Blockchain & Cryptocurrency Regulation

2019

First Edition

Contributing Editor
Josias Dewey

glg global legal group

CONTENTS

Country chapters

Singapore

Franca Ciambella, En-Lai Chong & YingXin Lin
Consilium Law Corporation

Government attitude and definition

Singapore is commonly referred to as one of the world's "cryptohavens", not only because it is a world financial centre, but also as a result of its balanced legal and regulatory regime fostered by the Monetary Authority of Singapore ("MAS"). Acting as the central bank and as the financial regulating body, MAS' approach is to regulate the space to prevent stifling innovation, while simultaneously protecting investors and the public at large.

The government has not defined a virtual currency (used interchangeably with "cryptocurrency" or "token" or "coin" unless otherwise specified) to be one exclusive thing, but instead has stated the following: (a) they are not a currency or legal tender issued by any government; (b) they are to be encouraged as a means of paying for goods or services to someone who is willing to accept them as a mode of payment, and are a means of making payments; (c) they cannot be a store of value, as their prices fluctuate (in this regard, the government attitude is to not encourage people to use them as an investment tool as they are risky); and (d) they are recognised as assets and personal property, with more and more people trading in them.

Regarding blockchain technology, the government encourages its development, but says that this positive attitude does not mean it is necessarily encouraging cryptocurrencies. Cryptocurrencies are not the only application of blockchain technology; it has many other uses. Government confidence in blockchain technology is shown through its development of "Project Ubin".

Backed by MAS, Project Ubin is aimed at creating a digital token for the Singapore dollar on the Ethereum blockchain. Each ledger is supported by the equivalent amount of Singapore dollars held by the government, which will ensure that the overall money supply is not impacted by the token and has full redemption possibilities. The project is intended to make financial transactions cheaper and more efficient. Although the project is still in its early stages, it is a prime example of one of the ways that Singapore is seeking to have digital tokens backed by the government and central banks.

Cryptocurrency regulation

A virtual currency itself is not regulated in Singapore; however, the activities surrounding it or its characterisation resulting from its activity are what determine whether it will be regulated under securities or other legislation. This leaves the door wide open for tokens, for example, of a payment nature only, to be unlicensed, non-security tokens that can be sold to the public without any licensing or MAS oversight using a simple set of sale terms and conditions. Moreover, in the analysis of the characterisation of a token, a key difference with other major jurisdictions is that it will not be considered a security simply because there will

be some sort of crowd-funding or capital-raising activity. Instead, an in-depth analysis of whether it falls within the scope of securities law is required to determine its characterisation as a security or not, and any ensuing or other licensing or regulatory requirements.

A "legal opinion" on the characterisation of the token as falling within securities legislation, and any other licences that may be required, should be a first step. One reason for this is that unlike some other jurisdictions, regulators such as MAS will not get involved in this exercise and do not provide opinions or specific guidance on a particular situation.

This section will deal with the regulations surrounding Initial Coin Offerings ("ICOs") and Exchanges.

ICOs – Are they securities?

An ICO refers to the fund-raising process whereby digital tokens (or coins) are offered for sale online to the public in return for payment in a specified cryptocurrency or fiat. The tokens may or may not have utility functions. Some tokens serve as both fund-raising tools and tools that enable access and usage of the issuer's platform or eco-system, while some other tokens are solely fund-raising tools.

As will be examined below, some tokens may resemble securities, which raises the issue of whether Singapore's securities laws apply to certain ICOs. The implications of this issue are significant, as there are extensive laws and regulations governing the issuing of securities to the public, such as the registration of a prospectus, making conducting an ICO an onerous and costly endeavour to embark on.

MAS announced on 1 August 2017 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 (Cap.289, Rev. Ed), (hereinafter "SFA") or other securities legislation.

Where digital tokens fall within the definition of securities in the SFA, the offeror of the tokens would be required to lodge and register a prospectus with MAS prior to offering such tokens, unless otherwise exempted from such requirement.

