

Good afternoon, it is great to be here and thanks for having me. This is actually my first time in Barcelona so I was really looking forward to coming!

Some of you know who I am given that I have granted you a licence at some point in the not too distant past. However for the benefit of those who don't, I am the CEO of the Gibraltar Financial Services Commission. As a regulator we have worked with the Government of Gibraltar to launch the first comprehensive regulatory regime for businesses who use DLT to store or transmit value.

'Regulatory regime for DLT' is almost an oxymoron and I wonder how many of you to find it a bit strange to hear 'crypto' and 'regulation' in the same breath?

Indeed, I also wonder how many of you started your journey into crypto as anarchists? And were drawn to crypto because you don't like central authorities having a say in what you do...I get that.

I originally started off my career as a free market economist...sceptical on the value of regulation, having observed the harm that could be done from the wrong sort of regulation in New Zealand in the 1970s & early 1980s when I was growing up. Exchange controls, import controls, price and rent controls that made people homeless. However, over the years I have come to appreciate that regulation, when done well, is extremely beneficial, indeed essential.

I'll emphasise on the 'when done well' part of my comment.

When done badly complying with regulation can have you swamped by process, making your business more expensive and frustrating, without a discernible impact on consumer protection or systemic stability. However, when done well, you would be surprised how many with anarchist sympathies see the value in being regulated!

Why is this? I would like to give you a regulators perspective on DLT, and some key trends which are emerging on the regulatory front in this space. To some extent I wonder I think there's a misconception that regulators are either dragging their heels or flat out anti-crypto...

The reality is that most regulators are extremely interested in the role that virtual assets regulation can play in supporting the safe development of businesses that have the potential to provide enormous benefits to the economy and consumers.

I use the term virtual assets, as this is what is being used to describe crypto assets as FATF level... a bit more on that later.

Before I continue, I just want to emphasise how difficult regulating this space is.

It often seems to me that we are regulating something where both the goal, as well as the goalposts are constantly moving!

And both the goal and goalpost are digital, freely transferrable and, (sometimes), decentralised...

It is a truism the past few years have seen technology evolving at an incredible pace that is affecting our day-to-day lives in a multitude of ways. This is massively challenging for current legal and

regulatory systems, which are continuously playing catch-up. The challenge for regulators is to react appropriately, delivering our protection objectives, whilst continuing to allow innovation to take place.

But we have to step up to the task because more than ever it is the case that if systems, including regulatory and legal systems, fail to keep up with rapidly advancing technology, these systems will fail to protect consumers, and fail to secure stable economies and will cut across innovation that will benefit society.

Just recently, we have Governments and regulators express concern with Libra, and some have asked Facebook to pause its efforts until a clear regulatory response can be arrived at.

A number of new business models have sprung up out of nowhere over the past few years, that are constantly pushing conventional regulatory norms. This is before even contemplating the fundamental shift in society if we move to a more decentralised and peer-to-peer economy which could result as DLT continues to be adopted.

Let us think on the changes and challenges that Airbnb and Uber have brought to the hotel and taxi industries. Something this city is very familiar with given the regulatory response here with respect to ride hailing apps.

We are also experiencing how innovation is pushing boundaries in Fintech. Beyond the potential for faster transaction settlement, in DLT we are seeing a technology that could fundamentally alter market structures, and reshape business relationships throughout the financial services sector and beyond.

Given the difficulty to catch up and the ever changing environment. I am sure you can appreciate this area is an incredible challenge for regulators.

I can say that this is a challenge which many of my peers and counterparts in other regulatory bodies are actively seeking to rise to. There is a lot of great work being done by regulators, much of it behind the scenes. Now much of this behind the scenes work is now coming to fruition and we can see some great policy work resulting in regulatory changes at a variety of regulatory forums.

So where is regulatory thinking at? Where are the regulators at on this stuff? I can safely say that virtual assets are becoming higher priority for policymakers and legislators worldwide.

The FATF is bringing in virtual asset service providers, or "VASPS", into its recommendations, and has been working on virtual currencies as far back as 2014. Clearly years of work have gone into considering the AML/CFT risks associated with virtual assets.

In time, VASPS will need to be registered or authorised and regulated by a national level competent authority.

We knew that AMLD 5 in the EU, (of which Gibraltar is currently part of... for now!) would bring about certain requirements. However, this was generally targeted at fiat to crypto exchanges and custodial wallet providers. The next wave of financial crime regulation globally which will align

national legislation with the latest FATF recommendations will extend this to crypto to crypto exchanges, and impose the “travel rule” on VASPs too where certain data will need to be shared when transfers of virtual assets occur between two VASPs. I’m very aware that this is a controversial development.

