



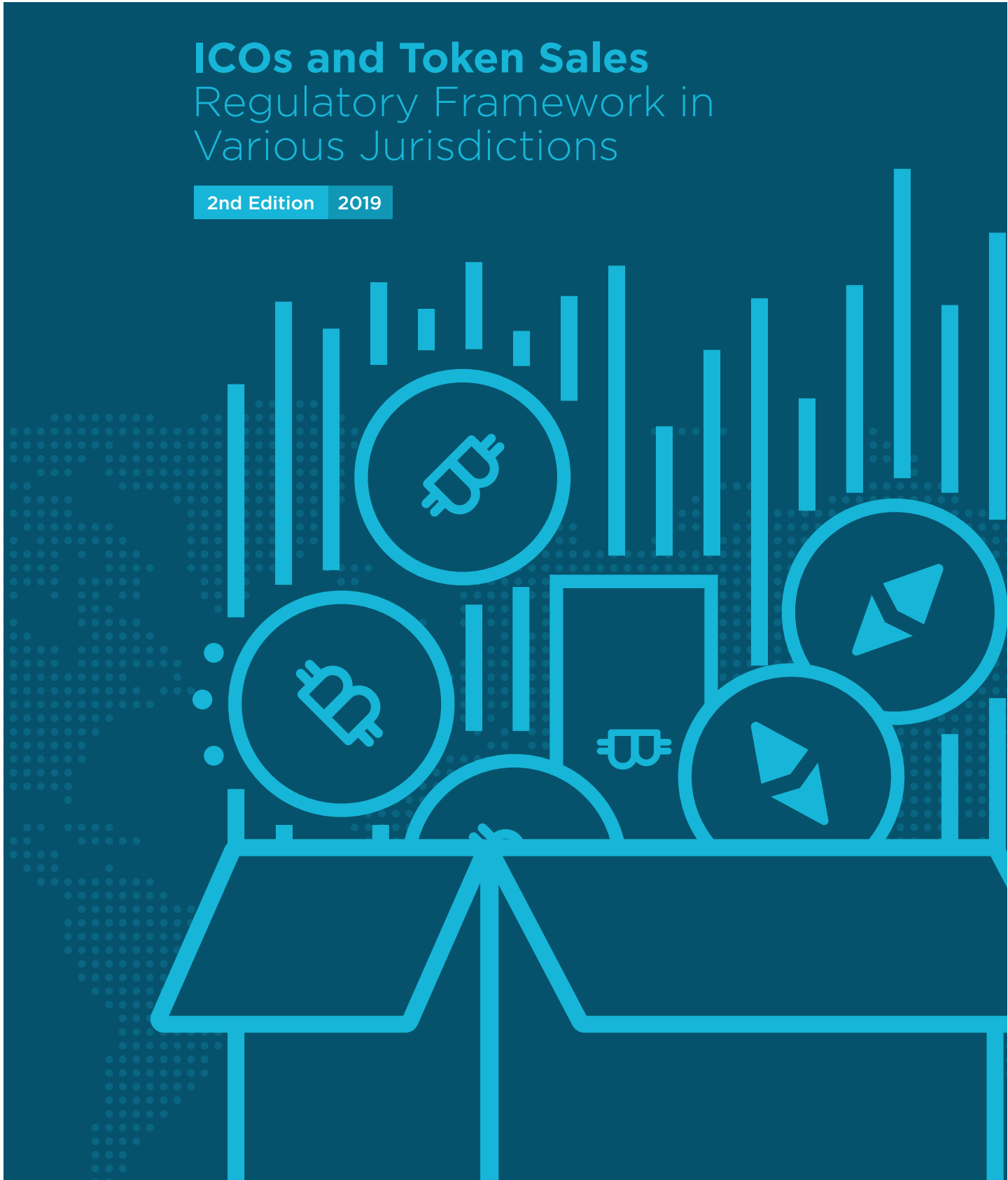
**LEGALINK**

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.

# SWEDEN

## HELLSTROM

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

ICOs and Token Sales are currently not specifically regulated in any form in Sweden, and definitely not specifically prohibited. ICOs and Token Sales must therefore be regarded as allowed.

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

As stated under Q 1, there are no regulations in place specifically covering ICOs and Token Sales. Depending on how an ICO or Token Sale is structured the coins or tokens may perhaps qualify as financial instruments, in which case the ICO or Token Sale may be regarded as a regulated investment activity. This must be analysed on a case by case basis.

Of some interest may be that the Swedish Financial Supervisory Authority (Sw. Finansinspektionen, FI) has issued a warning related to risks involved with participation in ICOs. The risks identified are e.g. that since most ICOs are unregulated there are no guarantees that the token or crypto currency issued actually confer any rights to the holder against the issuer, that there is no guaranteed market available for the issued asset to be traded on, that information regarding the asset may be misleading or not provided to all investors simultaneously, and that there is a significant risk for fraud.

The European Securities and Markets Authority (ESMA) has further just recently issued two statements or alerts regarding ICOs, one directed towards investors and one towards firms involved in ICOs. These two statements are available at the following link:

[https://www.esma.europa.eu/press-news/esma-news/esma-highlights-ico-risks-investors-and-firms.](https://www.esma.europa.eu/press-news/esma-news/esma-highlights-ico-risks-investors-and-firms)

**3** If your country regulates ICOs and Token Sales, what are the names of the

In the event any specific regulation is enacted, the responsible agency will be the Swedish Financial Supervisory Authority. This agency will also oversee and have under supervision any ICO or Token Sale which may

# SWEDEN

## HELLSTROM

government agencies responsible for regulating them?

become regarded as a regulated investment activity, as mentioned in the answer to Q 2 above.

**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.

Not applicable, se answer to Q 3.

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

For some additional information, please see answer under Q 3. We are seeing a significant increase in interest in ICOs and issues related to crypto currencies more generally.

**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.

There are currently no regulations in place on this issue.

# SWEDEN

## HELLSTROM

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

In terms of tax, crypto is considered a capital investment asset, which was recently confirmed by the Supreme Administrative Court in case 2674-18, stating that crypto is not to be considered currency, part-ownership rights or personal assets.

**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).

No.

**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).

No.

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

Individuals selling, exchanging and paying with crypto must report such transactions to the Swedish Tax Agency (Skatteverket). Reporting should be done in connection with submission of the annual income tax return. In case of profit on a crypto transaction, capital gains tax liability arises with a tax rate amounting to 30%. A loss originating from a crypto transaction is deductible up to 70%.

# SWEDEN

HELLSTROM

A legal entity obtaining cryptocurrency as payment in its business is normally taxed on the subsequent change in value as income from capital, with a tax rate of 30%. However, this does not apply where crypto is considered as inventory. In such cases the income generated will be considered as income from business profits. The corporate income tax rate is currently 21.4%.

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

In Sweden there are currently no specific regulations in place on crypto trading or crypto exchanges.

**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.

In our view, there are no unique or important benefits offered to crypto-focused companies in Sweden.

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

Göran Andersson, partner  
[goran.andersson@hellstromlaw.com](mailto:goran.andersson@hellstromlaw.com)



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