In the analysis, the first issue to look into is the definition of securities, which may be found in the SFA. The term "Securities" is defined in Section 2(1) and Section 239(1) of the SFA. As follows:

Section 2(1)

"securities" means —

(a) *debentures or stocks issued or proposed to be issued by a government;*

(b) *debentures, stocks or shares issued or proposed to be issued by a corporation or body unincorporate;*

(c) *any right, option or derivative in respect of any such debentures, stocks or shares;*

(d) *any right under a contract for differences or under any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in —*

  (i) *the value or price of any such debentures, stocks or shares;*

  (ii) *the value or price of any group of any such debentures, stocks or shares; or*

  (iii) *an index of any such debentures, stocks or shares;*

(e) *any unit in a collective investment scheme;*

(f) *any unit in a business trust;*

(g) *any derivative of a unit in a business trust; or*

(h) *such other product or class of products as the Authority may prescribe,*

but does not include —

(i) *futures contracts which are traded on a futures market;*

(ii) *bills of exchange;*

(iii) *promissory notes;*

(iv) *certificates of deposit issued by a bank or finance company whether situated in Singapore or elsewhere; or*

(v) *such other product or class of products as the Authority may prescribe as not being securities;*

Section 239 (1)

'"securities" means —

(a) *shares or units of shares of a corporation;*

(b) *debentures or units of debentures of an entity;*

(c) *interests in a limited partnership or limited liability partnership formed in Singapore or elsewhere; or*

(d) *such other product or class of products as the Authority may prescribe, but does not include such other product or class of products as the Authority may prescribe as not being securities.*

There are some exemptions from the requirement in Section 240(1) SFA, and Section 272B(1) SFA provides an exemption for being a private placement, if certain requirements are met. Such exemptions can be one of the following:

(a) the offers are made to no more than 50 persons within any period of 12 months;

(b) none of the offers is accompanied by an advertisement making or calling attention to the offer or intended offer;

(c) no selling or promotion expenses are incurred in connection with each offer other than those incurred for administrative or professional services, or by way of commission or fee for services rendered thereby; and

(d) no prospectus in respect of any of the offers has been registered by the Authority or where a prospectus has been registered.

While ICOs are typically offerings to the public, some issuers limit the sale of their tokens to private or institutional investors. Some issuers carry out both the private and public sale, with the former at an earlier stage, before proceeding with the latter.

There is a new piece of legislation, the Payment Services Bill ("PSB") that is being prepared by the Singapore Government. The PSB, when enacted, will regulate the purchase and sale of virtual currencies. Under the PSB, entities that carry out any of the following activities need to hold a licence and be subject to regulation:

(a) account sale services;

(b) domestic money transfer services;

(c) cross-border money transfer services;

(d) merchant acquisition services;

(e) e-money sale;

(f) virtual currency services; and

(g) money-changing services.

It is possible that the activities of ICO companies may fall under the categories of "e-money sale" and/or "virtual currency services", and it would be important to look into the application of the PSB after it has been enacted.

Exchanges

Once a coin is offered, it is typically traded on the market via an exchange. Markets, as defined in the SFA, are regulated according to Section 6 of the SFA:

> "*6.*
>
> *— (1) No person shall establish or operate a market, or hold himself out as operating a market, unless the person is —*
>
> *(a) an approved exchange; or*
>
> *(b) a recognised market operator.*"

A party would have to obtain the requisite approvals or licences from MAS in order to set up and operate an exchange. However, this is a costly process with no guarantee that MAS would grant such an approval or licence.

Section 2(1) SFA, read with Paragraph 1 of Part I of the First Schedule of the SFA, defines "market" in the SFA as a securities market or futures market.

Paragraph 2 of the First Schedule of the SFA defines futures markets. They are described as a place where offers or invitations to sell, purchase, or exchange are made or may reasonably be intended to lead to results.

Further, futures contracts are defined in Section 2(1)(a) of the SFA, which states that a contract that creates the effect where one party agrees to deliver a specific commodity by a specified future time at a specified price payable at that time. Or it can be where a specified quantity of a specified commodity is agreed at the time of the making of the contract and at a specified future time.

Hence, the issue of whether or not a token is a futures contract could be affected by: whether it is paid for and delivered at or around the time of entering into the ICO contract instead of at a specified future time; whether there is any difference between the value of the token at different points of time that has to be settled between the issuer and the purchaser; whether the potential profits or losses that a purchaser may make on the token will be as against the issuer; and whether the tokens are interests in or contractual rights against the issuer that may be realised or enforced in the future.

