REPORT

Fintech, Blockchain & Initial Coin offering (ICO): adapting to the changing landscape

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Brussels

ACCA (the association of Chartered Certified Accountants) and EY jointly organised a conference on **Fintech, Blockchain & Initial Coin offering (ICO): adapting to the changing landscape,** to discuss the latest policy development on Fintech as well as risks and opportunities of ICOs, which are at the forefront of emerging technology in blockchain and distributed ledgers.

Maggie McGhee, Director of Professional Insights, ACCA, welcomed participants and introduced the first panel on **Fintech and Blockchain policy developments and next steps** that was moderated by **Elizabeth Krahulecz**, Head of EMEIA Public Policy, EY Brussels Office. It comprised of **Delphine Leroy**, Team leader of the Fintech team, DG FISMA, **Marcello Topa**, Chairman of the EBF Blockchain Task Force and Head of Market Policy & Strategy at Citi Markets and Securities Services , **Ken Timsit**, CEO, ConsenSys France, and **Fabian Vandenreydt**, Executive Chairman, B-Hive.

The second panel on **Practical applications and implementation of Blockchain** was moderated by Narayanan Vaidyanathan, head of business futures, ACCA, and comprised of **Kiril Bensonoff**, blockchain investor and partner at Caviar, **Domitille Dessertine**, Division Fintech, Innovation and Competitiveness, Autorité des Marchés Financiers, **Gaël Denis, Partner**, TMT & FinTech Leader, EY Luxembourg, and **Anne Choné**, Senior Risk Analysis Officer, Innovation and Products Team, European Securities and Markets Authority (ESMA).

The debate confirmed that despite many challenges and risks to be addressed such as fraud, market manipulation and money laundering, crypto assets, ICO and blockchain will play a key role in the future. FinTech has the potential to transform the way financial markets and market participants operate with a number of positive outcomes for consumers, like enhanced services and reduced costs. DLT but also Artificial Intelligence and RegTech are among the most prominent FinTech developments. ICOs could provide a useful alternative funding source for new or innovative businesses, as well as an attractive investment opportunity for consumers.

Blockchain technology allows users to develop peer-to-peer applications and run decentralized economic systems in a way that were never thought possible before, but the technology is still at a very early stage. There was a consensus among speakers that we need a balanced approach, to understand the economic functions of innovations and the risks and benefits that they may bring. Legal certainty is needed, but an overly prescriptive framework, not adapted to this environment could lead to delocalization of interesting innovative projects outside of Europe, while not necessarily preventing European investors to subscribe to these instruments. Regulators are looking at how these innovations map to the existing rules and whether there may be gaps and issues in the current regulatory framework that would need to be addressed.

The debate also revealed the urgent need to invest in the skills of people in companies and universities, as with Fintechs, financial knowledge is interdependent with IT competencies. Finance professionals and professional accountants will need to adapt to this fast-moving landscape and maintain an up-to-date understanding of developments to be able guide their clients and organisations who are seeking funding.

Main highlights

Maggie McGhee, Director of Professional Insights, ACCA

- While technological innovation in finance is not new, investment in technology and the pace of innovation has increased significantly in recent years, on a very wide array of issues ranging from social networks, artificial intelligence, machine learning, mobile applications, distributed ledger technology (DLT), cloud computing or big data analytics.
- Besides impacting nearly all other aspects of every day's life, new technologies are also changing – "disrupting", as we hear - the financial industry and the way consumers and firms access financial services.
- FinTech gives also rise to new services and business models, involving the whole financial sector, and, whereas it may have appeared only recently in the public conversation, Fintech and Blockchain are one of the hottest topics in the field of financial and accounting services. But a substantial amount of uncertainty and confusion remains.
- Blockchain is a topic that inspires equal parts of fear and excitement, but it does not have to be something that remains unknown.
- At international level, FinTech is a priority area for the G20, and the European Commission recently published its **Action Plan on Fintech,** which entails a series of legislative and non-legislative actions to be pursued a short medium and long term. Its **three main goals are**: supporting innovative business models to scale up across the

single market; encouraging the uptake of new technologies in the financial sector; and increasing cybersecurity and the integrity of the financial system.

