Locating Your DLT Business in Gibraltar
Introduction

Since 1st January 2018, the Financial Services (Distributed Ledger Technology Providers) Regulations 2017 (the “DLT Regulations”) enable businesses using Distributed Ledger Technology (“DLT”) to be regulated.

Our law firm specialises in this area of work and we are able to advise on setting up a regulated DLT business in Gibraltar and applying for a licence. We have an experienced team of approachable professionals who will be happy to assist. The Profiles of our Law Firm and of the Fintech Team can be found at the end of this document.

1 http://www.gibraltarlaws.gov.gi/articles/2017s204.pdf
Key Benefit

There are many blockchain businesses out there; good and bad. The truth is that it is often impossible to tell the difference and to know who you are dealing with.

Gibraltar addresses this fundamental issue through the DLT regulatory framework requiring firms to be licensed and actively supervised by the Gibraltar Financial Services Commission (“GFSC”), our regulator.

Gibraltar-regulated DLT firms benefit from the certainty that they are operating within the law. Consumers can have faith in the integrity of their owners and managers and in their ability to operate the business. This increases consumer confidence in them and in the appeal of their products and services.

Mind & Management

It is expected that “mind and management” resides in Gibraltar. Senior personnel must, therefore, be located in Gibraltar and all key strategic decisions must be made here. This is of fundamental importance when applying for a DLT Provider licence as the GFSC will expect to see this. The principal role-holders will be expected to work in Gibraltar including the CEO, CFO and CTO. Some day to day operational functions can be outsourced and delegated to people or companies outside Gibraltar.

The DLT Regulations

The GFSC licenses and oversees DLT businesses which:

“Carry on by way of business, in or from Gibraltar, the use of distributed ledger technology for storing or transmitting value belonging to others.”

The DLT regulations were devised by the GFSC who have recognised that the framework must be responsive to new use cases of DLT and needs to be flexible enough to adapt to this rapidly changing technology. Gibraltar’s answer to this ever-changing landscape was to devise a framework based on nine key regulatory principles.

The GFSC’s regulatory objectives are focused around:

• The promotion of market confidence.
• The reduction of systemic risk.
• The promotion of public awareness.
• The protection of the good reputation of Gibraltar.
• The protection of consumers.
• The reduction of financial crime.

Gibraltar has an engaging and forward-thinking regulatory regime. The nine key regulatory principles Gibraltar-licensed firms must adhere to are set out in Schedule 2 of this document.
Licensing Process & Fees

An application to the GFSC for a DLT Provider Licence must be made. This is a financial services licence where applicants must demonstrate how their business will comply with the Nine DLT Regulatory Principles. The GFSC are committed to dealing with the whole process in three months.

A comprehensive business plan will be required as well as a range of policy documents setting out proposed compliance with the Nine DLT Regulatory Principles.

Under the DLT Regulations, licensing fees start with an initial £2,000 non-refundable application fee and the balance is dependent on the complexity and risks of the business.

There are three tiers:

- £8,000;
- £18,000; or
- £28,000.

Thereafter, the annual renewal fees for the DLT Provider Licences will be:

- £10,000;
- £20,000; or
- £30,000.

This determination is again contingent on the tier allocated by the GFSC in the initial application. Most cryptocurrency exchanges are classified as Tier 3 businesses with the application and annual fee being £30,000.
Taxation & Social Insurance

The corporate tax rate in Gibraltar is 10%, one of the lowest in Europe.

In Gibraltar there is no capital gains tax, inheritance tax, wealth tax, gift tax, VAT, withholding tax and no tax on interest or gains made on monetary investments. In addition, there is no taxation on dividends and interest paid by a Gibraltar Company to a non-resident recipient which includes investors in a fund. There is also no withholding tax on dividends.

Employees pay a maximum of £119.17 a month for social insurance. Employers pay a maximum of £158.17 a month per employee.

Office Space

Gibraltar offers a variety of office space in various locations and pricing can vary from £320 per sqm per annum to £450 per sqm per annum (World Trade Centre) for high quality space. Service charges are extra. A 100 square metre office could, therefore, cost between £38,400 and £54,000 per annum.

