

Securities and Exchange Commission's Statement on Cryptocurrencies and ICOs

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U.S. Securities and Exchange Commission (“SEC”) has published a public statement on December 11, 2017 on cryptocurrencies and initial coin offerings (“ICOs”) which provide useful insights and signals regarding the possible treatment of cryptocurrencies and ICOs under securities regulations.

Cryptocurrencies and ICOs

Cryptocurrencies and ICOs have the focus of the world and the news are full of stories of people who made a fortune with their investment on cryptocurrencies, namely Bitcoin. As these emerging markets gain all the focus they can get, the debate whether such markets are legal, beneficial or on the contrary harmful gains heat as well.

One of the main issues with crypto currencies and ICOs is the fact that they are currently unregulated and pose substantial risks for the investors. With regards to the regulations, it is also a yet-to-be answered question whether cryptocurrency and ICO markets should be subject to securities regulations. In this regard, SEC's comments and position, of course, is crucially important in answering such questions and SEC has just published a public statement on cryptocurrencies and ICOs on December 11, 2017.

SEC's Statements

In its statement of December 11, 2017, SEC Chairman Jay Clayton mainly addresses the concerns raised regarding the cryptocurrencies and ICOs for the “main street investors”,

underlining that there have been no initial coin offerings registered with the SEC until now. Such concerns include that in the markets of cryptocurrencies and ICOs there is less investor protection compared to the traditional securities market and therefore more risks of fraud and manipulations.

Importantly, Chairman states that ICOs may be used in effective ways as well such as to raise funding and innovative projects however emphasizes that the change in structure of a securities offering would not change the way securities law are followed. In short, SEC states that only the replacement of a record on central ledger with a record on blockchain on a distributed ledger would not change the substance.

In addition, the chairman underlines that merely calling a token “a utility token” would not mean that the proposed tokens are not securities.

With regards to cryptocurrencies, the Chairman emphasizes that even though there some cryptocurrencies which cannot be deemed as securities, again, calling something “currency” would not mean that it is not a security and promoters of cryptocurrencies, before its launch, should be either able to demonstrate

such cryptocurrency is not a security or comply with securities laws.

All in all, in its statement, SEC underlines that even though not all, cryptocurrencies and ICOs may be deemed as securities independent from their labels, in which case the securities laws must be followed.

Further, SEC states that whether a cryptocurrency is not a security and therefore offering and sale of such cryptocurrencies are beyond SEC's jurisdiction is depended on the characteristics and use of that particular cryptocurrency.

Similarly, with regards to the ICOs, the question whether a coin or a token is a security is also depended on the facts and SEC states that many token offerings seem to have hallmarks of security and securities offering such as the secondary market trading potential.

In conclusion, SEC's statement seems to be a friendly warning, urging market participants to evaluate whether their assets are subject to securities laws before initial offerings.

The full version of SEC's public statement may be reach through the link below:

<https://www.sec.gov/news/public-statement/statement-clayton-2017-12-11>



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