- FinTech refers to technology-enabled innovation in financial services. It is spurring new business models, applications and processes, such as payment applications for mobile devices. It is also having a transformative effect on financial markets and institutions and on the provision of financial services as a whole.
- Blockchain is the best known distributed ledger technology. A ledger is a database operating in the cloud - that stores a variety of information, including financial and nonfinancial information -, and which keeps a final and definitive record of transactions. Records, once stored, cannot be altered without leaving behind a clear track. Blockchain enables a ledger to be held in a network across a series of nodes, which avoids one centralised location and the need for intermediaries' services. Any information uploaded onto the blockchain network is verified and approved by existing members of the network prior to final approval and addition, and only then, it is distributed to network members in real time. This security and subsequent encryption of data means that data on the blockchain is “theoretically” secured against data hacks.
- This is meant to provide trust, traceability and security in systems that exchange data or assets. However, no system being perfect, there have already been reports of data breaches and hacking activity on cryptocurrency exchanges.
- Blockchain can underpin a wide range of applications in various sectors, not limited to cryptocurrency or FinTech. Cryptocurrencies, on the other hand, are just one type of application of blockchain, just like different websites and applications run on the TCP/IP infrastructure that runs the internet. However, without blockchain technology, the cryptocurrency market and business case would not exist as it currently does in the marketplace.
- Cryptocurrencies are indeed subject to controversies. We see numerous headlines in the press targeting risk linked to bitcoins. The European Supervisory Agencies issued warnings that cryptocurrency valuations are showing all the signs of an asset bubble. The Dutch regulator recently even referred to a dangerous “Gamification” of cryptocurrencies, stressing the need for behavioural economic approach to policy-making in this area. The European Central Bank called for a global clampdown on cryptocurrencies, aligning with the views voiced by Agustin Carstens, the general manager of the Bank for International Settlements, who compared bitcoin with “a combination of a bubble, a Ponzi scheme and an environmental disaster”.
- Finance professionals and professional accountants will need to adapt to the new Fintech, Blockchain and ICOs landscapes to be able guide their clients and organisations seeking funding (see ACCA report on ICOs). ACCA has also issued a new warning on bitcoins specifically aimed at these finance professionals, stressing the importance of maintaining an up-to-date understanding of developments in this fast-moving space.
- ‘Bitcoin, the earliest blockchain technology, has at least three dimensions that are causes for concern: Firstly, its pseudonymous nature means that while one may identify the address a given payment goes to, it is not possible to confirm the identity of the underlying beneficiary. This is an obvious risk for money laundering, terrorist financing and the funding of other types of illegal activities. Secondly, its high volatility makes it inherently risky and unstable. That extreme volatility led authorities in China to ban trading with crypto-currencies, following the example of India and South Korea. Thirdly, echoing the ESAs, ACCA warned that Bitcoin is funding a speculative bubble in other areas like Initial Coin Offerings (ICOs) with speculators chasing poorly formed business propositions.
- It is important, however, to avoid blaming the house for the fault of the people living in it. The underlying blockchain (distributed ledger) technology behind Bitcoin could revolutionise how financial transactions are done and have a positive impact on business globally. This potential must be viewed separately from the risks of Bitcoin.
- The European Commission is currently assessing further under what circumstances crypto-currencies and related services are covered by existing regulation. Based on the

assessment of risks and opportunities and the suitability of the existing regulatory framework for these instruments, the Commission will determine if regulatory action at EU level is required.

- But how to strike the right balance for regulatory intervention? On the one hand, it is vital to create the right environment to embrace the opportunities of new technologies, to enable innovation - and not hamper it -, and to encourage job creation in Fintech. On the other hand, threats to citizens, investor or consumers as well as to financial stability have to be taken seriously. That is not an easy task, bearing in mind that cryptocurrencies do not know borders.

Panel discussion on Fintech and Blockchain policy developments and next steps, moderated by **Elizabeth Krahulecz**, Director, Head of EMEIA Regulatory & Public Policy Brussels Office at EY.

Delphine Leroy, Member of the FinTech Task-Force and in charge of the Commission Communication on FinTech

- The European Commission FinTech Task-Force was set up at the end of 2016 and after a broad consultation it has issued a communication on FinTech in a form of an Action Plan on 8 March 2018.
- While setting up the FinTech Task-Force, the EC put around the table not only the people dealing with financial services legislation but also from other services, for example people dealing with technologies and digitalisation, data or competition issues. The final actions will be implemented in close coordination with all these services. Exactly one year ago a big FinTech conference was organised in Brussels where a broad consultation was launched in order to engage with stakeholders. The consultation was very broad and it covered legislation issues as well as many other aspects. The Commission looked for instance into the role of supervisors, the potential brought by some new technologies, cybersecurity and other issues.
- The consultation has showed that supporting FinTech is not only about changing legislation. The current EU financial services legislation is overall fit for FinTech. For example, if a small firm wants to offer financial services such as payment or banking services in an innovative way or using new technologies, it has what it needs in the existing framework. The only gap that was broadly mentioned throughout the consultation was the crowdfunding part where there is currently no clear EU framework.
- The first measure that the EC is proposing is the EU framework for crowdfunding activities. It will enable new crowdfunding platforms to start their activities and scale up easier thanks to an EU passport. This EU passport will be fundamental for companies, especially start-ups since it will enable them to benefit the Scale of the Single Market more easily.

