

Unofficial Translation of the Draft Law on Tokens and TT Service Providers (Token and TT Service Provider Act)

Disclaimer

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Please note that this Act is only in draft version and currently in the parliamentary process.

I. GOVERNMENT BILL

1.1 Law on Tokens and TT Service Providers (Token and TT Service Provider Act; TVTG)

Law

of ...

on Tokens and TT Service Providers (Token and TT Service Provider Act; TVTG)

I hereby grant My consent to the following resolution adopted by Parliament:

I. General provisions

Article 1

Object and Purpose

1) This law establishes the legal framework for all transaction systems based on Trustworthy Technology and in particular governs:

- a) The basis in terms of civil law with regard to Tokens and the representation of rights through Tokens and their transfer;
- b) The supervision and rights and obligations of TT Service Providers.

2) It aims:

- a) to ensure trust in digital legal communication; in particular, in the financial and economic sector, and the protection of users in TT Systems;
- b) to create an excellent, innovation-friendly, and technology-neutral framework for rendering services rendered on or concerning TT Systems.

Article 2

Definitions and designations

1) The following definitions are established for the purposes of this Act:

- a) “Trustworthy Technology (TT)”: Technologies through which the integrity of Tokens, the clear assignment of Tokens to TT Identifiers and the disposal over Tokens is ensured;
- b) “TT Systems”: Transaction systems which allow for the secure transfer and storage of Tokens and the rendering of services based on this by means of trustworthy technology;
- c) “Token”: a piece of information on a TT System which:
 1. can represent claims or rights of memberships against a person, rights to property, or other absolute or relative rights; and
 2. is assigned to one or more TT Identifiers;
- d) “Payment Tokens”: Tokens that are accepted to fulfill contractual obligations and therefore replace legal tender in this respect;
- e) “TT Identifier”: an identifier that allows for the clear assignment of Tokens;
- f) “TT Keys”: a key that allows for disposal over Tokens;
- g) “Users”: people who dispose of Tokens and/or use the TT Services;
- h) “Token Issuance”: the public offering of Tokens;

- i) “Basic Information”: Information about Tokens to be offered to the public, enabling the user to make a judgement about the rights and risks associated with the Tokens as well as the TT service providers involved;
- k) “TT Service Provider”: a person who exercises one or more functions under (l) to (u);
- l) “Token Issuer”: a person who publicly offers Tokens in their own name or in the name of a client;
- m) “Token Generator”: a person who generates one or more Tokens;
- n) “TT Key Depositary”: a person who safeguards TT Keys for clients;
- o) “TT Token Depositary”: a person who safeguards Tokens in the name of and on account of others;
- p) “Physical Validator”: a person who ensures the enforcement of rights in accordance with the agreement, in terms of property law, represented in Tokens on TT systems;
- q) “TT Protector”: a person who holds Tokens on TT Systems in their own name on account for a third party;
- r) “TT Exchange Service Provider”: a person who exchanges legal tender for Payment Tokens (and vice versa) and Payment Tokens for Payment Tokens;
- s) “TT Verifying Authority”: a person who verifies the legal capacity and the requirements for the disposal over a Token;
- t) “TT Price Service Provider”: a person who provides TT System users with aggregated price information on the basis of purchase and sale offers or completed transactions;

u) “TT Identity Service Provider”: a person who identifies the person in possession of the right of disposal related to a Token and records it in a directory;

2) The designations used in this Act to denote persons and functions apply equally to the male and female genders.

II. Civil basis

Article 3

Object and scope

1) This chapter governs the qualification of Tokens and their disposal on TT Systems under civil law.

2) It applies if:

- a) Tokens are generated or issued by a TT Service Provider with headquarters or place of residence in Liechtenstein; or
- b) Parties declare its provisions to expressly apply in a legal transaction over Tokens.

3) Articles 4 to 6 and 9 also apply correspondingly to Tokens that do not represent any rights.

Article 4

Qualification of Tokens

If Liechtenstein Law is applicable according to article 3, the Token is considered to be an asset located in Liechtenstein.

Article 5

Power of Disposal and Right of Disposal

1) The TT key holder has the power of disposal over the Token.

2) It is further assumed that the person possessing the power of Token disposal also has the right to dispose of the Token. For every previous holder of the power of disposal, it is presumed that he was the person possessing the right of disposal at the time of his ownership.

3) If someone is the holder of a power of disposal without wanting to be the person possessing the right of disposal, he can rely on the person from whom he received the Token in good faith is the person possessing the right of disposal.

Article 6

Disposal over Tokens

1) Disposal is:

- a) the transfer of the right of disposal over the Token; or
- b) the justification of a securities or a right of usufruct to a Token.

2) Disposal over a Token requires that:

- a) the transfer of the Token is concluded in line with the regulations of the TT System where a restricted in rem right to a Token can also be ordered without transfer, if this is apparent to third parties and clearly establishes the time of ordering;
- b) the transferring party and the receiving party unanimously declare to transfer the right of disposal over the Token, or that they want to justify a restricted in rem right;
- c) the transferring party is the person possessing the right of disposal pursuant to article 5; article 9 remains unaffected.

3) If a Token is disposed of without reason or a subsequent reason fails to exist, the revocation shall be accomplished in accordance with the provisions of the Enrichment Law (sections 1431 et seq. ABGB).

Article 7

Effects of Disposal

1) Disposal over the Token results in the disposal over the right represented by the Token.

2) If the legal effect under (1) does not come into force by law, the person obliged, as a result of the disposal over the Token, must ensure through suitable measures that:

- a) the disposal over a Token directly or indirectly results in the disposal over the represented right, and
- b) a competing disposal over the represented right is excluded.

3) The disposal over a Token is also legally binding in the event of enforcement proceedings against the transferor and effective vis-à-vis third parties, if the transfer:

- a) was activated in the TT system prior to the commencement of the legal proceedings, or
- b) was activated in the TT the system after the initiation of the legal proceedings and was executed on the day of the proceeding's opening, provided that the accepting party proves that he was without knowledge of the proceeding's opening or would have remained without knowledge upon the exercise of due diligence.

Article 8

Legitimacy and exemption

1) The person possessing the right of disposal reported by the TT System is considered the lawful holder of the right represented in the Token in respect of the Obligor.

2) By payment, the Obligor is withdrawn from his obligation against the person who has the power of disposal as reported by the TT system, unless he knew, or should have known with due care, that he is not the lawful owner of the right.