Although as industry participants, I am sure some of you may be concerned at the additional regulatory burden, these developments can only be interpreted as a step in the right direction. I may sound biased as a regulator, however regulation is exactly what this industry needs to be able to bridge the gap between what can be characterised as a crypto wild west of the past and the adoption and main streaming of virtual assets and distributed ledger in the future.

IOSCO, the International Organisation of Securities Commissions, have also been active in this area and during May of this year released a consultation paper on “Issues, Risks and Regulatory Considerations relating to Crypto-Asset Trading Platforms”.

This again is not a knee jerk reaction to recent developments but a result of much work. We are proud to take part in IOSCO work to consider virtual assets in some form. In fact, IOSCO have publicly stated that crypto assets are one of the board level priorities for 2019.

Both FATF and IOSCO are international organisations prioritising developing a thoughtful understanding of how to view all crypto and fintech developments from the perspective of their public interest standpoint.

At EU level, ESMA has issued a number of statements, consultations and guidance over the past few years regarding virtual assets too.

To date, I believe that most policymakers and legislators are cautiously monitoring the progress of the industry and ensuring that where virtual assets fall in scope of current regulatory regimes that these entities comply appropriately with the legislative requirements.

This is a recent hot topic given that the industry is moving towards tokenised and digital securities, and it is likely that more securities will be tokenised going forward. When a token is a security in the EU, any firm issuing it, trading it, providing custodianship of that token security, more or less automatically needs to comply with various of the EU requirements for the financial services sector.

Clearly, this is a time when regulators really need to take a step back, understand the reason and objectives of regulation – and ensure they can respond proportionately and effectively, always bearing in mind our regulatory objectives. And I think, perhaps better than in previous times of impactful innovation, regulators are doing this.

However, for this to land well, and by that I mean building societies that can benefit from new safe innovations, without either unnecessary impediments or crises from new innovation going wrong and causing harm, those in the driving seat of crypto need to understand and embrace the objectives that public interest bodies the world over, have as their mission.

If we were to look across regulatory bodies, there is a recurring theme in terms of objectives.

- Integrity
- Competition
- Safety
- Soundness
- Protecting investors
- Ensuring markets are fair, efficient and transparent
- Reducing systemic risk
- Enhance investor protection, promote an orderly and stable financial market

These are all powerful objectives, and there is a lot of consistency in terms of the outcomes regulators are looking to achieve!

In Gibraltar, our objectives actually combine that of many different regulatory bodies as we have oversight over a number of functions which are usually split across many different bodies in larger jurisdictions. If you were to take a look at schedule 5 of our new financial services bill you could see that these are:

- 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.

But taking even a further step back, why regulate?

By and large, global, regional and local economies are market economies. One of the reasons the market economy has such a grip is because it is the most efficient and effective way to deploy and invest capital to meet the needs of the nearly 8 billion people alive on the planet. However, market forces do not always, for example, deliver in the best interests of consumers, particularly when they are exposed to risks from which they can't protect themselves.

This is one of the key reasons why regulation exists - we seek to protect consumers from harm.

We also seek to protect consumers from risk they don't understand.

We also need to acknowledge the continuous presence of people without integrity who seek to gain an economic advantage from acting dishonestly...or the presence of people without the competence to run their businesses.

What we do not want to do as regulators is crowd out innovation, especially innovation which will improve economic efficiency and effectiveness. For example, I believe that DLT is a technology that has the potential to make consumers lives easier and safer help them to manage their lives, to make markets work better.

Forward thinking regulators get that, show a lot of interest, seeing the benefits, working to making sure we don't crowd out innovation whilst at the same time doing our part to manage any risk that innovation could do harm.

In Gibraltar, our outcomes-focused, principles-based approach to regulating this space has been designed to allow businesses sufficient flexibility to explore the applications of this evolving technology, whilst maintaining the protection of consumers and the jurisdiction's reputation at the forefront.

This regulatory approach allows us to constantly adapt our regulatory response, depending on the nature of the activity which we are seeking to regulate.

It's important to remember that when we or any other regulator licences a financial services business, these businesses do not only obtain authorisation to undertake a regulated activity, they also gain our reputation. That's something that has value. Value for those and the systems we need to protect and value for licenced business as well. It has to mean something to the authorised and regulated. It's not just a process of taking names and addresses.

Regulation will bring reputation, which will fuel adoption in the virtual asset space.

Working well, it's a partnership between regulator and regulated firms.

This leads very well to what I wanted to talk about next, which is authorisation and supervision of our DLT providers in Gibraltar.

