



ISRAEL SECURITIES AUTHORITY

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PRESS RELEASE

ISA Committee for the Examination and Regulation of ICOs (Initial Cryptocurrency Offerings) Submitted Interim Report Today

The report, submitted today to Israel Securities Authority (ISA) Chair Ms. Anat Guetta, contains a series of recommendations designed to dispel uncertainty and strike a balance between technological innovation and the protection of the investors.

From the committee recommendations: “The question of whether a cryptocurrency should be considered a security will be decided on the totality of the circumstances and features of each case in accordance with the purposes of the law. As a general rule, cryptocurrencies that confer rights similar to the rights conferred by traditional securities such as shares, bonds, and participation units, will be deemed securities. In contrast, cryptocurrencies that represent rights to a product or service and are acquired solely for the purpose of consumption and use and not for investment purposes, will not be considered securities.”

In late August 2017, the ISA established an interdepartmental committee to examine the regulation of initial coin offerings (ICOs). The committee’s interim conclusions were published today, after submission to the ISA Chair Ms. Anat Guetta.

The primary function of the committee, headed by Dr. Gitit Gur-Gershgorn, ISA’s Chief Economist, and Attorney Motti Yemin, outgoing Corporate Department Director, was to examine the application of the Securities Law to public offerings and issuances in Israel based on distributed ledger technology (DLT). The committee was assigned to study and analyze these ventures, draft a comparative international review of the relevant law, and outline a recommended regulatory policy in areas related to the Securities Law, with the overarching aim of striking a balance between promoting technological innovation and protecting the investors.

ISA Chair Ms. Anat Guetta thanked the committee members for their comprehensive, professional work and efforts, and stated, “A regulator’s relevance lies in its ability to bridge



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and balance between the various technological developments that progress brings, and the fulfillment of the mandate for which it was established.”

Guetta noted, “The industry based on distributed ledger technology (DLT) is an innovative industry with the potential to improve efficiencies and transform the world of finance as we know it. With Israel’s unique attributes and its global status in this technology, this industry could make a positive contribution to Israel’s economic growth. The ISA will continue to study and monitor developments in this innovative and dynamic field, and will remain attentive to the market and its developments, while maintaining a focus on protecting the investors. It is important to receive the public’s comments on the committee’s recommendations and the issues that it raises for discussion.”

One goal that the committee defined for itself was to clarify and dispel uncertainty regarding all aspects of how securities laws apply to this field, based on the understanding that such clarification is critical for the development of this industry in Israel and for maintaining investors’ trust in the capital market. Adopting the approach that this new field challenges existing regulatory rules, which therefor may require adjustment in the future, a second goal that the committee defined for itself was to examine whether new recommendations should be drafted regarding the application of securities law to this field.

The committee heard from many parties active in this arena, operating in a wide range of fields, including other Israeli regulators, key figures in the industry, developers who have performed or plan to launch an ICO, investment entities operating in this industry, professional associations, and professional consulting firms including law firms and accounting firms. The committee also held talks with stakeholders in other countries.

The committee’s report contains a series of recommendations, including:

1. A cryptocurrency will be deemed a security according to the totality of the circumstances and features of each case, taking into account the purposes of the law.
2. Cryptocurrencies that confer rights similar to the rights conferred by traditional securities such as shares, bonds, or participation units, will be deemed securities.
3. As a general rule, cryptocurrencies that are designed to be used exclusively as a medium of payment, clearing, or exchange and are not limited to a specific venture; that do not confer additional rights; and are not controlled by a central entity — will not be deemed securities.
4. In general, cryptocurrencies that represent a right to a product or service and are acquired solely for the purpose of consumption and use will not be deemed securities. In this regard, the relevant test is the actual purpose of the acquisition. Therefore, if the token cannot be used when it is issued or if it can be traded on a secondary market, these may be indications that its acquisition was made for investment rather than for consumption purposes.



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5. The use and extension of specific existing and future capital raising tracks for ICOs should be considered, including an examination of the following issues: lenient regulation for small-scale ICOs; raising capital through ICOs on crowdfunding platforms; defining a provisional framework for ICOs pilots, in the form of a regulatory sandbox, including oversight of the cryptocurrency developers, and; examining the option of relying on foreign regulation that applies to cryptocurrencies.
6. If ICOs are conducted on the basis of prospectuses, the disclosure requirements defined in the Securities Law must be adjusted to the unique features of this field, in line with adjustments made in the past to other areas of operations (such as real estate, gas and oil, and biomed).
7. Whether an ICO constitutes an offer of securities to the Israeli public will be determined according to the features of the offer. An offer will not be deemed a public offer in Israel if its features clearly show that it does not target the Israeli public, (based on the language of the offer, and an absence of marketing and advertising activities targeting investors in Israel). The committee invites a discussion on whether the current tests should be adjusted to the decentralized and cross-territorial nature of ICOs.

In view of the innovative, complex, and dynamic nature of this field, in which regulatory attention is only beginning to emerge, both in Israel and worldwide, the work of this committee should be evaluated with the perspective time gives. In view of the rapid developments in this field, many things may change in a short period and shed a different light on the committee's findings.

Committee members are staff members of various ISA departments, and the committee's work was coordinated by Attorney Eden Lang and Mr. Guy Sabah.

The committee's interim report has been published for public comments on the ISA website. The ISA invites anyone with relevant insights on this topic to send their comments to the ISA no later than April 20, 2018.

[Click here](#) for the full Interim report (Hebrew version).

Please send comments to: Crypto@isa.gov.il