



The Legal 500 Country Comparative Guides

Singapore

BLOCKCHAIN

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This country-specific Q&A provides an overview of blockchain laws and regulations applicable in Singapore.

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SINGAPORE BLOCKCHAIN



1. Please provide a high-level overview of the blockchain market in your jurisdiction. In what business or public sectors are you seeing blockchain or other distributed ledger technologies being adopted? What are the key applications of these technologies in your jurisdiction?

The blockchain market in Singapore extends across various industries as well as both the private and public sector. The development and utilization of Blockchain or Distributed Ledger Technologies (“DLT”) is supported by the relevant government authorities through various initiatives. For example, the Singapore Blockchain Innovation Programme (“SBIP”) serves to engage and cultivate the local blockchain community as well as conduct research on blockchain usage, while the Monetary Authority of Singapore (“MAS”) Fintech Regulatory Sandbox provides participants with a temporary regulatory environment that is conducive for technological innovation.

Blockchain or DLT solutions are most popularly adopted within the Financial Technology (“FinTech”) industry and Web 3.0 Gaming industry. Some key applications of Blockchain or DLT solutions in Singapore include: Cross-Border Payments; Trade Finance; Clearing and Settlement; and proof for Provenance.

Generally, cryptocurrencies are increasingly being used and accepted as payments for goods and services offered on online platforms.

2. To what extent are tokens and virtual assets in use in your jurisdiction? Please mention any notable success stories or failures of applications of these technologies.

The acceptance and use of digital tokens and virtual assets in Singapore is a matter of private agreement between individuals and entities. These technologies

enjoy significant acceptance in Peer-to-Peer (“P2P”) and Business-to-Consumer (“B2C”) ecosystems in Singapore. For example, Business to Consumer (“B2C”) uses of payment tokens (e.g. Ethereum, Bitcoin) include acceptance as a medium of exchange by certain retailers. Further, digital token exchanges with operations in Singapore allow P2P exchanges of digital tokens and private individuals can purchase digital tokens for their private uses (e.g. investment).

Non-Fungible Tokens (“NFTs”) in Singapore enjoy increasing popularity as a mode of buying and selling digital artworks and they have been applied as utility tokens. For example, NFTs have been used in online games to represent in-game characters and items.

3. To what extent has blockchain technology intersected with ESG (Environment, Social and Governance) outcomes or objectives in your jurisdiction?

Ground-up projects in Singapore creatively utilize blockchain technology to create tokens or products that achieve ESG outcomes and there appears to be significant uptake of the usage of blockchain technology to achieve ESG outcomes. For example, OCBC Bank in Singapore and MetaVerse Green Exchange (MVGX), a digital green exchange licensed and regulated by the Monetary Authority of Singapore have announced a strategic partnership to develop green financing solutions including tokenised carbon credits in the form of MVGX’s Carbon Neutrality Tokens, for large corporates to offset their carbon emissions, simplifying their path to carbon neutrality.

4. Please outline the principal legislation and the regulators most relevant to the use of blockchain technologies in your jurisdiction. In particular, is there any blockchain-specific legislation or are there

any blockchain-specific regulatory frameworks in your jurisdiction, either now or envisaged in the short or mid-term?

Certain types of Digital Tokens are regulated in Singapore, as described below.

The Payment Services Act 2019 (“PSA”) requires a person who carries on a business of providing a payment service to obtain a Payment Service Licence, unless exempted under the PSA.

A person carrying on a business of providing a payment service in relation to cryptocurrency may require a Payment Service License (“PSL”), in the form of a standard payment institution licence or a major payment institution licence, as cryptocurrencies may fall into the definition of “E-money” or “Digital Payment Tokens” (“DPT”) under the PSA.

An E-money issuance service, which requires a PSL, is being carried out when any person issues e-money, as defined under the PSA, to any person for the purpose of allowing a person to make payment transactions.

