



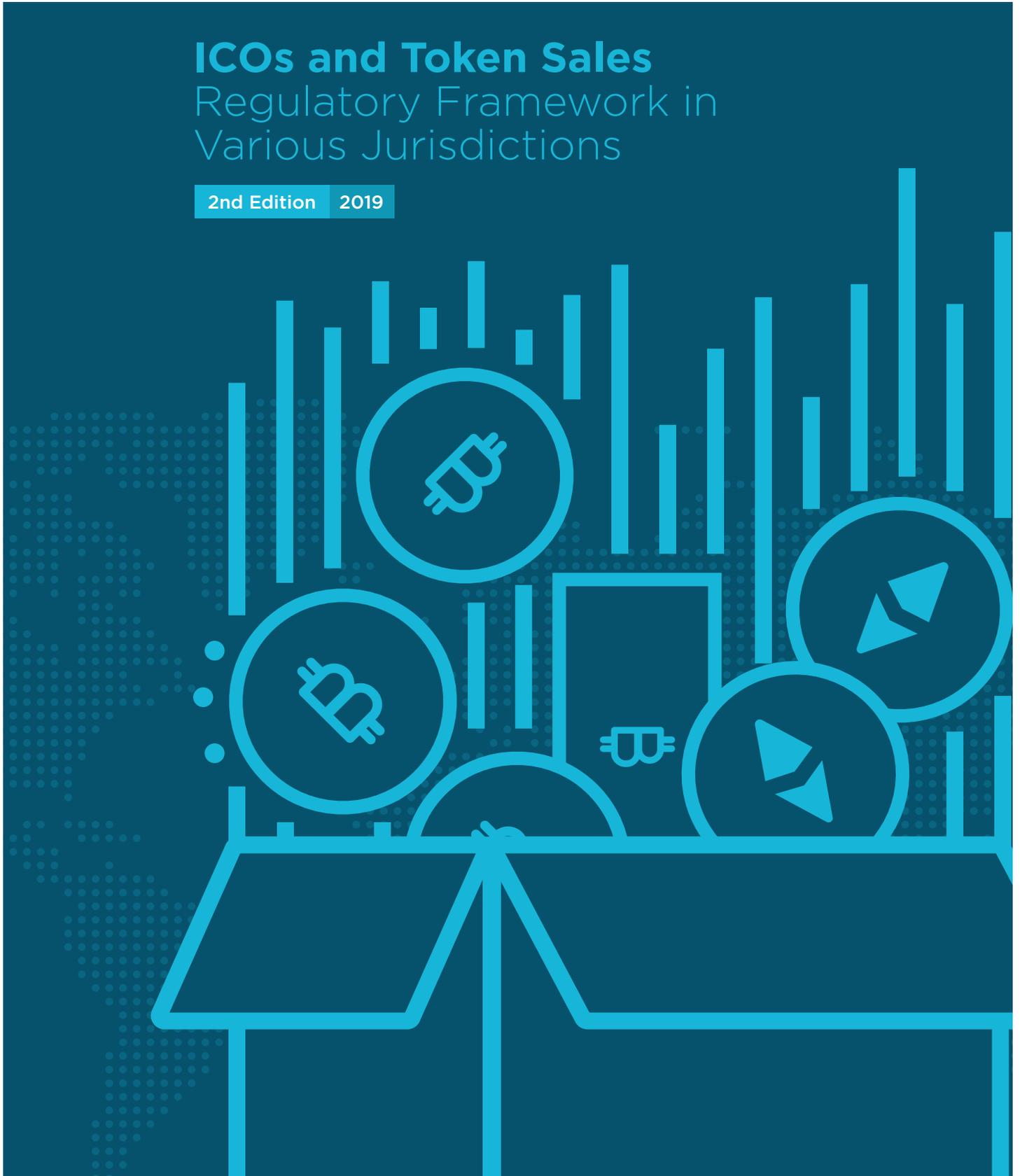
LEGALINK

INTERNATIONAL BUT PERSONAL

ICOs and Token Sales

Regulatory Framework in Various Jurisdictions

2nd Edition 2019



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THE **13** QUESTIONS WE ASKED

- 1 Does your country allow or prohibit ICOs and Token Sales?
- 2 Does your country regulate ICOs and Token Sales?
- 3 If your country regulates ICOs and Token Sales, what are the names of the government agencies responsible for regulating them?
- 4 If your country regulates ICOs and Token Sales, please provide a short summary of the regulatory framework. For example, do ICOs and Token Sales need to be registered or comply with any rules; or can they only be sold to certain types of purchasers/investors.
- 5 Please provide any additional information you feel is important to understanding ICO and Token Sale regulation in your country.
- 6 If a foreign entity conducts an ICO and offers tokens to residents of your country, will your government require the foreign entity to comply with any rules and regulations? If so, please provide an overview of how ICOs conducted by foreign entities are regulated by the government of your jurisdiction.
- 7 What is the legal nature of crypto in your country (for example, is crypto considered a security, commodity, currency etc.)?
- 8 Has the government of your country prosecuted, civilly or criminally, any ICO issuers, token developers or crypto exchanges for violating your country's laws? If so, please provide an executive summary of the most significant prosecution(s).
- 9 In your country, are there any significant commercial disputes or civil cases (non- government) involving crypto? If so, please provide an executive summary of the most significant dispute(s)/ case(s).
- 10 Does your jurisdiction tax crypto transactions? If so, please provide a basic explanation of how and at what rate they are taxed.
- 11 Separate from ICOs, does your jurisdiction regulate crypto trading or crypto exchanges? If so, please provide an overview of the regulation.
- 12 Does your country offer any unique or important benefit to crypto-focused companies (for example, clear regulatory guidance)? If so, please describe the unique/ important benefit.
- 13 Please identify a point of contact at your firm for cryptocurrency- related matters.