Article 9

Acquisition in Good Faith

Those who receive Tokens in good faith, free of charge, for the purpose of acquiring the right of disposal, or a restricted in rem right, are to be protected in their acquisition, even if the transferring party was not entitled to the disposal

over the Token; unless the recipient party had been aware of the lack of right of disposal, or should have been aware of such upon the exercise of due diligence.

Article 10

Cancellation of Tokens

1) If a TT Key is unaccounted for, or a Token is otherwise not functional, the person who possessed the right of disposal at the time of the loss, or when the Token became non-functional, can apply for the Token to be cancelled in non-contentious proceedings.

2) For this purpose, the applicant must convince the court of his right of disposal and the loss of the TT Key, or the non-functionality of the Token. The District Court is competent in this matter.

3) The respondent is the person obliged due to the right represented in the Token.

4) The applicant may also assert his right without Tokens upon cancellation or demand the generation of a new Token at its own expense.

III. Supervision of TT Service Providers

A. General

Article 11

Object and scope

1) This chapter governs the registration and supervision of TT Service Providers with headquarters or place of residence in Liechtenstein and their rights and obligations.

2) It does not apply to the country, municipalities or municipal associations or public companies when acting as officials.

B. Registration of TT Service Providers

1. Obligation and requirements of registration

Article 12

Registration obligation

1) Persons with headquarters or place of residence in Liechtenstein who wish to professionally act as TT Service Providers must apply to be entered into the TT Service Provider Register in writing (article 23) with the FMA before providing a service for the first time.

2) Token Issuers with headquarters or place of residence in Liechtenstein who issue Tokens in their own name or in the name of a client in a non-professional capacity, must apply to be entered into the TT Service Provider Register in writing with the FMA before beginning an activity involving Tokens amounting to an issuance value of CHF 5 million or more to be issued within a period of twelve months.

Article 13

Registration requirements

1) An entry in the TT Service Provider Register (article 23) requires the applicant to:

- a) be capable of action;
- b) be reliable (article 14);
- c) be technically suitable (article 15);
- d) have their headquarters or place of residence in Liechtenstein;
- e) have the necessary minimum capital (article 16), where appropriate;
- f) have a suitable organisational structure with defined areas of responsibility, including procedures for dealing with conflicts of interest;
- g) have written internal proceedings and control mechanisms that are appropriate in terms of the type, scope, complexity, and risks of the TT Services provided; including ensuring sufficient documentation of these mechanisms;
- e) have special internal control mechanisms (article 17), where appropriate;
- i) have authorisation pursuant to the Trustees Act if he intends to act as a TT Protector;
- k) have relevant special statutory authorisation if he intends to conduct activity that is subject to an additional special statutory authorisation obligation.

2) The government may rewrite the registration requirements in (1) subject to articles 14 to 17 in more detail by issuing an ordinance.

Article 14

Reliability

1) A natural person is excluded from rendering a TT Service if:

- a) they have been convicted by a court of law for fraudulent bankruptcy, damage to third party creditors, preferring of a creditor with fraudulent intent or grossly negligent interference with creditor's interests (sections 156 to 159 of the Liechtenstein Criminal Code), or have been sentenced to up to three months' imprisonment or a fine of more than 180 daily rates and the conviction has not been expunged; and
- b) they have been convicted, in the ten years prior to their application, of severe or repeated violations of the provisions of the Law on Unfair Competition, the Consumer Protection Act, or a law pursuant to article 5(1) of the Financial Market Supervision Act;
- c) they have been subject to a futile seizure in the five years prior to application;
- d) bankruptcy proceedings were brought against them in the five years prior to application, or an application to bring bankruptcy proceedings was rejected due insufficient assets to cover the cost pursuant to article 10(3) of the Liechtenstein Bankruptcy Rules (*Konkursordnung* - KO);
- e) there is another reason which creates serious doubt concerning their reliability.

2) (1) (a) to (d) also applies for foreign decisions and proceedings if the underlying action constitutes a criminal offence pursuant to Liechtenstein law.

3) For legal persons, the requirements under (1) must be met by members of their bodies and shareholders, partners, or legal persons who hold a qualified investment of 10% or more.

4) Upon request, the FMA may allow for exclusion under (1) and (2) if committing the same or similar offence when rendering the TT Service is not considered to fall within the nature of a criminal offence, and not considered characteristic of the personality of the person sentenced.

Article 15

Technical suitability

Those who are sufficiently technically qualified for the task in question due to their education or prior career shall be considered technically suitable.

Article 16

Minimum capital

1) Applicants who intend to act as TT Service Providers pursuant to article 2(1) (l), (n), (o), (p), and (r) must have the appropriate minimum capital or a guarantee of the same value before starting their activity. Minimum capital is:

- a) for Token Issuers pursuant to article 12(1):
 - 1. 50,000 Francs, if Tokens with a total value of up to and including 5 million Francs are issued within a period of twelve months;
 - 2. 100,000 Francs, if Tokens with a total value of more than 5 million Francs are issued within a period of twelve months;
 - 3. 250,000 Francs, if Tokens with a total value of more than 25 million Francs are issued within a period of twelve months;

- b) for TT Key Depositories: 100,000 Francs;
 - c) for TT Token Depositories: 100,000 Francs;
 - d) for TT Exchange Service Providers:
 - 1. 30,000 Francs, if transactions with a total value of more than 150,000 Francs up to and including 1 million Francs are issued within a period of twelve months;
 - 2. 100,000 Francs, if transactions with a total value of more than 1 million Francs are issued within a period of twelve months;
 - e) for Physical Validators:
 - 1. 125,000 Francs, if the value of the property whose contractual enforcements is guaranteed by the Physical Validator does not exceed 10 million Francs;
 - 2. 250,000 Francs, if the value of the property whose contractual enforcements is guaranteed by the Physical Validator exceeds 10 million Francs.
- 2) The minimum capital requirements under (1) must be adhered to at all times.

