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LEGAL REGULATION OF VIRTUAL ASSETS IN THE SWISS CONFEDERATION

ПРАВОВЕ РЕГУЛЮВАННЯ ВІРТУАЛЬНИХ АКТИВІВ У ШВЕЙЦАРСЬКІЙ КОНФЕРЕНЦІЇ

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Abstract. *The present article is devoted to an analysis of the current legal regulation of virtual assets in the Swiss Confederation. The author conducts a thorough analysis of the advantages and disadvantages of the relevant regulatory framework, as well as the possibility and feasibility of implementing most of the provisions of legislative acts into Ukrainian legislation. Due to the lack of scientific research analysing the main regulatory norms and definitions, it became necessary to examine the current legal system of the Swiss Confederation, which is one of the most preferred jurisdictions for the registration and operation of companies in the sector of virtual assets in the world. To study the current state of legal regulation of virtual assets in the Swiss Confederation, comparative, analytical, inductive, hypothetical, and systematic methods were used. As a result of the study, the author identified the peculiarities of the classification of virtual assets. The specifics of taxation of virtual assets were analysed, in particular those related to areas such as virtual asset mining. The characteristics of legislation on combating the legalisation of proceeds from crime in this area are presented. The requirements for conducting an ICO were examined. Current changes in existing legislation and regulatory approaches that are being implemented for the exchange of information on virtual assets with partner states are analysed. It is concluded that the Swiss Confederation has succeeded in creating an adaptive system of legal regulation of virtual assets that strikes a balance between innovation and investor protection and market integrity. Although the definitions in the legislation on virtual assets were chosen from among those that already have established practice of use, it is the approach to regulation that stands out from other jurisdictions. For implementation into Ukrainian legislation, it may be advisable to adopt not only the basis of the terminological system, but also the principles on which such a harmonious regulatory system is built, which may facilitate the exchange of information with partner countries to combat tax avoidance or other financial crimes.*

Keywords: *virtual assets, tokens, DLT, Swiss Confederation, ICO.*

Анотація. *Стаття присвячена дослідженню сучасного правового регулювання віртуальних активів у Швейцарській Конфедерації. Автор аналізує переваги та недоліки відповідної нормативно-правової бази, а також можливість та доцільність імплементації найбільш ефективних положень законодавчих актів до українського законодавства. У зв'язку з відсутністю наукових досліджень, які би проаналізували основні регуляторні норми та дефініції, виникла необхідність розглянути сучасну правову систему Швейцарської Конфедерації, яка є однією з найпопулярніших юрисдикцій для реєстрації та діяльності компаній у галузі віртуальних активів у світі. Для дослідження сучасного стану правового регулювання віртуальних активів у Швейцарській Конфедерації, були використані порівняльний, аналітичний, індуктивний, гіпотетичний, та системний методи. В результаті дослідження визначено особливість класифікації віртуальних активів. Було проаналізовано особливості оподаткування віртуальних активів, зокрема ті, що стосуються таких напрямів, як майнінг віртуальних активів. Приведено особливості законодавства щодо боротьби з легалізацію доходів, одержаних злочинним шляхом у цій галузі. Досліджено вимоги щодо проведення ICO. Розглянуто актуальні зміни існуючого законодавства і регулятивного підходу, які впроваджуються для обміну інформацією щодо віртуальних активів з державами-партнерами. Робиться висновок, що Швейцарській Конфедерації вдалося створити адаптивну систему правового регулювання віртуальних активів, яка забезпечує баланс між інноваціями та захистом інвесторів і цілісністю ринку. Хоча дефініції в законодавстві щодо віртуальних активів були обрані серед тих, що вже мають усталену практику використання, саме підхід в регулюванні вирізняється на фоні інших юрисдикцій. Для імплементації в українське законодавство може бути доцільною не тільки основа термінологічної системи, але також і самі принципи, за якими побудована така гармонійна система регулювання, що може сприяти можливості обміну інформацією з державами-партнерами для боротьби з ухиленням від сплати податків або іншими фінансовими злочинами.*

Ключові слова: *віртуальні активи, токени, DLT, Швейцарська Конфедерація, ICO.*

Introduction. The virtual asset sector has been one of the most dynamic financial and technological sectors for over a decade. However, a significant portion of global jurisdictions have yet to regulate this area, which maintains uncertainty in legal regulation and complicates the protection of investors' rights in such assets.

One of the recognised leaders in introducing such regulation is the Swiss Confederation, whose legislation in this area serves as a model for other jurisdictions.

