdictions, establishing jurisdiction also poses challenges.

In the absence of clear liability attributable to members, and depending on the facts, the developer of the DAO may have legal liabilities.

Law stated - 26 October 2022

DAO assets

Who owns the assets of a DAO?

While DAO tokens may amount to a form of investment and have characteristics akin to shares (namely, voting and ownership rights), there is no legal entity for such rights to originate.

Law stated - 26 October 2022

Open source

Is DLT based on open-source protocols or software treated differently under the law than private DLT?

This issue is at present unregulated in Singapore and, as such, there is no different treatment for such DLTs.

Law stated - 26 October 2022

Smart contracts

Are smart contracts legally enforceable?

The existence and enforceability of a contract depends on satisfying the traditional conditions of contract formation.

The Electronic Transactions Act (ETA) provides for the legal recognition of electronic signatures and records. The Infocomm Media Development Authority, in a June 2019 consultation, stated its preliminary view that the ETA does not prevent the use and formation of smart contracts by organisations and that smart contracts are unlikely to be denied validity or enforceability by sole virtue of their automatic nature.

At present, certain documents must be in writing as a prerequisite for enforceability. These include wills and trusts, and contracts for the sale or other disposition of immovable property, or any interest in such property.

Law stated - 26 October 2022

Patents

Can blockchain/DLT technology be patented?

For blockchain/DLT to be patentable in Singapore, it must generally satisfy the following criteria:

- the invention must be new;
- it must involve an inventive step; and
- it must be capable of industrial application.

In 2018, the Intellectual Property Office of Singapore launched a 'Fintech Fast Track' initiative. Since then, there have been several blockchain/DLT companies that have been successful in their patent applications for their DLT solutions.

Law stated - 26 October 2022

UPDATE AND TRENDS

Recent developments

Are there any emerging trends, notable rulings or hot topics related to cryptoassets or blockchain in your jurisdiction?

The High Court case of CLM v CLN and others ([2022] SGHC 46) confirmed that stolen cryptocurrencies can be the subject of a proprietary injunction, and the court has jurisdiction to grant interim orders against persons whose identities are presently unknown, but the description of these persons must be sufficiently certain as to identify those who are included and those who are not.

The above case built on the 2019 case of B2C2 Ltd v Quoine Pte Ltd ([2019] SGHC(I) 03) in further elaborating on how cryptocurrencies fulfil the elements of what constitutes 'property'.

Law stated - 26 October 2022

Jurisdictions

	Austria	Schoenherr
	Cyprus	Kinanis LLC
	France	Nomos
	India	AZB & Partners
	Italy	Lexia Avvocati
	Japan	Nishimura & Asahi
	Liechtenstein	Niedermüller Rechtsanwälte Attorneys at Law
	Luxembourg	CMS Luxembourg
	Mexico	Ramos, Ripoll & Schuster
	Portugal	Morais Leitão, Galvão Teles, Soares da Silva & Associados
	Singapore	RHTLaw Asia LLP
	South Korea	Bae, Kim & Lee LLC
	Switzerland	MLL Meyerlustenberger Lachenal Froriep Ltd
	Taiwan	Lee and Li Attorneys at Law
	Turkey	SRP Legal
	USA	Nelson Mullins Riley & Scarborough LLP