Article 17

Special internal control mechanisms

- 1) Applicants who intend to act as TT Service Providers pursuant to article 2(1)(l) to (u) must have suitable internal control mechanisms before starting their activity, ensuring the following:
- a) for Token Issuers:

1. disclosure of basic information (articles 30 to 38) at any time during Token Issuance and for at least ten years afterwards;
 2. the prevention of abuse with regard to the option of Token recipients waiving basic information (article 31(1)(a));
 3. the execution of Token Issuance according to the conditions of the basic information;
 4. the maintenance of the provided services in the event of interruptions during the Token Issuance (business continuity management);
- b) for Token Generators, the use of suitable measures, ensuring that:
1. the right is correctly represented in the Token during the Token's lifetime;
 2. that the disposal over a Token directly results in the disposal over the represented right;
 3. a competing disposal over the represented right is excluded both under the rules of the TT system and the provisions of applicable law.
- c) for TT Key Depositories:
1. establishing suitable security measures; which in particular prevent the loss or abuse of TT Keys;
 2. the separate safekeeping of customers' TT Keys from the business assets of the TT Key Depository; and
 3. the maintenance of services in the event of interruptions (business continuity management);
- d) for TT Token Depositories:
1. establishing suitable security measures; which, in particular, prevent the loss or abuse of TT Keys;

2. the separate safekeeping of customers' Tokens from the business assets of the TT Token Depositary; and
 3. the clear assignment of customers' Tokens;
 4. the execution of customers' orders in line with agreements;
 5. the maintenance of services in the event of interruptions (business continuity management);
- e) for Physical Validators, their liability in the event that rights to property guaranteed by the Physical Validator cannot be enforced in accordance with the contract;
- f) for TT Protectors:
1. establishing suitable security measures which in particular prevent the loss or abuse of TT Keys;
 2. the separate safekeeping of customers' Tokens and business assets of the TT Protector; and
 3. the clear assignment of customers' Tokens;
 4. the execution of customers' orders in line with agreements;
 5. the maintenance of the services in the event of interruptions (business continuity management);
- g) for TT Exchange Service Providers:
1. the disclosure of comparable market prices of the traded Tokens;
 2. the disclosure of the purchase and sale prices of the traded Tokens;
- h) for TT Verifying Authorities, the use of suitable measures which ensure that the verification services it offers are rendered reliable;
- i) for TT Price Service Providers:

1. the transparency of the published prices;
2. the avoidance of conflicts of interest when setting prices;
3. the disclosure of information to affected users regarding transactions concerning related parties.

k) for TT Identity Service Providers:

1. the use of suitable measures that allow for the identity of the person possessing the right of disposal to be established; in doing so, it must be ensured that:
 - aa) for natural persons or natural persons serving as a representative of a legal person who are physically present, their identity is determined based on official photo identification, or by other evidence that has been or is to be a document of equivalent reliability; moreover, for representatives of legal persons, it must be ensured that the necessary power of representation has been determined;
 - bb) for natural persons or legal persons not physically present, other identification methods are to be applied that allow for identification equivalent to under letter aa) to be determined;
2. the specific assignment of TT Identifiers to the lawful holder;
3. the secure storage of customer data.

2) The obligations arising from the internal control mechanisms under (1) must always be complied with.

2. Registration procedure

Article 18

Registration application

1) The registration application pursuant to article 12 must include the following information and documents:

- a) name or company and address of the applicant;
- b) information about the intended TT Service;
- c) information about the TT Systems to be used during the planned TT Service;
- d) information about the legal nature of the applicant, in the event that the applicant is a legal entity;
- e) evidence that the requirements pursuant to articles 13 to 17 have been met;
- f) further information and documents at the request of the FMA if necessary to assess the registration application.

2) The registration application and the information and documents under (1) may be submitted in electronic form to the FMA. The FMA may demand certificates to be submitted in the original, or that they be submitted in notarised or apostilled form.

3) Changes in the information and facts under (1) must be reported to the FMA without delay. This notification to the FMA must be made prior to any public announcement.

4) The FMA may waive the submission of certain information and documents under (1) if it already has access to them, in particular because:

- a) the applicant already has authorisation according to the Financial Market Supervision Act;
- b) the applicant is already registered to render a TT Service other than the one he is applying for; or
- c) the application has already been registered for the same TT Service.

5) The government shall regulate the registration application in more detail, in particular the evidence under (1)(e) by means of ordinance.

Article 19

Entry into the TT Service Provider Register

1) Based on the complete application and the information respectively documents submitted, the FMA must verify whether the registration requirements have been met.

2) The FMA must decide on the full application within three months.

3) If all registration requirements have been met, the FMA must enter the applicant into the TT Service Provider Register (article 23) and inform the applicant of the entry by sending an excerpt from the TT Service Provider Register. The FMA may carry out registration subject to conditions and obligations.

4) If the registration requirements are not met, the FMA must establish this within the period specified in (2), notwithstanding a procedure according to article 46 prohibiting the exercise of the TT Service in question.

5) The TT Service applied for may only be exercised for the first time after having been entered into the TT Service Provider Register.

3. Expiration and removal

Article 20

Expiration of Registration

1) Registration in accordance with article 19 will expire if:

- a) the business has not commenced within a year;
- b) the business activity was not carried out for more than one year;
- c) the registration is waived in writing;
- d) bankruptcy proceedings are commenced in respect of the TT Service Provider with legal effect, or are rejected due to insufficient assets to cover the costs pursuant to article 10(3) KO; or
- e) the TT Service Provider's company has been deleted from the Commercial Register.

2) The expiration of a registration must be published in the Official Journal at the expense of the TT Service Provider, and noted in the TT Service Provider Register in accordance with article 23.

Article 21

Removal of the registration

The FMA must remove a registration pursuant to article 19 if:

- a) the registration requirements are no longer met;

- b) the TT Service Provider deleted the registration as a result of false information or in any other way or the FMA was unaware of the essential circumstances;
- c) a TT Service Provider systematically or seriously violates its legal obligations; or
- d) a TT Service Provider does not comply with the FMA's requests to restore the lawful status.

2) The revocation of a registration must be provided and communicated to the TT Service Provider in question. After becoming legally effective the revocation must be published in the Official Journal at the expense of the TT Service Provider and must be noted in the TT Service Provider Register in accordance with article 23.

Article 22

Effect of the expiration and removal of the registration

1) With the expiration or removal of the registration pursuant to articles 20 and 21, the TT Service Provider must cease activity immediately.

2) The TT Service Provider must take the necessary precautions to ensure the interests of its clients are not impaired by the discontinuation of activities, and further, inform the FMA of these precautions immediately by providing a relevant description of the same precautions.

3) If the FMA recognises that the precautions are insufficient, it must monitor implementation, and if necessary, commission an audit office to monitor implementation. The associated costs will be borne by the affected TT Service Provider.

