



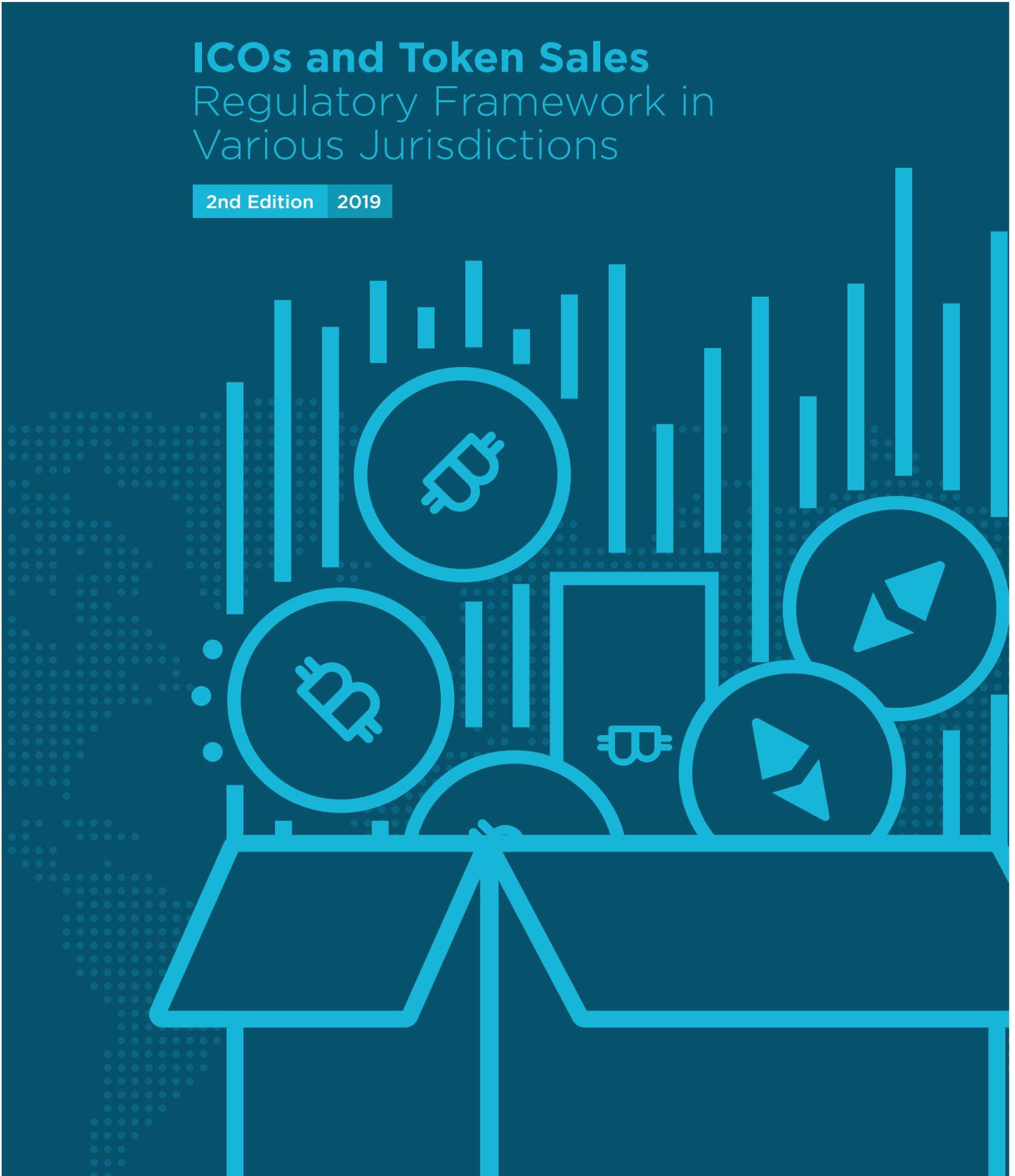
**LEGALINK**

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.

# LIECHTENSTEIN

## GASSER PARTNER RECHTSANWALTE

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

Sales of tokens which do not qualify as financial instruments or securities under Liechtenstein law are allowed in Liechtenstein. Sales of token which qualify as securities under Liechtenstein law are allowed subject to compliance with the respective requirements for a public offering of securities.

