

<b>Título</b>	Convenio sobre Valores de 2006 y novedades digitales en relación con los mercados de valores: Actualización
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<b>Objetivo</b>	Actualización sobre el avance de los trabajos relativos al Convenio sobre Valores de 2006 y a las novedades digitales respecto a los mercados de valores
<b>Acción requerida</b>	Decisión <input checked="" type="checkbox"/> Aprobación <input type="checkbox"/> Discusión <input type="checkbox"/> Acción/finalización <input type="checkbox"/> A título informativo <input checked="" type="checkbox"/>
<b>Anexos</b>	<i>Update to Annex of Prel. Doc. 10A of January 2023 (Legal Frameworks and Case Studies of Tokenisation of Securities)</i>
<b>Documentos relacionados</b>	<i>Prel. Doc. No 15A of February 2024</i>

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# Convenio sobre Valores de 2006 y novedades digitales en relación con los mercados de valores: Actualización

## I. Introducción

- 1 En su reunión de marzo de 2024, el Consejo de Asuntos Generales y Política (CAGP) tomó nota de la labor de la Oficina Permanente (OP) en relación con el Convenio sobre Valores de 2006 y las novedades digitales respecto a los mercados de valores. El CAGP encargó a la OP, en colaboración con expertos en la materia y en función de los recursos disponibles, estudiar la determinación de la jurisdicción y el derecho aplicable en el contexto de los mercados de valores a la luz de los avances tecnológicos —como la tecnología de registro distribuido (DLT por sus siglas en inglés)—; evaluar las ramificaciones de la creciente atención que los servicios financieros y el sector de los valores prestan a las novedades tecnológicas; y detectar oportunidades, en el contexto de la economía digital, para estudiar la conveniencia y viabilidad de futuras orientaciones normativas en materia de valores.<sup>1</sup> El presente Documento Preliminar presenta un informe sobre la labor realizada durante el último año con arreglo a estos mandatos.

## II. Avance de los trabajos

- 2 El Convenio sobre Valores de 2006 entró en vigor en 2017 para sus tres Partes contratantes.<sup>2</sup> Si bien la principal norma de derecho internacional privado (DIPr) del Convenio aporta claridad y respuestas prácticas a la cuestión del derecho aplicable a los valores depositados en un intermediario, no se han adherido nuevas Partes contratantes al instrumento en el último año. El Convenio sobre Valores de 2006 continúa siendo relevante en el contexto de una economía mundial cada vez más digitalizada y nuevos casos de uso cada vez más complejos. En este sentido, en el caso de los valores (digitales) representados mediante anotación en cuenta depositados en intermediarios sin tokenización, las soluciones previstas en el marco del Convenio sobre Valores de 2006 siguen siendo válidas.
- 3 Como se informó al CAGP antes de sus reuniones de marzo de 2023 y marzo de 2024, los avances tecnológicos —en particular en relación con los mecanismos descentralizados y distribuidos (incluida la DLT)— hacen prever una ampliación del ámbito de aplicación de las legislaciones sobre valores en distintas jurisdicciones, especialmente en lo que respecta a los derechos consignados por medio de dichos mecanismos.<sup>3</sup> La OP siguió haciendo un seguimiento de las jurisdicciones estudiadas en 2023 para comprender los enfoques adoptados por las autoridades reguladoras y legislativas nacionales en materia de valores. Asimismo, siguió de cerca las dificultades que pueden surgir en la determinación del derecho aplicable y la jurisdicción competente como resultado de los distintos enfoques nacionales.<sup>4</sup>
- 4 Las actualizaciones que se realizaron en el último año figuran en el Anexo I, donde el texto en azul indica las novedades legislativas y los estudios de casos añadidos para complementar el material

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1 Conclusión y Decisión (CyD) N.º 54 del CAGP de 2024, disponible en el sitio web de la HCCH, [www.hcch.net](http://www.hcch.net), en “Gobernanza”, luego “Consejo de Asuntos Generales y Política” y “Archivo (2000-2024)”.

2 El estado actual en el que se detallan, entre otras cosas, las fechas de firma, ratificación y entrada en vigor de las Partes contratantes del Convenio sobre Valores puede consultarse en el sitio web de la HCCH, [www.hcch.net](http://www.hcch.net), en “Instrumentos”, luego “Convenios y otros instrumentos”, “Convenio sobre Valores de 2006” y, por último, “Estado actual”.

3 *2006 Securities Convention, 1985 Trusts Convention, 2015 Principles on Choice of Law: Update, Prel. Doc. No. 10A of February 2023*, disponible en el sitio web de la HCCH, [www.hcch.net](http://www.hcch.net) (véase la ruta indicada en la nota 1), párr. 5.

4 La OP emprendió el estudio en 2023 con 18 jurisdicciones representativas de todas las regiones del mundo, y sigue haciendo un seguimiento de ellas al tiempo que se plantea qué otras jurisdicciones añadir al estudio con el fin de ofrecer un examen equilibrado e inclusivo. Véase el Anexo I del *Prel. Doc. No 10A of January 2023*, disponible en el sitio web de la HCCH, [www.hcch.net](http://www.hcch.net), en “Gobernanza”, luego “Consejo de Asuntos Generales y Política” y “Archivo (2000-2024)”.

presentado en el Documento Preliminar N.º 10A de enero de 2023.<sup>5</sup> En resumen, la mayoría de las jurisdicciones estudiadas han seguido definiendo sus marcos jurídicos con respecto a los tókenes, activos digitales y valores, especificando en qué condiciones un token se considera un valor, así como los requisitos para su registro y comercialización. Además de los valores y otros instrumentos financieros similares, la tokenización de activos del mundo real y de bienes inmuebles —especialmente para fraccionar un bien subyacente a los efectos de una inversión de los consumidores— se suelen incluir en los marcos jurídicos de los valores tokenizados.

- 5 Estos hechos muestran una continuación de las tendencias observadas en 2024: una mayor familiaridad institucional y regulatoria con la descentralización y las tecnologías distribuidas en distintas jurisdicciones —sumada a una dinámica comercial marcada por una continua presión sobre los costos y por las expectativas de los clientes en cuanto a los servicios—<sup>6</sup> ha llevado a los participantes en los mercados de capitales a utilizar cada vez más soluciones basadas en DLT para tokenizar instrumentos financieros tradicionales y distribuir valores digitales a los inversores.<sup>7</sup> Además, algunas jurisdicciones han señalado que la posibilidad de fraccionar bienes para inversiones minoristas es una herramienta atractiva para ampliar el acceso a los mercados financieros y a los productos de ahorro.<sup>8</sup>
- 6 Asimismo, la oferta de valores tokenizados parece variar en función de factores que pueden ser importantes para el DIPr, como sus bases jurídicas y reglamentarias, las instituciones emisoras, los mecanismos de registro y supervisión, la infraestructura de DLT (p. ej., red pública, privada, con permiso o sin permiso) y la capacidad de un consumidor de efectuar la venta posterior del token.

