

PANORAMIC

**CRYPTOASSETS &
BLOCKCHAIN**

Liechtenstein



LEXOLOGY

Cryptoassets & Blockchain

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GENERAL LEGAL AND REGULATORY FRAMEWORK

Legal framework

What legal framework governs cryptoassets? Is there specific legislation governing cryptoassets and businesses transacting with cryptoassets?

Liechtenstein has gained recognition as one of the most crypto-friendly jurisdictions due to its proactive approach to blockchain and distributed ledger technology (DLT). In early 2018, the government set up a workgroup to develop a sustainable legal framework, leading to the passage of the Blockchain Act, officially known as the Law on Tokens and Trusted Technology (TT) Service Providers (TVTG), which came into effect in January 2020.

The TVTG is a technology-neutral framework regulating the token economy, covering service providers like exchanges and custodians under the supervision of the Financial Market Authority (FMA). It also introduced the Token Container Model (TCM), which ensures legal certainty for the ownership, possession and transfer of cryptoassets, positioning Liechtenstein as a pioneer in the tokenisation of real-world assets.

As of October 2024, Liechtenstein is preparing for the implementation of the Markets in Crypto Assets Regulation (MiCAR) and the EEA MiCAR Implementation Act, expected to take effect on 1 February 2025. The FMA and the government are focused on ensuring a smooth transition, allowing businesses to obtain necessary licences efficiently. Pre-applications for MiCAR licences have been accepted by the FMA since October 2024, enabling cryptoasset service providers (CASPs) to begin compliance preparations.

MiCAR introduces new licensing requirements for various cryptoasset services, including custody, administration, trading platforms, crypto exchanges and advisory or portfolio management services. Many of these activities are already regulated under the TVTG, which was updated in February 2024 to align with MiCAR, ensuring consistency between national and EU-wide regulations.

However, MiCAR does not cover the civil law aspects of cryptoassets, leaving this area under the jurisdiction of individual EU Member States. Liechtenstein's TVTG already provides a solid civil law framework for the creation, ownership and transfer of cryptoassets, and this will remain in force even after MiCAR takes effect. This means that, whether or not cryptoassets are covered by MiCAR, the civil law aspects of the TVTG will continue to apply. Additionally, the TVTG includes further regulatory provisions, such as for token lending businesses and other services, which are not covered by MiCAR. In summary, in the future, MiCAR and the TVTG will coexist, with their respective areas of application being mutually exclusive.

Further, know-your-customer (KYC) and anti-money laundering (AML) laws, particularly the Due Diligence Act, include regulations regarding cryptoassets and CASPs to strengthen protections against money laundering and the financing of terrorism. Additionally, the Persons and Companies Act contains relevant regulations, as do other financial market laws, ensuring a comprehensive legal framework for cryptoassets and related activities.

Excursus EU DLT Sandbox Regime

As part of the digital finance package, the EU also established the EU Regulatory Sandbox for Blockchain, which is a regulatory framework/programme to facilitate experimentation,

innovation and testing of blockchain technology and related applications within a controlled and supportive environment. Such sandboxes are designed to encourage the development of blockchain-based solutions while ensuring compliance with existing regulations.

For the first time, the EU Regulatory Sandboxes for Blockchain enable the operation of DLT-based multilateral trading facilities (DLT-MTF) and settlement systems (DLT-SS). These regulations provide the basis to enable the trading and settlement of tokens that classify as financial instruments under Markets in Financial Instruments Directive (MiFID II) (therefore tokenised securities or security tokens) on an blockchain-based trading facility.

The EU Regulatory Sandboxes for Blockchain therefore play a vital role in fostering blockchain innovation, attracting investment and ensuring that emerging blockchain-based businesses can operate within the regulatory framework while minimising risks. These sandboxes are in line with the EU's broader goals of promoting digital innovation and economic growth while ensuring consumer protection and financial stability.

However, the new regime is established on a trial basis for six years in an environment of lower regulatory hurdles, aiming to better exploit the development potential of DLT while maintaining certain transparency and investor protection requirements.

Since 23 March 2023, certain market participants can apply to the FMA for inclusion in the sandbox regime in order to be exempted from certain regulatory hurdles. On the other hand, there are limitations on the scope of activities.

Law stated - 1 Oktober 2024

Government policy

How would you describe the government's general approach to the regulation of cryptoassets in your jurisdiction?

The Liechtenstein government recognised early on the advantages and potential of blockchain and DLT as well as the need and market demand for regulation in this area. In early 2018, the government installed a work group with the task to provide a comprehensive and sustainable legal framework for a long-term regulation of aspects of blockchain technology. At the beginning of 2019, proposals for the Liechtenstein Blockchain Act were discussed, and in autumn 2019, the law was passed in Parliament and entered into force in January 2020.

The government, as well as the regulator the FMA, take a very progressive and open approach on cryptoassets and DLT and provide substantial support to enable the building of a token economy.

The government with the Office for Financial Market Innovation and the FMA with the Regulatory Laboratory and Department for Financial Innovation created own departments that are competent to deal with Fintech and financial innovation.

Liechtenstein's continued proactive and progressive approach has received a lot of attention in the international media and has also led to continued interest in establishing new blockchain-related companies in Liechtenstein. In addition to the regulatory aspects, the flexible company law and the simultaneous access to the EEA market are of particular

interest, as the government aims to align its regulations with international standards and collaborate with other jurisdictions to ensure a global approach to cryptoasset regulation.