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1 Does your country allow or prohibit ICOs and Token Sales?

ICOs and token sales are not prohibited in Latvia. In the meantime, the Financial and Capital Market Commission of Latvia has published a warning to investors about ICO and associated risks, as well as opinion on the legal framework for cryptocurrencies.

2 Does your country regulate ICOs and Token Sales?

ICOs are currently not regulated by the laws regulating the financial markets but, depending on how the token sale or ICO is organised, it may fall under the financial instruments definition according to the Law of the Financial Instruments Market (LFIM).

As of 1st January 2019 there are amendments in tax regulation, clarifying that capital gains tax is payable from sale of virtual currency.

3 If your country regulates ICOs and Token Sales, what are the names of the government agencies responsible for regulating them?

If the ICO falls under the existing regulation of LFIM, the Financial and Capital Market Commission is the institution regulating it. Criminal offenses involving virtual currency are investigated by the prosecution office.

4 If your country regulates ICOs and Token Sales, please provide a short summary of the regulatory framework. For example, do ICOs and Token Sales need to be registered or comply with any rules; or can they only be sold to certain types of purchasers/investors.

N/A

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5 Please provide any additional information you feel is important to understanding ICO and Token Sale regulation in your country.

N/A

6 If a foreign entity conducts an ICO and offers tokens to residents of your country, will your government require the foreign entity to comply with any rules and regulations? If so, please provide an overview of how ICOs conducted by foreign entities are regulated by the government of your jurisdiction.

Latvia does not have a specific regulation. However, if a non-EU company is offering a security token to non-accredited investors, it will be required to have a shadow prospectus for the EU.

7 What is the legal nature of crypto in your country (for example, is crypto considered a security, commodity, currency etc.)?

In its latest informative report, 'The benefit and risks of using virtual currencies and further action to promote the development of the field and to mitigate identified risks', issued on 14th August 2018, the Ministry of Finance referred to virtual currency as a contractual payment instrument and as a means of exchange.

Latvian Law on the prevention of money laundering and terrorism financing defines virtual currency as a digital representation of the value which can be transferred, stored or traded digitally and operate as a means of exchange, but has not been recognised as a legal means of payment, cannot be recognised as a banknote and coin, non-cash money or electronic money, and is not a monetary value accrued in the payment instrument.

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Depending of the nature of the coin or token, it can also represent a security if it gives expectations of return for the investor. Whether a token represents a security is evaluated by the Financial and Capital Market Commission.

8 Has the government of your country prosecuted, civilly or criminally, any ICO issuers, token developers or crypto exchanges for violating your country's laws? If so, please provide an executive summary of the most significant prosecution(s).

There have been no such cases in Latvia.

9 In your country, are there any significant commercial disputes or civil cases (non-government) involving crypto? If so, please provide an executive summary of the most significant dispute(s)/ case(s).

There are no cases that we are aware of.

10 Does your jurisdiction tax crypto transactions? If so, please provide a basic explanation of how and at what rate they are taxed.

Before 1st January 2019 there was no clear guidance on how to tax income from crypto transactions. As of 1st January 2019, however, there are amendments in the tax regulation providing that crypto transactions are subject to capital gains tax at a flat rate of 20%. Only documented provable losses and expenses can be deductible for capital gains tax calculation purposes, otherwise the tax is payable from the selling price. The losses from other capital assets in crypto transactions

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cannot be deducted for capital gains tax purposes (e.g. if selling real estate and Bitcoins, the losses from the real estate transaction cannot be regarded against the gain of selling of Bitcoins).

If an individual or legal entity is trading cryptocurrency as its business activity, the regular tax regime is applicable (i.e. personal income tax for self-employed individuals, or corporate income tax for legal entities).

11 Separate from ICOs, does your jurisdiction regulate crypto trading or crypto exchanges? If so, please provide an overview of the regulation.

Crypto trading is subject to income tax as described in section 11.

12 Does your country offer any unique or important benefit to crypto-focused companies (for example, clear regulatory guidance)? If so, please describe the unique/important benefit.

Crypto trading and exchanges are subject to the Law on the Prevention of Money Laundering and Terrorism Financing as of 1st July 2019.

13 Please identify a point of contact at your firm for cryptocurrency-related matters.

The Financial and Capital Market Commission has established an innovations sandbox which provides the opportunity to get information from the Financial and Capital Market Commission directly.

Gints Vilgerts (Partner) - gints.vilgerts@vilgerts.com



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