4. TT Service Provider Register

Article 23

Maintenance of the TT Service Provider Register

1) The FMA must maintain a publicly accessible register in which the following information must be entered:

- a) the TT Service Providers registered in Liechtenstein, citing the date of registration;
- b) the scope of the registered TT Services pursuant to article 12 including any possible requirements citing the date of the entry of the TT Service in question;
- c) the expiration or removal of the registration pursuant to articles 20 and 21.

2) The FMA must verify entries under (1) based on a notification pursuant to article 18(3) and update them immediately if necessary.

3) The FMA must make the TT Service Provider Register available free of charge on its website. In addition, the FMA must grant any person access to the TT Service Provider Register at its physical office location, so long as technically feasible.

5. Exercising of business activity

Article 24

Designation Protection

1) Only registered TT Service Providers may make use of designations indicating activity as a TT Service Provider in any statement of company business purpose or in the company's advertising.

2) The government can further regulate details by ordinance.

Article 25

Safeguarding Requirements

1) Tokens held in a trust or in the name of the customer must be considered third-party assets in the event of enforcement, composition agreement proceedings, and in the event that the TT Service Provider becomes bankrupt; and shall be sorted in favour of the customer, subject to all claims of the TT Service Provider against the customer. The Tokens must be protected against claims of the TT Service Provider's other creditors, particularly in the event of bankruptcy, in order to protect the users. Tokens must be stored separately from the TT Service Provider's assets at all times.

2) TT Keys which a TT Service Provider holds or keeps in safe custody for a customer in the TT Service Provider's own name or in the client's name must be considered third-party assets in the event of enforcement, composition agreement proceedings, and in the event that the TT Service Provider becomes bankrupt; and shall be sorted in favour of the customer, subject to all claims of the TT Service Provider against the customer. The Tokens must be protected against

claims of the TT Service Provider's other creditors, particularly in the event of bankruptcy, in order to protect the users.

3) Upon request, during ongoing business operations, a TT Service Provider must present proof to the FMA showing that he has taken sufficient measures to comply with the requirements specified in (1). If the evidence is not provided or if the measures are insufficient, the FMA shall request that TT Service Provider furnish the necessary evidence, or take suitable and necessary precautions to remedy the existing defects. This must be carried out in accordance with an appropriate deadline set by the FMA. If the supporting documents are not submitted or precautions are not taken at all, or within the time frame stipulated by the FMA, the FMA may take further measures, in particular, those set out in article 43(5).

4) In the event of enforcement against his TT Service Provider, the user has the right to appeal (article 20 of the Execution Law), if the enforcement relates to the Tokens secured in accordance with (1) or the TT Keys secured in accordance with (2). Under the same requirements, in the event of bankruptcy of the TT Service Provider, the user has the right to have his Tokens segregated from the assets of the TT Service Provider (article 41 of the Bankruptcy Rules (KO)).

Article 26

Storage of Records and Supporting Documents

1) TT Service Providers must keep relevant records and supporting documents for supervisory purposes for at least ten years.

2) More specific legal obligations remain unaffected.

Article 27

Outsourcing Functions

- 1) The outsourcing of important operational functions is permitted if:
 - a) the quality of the internal control of the TT Service Provider is not significantly impacted;
 - b) the obligations of the TT Service Provider remain unchanged according to this Act; and
 - c) the registration requirements according to this Act are not undermined.

2) In this context, an operational function is particularly important if it, only partially fulfilled or neglected, would significantly affect the TT Service Provider's ongoing compliance with its obligations under this Act or its financial performance.

3) A TT Service Provider outsourcing functions must take adequate precautions to ensure that the requirements of this Act are met.

4) Special statutory regulations on the outsourcing of functions remain reserved.

Article 28

Reporting obligations

- 1) TT Service Providers must inform the FMA immediately of:
 - a) all changes with regard to the registration requirements;
 - b) the cessation of business activities;
 - c) the removal of the TT Service Provider from the Commercial Register.

2) TT Service Providers must inform the FMA of all information about its business activity required to exercise supervision.

3) The government shall regulate reporting obligations, in particular the frequency and content of the notifications under (2) in more detail by means of an ordinance.

Article 29

Publication obligations

1) TT Service Providers must publish the following in a way that can be accessed by the public at any time:

- a) information about the TT Systems it uses;
- b) a declaration on the suitability of the TT Systems it uses for the application purposes in question;
- c) information about any possible change in a TT System, including a relevant justification.

6. Basic information for Token Issuance

Article 30

Obligation to prepare, report and publish basic information

Subject to (31), before issuing Tokens Token Issuers must:

- a) prepare basic information according to the following provisions;
- b) publish the basic information in an easily accessible way; and
- c) report the Token Issuance to the FMA.

Article 31

Exceptions

1) The obligations pursuant to article 30(a) and (b) shall not apply for public offerings of Tokens if:

- a) all recipient parties demonstrably declare that they waive the basic information before acquiring the Token;
- b) the offer is geared towards fewer than 150 users;
- c) the sale price of the total issue does not exceed 5 million Francs or the corresponding equivalent in another currency, where this upper limit is to be calculated over a period of twelve months; or
- d) there is already an obligation to publish qualified information about the public offering of Tokens according to other laws.

2) No additional basic information needs to be published for any later public resale of Tokens if:

- a) the basic information pursuant to article 30 has already been published; and
- b) the issuer or the person responsible for preparing the basic information has approved its use in a written agreement.

Article 32

Form and language of the basic information

1) Basic information must be prepared and published in a way that is easy to understand.

2) Basic information can be prepared and published in one or several documents.

3) If basic information consists of several documents, then the Token Issuer must prepare and publish a brief, easily understandable summary with information about the Token Issuer and the Tokens to be issued.

4) Basic information must be prepared and published in German or English.

Article 33

Content of the basic information

1) Basic information must in particular include the following:

- a) information about the Tokens to be issued and associated rights;
- b) the name of the TT system used;
- c) a description of the purpose and nature of the legal transaction underlying the Token Issuance;
- d) a description of the purchase and transfer conditions for the Tokens;
- e) information about the risks associated with purchasing the Tokens;
- f) for the issuance of Tokens which represent rights to property:
 - 1. evidence of a registered Physical Validator regarding ownership of the property; and
 - 2. a confirmation from a registered Physical Validator that the rights registered in the issued Tokens are also enforceable in line with the basic information.