Internet is fibre in most, if not all offices, and all requirements can be catered for.
Employees

Some key employees for DLT/ICO firms and their average salaries in Gibraltar are as follows:

<table>
<thead>
<tr>
<th>Title</th>
<th>Gross Salary</th>
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<tbody>
<tr>
<td>Chief Technical Officer</td>
<td>£80,000+ Depending on company size</td>
</tr>
<tr>
<td>Chief Operating Officer</td>
<td>£100,000 Depending on company size</td>
</tr>
<tr>
<td>Chief Marketing Officer</td>
<td>£100,000 Depending on company size</td>
</tr>
<tr>
<td>Chief Finance Officer</td>
<td>£100,000 Depending on company size</td>
</tr>
<tr>
<td>Blockchain Architect</td>
<td>£70,000+</td>
</tr>
<tr>
<td>UX+ Designer</td>
<td>£35,000-£50,000 Depending on experience</td>
</tr>
<tr>
<td>Core Developer</td>
<td>£35,000-£48,000</td>
</tr>
<tr>
<td>Support Engineer</td>
<td>£30,000-£35,000</td>
</tr>
<tr>
<td>Mobile Developer</td>
<td>£40,000-£50,000</td>
</tr>
<tr>
<td>Engineer</td>
<td>£35,000-£45,000</td>
</tr>
<tr>
<td>Product Developer</td>
<td>£45,000</td>
</tr>
<tr>
<td>Blockchain Developer</td>
<td>£50,000</td>
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<tr>
<td>Head of Marketing</td>
<td>£50,000-£70,000</td>
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<tr>
<td>Lead Developer</td>
<td>£50,000-£60,000</td>
</tr>
<tr>
<td>Designer</td>
<td>£35,000-£45,000</td>
</tr>
<tr>
<td>Financial Controller</td>
<td>£60,000-£70,000</td>
</tr>
<tr>
<td>Software Engineer</td>
<td>£35,000-£45,000</td>
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</table>

Many of these skillsets are located locally and so, easy to recruit and no relocation packages or readjustment period required.

Gibraltar also has an Alternative Residence Status – High Executive Possessing Specialist Skills. This allows specialist skilled workers who earn more than £120,000 per annum to have special fiscal status in Gibraltar. This allows them to limit their tax liability to the first £120,000 earned only.

There is also a residence status for high net worth individuals with assets of more than £2m. They are able to limit their personal tax liability on their worldwide income to between £22,000 and £30,000.

Gibraltar has a highly educated local workforce with a much higher than average percentage of students going to university. Our Government pays for our students' tuition fees and provides grants which result in a very high number of graduates forming a part of Gibraltar’s workforce.
Residential lets

Residential accommodation is expensive with one bed apartments in the town centre costing around £1,000 per month. For more luxurious lettings, costs can be up to £4,000 a month for 4 bed centrally located apartment. There are, of course, cheaper alternatives available. Many employees choose to live across the border in Spain where much cheaper accommodation is available. In fact, Gibraltar has around 10,000 cross border workers who commute into work daily.

Cost of living

Basic lunchtime menu (including a drink) £9
0.5 l beer in supermarket £1.23
Bread for 2 people for 1 day £1.38
1 litre (1 qt.) of whole fat milk £1.19
Basic dinner out for two in pub £27
1 package of Marlboro cigarettes £2.64
1 cocktail drink in downtown club £4.50
Cappuccino in the city £1.73
2 tickets to the cinema £14

Infrastructure

We have an International airport with four to five flights daily to/from the UK. Airlines include BA and EasyJet. The cost of return flights can be very low depending on booking time. Alternatively, Malaga airport is only a 90 minute drive away which has a truly worldwide range of destinations.

Employees paying social insurance are entitled to free medical care. Public transport is excellent, efficient and free for residents.
Climate

Temperatures in Gibraltar can reach up to 40 degrees in the summer (generally staying in the lows 30s) with lows of an average of 10 degrees in the winter months. There are over 300 days of sunshine. There is easy access to several sandy beaches in Gibraltar where many people spend their free time in the summer months. There are several beautiful beaches in nearby Spain within an hour’s drive. In the winter, many residents go skiing at the resort of Sierra Nevada, near Granada, which is only 3 hours drive away.