### III. Cuestiones de DIPr relacionadas con los valores digitales y tokenizados

#### A. Digitalización y tokenización de valores

- 7 Los valores digitales son instrumentos emitidos en tecnología de registro distribuido (DLT) o en un protocolo comparable y que son equivalentes, desde el punto de vista funcional, a los valores certificados.<sup>9</sup> Crear un valor digital consiste en inscribir un derecho (un crédito, un derecho societario, etc.) en un registro que cumpla los requisitos mínimos establecidos por la ley para los registros de valores.<sup>10</sup> La inscripción en un registro de valores tiene el efecto jurídico de que un derecho quede sujeto a normas específicas para transferir y hacer valer el derecho, según lo definido por el sistema subyacente.<sup>11</sup> Esto tiene varias consecuencias que pueden tener implicaciones en materia de DIPr:
- a. **Control y/o posesión:** Dado que los valores digitales se controlan a través de una infraestructura de clave privada (la DLT o un protocolo comparable),<sup>12</sup> para efectuar una operación, el titular de la clave privada puede cambiar el estado de la base de datos distribuida. Esta posibilidad de cambiar el estado de la base de datos que se confiere al

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<sup>5</sup> *Prel. Doc. No 10A of January 2023*, disponible en el sitio web de la HCCH, [www.hcch.net](http://www.hcch.net), en la sección “Gobernanza”, luego “Consejo de Asuntos Generales y Política”, luego “Archivo (2000-2024)”.

<sup>6</sup> Foro Económico Mundial, *Digital Assets, Distributed Ledger Technology and the Future of Capital Markets Insight Report*, mayo de 2021.

<sup>7</sup> *Ibid.*

<sup>8</sup> Véanse, por ejemplo, en el anexo I, las novedades en Camerún.

<sup>9</sup> H. Kuhn y K. Löber, *Crypto Securities and Other Digital Assets: Aspects of Substantive and Regulatory Law*. En Thomas Keijser (ed), *Transnational Securities Law*, (2<sup>nd</sup> ed.), párr. 10.14. Véase también el párr. 10.16, en el que los autores también distinguen los valores desmaterializados o no certificados, que tampoco tienen representación física y pueden basarse en cualquier tipo de tecnología distinta de un protocolo de tecnología de registro distribuido (DLT).

<sup>10</sup> H. Kuhn y K. Löber, *Crypto Securities and Other Digital Assets: Aspects of Substantive and Regulatory Law*. En Thomas Keijser (ed), *Transnational Securities Law*, (2<sup>nd</sup> ed.), párr. 10.82.

<sup>11</sup> H. Kuhn y K. Löber, *Crypto Securities and Other Digital Assets: Aspects of Substantive and Regulatory Law*. En Thomas Keijser (ed), *Transnational Securities Law*, (2<sup>nd</sup> ed.), párr. 10.82.

<sup>12</sup> *Ibid.*, párr. 10.15.

titular de la clave privada es comparable al control o la posesión de un bien mueble físico.<sup>13</sup> Por lo tanto, de forma similar a la posesión de valores certificados, lo que se está transfiriendo es el derecho a controlar las anotaciones en el registro de valores.

- b. **Registros a prueba de falsificaciones que permiten el control y la validación directos por parte de los titulares de los valores digitales:** Los valores digitales y/o tokenizados depositados en una solución basada en DLT garantizan que todos los cambios que ocurran sean validados por los participantes de conformidad con un mecanismo de validación acordado y que queden consignados en todas las copias del registro.<sup>14</sup> Esta inmutabilidad garantiza que los registros sean transparentes y a prueba de falsificaciones,<sup>15</sup> y que los cambios efectuados directamente permitan el control y la validación directos por parte de los titulares de valores digitales y/o tokenizados. Asimismo, permite la verificación de la identidad<sup>16</sup> y la gestión de riesgos y garantías en tiempo real.

El impacto de la digitalización y tokenización de valores en una solución basada en tecnología de registro distribuido (DLT) puede, por tanto, generar incrementos de eficiencia a través de la consolidación de infraestructuras previamente separadas para la emisión, custodia, comercialización y compensación y liquidación de operaciones de valores en una única plataforma.<sup>17</sup>

## B. Determinación de la jurisdicción competente y el derecho aplicable en los mercados de valores a la luz de los avances tecnológicos relacionados con los mecanismos de almacenamiento distribuido

- 8 Como ya se ha comentado en años anteriores, puede resultar difícil fijar el *situs* de los valores digitales y/o tokenizados. Esto, a su vez, dificulta la determinación del derecho aplicable o la jurisdicción competente sobre la base de los puntos de conexión o los criterios de competencia tradicionales. A falta de puntos de conexión o criterios de competencia claros, que vinculen a los valores digitales y/o tokenizados basados en DLT o a un mecanismo de almacenamiento distribuido con una jurisdicción específica, se ha observado que la autonomía de la voluntad de las partes para elegir el derecho que rija el contrato puede ser un buen medio para que haya seguridad jurídica.<sup>18</sup> Cuando hay una elección válida del derecho aplicable, conceder a las partes la autonomía de elegir el derecho aplicable que rija su relación contractual ha demostrado ser un enfoque eficaz. Cuando los valores digitales (i) se registran en sistemas distribuidos sin permisos; (ii) no están depositados en intermediarios identificados; y (iii) no presentan una elección expresa (o válida) sobre el derecho aplicable, la referencia al *situs* de una de las partes en la operación, si se conoce dicho lugar, puede constituir un punto de conexión para dicha operación.
- 9 En cuanto a la elección del derecho aplicable a los derechos relativos a la propiedad de valores depositados en un intermediario (identificado), el artículo 4 del Convenio sobre Valores de 2006 vincula la elección del derecho aplicable a determinados criterios de presencia física que el intermediario en cuestión debe cumplir al celebrarse el contrato de cuenta. Además, el artículo 5 del Convenio sobre Valores de 2006 establece normas supletorias para que se aplique a los valores intermediados la ley conforme a la cual se haya constituido u organizado el intermediario en cuestión o, a falta de tal constitución u organización, la ley de su lugar principal de actividad.