2) The basic information moreover includes a summary which contains brief and generally understandable essential information in the language in which the basic information was originally prepared. The summary must also include warnings that:

- a) it is to be understood as an overview of the subsequent basic information;
- b) the recipient party must read all of the basic information before purchasing; and
- c) persons who have assumed responsibility for the summary, including its translation, or who prepare the summary or translation can only however be made liable in the event that the summary is misleading, incorrect or inconsistent if read together with other parts of the basic information.

3) The basic information must include the names and roles (and, for legal persons, the company and headquarters) of those who are responsible for the content. The basic information must include a declaration by these persons that the information is correct to the best of their knowledge and that no significant information has been left out.

4) The basic information must also include the names and roles (and, for legal persons, the company and headquarters) of those who are responsible for the technical and legal functionality of the Token.

5) The Token Issuer must put an issuance date on the basic information and ensure it cannot be amended through suitable measures.

6) The government may regulate the content of the basic information in more detail by means of an ordinance.

Addendum to the basic information

1) Any new material fact or every material error or inaccuracy, with regard to the basic information that is determined after the basic information is first published must be named in an addendum to the basic information.

2) In addition, the summary and any translations of the summary must be supplemented by the information included in the addendum.

3) The government may regulate the addendum to the basic information in more detail by means of an ordinance.

Article 35

Liability

1) If any facts in the basic information that is to be prepared according to this Act are incorrect or incomplete, or if the basic information in accordance with these provisions was not prepared, the persons responsible under articles 33(3) and (4) shall be liable to every user for damages that arise as a result, provided they do not demonstrate that they took the due care of a prudent businessman when preparing the basic information. Only damage directly suffered is considered to be damage, not including loss of profit.

2) The persons named in (1) shall also be liable for their vicarious agents and employees, provided they do not demonstrate that they acted with due care according to the circumstances in their selection, instruction, and supervision.

3) Liability under (1) and (2) cannot be waived or restricted in advance to the detriment of users in the event of intent or gross negligence.

4) Liability shall only be borne for information in the summary including its translations if they are misleading, incorrect or inconsistent in connection with other parts of the basic information; or if they do not convey all material information. The summary must include a clear warning in this respect.

Article 36

Severability

If several persons are liable to pay compensation for a damage, each of them shall be held jointly and severally liable with the others so long as the damage is personally attributable to their own negligence and circumstances.

Article 37

Jurisdiction

The Court of Justice shall have jurisdiction for claims of the transferee of a Token regarding the legal relationship with the Token Issuer with headquarters within the country.

Article 38

Statute of limitations

Any claim for damages against the persons who are responsible in accordance with the above provisions will be barred by the statute of limitations one year from the date on which the cause of action accrues, the cause of action accruing on the date the injured party is both aware of the damage and the identity of the party liable for the damage, expiring regardless, ten years from the date of the harmful act.

B. Supervision

Article 39

Jurisdiction

The Financial Markets Authority (FMA) is responsible for the supervision of TT Service Providers and the execution of the associated statutory provisions.

Article 40

Official Secrecy

1) The FMA, any other persons consulted by these authorities and bodies and all representatives of public authorities shall be subject to official secrecy without any time limits with respect to the confidential information that they gain knowledge of in the course of their official activities.

2) Confidential information within the scope (1) may be transmitted in accordance with this Act or special statutory provisions.

3) If bankruptcy or liquidation proceedings have been initiated against a TT Service Provider by the decision of a court, confidential information which does not relate to third parties may be disclosed in civil law proceedings, if this is necessary for the proceedings concerned.

4) Without prejudice to cases covered by the requirements of criminal law, the FMA, all other administrative authorities, courts and bodies, natural persons or legal entities may only use confidential information that they receive in accordance with this Act only for purposes of fulfilling their responsibilities and tasks within the scope of this Act, or for purposes for which the information was given, and/or in the case of administrative and judicial proceedings that specifi-

cally relate to the fulfilment of these tasks, provided this is required to do so. If the FMA, another administrative authority, court, body, or a person transmitting information, gives its consent; then the authority receiving the information may use it for other financial market supervision purposes.

Article 41

Cooperation Between National Authorities and Agencies

The FMA works with other competent national authorities and agencies provided this is required to fulfil its duties under this Act.

Article 42

Processing and transferring personal data

1) The FMA and other competent national authorities and agencies may process personal data, including personal data regarding criminal sentences and offences of the persons subject to this Act, or have such processed externally, if this is necessary in order to fulfil their duties under this Act.

2) They may send personal data to each other or other competent authorities in other EEA member states, if this is necessary in order to fulfil duties under this Act.

3) They may send personal data to the competent authorities of third-party states if the data protection requirements under chapter V of Regulation (EU) 2016/679 have been met in addition to the requirements under (2).

Article 43

FMA duties and authorisations

1) In the course of its supervision, the FMA monitors compliance with the provisions of this Act and its associated ordinances.

2) The FMA is responsible for the following duties in particular:

- a) registering TT Service Providers and the removal of registrations;
- b) issuing information about the application of this Act or another Act listed in article 5(1) FMAG (Financial Markets Supervision Act) for clearly determined facts in connection with Trustworthy Technology;
- c) maintaining the TT Service Provider Register in accordance with article 23;
- d) the prosecution of contraventions in accordance with article 47(2).

3) The FMA has all necessary authority to perform its duties and may, in particular:

- a) require TT Service Providers to provide all information and documents required for the execution of this Act;
- b) order or carry out extraordinary audits;
- c) make decisions and ordinances;
- d) issue legally binding decisions and rulings;
- e) carry out on-site inspections of TT Service Providers; and
- f) correct false information that has been published by naming the TT Service Provider involved and issue warnings;
- g) temporarily prohibit the exercising of a TT Service.

4) If the FMA becomes aware of violations of this Act or of other deficits, it shall take the measures necessary to bring about a lawful state of affairs and to eliminate the deficits.

5) The FMA may assign an expert to a TT Service Provider to act as its observer if the interests of users or creditors appear to be acutely endangered by mismanagement. Appointed external audit offices may be entrusted with this responsibility. The observer shall monitor the activities of the governing bodies, in particular the implementation of the measures ordered, and shall report to the FMA on an ongoing basis. The observer shall enjoy the unrestricted right to inspect the business activities and the books and files of the TT Service Provider. The cost of the supervisor must be borne by the TT Service Provider, insofar as a reasonable relationship exists between the work associated with the activity and its expenses.

