***02 October 2018***

**The O2 Consulting lawyers comment on new rules of the Swiss Bankers Association (SBA) regulating opening corporate bank accounts for companies that have blockchain related businesses**

*At the end of September 2018 Swiss Bankers Association (SBA) released the Guidelines on opening corporate bank accounts for companies* *that have blockchain related businesses. These guidelines were developed with the help of the Crypto Valley Association and supported by the regulator, FINMA.*

*It is not a secret that opening a fiat account in European banks for companies that have blockchain related projects involves significant difficulties. This is primarily due to the fact that banking is a highly regulated industry and any non-standard types of business activity of potential customers are perceived, at least, with suspicion.*

*Necessity of strict observance of the anti-money laundering rules and compliance procedures is the only aspect in relation to which many regulators expressed themselves in one way or another as the same rules apply to traditional banking operations.*

*The SBA Guidelines are enacted to support and improve interaction of banks with the most progressive companies using the blockchain technology.*

**General comments**

The SBA differentiates companies that use the blockchain technology by forms of attracted corporate financing. The Companies that use the blockchain technology in their business model but not for corporate financing, shall be perceived by banks in the same way as other traditional customers. Such companies shall cooperate with a bank in the process of opening a bank account by showing their willingness to comply with regulatory requirements, proving availability of necessary resources and processes required for such compliance, presenting a business model and a clear business plan.

Banks shall pay a special and the most stringent attention to documentation of the companies that attract funding in cryptocurrencies through an ICO. The Guidelines state that an ICO organizer established in Switzerland, when accepting cryptocurrencies, shall apply the respective standards of verification in relation to the origin of funds (KYC) and compliance with anti-money laundering rules (AML). The Guidelines further specify that such verifications shall be at least as meticulous as the ones that apply to monetary transactions between counterparties.

The Guidelines use the terminology and classification system of tokens used in the ICO Guidelines of a Swiss regulator FINMA that were released on 16 February 2018. Also, special due diligence rules were established in relation to blockchain projects. For example, a White Paper is used as document that describes a business model of an ICO project, there are specially designed questions for ICO projects that require answers which shall clarify purposes on which attracted through an ICO project funds are meant to be used, also a detailed description of tokens in accordance with the FINMA guidelines is required, etc.

It is emphasized that the right to open a bank account is not guaranteed, as customers have to adhere to high standards as well as banks are required to conduct necessary due diligence checks of prospective customers and to maintain the high standards that conform to the reputation of the Swiss financial centre.

The SBA Guidelines apply to the banks-members of the SBA; however, the main principles of these guidelines will be extremely useful to familiarize with for companies, that work with other banks and in other European countries, too, since in the near future such principles may be also adopted and implemented in other jurisdictions.

O2 Consulting has a well-established office in Switzerland, extensive business connections and a wealth of experience in interaction with banks and regulators. For a number of years we provide legal advice to companies that have blockchain related businesses as well as help them with opening bank accounts in Swiss banks and in financial institutions in other jurisdictions.