

Bitcoin & Block-chain: How the Isle of Man gained the Global cryptocurrency crown

On the 1st April 2015 the Isle of Man introduced new regulation for Bitcoin businesses to respond to the growing interest in digital currencies and changing regulatory environment both locally and internationally and has since warmly welcomed FinTech business and successfully promoted a vibrant crypto-currency culture on the Island.

Bitcoin Island

The Isle of Man is a successful self-governing international financial centre which is independent of the United Kingdom. This very independence in respect of its laws enables the Isle of Man to offer extremely attractive advantages to local residents, individuals and companies around the world and provide the necessary oversight faster than other jurisdictions. The Isle of Man Government is fully supportive of crypto-currency business initiatives; at the same time it recognises that the industry needs some regulation to enable it to thrive. The introduction of the Island's regulation for digital currency businesses was therefore a logical progression in expanding and diversifying its global business and the Island's digital business sector.

The Island first attracted the attention of digital businesses in 2014 when it announced that the Department of Economic Development ("DED") and the Isle of Man Financial Services Commission ("FSC") were working together to produce a framework for regulation of digital currencies which would promote business opportunities whilst applying appropriate anti-money laundering ("AML") requirements. It acted to bring digital currency businesses within the FSC's AML regime by amending Schedule 4 of the Proceeds of Crime Act 2008 ("POCA") and Schedule 1 of the Designated Business (Registration and Oversight) Act 2015 and making the FSC rather than industry bodies responsible for oversight of the adherence with the AML Code.

As an aspiring global cryptocurrency leader, the inclusion of the new business categories that potentially pose a higher money laundering and terrorist financing risk brings the Island in line with the current requirements of the Financial Action Task Force ("FATF"), further aiding it in meeting its obligations under international requirements and align with the FSC's regulatory objectives which support the Island's economy and its development as an international financial centre.

Consequently this tiny Island just 32 miles long and, at its widest point, 14 miles wide situated in the middle of the Irish Sea off the north-west coast of England has become a world leader in bitcoin related industries being described by many crypto-currency supporters as a safe haven for Bitcoin. It has aptly coined the title of "Bitcoin Island" as well as being referred to as a "Crypto Haven" and rather fittingly given its rich culture steeped in Viking history as a "Bitcoin Valhalla" at the heart of a crypto-currency gold rush.

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With its flexible regulatory position, low taxes, stable and progressive government, simple tax strategy and a high-tech internet infrastructure and technological expertise to boot, the Isle of Man is an attractive destination to many companies operating in various sectors. It already has a thriving e-Gaming sector in place and is known for innovation and high quality service in the financial services and online gambling industries.

The Island offers a user-friendly, financially attractive and highly supportive location for e-Business companies, especially considering the environment in the United Kingdom following BREXIT. As well as a well-established support industry of corporate services providers, accountants and lawyers already making the Island attractive for Bitcoin and FinTech businesses and creating a favourable regulatory landscape for crypto-currency businesses to seriously consider the question of locating in the Isle of Man.

Whilst recognising the considerable potential of crypto-currencies, the importance for the industry to deter “bad businesses” and address areas seen as being vulnerable to money-laundering is not underestimated. The reduction of financial crime is an overriding objective in the application by the FSC of the AML rules to the industry in order to uphold the Isle of Man’s strong reputation and good-standing with the International Monetary Fund.

Bitcoin basics

Bitcoin is a decentralized “digital” or “crypto” currency which uses peer-to-peer technology to operate without having to rely on banks or card companies. The removal of the bank in payment processing and the associated costs otherwise incurred by retailers is a huge appeal of the digital currency which works using mathematical codes “mined” by powerful computers and then recorded on a publicly held database, known as a “block-chain” or distributed ledger. In layman’s terms block-chain is a decentralised ledger kept running by “miners” that verifies each coin and records each transaction.

