



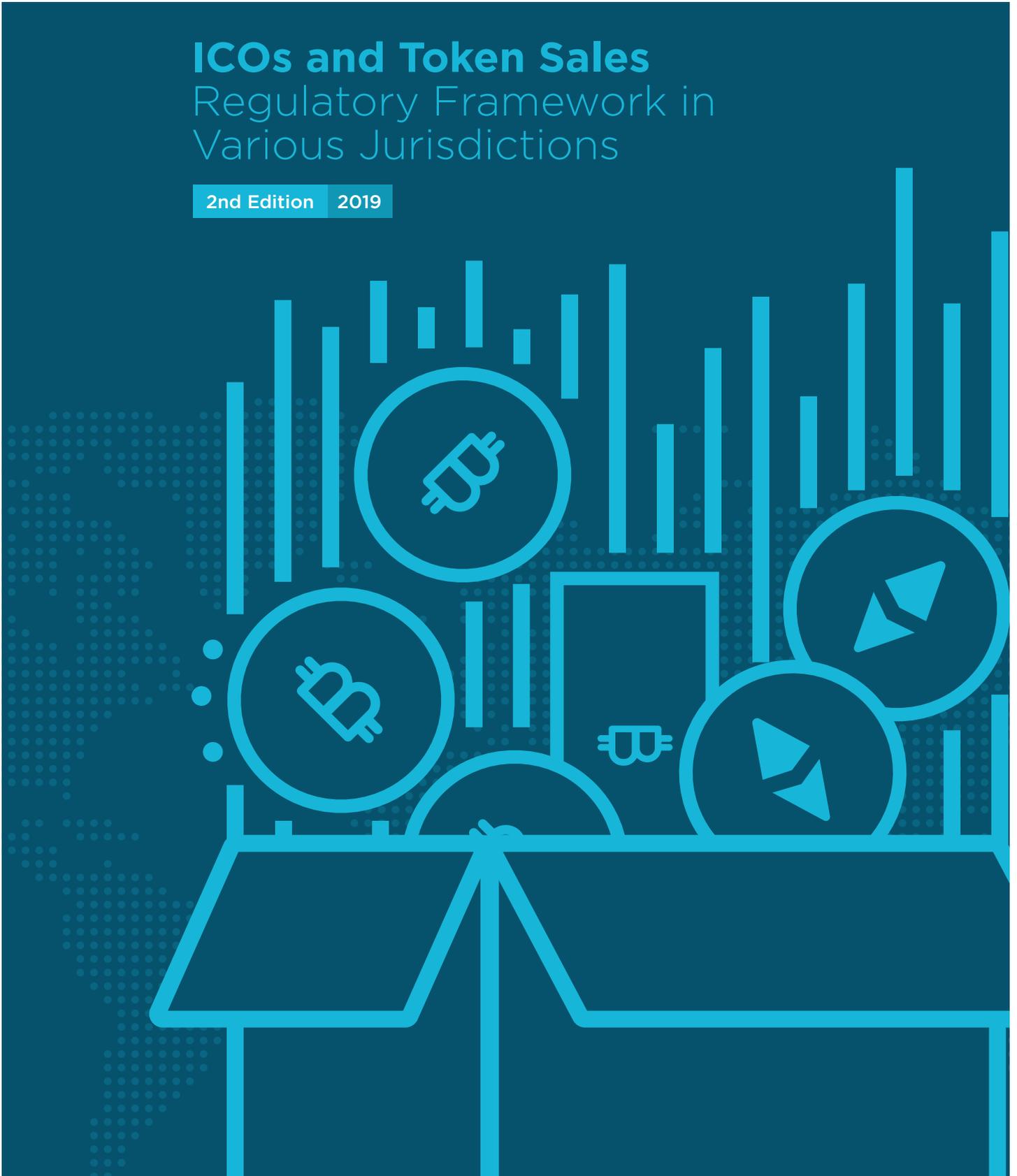
LEGALINK

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.

TURKEY

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

There is no specific regulation on this issue. Therefore, it can be said that it is currently allowed in Turkey in principle. However, this also depends on how the courts and regulatory bodies would interpret one of the general provisions under the Turkish Commercial Code (TCC). Article 552 of the TCC sets forth that no one can collect money from the public by making an invitation to the public to become shareholders in a company to be established or to contribute to capital increases in already established companies (except for publicly listed companies). The Banking Regulatory Authority in Turkey does not currently consider Bitcoin, altcoins and tokens as money. However, the courts are not bound by this categorisation and there is a risk that a court may interpret the ICOs or token sales under the scope of article 552 of the TCC by considering the tokens as money. The main aim of this article is to prevent fraudulent activities. As ICOs and token sales are sometimes used for fraudulent activities (such as fabricating a project that is not going to happen and collecting Bitcoins without giving any tradable tokens), in the case of a fraudulent ICO, a court may decide to apply article 552 of the TCC.

There is also another point to be taken into consideration: if an ICO is structured as crowdfunding, it will be subject to the Capital Markets Law 6362 (CML). The concept of crowdfunding was included in the CML with an amendment made at the end of 2017. The definition of crowdfunding in the CML is 'collecting money from the public via crowdfunding platforms in accordance with the rules and principles determined by the Capital Markets Board, in order to provide the fund required by a project or a start-up'. This definition is vague and no secondary legislation has been issued yet. Therefore, it is not clear whether an ICO can be considered a crowdfunding project. In some cases, based on the structure of the ICO, it may fall under the definition of crowdfunding, and a resolution of the Capital Markets Board dated 27th September 2018 supports this view.

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In that decision, the board stated that ICOs or token sales which can be considered crowdfunding should not be made until the secondary legislation is issued. As currently no secondary legislation is in place, ICOs which can be considered crowdfunding are prohibited.

2 Does your country regulate ICOs and Token Sales?

No, but this issue is coming to the attention of the regulatory bodies. Please see our explanations above in our response to question 1 related to crowdfunding.

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

For ICOs and token sales which can be considered crowdfunding, the regulatory body will be the Capital Markets Board.

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.

There is no omnibus bill or specific regulation on ICOs or token sales. Please see our explanations above in our response to question 1 related to crowdfunding.

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

Based on the decision of the Capital Markets Board mentioned in our response to question 1 above, we can say that this issue is under the scrutiny of the Capital Markets Board. It would be reasonable to expect more decisions in that regard from the Capital Markets Board in the near future.

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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.

There are currently no regulations in place on this issue.

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

It is not clear yet; there has been discussions on this topic which have not borne any definitive result. Crypto is not considered currency. However, it may be regarded as a commodity or, sometimes, a security, based on whether the relevant crypto represents another asset.

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-

No.

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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.

There is no specific regulation on taxation of crypto transactions. All of the income of companies is regarded as commercial income, and therefore any profit of a company arising from the sales of crypto is subject to 20% corporate income tax. For individuals, the issue is complicated; it is still not clear whether crypto should be considered a commodity or a security, and therefore the type of income of an individual arising from crypto transactions is not clear either. If it can be considered commercial income, it will be taxed at a rate varying between 15% and 35% based on the amount of profit made from the transactions.

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

No.

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.

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

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