Education

Gibraltar has a number of Government and private schools for all age groups with the education system based on the UK model. It is of a high standard and the majority of our students attend university in the UK. There is also a local University, which opened in 2015, offering some degrees as well as a range of professional development courses. Private schooling is also available in Gibraltar.

Low Crime Rate

There is virtually no serious crime in Gibraltar and the country prides itself on their sense of community. People can walk the streets at all hours with no danger of harm.
Summary Cost Benefit Analysis

<table>
<thead>
<tr>
<th>Gibraltar</th>
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<tbody>
<tr>
<td>Regulation</td>
<td>DLT-friendly</td>
</tr>
<tr>
<td>Tax &amp; Social Insurance</td>
<td>Extremely low rates</td>
</tr>
<tr>
<td>Office Space</td>
<td>Medium/Expensive</td>
</tr>
<tr>
<td>Employees</td>
<td>Many locally available well-qualified with reasonable salary expectations</td>
</tr>
<tr>
<td>ResidentialLets</td>
<td>Medium/Expensive</td>
</tr>
<tr>
<td>Cost of Living</td>
<td>Medium</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>Good</td>
</tr>
<tr>
<td>Education</td>
<td>Good</td>
</tr>
<tr>
<td>Crime</td>
<td>Extremely low</td>
</tr>
<tr>
<td>Climate</td>
<td>Excellent</td>
</tr>
<tr>
<td>Lifestyle</td>
<td>Excellent</td>
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Ellul & Co. – Firm Profile & Fintech Team

Ellul & Co.
Ellul & Co. is a leading Gibraltar law firm established in 1973 offering a wide range of services including: fintech, funds, tax, corporate, commercial, company management, fiduciary services, trusts, Gibraltar residence for high net worth individuals, property and notarial work.

The firm has particular expertise in the Gibraltar fintech sector advising on all aspects of the set-up of regulated cryptocurrency exchanges, token sales (ICOs) and digital asset investment funds.

The firm is well-respected and has built a trusted reputation for providing practical and effective legal solutions. We build our service around each client. With specialist knowledge in a range of disciplines, we recognise the legal and commercial challenges faced by businesses in this sector. Our experienced team of lawyers and professionals are experts in their fields, approachable and happy to help.

We represent several cryptocurrency exchanges, which are applying for Gibraltar licences) and token sale companies. Notable clients include the ProximaX token sale conducted by a founder of the NEM Foundation that oversees the development of the NEM blockchain technology.

Our Fintech Team
The professionals in our Fintech Team are:

- **Marc X. Ellul** – Lawyer and Managing Partner of the firm with 25 years’ experience. Fintech team leader.

- **Neil Lopez** – Lawyer and Senior Associate of the Firm with over 13 years’ experience. Neil specialises in whitepaper reviews, token sale contractual documents and data protection.

- **Oliver Gotmann** – Chartered Accountant with over 12 years’ experience. Until October last year he worked with our regulator, the Gibraltar Financial Services Commission. He specialises in risk management and the financial aspects of DLT businesses.
Marc is the Managing Partner of Ellul & Co and a Notary Public. Marc began practising in London in 1993 and established himself in Gibraltar in 1995. He was a general practitioner during his early career, undertaking criminal and civil litigation, property, corporate and private client work. He now mainly practises as a corporate, funds, tax and financial services lawyer and leads the firm’s fintech team. He is actively involved in blockchain work in Gibraltar advising on the set-up of regulated cryptocurrency exchanges, token sale (ICOs) and on the establishment of digital asset investment funds.

Marc holds a licence, issued by Gibraltar’s Financial Services Commission, to provide directorships for all nature of companies including Experienced Investor Funds. For the past 10 years, he has been a member of the Gibraltar Finance Centre Council which works together with the Government to develop Gibraltar’s finance centre. In 2014 he was Chairman of the Company Law Reform Committee which brought about extensive changes to the Gibraltar Companies Act.

