

# Cryptocurrency Regulations in Liechtenstein

Educational Series

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# Introduction

- Liechtenstein is openly supportive towards cryptocurrency and blockchain technology.
- Its banks are handling cryptocurrency investments on behalf of their clients while financial sector of other European countries is shying away.
- Even its Crown Prince Alois publicly implied interest to use blockchain as a way to improve administrative tasks in his country.



# Regulatory overview

- Cryptocurrency currently does not have an official status nor definition in Liechtenstein.
- Unofficially, according to **Financial Market Authority of Liechtenstein ("FMA")**, cryptocurrencies are private, purely virtual currencies that are not subject to any control authority and are usually implemented using a blockchain.
- As of now, production and use of cryptocurrencies as means of payment are not subject to any licensing requirement in Liechtenstein, as they do not constitute an official currency.



# Regulatory overview (continued)

- The Ministry for General Government Affairs and Finance of Liechtenstein published the consultation report on the proposed Act on Transaction Systems Based on Trustworthy Technology, also known as **Blockchain Act ("VTG")**.
- It will include provisions on important topics such as definitions, obligations and registration requirements, penalties and enforcements, etc.
- Following Malta, Liechtenstein may become the second country to date to have legal status of cryptocurrency.

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## Liechtenstein: Government Adopts Consultation Report on Draft Blockchain Act

(Sept. 20, 2018) On August 28, 2018, the government of Liechtenstein adopted a consultation report on a proposed Blockchain Act. The goal of the Blockchain Act is to take advantage of the potential of blockchain technology, create legal certainty for market participants, protect users of blockchain technology from potential abuse, and reduce potential reputation risks for Liechtenstein. The deadline for comments on the consultation report (consultation period) is November 16, 2018. The consultation procedure is a preliminary voluntary step in the legislative process before the draft is submitted to Parliament for debate. (Ministerium für Präsidiales und Finanzen [Ministry for General Government Affairs and Finance], [Vernehmlassungsbericht der Regierung betreffend die Schaffung eines Gesetzes über auf vertrauenswürdigen Technologien \(VT\) beruhende Transaktionssysteme](#) (Blockchain-Gesetz; VT-Gesetz; VTG) und die Abänderung weiterer Gesetze. [Consultation Report on Enacting an Act on Transaction Systems Based on Trustworthy Technologies (TT) (Blockchain Act; TT Act; VTG) and the Amendment of Further Acts], Aug. 28, 2018, Government Chancellery website; Press Release, Government of the Principality of Liechtenstein, [Consultation Launched on Blockchain Act](#) (Aug. 29, 2018), Government website.)

### Scope of Application

The proposed Blockchain Act applies to all trustworthy technologies (TT) service providers, unless the TT system is available only to a closed user group. (Consultation Report, *supra*, at 138 (quoting Blockchain Act arts. 2 & 4).) "Trustworthy" technologies are defined as "technologies through which the integrity of tokens, their clear allocation to the person in possession as well as their use without an operator can be ensured." (*Id.* at 138 (quoting Blockchain Act art. 3, para. 1).) The rules on the control and use of tokens are only applicable when tokens are generated or issued by a TT service provider who is subject to Liechtenstein law, or when the Blockchain Act declares them applicable. (*Id.* at 144 (quoting Blockchain Act art. 11).) The Consultation Report states that the term "trustworthy technologies" was chosen as a technology-neutral term to encompass a wide range of technology options instead of the narrower terms "blockchain" and "distributed ledgers." Furthermore, technology-neutral terms ensure that the law will not be outdated after a few years and only have a limited scope. (*Id.* at 40.)

