

CMTA

Regulations on recognition of experts

24 November 2021



The Capital Markets and Technology Association ("**CMTA**") has published a Standard for the Tokenization of Shares of Swiss Corporations (the "**Share Tokenization Standard**"). CMTA is also the holder of the certification mark "CMTA.Tokenized.Shares" (the "**Certification Mark**"). Companies that tokenize their shares in compliance with the Share Tokenization Standard can be authorized to use the Certification Mark if they comply with certain requirements set forth in regulations that the CMTA has adopted on the subject (the "**CMTA Certification Mark Regulations**").

Under the CMTA Certification Mark Regulations, the grant of the right to use the Certification Mark is subject, among other things, to the delivery of an opinion from a **legal expert** recognized by the CMTA, which confirms in substance that the issuance of the tokenized shares has been approved by governing bodies of the relevant company and that the corporate documents that the company has adopted to that effect are consistent with the Share Tokenization Standard. The confirmation of the legal expert must, in turn, be based on a confirmation provided by a **technology service provider** recognized by the CMTA that the smart contract selected by the company for the tokenization of its shares has been duly deployed on the relevant distributed ledger.

These regulations set forth the conditions on which CMTA recognizes legal experts and technology service providers for the delivery of the opinions and confirmations contemplated in the CMTA Certification Mark Regulations.

1. LEGAL EXPERTS RECOGNITION

1.1 Nature of the recognition

In order for a legal expert to be recognized to opine under the CMTA Certification Mark Regulations, both (i) the legal expert him or herself and (ii) his or her firm must be recognized by the CMTA.

To be admissible for the purpose of the CMTA Certification Mark Regulations, an opinion must be (i) issued by a recognized firm and (ii) signed by a recognized legal expert of such firm.

1.2 Professional qualification and experience

1.2.1 Conditions for the recognition of a law firm or notary office

To be recognized to opine under the CMTA Certification Mark Regulations, a firm must:

- (a) be a Swiss law firm or notary office;

- (b) have at least one legal expert recognized by the CMTA among its partners or employees; and
- (c) confirm that it is in a position to deliver legal opinions in the format contemplated in the annex to the CMTA Certification Mark Regulations, or in a similar format approved by the CMTA.

1.2.2 Conditions for the recognition of a legal expert

To be recognized to opine under the CMTA Certification Mark Regulations, a legal expert must:

- (a) be an attorney-at-law registered with a cantonal register maintained in accordance with Article 5 of the Swiss Federal Act on the Freedom of Circulation of Lawyers of 2000, as amended, or a civil law notary authorized to practice under the relevant cantonal legislation; and
- (b) possess demonstrable knowledge and experience in matters relating to corporate law and technology (e.g. as a result of participation in prior tokenization transactions).

1.3 Procedure

To obtain CMTA's recognition as a legal expert, the applicant must submit a request to that effect to CMTA's Secretariat by email sent to admin@cmta.ch.

In the application, the applicant must (i) confirm that he or she as well as his or her firm agree to be bound by these regulations (including with respect to fees for processing the application) and the CMTA Certification Mark Regulations and (ii) provide evidence that he or she as well as his or her firm meet the criteria set forth in Section 1.2. CMTA may at its discretion ask for further evidence.

1.4 Fees

The recognition as a legal expert is free of charge for firms that are members of the CMTA as well as their partners or employees. It is also free of charge for the members of CMTA's Advisory Board.

For firms that are not members of the CMTA, the processing of an application for recognition is subject to the payment of a fee of CHF 1'000 per recognized expert. CMTA may charge an additional fee of up to CHF 4'000, depending on the time spent, for the review of specimen legal opinions that diverge from the specimen outlined in the annex to the CMTA Certification Mark Regulations.

2. TECHNOLOGY SERVICE PROVIDERS RECOGNITION

2.1 Professional qualification and experience

To be recognized as a technology service provider authorized to issue confirmations for the purpose of the CMTA Certification Mark Regulations, a technology service provider must:

- (a) be a sole proprietorship, partnership or legal entity, established in Switzerland or abroad; Swiss applicants must be registered in the commercial registry in Switzerland; CMTA may refuse to recognize applicants based abroad if they cannot demonstrate appropriate connection with Switzerland; and
- (b) possess demonstrable knowledge and experience in the distributed ledger technology, smart contracts and cryptography.

2.2 Procedure

To be recognized as a technology service provider authorized to issue confirmations for the purpose of the CMTA Certification Mark Regulations, a technology service provider must submit a request to that effect to CMTA's Secretariat by email sent to admin@cmta.ch.

The applicant must confirm, in the application, that it agrees to be bound by these regulations (including with respect to fees for processing the application) and the CMTA Certification Mark Regulations and provide evidence that it meets the criteria set forth in Section 2.1. CMTA may at its discretion ask for further evidence.

2.3 Fees

The recognition as a technology service provider is free of charge for companies that are members of the CMTA.

For companies that are not members of the CMTA, the processing of an application for recognition is subject to the payment of a fee of CHF 1'000.

3. COMMON PROVISIONS

3.1 Duration of recognition

Subject to the following paragraphs of this Section 3.1, the recognition granted under these regulations is valid for a period of five years from the date it has been issued.

Notwithstanding the above, the recognition of a law firm or notary office pursuant to Section 1.2.1 lapses automatically and with immediate effect if the relevant law firm or notary office ceases to have at least one legal expert recognized by the CMTA among its partners or employees. Likewise, the recognition of a legal expert pursuant to Section 1.2.2 lapses

automatically and with immediate effect if the relevant legal expert ceases to work for a recognized law firm or notary office.

In addition, CMTA may at any time withdraw a recognition granted under these regulations if it determines at its discretion that:

- the conditions for granting the relevant recognition are no longer met; or
- the person or entity to which recognition was granted misrepresents its relationship with CMTA, breaches CMTA's rules and regulations or delivers inaccurate opinions or confirmations.

CMTA is entitled to request at any time from any recognized person that such person confirms in writing that the conditions for the granting of the recognition continue to be satisfied. It may request information from any recognized person to determine whether there are reasons for it to withdraw a recognition.

3.2 Register of recognized experts

CMTA keeps a register of recognized experts, which can be consulted on its website or in other manners that the CMTA considers appropriate.

3.3 Amendments

CMTA may amend these regulations at any time at its discretion. Amendments will take effect when published on CMTA's website. Unless if required to ensure compliance with the law or CMTA's standards, recognitions granted prior to such amendment will remain valid even if the conditions for granting the relevant recognition would no longer be met under the amended regulations.

3.4 Applicable law and jurisdiction

These regulations are governed by substantive Swiss law.

The courts of Geneva, canton of Geneva, will have exclusive jurisdiction over any dispute arising from or in connection with the application of these regulations.

3.5 Languages

These regulations may be issued in several languages. In case of inconsistencies between the versions, the English version will prevail.

3.6 Adoption and effectiveness

These regulations were adopted by CMTA's Executive Committee on 24 November 2021. They become effective immediately.

