同一资产类别，两套术语

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最后一个区别在于语言。在跨境委托中，它最有可能导致错误。瑞士法使用的概念是支付型代币、实用型代币和资产型代币，是基于账本的证券，是《瑞士债务执行与破产法》中的加密资产（crypto-based assets），以及《瑞士反洗钱法》（GwG/AMLA）下的金融中介机构。新加坡法使用的概念则是数字支付代币、电子货币、资本市场产品，以及FSMA下的数字代币。这些都是具有法定定义的术语，其边界与任何瑞士类别均不重合。FINMA意义上的"支付型代币"与PSA下的"数字支付代币"相近，但二者并不相同：PSA的定义以明文排除了电子货币和限定用途代币，而FINMA的类别是功能性的。[1]FINMA意义上的"资产型代币"通常属于《证券与期货法》下的"资本市场产品"；但具有投资特征的实用型代币，可能在瑞士属于证券，在新加坡却什么都不是，反之亦然。

实务提示

切勿将一个枢纽的分类结论直接套用到另一个枢纽。楚格律师依据FINMA指引认定为实用型代币的代币，在新加坡发售之前，必须依据《支付服务法》和《证券与期货法》重新分类。反过来，新加坡的数字支付代币，在瑞

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士实体接触之前，也必须对照瑞士关于存款、证券和反洗钱的定义进行检验。两份分类备忘录应在数据室中并列存放，因为银行或收购方会同时索取。第B部分第III章详细阐述了两套分类体系及疑难情形。

示例

一家楚格有限责任公司（GmbH）发行一种代币，持有者可借此访问去中心化存储网络，并可用其支付存储费用。经准备充分的咨询，FINMA确认该代币是具有支付功能的实用型代币，发行人属于AMLA下的金融中介机构，因此该GmbH须加入自律组织并核实购买者身份。随后，该GmbH希望将代币在新加坡一家交易所上市。根据新加坡法律，该代币属于数字支付代币，因为它是旨在充当交换媒介的价值的数字表示，因此交易所需要持有DPT牌照才能将其上市。只要该GmbH不在新加坡境内或从新加坡开展数字代币服务，其本身无需新加坡牌照。但如果该GmbH的创始人当初选择以新加坡私人有限公司（Pte. Ltd.）作为发行人，那么自2025年6月30日起，该公司向海外购买者出售代币就需要DTSP牌照，而MAS极有可能拒绝发放。同一种代币、同一项业务，结果却截然不同，完全取决于发行实体的选择。

注释

1. Payment Services Act 2019，第2(1)条，“digital payment token”和“e-money”的定义；FINMA ICO Guidelines，2018年2月16日，第3.1节。↩

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