

Legal Update

New Crypto Token Regime by the DFSA

As part of our ongoing series on key legal developments of the financial services sector in the United Arab Emirates, this summary presents an overview on the current Crypto Token regime of the Dubai Financial Services Authority (“**DFSA**”). Mayer Brown’s Middle East practice is closely monitoring important developments of the financial services sector in the region.

By way of background, on November 1, 2022, the DFSA established its long-awaited Crypto Token regime (the “**Regime**”) following the publishing of DFSA’s Consultation Paper No. 143 in March 2022, proposing to allow for the provision of financial services in relation to Crypto Tokens in and from the Dubai International Financial Centre (“**DIFC**”). The new Regime supplements the DFSA’s existing Investment Tokens regime that was introduced on October 25, 2021.

The Regime expanded the scope of several existing financial service activities, such as advising, dealing, arranging, trading and custody, to allow entities in the DIFC to provide products and services related to Crypto Tokens. Following the implementation of the Regime, an entity that wishes to carry out certain activities in or from the DIFC in relation to Crypto Token financial services will require DFSA’s prior authorization.

Article GEN (A2.5) of the DFSA Rulebook relating to the Crypto Token definition provides that a Token is considered a “**Crypto Token**” if (i) it is used, or is intended to be used, as a medium of exchange or for payment or investment purposes or (ii) it confers a right or interest in such a Token.

A Token is not considered a Crypto Token if (i) it is an Investment Token (i.e., a security token or derivative token) or (ii) an Excluded Token (such as non-fungible tokens, utility tokens or digital currencies issued by government authorities/central bank).

The DFSA Rulebook defines a “**Token**” as a cryptographically secured digital representation of value, rights or obligations that may be issued, transferred and stored electronically using DLT or other similar technology.

Generally speaking, only Crypto Tokens that are recognized by the DFSA must be used in connection with a financial service, public offering or financial promotion in the DIFC (the “**Recognized Crypto Tokens**”). A list of Recognized Crypto Tokens will be regularly updated by the DFSA when the DFSA is expected to publish notices when it further recognizes Crypto Tokens (i.e., issues updates to the Recognized Crypto Tokens list) after an application for recognition has been made by a current or applicant authorized person or an issuer or developer of the Crypto Token.

The following chart, provided in Article GEN (A2.5) of the DFSA Rulebook, summarizes the different classifications of Tokens:

Investment Tokens	Crypto Tokens			Excluded Tokens
	Unrecognized Tokens	Recognized Tokens	Prohibited Token: <ul style="list-style-type: none"> • Privacy Tokens • Algorithmic Tokens 	<ul style="list-style-type: none"> • Non-Fungible Tokens (NFTs) • Utility Tokens • Digital currencies issued by Governments
Financial Services can be carried on in the DIFC, subject to compliance with the DFSA regulatory requirements.	Financial Services can be carried on in the DIFC, subject to compliance with the DFSA regulatory requirements.	Financial Services cannot be carried on in the DIFC unless and until recognized by the DFSA (unless providing custody).	Prohibited from being used in the DIFC.	Use not regulated in the DIFC except: <ul style="list-style-type: none"> • Some issuers or service providers of NFTs and Utility Tokens must be registered as a designated non-financial business or profession ("<u>DNFBP</u>") for AML purposes. • An Authorized Person cannot carry on both Crypto Business and business relating to NFTs and Utility Tokens (unless providing custody).

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