Paragraph 3 of Part I of the First Schedule of the SFA defines securities market, which describes it as being a place or a facility by means of which offers or invitations to sell, purchase or exchange issues securities are regularly made on a centralised basis, that are intended or expected to result in the sale, purchase or exchange of issues securities or prescribed securities.

Overall, it appears that as long as the virtual currency is not a "security" under the SFA, its virtual currency exchange would currently not be regulated and no licence is currently required, however, if even one token is a security, then the exchange would be regulated under the SFA.

On 24 May 2018, MAS issued a warning to eight cryptocurrency exchanges who were found to have permitted trading of coins that were securities in Singapore. It is clear that MAS is taking a firm stance on these exchanges. As set out above, cryptocurrencies that are securities may only be listed on approved exchanges or recognised market operators.

Besides regulating exchanges on which security tokens are listed, MAS will also regulate cryptocurrency exchanges in general through anticipated legislation tabled in the PSB.

Sales regulation

Sales of virtual currencies can occur through: (a) private sale when created; (b) ICO; or (c) trading.

Private sale at creation

This could occur as part of a pre-ICO or sale and purchase in the context of a newly created token. Generally, these are by a private agreement. However, if a token is deemed a security under the SFA, then licences need to be applied for and obtained (as discussed above).

ICOs

Please refer to the above section on the rules pertaining to the sale of a token pursuant to an ICO.

Trading

There are no regulations for retail investors specifically governing their trading of cryptocurrencies. Nonetheless, MAS has issued a statement to advise the public to "act with extreme caution and understand the significant risks they take on if they choose to invest in cryptocurrencies".

However, there are regulations governing certain activities that are related to trading. There is a list of activities that are regulated and licensed under the SFA and some of them may be related to trading. Section 82 of the SFA states:

> Any person carrying on or holding himself out as carrying on business in any "regulated activity" in Singapore must hold a Capital Markets Services Licence (CMS licence) for that "regulated activity".

Sub-section 82(1) of the SFA states:

> *"Subject to subsection (2) and section 99, no person shall, whether as principal or agent, carry on business in any regulated activity or hold himself out as carrying on such business unless he is the holder of a capital markets services licence for that regulated activity."*

Section 2(1) and the Second Schedule of the SFA define the regulated activities as:

"(a) dealing in securities;

(b) trading in futures contracts;

(c) leveraged foreign exchange trading;

(d) advising on corporate finance;

(e) fund management;

(ea) real estate investment trust management;

(f) securities financing;

(fa) providing credit rating services;

(g) providing custodial services for securities."

Section 2(1) and Part II of the Second Schedule of the SFA states:

> *'"dealing in securities" means (whether as principal or agent) making or offering to make with any person, or inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to acquiring, disposing of, subscribing for, or underwriting securities'.*

Hence, if a person is trading as part of their business, then they would be regulated under the SFA and require a Capital Markets Services licence.

Fund management is defined in the Second Schedule as:

> *""fund management" means undertaking on behalf of a customer (whether on a discretionary authority granted by the customer or otherwise) —*
>
> *(a) the management of a portfolio of securities or futures contracts; or*
>
> *(b) foreign exchange trading or leveraged foreign exchange trading for the purpose of managing the customer's funds,*
>
> *but does not include real estate investment trust management."*

Therefore, if a person trades on behalf of a customer, then he/she would be regulated under the SFA and require a Capital Markets Services licence.

Taxation

(a) Revenue for goods or services using virtual currencies: Businesses that choose to accept virtual currencies for consideration for goods or services are subject to normal income tax rules found in the Income Tax Act (Cap.134), hereinafter, ITA. For example, if a business accepts payment in Ether, then it will be considered as revenue just as it would be if paid in fiat. The value given would be the value of the services (or goods) on the date of the transaction, or the parties could choose a mutually acceptable date for valuation. Taxation would be based on the net profits (after deducting allowable expenses under the ITA). The general current tax rate for businesses is 17% of taxable income.