Therefore, by creating a favourable legal environment, startups and businesses in the blockchain and crypto space were encouraged to establish operations in Liechtenstein, which allowed the creation of tokenised assets, innovative financial products, obtaining licensees and ensuring only compliant and trustworthy entities are operated in the sector, which also added a layer of consumer protection.

Law stated - 1 Oktober 2024

Regulatory authorities

Which government authorities regulate cryptoassets and businesses transacting with cryptoassets?

The Liechtenstein Blockchain Act entrusts the FMA with the responsibility of registering and supervising TT service providers. Therefore, any person or entity offering professional TT services under the Act must register with the FMA. Additionally, token issuers are required to file a Basic Information Document (BID), similar to the whitepaper requirement under MiCAR, with the FMA. Under MiCAR, this same requirement will apply, with the FMA responsible for the registration and supervision of CASPs, and whitepapers will need to be submitted to the FMA.

Further, the FMA oversees all financial market services and providers, including banking, e-money, payment services, asset management, securities and public offerings, and ensures compliance with anti-money laundering and due diligence regulations. As such, the FMA supervises both the conventional and digital financial markets.

For the main criminal offences under the Liechtenstein TVTG and then MiCAR, the Princely District Court has jurisdiction.

Law stated - 1 Oktober 2024

Regulatory penalties

What penalties can regulators impose for violations relating to cryptoassets?

The Liechtenstein TVTG includes its own sanction regime, with penalties determined by the severity of violations. Severe violations are classified as criminal offences and can result in imprisonment for up to one year or fines imposed by the Liechtenstein Princely District Court in Vaduz through criminal proceedings. Minor violations are considered administrative offences and are sanctioned by the FMA, with fines of up to 100,000 Swiss francs, which can also be applied to legal entities. Negligent violations are also punishable under this regime.

In addition to the sanctions under the TVTG, providing services in blockchain-related businesses may also fall under other regulatory frameworks, such as the Banking Act, E-Money Act, Payment Service Provider Act, Act on Alternative Investment Funds, Prospectus Regulation or the Act on the Implementation of the Prospectus Regulation. Severe violations under these laws are treated as criminal offences, while minor violations

are addressed as administrative offences. For example, under the Banking Act, penalties for severe violations can include imprisonment for up to three years or significant fines.

With the upcoming implementation of MiCAR, the sanction regime under the TVTG will be updated to align with the new EU-wide regulatory framework. This will ensure consistency in the enforcement of both national and European regulations.

Law stated - 1 Oktober 2024

Court jurisdiction

Which courts have jurisdiction over disputes involving cryptoassets?

In general, the Princely District Court in Vaduz has jurisdiction on disputes involving cryptoassets.

Based on the general jurisdiction rules, the Princely District Court has jurisdiction on all claims that are brought against a company with a seat or a person with residence in Liechtenstein.

The Liechtenstein Blockchain Act also explicitly determines that for any claims of a token holder in connection with their legal relation to a token issuer seated in Liechtenstein, the Princely District Court is competent.

Further, the Liechtenstein Blockchain Act determines that all tokens that are subject to Liechtenstein law (because they have been issued by a person or entity with residence or a seat in Liechtenstein or because Liechtenstein law was opted in) are considered as assets located in Liechtenstein. Based on this, the Princely District Court is also competent for all disputes in connection with tokens that have been issued under Liechtenstein law.

Further, the Princely District Court is competent for all claims of a token holder to declare a token invalid in case of the loss of a private key and, thus, the loss of the ability to dispose of the token opens the possibility of getting a replacement from the issuer.

Law stated - 1 Oktober 2024

Legal status of cryptocurrency

Is it legal to own or possess cryptocurrency, use cryptocurrency in commercial transactions and exchange cryptocurrency for local fiat currency in your jurisdiction?

Liechtenstein law does not have any restrictions on owning and using cryptocurrencies for transactions. Also, exchange between fiat currencies and cryptocurrencies is permitted. Even official authorities accept payments in some cryptocurrencies and the registered capital for the formation of entities may be provided in cryptocurrencies.

Law stated - 1 Oktober 2024

Fiat currencies

What fiat currencies are commonly used in your jurisdiction?

Liechtenstein has strong treaty ties to the economic and currency areas of Switzerland. Liechtenstein and Switzerland are a monetary union, which means that the official fiat currency of the Principality of Liechtenstein is the Swiss franc. However, regular transactions in euros, US dollars and other major currencies are also conducted.

Law stated - 1 Oktober 2024

Industry associations

What are the leading industry associations addressing legal and policy issues relating to cryptoassets?

The Liechtenstein government set up the Office for Financial Market Innovation, which deals with new technologies and their implementation in the legal system of the financial market. This department also collects the demands and feedback of the market with regard to required amendments and implementations.

The leading industry associations are the Crypto Country Association and CV Labs Vaduz as well as Technopark Liechtenstein.

Law stated - 1 Oktober 2024

CRYPTOASSETS FOR INVESTMENT AND FINANCING

Regulatory threshold

What attributes do the regulators consider in determining whether a cryptoasset is subject to regulation under the laws in your jurisdiction?

The Token and Trusted Technology Service Provider Act (Liechtenstein Blockchain Act) determines which tokens or cryptoassets are subject to Liechtenstein laws and, therefore, fall under Liechtenstein jurisdiction. According to the rules of the Liechtenstein Blockchain Act, Liechtenstein civil law applies to all tokens that are issued by an issuer with a seat or residence in Liechtenstein. Further, Liechtenstein law also applies to those tokens to which the parties of an agreement have opted Liechtenstein laws to be applicable or tokens are used in legal transactions by a natural or legal person domiciled or registered in Liechtenstein. In this way, the Liechtenstein legislator explicitly provided foreign VT service providers the possibility to contractually declare the Liechtenstein Blockchain Act applicable and make use of the benefits of Liechtenstein laws. Consequently, the Princely District Court is competent for civil proceeding disputes in such cases.

