



The Law Firm **Network**
FAR - REACHING LEGAL SOLUTIONS

2021

**THE COMPARATIVE GUIDE ON
CRYPTOCURRENCY
LEGISLATIONS
& GUIDELINES**

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— EDITOR'S NOTE —

by Gonzalo Oliva-Beltrán

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Exactly thirty years ago, two researchers outlined the first idea of a system where document timestamps could not be tampered with. But it was not until a little bit more than ten years ago that the world heard about blockchain technology.

Now in the wake of the 21st century, technology does not seem to be about globalization anymore -now taken for granted-, but about decentralization. If globalization revealed that as a planet we are centripetally connected, decentralization now confirms that we are centrifugally hyper-connected.

As legal practitioners, not only are we challenged by the concept of decentralization, but we also need to reassess the legal nature of time-honored institutions like currency, securities, agreements, property, justice.

Cryptocurrency is probably the most popular utilization of decentralized technology, but it has not

been equally regulated in all jurisdictions however popular it might be. And even in those jurisdictions where it has, it has been assimilated -from a regulatory perspective- to securities, currency, or generally as goods.

This guide intends to be a snapshot of the current cryptocurrency regulations in some of the countries that are represented at The Law Firm Network. It does not intend to be legal advice and readers are encouraged to contact the local law firm for further information or guidance.





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1

QUESTION

Which legislative and regulatory provisions, or any other guidelines or policies that govern or regulate cryptocurrency in your jurisdiction?

In Liechtenstein, the Law on Professional Due Diligence to Combat Money Laundering, Organized Crime, and Terrorist Financing (Due Diligence Act, DDA) and the Ordinance on Professional Due Diligence to Combat Money Laundering, Organized Crime, and Terrorist Financing (Due Diligence Ordinance) apply to natural or legal persons whose activities consist in the exchange of virtual currencies respectively tokens against legal tender or other virtual currencies respectively tokens and vice versa. Further, operators of trading platforms for virtual currencies respectively tokens fall within the scope of the mentioned act ordinance. According to DDA “operators of trading platforms for virtual currencies respectively tokens” generally shall mean natural or legal persons who operate trading platforms via which their customers transact an exchange of virtual currencies respectively tokens against legal tender or other virtual currencies respectively tokens and vice versa.

2

QUESTION

Which legislative and regulatory provisions, or any other guidelines or policies that govern or regulate entities or operators that provide services relating to cryptocurrency? Must they be registered or licensed by any specific regulatory authority?

Service providers relating to cryptocurrency have to be aware of the Law on Tokens and TT Service Providers (Token and TT Service Provider Act, also called the Blockchain Act). TT means transaction systems which allow for the secure transfer and storage of Tokens and the rendering of services based on this by means of trustworthy technology. TT service providers who offer activities relevant to user protection on a commercial basis and thus require registration (e.g. issuing, generating or holding tokens) must comply with the minimum standards of the Blockchain Act. This applies to all TT service providers domiciled in Liechtenstein. However, it is not applicable to TT service providers domiciled abroad who provide TT services to persons domiciled in Liechtenstein, thus preventing any unreasonable restriction of market access of the token economy for persons domiciled in Liechtenstein.

The Law on Bank and Investment Firms (Banking Act), the Law on Asset Management (Asset Management Act), the E-Money Act, the Payment Services Act, the Law concerning specific undertakings for collective investment in transferable securities (UCITS), the Law concerning the Managers of Alternative Investment Funds (AIFMG) and the Law on the Supervision of Insurance Undertakings (Insurance Supervision Act) are other statutes that could be relevant for service providers.

3

QUESTION

Please describe which part or kind of services involving cryptocurrency that have yet to be governed or regulated.

The legislation mentioned in Q1 and Q2 above is continuously reviewed and adapted to meet current and future requirements.

QUESTION

4

Which bodies are responsible for enforcing the applicable laws and regulations? What powers do they have?

The Financial Markets Authority (FMA) is responsible for the supervision of TT service providers and the execution of the associated statutory provisions. With regards to penalties the Liechtenstein courts have jurisdiction.

QUESTION

5

How does the government or authority in your jurisdiction treat cryptocurrency (legal treatment and general approach)?

The blockchain technology was first developed for Bitcoin, a private digital money system. Thereby, blockchain technology functions as a register in which transactions can be securely stored. However, the applications of blockchain technology are not limited to simple transactions of coins. Moreover, they offer the possibility for a wide range of economic services, since assets or rights in general can also be mapped on blockchain systems. Above all, the low costs of digital transactions (without intermediaries) open up new possibilities in the world of finance and services as well as in the industrial world. These applications are collectively referred to as the 'token economy'. Liechtenstein recognised this trend early on and create a legal framework and with it legal certainty for users and service providers.

QUESTION

6

How is cryptocurrency legally defined in your jurisdiction? Have there been any judicial decisions which have helped to define them with the existing legislations or court precedents? (e.g. as a currency, commodity, property)

According to DDA "Virtual currency" is defined as a digital representation of a value that was not issued or guaranteed by any central bank or public body and is not necessarily pegged to a legally established currency and does not have the legal status of a currency or money, but is accepted by natural or legal persons as a means of exchange that can be transferred, saved and traded electronically.

QUESTION

7

How are different type of fundraising activity involving cryptocurrency defined in your jurisdiction? (i.e. Initial Coin Offering (ICO), Security Token Offering (STO), Initial Exchange Offering (IEO) & Stable Token)?

According to the Token and TT Service Provider Act (Blockchain Act) "Token Issuance" shall mean the public offering of Tokens. This means offering to the public in any form and by any means of communication with the aim of selling tokens to users. Commonly, token issuance is known as Initial Token Offering (ITO), Token Offering, ICO (Initial Coin Offering), Security Token Offering (STO) or TGE (Token Generating Event).

8**QUESTION**

Are cryptocurrencies trading platforms subject to a specific regulatory regime in your jurisdiction? Must they be registered or licensed by a regulatory authority? Upon being licensed are they allowed to accept legal currency?

Please see questions above.

9**QUESTION**

What is the current approach in your jurisdiction to the treatment of cryptocurrency regarding money laundering and terrorist financing?

Please see questions above.

10**QUESTION**

Is there any bill in process in your jurisdiction regarding cryptocurrency?

Please see questions above.

11**QUESTION**

Is there any Law, Resolution or official guideline that regulate blockchain in your jurisdiction?

The term 'Blockchain' originates from the application of Bitcoins, which involves the serial logging of transactions in a distributed ledger and the blockwise verification of a certain number of transactions. In this process, the unchangeable history of the transactions creates a relationship of trust between the actors. However, the Bitcoin blockchain is only one of the possible technical implementations of blockchains. Therefore, an abstract, technology-neutral definition of the term 'Blockchain' was deliberately chosen in Liechtenstein for the legislation, not least to prevent the legal framework from becoming outdated from a technological perspective after just a few years. The fact that trust is created by technology and not only by organisations was the decisive factor in defining the term 'Trustworthy Technology' as the connecting factor for the law. The term 'Trustworthy' means that the integrity of tokens, their unambiguous allocation and their secure exchange should be guaranteed.

The Blockchain Act establishes the legal framework for all transaction systems based on trustworthy technology and in particular governs the basis in terms of civil law with regard to Tokens and the representation of rights through Tokens and their transfer as well as the supervision and rights and obligations of TT Service Providers.

12**QUESTION**

Are there any other key issues concerning cryptocurrency in your jurisdiction that legal practitioners should be aware of?

Please see questions above.

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