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<sup>13</sup> *Ibid.*

<sup>14</sup> H. Kuhn y K. Löber, *supra* nota 10, párr. 10.07.

<sup>15</sup> D. Patel y E. Ganne, [Blockchain & DLT in Trade: A Reality Check](#), noviembre de 2019.

<sup>16</sup> S. Blemus y D. Guégan, [Initial crypto-asset offerings \(ICOs\), tokenization and corporate governance](#), *Capital Markets Law Journal*, Vol. 15, Issue 2, abril de 2020.

<sup>17</sup> H. Kuhn y K. Löber, *supra* nota 10 párr. 10.02.

<sup>18</sup> H. Kuhn y K. Löber, *supra* nota 10 párr. 10.96.

En el contexto de los valores digitales, los puntos de conexión que se prevén en el Convenio sobre Valores de 2006 para determinar el derecho aplicable a los valores digitales depositados en intermediarios identificados siguen siendo pertinentes. Otra consideración relevante en relación con la aplicación del Convenio sobre Valores de 2006 sería el caso de un intermediario que no esté identificado o registrado como tal (p. ej.: servicios basados en tecnología de registros distribuidos que no tengan forma de sociedad), pero que desempeñe funciones típicas de los intermediarios de valores.

#### IV. Alineamiento con el Proyecto sobre Tókenes / Grupo de Expertos propuesto

- 10 El mandato del Proyecto sobre Tókenes no incluye el tema de los valores. El trabajo relativo a las novedades digitales en los mercados de valores, incluidos los tókenes de valores, se emprende en el marco de este estudio pos-Convenio del Convenio sobre Valores de 2006.<sup>19</sup>
- 11 En numerosos debates en las reuniones del Proyecto sobre Tókenes se abordó el alcance de esta exclusión, y los participantes señalaron que los valores tokenizados constituyen una parte de los casos de uso de tokenización, tanto de los actuales como de los que se anticipan. Los participantes debatieron si ciertas aplicaciones de los tókenes son, en última instancia, una especie de valores, y también señalaron que las nuevas normativas financieras difieren en cuanto a si los valores están incluidos o excluidos de la definición de tókenes y activos.<sup>20</sup> Algunos participantes señalaron que la exclusión no impide a los participantes estudiar los valores, pero sí les impide producir orientaciones sobre el tema. Los participantes también señalaron que dicha exclusión puede limitar en gran medida el estudio de clases de tókenes, como por ejemplo los tókenes de gobernanza.<sup>21</sup>
- 12 En última instancia, los participantes procuraron no limitar excesivamente el ámbito de debate del Proyecto sobre Tókenes, por lo que adoptaron (y excluyeron) una definición amplia de valores.<sup>22</sup> A la luz de los debates mantenidos en el marco del Proyecto sobre Tókenes, si el CAGP decide crear un Grupo de Expertos sobre Tókenes conforme a la recomendación unánime de los participantes en el Proyecto, se propone que dicho Grupo de Expertos examine, en términos generales y básicos, determinados casos de uso relacionados con la tokenización de valores, a fin de establecer claramente si la exclusión es aplicable y en qué casos. Luego, la OP tomará nota de los casos de uso que surjan de los informes de las reuniones sobre tókenes. Para que haya coherencia entre la labor sobre tókenes y la labor pos-Convenio relativa al Convenio sobre Valores de 2006, esta lista de casos de uso puede constituir un eje de trabajo independiente que se trate a la luz del marco ya existente del Convenio sobre Valores de 2006.

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<sup>19</sup> Doc. Prel. N.º 5B de enero de 2024, párr. 13. La propuesta que figura en el Doc. Prel. N.º 5B no incluye trabajos relativos a los “valores, ya sea en caso de tenencia directa o indirecta. Cabe señalar que las cuestiones de DIPr relativas a los valores, tanto de aquellos custodiados por un intermediario como en sistemas sin intermediarios, se están abordando en el marco del estudio sobre el Convenio sobre Valores de 2006 y las novedades digitales de los mercados de valores”. La OP debe velar por que haya coordinación y armonía entre los trabajos propuestos en el Doc. Prel. N.º 5B y este trabajo en curso relacionado con el Convenio sobre Valores de 2006 y los avances digitales con respecto a los mercados de valores.

<sup>20</sup> Doc. Prel. N.º 4 de noviembre de 2024, Anexo II, párrs. 15, 30 y 46. Los participantes debatieron, por ejemplo, si la anotación de un token en sí puede considerarse un valor, o si el token representa un valor y los dos juntos forman un activo vinculado. Con respecto a la regulación, los participantes señalaron que el reglamento sobre el mercado de criptoactivos (MiCA por sus siglas en inglés) trata por separado los instrumentos financieros y los criptoactivos. Del mismo modo, en el *Rapport sur la détermination de la loi applicable aux actifs inscrits en registres distribués* (Informe HCJP) se diferencia entre instrumentos financieros y otros activos digitales en tecnología de registros distribuidos (DLT). Véase también el Anexo IV, para. 35-39, donde se analiza la noción de valores basados en registros distribuidos según la ley suiza sobre DLT.

<sup>21</sup> Doc. Prel. N.º 4 de noviembre de 2024, Anexo IV, párr. 52.

<sup>22</sup> Doc. Prel. N.º 4 de noviembre de 2024, Anexo II, párr. 22.

## V. Propuesta para el CAGP

13 A la luz de lo expuesto, la OP propone la siguiente CyD para consideración del CAGP:

El CAGP toma nota del trabajo de la OP en relación con el Convenio sobre Valores de 2006 y los avances digitales respecto a los mercados de valores.

El CAGP encomienda a la OP que, en colaboración con expertos y en función de los recursos disponibles, continúe con lo siguiente:

- a. estudiar la determinación de la jurisdicción competente y el derecho aplicable en el contexto de los mercados de valores a la luz de los avances tecnológicos, como la tecnología de registros distribuidos;
- b. evaluar las ramificaciones de la creciente atención que los sectores de los servicios financieros y de los valores prestan a los avances tecnológicos; y
- c. detectar oportunidades, en el contexto de la economía digital y de otros trabajos normativos, para estudiar la conveniencia y viabilidad de futuras orientaciones normativas en materia de valores.

La OP presentará un informe al CAGP de 2026. Si en el informe se señala un trabajo que trasciende el mero seguimiento, como la posibilidad de formular un marco de DIPr, el CAGP decidirá si deberá realizarse dicho trabajo, teniendo en cuenta las implicaciones en materia de recursos. Si el CAGP decide que debe realizarse dicho trabajo, ello se recogerá expresamente en el programa de trabajo de la HCCH.