Additionally, based on the Token Container Model (TCM), the rights contained in a token determine which other laws may apply on the tokens besides the Liechtenstein Blockchain Act, such as securities laws, property laws and laws on alternative investment funds.

Besides the rules on the applicability of Liechtenstein laws to tokens, the Liechtenstein Blockchain Act also contains rules on the applicability on persons or entities that provide professional distributed ledger technology (DLT) services as defined under the Liechtenstein Blockchain Act. In general, all persons or entities with a seat or residence in Liechtenstein that

provide professional DLT services are subject to the rules of the Liechtenstein Blockchain Act.

With the implementation of Markets in Crypto Assets Regulation (MiCAR) in Liechtenstein, the question of whether a cryptoasset falls under Liechtenstein jurisdiction will be determined according to MiCAR when its material scope is applicable. Thus, for cryptoassets within the material scope of MiCAR, the determination of regulatory jurisdiction will be based on the rules and requirements set out by MiCAR, ensuring EU-wide consistency. The Liechtenstein Blockchain Act will only continue to apply in areas or cases where MiCAR does not govern, meaning that the two frameworks will coexist, but their respective areas of application will be mutually exclusive.

If the services related to cryptoassets that fall under other financial market laws, these laws are applicable.

Law stated - 1 Oktober 2024

Investor classification

How are investors in cryptoassets classified and treated differently?

There is no specific definition or classification of a 'cryptoasset investor' under the Liechtenstein Blockchain Act. However, the investor classifications under the Markets in Financial Instruments Directive (MiFID II) Directive may apply when cryptoassets are considered financial instruments. Under MiFID II, investors are categorised as retail clients, professional clients, or eligible counterparties, with varying levels of regulatory protection based on their experience and risk tolerance.

Liechtenstein's Blockchain Act extends protective measures to all types of tokens in public offerings to non-professional investors. It requires a Basic Information Document (BID) to ensure transparency, helping investors understand the risks associated with different tokens. A similar protection measure will be implemented under MiCA with the introduction of the Whitepaper requirement for token offerings.

Law stated - 1 Oktober 2024

Initial coin offerings

What rules and restrictions govern the conduct of, and investment in, initial coin offerings (ICOs)?

For ICOs, the regulatory framework depends on the type of token or cryptoasset being issued.

If the tokens issued during an ICO qualify as Security Tokens, they are subject to the same rules as traditional financial instruments under the MiFID II and the Banking Act. This includes public offering rules, exchange listings and trading regulations. ICOs involving Security Tokens must comply with the EU Prospectus Regulation, and issuers may be required to provide a prospectus, although Liechtenstein allows certain public offerings without a prospectus for amounts up to 8 million Swiss francs. Private placements are exempt from these prospectus requirements, but Security Tokens must be traded on licensed multilateral trading facilities.

If the tokens are classified as Payment Tokens, which serve as substitutes for legal tender, they generally do not fall under financial market regulation. However, if they meet certain conditions, such as widespread acceptance for goods or services, they may be considered e-money. In this case, the issuer must obtain an e-money licence from the Financial Market Authority (FMA).

For ICOs issuing Utility Tokens, which typically function as digital vouchers or in-game currencies and do not qualify as financial instruments or Payment Tokens, they are not subject to MiFID II or other financial regulations. However, they must comply with the rules set forth in the Blockchain Act (TVTG). Although the TVTG licensing requirement for Token Issuers were removed, issuers of Utility Tokens under the TVTG need to publish a white paper (BID) and adhere to minimum capital requirements, depending on the size of the token offering.

Once MiCAR is fully implemented in Liechtenstein, the regulation will classify tokens into asset-referenced tokens (ART), e-money tokens (EMT) and other cryptoassets. Depending on this classification, different provisions will govern the conduct and sale of tokens issued through ICOs.

Further, the issuer is subject to the due diligence obligations under Liechtenstein law and must provide for a comprehensive know-your-customer (KYC) and anti-money laundering (AML) policy.

However, Liechtenstein laws do not impose specific restrictions on investing in ICOs, but such restrictions may apply depending on the rights contained in a specific token and the location of the respective buyer.

Law stated - 1 Oktober 2024

Security token offerings

What rules and restrictions govern the conduct of, and investment in, security token offerings (STOs)?

The legal rules for ICOs also generally apply if the initial public token offering (IPTO) relates to a security token and, therefore, is considered a security token offering (STO). However, given that an STO relates to a financial instrument under MiFID II; traditional financial market rules apply. In this regard, particularly for public offerings of security tokens, the EU Prospectus Regulation and the national implementing laws must be followed.

According to the MIFID II rules, STOs are regularly subject to prospectus requirements in case the relevant thresholds are met. Liechtenstein, unlike several other countries, made use of the possibility to allow public offerings of financial instruments without prospectus requirements up to a volume of 8 million Swiss francs.

Further exemptions from prospectus requirements apply if the STO:

- is only made to qualified investors;
- the offering is made to fewer than 150 persons; or
- the minimum ticket size is above 100,000 Swiss francs per investor.

Further, in any event, private placements are exempted from the prospectus requirements.

If a prospectus is required, there is no additional requirement of publishing a BID under the Liechtenstein Blockchain Act.

Law stated - 1 Oktober 2024

Stablecoins

What rules and restrictions govern the issue of, and investment in, stablecoins?

