Swiss Federal Administration establishes Blockchain/ICO Working Group

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On 18 January 2018 the State Secretariat for International Financial Matters announced the establishment of a working group on blockchain and initial coin offerings (ICO). The working group will evaluate the legal framework for financial sector-specific applications of blockchain technology, with a particular focus on ICO. The goal is to ensure a principle-based and technology neutral regulation, increase legal certainty and maintain the integrity of Switzerland as a financial center.

The Swiss State Secretariat for International Financial Matters (SIF) announced on 18 January 2018 that it established a working group on blockchain / ICO (the "Blockchain Working Group"). The Blockchain Working Group will review the legal framework and identify any need for action with the involvement of the Swiss Federal Office of Justice (FOJ), the Swiss Financial Market Supervisory Authority (FINMA) and in close consultation with experts in the blockchain sector.

The establishment of the Blockchain Working Group is no surprise. In answer to the motion "Strengthen the dominant position of Switzerland in the blockchain sector" which had been submitted by a member of parliament earlier that year, the Federal Council announced such working group on 17 August 2016.

Back then the Federal Council explained that blockchain technology has the potential to not only disrupt the financial sector, but to greatly influence the entire economy. At the same time blockchain technology gives rise to fundamental legal questions concerning both financial market regulation and non-sector-specific legislation (Swiss Code of Obligations, Swiss Civil Code, etc.). Given the highly dynamic developments in the sector, the Federal Council took the view that such legal questions needed to be answered in a principle-based and technology neutral way, in order for the Swiss legislation not to obstruct innovation.

In a regulatory guidance of September 2017 the FINMA confirmed the principle-based and technology neutral approach (see our Legal Update of September 2017). This means that the FINMA applies the existing laws that protect creditors, depositors and investors and which ensure that financial markets function properly.

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The Blockchain Working Group will evaluate the legal framework for financial sector-specific applications of blockchain technology, with a particular focus on initial coin offerings (ICOs). The goal of the Blockchain Working Group is to ensure the principle-based and technology neutral regulation, increase legal certainty and maintain the integrity of Switzerland as a financial center.

The work will be carried out in a steering committee consisting of the SIF State Secretary, Jörg Gasser (chair), the Director of the FOJ, Martin Dumermuth, and the Director of FINMA, Mark Branson. Pestalozzi is in contact with the SIF who will be coordinating the consultation process with experts in the blockchain sector and plans to contribute to the work with its blockchain / ICO specific legal know how. Pestalozzi has been advising on various ICOs and blockchain related projects in Switzerland. As the Swiss member of Lex Mundi, the world's leading network of independent law firms, Pestalozzi is an active member of the coming Lex Mundi Blockchain Initiative which aims at providing clients with blockchain / ICO specific legal know how in a wide range of jurisdictions.

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