## **ANEXO**



**Table of Securities Regulators' Approaches to Blockchain Digital Assets and Instruments / Update of 2024 on Tokenisation of Securities Legal Frameworks and Case Studies**

No.	Country	Securities Regulator	Legislation/ Regulation/ Guidelines/Case Studies
1.	Australia	Australian Securities and Investments Commission (ASIC)	<p>Since 2018, crypto exchanges are required to register<sup>1</sup> with the Australian Transaction Reports and Analysis Centre (AUSTRAC), which maintains the Digital Currency Exchange Register.</p> <p>In May 2019, ASIC issued updated regulatory requirements for both ICOs and cryptocurrency trading.<sup>2</sup></p> <p>In 2021, Australia announced plans to introduce a new licensing framework specifically for cryptocurrency exchanges.</p> <p>In 2024, ASIC published updates to Information Sheet 225, including guidance on scenarios where a digital asset made available to consumers might be categorised as an offer of: a security, a facility for making a financial investment, interests in a managed investment scheme, a derivative, or a non-cash payment facility.<sup>3</sup></p>
2.	Bahrain	Central Bank of Bahrain (CBB)'s Capital Markets Supervision Directorate (CMSD)	<p>In 2019, Bahrain published a regulatory module governing crypto assets. The government made the dealings of crypto-centric businesses legal with the due permission of the Central Bank.</p> <p>The regulatory framework contains comprehensive regulations to govern and license 'Regulated Crypto-Asset Services' and is included in Volume 6 of the CBB Rulebook that governs capital markets.<sup>4</sup></p> <p>The Central Bank of Bahrain has issued amendments to its Crypto-assets Module, expanding the scope to address Digital Token Offerings under regulated crypto-assets activities. In</p>

<sup>1</sup> For example, in April 2022, the ASIC charged a Melbourne-based cryptocurrency lender of falsely claiming it held an Australian credit licence (ACL) when it did not. available at <https://smstrusteenews.com.au/2022/04/22/asic-prosecutes-cryptocurrency-lender/>.

<sup>2</sup> Australian Securities & Investments Commission, available at <https://asic.gov.au/regulatory-resources/digital-transformation/crypto-assets/>.

<sup>3</sup> ASIC, Updates to INFO 225: Digital assets: Financial products and services (December 2024), available at <https://download.asic.gov.au/media/iktkpn20/attachment-to-cp381-published-4-december-2024.pdf>.

<sup>4</sup> Central Bank of Bahrain Issues Regulations governing Crypto-Asset Services, available at <https://www.tamimi.com/law-update-articles/central-bank-of-bahrain-issues-regulations-governing-crypto-asset-services/>.

			determining whether a digital token qualifies as a security, the CBB will examine the underlying economic purpose of the digital token, its structure, characteristics, as well as the rights attached to the digital token. <sup>5</sup>
3.	Botswana	-	While Botswana does not have a regulatory framework to govern cryptocurrency trading and does not have an exchange, it passed a bill in February 2022 to regulate digital assets trading. The new rules seek that any company that offers cryptocurrency services, or anything related to digital tokens, should obtain a license from the Non-Bank Financial Institutions Regulatory Authority. <sup>6</sup>
4.	Brazil	Security and Exchange Commission (SEC)	<p>Crypto assets are not yet regulated in Brazil, with the legal status of utility tokens and cryptocurrencies undefined by any Brazilian law or regulatory authority. However, security tokens are considered securities and are thus regulated by the SEC.<sup>7</sup></p> <p>The SEC is aiming for changes in the country’s legal framework regarding cryptocurrencies. A few bills on cryptoassets are currently being discussed in Brazil. A relevant example is Bill of Law No. 4401/2021,<sup>8</sup> which was approved by the Senate in April 2022 and is expected to be approved by the Chamber of Deputies in the near future. This is comprehensive legislation that would regulate transactions involving certain cryptoassets conducted through electronic platforms, according to which digital asset service providers – such as crypto exchanges – would need to seek licence from a national authority – most probably the Central Bank of Brazil – in order to operate and transactions involving cryptoassets.</p> <p>Brazil’s securities regulator published a guidance note addressing when a digital asset is considered a security and specifying what disclosures are to be made.<sup>9</sup> Brazil’s Central Bank governor announced that the country is preparing to introduce regulations for stablecoins and asset tokenisation in 2025.<sup>10</sup></p>

<sup>5</sup> CBB Issues a New Regulatory Framework for Digital Tokens Further Developing the Crypto-Assets Market, 30 March 2023, available at <https://www.cbb.gov.bh/media-center/cbb-issues-a-new-regulatory-framework-for-digital-tokens-further-developing-the-crypto-assets-market/>.

<sup>6</sup> Botswana to Regulate Crypto That Feared Becoming “Wild West”, 02 February 2022, available at <https://www.bloomberg.com/news/articles/2022-02-02/botswana-to-regulate-crypto-that-was-feared-becoming-wild-west>.

<sup>7</sup> Brazilian guide on cryptoassets, 24 January 2023, available at <https://www.lewsalomao.com.br/publications/article/brazilian-guide-on-cryptoassets>.

<sup>8</sup> A copy of Bill of Law No. 4401/2021 is available at <https://www25.senado.leg.br/web/atividade/materias/-/materia/151264>.

<sup>9</sup> Brazil’s Securities regulator defines which crypto-assets are securities, 14 October 2022, available at <https://www.ledgerinsights.com/brazil-securities-regulator-cvm-crypto-assets-securities/>.

<sup>10</sup> Brazil Poised to Regulate Stablecoins and Tokenized Assets by 2025, Says Central Bank Chief, 15 October 2024, available at <https://www.pymnts.com/cpi-posts/brazil-poised-to-regulate-stablecoins-and-tokenized-assets-by-2025-says-central-bank-chief/>.