I do not want to bore you all with the intricate details of the authorisation process, happy to do that offline during the coffee break! However, I did want to highlight some of the approaches we

have taken which I feel have been beneficial in allowing us to apply a proportionate regulatory approach to each firm which has gone through the licencing process.

Due to the number of forms that a DLT provider could take, it was extremely important for us to really understand exactly what these entities were doing, and how exactly they were using DLT to store or transmit value in order to understand the risks. This is a simple question and answer for some of the more traditional fiat to crypto exchanges, and even crypto to crypto exchanges where all private keys were being held by the firm. However, boundaries are being pushed due to what we all know as decentralisation.

Decentralisation is something at least some regulators find difficult to grasp. After all, how do you regulate something which is decentralised?

After working with this industry for some time now, I tend to spin the question around, and ask, what does decentralised mean to you?

Was Etherdelta decentralised? Our counterparts in the SEC certainly don't think so...

We are coming to realise, and I am sure others will follow suit, that decentralisation is not a yes or no answer, there may be instances where a virtual asset is very centralised, however through certain hard forks, or distribution of nodes for example, becomes more decentralised as time goes on. Eventually, we could move from a state of centralisation, to that of full decentralisation. The difficulty from a regulatory standpoint are those cases where it is not clear whether an activity is centralised, or decentralised, where there is a point in the middle where we have an extremely grey area, in these cases we as regulators need to exercise significant judgement in order to apply the most adequate and proportionate approach to these activities.

On one hand, we cannot impose requirements which simply do not fit or work with the technology, on the other hand it is our job to protect consumers.

There have been a number of cases where projects, particularly in the ICO space, have dubbed themselves to be operating in a decentralised and unregulateable manner. In some cases, I am sure that this is true, however there are also cases where this is simply not true.

I can't profess to being an experienced solidity developer, however I was intrigued to see that certain functions in a smart contract can only be called by the contract owner... perhaps we should pause to reflect on this... a decentralised smart contract... Has an owner...

Maybe you can see where I am coming from here. Although the smart contract is deployed on to the Ethereum blockchain, it is public and transparent, the fact that there is an owner means that in this case the smart contract is not decentralised, despite running on decentralised technology.

It is these cases that we need to consider, (at least in Gibraltar due to the scope of our DLT framework). Is this group of people, this person, or this business, storing or transmitting value belonging to others? If that question is yes, you will need a licence in Gibraltar.

This is not to say that we will apply a disproportionate level of regulation to these providers which will fall in scope, the beauty of our framework is that it is principles based.

We will apply the 9 regulatory principles in a way which is proportionate and balanced. We will engage in dialogue with firms and ensure that their key individuals are fit and proper, are competent, have the right attitude to run a regulated financial services entity and treat these individuals to the same standard as other entities which we regulate. We will require that these entities have sufficient capital to ensure that they run the business in a sound and prudent manner. We will consider the adequacy of their private key management. We will ensure that they have policies in place to ensure that private keys could be recovered under stressed scenarios or in the case that business continuity or disaster recovery plans need to be invoked.

When drawing analogies with the fiat world, I can assure you as a regulator, I am sometimes less worried about IT and tech safety, and do these people have the ability to deal with cold storage. If I were to put technology to one side for a moment, I try and ask myself whether individuals running virtual assets businesses, firms who are usually undertaking some form of custody function, have the expertise in other areas.

Expertise in areas such as corporate governance, risk management, the ability to manage a regulated entity and monitor levels of capital, these are all things which are expected once you become a financial services regulated business.

At the same time, regulation is also a partnership. In such early stages of an industry, we need to work very closely with our licencees, hear what the concerns are and work with all of you in this room to achieve the best regulatory outcome possible.

Our DLT team at the GFSC engages with our firms on almost a weekly basis. It is this level of engagement which allows us to really appreciate what new business models are being adopted, and how to best respond.

As I mentioned earlier, we are not the only regulators who are working closely with DLT. Others are doing some really good thinking.... on how to deliver on objectives? Do our regulatory staff have the right cultural mind set? We are one of them, we are not alone, and I can safely say that this is probably across all of my career one of the times that regulators genuinely recognise that technology is creating an imperative on us to adapt and develop our approach in ground breaking ways.

It has gone from something that people are unsure of to something that we are embracing, and constantly being on top of. Regulators at national, regional and international level recognise that they need to do proactive thinking, and are gearing themselves up.

I recently spoke on an IOSCO panel for regulators, and it was one of the most well attended regulatory panels I have participated in. It was a standing room only, with over 300 regulators eagerly wanting to hear about how to think about crypto regulation.

I can honestly say that this is something which I haven't seen in the 25 years I have been a regulator, and I am excited to see where the future will take us.

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