

CRYPTO-SECURITIES AND THE RULE *LEX REI SITAE*

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(1) TOPIC

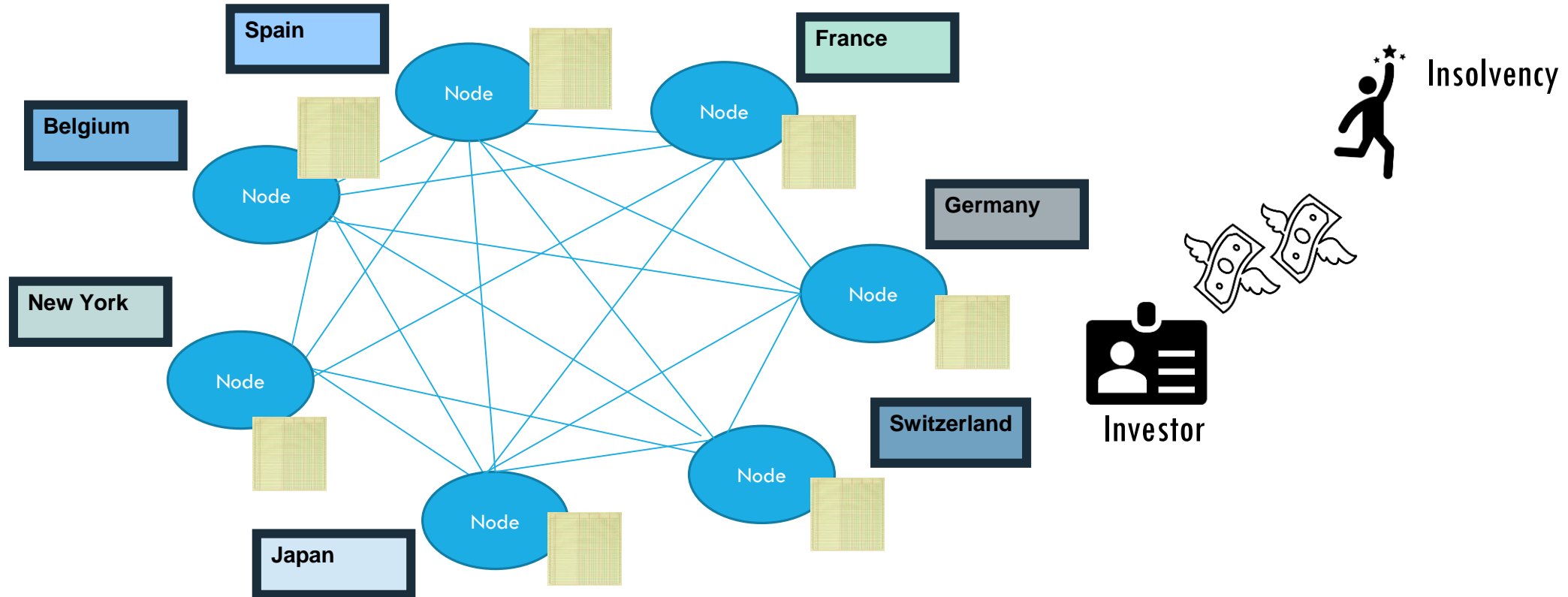
→ **Crypto-securities:** securities registered in tokenized/digital form in a DLT platform

Forms of registration:

- (Physical) certificates
- Uncertified securities
- Book-entry (electronically with an intermediary)
- Tokenized (digitally in DLT)

