

MAS ISSUES GUIDE TO DIGITAL TOKEN OFFERINGS

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Legal Briefings - By **Hannah Cassidy, Grace Chong and Charlotte Wong**

On 14 November 2017, the Monetary Authority of Singapore (**MAS**) issued a [guide](#) during the first day of the Singapore FinTech Festival to provide general guidance on the application of the securities laws administered by the MAS, namely the *Securities and Futures Act* (**SFA**) and the *Financial Advisers Act* (**FAA**), to offers or issues of digital tokens in Singapore.

This follows the MAS's clarification on 1 August 2017 that an offer or issue of digital tokens would be regulated if these tokens constitute products which are regulated under the SFA. You can read our article on the clarification [here](#).

In this article we highlight the key points in the guide and set out our observations.

KEY POINTS FROM THE GUIDE

The key points from the guide issued by the MAS are as follows:

I. Application of SFA or FAA

The guide explains the applicability of the SFA or the FAA on offers or issues of digital tokens in Singapore. The MAS in particular highlights:

Whether an offer or issue of a digital token is regulated by the MAS depends on the structure and characteristics of, including the rights attached to, the digital token;

Offers of digital tokens which constitute securities or units in a collective investment scheme are subject to the regulatory regime under Part XIII of the SFA; and

Intermediaries who facilitate offers or issues of digital tokens must obtain the relevant licence or approval from the MAS depending on their roles.

II. Extra-territoriality of SFA or FAA

The guide sets out situations where the SFA or the FAA may have extra-territorial impact. The requirements of the SFA may still apply where a person operates a primary or trading platform, partly in or partly outside of Singapore, or outside of Singapore. Additionally, under the FAA, a person based overseas but engaging in any activity that is intended to or likely to induce the public in Singapore to use the financial advisory service he/she provided is deemed to be acting as a financial adviser in Singapore.

III. Money laundering and financing of terrorism concerns

The guide emphasises that the relevant MAS Notices on *Prevention of Money Laundering and Countering the Financing of Terrorism* may apply. Digital tokens that perform functions which may not be within the MAS's regulatory purview may be subject to other legislation for combating money laundering and terrorism financing.

The MAS also notes that it intends to establish a new payments services framework that will include rules to address money laundering and terrorism financing risks relating to the dealing or exchange of virtual currencies for fiat or other virtual currencies. Such intermediaries will be required to put in place policies, procedures and controls to address such risks. These will include requirements to conduct customer due diligence, monitor transactions, perform screening, report suspicious transactions and keep adequate records.

IV. Application of sandbox criteria to digital tokens

The MAS will provide the appropriate regulatory support to successful applicants to its regulatory sandbox by relaxing the specific legal and regulatory requirements prescribed by it. The MAS expects that interested firms would have done their due diligence, such as testing the proposed financial service in a laboratory environment and knowing the legal and regulatory requirements for deploying the proposed financial service, prior to submitting an application.

If an application is approved, the MAS will provide the appropriate regulatory support by relaxing specific legal and regulatory requirements prescribed by the MAS, which the applicant would otherwise be subject to, for the duration of the sandbox.

OUR OBSERVATIONS

The guide issued by the MAS is in line with the general trend towards regulators around the world being more vocal regarding the potential risks associated with initial coin offerings. For further information, please refer to our recent e-bulletin which can be found [here](#).

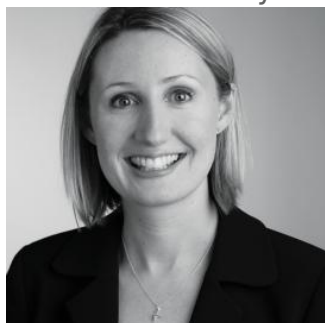
As highlighted by the MAS, parties who wish to offer digital tokens in Singapore or operate a platform involving digital tokens in Singapore are encouraged to seek professional advice from qualified legal practitioners to ensure that the proposed activities are in compliance with applicable laws, rules and regulations in Singapore.

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KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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