The Swiss Confederation has decided to establish automatic exchange of information on virtual assets with partner states, including all EU member states and the United Kingdom, so this experience will be useful for Ukrainian lawmakers in introducing similar regulations into Ukrainian legislation, which will also help in the combat against tax avoidance from transactions involving virtual assets. This article will examine which legal norms have proven to be most appropriate.

The purpose of the article is to analyse the legislation of the Swiss Confederation in order to identify the most appropriate norms and definitions that can be further implemented in Ukrainian legislation, and to outline regulations that have permitted the establishment of a transparent regulatory system that can be efficiently integrated into broader international systems.

Literature review. Analyses of the legal regulation of virtual assets in Switzerland have not been previously addressed in the Ukrainian scientific literature, and it is possible to find abroad only some advice from practicing lawyers on Internet portals in Switzerland and Germany, but there are no specialised researches on this topic in the scientific literature.

Thus far, the legislation directly, government commentaries and reports are the most complete and reliable source of information on the regulation of virtual assets.

Main results of the research. The Swiss Confederation (Switzerland) is a globally recognised pioneer in the field of financial innovation, and its approach to virtual assets reflects this status. The jurisdiction has established a comprehensive regulatory framework that supports the development of blockchain and virtual assets through regulatory certainty and a business-oriented approach. Recent legislative updates include the Federal Act on the Adaptation of Federal Law to Developments in

Distributed Ledger Technology (*DLT Act, 2020*), which came into force in 2021, and several amendments to existing laws to integrate distributed ledger technology into the Swiss legal system, enabling it to maintain its leadership in this sector.

The Swiss Financial Market Supervisory Authority (FINMA) is the main regulatory body responsible for overseeing the virtual asset sector. FINMA applies a technology-neutral regulatory approach, whereby legislation applies equally to traditional financial services and activities carried out via blockchain or involving virtual assets. In addition, FINMA has published guidelines (*FINMA. Guidelines on ICOs, 2024*) to clarify its position on issues related to initial coin offerings (ICOs), stablecoins and other virtual assets.

Moreover, the DLT Act has modernised Swiss legislation to take account of developments in blockchain technology. The DLT Act introduced new provisions relating to the storage and transfer of virtual assets and clarifies the rights of owners of such assets in the context of bankruptcy proceedings.

In Switzerland, virtual assets are regulated by several acts that address different aspects of the sector. The primary legislative instruments are the Financial Market Infrastructure Act (*FinMIA, 2015*), the Federal Act on Financial Institutions (*FinIA, 2018*) and the Anti-Money Laundering Act (*AMLA, 1998*). These legislative acts jointly regulate the issuance, trading and storage of virtual assets to ensure Switzerland's compliance with international financial standards, particularly in the areas of investor protection and anti-money laundering.

Furthermore, AMLA is the key piece of legislation in this context. The legislation applies to financial intermediaries, which include companies providing services related to virtual assets. AMLA requires these service providers to follow due diligence procedures, including customer identification, transaction monitoring and reporting suspicious activity to FINMA. Any company involved in the exchange or storage of virtual assets is required to comply with the above anti-money laundering rules.

According to the guidelines established by FINMA, virtual assets are divided into three categories:

a) payment tokens, which include cryptocurrencies, are digital assets used as a means of payment;

b) utility tokens provide access to a specific service or application on the blockchain;

c) asset tokens are defined as a claim on an underlying asset, such as real estate or shares, and are therefore considered securities.

The above classifications are important because they determine which regulatory requirements apply to them. For example, payment tokens are not subject to securities legislation, while asset tokens are.

The regulatory environment in Switzerland is undergoing a period of significant evolution to adapt to the rapid spread of blockchain technology and virtual assets. One of the most anticipated developments was the implementation of the DLT Act, which amended a number of existing laws, including the Swiss Code of Obligations. The purpose of these changes is to strengthen legal certainty regarding the ownership and transfer of digital assets, as well as to facilitate trading in tokenised securities on DLT platforms.

Other important regulatory changes include the Council's dispatch on 6 June 2025 (*Swiss Federal Council, 2025*) to join in the exchange of information on virtual assets within the framework of the Automatic Exchange of Crypto-Asset Information (AEOI) network developed by the OECD, which includes 74 partner countries, including all EU member states. The aim of this network is to combat tax avoidance through cross-border fraud. The accession is scheduled for 1 January 2026, with the first exchange of information taking place in 2027.

