



ICO GUIDELINES

ABOUT US

“Lithuania has found itself in the middle of explosion of ICOs and blockchain based projects and in line with other countries – financial incumbents, when total values of all ICOs are being measured.

This has happened due to our leadership in FinTech, advanced IT sector and infrastructure, open-minded public authorities, their encouraging signals and persistence in providing alternative access to finance to SMEs and startups.

This situation has also created a great challenge, requiring to find the right balance between promoting the innovations which would, among other things, greatly increase the possibilities of SMEs’ financing while also create investment opportunities and, at the same time, safeguarding established sound reputation and resilience to potential shocks of the financial system, protecting customers, preventing money laundering and terrorism financing.

Of course, risks are ubiquitous. But we can not ignore the development of new financial instruments and phenomenon of blockchain technology. We do believe that certain usage of it, such as ICOs, should be regulated. Lithuania already has an exceptional regulatory advantage. We are one of the first ones in Europe who prepared comprehensive Guidelines on legal framework for ICO projects covering regulatory as well as taxation and accounting.

We acknowledge that the brave new crypto economy world is here to stay, this is why we encourage and invite its participants to innovate and create in Lithuania.

After all, we are not called **#Litechnia** for nothing”.
Minister of Finance Vilius Šapoka



Minister of Finance
Vilius Šapoka

ICO GUIDELINES

These Guidelines are another step towards more certainty and transparency in the regulatory, taxation, accounting and other requirements as well as better cooperation between different stakeholders.



REGULATORY



TAXATION

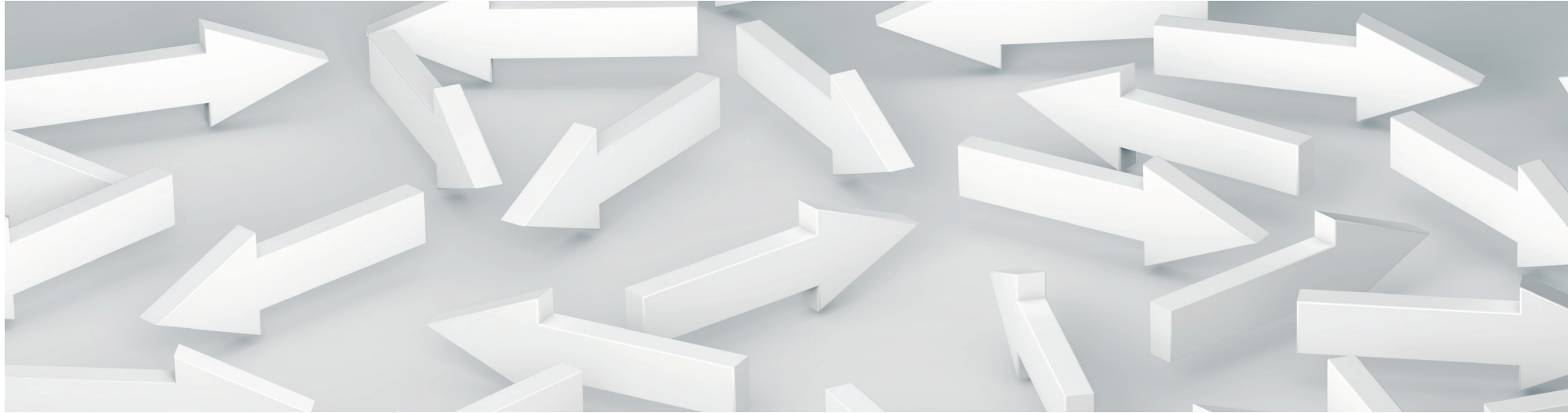


ACCOUNTING



AML / CFT

REGULATORY



Initial coin offering (ICO)

ICO shall mean any initial coin (token) offering with the purpose of attracting capital or investment for the development of a new product or service, company or its activity.

Organizing ICO is not regulated by specific legislation, however, taking into account different ICO models and different characteristics of tokens, in some cases, such activity may be subject to the requirements of the legislation of the Republic of Lithuania and supervision of the Bank of Lithuania.

Depending on the conditions of a specific issue, released tokens may grant different rights to their owners, such as the right to participate in the company management process, receive part of the company's profit, receive part of the company's income, receive interest for invested funds, recover the invested funds and receive additional income through redemption of the tokens, sell the tokens to another person. If the tokens issued grant one or more of the rights described above, the probability exist that it will be considered as security and the obligation to comply with relevant legislation will follow.