Born from the libertarian ideal, the system has no central authority, nobody owns or controls bitcoin. Bitcoin is open-sourced, its design is public, managing transactions and the issuing of bitcoins is carried out collectively by the network, allowing individuals and corporations to diversify their reliance on banking and insurance companies and control bitcoins via their digital “e-wallet”. This permits the coins to be accessed from anywhere in the world by logging on to a computer or using a mobile phone app and transfers to be made from person to person no matter where they are in the world via the internet.

Bitcoin is a borderless currency; it has the same value in every jurisdiction as well as a much easier overseas payment mechanism.

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From an AML perspective it can be argued that digital currencies such as Bitcoin are superior to physical cash, as the transactions a digital coin is used for are recorded on a block-chain ledger which attaches to the coin and transfers along with its value when it is used as payment, making tracing easier than following the flows of cash.

Without having to rely on banks or card companies, bitcoin fees including transfers, point of sale and overseas payments are extremely low or non-existent and bringing the prospect of bank accounts for digital currencies one step closer.

The Regulatory position

The POCA as amended by the Proceeds of Crime (Business in the Regulated Sector) Order 2015 ("the Act") brings digital and crypto-currency businesses on the Island under regulation and within the remit of the FSC and the AML laws. The updates to the list of relevant businesses "in the regulated sector" cover bitcoin companies, such as exchanges operating from the Island making them subject to the AML provisions and control of terrorist financing provisions of the Act.

Amendments to Schedule 4 of the Act state *"businesses involved in the issuing, transmitting, transferring, providing safe custody or storage of, administering, managing, lending, buying, selling, exchanging or otherwise trading or intermediating convertible virtual currencies, including crypto-currencies or similar concepts where the concept is accepted by persons as a means of payment for goods or services, a unit of account, a store of value or a commodity"* will have to adhere to AML requirements.

As with other businesses operating in the financial services industry on the Island, such as legal and accountancy businesses the new regulations mean that crypto-currency businesses now have to adopt and implement formal compliance and AML and know-your-customer ("KYC") procedures. Collecting identification information so this can be passed on to the authorities if they suspect money-laundering activity and assisting in identifying individuals they believe to be involved.

With the launch of the Designated Businesses (Registration and Oversight) Act 2015 ("2015 Act") the Isle of Man Government passed Designated Businesses (Registration and Oversight) (Amendment) Order 2015 amending Schedule 1 to add these businesses not previously subject to registration and oversight under the 2015 Act and bringing digital and crypto-currency businesses under regulation. Such companies operating from the Island are thereby required to register their business with the FSC as the supervisory authority for AML matters and comply with Anti-Money Laundering and Countering Terrorist Financing legislation.

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The FSC publishes and maintains a register of “Designated Businesses”. These businesses must submit annual returns confirming compliance with AML requirements and detailing any instances of non-compliance. The AML code also requires long-term record-keeping. The FSC will carry out on-site inspections and have the power to request information, issue public statements and impose civil penalties.

Having ‘designated business’ status facilitates Isle of Man crypto-currency exchanges as having a license increases their credibility in securing banking and merchant facilities.

Gambling Regulation Package 2016

In 2016 changes were approved to the Island’s gambling regulation to allow virtual currencies to be accepted as equivalent to cash thereby making it possible for gambling operators to accept virtual currencies in a safe and risk-free manner. The developing relationship between the bitcoin and e-gaming sectors is a positive approach for the bitcoin industry.

The regulation is known as the Gambling Regulation Package 2016. In addition to the acceptance of bitcoin and other virtual currencies, it also incorporated other changes such as expanding the voluntary gambling controls offered to players by gambling operators.

The changes in the gambling regulation in terms of bitcoin and the rest of the cryptocurrencies are a significant change further embracing and promoting the economic development and technology innovations in the area.

If the Isle of Man wants to maintain its crypto-currency crown as the jurisdiction of choice for digital currency companies, it must keep up with international expectations for an established well-regulated international finance centre for this fast paced industry.

So far the Isle of Man Government is not standing still and is making the right moves whilst retaining its position at the forefront of legislative developments by offering supportive and proportionate regulatory oversight, aiming to attract the businesses to the Island that it does want and to deter those that it does not.

