

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

Jonathan Garcia, ISOLAS LLP
Partner - Fintech & Financial Services
www.gibraltarlawyers.com



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...



Jonathan Garcia

Partner

jonathan.garcia@isolas.gi

Thank you for your time

This presentation has been prepared for general information purposes only and is not legal advice, is not to be acted on as such, and is current only as at the date stated on the first slide. No reliance should be placed on its contents and the views expressed therein are those of the authors and may not reflect those of ISOLAS LLP.

Interpretation of how the relevant legislation could be applied is ultimately a matter for the courts and/or applicable regulatory authorities and/or law enforcement agencies to determine. Should you require legal advice on this subject ISOLAS LLP would be pleased to assist.

Every reasonable effort is made to make the information and commentary accurate and up to date, but no responsibility for its accuracy and correctness, or for any consequence of relying on it, is assumed by ISOLAS LLP.

Contact us: info@isolas.gi / Tel +350 2000 1892 / Portland House, Glacis Road, PO Box 204, GX11 1AA, Gibraltar

