

Group Briefing

April 2018

Clarity on the Status of Cryptocurrencies in Ireland

Ireland Law Firm of the Year 2017
Chambers Europe Awards

Best Firm in Ireland 2017 & 2016
Europe Women in Business Law Awards

Best National Firm for Women in Business Law 2017 & 2016
Europe Women in Business Law Awards

Best National Firm Mentoring Programme 2017 & 2016
Europe Women in Business Law Awards

Ireland Law Firm of the Year 2016
International Financial Law Review (IFLR)
Europe Awards

Ireland Law Firm of the Year 2016
Who's Who Legal

Americas International Tax Firm of the Year 2016
International Tax Review

Advised on the 'Deal of the Decade' – Merger of Lafarge and Holcim
Mergermarket European M&A Awards

For those seeking certainty on the current and future regulatory framework for virtual currencies in Ireland, two recent publications indicate a willingness on the part of the Government and Central Bank to adopt a considered and constructive approach to this and other technological innovations in the area of financial services in Ireland:

- » A discussion paper on ['Virtual Currencies and Blockchain Technology'](#) by the Department of Finance; and
- » A speech by the Central Bank's Director of Policy & Risk, Gerry Cross, on ['financial regulation and technological change'](#) published on the Central Bank's website.

The paper published by the Department presents research it has carried out into virtual currencies and the blockchain ecosystem that exists in Ireland, Europe and globally. It summarises actions taken by selected countries around the world and sets out the key risks and opportunities these technologies present. Similarly, in his speech, the Director of Policy & Risk at the Central Bank refers to analysis that the Bank has been carrying out on virtual currencies to try to understand their different features and the associated risks, in particular from a consumer perspective,

posed by the use of this innovative technology in the area of financial services.

SHOULD WE REGULATE?

Each publication recognises the need to provide clear consumer warnings about the potential risks associated with virtual currencies and in this respect, the Central Bank has reiterated on its website the joint warning of the three European Supervisory Authorities on virtual currencies and initial coin offerings (ICOs). (For more information on these warnings, see our recent briefing: [Initial Coin Offerings Alerts from Regulators](#)). In the case of ICOs the Director noted that, depending on their classification under the current regulatory framework, these may be subject to a range of existing financial services legislation. Despite the risks, the Director of Policy & Risk states that it is important to take a considered approach to regulation in order to look at the potential benefits, including long term benefit, as well as risks. He refers to Andrea Enria's speech at the Copenhagen Business School on 9 March where Mr. Enria, the Chair of the European Banking Authority, noted that it is not currently clear that bringing virtual currencies within the regulatory perimeter would be the best approach.

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This document contains a general summary of developments and is not a complete or definitive statement of the law. Specific legal advice should be obtained where appropriate.

He went on to quote Mr Enria's remarks that not regulating "would avoid granting any official recognition to a sector that is still very heterogeneous, changing fast and as such, difficult to regulate and supervise".

Adopting a similarly considered approach, the Department of Finance is establishing an intra-departmental working group to oversee developments in virtual currencies and blockchain technology. One of the tasks of the group is to consider whether suitable policy recommendations are required. It is also tasked with keeping up to date with developments in the technology and identifying risks as well as economic opportunities for Ireland, monitoring developments at a European and global level, engaging with industry and

subject matter experts, liaising with other areas of Government and assisting in promoting a better understanding of the technology across Government.

COMMENT

It is encouraging that the Irish Government and the Central Bank recognise the opportunities presented by these technological innovations for the Irish economy. As noted in the discussion paper, the opportunity to equip Ireland with a differentiating competitive advantage in securing foreign direct investment in DLT (distributed ledger technology) companies and other Irish companies and ventures is huge, and is fully aligned with Ireland's IFS2020 Strategy to foster opportunities in international financial

services by building on the country's strengths in technology, research and financial services. The constructive engagement by the Irish Government and Central Bank in these areas is, in our view, a very welcome development for Irish business and innovation.

FURTHER INFORMATION

The FinTech Group at Arthur Cox comprises lawyers with experience and expert knowledge across relevant legal disciplines, including financial regulation, technology, data protection, tax, intellectual property and corporate. Contact any of the FinTech team [here](#).

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