Stablecoins are generally tokens that are fully backed by a set of fiat currencies or other valuable assets and are tied to the value of one or more fiat currencies. In this way, a stablecoin functions as an equivalent to a currency unit, with the goal of achieving minimal volatility. Each issued stablecoin is secured by the same amount of the corresponding currency unit, meaning that the amount of stablecoins issued corresponds directly to the value of the fiat currency received.

The issuance of stablecoins may be subject to licensing requirements under existing financial market regulations. For example, issuing stablecoins might be considered the issuance of e-money, which would trigger a licensing requirement under the E-Money Act. Whether a stablecoin qualifies as e-money largely depends on factors such as whether there is a wide group of acceptors and a variety of goods and services that can be purchased using the coin. If the stablecoin fits the definition of e-money, the regulations governing e-money and payment services would apply. If the stablecoin's structure is more similar to a financial instrument, other financial market rules may be relevant.

With the implementation of MiCAR in Liechtenstein, expected in February 2025, stablecoins will be categorised either as ARTs or EMTs, and the corresponding rules will apply to stablecoins based on this classification.

Law stated - 1 Oktober 2024

Airdrops

Are cryptoassets distributed by airdrop treated differently than other types of offering mechanisms?

Distribution by airdrop is usually used as a marketing mechanism and the tokens distributed by airdrop are done so without any consideration.

The rules of the Liechtenstein Blockchain Act also considered the possibility of airdrops as a means of publicly distributing tokens. If the tokens are distributed without consideration, the Liechtenstein Blockchain Act considers that there is no offering volume met. Therefore, mere airdrops generally only require a Liechtenstein issuer to notify the FMA of the fact that tokens are issued and distributed by airdrop. The due diligence laws also include exceptions for airdrops as in such cases the issuer does not receive funds from 'investors'. However, if an airdrop is made for consideration or combined with another offer that collects funds, the above-mentioned TVTG regulations may nonetheless apply.

Under MiCAR, which is expected to be applicable from 1 February 2025 in Liechtenstein, airdrops are exempt from regulatory requirements if the cryptoassets are not ARTs or EMTs and are offered for free, meaning no monetary or non-monetary consideration, such as personal data, is exchanged (article 3a). If the issuer receives fees, commissions or any other benefit in exchange for the tokens, the airdrop is not considered free and must comply with MiCAR's obligations, including whitepaper publication.

Law stated - 1 Oktober 2024

Advertising and marketing

What laws and regulations govern the advertising and marketing of cryptoassets used for investment and financing?

Liechtenstein law provides for clear rules for the marketing of cryptoassets for investment. If the cryptoasset or token is a security token (financial instrument under MiFID II), which shall be offered in a public offering, the limitations of the Prospectus Regulation and the national implementing laws apply. Therefore, the most relevant considerations are: what the offering volume is; to whom the offering is made; and which minimum ticket sizes the offering has. Depending on the answers, exemptions may apply.

Further, in the case of public offerings of other tokens that are not security tokens, the restrictions of the Liechtenstein Blockchain Act apply, in particular the requirement of a BID. Here, exemptions may apply.

Law stated - 1 Oktober 2024

Trading restrictions

Are investors in an ICO/STO/stablecoin subject to any restrictions on their trading after the initial offering?

Liechtenstein law does not have any trading restrictions for investors who obtained tokens in an IPTO or in another manner (private placement, airdrop or secondary market). Therefore, investors may freely trade tokens in a peer-to-peer manner, regardless of the nature of the token.

However, restrictions apply for the provision of services as a secondary market exchange that brings together interested buyers and sellers. Again, the applicable restrictions depend on the nature of the tokens traded.

If the tokens are payment or utility tokens, they may be traded on a crypto exchange that may provide its services subject to registration as a trusted technology (TT) service provider under the Liechtenstein Blockchain Act (later operator of a trading platform under MiCAR).

If the tokens that shall be traded are security tokens and, therefore, financial instruments, the exchange services of a secondary market require the licensing as an investment firm under the Banking Act (eg, as a multilateral trading facility (MTF)).

The Central Securities Depository Regulation (the CSD-Regulation), which is applicable across the entire EEA Market, requires that all transferrable securities need to be booked

into a central securities depository system. This also applies in the case the transferable securities are tokenised. However, in practice, tokenised transferable securities could not be booked into the existing CSD system given that the existing CSD systems do not use blockchain technology. Thus, the EU, with Regulation EU 2022/858 (the EU-DLT Sandbox Regulation), implemented a new DLT sandbox regime that finally provides the legal basis for running blockchain based exchanges for tokenised financial instruments. This EU-DLT Sandbox Regulation is also applicable in Liechtenstein as an EEA member state.

Law stated - 1 Oktober 2024

Crowdfunding

How are crowdfunding and cryptoasset offerings treated differently under the law?

There are no particular laws that regulate crowdfunding. Rather, the applicable rules depend on whether (1) the offering is made to the public, (2) the offering is made in the form of tokens and (3) the product offered is a financial instrument under MiFID II.

Depending on how the crowdfunding is structured, the Prospectus Act, the Liechtenstein Blockchain Act (later also MiCAR needs to be considered) and the KYC and AML regulations of the Due Diligence Act, are applicable. In addition, depending on the structuring, the business model and the services provided, the rules of the Banking Act, the E-Money Act, the Act on Alternative Investment Funds and other financial market laws may apply and must be followed.

Law stated - 1 Oktober 2024

Transfer agents and share registrars

What laws and regulations govern cryptoasset transfer agents and share registrars?