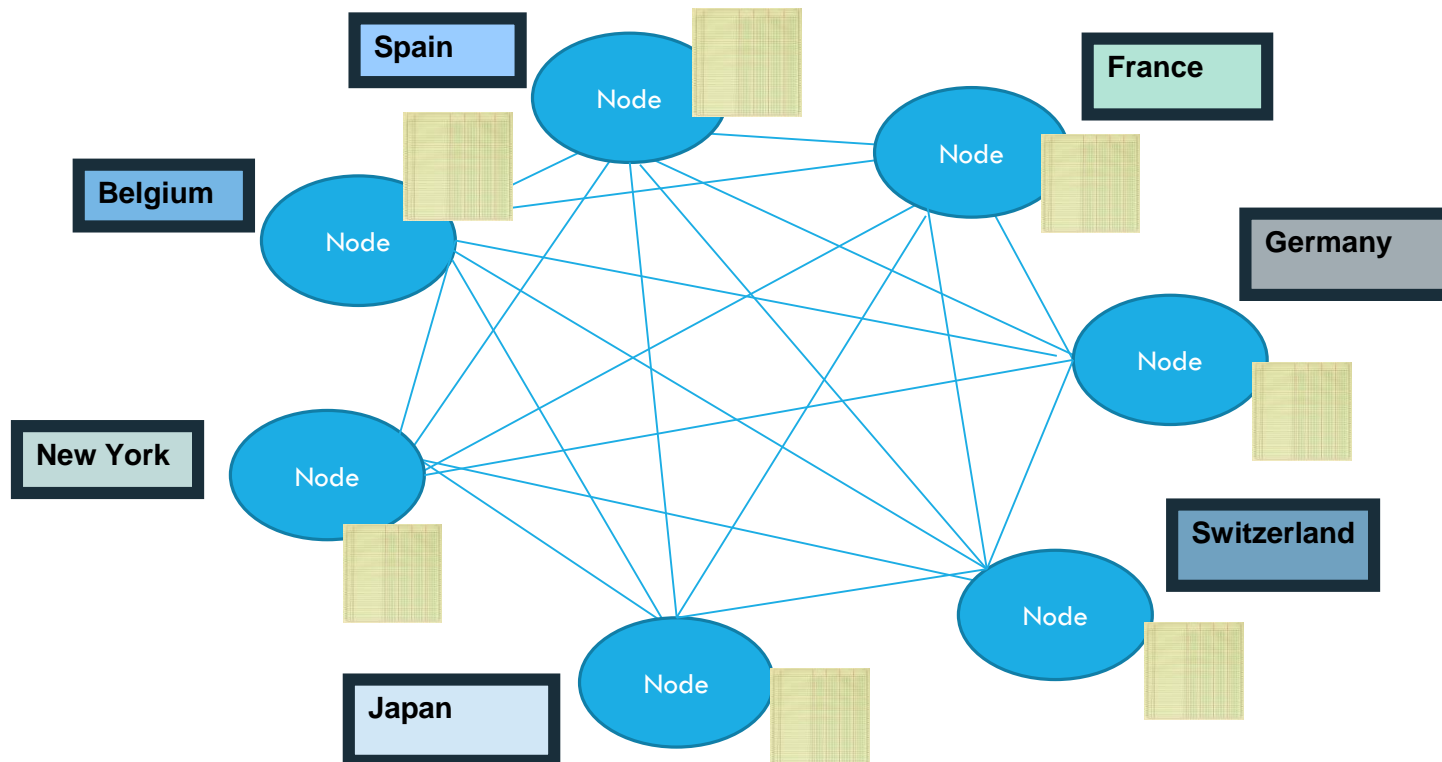
(1) TOPIC

- ▶ Does the crypto-security holder have a restitutionary claim?



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The answer varies across jurisdictions: which law applies?