A DPT service, requiring a PSL, is being carried out when a person provides the service of dealing in DPTs or provides a service of facilitating the exchange of DPTs. A service of dealing in DPTs generally comprises the buying and selling of DPTs, while a service of facilitating the exchange of DPTs is generally carried out through the operation of a digital / decentralized exchange on which DPTs are exchanged for fiat or other DPTs.

The Securities and Futures Act 2001 (“SFA”) requires a person to apply for a capital markets services license where any person is carrying on business in any activity regulated under the SFA, such as dealing in capital markets products, unless such activities are exempted under the SFA.

Offers of capital markets products or operating an exchange for capital markets products are also regulated under the SFA. Conventional types of capital markets products that are regulated under the SFA include securities, units in collective investment schemes, derivatives contracts, and spot foreign exchange contracts for the purposes of leveraged foreign exchange trading.

Depending on the characteristics of the digital token and the activities carried out, persons carrying on business activities in relation to such cryptocurrencies and digital tokens would have to ensure compliance with any licensing or notification requirement under the SFA.

The Financial Services and Markets Act 2022 (“FSMA”),

which came into force on 30 June 2022, regulates digital token service providers by introducing a licensing requirement for digital token service providers in Singapore providing digital token services set out under Part 1 of the First Schedule of the FSMA outside of Singapore. The digital token services include, but are not limited to, the DPT services set out under the PSA.

The PSA, SFA and the FSMA set out in detail the specific requirements and classes of licenses, approvals or authorizations that are required, and any issuer of digital tokens should seek a legal opinion to ascertain whether their digital token is regulated under the aforementioned acts and their subsidiary legislation.

The Monetary Authority of Singapore (“MAS”) is the principal regulator administering the PSA, SFA and FSMA. MAS notices, guidelines and circulars (“MAS Publications”) apply to regulated entities and a regulated issuer of digital tokens would be required to consider whether there are any MAS Publications applicable to them. The MAS also functions as the central bank of Singapore.

5. What is the current attitude of the government and of regulators to the use of blockchain technology in your jurisdiction?

The Singapore Government takes an open but principled approach towards the adoption of blockchain technology within Singapore. For example, the Government Technology Agency has designed tools leveraging blockchain technology, namely OpenCerts and TradeTrust, which are promulgated to the public and private sector to facilitate the provision and usage of provenance records for educational credentials and trade documentation respectively.

Regulation of blockchain technology in Singapore responds proactively to trends in the cryptocurrency climate. The introduction of the FSMA is an example of how regulation of blockchain technology in Singapore has responded to developments or changes in the Financial Action Task Force (“FATF”) standards and recent global developments in AML/CFT trends have prompted additional regulation by MAS.

6. Are there any governmental or regulatory initiatives designed to facilitate or encourage the development and use of blockchain technology (for example, a regulatory sandbox or a central bank digital currency initiative)?

MAS has partnered with participants in the industry to conduct a collaborative project, "Project Ubin", to explore the use of blockchain and distributed ledger technology for the clearing and settlement of payments and securities. Project Ubin explored, among other objectives:

- a. Benefits of a tokenized Singapore Dollar on a distributed ledger;
- b. Development of Delivery versus Payment capabilities for settlement of tokenized assets across different blockchain platforms;
- c. Wholesale Tokenized Central Bank Digital Currency issued on blockchain to facilitate cross border, cross currency and cross platform transactions without intermediaries.

The MAS Fintech Regulatory Sandbox ("MAS Sandbox") enables financial institutions and fintech start-ups to experiment with new financial products or services within a supporting and well-defined environment. The MAS Sandbox has had successful cases such as capital markets licensee iSTOX, which uses blockchain and smart contract technology in its platform infrastructure.

7. Have there been any recent governmental or regulatory reviews or consultations concerning blockchain technology in your jurisdiction and, if so, what are the key takeaways from these?

MAS is targeting to release a public consultation around September or October in 2022, concerning consumer protection in the consumption of cryptocurrency transactions and the implementation of a regulatory approach for stablecoins.