Obligations to financial market participants (FMP)

Bank of Lithuania acts as a regulatory authority of financial markets in the Republic of Lithuania. Only the entities that are planning to provide regulated financial services and (or) projects which released tokens that have characteristics of securities will be under its scrutiny. Otherwise, engagement in activities associated with virtual currencies is not the provision of regulated financial services.

FMP providing regulated financial services can participate in activities or provide services associated with virtual currencies if they can be separated (legally and practically) from the regulated entity and financial services provided by the FMP.

FMP shall ensure that their (i) regulated financial services, (ii) name, brands, domain etc., (iii) managed environment (website, platform, mobile application, online account, etc.), or other indications have no link with services associated with virtual currencies.

In providing financial services to customers who are engaged in activities associated with virtual currencies, FMP should ensure compliance with the requirements of money laundering and terrorist financing prevention legislation, and take appropriate measures to manage the risk of money laundering and/or terrorist financing.

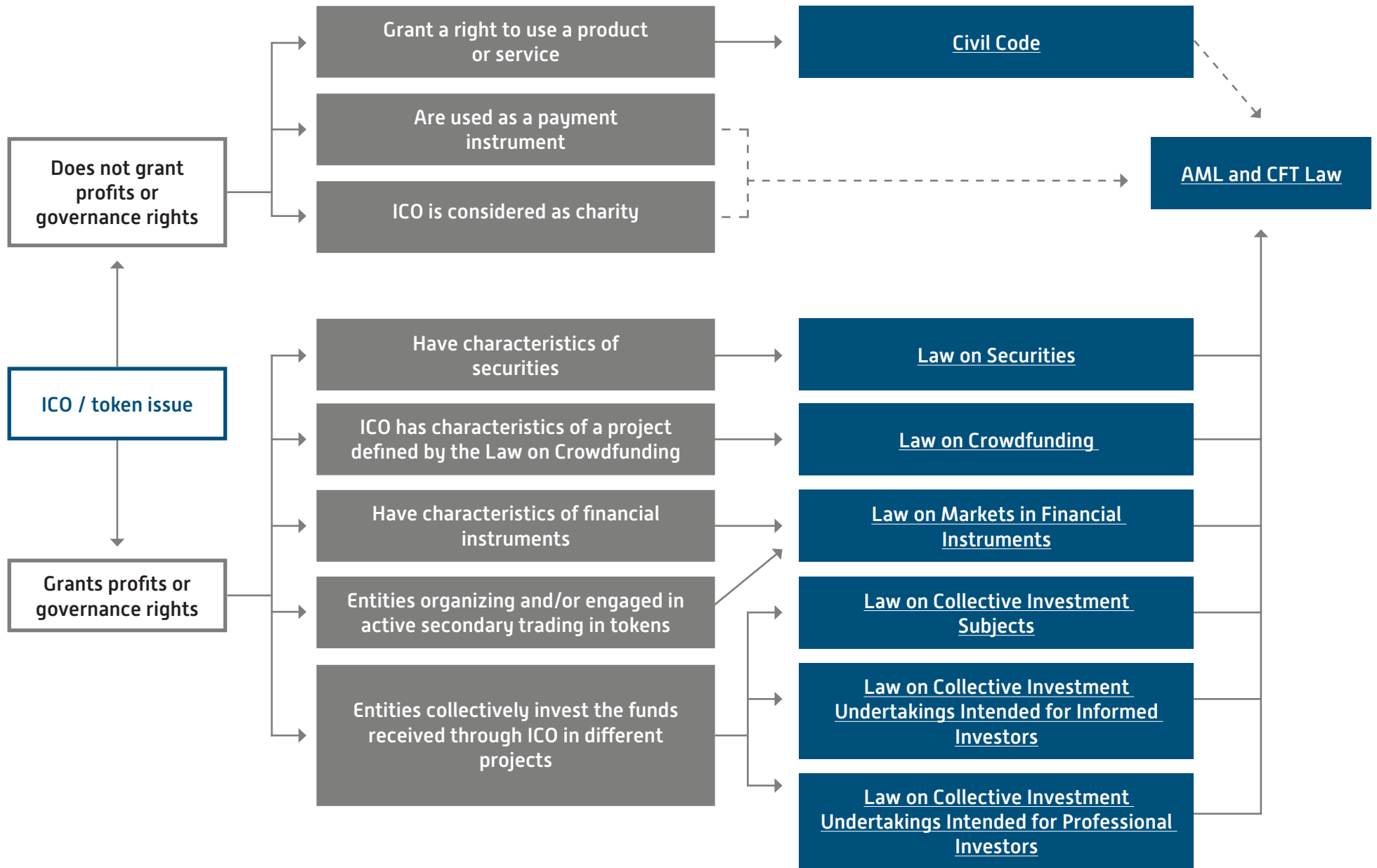
Laws applicable

If funds collected during ICO are intended for the formation of the capital of a newly established FMP – the capital forma-

tion requirements applicable to a specific form of financial institution shall apply ([see here](#)).



- > [Position of the Bank of Lithuania in full](#)
- > [Corresponding Q&A section of the Bank of Lithuania](#)
- > Email: newcomer@lb.lt



- - - -> *Applied indirectly through requirements to the virtual currency exchanges and wallet services operators*

TAXATION



Asset class