5.	Cameroon	-	<p>The Government of Cameroon has not legislated on cryptocurrencies as yet, and no regulation or framework exists for the use or trade in cryptocurrencies.</p> <p>In 2015, however, Cameroon reportedly trialled a bitcoin-like digital currency called Trest. Although the results of the tests were “excellent”, the high cost associated with electricity usage when processing cryptocurrency transactions acted as a hindrance to further testing of the use of cryptocurrencies within Cameroon.<sup>11</sup></p> <p>A pilot project was launched by a non-governmental organisation in partnership with a Francophone African crypto investment platform to offer fractionalised tokenised government bonds to enable retail investors to enter the market at low price points. The project sought to explore whether such a product could provide savings and investment opportunities for low-income individuals. Almost half of registered users of the pilot reported that this was their first time accessing a savings product, in part because the scheme was accessible with a minimum required investment of USD \$1.53.<sup>12</sup></p>
6.	Canada	Canadian Securities Administrators (CSA)	<p>The CSA and the Investment Industry Regulatory Organization of Canada (IIROC) have issued guidance requiring crypto trading platforms and dealers in Canada to register with the local provincial regulators.<sup>13</sup></p> <p>The Ontario Securities Commission has actively enforced the regulations against several unregistered foreign trading platforms.<sup>14</sup></p> <p>CSA issued a notice<sup>15</sup> in 2017 on the applicability of existing securities laws to cryptocurrencies, if the person or company selling the securities is conducting business from within Canada or if there are Canadian investors.</p>

<sup>11</sup> Blockchain and Cryptocurrency in Africa by Baker Mackenzie, available at [https://www.bakermckenzie.com/-/media/files/insight/publications/2019/02/report\\_blockchainandcryptocurrencyreg\\_feb2019.pdf](https://www.bakermckenzie.com/-/media/files/insight/publications/2019/02/report_blockchainandcryptocurrencyreg_feb2019.pdf) at p. 18.

<sup>12</sup> Leveraging Tokenized and Fractionalized Bonds for Individuals in Cameroon 25 April 2024, available at <https://www.mercycorps.org/research-resources/leveraging-tokenized-fractionalized-bonds>

<sup>13</sup> Cryptocurrency regulations by country, available at <https://www.thomsonreuters.com/en-us/posts/wp-content/uploads/sites/20/2022/04/Cryptos-Report-Compendium-2022.pdf>.

<sup>14</sup> *Ibid.*

<sup>15</sup> See CSA Staff Notice 46-307 available at [https://www.osc.ca/sites/default/files/pdfs/irps/csa\\_20170824\\_cryptocurrency-offerings.pdf](https://www.osc.ca/sites/default/files/pdfs/irps/csa_20170824_cryptocurrency-offerings.pdf).

			<p>In 2021, the CSA published guidance<sup>16</sup> for crypto issuers that own or hold crypto assets. Requirements for cryptocurrency exchanges to register with the Financial Transactions and Reports Analysis Centre of Canada (FinTRAC) were also introduced.</p> <p>In 2023, the CSA published guidance noting that value-referenced crypto assets (VRCAs), “assets designed to maintain a stable value over time by referencing the value of a fiat currency or any other value or right, or combination thereof”, may constitute securities and/or derivatives in several jurisdictions.<sup>17</sup></p>
7.	People’s Republic of China	-	<p>There is a blanket ban on cryptocurrencies and all crypto transactions and mining as of September 2021.<sup>18</sup></p> <p>In 2023, guidance from the Securities and Futures Commission and Hong Kong Monetary Authority clarified the framework for tokenised securities through guidance in the Tokenised Securities Circular and the Tokenised Investment Products Circular.<sup>19</sup> Hong Kong was the jurisdiction offering the first tokenised security in the APAC region;<sup>20</sup> while, Hong Kong securities brokers have issued native tokenised securities<sup>21</sup> and fixed-income tokenised funds.<sup>22</sup></p>
8.	Japan	Financial Services Agency (FSA)	<p>Amendments to the Financial Instruments and Exchange Act (FIEA), which is the legislation that regulates securities within Japan, took effect in May 2020 and introduced the term “crypto asset”.<sup>23</sup> Cryptocurrencies that are classified as securities fall under the statutory authority of FIEA.<sup>24</sup></p>

<sup>16</sup> See CSA Staff Notice 51-363 available at [https://www.osc.ca/sites/default/files/2021-03/csa\\_20210311\\_51-363\\_observations-disclosure-crypto-asset.pdf](https://www.osc.ca/sites/default/files/2021-03/csa_20210311_51-363_observations-disclosure-crypto-asset.pdf).

<sup>17</sup> See CSA Staff Notice 21-333 available at [https://www.osc.ca/sites/default/files/2023-10/csa\\_20231005\\_21-333\\_crypto-platforms-vrca.pdf](https://www.osc.ca/sites/default/files/2023-10/csa_20231005_21-333_crypto-platforms-vrca.pdf).

<sup>18</sup> China's top regulators ban crypto trading and mining, sending bitcoin tumbling, 24 September 2021, available from <https://www.reuters.com/world/china/china-central-bank-vows-crackdown-cryptocurrency-trading-2021-09-24/>.

<sup>19</sup> Hong Kong lays out comprehensive guidance on crypto and tokenised securities-related activities by intermediaries, along with guidance on tokenisation of investment products , 11 December 2023, available at <https://www.herbertsmithfreehills.com/notes/fsrandcorpcrime/2023-12/hong-kong-lays-out-comprehensive-guidance-on-crypto-and-tokenised-securities-related-activities-by-intermediaries-along-with-guidance-on-tokenisation-of-investment-products>

<sup>20</sup> Asia witnesses its first tokenised security via Bank of China’s BOCI, 13 June 2023, available at <https://fintech.global/2023/06/13/asia-witnesses-its-first-tokenised-security-via-bank-of-chinas-boci/>

<sup>21</sup> Linklaters advises GF Securities (Hong Kong) on the successful launch of its tokenised securities in Hong Kong SAR, 25 January 2024, available at <https://www.linklaters.com/en/about-us/news-and-deals/deals/2024/january/linklaters-advises-gf-securities-on-the-successful-launch-of-its-tokenised-securities-in-hong-kong>

<sup>22</sup> Linklaters advises Harvest Global Investments on the launch of its tokenised fund in Hong Kong SAR, 18 January 2024, available at <https://www.linklaters.com/en/about-us/news-and-deals/deals/2024/january/linklaters-advises-harvest-global-investments-on-the-launch-of-its-tokenised-fund-in-hong-kong-sar>

<sup>23</sup> For example, see Art. 63-11 of the PSA available at [https://www.japaneselawtranslation.go.jp/en/laws/view/3965/en#ie\\_ch4sc2at6](https://www.japaneselawtranslation.go.jp/en/laws/view/3965/en#ie_ch4sc2at6).

<sup>24</sup> Japan and Cryptocurrency, available at <https://freemanlaw.com/cryptocurrency/japan/>.