- All respondents agreed there are other small gaps in different frameworks. To address these gaps, the EC will launch an Expert Group that will screen the legislation – the call has been launched on 8 March. The first task will be to look whether there are immediate regulatory obstacles that should be tackled.
- Looking forward, and considering new technologies (e.g. blockchain) ,the challenges around regulatory framework may be bigger. The expert group will also analyse this area. It will first try to identify which sectors should be addressed first and whether and how current legislative framework needs to be adapted. The Commission will also look into crypto-assetsdevelopments in close coordination with European and international partners.
- In order to make it easier for FinTech companies to scale up across Europe, we also need to get supervisors who understand technology and are able to provide quicker and better guidance during the authorisation process. Some jurisdictions have set up hubs that specialize in these issues and it proves to be very effective. The European

Commission strongly supports such initiatives and encourages supervisors to set up innovation facilitators. At the European level we also aim to ensure that European supervisors consider technological innovation in all their tasks and get a better understanding about FinTech developments.
- The EU FinTech lab will be running soon where the EC will host 3-4 times a year European and national supervisors in order to discuss one specific technology with technology solution providers. With regards to Blockchain, all respondents see huge opportunities, but it is a very early stage. Many challenges were mentioned. They are not only regulatory but also technical. In order to solve these issues; the EC has thus set up the EU Blockchain Observatory Forum in February. It is a cross-cutting initiative.
- Finally, we also want consumers to be safe when they are using these new services. The Commission will focus on cybersecurity in order to ensure that all transactions are done in full security whether services are provided by a big or a small firm – a level playing field is essential.
- In order to make Europe an attractive place for FinTech, it is not only about legislation. A mix of different actions is being used in member states where the technology is being developed. It is about possibilities to get funding, attract skills, having innovation-friendly supervisors and regulators engaging with market participants. Broader range of tools is indeed needed.
- The EU has introduced a lot of post-crisis legislation. Some of it was addressing innovative developments. The GDPR or the PSD2 are important pieces of legislation in the context of FinTech developments.
- New supervisory attitudes and better skills for consumers and others involved in the processes are key and we need to develop it further.

Ken Timsit, Managing Director, CONSENSYS
- Blockchain is a technology that has a few interesting properties. One of them is that it is a shared database where every single piece of data is signed by the person that put it there and this cannot be falsified.
- At the early stages of implementation, such as the Bitcoin blockchain created in 2009, it was difficult to determine the identity of transaction senders and recipients. There is now a great deal of work going on, in order to create systems whereby, for specific applications of blockchain technology, it should be possible to identify the addresses of transaction participants, or at least white-list sets of authorized addresses. A first application of such systems is the KYC/AML process for buyers of crypto tokens
- Blockchain allows decentralized systems where people are interacting on peer-to-peer basis without intermediaries. People can send crypto assets, share computing power, lend computing power or storage capacity, or exchange a broad range of digital assets that represent physical assets, financial assets, or services. There are protocols in place for these actions.
- The ecosytem around this technology is still very young and fragile; there are also many technical issues that haven't been resolved. There is a lot of buzz in the media about ICOs, the focus needs to be on making sure that this young and fragile ecosystem is given all the conditions to grow and become successful, especially in Europe. If we look at funds raised by blockchain ventures, Europe represents less than 20% of global amounts. The UK and Germany are at the top of the list and other countries struggle to attract larger amounts of funding for blockchain ventures. There is a need to make sure that Europe promotes innovation in respect to blockchain technology and that this technology serves society and economy.
- This is the starting point for the EU Blockchain Observatory Forum. Consensys is a contractor supporting the European Commission together with several universities in and outside the European Union. The EU Blockchain Observatory Forum aims to make sure that there is a forum where technologists, innovators, regulators and government agencies can talk about successful and unsuccessful blockchain pilots. The objective is

to understand what is working and what is not working, and what the barriers in this area are.