Currently in progress is the Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Bill 2017, which will provide the necessary powers to conduct regulatory oversight of the gambling sector's compliance with AML and Countering the Financing of Terrorism legislation; to provide sanctions for non-compliance; and for connected purposes.

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Is Block-chain the future for Bitcoin Island?

With the introduction of higher standards in the industry the Isle of Man government has taken positive measures for bitcoin businesses to gain credibility and legitimacy with lenders and customers to combat bad publicity and perceived risks.

As a result the Isle of Man is turning its attention to block-chain to boost its FinTech and digital payments sector as it continues its efforts at establishing digital businesses on the island. This is an exciting and potentially explosive development in information technology and the Isle of Man is right at the forefront, being one of the first jurisdictions to use the block-chain, to store a register of the Islands cryptocurrency companies and leading experts and market analysts to speculate that Isle of Man is most likely aimed at becoming the key block-chain destination of Europe thus maintaining its position as global leader in the sector.

The technology is transformational and could also be used within the legal and financial sectors for other code driven transactions such as property purchases, allowing contracts to be uploaded to the block-chain. It is supported by the Isle of Man's strong intellectual property laws in establishing successful e-Business infrastructures which allow full ownership of the intellectual property and paving the way for an explosion of 2.0 businesses which can be built up and sold as part of their exit strategy without liability to capital gains tax on the profits, inheritance tax or tax on dividends.

Thanks to the recent policy of the local government to boost its attractiveness for both licensed gambling operators and their customers in terms of bitcoin and other cryptocurrencies usage, bitcoin has already become well established as a currency for daily transactions on the Isle of Man. An increasing number of businesses on the Island now accept bitcoins as payment for everyday transactions alongside sterling. Banks are also turning around to this new technology which will allow them to cut costs and pass on the savings to their customers and there is now a global consortium of banks developing block-chain technology. 2017 has seen the rapid price appreciation of bitcoin and other cryptocurrencies nearly triple enticing investors and in March 2017 for the first time the value of bitcoin has exceeded that of an ounce of gold*. Continued gains can however only further accelerate with acceptance from governments and regulation and on this front the Isle of Man is two steps ahead of the game.

While some jurisdictions, continue to be cautious of crypto-currencies the Isle of Man have openly sided with the pro-crypto-currency side of the international debate. The Island's resident's ability to use a digital form of currency that many still view with scepticism is representative of the Island's wider embrace of crypto-currencies. The UK is also changing its stance towards digital currencies with recent changes in the status of bitcoin and block-chain creating positive prospects for "Bitcoin" or perhaps more fittingly "Block-chain" Island's continued success.

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Corlett Bolton & Co together with its Corporate and Trust services provider Corlett Bolton Administrative Services Limited (“CBAS”) has a wealth of financial services experience and is up to date with the local Anti-money laundering laws.

If you would like if you more information regarding the legal and financial implications and benefits of setting up your business in the Isle of Man and to discuss your needs to ensure that the structure adopted is appropriate to your particular circumstances and in full compliance with the Isle of Man law; please contact us please contact us by telephone on 01624 676868 or by email at mail@corlettbolton.com.

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* Update 2nd January 2018: Bitcoin made unprecedented gains in 2017 rising more than 1,000 percent from the start of the year price of around \$1,000 as the cryptocurrency saw increasing interest. Although it witnessed some volatility during the year, on the 18th December 2017 Bitcoin prices hit a record high of \$19,511, before facing one of its biggest sell offs since 2013. At the time of writing Bitcoin prices were teetering around the \$13,500 mark extending its decline from the all time highs of December 2017 with a downward start to the New Year 2018 for the first time since 2015, with further crashes in the crypto-market expected in 2018. However, alongside the huge price swings and volatility Bitcoin has demonstrated remarkable resilience; having survived the previous market crashes predictions for the Bitcoin sector in 2018 whilst remaining volatile is that it has yet to reach its peak. With a single coin still worth more than £10,000 who knows what it will be when you read this article. Watch this space...

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