In terms of Corporate Income Tax and Personal Income Tax, according to the substance and economic sense of transactions, the virtual currency is recognized as current assets that can be used as a settlement instrument for goods and services or stored for sale.

For the purposes of VAT, the virtual currency is considered as the same currency as euros, dollars etc.

For the purposes of other taxes, other type of instrument, e.g. certain types of tokens, may be recognized as a virtual currency as well.

Whether a certain token is to be considered as a security token, the opinion presented by the Bank of Lithuania concerning the recognition of such a token as securities does not necessarily mean that for tax purposes this token will be treated the same way.

Corporate income tax

Funds collected through ICO are not considered to be the subject of corporate income tax when:

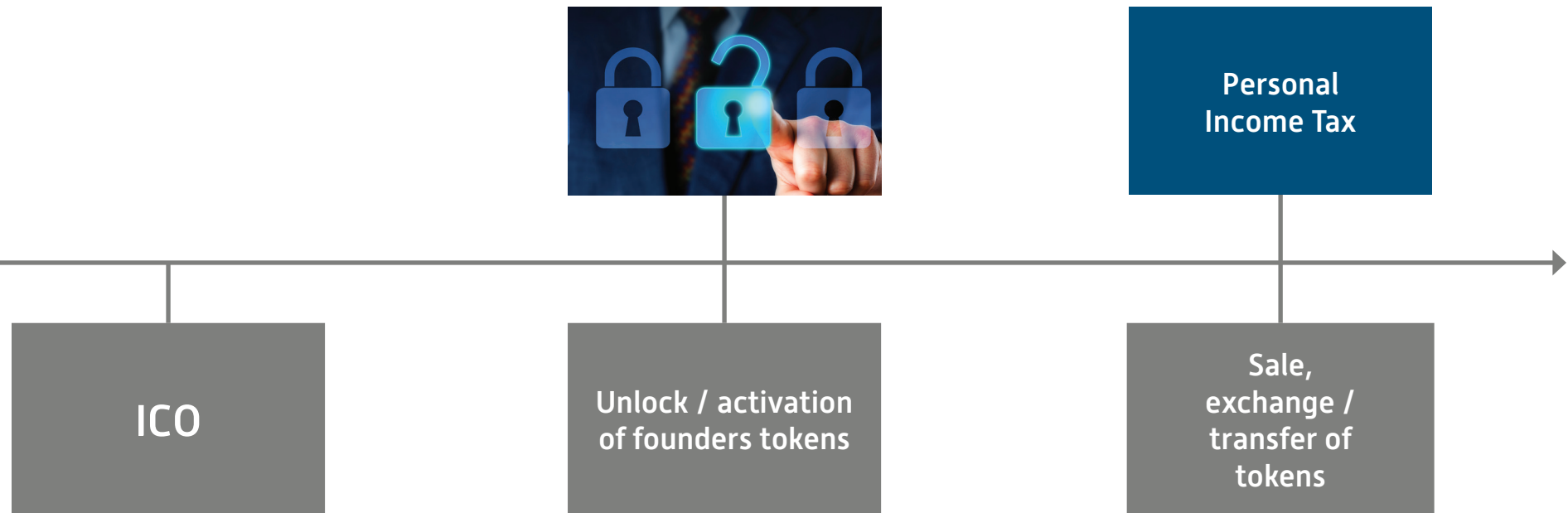
- tokens issued have the characteristics of securities defined in Articles 1.101 – 1.108 of the Civil Code of the Republic of Lithuania (i.e. grant the right to ownership, management of a company or grant other shareholders' rights such as the right to get a part of profits of the company in the form of dividends or other form, provide for the payment of interest or redemption of tokens or etc.) and correspond to undertaken obligations;
- tokens issued grant the right to use a product or services by paying in tokens; the funds generated this way are considered as advance payment (advance) to be included into future contributions. The issue of tokens designated for acquisition of goods or services is considered as only a transfer of cash, it is not considered that the income is earned (i.e. tokens grant the right to the token holder to acquire goods/services for the amount indicated in these tokens), income is recognized when the entity sells goods or provides services for the real market price.