- The reality is that we cannot change all European regulations just for blockchain technology to work. We need to be more creative and learn from people with experience.
- The Forum will have around 12 themes that will be debated in public forums, workshops and an online platform. Reports will be delivered afterwards summarising the outcomes and proposing ideas to overcome barriers.
- The Forum is not a regulatory body and there is no overlap with what government agencies are doing. The Forum is there to provide facts in a public way so that everyone can learn from them.
- The EU Blockchain Observatory Forum has no mandate to be the only forum where blockchain discussions can take place. The forum is very European in nature. It is very open and conscious of the need to maintain stakeholder representation.
- Talent is a big strength of the EU when it comes to technologies. Monetary interests have less influence in Europe which is also an important strength. The fact that there is less speculative money in Europe has allowed the ecosystem to remain relatively healthy and has empowered regulators across Europe to take a more moderate and progressive approach.
- However, less money could also be seen as a weakness, especially in the long-term. Another weakness is that in Europe we do not always listen to innovators as much as we should. Opportunities could be missed if we don’t change that.
- The EU is not supposed to intervene in every single area of the technology. It needs to be determined where practical actions are required.
- There are a number of blockchain applications that allow users to keep their data encrypted outside the blockchain, and use the blockchain only to leave an auditable and trackable record of who has the right to access the data. This allows users to operate with self-sovereign personal data. The reality is that the ecosystem today is still very fragile. Many startups are working to improve the ecosystem but it is an area where we need more innovation and products.

Marcello Topa, Chairman of the EBF Blockchain Task Force and Head of Market Policy & Strategy at Citi Markets and Securities Services

- The EBF is very interested in the use of new technologies. Banks are already digital and it is in their DNA to adopt financial innovation. It is clear that the banking industry is being transformed by technology; however banking will always be necessary.
- The Banking sector has always been at the forefront of technological developments. The pace of technological innovation has accelerated and access to technology has improved. It is important to focus on usability and customer experience.
- FinTech is a very broad category of services. It is not just about being innovative and disruptive. FinTech is a broader category that is clearly shaping the future of financial services, beyond the bank/customer level. This concept should be “activity” based, not “infrastructure” based.
- We should go beyond bank-to-customer level. It is about a social engagement and how these new technologies are affecting our lives as citizens.
- Banks already are FinTechs. When we talk about banks and startups, cooperation rather than competition is key. Banks have capital, expertise, resources and customers; startups have ideas and innovations.
- Banks’ best friends are Fintech startups. Banks have a lot to offer to Fintechs, and the other way around. It is better to cooperate than to compete. The digital transformation is an opportunity for banks.
- However, there are also some challenges. There are some very rigid banking regulations. It is important to have trust by all users of financial services. Regulation is important but we should also have a level playing field.

- Cybersecurity is one of the most important issues for all banks. The focus of public and private sector actors should be around security. The ability for all the users to understand these new technologies is essential. Often people provide their information online very carelessly which is very dangerous, especially in financial services. We need to be very well prepared as individuals and as regulators in order to protect ourselves from the risks.
- There is already an important network of financial services providers and a lot of investment around innovation with focus on business models and customers' needs. This should be coupled with ability to adopt new technologies.
- The shift to digital solutions is on-going: this is notably the case for the use of electronic identification by banks, which has various implications in the development of new products and services, as well as for security aspects. It is important to point out that technology does not recognise boundaries or time.
- It is important to talk about blockchain as potential solution to own the data in compliance with the General Data Protection Regulation, even if there might be some challenges in the application of the right to erasure/right to be forgotten. It is important that everyone who is supposed to use the data has technical abilities to do so. For that we need the right ecosystem with proper governance and users that are able to understand the processes. Probably fewer lawyers and more software engineers are needed in order to achieve that.
- Experimentation is very important because we need to find the right balance. The pace of change is very different than it was few decades ago but we still need to test and experiment.

Fabian Vandenreydt, Executive Chairman, B-Hive

- The term FinTech is far too restrictive. In our ecosystem we look at all relevant Technologies for Financial Services, such as fintech, insurtech, regtech but also, next to traditional financial domains such as payments, lending, insurance, we also cover technology domains such as cybersecurity, artificial intelligence, internet of things, ...
- B-Hive delivers innovation programmes between banks, insurance companies and startups. It is involved with over 145 startups.
- There are many good innovative ideas in Europe. Startups want to grow and reach customers all over Europe. One of the biggest challenges, besides funding and the right people, is for startups to understand theEuropean regulatory environment. Any initiative that would harmonise the regulatory framework in Europe is applauded.
- When we talk about blockchain, we should not forget people, business models and geopolitical impact. You need to have the best people who understand blockchain and are able to find solutions.
- Data localisation also needs to be addressed. A distributed system means that the data will be stored in different countries that might not have the same protection of data privacy or vent the same interest in geopolitical impact.
- The technology is very promising. Blockchain should be successfully used for notarisation. Data privacy is still a big point of discussion.
- When it comes to customer experience, it is important to keep in mind the needs of individual customer segments. One of the best tools to enhance customer experience is to know more about them and ask fewer questions, especially questions that you know the answer to (customers don't like this). Fintechs often do a better job as they focus on more niche customers. There is a lot of collaboration between banks and startups in terms of customer experience.
- It is good for banking to never be too far from your customers. PSD2 creates a risks and opportunities for banks to re-engage with their customers. The big drawback of customer intimacy based on data profiling is data privacy. Because of our culture in Europe, we could turn this into a positive and favour scale-ups that come with platform-based businesses that leverage GDPR. The GDPR should not be taken as a nuisance – it