			<p>Nonetheless, cryptocurrencies in Japan are largely regulated because they largely fall under the Payment Services Act (PSA) – that recognises Bitcoin and other digital currencies as legal property – or the FIEA.</p> <p>In December 2021, the FSA indicated that it would propose legislation in 2022 to regulate issuers of stablecoins and toughen regulations to prevent money laundering.<sup>25</sup></p> <p>The Financial Instruments and Exchange Act (FIEA) of 1948, as amended in May 2020, includes tokenised securities representing bonds, shares, funds and derivatives.<sup>26</sup> An industry report on the security token market of financial year 2023 noted that the total issuance amount of security tokens in Japan in FY 2023 was JPY 97.6 billion, where 85% of products were real estate beneficiary certificate issuance trusts and 13% were corporate bonds.<sup>27</sup></p>
9.	Kenya	Capital Markets Authority (CMA)	<p>In Kenya, cryptocurrency is primarily regulated by the following acts: (1) The National Payments Systems Act (NPSA) administered by the Central Bank of Kenya (CBK); (2) the Capital Markets Act (CMA) administered by the Capital Markets Authority (CMA); and (3) the Kenya Information and Communication Act (KICA) administered by the Communications Authority. Cryptocurrencies that qualify as securities are regulated under the CMA, which is the agency charged with overseeing the public offers of securities within Kenya. Even though the CMA has not yet classified cryptocurrency as securities, the legislation empowers the CMA with broad discretion to classify certain cryptocurrencies as securities.<sup>28</sup></p> <p>In February 2022, Kenya’s central bank invited the public for views on the potential introduction of a digital currency, in a shift from its original opposition to crypto assets.<sup>29</sup></p> <p>A number of ongoing tokenisation efforts in Kenya concern tokenisation of gold, real estate, and farmland.<sup>30</sup> The Nairobi Securities Exchange joined the Hedera Council in October 2024,</p>

<sup>25</sup> Stablecoins to face new restrictions in Japan, 07 December 2021, available at <https://asia.nikkei.com/Spotlight/Cryptocurrencies/Stablecoins-to-face-new-restrictions-in-Japan>.

<sup>26</sup> Article 4 – The unexpected reason behind the unexpected rise of tokenisation in Japan, 03 June 2024, available at <https://futureoffinance.biz/article-4-the-unexpected-reason-behind-the-unexpected-rise-of-tokenisation-in-japan/>

<sup>27</sup> BOOSTRY Releases Japan Security Token Market Report, 02 April 2024, available at <https://www.nomuraholdings.com/news/nr/etc/20240402/bstr20240402.html>

<sup>28</sup> Kenya and Cryptocurrency, available at <https://freemanlaw.com/cryptocurrency/kenya/>.

<sup>29</sup> Kenya's central bank tests public opinion about digital currencies, 10 February 2022, available at <https://www.reuters.com/technology/kenyas-central-bank-tests-public-opinion-about-digital-currencies-2022-02-10/>.

<sup>30</sup> Kenya Follows Zimbabwe’s Lead in Tokenising Real-World Assets, Expanding Access to Investment Opportunities, 12 November 2024, available at <https://www.thezimbabwemail.com/technology-science/kenya-follows-zimbabwes-lead-in-tokenising-real-world-assets-expanding-access-to-investment-opportunities/>

			signalling its intent to participate in tokenisation initiatives on Hedera's public permissioned network. <sup>31</sup>
10.	Malaysia	Securities Commission (SC)	<p>The SC issued guidelines on the regulation of various digital currency platforms operating in the country. The Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019 stated that digital tokens are “securities” for purposes of securities laws.<sup>32</sup></p> <p>In October 2024, the SC announced the introduction of a regulatory sandbox and planned improvements to the regulatory framework to encourage securities tokenisation. Corporations developing solutions in areas like financial inclusiveness, Islamic finance and retirement solutions are encouraged to apply to participate in the sandbox.<sup>33</sup></p>
11.	Nigeria	Securities and Exchange Commission of Nigeria (SEC)	<p>The Nigerian Securities and Exchange Commission (SEC) published a new rulebook, the New Rules on Issuance, Offering Platforms and Custody of Digital Assets, in May 2022 to provide regulatory clarity on its cryptocurrency landscape. This publication covers rules on issuance of digital assets as securities, registration requirement for Digital Assets Offering Platforms (DAOPs), registration requirements for Digital Asset Custodians (DACs), rules on Virtual Assets Service Providers (VASPs) and rules on Digital Assets Exchange (DAX).<sup>34</sup></p> <p>The SEC operates two programmes to test digital asset-related firms' technology and operation models prior to granting full registration. Firms participating in 2024 provide functions including tokenisation of real estate, agriculture, and infrastructure.<sup>35</sup></p>
12.	Singapore	Monetary Authority of Singapore (MAS)	In 2017, the MAS clarified <sup>36</sup> that the offer or issue of digital tokens in Singapore will be regulated by MAS if the digital tokens constitute products regulated under the Securities and Futures Act (SFA). As yet, the SFA does not specify the same.

<sup>31</sup> The Nairobi Securities Exchange (NSE) Joins the Hedera Council to Expedite Tokenization of Securities in Kenya's Capital Markets, 30 October 2024, available at <https://hedera.com/blog/the-nairobi-securities-exchange-nse-joins-the-hedera-council-to-expedite-tokenization-of-securities-in-kenyas-capital-markets>

<sup>32</sup> Capital Markets and Services Act 2007, Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token), Order 2019, available at <https://www.sc.com.my/api/documentms/download.ashx?id=8c8bc467-c750-466e-9a86-98c12fec4a77>.

<sup>33</sup> SC Unveils Three Initiatives to Spur Innovation, 01 October 2024, available at <https://www.sc.com.my/resources/media/media-release/sc-unveils-three-initiatives-to-spur-innovation>

<sup>34</sup> SEC Nigeria's Consolidated Rules and Regulations, available at <https://sec.gov.ng/regulation/rules-codes/>.