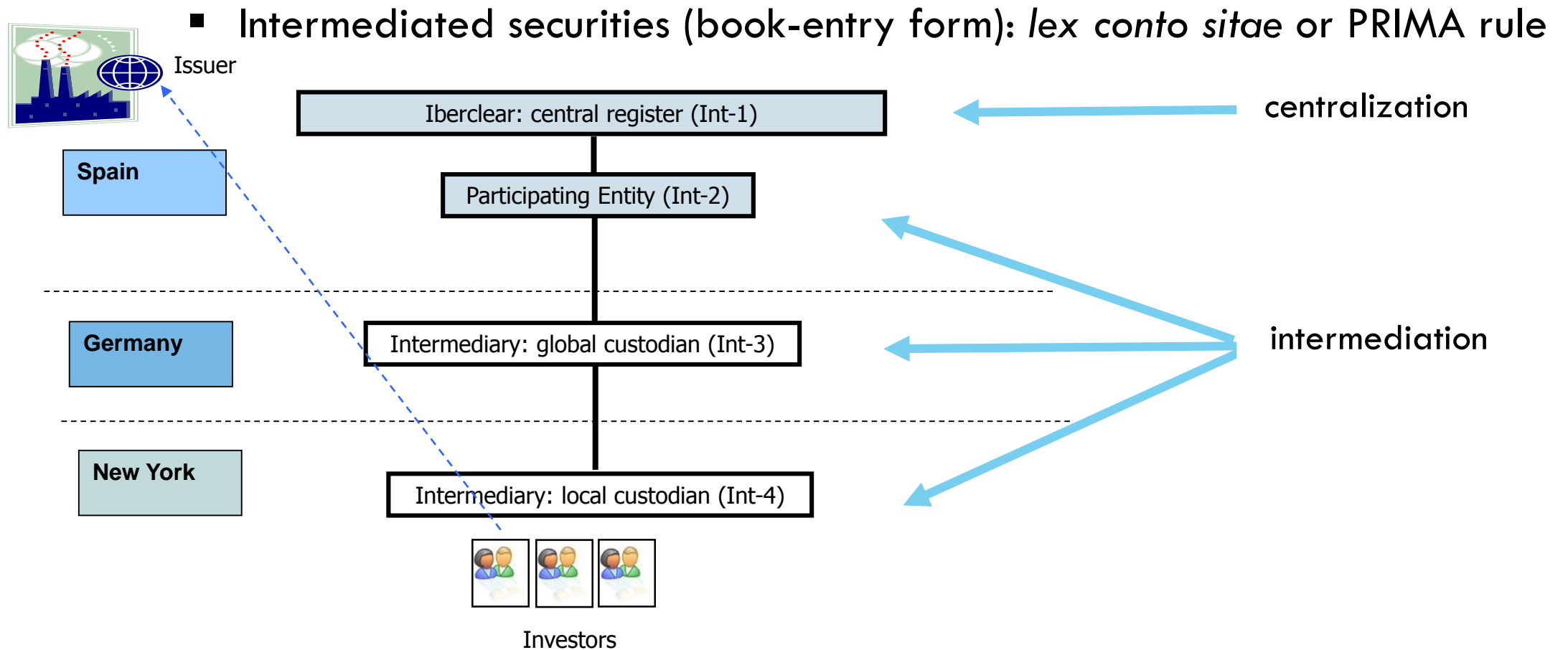
(2) LEGAL CONTEXT

Traditional rule to determine the national law applicable: *lex rei sitae* (the law of the place where the “thing” is located)

Securities?

- Certificate form (*lex carta sitae*)
- Uncertified form (issuer’s domicile for equity, issuance law for debt)
- Book-entry form (*lex conto sitae*)