should be considered as an opportunity for innovators to create another level of user experience while respecting data privacy. That is where Europe can be different from other continents.

- Europe has money to finance innovation. However, the way the money is channelled to promising scale-ups is not optimal (fragmented financing landscape)
- When it comes to risk, it needs first to be tested on a scale that is not systemic. In regards to blockchain, we should test on assets that are managed via limited number of people and that don’t have a systemic impact. Innovators need to be allowed safe spaces in order to prove that the business model works beyond the technology and then introduce it to wider systems.
- Almost every European city wants to be a smart city and that involves having one or few FinTech or other Tech hubs. There still is a lot of competition between the cities but also much more collaboration in certain areas. Startups and banks can benefit from these collaborations and we will see more of that in the future. Initiatives are coming both from the top and the bottom.
- Regulators should look at business models for profit or utility. If it is for utility, it should be treated at utility level.
- Startups want to work with distributors that believe in their technology. A platform strategy is required for that. Most companies want to collaborate, not compete. They do it not because they like it but because it makes sense from the perspective of their business model.
- When startups are being coached, the impact of activities needs to be measured. B-Hive has published [B-Lens dashboard] that provides key metrics about the market attractiveness of Belgium, as well as the progress of its financial services and fintech ecosystems.

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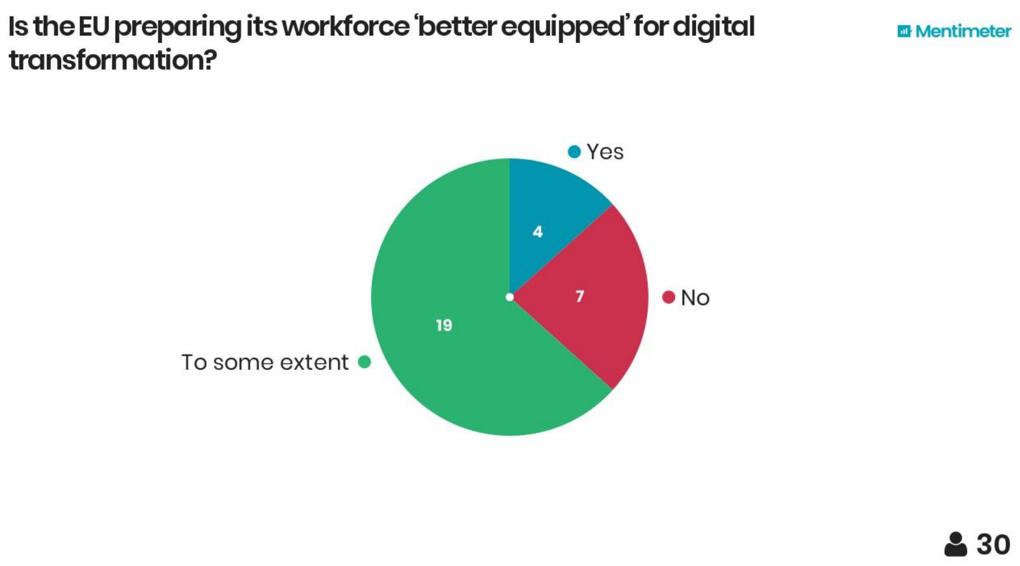