On an industry wide level, as part of the MAS Financial Services Industry Transformation Map 2025, MAS specifically intends to leverage on DLT or blockchain technology to enhance payments connectivity and improve responsibility or accountability in the digital asset ecosystem. MAS seeks to have these technologies further deployed or tested in promising use cases within the financial industry and to drive asset tokenisation, enable digital currency connectivity as well as expand cross-border payment linkages.

8. Has any official guidance concerning the use of blockchain technology been published in your jurisdiction?

There has not been any official guidance concerning the use of blockchain technology in Singapore that functions

as a consolidated guide to private individuals or entities intending to utilize, adopt, or engage in applications of blockchain technology.

In relation to digital tokens including cryptocurrencies, MAS has published a guide on how existing regulations apply to digital token offerings, and the Inland Revenue Authority of Singapore has published a guide on how existing tax laws apply to the use of digital tokens.

9. What is the current approach in your jurisdiction to the treatment of cryptocurrencies for the purposes of financial regulation, anti-money laundering and taxation? In particular, are cryptocurrencies characterised as a currency?

Cryptocurrencies are not characterized as a currency in Singapore.

Taxation of cryptocurrency in Singapore depends on the type of activity that is being carried out. Where trading in cryptocurrency is carried out in the ordinary course of business, the profit derived therefrom would be subject to income tax. Where cryptocurrencies are purchased for long-term investment purposes, capital gains derived therefrom would not be subject to tax as Singapore does not impose taxes on capital gains. Where cryptocurrencies are used to pay for goods or services, the business providing the goods or services would be taxed on the value of the said goods or services.

General laws relating to Anti-Money laundering and Counter-Financing of Terrorism ("AML/CFT") laws apply in addition to specific AML/CFT obligations imposed by the SFA, PSA and FSMA as supplemented by requirements under the latest revised versions of MAS Notices, Guidelines and Circulars.

- a. Generally, the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 ("CDSA") provides for the obligation to report suspicious transactions with the Suspicious Transaction Reporting Office, Commercial Affairs Department of the Singapore Police Force as soon as is reasonably practicable. Under the Terrorism (Suppression of Financing) Act 2002 ("TSFA"), a person should disclose to the police any possession, custody or control of any property belonging to any terrorist or terrorist entity, or any information about any transaction or proposed transaction in respect of any property belonging to any terrorist or terrorist

entity in accordance with the First Schedule of the TSFA.

- b. Specifically, if a person is regulated under the SFA, MAS issued Notice SFA04-N02 “Prevention of Money Laundering and Countering the Financing of Terrorism – Capital Markets Intermediaries” could apply to the person.
- c. Specifically, if a person is regulated under the PSA, Notice PSN01 “Prevention of Money Laundering and Countering the Financing of Terrorism – Holders of Payment Services Licence (Specified Payment Services)” and/or Notice PSN02 “Prevention of Money Laundering and Countering the Financing of Terrorism – Holders of Payment Services Licence (Digital Payment Token Service)” issued by the MAS could apply to the person.
- d. Under the new FSMA, AML/CFT requirements imposed on financial institutions as defined under the FSMA, which include but are not limited to Virtual Asset Service Providers (“VASPs”), will be aligned with the requirements imposed on digital payment token service providers regulated under the PSA. There have not been any MAS Notices published under the FSMA and it remains to be seen whether specific AML/CFT regulations will be enacted in relation to the FSMA.

10. Are there any prohibitions on the use or trading of cryptocurrencies in your jurisdiction?

The trading and use of cryptocurrencies in Singapore via Decentralized Exchange Platforms (“DeX”) or otherwise between private individuals is not prohibited in Singapore.

11. To what extent have initial coin offerings taken place in your jurisdiction and what has been the attitude of relevant authorities to ICOs?

Initial Coin Offerings (“ICOs”) are neither encouraged nor prohibited in Singapore and the regulatory approach is to simply exercise broad oversight over ICOs. Private individuals or entities are free to engage in ICOs, provided that such ICO launches comply with the relevant regulations.

