



**INTERNATIONAL
FINANCE CENTRE
DEVELOPMENT AGENCY**

The Legal Status of Blockchain Commerce in the Kyrgyz Republic: Conclusions in Brief

2 April 2018

Civil Law

- Crypto-assets are recognized as valid objects of civil commerce and are attributable to '**movable things**' (*res mobiles*) of unrestricted transferability.
- Crypto-assets are **not securities**.
- Crypto-assets are **not 'hard currency values'**.
- In commercial and exchange trade context crypto-assets are to be classified as '**goods**' (**commodities**).
- Transactions with crypto-assets are **not restricted by law**. They may be created by 'mining', acquired, sold, pledged and passed through inheritance.

Use in Settlements

- Crypto-assets may not be used as '**means of payment**' in domestic settlements in the Kyrgyz Republic, this function is exclusively reserved for the domestic currency - the Som. Barter, however, is not restricted.

Taxation

- **Crypto-mining** in the majority of cases constitutes '**entrepreneurial activity**' and is subject to registration with the tax authorities.
- **Crypto-assets** can be accounted for in **corporate books of accounts** in a variety of account groups, depending on the circumstances.
- Sale of crypto-assets acquired through mining is a **taxable event** for Profit Tax.
- Income from crypto-asset trading is **subject to Income Tax**.
- Private investing into crypto-assets with subsequent sale in most cases is '**entrepreneurial activity**' and requires tax registration of the individual as a 'sole entrepreneur'.

Initial Coin Offerings (ICO)

- Crypto-assets are not securities, but their public placement for money is restricted by the Presidential Decree of 1994 which requires all such fundraising to be done **through licensed financial intermediaries**.
- The best format for a **Kyrgyz-based ICO** is doing it as a securities placement, but supplementing the functionality of the offering and subsequent trading with the use of crypto-currencies and tokens.
- **ICO advertising** is regulated by the law on the advertising of financial services - it may not be misleading and **may not publicize unfounded expectations** and promises.
- The law contains instruments to **safeguard private investors** from fraudulent ICOs, including through criminal liability.
- Kyrgyz criminal law allows for prosecution of foreign ICO operators if Kyrgyz residents were harmed.

Exchange Trade in Crypto-Assets

- The Kyrgyz Republic can **offer to global investors** a chance to use its State-regulated investment services infrastructure to trade in crypto-assets in an organized and regulated manner.
- **The stock exchange** can organize the trading in crypto-asset linked securities and derivative financial instruments issued as securities.
- **The commodities exchange** can organize the trading in crypto-assets as such (crypto-assets being regarded as commodities) as well as in derivative contracts for crypto-assets which are not classified as securities.

Anti-Money Laundering

- Transactions with crypto-assets **fall under the regulation of the Kyrgyz AML law** (Law 135) - its definitions of "property" and "criminal income" are sufficiently broad.
- **Securities and commodities exchanges** are 'reporting entities' under Law 135 and are obliged to perform all the legally prescribed control and reporting obligations.
- **Professional securities firms** which may trade in crypto-assets are 'reporting entities' under Law 135 and are obliged to perform all the legally prescribed control and reporting obligations.

General Conclusion

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-asset commerce. Without a need for legislative reforms Kyrgyzstan can now satisfy the demand of global crypto-investors and blockchain business developers for a liberal, but well regulated jurisdiction.

Any questions?

Valery Tutykhin

salam@kyrgyzbusiness.com

cell +41 79 775 75 75

cell +41 79 870 05 27

cell +996 552 090 070

(WhatsApp and Signal supported)

Full text of the Report "The Legal Status of Blockchain Commerce in the Kyrgyz Republic" in English can be downloaded from the Agency's website at http://kyrgyzbusiness.com/blockchain-ENG/
--