

Regulatory News Alert

Regulatory updates on cryptocurrencies

5 March 2018

Context

On 1 December 2017, the US regulator [authorized the exchange of derivative instruments](#) where the underlying is based on the Bitcoin cryptocurrency on three different financial platforms. These contracts allow investors to speculate on the rate of cryptocurrencies, without holding the underlying. Several other non-EU jurisdictions have issued similar rules or laws, among which Switzerland (FINMA) issued its own guidelines on 16 February 2018 under which ICOs will be treated as securities in Switzerland.

In France, the Autorité des Marchés Financier (AMF) concluded that cash-settled cryptocurrency contracts qualify as derivative instruments. This qualification applies irrespective of the absence of regulatory framework over cryptocurrencies in France as well as in the EU.

Offer of cryptocurrency derivatives in France

This means that online platforms offering cryptocurrency derivatives in the French market have to comply with the following rules:

- Under MiFID II, they must be authorized and observe the conduct of business rules for the derivative exchanged on the market (ETD)
- They must report to trade a repository, as provided under EMIR, for OTC derivatives
- They are forbidden to advertise on these products as provided under the French Sapin II law

Next steps

In January, ESMA launched a call for evidence on potential product intervention measures on contracts for differences (CFDs) and binary options to retail clients. CFDs on cryptocurrencies are notably targeted by this consultation. ESMA is still processing the inputs received on this consultation.

To go further on the subject of cryptocurrencies, the European Commission held a roundtable on 26 February 2018. The EU proposed that virtual currency exchanges and wallet providers should be subject to the Anti-Money Laundering Directive since crypto-assets present risks relating to money laundering and the financing of illicit activities.



How Deloitte can help

Deloitte can help you in the process and analysis of new digital technologies, including ICOs, cryptocurrencies, and funds, as well as assess the potential and impact of these new developments on your business strategy.

With its Regulatory Watch kaleidoscope team, Deloitte can help you stay abreast of new regulatory developments in digital solutions, cryptocurrency, blockchain, as well as more traditional regulatory environments.

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