<sup>35</sup> Press Release: Update on the SEC's Accelerated Regulatory Incubation Program and Regulatory Incubation Program, 29 August 2024, available at <https://sec.gov.ng/press-release-update-on-the-secs-accelerated-regulatory-incubation-program-and-regulatory-incubation-program/>

<sup>36</sup> MAS clarifies regulatory position on the offer of digital tokens in Singapore, 01 August 2017, available at <https://www.mas.gov.sg/news/media-releases/2017/mas-clarifies-regulatory-position-on-the-offer-of-digital-tokens-in-singapore>

			<p>Its regulatory approach towards digital tokens is to look beyond common labels and examine the features and characteristics of each digital token, to determine the applicable regulatory requirements.<sup>37</sup></p> <p>The 2019 Payment Services Act<sup>38</sup> brought exchanges and other cryptocurrency businesses under the regulatory authority of MAS from January 2020 and imposed a requirement for them to obtain a MAS operating license.</p> <p>As reported in 2023, the regulatory approach towards digital tokens is to look beyond common labels and examine the features and characteristics of each digital token, to determine the applicable regulatory requirements—a digital token may constitute capital markets products including shares, debentures, and securities-based derivatives contracts.<sup>39</sup> In November 2024, the MAS announced plans to advance tokenisation in financial services through development of market infrastructures, industry frameworks, and access to common settlement facility for tokenised assets.<sup>40</sup></p>
13.	South Africa	Financial Conduct Authority (FSCA)	<p>The FSCA has yet to implement any regulations, but a regulatory framework is expected in the near future.<sup>41</sup></p> <p>South Africa’s National Treasury budget review published in February 2022<sup>42</sup> formally introduced the move to declare cryptocurrencies as financial products. The state also plans to enhance the monitoring and reporting of cryptocurrency transactions to comply with exchange regulations in the country.</p> <p>The South African Reserve Bank is also set to introduce regulations that will see cryptocurrencies classed and treated as financial assets.<sup>43</sup></p>

<sup>37</sup> MAS’ Guide to Digital Token Offerings’ dated 26 May 2020 available at <https://www.mas.gov.sg/-/media/MAS/Sectors/Guidance/Guide-to-Digital-Token-Offerings-26-May-2020.pdf>.

<sup>38</sup> See Art. 2, Payment Services Act available at <https://sso.agc.gov.sg/Acts-Supp/2-2019/Published/20190220?DocDate=20190220>.

<sup>39</sup> A GUIDE TO DIGITAL TOKEN OFFERINGS by Monetary Authority of Singapore, available at <https://www.mas.gov.sg/-/media/mas/sectors/guidance/guide-to-digital-token-offerings-26-may-2020.pdf>

<sup>40</sup> MAS Announces Plans to Support Commercialisation of Asset Tokenisation, 04 November 2024, available at <https://www.mas.gov.sg/news/media-releases/2024/mas-announces-plans-to-support-commercialisation-of-asset-tokenisation>

<sup>41</sup> Crypto regulations in South Africa, 25 February 2022, available at <https://www.michalsons.com/blog/crypto-regulations-in-south-africa/56081#:~:text=Crypto%20Assets%20%26%20Tax&text=The%20South%20African%20Revenue%20Ser vice,disposed%20of%20with%20capital%20intent>.

<sup>42</sup> Budget Review by National Treasury of Republic of South Africa, 23 February 2022, available at <http://www.treasury.gov.za/documents/national%20budget/2022/review/FullBR.pdf>.

<sup>43</sup> Bitcoin not a currency? South Africa to regulate crypto as financial asset, 12 July 2022, available at <https://cointelegraph.com/news/bitcoin-not-a-currency-south-africa-to-regulate-crypto-as-financial-asset>.



14.	Republic of Korea	Financial Services Commission (FSC)	<p>Cryptocurrencies are not considered legal tender nor a financial asset. Exchanges, while legal, are part of a closely monitored regulatory system overseen by the Financial Supervisory Service (FSS).</p> <p>As of 6 September 2022, the FSC has revealed plans to launch a distinct digital securities market with a view towards institutionalising and promoting cryptocurrencies.<sup>44</sup></p> <p>The envisioned digital securities market would accept tokens that use blockchain. However, these tokens must be registered as electronic securities.</p> <p>Legislation to authorise security token offerings was abandoned during the previous legislative session (May 2020 to May 2024) but is expected to be reintroduced in the current legislative session.<sup>45</sup> This follows announcements in February 2023 that financial authorities would allow the issuance and distribution of tokenised securities.<sup>46</sup></p>
15.	Switzerland	Financial Market Supervisory Authority (FINMA)	<p>Switzerland imposes a registration process on cryptocurrency exchanges, which must obtain a license from FINMA in order to operate. FINMA applies existing financial legislation to offerings, including securities trading.</p> <p>In 2021, the DLT Act<sup>47</sup> was introduced with the goal of adjusting Swiss laws to take advantage of cryptocurrency innovation. The DLT Act constitutes an umbrella legislation that introduces a new concept of so-called DLT Securities (including the newly introduced registered uncertificated securities)<sup>48</sup> under the Swiss Code of Obligations allowing for the tokenisation of rights, claims and financial instruments.<sup>49</sup></p> <p>The Swiss legal framework allows for registered tokens on certain blockchains to record a right that may only be enforced and transferred through that ledger; the rights that can be</p>

<sup>44</sup> South Korea is getting serious on crypto securities- Here's how, 08. September 2022, available at <https://ambcrypto.com/south-korea-is-getting-serious-on-crypto-securities-heres-how/>.

<sup>45</sup> Current State of the STO Market in South Korea, 13 June 2024, available at <https://reports.tiger-research.com/p/current-state-of-the-kr-sto-market-eng>

<sup>46</sup> Will security token offering legislation gain traction this time, 01 December 2024, available at [https://www.koreatimes.co.kr/www/biz/2024/11/602\\_387347.html](https://www.koreatimes.co.kr/www/biz/2024/11/602_387347.html)

<sup>47</sup> Federal Council brings DLT Act fully into force and issues ordinance, 18 June 2021, available at <https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-84035.html>.

<sup>48</sup> Switzerland: Swiss Legislative Package on DLT, 23 January 2021, available at <https://www.globalcompliancenews.com/2021/01/23/switzerland-swiss-legislative-package-on-dlt-07012021/#:~:text=On%2025%20September%202020%2C%20the.as%20a%20leading%2C%20innovative%20and.>