MAS has issued general guidelines for Digital Token Offerings in the MAS Guide to Digital Token Offerings (“Digital Token Offerings Guide”). Where listed

companies on the Singapore Exchange (“SGX”) plan to conduct an ICO, such issuers are expected to consult the Singapore Exchange Regulation, which undertakes all frontline regulatory functions on behalf of the SGX and its regulated subsidiaries.

12. If they are permissible in your jurisdiction, what are the key requirements that an entity would need to comply with when launching an ICO?

In the Digital Token Offerings Guide, MAS sets out a framework that token issuers should consider prior to launching an ICO. A prospective issuer should:

- a. Consider whether the digital token offered is a capital markets product. Where an ICO is offering a digital token which constitute a security, securities-based derivatives contract or unit in a Collective Investment Scheme (“CIS”), such an offer must comply with the requirements under Part 13 of the SFA, which includes a requirement of a prospectus accompanying the ICO and authorization or recognition of the CIS by MAS, unless the ICO falls under an exemption under the SFA relating to offers of capital market products.
- b. Determine whether the capital markets intermediaries facilitating the launch have complied with relevant regulations. Unless exempted under the relevant acts:
 - i. An intermediary operating a platform on which primary offers or issues of digital tokens constituting capital markets products may be made may be carrying on regulated activities under the SFA;
 - ii. An entity providing financial advice in respect of digital tokens that are an investment product under the Financial Advisers Act 2001 (“FAA”) may require a licence under the FAA; and
 - iii. an entity operating a trading platform for digital token in relation to digital tokens constituting securities, derivatives contracts or units in a CIS, may be establishing or operating an organised market and must be approved or recognized by MAS under the SFA.
- c. Determine whether the launch of the token or coin in the ICO would involve a payment service that is regulated under the PSA.

d. AML/CFT regulations as set out under question 9 above would apply to regulated entities seeking to launch new tokens or coins.

13. Is cryptocurrency trading common in your jurisdiction? And what is the attitude of mainstream financial institutions to cryptocurrency trading in your jurisdiction?

Cryptocurrency trading is common in Singapore. The mainstream financial institutions in Singapore remain receptive and interested in entering cryptocurrency markets. For example, DBS Bank Limited, Singapore's largest bank, launched a self-directed cryptocurrency trading function via the DBS Digibank application enabling accredited wealth clients to trade on the DBS Digital Exchange at their convenience.

14. Are there any relevant regulatory restrictions or initiatives concerning tokens and virtual assets other than cryptocurrencies (e.g. trading of tangible property represented by cryptographic tokens)?

Tokenized assets are subject to the same regulatory framework as cryptocurrencies as described under Question 12 above.

15. Are there any legal or regulatory issues concerning the transfer of title to or the granting of security over tokens and virtual assets?

The Singapore Court of Appeal ("CA") Case of Quoine Pte Ltd v B2C2 Ltd [2020] SGCA(I) 02 ("Quoine") touches on this topic but does not take a firm legal position on the issue of whether cryptocurrencies are capable of being treated as property in a generic sense. The CA acknowledged various cases in the Commonwealth that have held that cryptocurrencies are a species of property and acknowledged that there are substantial merits to this view but did not decide on this issue as the CA noted that both parties in Quoine did not dispute that cryptocurrencies are a species of property.

In a subsequent case, CLM v CLN [2022] SGHC 46 ("CLM"), the General Division of the High Court considered whether stolen cryptocurrency assets could be the subject of a proprietary injunction. The High Court held that cryptocurrency assets could be so and therefore granted a worldwide Mareva Injunction against

persons unknown and permitting tracing (via the blockchain) to track stolen cryptocurrency assets.

Consequently, the acceptance of cryptocurrencies as subject matters capable of assuming property rights suggests that in principle, the laws pertaining to transfers of property and taking security over property could arguably apply to cryptocurrencies or tokenized virtual assets as well.

16. How are smart contracts characterised within your legal framework? Are there any enforceability issues specific to the operation of smart contracts which do not arise in the case of traditional legal contracts?