6) If there is reason to assume that a person is rendering TT Services without authorisation pursuant to this Act, the FMA may demand information and documents from the person concerned if this person is a subordinate person. In urgent cases, the FMA may order the immediate cessation of the activity without prior warning or imposition of a deadline.

7) The costs incurred due to misconduct shall be borne by those responsible in accordance with article 26 of the Financial Market Supervision Act.

8) The government can further regulate details by ordinance.

Article 44

Supervision taxes and fees

The Supervision taxes and fees shall be levied in accordance with the Financial Market Supervision Act.

C. Proceedings and Legal Remedies

Article 45

Proceedings

To the extent not otherwise specified in this Act, the provisions of the National Administration Act (LVG) shall apply to proceedings.

Article 46

Legal remedy

1) Decisions and decrees of the FMA may be appealed within 14 days of service to the FMA Complaints Commission.

2) Decisions and decrees of the FMA Complaints Commission may be appealed within 14 days of service to the Administrative Court.

D. Penal provisions

Article 47

Offences and infractions

1) The following persons shall be penalised by the District Court for offences with up to one-year imprisonment or a fine of up to 360 daily rates:

- a) those who render TT Services requiring registration in a manner contrary to article 12;
- b) those who use a designation contrary to article 24 which suggests activity as a TT Service Provider;
- c) those whose registration as a TT Service Provider expired due to false information or other illegal matters; or
- d) those who systematically violate their legal obligations as a TT Service Provider in a serious manner.

2) If the action does not constitute a criminal offence within the jurisdiction of the courts, TT Service Providers shall be fined by the FMA by up to 100,000 Francs due to an infraction if:

- a) they do not comply with the minimum capital requirements under article 16;
- b) they violate the obligations arising from the internal control mechanisms under article 17;
- c) they violate the reporting obligations under article 18(3) and article 28;
- d) they do not comply with the FMA requirements and conditions associated with registration pursuant to article 19(3);
- a) they violate the security obligations pursuant to article 25;
- f) they do not keep records, or keep insufficient records or do not store supporting documents contrary to article 26;
- g) they outsource important operational functions without meeting the requirements pursuant to article 27;
- a) they violate their publication obligations pursuant to article 29;

- i) they violate the preparation, publication and reporting obligations for basic information pursuant to article 30 et seq.;
- i) they fail to comply with a decree or order issued to them by the FMA with reference to the threat of punishment under this article.

3) The FMA must impose fines against legal persons if the infractions under (2) are committed in execution of the course of business of legal persons; (offences) by persons who have either acted alone or as a member of the Administrative Board, Management Board, or Supervisory Board of the legal person; or another management position within the legal person, based on which they:

- a) are authorised to outwardly represent the legal person;
- b) exercise supervisory powers in a management position; or
- c) otherwise exercise significant influence over the management of the legal person.

4) For infractions under (2) committed by the employees of the legal person, even if not culpable, the legal person is also responsible if the infraction was enabled or significantly facilitated as a result of the persons named in (3) failing to take the necessary and appropriate measures to prevent such offences.

5) The responsibility of the legal person for the offence and the punishability of the persons named in (3) or the employees named in (4) due to the same offence are not mutually exclusive. The FMA may refrain from pursuing a natural person if a fine has already been imposed on a legal person for the same violation and there are no other circumstances that oppose refraining from pursuing the natural person.

6) In the event of negligent conduct, the upper penalty limits in (1) and (2) above shall be halved.

Article 48

Responsibility

Where violations are committed in the business operations of a legal person, the penal provisions shall apply to the members of management and other natural persons who acted or should have acted on its behalf. With all persons, including the legal entity, shall, however, be jointly and severally liable for monetary penalties, fines, and costs.

Article 49

Announcing sanctions; binding effect of convictions

1) The FMA may announce the imposition of lawful punishments and fines at the expense of the party concerned if this fulfils the purpose of this Act and is and proportionate.

2) A conviction under this Act shall not be binding for the civil court judge with regard to the assessment of guilt, unlawfulness, and determination of damages.

IV. Transitional and final provisions

Article 50

Transitional provisions

1) Persons who render a TT Service requiring registration pursuant to article 12 at the time that this Act comes into force undertake:

- a) to exercise their business activity according to articles 24 to 28; and
- b) to apply for the entry into the TT Service Provider Register to the FMA within a period of twelve months after this Act comes into force; otherwise, the right to render TT Services under this Act shall expire.

2) The provisions regarding the basis for Tokens under civil law according to chapter II may also be applied by the parties for Tokens that were generated before this Act came into force according to article 3(2)(b).

3) The provisions on the basic information for Token Issuance according to articles 30 to 28 shall apply to Tokens that are publicly offered for the first time after this Act comes into force.

Article 51

Entry into force

Provided that the referendum deadline expires unutilised, this Act shall enter into force on... (1/month/year), otherwise on the day after the announcement.

1.2 Amendment of the Due Diligence Act (SPG)

Law

of ...

on the amendment of the Due Diligence Act

I hereby grant My consent to the following resolution adopted by Parliament:

I.

Amendment of Existing Law

The Law of 11 December 2008 on Professional Due Diligence in the fight against money laundering, organised crime and terrorist financing (Due Diligence Act, SPG) Liechtenstein Law Gazette 2009 No. 47, in its current version, is amended as follows:

article 2(1) letters l, l^{bis}, l^{ter}, z^{bis}, z^{ter} and z^{quater}

1) The following definitions are established for the purposes of this Act:

- l) “Exchange Bureau”: natural or legal persons whose activity lies in the exchange of legal tender at official exchange rates;
- l^{bis}) “TT Exchange Service Provider”: natural or legal persons whose activity lies in the exchange of virtual currencies or Payment Tokens for legal tender or other virtual currencies or Payment Tokens, and vice versa;

- l^{ter}) “Payment Tokens”: a Token pursuant to article 2(1)(d) TTTA;
- z^{bis}) “Virtual Currency”: a digital representation of a value that was not issued or guaranteed by any central bank or public body, that is not inevitably pegged to a legally established currency, and that does not have the legal status of a currency or money; but that is accepted by natural or legal persons as means of exchange which can be transferred, saved and traded electronically;
- z^{ter}) “Supplier of Electronic Wallets”: natural or legal persons who offer services to safeguard TT Keys on behalf of their customers in order to keep, save or transfer Virtual Currencies or Payment Tokens;
- z^{quater}) “Operators of Trading Platforms for Virtual Currencies or Payment Tokens”: natural or legal persons who operate trading platforms via which their customers conclude an exchange of Virtual Currencies or Payment Tokens for legal tender or other Virtual Currencies or Payment Tokens and vice versa and whose activity goes beyond mere brokerage without the involvement of payment flows.

