



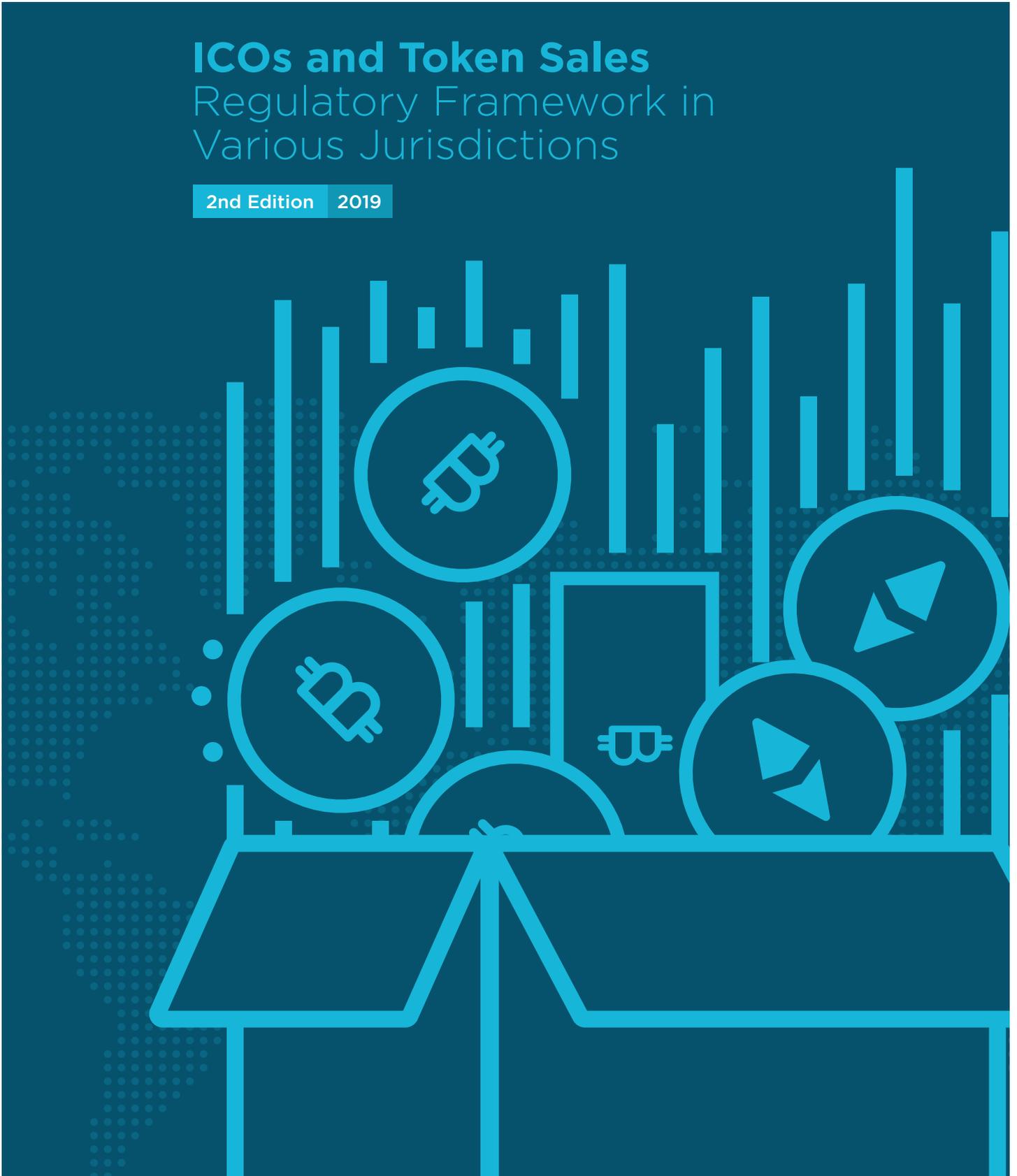
**LEGALINK**

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 prohibited in Korea. The Korean government has set up a joint task force consisting of the Financial Services Commission and other related agencies to study and analyse matters related to virtual currencies and announced its decision to ban all forms of ICOs on September 29, 2017.

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

No.

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

None.

**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.

None.

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

Given the strong position of the Korean government, ICOs and token sales are unlikely to be allowed in Korea for the time being.

# SOUTH KOREA

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**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.

No.

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

There is no local law or regulation that defines the legal nature of crypto in Korea.

**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).

An executive of a company that specialises in selling cryptocurrency who received around KRW 7 billion through a multi-level marketing scheme by alleging up to ten times rate of return on investment in cryptocurrency was indicted and detained for violating the Act on Door-to-Door Sales. In addition, a person who deceived victims by guaranteeing more than twofold return on investment within six to seven months and defrauded 35,000 victims of about KRW 150 billion through a multi-level marketing scheme was arrested for fraud etc.

**9** In your country, are there any significant commercial disputes or civil cases (non-

On 18th December 2018, a Korean court acquitted a Korea-based cryptocurrency exchange in a civil case seeking damages over the theft of the plaintiff's crypto holdings held in a Korea-based cryptocurrency exchange

# SOUTH KOREA

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government) involving crypto? If so, please provide an executive summary of the most significant dispute(s)/ case(s).

by a hacker who used the stolen personal information of the plaintiff, as a causal link between such theft and earlier hacking attacks on the cryptocurrency exchange was not established.

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

In Korea, if a corporation earns profits from cryptocurrency transactions, the corporate income tax will be levied at the rate of 10% to 25%. As for individuals, the Korean government seems to have decided to treat profits arising from cryptocurrency transactions as taxable income and plans to impose a capital gains tax of around 10% thereon, but the actual effective date of this policy has not been announced yet.

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

There is no law or regulation that directly regulates crypto trading or crypto exchanges in Korea, but such transactions have been regulated through the relevant laws and regulations concerning personal information protection and prohibiting illicit fundraising, illegal multi-level marketing schemes and financial frauds, among others.

**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.

No.

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

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