Smart contracts appear to be regarded as regular contracts within Singapore. In the case of Quoine, the Court of Appeal had considered for the first time whether the doctrine of unilateral mistake could be applied to the context of algorithmic trading and the formation by way of deterministic algorithms (i.e, smart contracts containing self-executing code). The Court of Appeal held that the existing body of contract law could be meaningfully adapted to deal with the contractual issues arising in relation to smart contracts.

However, the Court of Appeal had also noted that algorithmic trading was an area of dynamic change and accordingly the applicability of the body of law relating to traditional legal contracts in the context of smart contracts may be subject to future cases which modify the applicability of traditional contractual principles, consequently affecting the enforceability of smart contracts as compared to traditional legal contracts.

17. To what extent are smart contracts in use in your jurisdiction? Please mention any key initiatives concerning the use of smart contracts in your jurisdiction, including any examples relating to decentralised finance protocols.

Smart Contracts are promoted for use in Singapore as part of initiatives promoting the realization of the economic value of blockchain technology. For example, Project Guardian, an initiative by MAS to develop and pilot use cases to achieve: (a) open, interoperable networks; (b) trust anchors integrating decentralized finance ("DeFi") protocols; (c) enable asset-backed tokens to be interoperable with other digital assets used in DeFi protocols; and (d) implementing institutional

grade DeFi protocols to mitigate market and operational risk. Project Guardian represents an attempt at the use of smart contracts to enhance the efficiency, accessibility, and affordability of financial services, increase liquidity in financial markets, and enhance economic inclusion.

18. Have there been any governmental or regulatory enforcement actions concerning blockchain in your jurisdiction?

An investigation by the Commercial Affairs Department into the business activities of A&A Blockchain Technology Innovation Pte Ltd ("A&A Blockchain") for possible cheating offences was announced in February 2022. A&A Blockchain purportedly offered a cryptocurrency mining investment scheme, promising a fixed daily return of 0.5%. This is in addition to other purported schemes, each offering varying returns.

Hodlnaut, a crypto lender in Singapore has been issued an order by the Singapore Police Force (SPF) on July 14 issued an order for Hodlnaut to transfer the group's balance assets of US\$127.2 million (S\$177.59) worth of stablecoins USD Coin (USDC) and Tether (USDT) to the SPF following the collapse of stablecoin TerraUSD and Luna. The Monetary Authority of Singapore on Aug 9 2022 rescinded Hodlnaut's in-principle approval to offer token swaps under the Payment Services Act. Hodlnaut has since been placed on Interim Judicial Management to avoid liquidation of its Singapore entity.

19. Has there been any judicial consideration of blockchain concepts or smart contracting in your jurisdiction?

Judicial consideration of blockchain concepts or smart contracting in Singapore has been made in the recent decisions of Quoine and CLM, as discussed above.

20. Are there any other generally-applicable laws or regulations that may present issues for the use of blockchain technology (such as privacy and data protection law or insolvency law)?

Many general laws or regulations in Singapore could potentially apply to blockchain technology applications in Singapore. This could include but is not limited to:

- a. Insolvency law, as highlighted by the example of Hodlnaut above;
- b. Data Privacy or Protection Law, which applies to entities and individuals collecting personal data, regardless of whether these entities engage in blockchain activities or not; and
- c. Estate and Succession Law, as cryptocurrencies have been held to be capable of assuming property rights.

21. Are there any other key issues concerning blockchain technology in your jurisdiction that legal practitioners should be aware of?

Blockchain technology remains relatively unregulated despite the uptake of blockchain applications in Singapore and novel issues may arise given the increasing complexity and applications of blockchain technology. A legal opinion should always be obtained in order to ascertain whether any particular application is regulated or unregulated by Singapore law.

Regulation has been focused on the AML/CFT risks of blockchain technology. It is foreseen by MAS following the MAS public consultation in October 2022 that new consumer protection laws would arise in relation to cryptocurrency holdings.

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