Under Liechtenstein laws, shareholders of Liechtenstein entities and beneficial owners must be recorded, with compliance to KYC and AML regulations as mandated by the Due Diligence Act. The share register may be maintained using Distributed Ledger Technology (DLT) registers, and any transfer of ownership is considered a relevant transaction under the applicable KYC and AML rules. In particular, when transferring cryptoassets, the service providers involved must adhere to the Due Diligence Act to ensure effective anti-money laundering measures.

The Liechtenstein Blockchain Act further defines that certain services related to the exchange and transfer of cryptoassets or tokens require registration. For example, a VT-exchange service provider is someone who exchanges fiat currency for cryptoassets, or vice versa, or exchanges cryptoassets for other cryptoassets against their own book. A VT-transfer service provider is someone who initiates the transfer of cryptoassets from one VT identifier, such as a distributed ledger address or account, to another on behalf of customers.

Under MiCAR, similar provisions apply. The regulation defines providing transfer services for cryptoassets on behalf of clients as transferring cryptoassets from one distributed ledger address or account to another. It also covers the exchange of cryptoassets for other cryptoassets or funds.

If the cryptoasset is considered a financial instrument under MiFID II, the provision of services and execution of transfers may also require licensing under the Banking Act as broker or dealer.

Law stated - 1 Oktober 2024

Anti-money laundering and know-your-customer compliance **What anti-money laundering (AML) and know-your-customer (KYC) requirements and guidelines apply to the offering of cryptoassets?**

The prevention of financial crime and money laundering is one of the key aspects for the sustainable functioning of the Liechtenstein financial market. Thus, Liechtenstein law also provides for comprehensive and effective KYC and AML regulations under the Due Diligence Act, which in particular also applies for offerings of transactions with cryptoassets.

Also, in 2022, after a comprehensive assessment of Liechtenstein, Moneyval's report confirmed that Liechtenstein has a very effective system for combatting financial crime and money laundering.

KYC and AML regulation

Most cryptoasset service providers (custodian, exchange service provider and operators of trading platforms) are subject to the due diligence obligations under Liechtenstein law and must provide for a KYC and AML procedure. Due to a risk-based approach of the entire KYC and AML rules, the Due Diligence Act allows for application of different rules, depending on the investment volumes, overall volumes, involved countries and involved persons, thus making it more effective.

Since the KYC and AML regulations of the Due Diligence Act are generally applicable to professional trading with any kind of cryptoassets, trading with anonymous counterparts generally is excluded (travel rule). However, in a regulated exchange, only the exchange service provider usually has knowledge of both counterparts of a trade whereas the trading parties do not necessarily know their counterparts.

Law stated - 1 Oktober 2024

Sanctions and Financial Action Task Force compliance **What laws and regulations apply in the context of cryptoassets to enforce government sanctions, anti-terrorism financing principles, and Financial Action Task Force (FATF) standards?**

As a member of the EEA and Moneyval, Liechtenstein has been actively involved in combating money laundering and terrorist financing for decades and is guided

by international standards. In accordance with international provisions, Liechtenstein implemented the 4th and 5th EU Money Laundering Directives as well as Regulation on information accompanying transfers of funds and therefore implemented the highest KYC and AML standards of the fifth EU Anti-Money Laundering Regulation and the Financial Action Task Force (FATF) standards in the Due Diligence Act.

In 2021 and 2022, a team of evaluators from the European Council's Committee of Experts on the Evaluation of Anti-Money Laundering and Countering the Financing of Terrorism conducted routine assessments of Liechtenstein, which included visits to the country in August and September 2021.

These assessments are conducted regularly to assess the technical compliance and effective implementation of international standards in the area of AML and countering the financing of terrorism, in line with the 2013 FATF methodology. The entire blockchain sector was subject to thorough review from a compliance and money laundering perspective.

The published fifth Country Report of June 2022 by Moneyval confirms that Liechtenstein has been able to certify high standards, maintain a comprehensive understanding of money laundering and terrorist financing risks and pursue a strong supervisory approach.

Law stated - 1 Oktober 2024

CRYPTOASSET TRADING

Fiat currency transactions

What rules and restrictions govern the exchange of fiat currency and cryptoassets?

A VT-exchange service provider under the Liechtenstein Blockchain Act (TVTG) is a person or entity that exchanges fiat currency for cryptoassets, cryptoassets for fiat currency, or cryptoassets for other cryptoassets against their own book, meaning they act as a principal in the transaction. Under the current regulatory framework in Liechtenstein, such service providers must be registered under the TVTG. Once Markets in Crypto Assets Regulation (MiCAR) becomes applicable, the exchange of cryptoassets for other cryptoassets or funds will also fall under MiCAR's regulatory framework, which imposes similar registration and compliance requirements for service providers, as is currently the case under the TVTG.

In the case of cryptoasset transfers, service providers must comply with the know-your-customer (KYC) and anti-money laundering (AML) provisions of the Due Diligence Act, ensuring that an effective anti-money laundering framework is followed. This compliance framework safeguards against illicit activities, promoting transparency and security in the cryptoasset space.

Further, depending on the qualification of the respective cryptoasset or tokens that shall be traded as security tokens or payment tokens, further rules and licensing requirements may apply, such as the Banking Act, E-Money Act or the Act on Alternative Investment Funds.

Law stated - 1 Oktober 2024

Exchanges and secondary markets

Where are investors allowed to trade cryptoassets? How are exchanges, alternative trading systems and secondary markets for cryptoassets regulated?

Generally, Liechtenstein law does not prohibit the trading of tokens between respective token holders on a peer-to-peer basis outside a regulated trading environment. However, the rules of the smart contract of the respective token may provide other limitations.