<sup>49</sup> Tokenization of Investment Fund Units, 25 May 2023, available at <https://www.mme.ch/en/magazine/articles/tokenization-of-investment-fund-units>



			incorporated including securities, claims, shares, some intellectual property rights, and financial instruments. <sup>50</sup>
16.	United Arab Emirates	Securities and Commodities Authority (SCA)  Also: Financial Services Regulatory Authority (FRSA)	<p>The Abu Dhabi Global Market, a regulatory body, issued a comprehensive layout on the regulations to be followed while carrying out crypto-related transactions. This regulatory approach identifies categories of digital assets or instruments. Virtual assets including non-fiat virtual currencies are treated as commodities.<sup>51</sup></p> <p>The Dubai Multi Commodities Centre (DMCC) has also termed cryptocurrencies as commodities and opened the avenues for businesses holding a DMCC issued license to trade in this commodity.<sup>52</sup></p> <p>The SCA is taking crypto lawmaking to another level by publicising their draft legislation for crypto-asset sale, tokenisation of assets, crypto exchanges and more; and to ask the public for feedback so they can tailor their laws better to local needs.</p> <p>The UAE is also creating a joint digital currency with the Kingdom of Saudi Arabia. The joint crypto Aber, which is built on the blockchain, is sending a clear message that both governments are eager to use cryptocurrency technology and even on testing it out on a state-level for bank dealings and government transactions between the two countries.<sup>53</sup></p> <p>Real estate tokenisation projects are gaining popularity in the UAE, giving rise to questions as to the characteristics of the token, the prevailing regulatory framework (such as onshore UAE, the Dubai International Financial Centre, or the Abu Dhabi Global Market).<sup>54</sup></p>
17.	United Kingdom	Financial Conduct Authority (FCA)	The regulation of crypto assets falls into three categories as identified by the FCA in its Guidance on Crypto Assets: <sup>55</sup> security tokens, e-money tokens and unregulated tokens.

<sup>50</sup> Prel. Doc. No 4 of November 2024, Annex IV, para. 35.

<sup>51</sup> ADGM launches crypto asset regulatory framework, 25 June 2018, available at <https://www.adgm.com/media/announcements/adgm-launches-crypto-asset-regulatory-framework>

<sup>52</sup> *Ibid.*

<sup>53</sup> Saudi Arabia, UAE jointly pilot cross border digital currency, 21 January 2019, available at <https://www.ledgerinsights.com/saudia-arabia-uae-digital-currency-cbdc/>

<sup>54</sup> Tokenisation of UAE Real Estate, 16 October 2023, available at <https://www.twobirds.com/en/insights/2023/uae/tokenisation-of-uae-real-estate>

<sup>55</sup> Policy Statement PS19/22: Guidance on Cryptoassets published by the *Financial Conduct Authority (FCA)* on 31 July 2019, available at <https://www.fca.org.uk/publications/policy-statements/ps19-22-guidance-cryptoassets>.

			<p>Security tokens are virtual currencies with characteristics that mean they provide rights and obligations akin to traditional instruments, such as shares, debentures or units in a collective investment scheme.</p> <p>Together with e-money tokens which are virtual currencies meeting, the definition of electronic money, both fall into the UK regulatory perimeter as 'specified investments' under the Financial Services and Markets Act 2000 (FSMA).<sup>56</sup></p> <p>The FCA has indicated that at least some types of virtual currencies may be transferable securities. In particular, it identifies that traditional shares issued on a public blockchain may be transferable securities, and that some security tokens may 'amount to a transferable security more akin to regulated equity-based crowdfunding'.<sup>57</sup></p> <p>In January 2022, the UK government announced plans for legislation to address cryptoasset advertisements and protect consumers from misleading claims.<sup>58</sup></p> <p>In addition to points reported in 2023 which had already set out a framework for tokenised securities, the UK has been progressing its research and piloting of fund tokenisation.<sup>59</sup> In September 2024 the Bank of England and the Financial Conduct Authority opened applications to participate in a Digital Securities Sandbox.<sup>60</sup></p>
18.	United States of America	Securities and Exchange Commission (SEC)	The Financial Crimes Enforcement Network (FinCEN) proposed a cryptocurrency regulation (expected by Fall 2022) to impose data collection requirements on cryptocurrency exchanges and wallets for anti-money laundering purposes.

<sup>56</sup> Virtual Currency Regulation Review, 08 October 2021, available at <https://www.cliffordchance.com/insights/resources/blogs/talking-tech/en/articles/2021/10/virtual-currency-regulation-review.html>

<sup>57</sup> Para. 6 of the FCA's written submission to the House of Commons Treasury Committee digital currencies inquiry, published 22 May 2018, available at <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/treasury-committee/digital-currencies/written/81677.pdf>.

<sup>58</sup> Government to strengthen rules on misleading cryptocurrency adverts, 18 January 2022, available at <https://www.gov.uk/government/news/government-to-strengthen-rules-on-misleading-cryptocurrency-adverts>.

<sup>59</sup> Fund tokenization, 24 November 2023, available at <https://www.fca.org.uk/firms/cryptoassets-our-work/fund-tokenisation>

<sup>60</sup> Guidance on the operation of the Digital Securities Sandbox, 30 September 2024, available at <https://www.bankofengland.co.uk/financial-stability/digital-securities-sandbox/guidance-on-operation-digital-securities-sandbox>

		<p>The proposed rules<sup>61</sup> would clarify that the definition of “money” under the Bank Secrecy Act applies to virtual currencies and would also apply to domestic and cross-border transactions involving digital assets that have legal tender status.</p> <p>Note: In August 2022, US Senators introduced the Digital Commodities Consumer Protection Act that seeks to close regulatory gaps between state and federal regulation of cryptocurrencies. If passed, the DCCPA would make the CFTC the leading oversight agency for cryptocurrencies that aren’t otherwise deemed securities.</p> <p>Most implementations of tokenised real-world assets, with a focus on yield generation and appreciation in value, will cause them to be treated as securities under the Securities Act<sup>62</sup>. The US has not implemented comprehensive regulations specifically for issuing security instruments on the blockchain, and therefore tokenised real-world assets need to be structured in a way that complies with the Securities Act, including registration under a number of possible pathways.<sup>63</sup> US Treasury notes on public blockchains, offered by multiple token projects, have in total exceeded USD \$1 billion.<sup>64</sup></p>
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<sup>61</sup> Clarification of the Requirement to Collect, Retain, and Transmit Information on Transactions Involving Convertible Virtual Currencies and Digital Assets With Legal Tender Status by Department of the Treasury USA, available at <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202104&RIN=1506-AB41>.

<sup>62</sup> Tokenized Real-World Assets: Pathways to SEC Registration, 09 May 2024, available at <https://www.fenwick.com/insights/publications/tokenized-real-world-assets-pathways-to-sec-registration>.

<sup>63</sup> Tokenized Real-World Assets: Pathways to SEC Registration, 09 May 2024, available at <https://www.fenwick.com/insights/publications/tokenized-real-world-assets-pathways-to-sec-registration>.

<sup>64</sup> Over \$1B in U.S. Treasury Notes Has Been Tokenized on Public Blockchains, 28 Mar 2024, available at <https://www.coindesk.com/markets/2024/03/28/over-1b-in-us-treasury-notes-has-been-tokenized-on-public-blockchains>.