



Acquarius Trust Group



Cruzlaw LLP

FINTECH OVERVIEW

Introduction

Financial Technology (“FinTech”) has been one of the fastest growing industries over the last decade. Companies and initiatives within this space are amongst the most exciting and disruptive. Smartphones, Mobile Banking and Crowd Investing Services are amongst the technologies that have challenged traditional ways of doing business on a global scale.

Blockchains and Distributed Ledger Technology (“DLT”) in particular have the potential to securely simplify and reduce the cost of financial transactions. These technologies have created a wealth of opportunities both for the innovative transfer of value between consumers in the form of virtual currencies/Cryptocurrencies (Bitcoin, Ethereum, Litecoin, Tether amongst others), secondary markets for the exchange of these cryptocurrencies and for entrepreneurs and institutions to raise capital, funding development and innovation through so called Initial Coin Offerings (“ICOs”) referred to also as Token Sales.

Gibraltar Law and Regulation

Gibraltar in its continued commitment as a modern international finance centre has recognised the potential for business generation in the field and is fast becoming a leading global FinTech jurisdiction. Of course, there is much publicised uncertainty surrounding these technologies and in order to create a market of reputation, longevity and professionalism the Gibraltar Government has recognised the need for the industry to be efficiently and pragmatically regulated. In October 2017, the Government of Gibraltar published the Financial Services (Distributed Ledger Technology Providers) Regulations 2017 (the “DLT Regulations”) that came in to effect as of 1 January 2018.

The DLT Regulations govern all firms that use DLT to either store or transmit value to others. The Regulations contains 9 regulatory principles (the “Regulatory Principles”) (see below) which Firms will be required to adhere to.

The Gibraltar Financial Services Commission (“GFSC”) regulate DLT activities and firms wishing to carry out business activities in this area are required to apply to the GFSC for authorisation.

Whilst the DLT Regulations do not cover ICOs/Token on the 14th March 2018 the Government of Gibraltar their final Policy Document on Token Regulation setting out their commitment to introduce legislation and rules in this respect.

We expect a draft bill to be released towards the end of March 2018 and the first part of the Regulations to be available in draft by May 2018. The Regulations are likely to build on the Regulatory Principles of the DLT Regulations, but focus on, the sales Process, secondary markets and investment advice. The Policy Document further introduces a new controlled activity of an “authorised sponsor”, meaning that a firm (such as Rockchain - <https://Rockchain.com> to which our MD Oliver Andlaw acts as FCO) would be regulated and approved to ensure that issuers adhere to the sales and promotion section of the Regulations

How can we help?

Acquarius Trust Group have a wealth of experience in corporate finance, regulatory advice and company management. Our team of professionals from varying disciplines is headed by Oliver Andlaw, Managing and Finance Director, an accountant with over 17 years’ experience in the city of London, specialising in media and entrepreneurial corporate finance and Paul Miles our Operations Director, who has over 40 years’ experience in banking and corporate finance and who sits on the ICO company management working panel with the GFSC. Acquarius Trust Group, together with our legal partners at Cruzlaw LLP, Nick Cruz and Christina Wright who have been advising FinTech clients since 2014 are a market leader in the Gibraltar FinTech Sector.

We can assist clients looking to set up FinTech projects in a number of ways:

Company Management and Fiduciary Services

A key focus of the Regulatory Principles is the demonstration of effective corporate governance arrangements. In particular, in the GFSC initial guidance on the application of the principles they state the following:

“Areas of focus will include: board structure, including composition to ensure that there is a good balance and mix of skills and experience to complement the business; adequate application of the four eyes principle; and application of mind and management from Gibraltar.”

These principles (along with the other Regulatory Principles) are principles which all existing financial services firms, including Acquarius Trust Group will be very familiar.

Company Management

Clients wishing to set up a FinTech business from Gibraltar will need to establish a Gibraltar Limited Company. At Acquarius Trust Group we have over 20 years' experience in Gibraltar Company Management. We provide a full range of services from Incorporation through to company secretarial, accounting and management of corporate transactions.

Fiduciary Services

Whilst ideally the board of all regulated companies would be made up of local resident directors, the reality is that even for established businesses, a number of the directors usually reside outside Gibraltar. Relocation of senior staff can also be expensive, particularly for companies initially establishing themselves in Gibraltar. To mitigate these issues and satisfy the GFSC's requirements for balance of skillset, Mind and Management and Four-Eyes Principle, it is common for local regulated companies to appoint appropriately skilled corporate or professional individual directors from the local industry.

Acquarius Trust Group are licensed to provide Corporate Directors and where appropriate the services of resident individual Directors, either as an alternative or in addition to a Corporate Director. Whether corporate or personal, the individuals carrying out these duties provided by Acquarius, are themselves all pre-approved by the commission. They

are all professionally qualified and of varying skillsets. Where individuals are provided we are mindful of the overall makeup of the board and in selecting an individual we ensure that their skillset is complimentary to the wider board.

