

SEC to Target Lawyers Assisting with ICOs

January 22, 2018

On January 22, 2018, Jay Clayton, Chairman of the Securities Exchange Commission (the “SEC”), issued a warning statement to lawyers assisting clients with ICOs and to companies who have, or are looking to, shift their focus to distributed ledger or blockchain technologies in his opening remarks at the Securities Regulation Institute. The SEC has the power to impose liability and penalties on lawyers who fail to satisfy their responsibility as gatekeepers to the capital markets. These remarks signal that lawyers may be a focus of the SEC as it seeks to regulate the world of ICOs.

Clayton noted that “market professionals, especially gatekeepers, need to act responsibly and hold themselves to high standards” and “in the initial coin offering space, they can do better”. Through his remarks, Clayton pointed out that lawyers are failing to undertake the analysis of whether coins or tokens qualify as securities and are instead helping promoters to structure offerings that are not compliant with securities legislation in cases where compliance should be required. The tone of his remarks emphasized the importance of investor protection and echoed the SEC’s previous cautionary statements relating to ICOs.

In addition to the role of market professionals, Clayton emphasized the SEC’s commitment to examining public companies that suddenly change their name by adding “blockchain”, “cryptocurrency” or other buzz words, or shift their business model to distributed ledger or blockchain technologies, especially in the context of an offering. Underlying these efforts is the importance of potential investors adequately understanding the risks of investing in a company that is not well-versed in the marketplace.

To read the Chairman’s full remarks, [click here](#).

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