

CRYPTOCURRENCIES & FINTECH REGULATORY UPDATE

Posted on May 23, 2020

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Cryptocurrencies & Fintech Regulatory Update



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Date Published: 23 May 2020

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In our earlier CNPupdate article published on 22 February 2020, we discussed the regulatory approach to cryptocurrency in Southeast Asia. This article seeks to provide an update on the regulatory developments within Southeast Asia, in particular, Singapore, Malaysia and Thailand.

Singapore

Under the [Payment Services Act](#) (the “[PS Act](#)”) which came into effect on 28 January 2020, providers of digital payment token dealing and digital payment token exchange services will be required to apply for a major payment institution licence or a standard payment institution licence, under which the licensees will be regulated for anti-money laundering (“AML”) and counter financing of terrorism (“CFT”) purposes and will be required to put in place policies, procedures and controls to address money laundering and terrorism financing risks.

Under the PS Act, “digital payment token” means any digital representation of value that:

1. is expressed as a unit;
2. is not denominated in any currency, and is not pegged by its issuer to any currency;
3. is, or is intended to be, a medium of exchange accepted by the public, or a section of the public, as payment for goods or services or for the discharge of a debt;
4. can be transferred, stored or traded electronically; and
5. satisfies such other characteristics as the Authority may prescribe.

Based on the aforementioned definition, digital tokens such as asset-backed tokens or security-based

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tokens will fall within the definition of “digital payment token” under the PS Act.

Other digital payment token related services that will be regulated under the PS Act include the provision of digital payment token transfer services viz. the service of accepting digital payment token(s) from one digital payment token(s) address or account, whether in Singapore or outside Singapore, as principal or agent, for the purposes of transferring, or arranging for the transfer of, the digital payment token(s) to another digital payment token(s) address or account, whether in Singapore or outside Singapore, and the operation of any other forms of digital payment token service(s).

The PS Act is in essence, an enhanced regulatory framework for payment services in Singapore that governs all payment related services including: account issuance services, domestic money transfer services, cross-border money transfer services, e-money issuance services and digital payment token services.

Under the PS Act, businesses transacting in digital payment tokens (whether as a cryptocurrency exchange or as an individual entity) may require a Payment Institution Licence.

With the implementation of the PS Act, there is now a clearer regulatory regime distinguishing between digital assets that constitute Capital Markets Products and assets which are classified as digital payment tokens.

Malaysia

As of January 2020, the Securities Commission of Malaysia (“**SC Malaysia**”) has released a set of new guidelines on digital assets. The new guidelines are a result of careful consideration and consultation, with the decision being that the best way for digital tokens to be regulated would be for them to be regulated as Initial Exchange Offerings (“**IEOs**”). What this essentially means is that, moving forward, all digital token offerings will be required to be carried out by exchanges in the form of IEOs. Initial Coin Offerings (“**ICOs**”) are henceforth illegal. The rationale behind the new guidelines is to ensure better due diligence and transparency, so as to ensure that all IEOs are subject to the stringent scrutiny of SC Malaysia. These guidelines will come into effect after April 2020.

The new shift in the regulatory regime in Malaysia may have been forthcoming given that in June 2019, three (3) cryptocurrency exchanges were given conditional approval to operate digital asset exchanges or cryptocurrency exchanges in Malaysia.

Thailand

As of October 2019, the Securities and Exchange Commission (“**SEC Thailand**”) has granted approval to the first ICO portal operator in Thailand. The ICO Portal will be a key part of Thailand’s regulatory regime for ICOs, assisting regulators with the screening of ICOs, customer due diligence, proving smart contract source codes and verifying the know-your-customer process. As it stands, the year 2020 will be an interesting one for SEC Thailand as they are reportedly looking to overhaul its digital asset business regulations in their bid to be facilitate the growth of digital assets while affording investors the necessary protection from unnecessary risk.

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Conclusion

The recent developments in cryptocurrency regulations and legislation in Southeast Asia appear to centre around the issue of security for AML and CFT purposes, placing increasing emphasis on KYC and due diligence, and ensuring that there are adequate protocols to safeguard the interests of investors. The year 2020 will certainly be key for cryptocurrency regulations as governments start to familiarise themselves with the industry, implementing more comprehensive and robust regulations.

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