(b) Capital gains tax: Individuals or businesses that buy virtual currencies for long-term investment purposes may enjoy a capital gain from the disposal of these virtual currencies. However, there are no capital gains taxes in Singapore, and as a result, these gains are not subject to tax. However, individuals or businesses that buy and sell virtual currencies in the ordinary course of their business will be **taxed on the profit derived from trading in the virtual currency**. Profits derived by businesses which mine and trade virtual currencies in exchange for money are also subject to tax, as these would be considered "revenue". Whether gains from disposal of virtual currencies are subject to capital gains tax depends on the facts and circumstances of each case. Factors such as purpose, frequency of transactions, and holding periods are considered when determining if such gains are taxable.

(c) Tax on proceeds from an ICO: The issue is whether the proceeds from an ICO are recorded as revenue and taxable in Singapore. As time evolves, more guidance is being given by the Inland Revenue Authority of Singapore (hereinafter "IRAS"), however, the position is not yet definitive. According to the ITA, revenue is taxable in Singapore if: (i) it is accrued or derived from Singapore; or (ii) if it is foreign-derived income, it is received in Singapore. In the situation of (i), following Par.10(1)(a) of the ITA which states that revenue by a trade or business carried on by a taxpayer (as the entity usually used for an ICO is registered in Singapore, it would qualify as a taxpayer), are taxable. While still not clear, some taxpayers have therefore deemed income derived outside of Singapore (i.e. in the case where a token purchaser is outside of Singapore) as not subject to tax. It is for this reason that some ICO terms and conditions stipulate that Singaporeans may not purchase tokens. In scenario (ii), proceeds would not be taxable if not received in Singapore. This territorial criterion is based on an analysis of the facts, such as where the founders of the ICO are based, if the ICO is marketed outside of Singapore through promotional "hypathons" or via the cloud, and if the participants are based outside of Singapore. Even for those ICO proceeds that fall within (i) or (ii), tax planning such as imputing proceeds over a period of time and offsetting qualifying

expenses, can serve to minimise taxes payable. In addition, it should be remembered that only the income that falls within (i) or (ii) is taxable, and not the totality of the proceeds. It is advisable to seek tax advice prior to embarking on an ICO.

(d) Goods and Services Tax ("GST") on sale of virtual currencies: IRAS has confirmed the sale of tokens as a sale of a "supply of services". Under the Goods and Services Act ("GSTA"), GST is imposed on the supply of services. However, if the sale of a token is to purchasers who do not have any connection to Singapore, then this could be viewed as an international supply of services, which has a zero rate of tax under the GSTA. The current rate of tax under the GSTA is 7%; however, this is expected to increase to 9% some time between 2021 and 2025.

Money transmission laws, Know Your Client and anti-money laundering requirements

With respect to money transmission laws, please refer to above discussion on PSB.

In this section, the following will be examined:

1. Know Your Client "KYC" requirements (including source of income requirements).
2. Anti-Money Laundering ("AML") requirements.
3. Combating of Financing of Terrorism ("CFT") requirements.

The standards an issuer of a cryptocurrency token must comply with depend on whether or not the token is a security. If the token is a security as defined in the SFA, the MAS guidelines on KYC, AML and CFT will apply.

MAS requires that financial institutions must:

1. verify the customer's identity including name, unique identification number, date of birth, nationality and residential address;
2. if the customer is not a natural person, verify the identities of the natural persons who have the authority to act for the customer;
3. ascertain whether there are any beneficial persons and if so, the identities of those beneficial persons;
4. determine the nature and purpose of the business relations with the customer;
5. visit the place of business if it is considered necessary;
6. obtain information about source of the funds;
7. after business relations are established, conduct ongoing monitoring of the business relations; and
8. conduct periodic reviewing of the adequacy of the customer information.

When the business is not done on a face-to-face basis, MAS suggests the following measures:

1. holding real-time video conferencing that is comparable to face-to-face communication in addition to obtaining electronic copies of identification documents;
2. verifying the identity of a customer through a document the customer has signed with a secure digital signature using a set of Public Key Infrastructure-based credentials issued by a certified Certificate Authority; and
3. using biometric data such as fingerprints, iris scans or facial recognition.

