

THE LEGAL SIDE OF BLOCKCHAIN UPDATE FROM A PRACTITIONER

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MOST IMPORTANT RECENT DEVELOPMENTS

- ⌘ Austria: Short recap about current state
- ⌘ Recent activity on the EU level
- ⌘ Recent activity of the Austrian regulator (FMA)

RECAP AUSTRIA

- ⌘ Coins are **entries in a database**
- ⌘ Right to **dispose of coins and to exclude others**
- ⌘ Coins are **things** in property law terms
 - ⌘ Required: **Controllability**
 - ⌘ Controllability **particularly pronounced**
- ⌘ **Transfer of ownership?**
 - ⌘ **1) Agreement** between parties (purchase, barter, lease)
 - ⌘ **2) Mode of transfer** (transfer to new address on the Blockchain)
- ⌘ Tokens can qualify as **financial instruments**

EU-LEVEL UPDATE

- ⌘ EU Parliament has **recently passed 5th AML Directive**
- ⌘ First **legal definition** of crypto currency
- ⌘ Important: “**means of exchange**” – not “means of payment”
- ⌘ EU right of **free movement of goods**
- ⌘ Fundamental **right of property** applies

UPDATE AUSTRIAN REGULATOR (FMA)

- ⌘ FMA updates its position on various topics
- ⌘ Important whether business is regulated or not
- ⌘ 1) Issuing and administration of payment instruments
 - ⌘ limited network
- ⌘ 2) **Mining** to be qualified as an **Alternative Investment Fund?**
 - ⌘ Regarded as **financial service**
 - ⌘ Requires license (!)
 - ⌘ No product can be sold to private persons (!)
 - ⌘ Current state

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