### Tokens and Related Concepts

The Consultation Report uses the word "tokens" to describe all types of technical implementation methods of the blockchain technology, even if the system does not actually use a "token" to implement it. "Token" is understood in an abstract and not in a technological sense. (*Id.* at 46.) The draft Blockchain Act defines "tokens" as "information on a TT-system that can represent transferrable claims or rights of membership vis-à-vis a person, rights in rem, or other absolute or relative rights, and that secures the attribution to one or more public keys." (*Id.* at 139 (quoting Blockchain Act art. 5, para. 1, no. 1).) A token functions as a "container" that represents all types of rights on a TT-system. "Empty containers," meaning tokens like Bitcoin that do not represent a specific right, are also possible. (*Id.* at 43.) The report states that the Blockchain Act serves as a framework law for all types of token-based applications. (*Id.* at 29.) It was decided to establish autonomous rules for ownership of tokens and TT-systems instead of modifying the existing property rules. (*Id.* at 47.)

A "public key" is defined as "consisting of a series of characters that constitute a specific publicly accessible address in a TT-system to which a token can be clearly attributed." (*Id.* at 139 (quoting Blockchain Act art. 5, para. 1, no. 2) (all translations by author).) A "private key" on the other hand consists of a series of characters that, by themselves or together with other private keys, enable the

# Current/proposed regulatory framework

## FinTech Framework

- Securities and other forms of financial instruments (together the "Financial Instruments") in Liechtenstein are governed by FMA under various legislations such as the Financial Market Authority Act, Securities Prospectus Act, Asset Management Act, Investment Undertakings Act, Banking Act, and Due Diligence Act.

## The Blockchain Act ("VTG")

- VTG is a blanket legislation that covers a wide range of topics related to cryptocurrency and blockchain.

# The Blockchain Act ("VTG")

## 1. Broad Applicability

- VTG applies to not just cryptocurrencies, but to potential uses of blockchain or related technology in general.
- VTG broadly defines **Trustworthy Technology**, in a technology-neutral term, as "technologies through which the integrity of tokens, their clear allocation to the person in possession as well as their use without an operator can be ensured".
- **Token**, in an abstract sense, is defined as "information on a Trustworthy Technology system that can represent transferrable claims or rights of membership vis-à-vis a person, rights in rem, or other absolute or relative rights, and that secures the attribution to one or more public keys".

# The Blockchain Act ("VTG") (continued)

## 2. Right of Disposal

- **Public key** - a series of characters that constitute a specific publicly accessible address in a TT-system to which a token can be clearly attributed.
- **Private key** - a series of characters that, by themselves or together with other private keys, enable the use and transfer of the public key.
- A transfer of a token by the person who owns the private key causes a transfer of the right that is represented by the token; hence the holder of the Private Key has the power and right of disposal.

# The Blockchain Act ("VTG") (continued)

## 3. General Obligations

- All Trustworthy Technology services must be provided only by persons who have met a plethora of requirements, including having full capacity to act, being trustworthy, having a clear organizational structure, and possessing a minimum capital of 100,000 Swiss francs or equivalent collateral.
  - Trustworthiness in particular exists when a person has not been convicted by a court of fraudulent bankruptcy or similar offenses and there are no other reasons that would give rise to serious doubts regarding the provider's trustworthiness.
- Certain Trustworthy Technology service providers such as token issuers, custodians, and token generators have additional requirements and must register with the FMA.



# The Blockchain Act ("VTG") (continued)

## 4. ICO Obligations

- **ICO**, or **Token Issuance**, is defined as the "public offering of a token".
- Token issuers are those who "perform the token issuance in their own name or on a professional basis in the name of a third party". Token issuers must:
  - ensure the disclosure of basic information during the token issuance (e.g. information on tokens, rights, technologies used, risks, etc.) and for at least 10 years after the issuance;
  - ensure the proper execution of the token issuance;
  - prevent the repeat token issuance for the same rights;
  - note a previous token issuance for a subsequent issuance on related rights; and
  - ensure business continuity in the case of disruptions during the token issuance

# The Blockchain Act ("VTG") (continued)

## 5. Penalties

- Trustworthy Technology service providers that do not comply with the obligations set out in the VTG are subject to a fine of 20,000 to 30,000 Swiss francs.

# Regulatory development

- The regulatory development is already underway in Liechtenstein to legalize and support the current and future development of cryptocurrency, blockchain and related technology.
- Similar to proactive countries in the crypto space such as Switzerland and Malta, Liechtenstein is promoting a healthy environment for genuine projects to grow.

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