Marc is currently the Chairman of the Association of Trust & Company Managers which represents the Trust and Corporate Services industry in Gibraltar. This is his second term as Chairman having previously served for a three year period. He has been heavily involved in the work of this association in recent years where he has served as board member and also as Vice Chairman.

In 2013, as a member of the Technical Committee of the Gibraltar Funds and Investment Association, he formed part of the team that drew up the Code of Conduct for Directors of Gibraltar Experienced Investor Funds. In 2016, Marc formed a part of the Gibraltar Bar Council team which drew up the anti-money laundering guidance notes for legal practitioners.

He holds a Bachelor of Arts (Hons) in English Law and Spanish from Cardiff University, which included a year of Spanish law at the Universidad Complutense of Madrid. In 2010 he obtained a Post Graduate Diploma in Notarial Practice from Cambridge University. He is bilingual in English and Spanish.
Neil commenced practice in 2004 as a general practitioner. Throughout his career he has worked for two of Gibraltar’s largest law firms and has also served as in-house counsel for Deloitte where he specialised in tax, private client and insolvency matters.

He joined Ellul & Co in 2012 and for the first few years at the firm worked predominantly on civil litigation matters with an emphasis on family, employment and commercial disputes. He later focused on corporate, commercial and corporate finance work which he has been doing for the past few years. Neil forms part of the fintech team of Ellul & Co and provides advice on a wide range of matters in this field including token sales (ICOs), data protection and applying for a financial services licence for Gibraltar DLT businesses including cryptocurrency exchanges.

Neil also retains a keen interest in shipping and heads the firm’s practice in this area. Neil’s shipping expertise extends to ship registration, ship financing, ship arrests and admiralty litigation. His other practice areas include property/conveyancing and probate work. Neil is particularly interested in property transactions which have an international element to them.

He also sits on the Gibraltar Football Association’s Club Licensing First Instance Board to assess Gibraltar clubs’ applications to participate in UEFA competitions.

In September 2016 he obtained a Post Graduate Diploma in Notarial Practice from University College London. Neil holds an LLB from Leeds Beckett University and is bilingual in English and Spanish.
Oliver Gotmann | oliver@ellul.gi

Oliver is a consultant to Ellul & Co who joined the team in October 2017; FCCA accountant since 2004 and holds an MBA (2009) and has completed his doctoral thesis on the Driving forces behind Strategic Decision-Making in the Online Gambling Industry.

With a passion for start-ups and innovation, Oliver brings great energy to the team. His experience in a variety of sectors including funds, online gaming, pharmaceuticals, financial services and audit, amongst other regulated industries, makes him an ideal member of the team to be able to draw upon a broad array of practical and theoretical knowledge.

Before joining Ellul & Co, Oliver worked with the Gibraltar Financial Services Commission. His experience and qualifications together with his deep interest in blockchain technology makes him an excellent addition to the team in advising on Distributed Ledger Technology licensing in Gibraltar. He is actively involved in blockchain work in Gibraltar advising cryptocurrency exchanges and token sales (ICOs), mainly, in respect of financial aspects, capital adequacy and risk management.
Schedule 2 – The Nine Regulatory Principles

The DLT Regulations require DLT firms to:

1. Conduct their business with honesty and integrity.

2. Pay due regard to the interests and needs of each and all its customers and communicate with them in a way that is fair, clear and not misleading.

3. Maintain adequate financial and non-financial resources.

4. Manage and control their business effectively, and conduct their business with due skill, care and diligence; including having proper regard to risks to its business and customers.

5. Have effective arrangements in place for the protection of customer assets and money when they are responsible for them.

6. Have effective corporate governance arrangements.

7. Ensure that all of their systems and security access protocols are maintained to appropriate high standards.

8. Have systems in place to prevent, detect and disclose financial crime risks such as money laundering and terrorist financing.

9. Be resilient and have contingency arrangements for the orderly and solvent wind down of its business.

More detail on the above principles and the expectations of the GFSC are set out in the DLT Guidance Notes issued by them which can be viewed at: [www.gfsc.gi/dlt](http://www.gfsc.gi/dlt)