The question of whether and where investors or token holders are allowed to trade certain tokens in a regulated secondary market environment depends on the legal qualification of a token as a utility token or security token (financial instrument).

Utility tokens may be traded in the regulated environment of a crypto exchange (such as Binance). If the services of a crypto exchange are provided in Liechtenstein, registration under the Liechtenstein Blockchain Act as a TT exchange service provider and other services may be applicable, and the KYC and AML requirements must be met. Such crypto exchanges, however, must not allow the listing and trading of tokens that are considered financial instruments under the Markets in Financial Instruments Directive (MiFID II).

Any token that qualifies as a financial instrument under MiFID II (eg, shares, bonds, derivatives) must only be traded on a licensed multilateral trading facility (MTF). The provision of such services as an MTF requires a licence as an investment firm under the Banking Act. However, due to the requirement of the Central Securities Depository Regulation (the CSD Regulation) and the lack of blockchain-based CSD suppliers, to date, there is no MTF existing that offers the trading of tokenised financial instruments.

The new EU Regulation for the DLT sandbox regime (Regulation EU 2022/858) now provides the legal basis for allowing the trading of tokenised financial instruments due to exemption from certain regulatory requirements. However, due to its nature as a mere sandbox regime, some limitations in terms of volume apply.

Law stated - 1 Oktober 2024

Custody

How are cryptoasset custodians regulated?

Generally, the TVTG requires the registration as a custodian for all persons or entities that hold private keys or tokens for and on behalf of third parties. Under MiCAR, this custodial service is also considered a regulated service, and entities offering such services must obtain a licence as a Cryptoasset Service Provider (CASP).

If the token is considered a financial instrument under MiFID II, additional licensing under the Banking Act may be required depending on the exact services and business model.

Law stated - 1 Oktober 2024

Broker-dealers

How are cryptoasset broker-dealers regulated?

The answer depends on whether the cryptoasset or tokens being traded are considered as financial instruments due to the rights contained therein or not. Generally, however, only the professional acting as a broker-dealer (on account for others or on its own account) is subject to regulatory registration or licensing requirements.

If the relevant tokens are not financial instruments, providing service as a broker-dealer is subject to the registration requirements of the TVTG.

If the relevant tokens are considered as financial instruments under MiFID II, the provision of the services as a broker-dealer and the professional trading on own account may additionally require a licence as an investment firm under the Banking Act.

In any case, the provision of services as a broker-dealer is subject to the regulations of the KYC and AML regulations of the Due Diligence Act.

Law stated - 1 Oktober 2024

Decentralised exchanges

What is the legal status of decentralised cryptoasset exchanges?

The TVTG is constructed in a technology-neutral manner. Therefore, decentralised exchanges (DEXs) are generally accepted under Liechtenstein laws. However, it depends on the details of the business model whether or not the exchange is actually considered to be decentralised.

Similarly, recital of MiCAR provides that cryptoasset services are not within its scope if none of the services or activities are performed in a decentralised manner. This means that where cryptoasset services are provided in a fully decentralised manner, they should not fall under the regulatory framework of MiCAR. Thus, both Liechtenstein law and MiCAR recognise decentralised systems.

Law stated - 1 Oktober 2024

Peer-to-peer exchanges

What is the legal status of peer-to-peer (person-to-person) transfers of cryptoassets?

Generally, Liechtenstein laws do not impose restrictions on peer-to-peer transfers of all kinds of tokens (utility tokens, payment tokens or security tokens) owned by the respective peers.

However, depending on whether there is also a provision of services included or the peer-to-peer trading is conducted in an organised manner or on behalf of other persons, the following may be required:

- a registration under the Liechtenstein Blockchain Act (or then under MiCAR);
- in the case of security tokens, a licence under the Banking Act; and
- in the case of payment tokens, a licence under the Payment Service Act.

In any event, however, private peer-to-peer trading limitations may apply based on the rules set out in the smart contract of the respective token.

Law stated - 1 Oktober 2024

Trading with anonymous parties

Does the law permit trading cryptoassets with anonymous parties?

Liechtenstein law does not impose regulatory limitations on private (non-professional) trading of cryptoassets (tokens) with anonymous counterparties. However, the general AML rules of the Liechtenstein Due Diligence Act, Due Diligence Ordinance and Criminal Code must be regarded. Persons knowingly trading with tokens that stem from criminal offences may face criminal investigations and even the seizure of assets.

Since the KYC and AML regulations of the Due Diligence Act are generally applicable to professional trading with any kind of tokens, trading with anonymous counterparts is generally excluded. However, usually, on a regulated exchange only the exchange service provider has knowledge of both counterparts of a trade, whereas the trading parties do not necessarily know the counterpart.

Law stated - 1 Oktober 2024

Foreign exchanges

Are foreign cryptocurrency exchanges subject to your jurisdiction's laws and regulations governing cryptoasset exchanges?

Foreign cryptocurrency exchanges providing cross-border services in Liechtenstein may become subject to licensing requirements if they actively provide services in Liechtenstein, particularly if the tokens traded on the exchange are considered financial instruments under MiFID II.

Foreign exchanges providing services as an MTF in another country may only provide the services in Liechtenstein after passporting.

Also, cryptocurrency exchanges publicly offering tokens in Liechtenstein that constitute financial instruments may become subject to the prospectus requirements under the Prospectus Regulation or other banking and investment services under the Banking Act.

The FMA also constantly monitors the activity of foreign cryptocurrency exchanges in Liechtenstein.