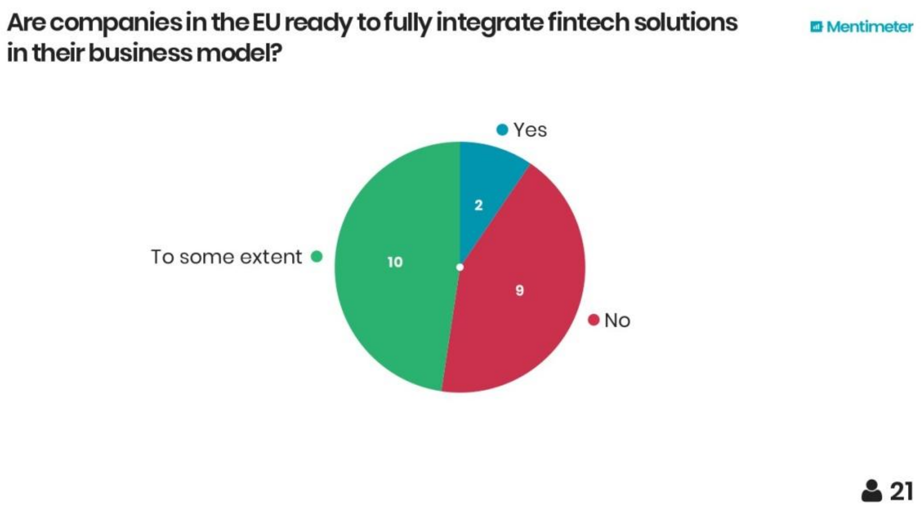
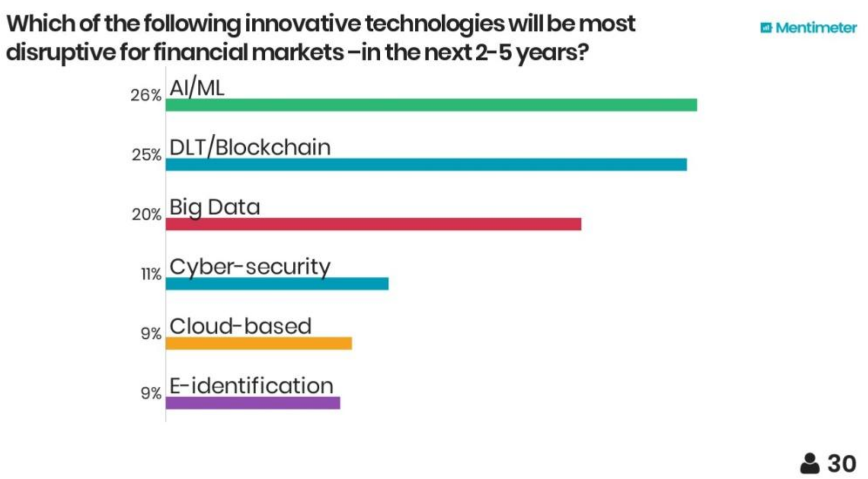
Poll with the audience







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Second panel on Initial Coin Offering (ICO): a new way to raise capital? moderated by **Narayanan Vaidyanathan**, head of business futures, ACCA

Kiril Bensonoff, blockchain investor and partner at Caviar

- The ICO has a number of different names but essentially it is a new way to raise capital. In the US there has not been any definitive regulation in this area just a lot of conversations are taking place which is very good.
- The markets have gone from 200 billion in 2017 up to over 900 billion and then back down to 350 billion today. Most of these fluctuations happen due to regulation or the lack there of. There is a lot of uncertainty around the technology which has left the market in anticipation of some kind of regulation.
- One of the main benefits of raising capital by using ICO is opening up a global market. The blockchain phenomenon is global – it is not set to a certain country or territory. There is a lower cost to address this large market: reach potential investors, to send the currency, and to settle transactions.
- Another important benefit is increased liquidity. After a company does an ICO, it can immediately list on secondary exchanges and the initial investors have the opportunity to get out if they desire.
- There are also a lot of challenges around ICOs. Finding a jurisdiction that is friendly towards cryptocurrencies is difficult. The state of Wyoming in the US has recently passed bitcoin and crypto-friendly laws. Switzerland has become the centre of cryptocurrencies in Europe. There are also other locations outside Europe and the US that people have

used to establish cryptocurrency offering and companies. Choosing the right jurisdiction is the first and a very important step.