In cases when tokens issued through ICO are not considered as securities or an advance payment for goods or services, but only confirm the fact of the payment without granting any rights, the funds collected are recognized as the income when the tokens are transferred (issued).

Personal income tax

Income of residents from purchase-sale of virtual currencies, or from sales of produced virtual currency may be charged as income from individual activities, if such activities satisfy the aggregate criteria of continuity, autonomy and pursuit of economic benefits. Continuity is attributable to performance of activities of such nature for continuous period, which is not limited by tax period. Such operational circumstances as recurring, continuous transactions, their number, continuous period (recurrence) are related to the nature of continuity of such activities.

Income received from individual purchases and sales of virtual currencies will be taxed standard 15% fixed income tax rate.



Tokens designated to founders

Not activated / locked tokens received by founders without payment will not be considered as subject to the income tax and will not be charged by the personal income tax until sale of these tokens (e.g. sale, exchange or otherwise transfer of tokens).

Value added tax

For VAT purposes tokens are divided into:

- 1) tokens equated with securities,
- 2) tokens equated with a virtual currency,
- 3) tokens ranked as coupons.

The release of tokens (ICO) is neither supply of goods nor provision of services, therefore, is not subject to VAT.

When tokens treated as **securities** are supplied for payment through ICO, such tokens are treated as issue of shares which is not subject to VAT.

When the place of supply of tokens treated as **virtual currency** is Lithuania then such supply is usually VAT exempted.

When tokens treated as **coupons are supplied in Lithuania**, then the consideration received for such supply will be considered as advance payment which, usually, taking into account the fact that at the time of receipt of an advance payment the tax regime is not clear, will not be subject to VAT.

Value added tax deduction

When tokens are being auctioned in ICO, whether the expenses related to the release of the tokens can be deducted depends on what (VAT taxable, non-taxable or mixed) activity will be launched.

Mining

When virtual currency is mined, no goods/services are usually supplied for consideration, therefore, the mining of virtual currency is not subject to VAT.

If a person receives a reward (no matter in what form) for supplied mining services to other person and these services for VAT purposes are considered as supplied in Lithuania, such services are subject to VAT.

Sale of mined virtual currency (exchange to traditional or other type virtual currencies) is considered as supply of services for a reward for VAT purposes. However the sale of such currency in Lithuania is VAT exempt.



> [Position of the State Tax Inspectorate in full](#)

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ACCOUNTING



Accounting of ICO tokens

If ICO promoter expenses for the establishment of the platform functioning on Blockchain basis are not related to the receipt of reasonably expected economic benefits from the further management of this platform after ICO issue, they are recorded as costs in the profits/loss statement. If such economic benefits are reasonably likely, as ICO promoter has the possibility of receiving intermediation and other income from the users of the established platform, such expenses may be recognized as the acquisition cost of intangible assets. Tokens circulated by the token promoter during ICO that remain in the crypto- wallet of the token promoter are recorded in the off-balance account and recognized as units of a cryptocurrency accounted at fair value only after the active market of purchase/sale of tokens stabilizes, when the possibility of selling them under normal market conditions occurs.

Accounting of tokens circulated by the token promoter depends on whether they are attributed to payment, utility and securities tokens:

- a company after circulation of payment tokens, usually, does not have to recognize any additional related liabilities; therefore, the inflows received after the expiry of ICO are immediately recognized as income. However, when a company during circulation of such tokens assumes a liability to further serve the established service platform free of charge, it also should recognize the provisions to provide such services;
- after circulation of utility tokens, a company usually has to recognize the provisions that reflect the variable part of the company's liabilities;
- after circulation of securities tokens, a company depending on their nature, usually, additionally records financial liabilities, the accounting method and type of which depends on the nature of the liabilities assumed.

