Relación con la Payment Services Act y la SFA

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Las tres leyes forman una jerarquía. La Payment Services Act (PSA, la ley de servicios de pago) y la Securities and Futures Act (SFA, la ley de valores y futuros) son las leyes principales y se aplican a los servicios prestados en Singapur o a personas en Singapur. La Parte 9 de la FSMA es residual y solo se aplica a los proveedores vinculados a Singapur cuyos servicios se prestan fuera de Singapur y que no tienen licencia ni están exentos con arreglo a una ley principal para la misma actividad. La exención de la Parte 9 para quienes tienen licencia o están exentos con arreglo a una ley principal evita la doble licencia.[1] Una MPI singapurense que opera con DPT para clientes singapurenses y extranjeros se rige por la Payment Services Act respecto de todos ellos. Un titular singapurense de una licencia CMS que opera con valores tokenizados para clientes institucionales extranjeros se rige por la SFA.

La jerarquía produce una anomalía. Una sociedad singapurense que quiera atender a clientes extranjeros solo puede obtener una licencia con arreglo a la Payment Services Act si presta además un servicio de pago «en Singapur». La Monetary Authority of Singapore (MAS, la autoridad monetaria y supervisora financiera) ha interpretado que esta expresión exige una clientela singapurense o un establecimiento en Singapur desde el que se preste el servicio a personas en

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Singapur. Una sociedad sin ningún cliente singapurense no puede presentar una solicitud con arreglo a la Payment Services Act y debe solicitarla con arreglo a la Parte 9, donde la MAS la denegará casi con toda seguridad. La salida consiste en crear una clientela singapurense, lo que activa las medidas de protección del consumidor del capítulo III, o en marcharse. La MAS parece considerar este resultado deliberado: Singapur quiere empresas cripto que atiendan a Singapur con normas singapurenses y no quiere prestar su nombre a empresas que atienden a otros.

Notas

1. Allen & Gledhill, 10 de junio de 2025 (citado): el requisito de licencia de la Parte 9 no se aplica a quien preste un servicio de tokens digitales que deba tener licencia con arreglo a la SFA, la FAA o la PSA o que esté exento de esas leyes, ni a un servicio especificado en el Second Schedule de la FSMA. ↩

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