- Understanding tax and compliance requirements is another challenge. The IRS in the US classifies cryptocurrencies as an asset and there are capital gains taxes. There are also other possible tax implications. Understanding local tax laws and complying with them is very important.
- Know Your Customer (KYC) and Anti-Money Laundering (AML) regulations need to also be taken into consideration. The KYC has been partially accepted in the ICO space. As regards to the AML, it might be a little bit more difficult because of the anonymous nature of a lot of the cryptocurrencies. The technology has not fully caught up yet when it comes to the AML.
- Once the world starts regulating and establishing a rulebook for cryptocurrencies' offerings, it will become what the crowdfunding initiatives all around the world where meant to do. Blockchain and Crypto space in general will take it one step further and we will be going to see a worldwide capital formation mechanisms that will enable startups raise capital cheaper, more efficiently and get the word out about the new products.
- With regard to regulating the crypto community in the US, there is a number of agencies working in this area, for example the Securities Exchange Commission (SEC), the Treasury and others. The SEC is probably the best fitted for the job when it comes to regulating. If it goes to the Department of Homeland Security, where cryptocurrencies are seen as a potential vehicle for money laundering, it would be the worst case.
- It is possible to set some boundaries where funds can be raised in a way that allows satisfying some funds requirements. Technology is catching up. Back in 2011 bitcoin was invented and the original use of it was anonymous, today we know that bitcoin is anything but anonymous and there are many companies that are working on traceability.
- Most of the ICOs already require KYC. The source of funds is a slightly more difficult conversation. Technology and regulatory aspects need to come together. The way of transferring money via digital currency isn't going away.

Domitille Dessertine, Policy Officer, Fintech Innovation & Competitiveness at Autorité des Marchés Financiers

- The Autorité des Marchés Financiers has started to work on ICOs by mid last year mainly because it received an increased number of requests for clarifications by people or startups that were contemplating to launch their own ICO and were wondering whether they needed to abide by the rules governing securities offerings. In parallel, the Autorité des Marchés Financiers has witnessed over the course of last year an increased interest by retail investors for alternative investment.
- As part of the investor protection mission, there were concerns that people investing in these instruments were not fully aware of the risks they were taking.
- An alert was issued jointly with the ACPR early December in order to draw investors' attention on the unregulated nature so far of Bitcoin and other types of crypto-assets and that, like with any speculative investment, they bear some significant risks of capital loss.
- The purpose was to remind investors that purchasing crypto-assets requires a good understanding of the nature of these projects, the underlying technology and the related risks.
- It was clearly indicated in the alert that the technological environment surrounding blockchain was likely to bring significant development opportunities for businesses.
- Bearing in mind these risks, there is a number of serious projects that were willing to undertake their ICOs, which leads to thinking that ICOs could be an interesting alternative source of funding for French startups and SMEs.
- The Autorité des Marchés Financiers issued a consultation document in October to gather stakeholders' views about what would be the preferred approach for regulating ICOs going forward. The consultation received 82 responses from a wide range of sectors.

- The consultation paper proposed an extensive legal analysis of ICOs under current law. This first legal analysis concluded that, taking into account the wide variety of ICOs, the type of regulation applicable to ICOs could only be determined on a case by case basis and the vast majority of projects to date would most likely not be captured by any existing frameworks.
- Based on the legal analysis, the paper put forward three following options for future regulation of ICOs:
- Option 1: Regulatory status quo and drafting of good practices.
- Option 2: Extension of the scope of Prospectus regulation to capture ICOs.
- Option 3: Drafting of an ad-hoc regulation tailored to the specific nature of ICOs. This regulation could either lead to ban any ICO that would not have been authorized by the AMF or it could consist in an "optional regulation" associated with the creation of a regulatory "label" granted by the AMF on a voluntary basis.
- In terms of the legal nature of the tokens, the responses were very detailed; some of them were proposing some classifications but the vast majority of them concluded that it would be very difficult to get the tokens into the existing categories, in particular in the securities definition.
- Some responses were suggesting adopting an approach based on the operation rather than on the instrument.
- Another interesting takeaway was that there has not been any pushback on the initiative. Most, if not all, of the responses were in favour of some kind of regulation which they saw as a way to clean up this environment and help distinguish good projects from the scams that inevitably exist in a completely unregulated environment.
- What stood out quite clearly was that respondents were not in favour of capturing ICOs under the Prospectus regime.
- It was decided to go for a new optional regime, which will be included in the PACTE law to come, as recently announced by our Minister of the Economy.
- Legal certainty is very important for firms. They are willing to do things the right way. An overly prescriptive framework could drive interesting innovative projects outside Europe.
- Alongside the publication of this consultation doc, a program called UNICORN was launched. It is structured around 2 axes:

1. It is a call for project holders that are contemplating to launch an ICO to come and present their project. The purpose behind this was to give food for thought and base our thinking on actual concrete cases. More than 40 project holders have applied.
2. Second complementary component of Unicorn is to conduct an economic analysis of the ICO phenomenon that would complement the legal analysis included in our DP.

- It is of critical importance for regulators to know the source of funds. Cryptocurrencies often have the bad reputation of encouraging anonymity, however, practice shows that many are willing to do things right.