Article 3(1)(q) to (u) and (3)(h).

- 1) This Act applies to persons subject to due diligence. These are:
- q) Persons who trade goods, provided payment is in cash, Virtual Currency, or Payment Tokens; and the amount is 10,000 Francs or more regardless of whether the transaction takes place in a single operation or several operations between which there appears to be a connection;
- r) TT Service Providers requiring registration pursuant to article 2(1)(l) and (n) to (r) TTTA;

- s) Token Issuers not requiring registration with headquarters or place of residence in Liechtenstein who issue Tokens on their own behalf, or in a non-professional capacity on behalf of their client; if they process transactions of 1,000 Francs or more, regardless of whether the transaction takes place in a single operation or several operations between which there appears to be a connection;
- t) Operators of Trading Platforms for Virtual Currencies or Payment Tokens;
- u) Suppliers of Electronic Wallets.

3) The following persons subject to due diligence must report the commencement of their activity to the competent supervisory authority in writing without delay:

- h) Token Issuers under (1)(s)

Article 5(2)(g) and (h)

2) Due diligence must be exercised in the following cases:

- g) for TT Service Provider pursuant to article (3)(1)(r), regardless of any thresholds, even if transactions under (b) are involved; (h) remains reserved;
- h) in the case of TT Exchange Service Providers who only operate physical change machines for the settlement of transaction of 1,000 Francs or more, regardless of whether the transaction takes place in a single operation or in several operations between which there appears to be a connection.

Article 9(b)(2)(a)

2a) Persons subject to due diligence pursuant to article 3(1)(r) must use state-of-the-art systems in order to make a risk-based assessment of the history of the relevant Virtual Currencies or Tokens in the relevant TT System (article 2(1)(b) TTTA). The government will arrange the details by means of a Regulation.

Article 16(1)(1)

1) Persons subject to due diligence pursuant to article 3(1)(a) to (i) and (r) who are part of a group must establish strategies and procedures that apply across the group, including data protection strategies and procedures for exchanging information within the group; in order to combat money laundering, organised crime and financing terrorism. ...

Article 23(1)(a)

1) The supervision and implementation of this Act and execution of Regulation (EU) 2015/847 oblige:

- a) the FMA with regard to persons subject to due diligence pursuant to article (3)(1)(a) to (l) and (n) to (u);

Article 31(1)(f^{bis}) and (4), introductory sentence

1) Fines of up to 200,000 Francs will be imposed by the supervisory authority due to administrative infractions on any person who deliberately:

- f^{bis}) does not carry out the risk assessment pursuant to article 9(a) or does not use the IT-based systems pursuant to article 9(b);

4) If an administrative infraction pursuant to (1)(c) to (n) is committed by a person subject to due diligence pursuant to article (3)(1)(k) to (u) in a severe, repetitive, or systematic manner, then the amount of the fine shall be:

II.

Entry into force

This law shall enter into force at the same time as the TT Service Provider Act of....

1.3 Amendment of the Financial Market Supervision Act (FMAG)

Law

of ...

on the Amendment of the Financial Market Supervision Act

I hereby grant My consent to the following resolution adopted by Parliament:

I.

Amendment of Existing Law

The Act of 18 June 2004 on Financial Market Supervision (Financial Market Supervision Act; FMAG), Liechtenstein Law Gazette. 2004 No. 175, in its current version, is amended as follows:

Article 5(1)(z^{septies})

Unless specified otherwise by law, the FMA shall be responsible for the supervision and execution of this Law and of the following Laws, including the implementing ordinances issued in association therewith:

z^{septies}) Law on Tokens and TT Service Providers (Tokens and TT Service Provider Act; TTTA)

Article 30(a)(8)

8) The FMA must report the data required to calculate individual supervision taxes by 31 March of the tax year at the latest provided this data concerns supervised persons from the supervised persons categories under Appendix 2 Chapter III Section C, Chapter IV (with the exception of Section c), Chapter V and Chapter IX.

Appendix 1 Section I.^{ter}**I.^{ter} TT Service Provider**

The fee for completing the following activities pursuant to the TTTA is, for:

- a) carrying out or rejecting the registration as a TT Service Provider: 1,500 Francs;
- b) the registration of every additional TT Service Provider: 700 Francs;
- c) the removal of a registration: 250 Francs;
- d) the expiration of a registration: 250 Francs;
- e) examining a change in the registration requirements: 700 Francs;
- f) issuing of a confirmation of a registration entry: 50 Francs;
- g) inspecting the TT Service Provider Register at the FMA's headquarters: 50 Francs;
- h) issuing information pursuant to article 43(2)(b) TTTA: 2,000 Francs;
- i) carrying out or rejecting the registration for financial intermediaries already authorised by the FMA: 700 Francs;
- k) the issuance of a decree to bring about a lawful state of affairs and eliminate deficits pursuant to article 43(4) TTTA: 1,000 Francs;

- l) the secondment of an expert pursuant to article 43(5) TTTA: 1,000 Francs;
- m) the order of measures in respect of persons who render TT Services without authorisation pursuant to article 43(6) TTTA: 1,000 Francs;
- n) the issuance of a penal order in the event of an infraction pursuant to article 47(2) TTTA: 5,000 Francs. In the case of a warning, the fee is 1,000 Francs;
- o) the issuance of another decree if there is no fee under (a) to (b); depending on the expense and complexity of the decree to be prepared, 500 to 10,000 Francs.

Appendix 2, Section IX

IX. TT Service Provider pursuant to the TTTA

A. General

TT Service Providers who are registered for several services must only pay supervision tax for the service generating the highest supervision tax. Supervision tax is not accumulative.

B. Token Issuers pursuant to article 12(1) TTTA

1. Basic tax for Token Issuers pursuant to article 12(1) TTTA is 1,000 Francs per year.
2. Additional tax is charged at 0.25% of the equivalent value of all cryptocurrencies and monies received during the issuance in Francs. The day of the initial offer is considered the reporting date for the calculation of the exchange rate. The equivalent value as at 31 December of the year preceding the tax year shall be used to calculate the additional tax.