Other potentially applicable rules or regulations depend on the individual circumstances.

**2 Does your country regulate ICOs and Token Sales?**

With regard to the sale of tokens, we refer to the above. There is currently a draft bill 'Law on Transaction Systems Based on Trustworthy Technologies' (TT) going through the legislative process in Liechtenstein which shall address certain aspects related to ICOs. In the absence of specific regulation, the national legal framework applicable to token sales depends on their legal quality and specific characteristics.

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

Where a token sale or ICO falls within the scope of financial regulation, the Financial Market Authority (FMA) Liechtenstein is the competent authority. The authority has created a specialised practice group for fintech-related financial services ([www.fma-li.li/en/regulation/fintech-in-liechtenstein.html](http://www.fma-li.li/en/regulation/fintech-in-liechtenstein.html)).

**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**

If the token qualifies as a security, the Securities Prospectus Act is applicable and the public sale can only be conducted on the basis of an approved prospectus. If the tokens qualify as financial instruments, certain services related to the assets may trigger further licensing requirements.

Other potentially applicable rules or regulations depend on the individual circumstances.

# LIECHTENSTEIN

## GASSER PARTNER RECHTSANWALTE

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.

Liechtenstein is part of the EEA, and EU legislation may be directly applicable or is transposed into Liechtenstein law. Further, the Liechtenstein FMA regularly follows guidance by European regulators such as the European Securities and Markets Authority (ESMA) or the European Banking Authority (EBA). Thus, the Liechtenstein legal environment will be influenced by legal developments on a European level.

The Liechtenstein FMA has issued guidance on ICOs ([www.fma-li.li/files/fma/fma-factsheet-ico-pdf](http://www.fma-li.li/files/fma/fma-factsheet-ico-pdf)) and other fintech-related topics.

**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.

Sales of tokens which do not qualify as financial instruments or securities under Liechtenstein law by a foreign entity are allowed in Liechtenstein. Sales of tokens which qualify as securities under Liechtenstein law are allowed subject to compliance with the respective requirements for a public offering of securities.

Other potentially applicable rules or regulations depend on the individual circumstances.

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

Virtual currencies do not constitute an official currency, but may qualify as a security, financial instrument or other form of asset as the case may be. The qualification depends on the specific design of the token and must be considered on a case-by-case basis.

# LIECHTENSTEIN

## GASSER PARTNER RECHTSANWALTE

**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).

We are not aware of any specific and significant incidents so far.

**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).

We are not aware of any specific and significant incidents so far.

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

The taxation depends on the specific characteristics of the asset and the transaction and must be considered on a case-by-case basis. There is no general tax exemption for investment or trading in crypto assets in Liechtenstein.

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

If the assets that are subject to trading or exchange services qualify as financial instruments, the respective regulatory framework applies.

# LIECHTENSTEIN

## GASSER PARTNER RECHTSANWALTE

**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.

Liechtenstein is a first mover when it comes to crypto-related business, while at the same time maintaining a high-quality standard of services and investor protection.

Highlights are:

- The draft bill ‘Law on Transaction Systems Based on Trustworthy Technologies’ (TT) currently going through the legislative process in Liechtenstein. The bill not only addresses ICOs, but also deals with tokenisation of assets and generally seeks to provide for a functioning legal environment for businesses, transactions and investments related to cryptocurrencies.
- The open but professional approach of the FMA towards crypto-related products and services. The FMA has created a specialised practice group for fintech-related financial services ([www.fma-li.li/en/regulation/fintech-in-liechtenstein.html](http://www.fma-li.li/en/regulation/fintech-in-liechtenstein.html)) and is well known for its accessibility as well as for its swift and service-oriented approach.
- The short time to market of crypto-related projects in Liechtenstein, which is underlined by the fact that Liechtenstein has both provided for the first set-up of a regulated crypto fund and (unconfirmed) the first approved crypto prospectus in Europe.
- The professional and experienced legal advisers (such as Gasser Partner) and intermediaries (such as Bank Frick) in Liechtenstein, which have gained substantive knowledge and experience in crypto-related projects in the past years.

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

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