Law stated - 1 Oktober 2024

Foreign exchanges

Under what circumstances may a citizen of your jurisdiction lawfully exchange cryptoassets on a foreign exchange?

Currently, there are no restrictions for Liechtenstein-resident persons to exchange cryptoassets on a foreign cryptocurrency exchange, even if the tokens traded constitute financial instruments. However, the cryptocurrency exchange itself may be subject to licensing requirements in Liechtenstein.

Law stated - 1 Oktober 2024

Taxes

Do any tax liabilities arise in the exchange of cryptoassets (for both other cryptoassets and fiat currencies)?

In general, only natural persons resident in Liechtenstein and legal entities with a seat in Liechtenstein are subject to Liechtenstein tax laws. Given the small size of the country and the position as a financial hub, the corporate tax laws are more relevant.

With respect to tax law and the Blockchain Act, the Liechtenstein Blockchain Act underscores the paramount importance of tax law compared to other jurisdictions, as the tax system has an economic approach and emphasises the principle of substance over form. Accordingly, there are no tax implications of the Token and Trusted Technology Service Provider Act on tax law (and will not be under MicAR); rather, each situation is assessed independently from case to case, regardless of its external façade. Thus, for example, it has no impact on whether the issuance of a traditional financial instrument or tokenised assets in a Security Token Offering is assessed.

With regards to trading with cryptocurrencies, Liechtenstein tax laws take a material approach. Depending on the rights contained in the respective token and the qualification of the token as a utility token, a payment token or a security token, different tax rules apply. As Liechtenstein law does not have capital gains tax on profits from trading with participations, profits from trading with such tokens are tax-free. Utility tokens are considered as regular commodities and trading profits would be considered as trading income that is subject to regular taxation (12.5 per cent for legal entities, subject to further deductions).

Payment tokens are considered as currencies and trading profits are also considered as trading income subject to regular taxation.

Law stated - 1 Oktober 2024

CRYPTOASSETS USED FOR PAYMENTS

Government-recognised assets

Has the government recognised any cryptoassets as a lawful form of payment or issued its own cryptoassets?

In Liechtenstein, cryptocurrencies do not qualify as legal tender. Consequently, cryptocurrencies are not considered "money" in a narrow sense. Depending on the specific design of the cryptoasset, it may be qualified as e-money under the Liechtenstein e-money act (EGG).

Although cryptocurrencies do not qualify as legal tender, some cryptocurrencies such as Bitcoin and USDC/USDT are already widely accepted as a means of payment by enterprises and shops. Bitcoin also from a tax perspective is considered as foreign currency. The Liechtenstein tax authority publishes exchange rates between several common cryptocurrencies (Bitcoin and Ethereum) and the Swiss franc for tax purposes. Cryptocurrencies are also accepted by the Ministry of Justice to provide the initial capital contribution for the formation of legal entities. Further the Liechtenstein government also accepts such as Bitcoin \$EGLD, and ETH as payment for government services (eg, taxes).

Liechtenstein has strong treaty ties to the economic and currency areas of Switzerland. Liechtenstein and Switzerland are a monetary union, which means that Swiss francs are the legal tender of Liechtenstein, and that Swiss National Bank (SNB) serves as the central bank for Liechtenstein. As of now, there have been discussions and exploratory projects regarding a Swiss stablecoin, particularly from the Swiss National Bank (SNB). However, SNB has not issued any central bank cryptocurrencies (digital currency) like an e-Swiss franc. However, due to the monetary union between Liechtenstein and Switzerland, any digital currency introduced by the Swiss National Bank (SNB), such as an e-Swiss franc, would most likely also be recognised and used in Liechtenstein.

Law stated - 1 Oktober 2024

Bitcoin

Does Bitcoin have any special status among cryptoassets?

Bitcoin has no particular legal status. It is considered as a payment token and, for tax purposes, as a foreign currency for which the tax authority publishes applicable exchange rates.

Law stated - 1 Oktober 2024

Banks and other financial institutions

Do any banks or other financial institutions allow cryptocurrency accounts?

In Liechtenstein, several banks already provide cryptocurrency accounts as well as mere custody of tokens. The number of banks and other financial institutions providing such services has grown substantially since the implementation of the Liechtenstein Blockchain Act. Also, an increasing amount of Swiss financial institutions and banks provide services for Liechtenstein blockchain projects.

As the country is in a customs union with Switzerland, Swiss banks are also relevant for the Liechtenstein market and regularly provide services. Also, some Swiss banks already provide cryptocurrency accounts for their clients.

Law stated - 1 Oktober 2024

CRYPTOCURRENCY MINING

Legal status

What is the legal status of cryptocurrency mining activities?

There is no specific regulation of the mining activity of cryptocurrencies in Liechtenstein. Mining cryptocurrencies on own account and in own name does not trigger licensing requirements.

However, depending on the business model, professional mining on behalf of third parties or with certain participation models, may constitute trusted technology services under the Liechtenstein Blockchain Act or even services subject to licensing under the Banking Act, or trigger prospectus requirements. Licensing requirements of the E-Money Act or the Act on Alternative Investment Funds may become applicable in some business models used for professional mining activities.

Law stated - 1 Oktober 2024

Government views

What views have been expressed by government officials regarding cryptocurrency mining?

Liechtenstein has taken a very crypto-friendly approach and promotes blockchain technology. Crypto mining is generally permitted. In the case of professional services, depending on the business model, registration requirements under the Liechtenstein Blockchain Act may apply. Also, depending on the business model licensing requirements under the financial market, laws may apply.