Regarding the KYC process, in order to determine if someone is a Politically Exposed Person ("PEP"), it is possible to refer to databases compiled commercially or by the authorities. It is

also beneficial to look at the customer themselves including details of their occupation, name of their employer, and non-public information.

MAS publishes lists of entities who are suspected of terrorist activities and all potential token purchasers must be screened to ensure they are not dealing with suspected terrorists (part of CFT requirements). Additionally, MAS maintains a list of countries which are subject to sanctions and customers must also not be from these countries. These should also be consulted.

In the event of a suspicious transaction, the Suspicious Transaction Reporting Office should be notified within 15 days.

Examples of suspicious transactions include:

1. transactions which do not make economic sense;
2. transactions involving large amounts of cash;
3. transactions involving a high velocity of transactions through a bank account;
4. transactions involving transfers abroad;
5. investment-related transactions that are suspicious;
6. merchants acquired for the purpose of credit or charge card transactions; and
7. transactions involving unidentified parties;
8. transactions related to tax crimes; and
9. trade-based related transactions with significant discrepancies.

For tokens that do not fall within the definition of securities set out in the SFA, the MAS Guidelines on KYC, AML and CFT do not, strictly speaking, apply. However, it is a good business practice to follow these Guidelines nevertheless.

Personal data protection laws

The Singapore Personal Data Protection Act ("PDPA") and the European Union's General Data Protection Regulations ("GDPR") are discussed in this section.

The protection of a customer's personal data is governed by the PDPA. When an individual's personal data is collected, consent must be obtained and the individual must be informed of the purpose for which it is collected. Consent is deemed to have been given in circumstances where the individual volunteers the personal data and it is reasonable that the personal data would be provided. An individual may withdraw consent to the collection of personal data at any time.

An organisation must ensure that personal data cannot be accessed by implementing reasonable security arrangements. Security would include measures such as encryption and requiring that personal data can only be accessed with passwords of a sufficient length. When personal data is transferred out of Singapore, the organisation must ensure that it is afforded the same level of protection as required by the PDPA.

Under the PDPA, an individual may request access to and the correction of personal data. While an organisation may charge a reasonable fee to comply with such requests, it must provide a written estimate of the fee before complying with a request for access.

Singapore's PDPA is well aligned with the European Union's GDPR. However, the GDPR further provides that, in relation to citizens or residents of the European Union, the owner of personal data may request that his or her personal data be erased. The GDPR also requires that an organisation's privacy policy must be readily understood by a layperson.

The Personal Data Protection Commission ("Commission") has jurisdiction over complaints made by individuals in respect of breaches of the PDPA. The Commission has the power to order that an organisation cease collecting or destroy personal data, and also to impose a fine of up to S$1 million.

Ownership and licensing requirements

In this section, ownership and investment licences under MAS, as well as licensing, are discussed by asking the following questions:

1. Can investment managers use virtual currencies for investment purposes? Are they required to have the same licences as if they were using fiat? What could these licences be?
2. What are the types of licences needed by someone who uses virtual currencies as an investment advisor or fund manager or capital markets advisor? What is the process for obtaining these?

MAS has not provided any guidance on whether virtual currencies may be used for investment purposes. Therefore it would be advisable for investment managers to enquire with MAS before using virtual currencies.

Under the Second Schedule of the SFA, MAS requires companies engaged in fund management or advising on corporate finance to hold a Capital Markets Services Licence. If the assets under management are less than S$250 million and the number of qualified investors is 30 or less, the company would need to be a Registered Fund Management Company.

MAS estimates that applications for a licence or registration will take approximately two to four months to process.

The General Criteria for the grant of a CMS licence are set out in the MAS Guidelines on Criteria for the Grant of a Capital Markets Services Licence:

1. must be a corporation;
2. must be a reputable entity with an established track record in the proposed activity to be conducted in Singapore or in a related field for at least the past five years;
3. the applicant and its holding company or related corporation must have a good ranking in their home country;
4. must be subject to proper regulation by the authority in its home country, if applicable;
5. must satisfy MAS that it will discharge its duties efficiently, honestly and fairly;
6. must establish and operate out of a physical office situated in Singapore;
7. must be primarily engaged in conducting one of the regulated activities under the SFA; and
8. its officers, employees, representatives and substantial shareholders are fit and proper, in accordance with the criteria set out by MAS.

