
Technology, Media and Telecommunications

Regulation of Digital Currencies and Digital Tokens in Malaysia: Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019

Introduction

In this Technology, Media and Telecommunications Update, we wish to bring to your attention the Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019 (the “**Order**”), which was announced by the Minister of Finance on 14 January 2019 and came into legal effect on 15 January 2019.

Pursuant to the Order, the Securities Commission Malaysia (“**SC**”) is now authorised to regulate digital assets (including cryptocurrencies, digital currencies, and digital tokens), as prescribed securities.

For ease of reference, we set out below a summary of the Order:

Definition of “Digital Currency” and “Digital Token”

The Order has now defined the scope of “digital currency” and “digital token”:

- (i) “*digital currency*” is defined as a digital representation of value, which is recorded on a distributed digital ledger whether cryptographically or otherwise; that functions as a medium of exchange; and is interchangeable with any money, including through the crediting or debiting of an account; and
- (ii) “*digital token*” is defined as a digital representation of value, which is recorded on a distributed digital ledger whether cryptographically or otherwise.

Compliance with Existing Securities Laws

Digital currencies and digital tokens, which are prescribed as securities under the Order, will need to comply with the relevant securities laws and regulations in Malaysia.

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In connection with the above, the Minister of Finance has issued a statement that any person initiating an initial coin offering (ICO) or operating a digital asset exchange without the SC's approval may be held liable, upon conviction, to a fine not exceeding RM10 million or to an imprisonment term not exceeding 10 years or to both.

Regulatory Framework and Guidelines on Digital Currencies and Digital Tokens

Following the announcement by the Minister of Finance, the SC has also issued a statement stating that it will be working together with the Central Bank of Malaysia (Bank Negara Malaysia or “**BNM**”) to develop and put in place regulatory framework and guidelines to regulate the offering and trading of digital assets, which are expected to be introduced by the end of the first-quarter of 2019.

The regulatory framework and guidelines will establish the criteria for determining fit and properness of issuers and exchange operators, disclosure standards and best practices in price discovery, trading rules and client asset protection.

The SC continuously reminds all members of the public who are dealing in digital assets to take anti-money laundering and counter-terrorism financing precautions, as well as cyber security and business continuity measures.

We trust that the above provides you with a quick update in relation to the above.

If you would like to discuss any of the above or if you have any questions regarding technology, media and telecommunications or personal data protection, please get in touch with any of the individuals listed below.

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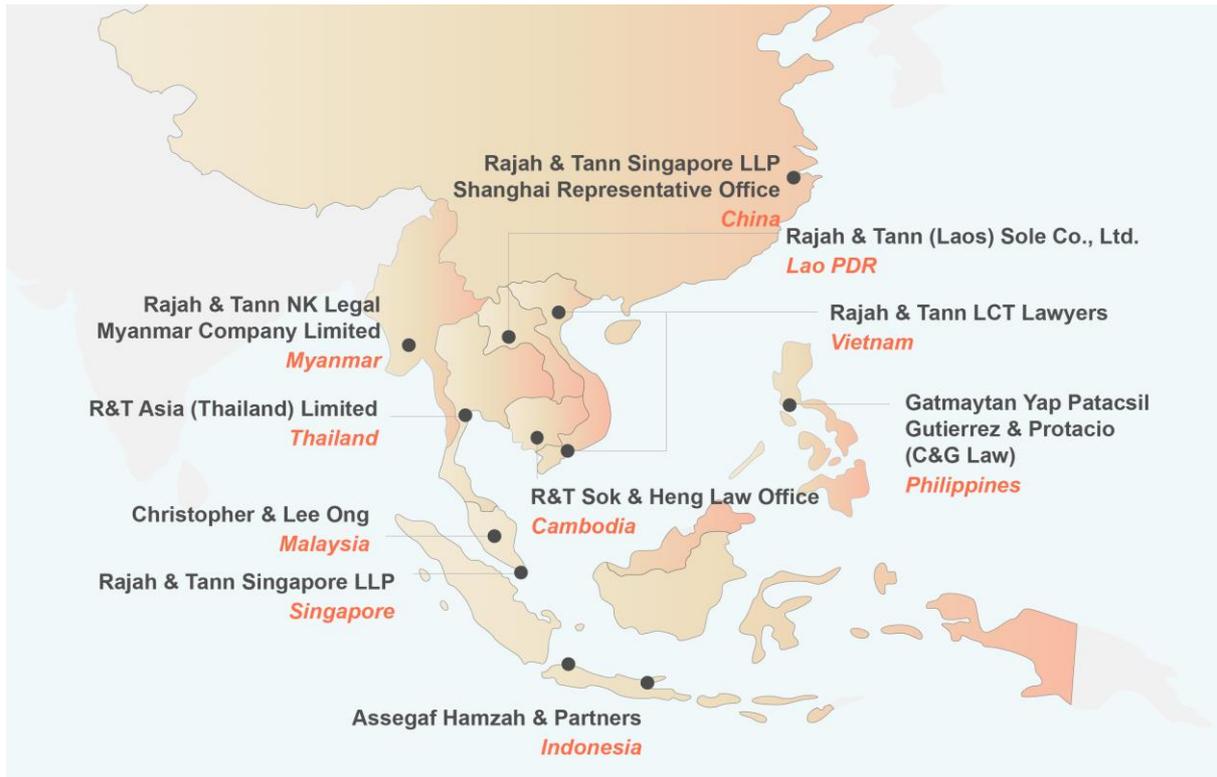
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