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Kyrgyzstan and Crypto Business



Kyrgyzstan offers unique advantages to blockchain businesses. A legal report recently commissioned by us reveals that without any need for introducing further legislation, the Kyrgyz Republic now provides a very comfortable legal regime for the development of any crypto-projects as well as for trading and investment in crypto-assets.

● Open the report «The Legal Status of Blockchain Commerce in the Kyrgyz Republic» and select chapters

- Download the full text of the report in PDF
- Open «The Legal Status of Blockchain Commerce in the Kyrgyz Republic: Conclusions in Brief»
- Download the brief in PDF
- Media release «Kyrgyzstan Opens for Blockchain Business»
- Download the media release in PDF

As in most other countries, cryptocurrencies in Kyrgyzstan are not considered to be valid means of payment in domestic settlements. Apart from that, the law of the Kyrgyz Republic does not forbid or hinder the development of good faith projects based on the blockchain technology, including crypto-asset mining and trading. The law only provides that this must be done with due regard to the local tax law, anti-money laundering controls, consumer and investor protection norms and other legislation regulating the ordinary commerce.



The legislation of the Kyrgyz Republic is friendly to crypto-business. Without a need for legislative reforms Kyrgyzstan can now satisfy the demand of global crypto-investors and blockchain business developers for a liberal, but a well regulated jurisdiction.

● Since cryptocurrencies and other crypto-assets fall under the definition of commodities rather than securities or currency (for a detailed explanation please read the legal

report3), they **may be traded on a local commodities exchange**. The law does not limit the scope of commodities (goods) which can be traded on the exchange, provided the exchange itself authorised their trading and the commodity is not of restricted transferability under local law.

- The regulations of derivative trading adopted by the Government in 2017 provide a very flexible regime for structuring **crypto-asset linked financial instruments**. Such instruments may be then traded on OTC markets, on the stock exchange or on the commodity exchange (if they are structured as contracts and not securities). Local broker-dealers and investment managers are not restricted by law to deal only in securities, so they can handle the trading in non-security assets with no problem.

- Kyrgyz securities firms and exchanges are subject to AML regulation and supervision which is in line with FATF standards. This provides an opportunity for the investors who need not remain anonymous to use the regulated infrastructure of the country to have an **easy 'financial bridge' between crypto and fiat**.

- Software development**, licensing and sales, if intended primarily for export, can be completely **tax-free** (the «High Technologies Park» regime).

- Crypto-mining** is legal and can use the low local energy tariffs as well as a very favourable tax regime.

To learn how you can organize a crypto-mining business in Kyrgyzstan, please read «Crypto-Mining Opportunities in Kyrgyzstan» or download the explanatory note.

- Similarly to the US, blockchain business in Kyrgyzstan is **not obstructed by local personal data legislation** (which is a big problem in the European Union and Russia).

- A licensed investment intermediary is required for any forms of non-security fundraising (which include ICOs) due to application of the 1994 Presidential Decree adopted to curb the proliferation of Ponzi schemes. However, a much better variant for startup promoters is to hire a local investment firm to launch a fully regulated IPO which would at the same time have all the best features of an ICO. Added functionality can include the acceptance of crypto-assets as investment through a licensed underwriter and the issue of crypto-tokens representing the rights to the securities to add liquidity to the issue in the crypto markets. Such crypto instruments can be instantly convertible into ordinary securities and vice versa. For a more detailed discussion of ICOs under the Kyrgyz jurisdiction please read «Kyrgyz IPO + ICO: Good Alternative to Unregulated Fundraising».

- Trading in crypto-assets is not a forbidden activity, provided that local tax legislation is followed. Kyrgyzstan is not a tax haven, but its tax regime is very liberal. Please review «Opportunities for International Tax Planning» for a detailed explanation.

Many countries, in an attempt to attract blockchain developers and crypto-trading businesses misrepresent the ease with which one can operate there. When comparing countries for your potential crypto project you may wish to consider very carefully all the aspects of doing business there, not only the highlights of the official investment propaganda.

Giving you a few examples.

Everyone in the industry has heard about the Swiss «Crypto Valley» in the Canton of Zug. A few issues which are left out from its promotional message include:

- FINMA, the local regulator, is neutral only to the issue of utility tokens. If you plan to issue securities-like cryptotokens, the approval process for a securities issue is one of the most difficult in Europe. **KYRGYZ ALTERNATIVE**: To remove any legal ambiguity, issue real securities and distribute their mirror tokens to willing investors. IPO approval is fairly easy in Kyrgyzstan.

- Personal data protection laws are strict and generally mirror the rules of the European Union. This obstructs many blockchain projects which involve recording individualized information.

KYRGYZ ALTERNATIVE: Personal data law exists but is very flexible for business.

● Profit taxation will in any event exceed 20%; a withholding tax of 35% is applied if dividends are paid offshore. **KYRGYZ ALTERNATIVE:** Taxation of IT projects can be as low as 1%, but in any event will not exceed the 10% general tax rate.

● Work permits are very hard to obtain, especially for nationals of developing countries. Even getting a visa can be a problem (Schengen regime). **KYRGYZ ALTERNATIVE:** Visa-free country for most passport holders. Work permits are easy to obtain.

● Cost of living is among the highest in Europe. If you are planning to relocate a number of developers to Switzerland, this can cost the company a fortune. **KYRGYZ ALTERNATIVE:** Cost of living is very low, but the living standards in the expat community in Bishkek are quite to the mark (unless eating fresh oysters from France every day is your living standard).

Another highly advertised country for crypto-business is Estonia. It actively promotes its e-citizenship program and generally tries to prove that it is one of the most favourable locations for an internet business.

Reality:

● Nice taxation regime, but check out for withholding tax. Can be very high.

● Good luck opening an account with an Estonian bank for an internet business after all the recent money laundering scandals in the three Baltic States.

● ICOs are easy only for utility rights placements. If the token represents investment rights, good luck with the EU Prospectus Directive and other convoluted legislation. Public placement costs can be very high.

● There is no easy way to license an exchange which handles fiat currencies. Some businesses use the E-money license as a substitute, but in reality it is a legal surrogate and not a proper regulation for an exchange.

● Horrible EU personal data protection laws. Once in the EU, there is no escaping them even if the particular country tries to promote itself as more pro-business than others.

What can not be done in Kyrgyzstan

There is zero tolerance in Kyrgyzstan to projects which present a risk of money laundering. The local AML law follows the FATF principles and guidelines; the FATF Mission concluded in 2014 that the country's AML regime is adequate and Kyrgyzstan does not require further monitoring which means that the country takes the AML compliance seriously. Local banks value their ability to transact business via major correspondents and will not offer their services to any venture which can potentially be exploited to legalize criminal money.

Regulators and investment market professionals are firmly determined to prevent the use of Kyrgyzstan for any fraudulent business. In Kyrgyzstan all the necessary legal mechanisms exist to prosecute both the operators of fraudulent fundraising projects and those who promote these 'investments' among the general public.