In order for the Board of Directors, Chief Executive Officer and Representatives to hold a CMS licence they are required to comply with additional criteria.

Investment advisors would be required to have a financial advisor's licence pursuant to the Second Schedule of the Financial Advisors Act.

The MAS Guidelines on Criteria for the Grant of a Financial Advisor's Licence specify a minimum paid-up capital of S$150,000 or the equivalent in a foreign currency. Other relevant criteria include:

1. whether at least two individuals are employed or appointed for financial advisory services;
2. whether the Chief Executive Officer and all Executive Directors have at least five years of relevant working experience in financial advisory services, with a minimum of three years in management, as well as acceptable academic and professional qualifications;
3. whether the Board of Directors has at least two members one of whom is resident in Singapore;
4. whether the Chief Executive Officer is resident in Singapore; and
5. whether the Chief Executive Officer or Executive Directors are placed in a position of conflict of interest.

Mining

Cryptocurrency mining is the process of using computers to verify transactions on the blockchain and add a new block to the blockchain, in return for an amount of cryptocurrency. Cryptocurrency miners need to compete against each other in order to be the first to verify the transaction and earn the amount of cryptocurrency, using the Proof-of-Work ("PoW") method. In order to sustain a mining business, large amounts of computational power and electricity are required. This is the same process as is used in most other jurisdictions.

Currently, there are no regulations specifically governing the mining of cryptocurrency in Singapore. A miner would require specialised hardware with adequate cooling systems and large amounts of electricity. Hence, the miner should ensure that he is allowed to carry out mining at his chosen venue following local regulations on emissions and noise.

A miner should also be conscious of his tax liabilities arising from his income from mining. IRAS states on its website that: "Profits derived by businesses which mine and trade virtual currencies in exchange for money are also subject to tax." The current business tax rate is 17% on net profits pursuant to the ITA.

As mining is considered work, a foreigner would be required to have the requisite work permit to be able to work in Singapore. In addition, businesses who employ miners need to respect Singapore employment law.

In any case, mining is likely to become less prevalent in the future in Singapore given the high electricity costs, tropical temperatures, and premium on space. Blockchain projects initially relied on PoW to validate transactions. However, in Singapore, there are now more blockchain projects using the Proof-of-Stake ("PoS") method of validating transactions on the blockchain. The PoS method does not require mining in the way that the PoW method does, because, under the PoS method, whether a transaction on the blockchain may be verified by a person depends on the number of coins that he/she holds. The said person would earn an amount of cryptocurrency by verifying the transaction on the blockchain, but there is no competition in doing so, and minimal computational power is required, thereby saving on electricity.

Border restrictions and declaration

There are currently no border restrictions or declarations required with respect to virtual currencies, other than complying with the regulatory regime as described above. Virtual currencies are borderless.

The IRAS treats virtual currencies as the supply of services. While this usually means virtual currencies are a service provided to the purchaser when the currency is first issued, there is some uncertainty as to whether a virtual currency must be declared when it is imported into Singapore.

Arguably, importing cryptocurrencies stored on USB flash drives or similar hardware wallets into Singapore need not be declared to the customs authorities as only the private keys are being transported, while the blockchain remains decentralised and not situated in any particular location. Further, cryptocurrencies are not one of the categories of goods subject to import duty under the Customs Act (Chapter 70). That said, to err on the side of caution, it would be advisable to declare the value of goods or services which exceed SGD $600.00 when entering Singapore. The Goods and Services Tax (Imports Relief) Order provides that a *bona fide* traveller may import goods worth up to SGD $600 if the traveller has been outside Singapore for at least 48 hours, or up to SGD $150 if the traveller has been outside Singapore for less than 48 hours.

Reporting requirements

Virtual currencies are meant to be decentralised and anonymous. There are currently no reporting requirements for the ownership, use or sale of virtual currencies other than for tax purposes as described above.

Everyone is required under the law to report suspicious transactions, which they come across in the course of their trade, profession, business or employment, to the Suspicious Transaction Reporting Office ("STRO") in the Commercial Affairs Department of the police. All suspicious transaction reports, including those involving cryptocurrencies and digital tokens, are analysed by STRO. Where there are indications of an offence, STRO will refer the matter to the enforcement agencies, such as IRAS for possible tax crimes, and the Capital Adequacy Directive ("CAD") for possible money laundering.

