

## Fact Sheet on Initial Coin Offerings

Updated: 01 October 2018

An initial coin offering (ICO; also referred to as token generation event, token launch, or token offering) is a type of crowdfunding on the basis of cryptocurrencies to fund projects or start-ups at an early stage (seed stage). Coins or tokens<sup>1</sup> are sold for cryptocurrencies such as bitcoin or ether. Depending on the project and structure, tokens may represent shares in a company or rights to use a product. Usually, the tokens are tradable on cryptocurrency exchanges.

### Characteristics of an ICO

Most ICOs follow a similar pattern:

- Publication of a white paper describing a project or product as well as the funding via ICO. The white paper also describes the intended use of the tokens to be issued. Software and the technical specifications are published on open source platforms like GitHub.
- A smart contract is set up, usually based on the Ethereum blockchain. The smart contract is needed to generate and distribute the tokens later on.
- During a fixed time period, cryptocurrency payments (usually ether or bitcoin) are accepted by way of the smart contract.
- Using the public key for those payments (similar to a digital account number), the smart contract generates the new tokens and makes them available to investors.
- The tokens may be stored by third parties (wallet providers) and/or made tradable with the help of cryptocurrency trading platforms.
- Once the funded project is complete, the investor can sell the tokens or exchange them for services.

Participating as an investor in an ICO requires a certain level of technological know-how and familiarity with the public key infrastructure (a basis for cryptocurrencies). Generally, participation is only possible using cryptocurrencies.

### Opportunities and risks

Numerous ICOs have already taken place globally in 2018, with a total value of more than USD 20 billion invested in projects and start-ups.<sup>2</sup> For tech-savvy companies and investors, this has opened up new opportunities to **obtain and invest risk capital**.

Because of the early development stage in which these investments are made, there is significant risk of high or even total losses. The current lack of a uniform framework also entails that providers with fraudulent intentions are pushing into the market. Due to the digital nature of ICOs, there are numerous technological risks such as bugs in the software or hacking attacks. Investors should also note that tokens may often be illiquid or subject to high volatility. All of this means that tokens are **high risk investments**.

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<sup>1</sup> While the terms "coin" and "token" may in general be used interchangeably, "token" will be used here as the umbrella term.

<sup>2</sup> As of September 2018.



### **Legal framework and licensing requirement**

Depending on their specification, tokens may constitute **financial instruments** subject to financial market law. This may include tokens that have characteristics of equity securities or other investments. In principle, activities relating to financial instruments are subject to licensing by the FMA on the basis of special legislation and may require publication of a prospectus. In all cases, the **specific design and de facto function of the tokens** are decisive. Any AML/KYC obligations also depend on the specific design. Connecting factors for FMA jurisdiction exist, for instance, if a company's registered office or branch is in Liechtenstein and/or if relevant activities are pursued on the Liechtenstein market.

Questions relating to company and tax law may also arise in connection with an ICO and the issued tokens. Please consult the [Office of Economic Affairs](#) and the [Fiscal Authority](#) in this regard.

### **Additional information**

In all cases, it is recommended that ICOs be clarified with the FMA in advance, given that violations of financial market regulations entail penalties. In light of the possible legal implications, the FMA also recommends obtaining competent legal advice.

So that the FMA is able to review a case, the following documents and information should ideally be provided:

- the corresponding white paper (if already available);
- a coherent description of the business model and the token (not a technical white paper);
- a legally founded self-assessment (usually a legal opinion) on possible licensing, prospectus or due diligence obligations according to the laws mentioned in Art. 5 FMAG. This includes both the planned business activity as well as the token and the ICO (functionality of the token, details of the issue, etc.).

The FMA is happy to answer any questions you may have at [fintech@fma-li.li](mailto:fintech@fma-li.li).