3. For newly registered Token Issuers, the equivalent value of all issues carried out as at 31 December of the ongoing year shall be used to calculate the additional tax. The tax shall be collected in the following year.
4. The total annual supervision tax per supervised party shall at most be 10,000 Francs for Token Issuers pursuant to article 12(1) TTTA.

C. TT Key Depositories

1. The base tax for TT Key Depositories is 500 Francs per year.
2. The additional tax for TT Key Depositories which exercised activities relevant for due diligence during the tax year shall be 40 Francs per business relationship relevant for due diligence. The number of business relationships relevant for due diligence as at 31 December of the year preceding the tax year shall be used to calculate the additional tax.
3. For newly registered TT Key Depositories, the number of business relationships relevant for due diligence as at 31 December of the ongoing year shall be used to calculate the additional tax. The tax shall be collected in the following year.
4. The total annual supervision tax per supervised party shall at most be 5,000 Francs for TT Key Depositories.

D. TT Token Depositories

1. The base tax for TT Token Depositories is 500 Francs per year.
2. The additional tax for TT Token Depositories which exercised activities relevant due diligence during the tax year shall be 40 Francs per business relationship relevant for due diligence. The number of business relationships relevant for due diligence as at 31 December of the year preceding the tax year shall be used to calculate the additional tax.

3. For newly registered TT Token Depositories, the number of the business relationships relevant for due diligence as at 31 December of the ongoing year shall be used to calculate the additional tax. The tax shall be collected in the following year.
4. The total annual supervision tax per supervised party shall at most be 5,000 Francs for TT Token Depositories.

E. Physical Validators

1. The base tax for Physical Validators is 1,000 Francs per year.
2. The additional tax for Physical Validators which exercised activities relevant due diligence during the tax year shall be 40 Francs per business relationship relevant for due diligence. The number of business relationships relevant for due diligence as at 31 December of the year preceding the tax year shall be used to calculate the additional tax.
3. For newly registered Physical Validators, the number of the business relationships relevant for due diligence as at 31 December of the ongoing year shall be used to calculate the additional tax. The tax shall be collected in the following year.
4. The total annual supervision tax per supervised party shall at most be 5,000 Francs for Physical Validators.

F. TT Protectors

1. The base tax for TT Protectors is 500 Francs per year.
2. The additional tax for TT Protectors which exercised activities relevant due diligence during the tax year shall be 40 Francs per business relationship relevant for due diligence. The number of business relationships relevant for due diligence as at 31 December of the year preceding the tax year shall be used to calculate the additional tax.

3. For newly registered TT Protectors, the number of the business relationships relevant for due diligence as at 31 December of the ongoing year shall be used to calculate the additional tax. The tax shall be collected in the following year.
4. The total annual supervision tax per supervised party shall at most be 5,000 Francs for TT Protectors.

G. TT Exchange Service Providers

1. The base tax for TT Exchange Service Providers is 500 Francs per year.
2. The additional tax for TT Exchange Service Providers which exercised activities relevant for due diligence in the tax year is charged at 0.25% of the exchanged cryptocurrencies and monies in Francs. The sum of the exchange amounts as at 31 December of the year preceding the tax year shall be used to calculate the additional tax.
3. For newly registered TT Exchange Service Providers, the sum of the exchanged cryptocurrencies and monies as at 31 December of the ongoing year shall be used to calculate the additional tax. The tax shall be collected in the following year.
4. The total annual supervision tax per supervised party shall at most be 5,000 Francs for TT Exchange Service Providers.

H. TT Verifying Authorities

The annual supervisory tax for TT Verifying Authorities is CHF 250.

I. TT Price Service Providers

The annual supervisory tax for TT Price Service Providers is CHF 250.

K. TT Identity Service Providers

The annual supervisory tax for TT Identity Service Providers is CHF 250.

II.

Entry into force

This law shall enter into force at the same time as the TT Service Provider
Act of....

1.4 Amendment of Persons and Companies Act

Law

of ...

on the amendment of Persons and Companies Act (PGR)

I hereby grant My consent to the following resolution adopted by Parliament:

I.

Amendment of Existing Law

The Persons and Companies Act (PGR) of 20 January 1926, Liechtenstein Law Gazette. 1926 No. 4, in its current version, is amended as follows:

Section 81a (Final Part)

G. Uncertificated rights

1) The debtor can issue rights with the same function as certificated securities (uncertificated rights) or replace fungible securities with uncertificated rights, if the conditions of issue, the articles of association provide for this, or if the beneficiaries have given their consent.

2) The debtor shall keep a ledger of uncertificated rights he has issued, in which the number and denomination of uncertificated rights issued, as well as

the creditors, must be recorded. The ledger may also be managed with the use of Trustworthy Technology pursuant to the TTTA.

3) The uncertificated rights shall come into being upon their entry into the ledger and shall exist in accordance with this entry.

4) The transfer of uncertificated rights or the grant of limited in rem rights shall take place upon entry by the purchaser or the transferee in the ledger of uncertificated rights. If the ledger is managed with the use of Trustworthy Technology pursuant to the TTTA, then the disposal over the uncertificated rights shall be exclusively based on the regulations of the TTTA.

5) Anyone who acquires uncertificated rights, or rights to uncertificated rights, in good faith from the person entered in the ledger of uncertificated rights shall be protected in his acquisition, even if the seller was not authorised to dispose of the uncertificated rights.

6) The debtor shall only be obliged to effect payment to the creditor entered in the ledger of uncertificated rights. By making payment due at maturity to the creditor entered in the uncertificated rights ledger, the debtor is released from his obligation, unless he is guilty of malice or gross negligence.

II.

Entry into force

This law shall enter into force at the same time as the TT Service Provider Act of...

1.5 Amendment of the Business Act (GewG)

Law

of ...

on the amendment of the Business Act

I hereby grant My consent to the following resolution adopted by Parliament:

I.

Amendment of Existing Law

The Business Act (*Gewerbegesetz* - GewG) of 22 June 2006, Liechtenstein Law Gazette. 2006 No. 184, in its current version, is amended as follows:

Article 3(s)

This Act shall not apply to:

- s) the activity of TT Service Providers pursuant to the TTTA

II.

Entry into force

This law shall enter into force at the same time as the TT Service Provider Act of...