European Commerce Registers’ Forum Conference 2018: recent developments in the area of Fintech and DLT

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About us: ISOLAS LLP

Jonathan Garcia

• Jonathan Garcia is a Partner within the ISOLAS LLP Fintech team

• Member of Company Law Reform Committee

• Advised HM Government on the introduction of Limited Liability Partnerships in Gibraltar and drafted appropriate legislation

• Recognised as a ‘Next Generation Lawyer’ – Legal 500, 2017

ISOLAS LLP

• Gibraltar’s oldest, and one of the leading law firms in this space

• Recognised as a ‘Band 1’ firm for General Business Law – Chambers and Partners, 2018

• Part of Gibraltar’s Cryptocurrency Working Group
Gibraltar: A new approach to Regulation

- **DLT regulatory framework**
  - Regulates businesses that use DLT as an integral part of their service offering to customers
  - First jurisdiction in the world to provide legal certainty for the sector with a dedicated DLT legislative framework

- **Token framework**
  - The use of tokens as a means of raising finance, typically for early-stage start-ups
  - Natural progression following the regulation of DLT Providers
  - Regulation of token sales, secondary token market platforms, and investment services relating to tokens

- **Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT)**
  - Entities which receive proceeds (in any form) from the sale of tokenised digital assets, are now required to conduct due diligence on its customers and on the source of such proceeds.
Globally: What has been the response to this space?

• Topic of continual debate
• Most of the regulators and governments across the globe are now engaging with the possible impact that the strong disruptive element of DLT could have on various sectors
• **European Union**
  – Cryptocurrency exchanges and custodian wallet providers are due to be brought within the scope of regulation at an EU law level under the fifth Money Laundering Directive
  – European Parliament recently passed a resolution supporting Blockchain technology
• **United Kingdom**
  – Report on DLT issued by UK Government Chief Scientific Adviser, Sir Mark Walport
  – Mark Carney, Governor of the Bank of England
The technology: **Uses**

“Distributed ledger technologies have the potential to help governments to collect taxes, deliver benefits, issue passports, record land registries, assure the supply chain of goods and generally ensure the integrity of government records and services.”

_Distributed ledger technology: beyond blockchain_, Sir Mark Walport, Chief Scientific Adviser to UK HM Government, December 2015
The technology: Where could this fit within the corporate ‘universe’?

• Corporate record keeping of shareholders
  – No ‘single point of failure’
  – Accountability and transparency without the need for third-party verification
  – Shares to be issued in uncertified format
  – Cost vs benefit

• Decentralised autonomous organisation (DAO)
  – Group of persons who agree to interact on the basis of code
  – Self directing
  – No separate legal personality

• Challenges
Future: What does it hold?

• Tokenised shares i.e. digitalising equity
• New tools for AML compliance on the Blockchain
• Fiduciary responsibilities/governance
• Improvements in technology, security, disclosure, accounting
• Regulated exchanges (GBX)
• Continued rapid evolution…
Thank you for your time