After acquisition of tokens, a company at initial recognition in the accounting records them at acquisition cost, and during the subsequent evaluation – at fair value through profit and loss.

Accounting of acquired tokens also depends on the type of tokens:

- a holder of tokens, usually, recognizes payment tokens in the ac-

counting in the same way as cryptocurrency coins used for payment purposes;

- acquired utility tokens may be used for various services, discounts or goods. Before the use of tokens, holders of tokens record them as payment tokens. After the holders of utility tokens use the rights associated with tokens, received additional economic benefits are recorded depending on the nature of benefits and a possibility of further use the token. When after the use of the rights granted by a token it is annulled, a company which used it should record the difference between the value of services/products received and fair value of the utility token as profits/loss;
- the holder of the securities tokens usually records additional benefit granted by tokens as financial return or as a financial asset depending of the nature of this benefit.

Intermediary on the cryptocurrencies market

An undertaking performing intermediary services recognizes the cryptocurrencies acquired for trading purposes as stocks at net realizable value. After sale of cryptocurrencies acquired for trading purposes, revenue from sales and cost of sales are recorded.

Evaluation of cryptocurrencies used as payment means according to Business Accounting Standards (Lithuania GAAP)

Cryptocurrencies used as means of payment (cryptocurrency coins) should be attributed to financial assets (BAS 18), which is measured at fair value by presenting the change in fair value in the profits/loss statement.

In the absence of the possibility of a reliable measuring of the fair value of the cryptocurrency, this cryptocurrency should be registered at acquisition cost minus impairment amount.

Though cryptocurrencies used for payment purposes have the features characteristic more to cash than short-term investments, considering their virtual nature and in order to separate them from funds with a traditionally low risk of changes in value on the accounts of financial institutions, it is proposed to record cryptocurrencies not in the account "271 Bank accounts", but in the accounts "262 Other investments" by using a separate account "2625 Cryptocurrencies" and by disclosing the risk of the change in their value in the explanatory notes.

Accounting of cryptocurrencies used as payment means

The acquisition cost of a cryptocurrency used as means of payment is established based on the paid or payable amount of money for it. If during its acquisition, fees to intermediaries are deducted, such deductions should not be shown separately, and following BAS 18 should be included into the acquisition cost of a cryptocurrency.

In establishing the fair value of a cryptocurrency during the subsequent measurement, a data source should be selected for the undertaking to use it regularly in establishing the value of a cryptocurrency. The best data source is considered to be Internet websites that regularly publish the average market prices from the main global cryptocurrency stock exchanges.

All costs related to mining activities of a cryptocurrency should be immediately recognized as expenses, and a mined cryptocurrency at the initial recognition is recorded at fair value by presenting the difference in fair value as income in the profits/loss statement.

> [Position of the Authority of Audit, Accounting, Property Valuation and Insolvency Management in full](#)

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AML / CFT

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Amendment of AML and CFT Law in Lithuania

5th AML Directive has been adopted on 19 April.

Ministry of Finance of the Republic of Lithuania with Bank of Lithuania and Financial Crime Investigation Service are preparing amendments of Anti-Money Laundering and Counter Terrorist Financing Law of Lithuania.

First round of amendments will concentrate on provisions relevant to virtual currency exchanges and wallet services operators, aiming at increasing transparency and clarity of regulation together with stability and security of the financial market.

DISCLAIMER



These Guidelines cannot be regarded as an official interpretation of the legislation. Bank of Lithuania, State Tax Inspectorate, The Authority of Audit, Accounting, Property Valuation and Insolvency Management and other relevant institutions make decisions taking into account the entirety of actual circumstances which may differ case by case. These Guidelines cannot be regarded as the decision in a specific case. These Guidelines describe only part of the aspects examined by relevant institutions, in case of discrepancy between Guidelines and positions of institutions, the latter shall prevail.

Due to novelty of this sector the relevant legal regulation can change following the supranational (EU) and (or) national legislative initiatives. Ministry of Finance of the Republic of Lithuania, as well as other state institutions reserve the right to amend these Guidelines or any part of it at any time.



ICO GUIDELINES



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of the Republic of Lithuania

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