Gaël Denis, Partner – TMT & FinTech Leader, Ernst & Young

- Auditors aim to bring trust and confidence to business communities. Blockchain definitely raises some challenges but also opportunities. EY believes in the opportunities and is working on it actively.
- Blockchain is going beyond financial services. It is bringing more reliability. We are also seeing that blockchain is a key element in connecting the world 100%. Blockchain is a facilitator in transactions and their recording.
- We are seeing substantial investment in cryptocurrencies and crypto-exchange platforms. There are also more and more projects on asset tokenisation.
- Auditors have been working on analysing the risks and on assurance projects.
- Security is a big challenge. When working with different platforms, it is important to look at how tokens are being stored and what are the security measures.
- All blockchains are different and they operate with different notes with different type of players. This creates a number of risks among the blockchain and the security.

- Auditors are also looking into accuracy of smart contracts. Being able to provide assurance on accuracy will be a critical aspect over the next few years.
- Financial reporting and classifying crypto-assets is another challenge. There is no single answer when it comes to classification. Some countries classify it as commodities; others consider it as intangibles or inventories. There is a way to go in terms of classification.
- Valuation is also a key element. It depends a lot on many different factors. There are big differences in price between platforms. Liquidity issues due to Shortage can create high volatility.
- The main risk is around anti-money laundering. Some of the cryptocurrencies are based on anonymity, and even if that is not the case, there still might be some difficulties in identification. Sophisticated tools based on data analytics are being used for that. There are also risks for ICOs in regards to AML.
- We are learning about new developments every day as we work with market players and challenges are very normal because it is a very young technology. Collaborative effort is needed from businesses and regulators in order to improve security around the technology. Bringing confidence and trust to all players is essential.
- There will be an emergence of an ecosystem with higher quality standards in terms of blockchain. Compliance with the GDPR is definitely a key topic in this area.
- More certification and third party reporting are being requested. We will also see in the future requests to provide regular certification on financial and non-financial information. We will need to adapt to using automated tools, data analytics, process mining and others.

Anne Choné, Senior Risk Analysis Officer, Innovation and Products Team, European Securities and Markets Authority (ESMA)

- The key challenge for regulators is to strike the right balance between the need to protect investors and fostering innovation that can be beneficial to consumers and market participants. This is the main driver at the European Commission and ESMA. Europe needs good innovation and investment.
- There is still a lot of confusion and different aspects to the VC/ICO/Blockchain phenomenon that need to be considered carefully. In particular, while regulators are rightly concerned about the recent surge of VCs, the underlying technology might provide certain benefits, as discussed in the ESMA DLT report published in February 2017.
- There are many risks, such as security, but also some potential benefits, provided there are appropriate safeguards in place. The industry needs to come up with some solutions for the challenges. Some argue that regulation is too complex, too broad or the requirements are difficult to comply with. However, regulation has often been developed for good reasons. As regards to governance issues, if there is a trade relationship and something goes wrong, there is a need to know who is liable and who to turn to when solving the problem.
- As regards to blockchain technology in financial services, it could likely be permission-based networks with market infrastructure.
- When it comes to cryptocurrencies, regulators are struggling to see the value in these currencies. The ECB is more trusted rather than someone behind the bitcoin. With that being said, not all virtual currencies are designed in the same way and maybe we still need to wait for the technology to thrive. Views may differ on applications.
- ICOs could provide a useful alternative funding source for new or innovative businesses. Also, they could represent an attractive investment opportunity for consumers. Yet, ICOs are highly risky investments. We need to take a closer look when it comes to this topic: we need to look at the phenomenon, at functions it has, what are the risks and benefits.
- Balanced approach is key. In November 2017, ESMA issued two Statements on ICOs. The first Statement to investors alerted them to the risks of ICOs. The second Statement

to firms reminded them of their obligations under EU laws. In February 2018, ESMA, jointly with EBA and EIOPA, issued a warning to alert investors to the high risks of VCs.

- We need to see how the ICOs can be captures by the EU rules, how does it fit with disclosure requirements, can they be considered as financial instruments. This is what ESMA is looking in together with member states. It is a fairly complex exercise due to variety of tokens that are being issued. The next step will be to consider whether additional actions are needed.
- We need to be careful because the blockchain and crypto-assets phenomenon touches on many different pieces of regulation. It is important not to create frictions with the existing rules and other related activities. It is key for ESMA to foster convergence across member states.
- The technology phenomenon is global; therefore it is very difficult to capture it from a regulatory point of view. There have been multiple initiatives from the FSB and IOSCO because regulators feel they need more cooperation.