Law stated - 1 Oktober 2024

Cryptocurrency mining licences

Are any licences required to engage in cryptocurrency mining?

Private mining does not require a licence. However, professional mining may require a licence depending on the respective business model.

Law stated - 1 Oktober 2024

Taxes

How is the acquisition of cryptocurrency by cryptocurrency mining taxed?

Tokens obtained from mining are subject to regular income tax on natural persons or taxation on the profits of legal entities.

Holdings in cryptocurrencies are always considered as assets and are regarded as assets for the benefit of taxation.

Law stated - 1 Oktober 2024

BLOCKCHAIN AND OTHER DISTRIBUTED LEDGER TECHNOLOGIES

Node licensing

Are any licences required to operate a blockchain/DLT node?

Operating a node in Liechtenstein does not require any licensing.

However, depending on the business model and the data obtained and processed, the node operator may provide services as a trusted technology service provider and require registration. Data processing may also be subject to the rules of the General Data Protection Regulation.

Law stated - 1 Oktober 2024

Restrictions on node operations

Is the operation of a blockchain/DLT node subject to any restrictions?

Operating a node in Liechtenstein does not require any licensing.

Law stated - 1 Oktober 2024

DAO liabilities

What legal liabilities do the participants in a decentralised autonomous organisation (DAO) have?

The status of a decentralised autonomous organisation (DAO) and its members is assessed on a case-by-case basis depending on the effective business model.

The organisation could constitute a civil law partnership depending on the organisational structure of the DAO.

Law stated - 1 Oktober 2024

DAO assets

Who owns the assets of a DAO?

Ownership of the assets is defined on a case-by-case basis depending on the rights of the participants of the DAO. The assets could be owned either per capital or on a joint ownership basis. The latter would only allow disposal by unanimous decision.

Law stated - 1 Oktober 2024

Open source

Is DLT based on open-source protocols or software treated differently under the law than private DLT?

There is no different treatment of open-source protocols and private distributed ledger technologies (DLT) from a regulatory standpoint. However, private DLT software may constitute intellectual property that may be protected.

Law stated - 1 Oktober 2024

Smart contracts

Are smart contracts legally enforceable?

Based on the Liechtenstein Token Container Model, there are different rights that may be asserted and must be enforced.

Primarily, the ownership rights on a token as a container of certain rights may be asserted with Liechtenstein courts under Liechtenstein law, as tokens qualify as assets located in Liechtenstein. However, several issues remain unresolved, such as the enforcement of the rights to a token. In the case of transactions and claiming rights to a token, the lack of identification of the counterparty may lead to practical problems.

Further, a token holder may assert the rights contained and represented in a token with Liechtenstein courts as the token represents an asset located in Liechtenstein. The applicable law depends on the rights contained in the token. Depending on the definition of the rights contained in the token, a token holder may also assert their rights contained in the token in other venues. Generally, the counterparty of the rights contained in the token is known, so the identification of the counterparty should not be problematic.

Law stated - 1 Oktober 2024

Patents

Can blockchain/DLT technology be patented?

Software inventions are, in principle, patentable, provided they are claimed in the appropriate form. Purely abstract software concepts or algorithms without technical reference are generally not patentable. Patent law, like many other patent rights, requires that a software invention has a technical character and provides a technical solution to a technical problem.

Software is protected by intellectual property rights (ie, the source or machine code is protected by copyright) regardless of whether it is patented or not. However, copyright protects only the concrete implementation of the software, not the underlying idea or functionality.

If a software invention meets the criteria for patentability, it can be patented. These include, in particular, the requirements of novelty and inventive step. This means that the software invention must not already be in the public domain and must provide a non-obvious technical advance.

The key to patenting software often lies in the wording of the patent claims. These must clearly define the technical nature of the invention and highlight the technical contribution that the software makes to solving a technical problem.

UPDATE AND TRENDS

Recent developments

Are there any emerging trends, notable rulings or hot topics related to cryptoassets or blockchain in your jurisdiction?

The Blockchain Act has played a crucial role in providing a high level of regulatory certainty, coupled with direct communication with the Liechtenstein Financial Market Authority, thus fostering a crypto-friendly environment. It is anticipated that the crypto market will continue to expand, leading to a growth in the number of service providers in Liechtenstein as companies discover favourable conditions for initiating and scaling their cryptocurrency-related business activities.

In anticipation of the harmonisation of EU law under the forthcoming MiCAR, Liechtenstein's blockchain legislation is proactively being adjusted to align with the new regulations, preserving Liechtenstein's advantageous position.

Key highlights of these adjustments will include: the removal of registration requirement for token issuers and removal of related hurdles, exemption of token issuers from due diligence obligations under the Due Diligence Act; the adjustment of fee structures; and the introduction of new service provider models (eg, token lending, operation of trading platforms, portfolio management).

The biggest trends, which are growing steadily, are that international blockchain projects are choosing Liechtenstein as a jurisdiction to implement their blockchain businesses, to conduct private and public sales, to establish crypto-foundations for decentralised layer 1 and 2 network protocols, and to offer decentralised applications.

This is mainly since Liechtenstein is an attractive gateway to the EEA market for internationally operating crypto companies. In the meantime, several Liechtenstein banks have also registered as crypto custodians and offer crypto custody accounts to clients, allowing them to trade and hold certain cryptocurrencies under the highest security standards.

Thus, there is a growing trend for projects to shift more from the technology side to the financial market side, and for well-known and established players on the financial market side to turn to blockchain technology.

This has further strengthened Liechtenstein's position as an important jurisdiction for conducting blockchain business in a secure, regulated and blockchain-friendly environment.