

# Regulation of digital currencies and blockchain technology in the EU

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# Agenda

- What should be regulated?
- Selected regulations
- Positions adopted by the EU institutions
- Future

# What should be regulated?

- I will talk about the following:
  - Cryptocurrencies
  - Tokens
  - Initial Coin Offerings (ICOs), also known as token crowdsales

# Cryptocurrencies

- At the moment not explicitly regulated by any of the EU's laws
- **EMD** (E-Money Directive)
  - *Definition of e-money*
- **PSD** (Payment Services Directive)
  - *Definition of funds*
- **AML** (Anti-Money Laundering Directive)
  - *List of obliged entities*
- **Tax law** (VAT)

# Cryptocurrencies

- New developments of the EU
- Revision of AMLD4 (the new AML Directive)
- One of aims: bring cryptocurrency exchange activity under the scope of the AMLD
- EU Commission considered also other options, such as extending the scope of PSD
- Cryptocurrencies under AMLD: the first legal definition of „virtual currency”

# Tokens

- **Tokens:** *blockchain-based assets (other than cryptocurrencies and with a primary non-monetary nature)*
- Examples:
  - Tokenised shares, tokenised commodities, tokenised IP rights, tokenised other types of rights
- Fundamental problem with tokens
- Financial regulations should not necessarily apply
- Case by case basis?

# ICOs

- *Initial coin offerings*, also known as *token crowdsales*
- **ICOs**: public sales of tokens
- Significant rise of ICOs (in terms of both number and volume in last months)
- Depending on the legal status of *tokens* we may legally assess *ICOs*
- Public offering of financial instruments?
- Practical difficulties with applying regulations to ICOs

# Positions adopted by the EU institutions

- ECB (2012, 2015, 2016)
  - Very good, in-depth reports on cryptocurrencies
- EBA (2014, 2016)
  - Focus on risks, restrictive approach
- ESMA (2016)
  - Focus on DLT, less valuable than some similar reports (e.g. FCA)
- European Parliament (2016, 2017)



Future

# Thank you!

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