Estate planning and testamentary succession

This section will discuss how virtual currencies can be included as an asset in estate planning and succession, including issues of confidentiality or security and valuation.

The main pieces of legislation, the Intestate Succession Act (Cap.146), the Wills Act (Cap.352), and the Probate and Administration Act (Cap.251) have no specific laws dealing with estate planning and succession relating to virtual currencies. Wallets containing virtual currencies, and even value-stored cards, can be transferred in much the same way as other personal property is transferred.

The security of a cryptocurrency is a major concern. Virtual currencies are typically stored in wallets where their ownership is anonymous, and where there are no designated beneficiaries. If no-one has details of a wallet, it will not generally be possible to have access to its contents. For estate planning or testamentary purposes, methods are being devised to make the wallet accessible through an executor or trustee by providing details of the service provider, the user details and the private key. As wills have to be in writing in Singapore, and witnessed by two persons, and often sent to a central registry, it is not recommended that these details be written in a will or trust or other estate document, as whoever has access to these details will be able to access the wallet.

With respect to valuation, since there is no capital gains tax in Singapore, the differences in valuations from the time a cryptocurrency is acquired by a testator, bequeathed, inherited and converted to fiat are not relevant. Valuations may, however, be relevant for practical purposes when trying to bequeath specific sums to heirs or beneficiaries, as their value changes over time.

Franca Ciambella
Tel: +65 6235 2700 / Email: fciambella@consiliumlaw.com.sg

Trained in law and business in Canada, New York and Singapore, Franca was amongst the first foreigners admitted to the Singapore Bar. She has been the Managing Director of Consilium Law Corporation since 2010, and prior to that was a partner at an international Canadian law firm, and General Counsel for Asia for a US based Fortune 500 multinational. She practises corporate & commercial law, contracts, mergers & acquisitions, blockchain/ICOs and acts as a mediator. Franca sits on the Board of a number of chambers of commerce, does *pro bono* for non-profit organisations, mentors students and was recently awarded the Sovereign Medal by Canada's Governor General for her volunteerism and leadership. She is often called to speak on the topic of virtual currencies, blockchain and ICOs at conferences.

En-Lai Chong
Tel: +65 6235 2700 / Email: enlai@consiliumlaw.com.sg

Graduated from the National University of Singapore in 2005, En-Lai Chong has a broad range of experience from civil litigation to corporate & commercial law. From working with a multinational corporation as a legal counsel, he also gained practical commercial experience. He has a keen interest in blockchain technology and cryptocurrencies.

YingXin Lin
Tel: +65 6235 2700 / Email: yingxin@consiliumlaw.com.sg

YingXin Lin's practice encompasses Corporate & Commercial Law as well as Commercial Litigation. He specialises in general corporate advisory work as well as the drafting of commercial contracts and other legal documentation. He has advised and assisted clients on regulatory compliance, trade mark applications, capital raising, securities regulation, disputes and employment law matters. He has assisted clients in a variety of industries and sectors, including fintech, construction, aviation, software and technology. He has also advised and assisted blockchain technology companies on the structuring of their operations, regulatory compliance issues, structuring of their token sales and cryptocurrency exchanges, as well as legal documentation, in accordance with Singapore law. He has handled a variety of contentious cases, including shareholder disputes, employment disputes, securities disputes, property disputes and contractual disputes.

Consilium Law Corporation

1 Scotts Road, #16-02, Shaw Centre, Singapore 228208
Tel: +65 6235 2700 / URL: www.consiliumlaw.com.sg

www.globallegalinsights.com

Other titles in the **Global Legal Insights** series include:

- **Banking Regulation**
- **Bribery & Corruption**
- **Cartels**
- **Corporate Tax**
- **Employment & Labour Law**
- **Energy**
- **Fund Finance**
- **Initial Public Offerings**
- **International Arbitration**
- **Litigation & Dispute Resolution**
- **Merger Control**
- **Mergers & Acquisitions**
- **Pricing & Reimbursement**

Published by: glg global legal group