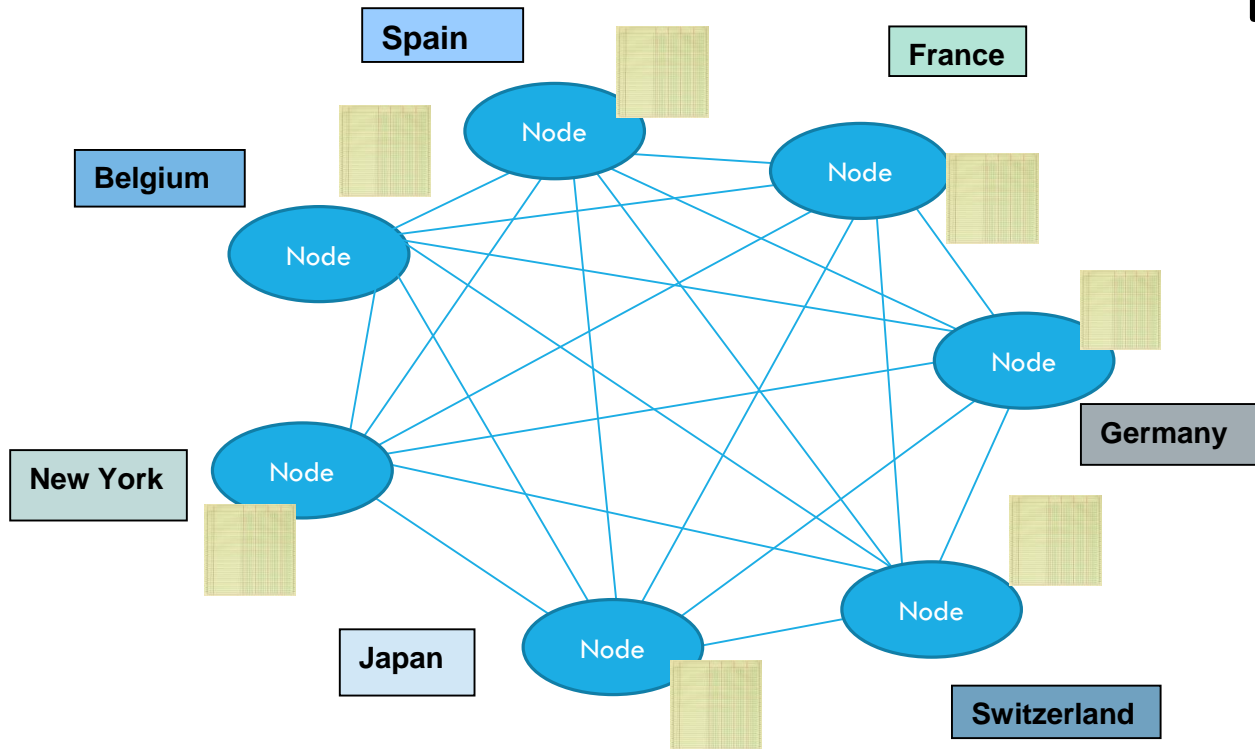
(2) LEGAL CONTEXT



(3) CRYPTO-SECURITIES

- Previous rules do not directly apply to crypto-securities
- Source of inspiration?

(3) CRYPTO-SECURITIES

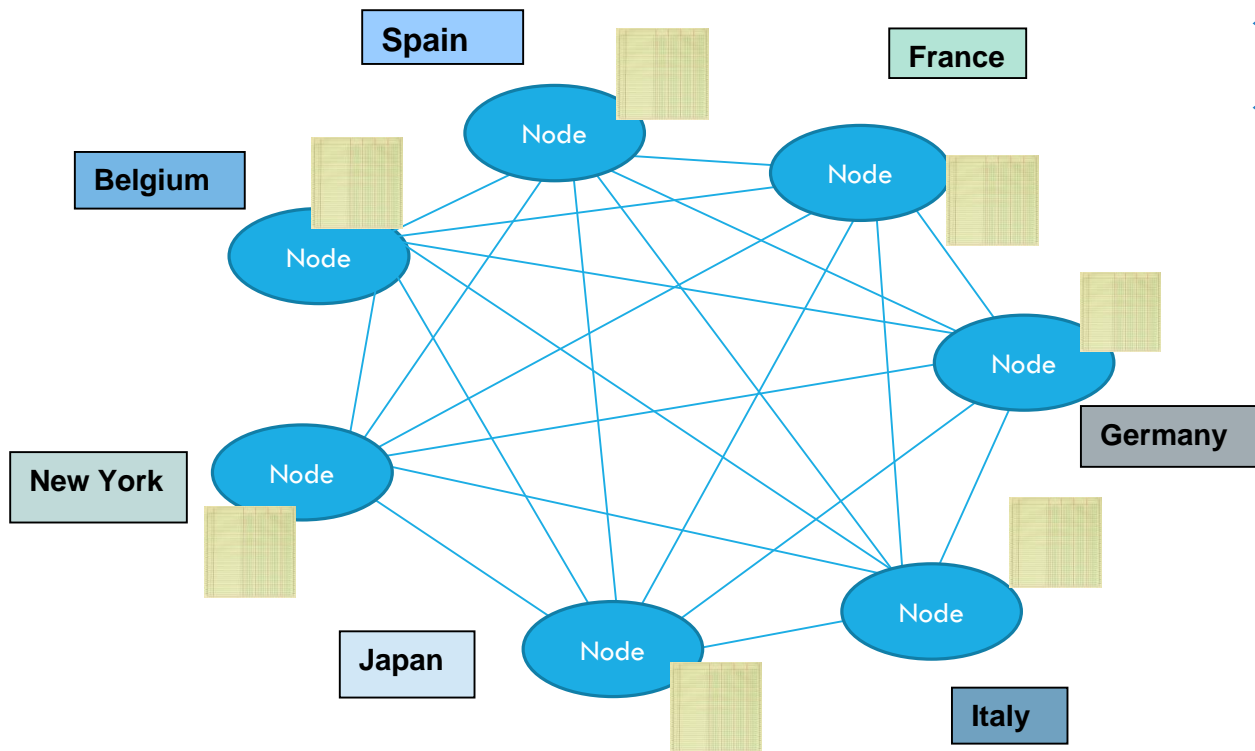


Analogy with intermediated securities

- ✓ (Restricted) choice by the platform participants
- ✓ Place of the relevant operation authority (PROPA)/ primary residence of the encryption master key holder (PREMA)

(3) CRYPTO-SECURITIES

Analogy with uncertified securities



- ✓ Issuer's registered office (equity)
- ✓ Law chosen for the issuance (non equity)



- Coincidence proprietary rights with rights attached to the securities
- Consistent with technology neutrality principle
- Foreseeable
- Works for both permissioned and permissionless platforms



THANK YOU