Banking Services

Most businesses looking to set up in Gibraltar will require local banking services. Banking has become a particularly complicated matter for all industries and this is particularly evident in the FinTech sector. There are two local banks that are banking in the DLT sector, Turicum Private Bank and Gibraltar International Bank. Both these banks have stringent criteria for the acceptance of applicants and are following similar principles to the GFSC in the application of the Regulatory Principles.

There will be a particular focus on the applicant's white paper, use of funds, corporate governance and anti-money laundering procedures.

In the majority of cases the banks will only accept applications from Approved Intermediaries.

For ICOs the Banks will also generally require a legal opinion from an established local lawyer confirming that due diligence has been undertaken and giving background on the ICO. The legal opinion will also need to confirm that potential investors have been reasonably informed as to the risks of the investment, and opine on the structure of the ICO, the purpose, the persons managing and controlling the firm and the objective of the ICO.

Cruzlaw LLP can provide all legal opinions and at Acquarius Trust Group we have an excellent relationship and Approved Intermediary Status with both banks. In addition, Paul Miles, who heads our client banking services has over 40 years' experience with the RBS Group in a variety of positions including, most recently head of business and intermediary banking at Natwest Gibraltar.

Whilst bank account opening can be challenging for FinTech companies Acquarius Trust Group has an excellent team to assist with all aspects of the application.

Legal and Advisory Services

With a team experienced in all areas of corporate finance including regulatory advice, drafting of prospectuses/white papers, corporate structuring and financial modelling we can assist in a number of areas including:

- ⇒ Structuring of ICOs/Token Sales.
- ⇒ Application to the GFSC for a financial services licence to become a regulated DLT firm.
- ⇒ Assistance and advice on the drafting of whitepapers.
- ⇒ Legal opinions and verifications of whitepaper content.
- ⇒ Advice on investment structure and Gibraltar tax implications.
- ⇒ Advice on regulatory and compliance issues.
- ⇒ Advice on best practice corporate governance.
- ⇒ Advice on anti-money laundering procedures, compliance with data protections and drafting privacy policies.
- ⇒ Drafting terms and conditions and contracts.
- ⇒ Advice and options on the use and establishment of Gibraltar Funds.

What are the nine Regulatory Principles?

Schedule 2 of the DLT Regulations sets out the nine principles that a regulated DLT firm will have to adhere to as follows:

1. Conduct their business with honesty and integrity.
2. Pay due regard to the interests and needs of each and all its customers and communicate with them in a way that is fair, clear and not misleading.
3. Maintain adequate financial and non-financial resources.
4. Manage and control their business effectively, and conduct their business with due skill, care and diligence; including having proper regard to risks to its business and customers.
5. Have effective arrangements in place for the protection of customer assets and money when they are responsible for them.
6. Have effective corporate governance arrangements.
7. Ensure that all of their systems and security access protocols are maintained to appropriate high standards.
8. Have systems in place to prevent, detect and disclose financial crime risks such as money laundering and terrorist financing.
9. Be resilient and have contingency arrangements for the orderly and solvent wind down of its business.

Your Fintech Team



Oliver Andlaw FCCA

A Chartered Certified Accountant with over 20 years professional experience gained primarily in the city of London with top tier firm Mazars LLP. He is

experienced in a wide range of private and corporate matters including a specialism in corporate finance, structured investments and financial promotions particularly in the media and technology sector.



Christina Wright LLB

Called to the bar of England and Wales in 2009, an experienced barrister specialising, amongst other

commercial matters, in advising DLT and blockchain start-ups on regulatory and licensing matters.



Paul Miles ACIB

A Chartered Banker with more than 42 years experience with the RBS group, most recently with Natwest Gibraltar where he led the bank's business banking

and financial intermediary team. Paul was responsible for all banking services in to the financial services industry, professional firms and e-gaming.



Nick Cruz, LLB (Hons) TEP

An experienced barrister and litigator with nearly 30 years practice in varying sectors including banking, financial services

and Fintech. Nick is a highly regarded professional and a recommended individual in Legal 500 and Chambers Global.

For more Information please contact:

Oliver Andlaw
Director
+350 200 50418 | oliver@acquarius.gi
www.acquarius.gi

Christina Wright
Partner
+350 200 76552 | christina@cruzlaw.gi
www.cruzlaw.gi

Acquarius Trust Company Limited
Suite 3, Second Floor, Icom House, 1/5 Irish Town,
Gibraltar GX11 1AA
Tel: +350 200 50418 Fax: +350 200 44989
info@acquarius.gi

Cruzlaw LLP
Suite 5 , Fourth Floor, Icom House, 1/5 Irish Town,
Gibraltar GX11 1AA
Tel: +350 200 76552 Fax: +350 200 76553
info@cruzlaw.gi

www.acquarius.gi

www.cruzlaw.gi