Another legislative innovation is the introduction of more detailed rules that are also relevant for stablecoins, which are attracting increasing attention from Swiss supervisors. FINMA is closely monitoring the use of stablecoins and has issued specific recommendations for their integration into the existing legal framework. The regulatory status of stablecoins may vary depending on their specific characteristics. They may be regulated as securities, payment instruments or even investment funds, depending on their structure and the risks associated with them.

To legally conduct business related to virtual assets in Switzerland, companies must obtain the appropriate licences from the FINMA. Specific regulatory requirements depend on the services offered (*Swiss Code of Obligations, 1911*). Companies offering cryptocurrency exchange services, wallet storage or cryptocurrency asset management are required to obtain a financial intermediary licence and are subject to the provisions of the AMLA.

In addition, companies trading in security tokens are required to comply with the relevant securities provisions set out in FinMIA. This involves obtaining authorisation from FINMA as a securities dealer or financial intermediary. For example, if a company offers crypto custody services, it must demonstrate that it has robust internal systems designed to protect client assets, fulfil the necessary reporting obligations and comply with the relevant anti-money laundering (AML) rules. Licensing procedures typically involve the submission of comprehensive documentation relating to operational activities, financial structure, risk management procedures and compliance systems.

The regulation of exchanges and ICOs in Switzerland is characterised by strict regulatory oversight. To facilitate the purchase, sale and trading of virtual assets, exchanges must comply with the requirements of AMLA and FinMIA. In particular, these exchanges are required to implement robust AML measures, including customer identification procedures, transaction monitoring and reporting of suspicious activity. In addition, it is essential that they ensure compliance with investor protection legislation, especially when trading tokens of assets that are classified as securities.

Another feature of ICO regulation is that Switzerland was one of the first countries to issue comprehensive regulatory guidance through FINMA. The regulatory classification of an ICO depends on the type of token issued, which can be classified as a payment token, utility token or asset token. In the case of an ICO issuing asset tokens, the organisers are subject to securities legislation, specifically the Federal Intermediated Securities Act (*FISA, 2009*). In such cases, a detailed prospectus must be provided, which must be approved by FINMA. In contrast, utility tokens may not be subject to the same level of scrutiny. Nevertheless, ICO issuers are still required to comply with certain transparency and anti-fraud requirements.

It should be noted that virtual asset mining activities are not explicitly regulated in Switzerland. Nevertheless, entities engaged in virtual asset mining are required to comply with the general financial and tax regulations of this jurisdiction. Mining is considered a commercial activity, and any income derived from mining is subject to taxation. In addition, if mining is carried out on a significant scale, the enterprise may be required to register as a financial intermediary under AMLA if it engages in ancillary activities such as the sale of mined virtual assets.

The tax regime for virtual assets in Switzerland is generally relatively favourable, although the specific conditions and rates may vary depending on the type of entity and transaction. For individuals, virtual assets that are part of personal property are generally exempt from income tax. However, if the assets are traded on a regular basis or are part of a business, the profits from such trading may be subject to income tax.

For businesses, profits from virtual asset transactions are treated as ordinary corporate income and are subject to corporate tax. In addition, if a company provides services related to virtual assets, such as custody or exchange services, it is required to comply with value added tax legislation. It should be noted that Switzerland does not impose value added tax on transactions involving the sale of payment tokens such as Bitcoin, as they are treated in the same way as fiat currencies.

Conclusions. Switzerland is therefore a global leader in the field of virtual assets due to its stable and transparent regulatory environment, which ensures a balance between innovation and investor protection and market integrity. Switzerland's technology-neutral approach has enabled the creation of a flexible regulatory framework that can adapt to future developments in the blockchain space. The division of tokens into three distinct types – payment, utility and asset tokens – provides businesses and investors with a clear framework for understanding the regulatory requirements that apply to them.

FINMA's proactive stance on licensing, combined with the integration of blockchain technology into a broader legal framework through the DLT Act, positions Switzerland as a model for crypto asset regulation. However, as the virtual asset market continues to evolve, it is likely that the Swiss Federal Council will continue to improve its regulatory approach, particularly in areas such as stablecoins, tokenised assets and the integration of DLT into traditional financial systems.

Ukrainian legislators may find not only the terminology system to be of great value, but also the very principle of building a harmonious regulatory system that does not contain conflicts and is ready for the implementation of new provisions into legislation that regulate the exchange of information with partner states to combat tax avoidance or other financial crimes.

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