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Spain: Blockchain ¿What is it?

The Internet era is willing to take the next step, if that is still possible. From some time now, a new concept has been sounding, and has the intention to make a lot of noise: the blockchain.

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España: Blockchain ¿Qué es?

La era del Internet está dispuesta a dar el siguiente paso, si es que eso sigue siendo aún posible. Desde hace un tiempo, viene sonando, y con ánimos de hacer mucho ruido, un nuevo concepto: blockchain o cadena de bloques.

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Perú: Nuevos emprendimientos mineros y agroindustriales de Buenaventura y Chapi

[Leer más](#) | ⌚ 3 minutos

Mexico: Law Firms and Sketchy Papers

[Read more](#) | ⌚ 3 minutes

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Blockchain ¿What is it?

ILP Abogados

Spain

The Internet era is willing to take the next step, if that is still possible. From some time now, a new concept has been sounding, and has the intention to make a lot of noise: **the blockchain**.

The *blockchain* has been used in the banking sector since 2009, when *Bitcoin* was launched. When we talk about *bitcoins*, we are talking about currencies issued in the form of *cryptomoney*. In order to make the transactions safe and fast, the *blockchain* format was created.

What does this exactly mean? Blockchain is a decentralized network, which functions as a database, where information is hosted about all transactions carried out in a specific market. Each participant in this network is called a 'node'. They are responsible for enforcing, for example, a transfer between two users. **How?** Transmitting *tokens*. A *token* is the way in which all the information hosted in their computers is represented. The node receives a programmed code from user A, which hides certain information and immediately executes it and transmits it to its addressee, user B. It should be noticed that this information is encrypted, which may only be decrypted by B.

Today, the race has continued to advance, and a new technology called *Ethereum* has arisen. It also works with the blockchain formula, but it goes a step further in some aspects. Its aim is to apply this system to sectors other than banking. It attempts to substantially increase the efficiency of the industry, moving far beyond currency. This could translate into smart contracts. This means, a software program which enfor-

ces certain guidelines, such as executing the transfer of a certain amount of money when a certain condition has been met. Also, another novel figure called *GAS* has been incorporated. This is defined as the fundamental unit of computation, i. e. the number of codes that are executed. On the other hand, the currency used in this process is called *ether*.

There are sectors such as oil, insurance, etc. that are already investigating how to put this whole process into practice. **Where does this place us lawyers?** In the future, apparently not too far, we will be forced to learn to write code and talk to customers in technological terms. Many eyes see us outside the chain, because the procedure itself lies under eliminating intermediaries, and with them, reducing costs. It turns out to be interesting, however, that some firms (Hogan Lovells, Shearman & Sterling LLP...) are already starting its application. The contrast, then, is served.

Reforms to Environmental Institutionalality

Estudio Jurídico Otero

Chile

In April 2015, the President of Chile, Mrs. Michelle Bachelet Jeria, ordered the creation of a Presidential Advisory Commission to reformulate, among other things, the Environmental Impact Assessment System Regulation (Reglamento Sistema de Evaluación de Impacto Ambiental - SEIA). The purpose of this Regulation is to regulate the environmental assessment of investment projects and the environmental participation of natural or legal persons in that evaluation.

The mission of that Commission was to optimize the SEIA and make more efficient and effective the processing of projects within the environmental institutional framework. Basically, what was sought was to streamline the procedure of evaluation and approval so that the projects could count on environmental certainty and comply with current regulations, begin its construction and operation as soon as possible, without bureaucratic obstacles.

In this regard, the Minister of the Environment, Marcelo Mena, stated that:

“The changes we are proposing seek to provide greater clarity regarding what should and should not enter the SEIA, and make it more efficient by clearing aspects that are covered by sectorial permits to focus the system’s action in what is most important for us: to evaluate exhaustively the environmental impact of the projects.”

Currently, this modification proposal is under the procedure of citizen consultation for a period of 20 days which end on November 17, 2017, within which period the people who deem it appropriate may make their comments.

As main modifications included in the proposed new regulation, we can highlight that:

- 1 In the area relating to energy, distribution substations are excluded.
- 2 In the maritime area, specifically in relation to shipyards, an entry floor is added to the SEIA of vessels of more than 100 tons.
- 3 In the mining area, mining prospecting carried out in the areas where exploitation activities are being executed would be eliminated.
- 4 In the area of environmental sanitation, water treatment plants of domestic origin raised the entry threshold from 2,500 to 5,000 inhabitants.

We would like to point out that, regarding relevance consultations (which are resolutions issued by the Environmental Assessment Service, where at the request of an individual, it resolves whether an investment project should or should not enter the environmental assessment system), they cannot be required as a condition for granting an environmental permit. This eliminates at the very root a widespread practice that unnecessarily hindered and delayed the



obtaining of environmental permits.

We will have to wait for the end of the citizen consultation and the subsequent processing by the executive power to evaluate what the modification will finally be like, notwithstanding that it needs for its entry into force, of its being recorded by the Comptroller General of the Republic.

But what is important and auspicious is that beyond the paperwork that is still missing for its approval and entry into force, is that the executive is focused on streamlining the current long and cumbersome process of environmental assessment and providing greater legal certainty which will allow promoting and increasing investment in major development projects in the country.

Finally, and for those who are most critical, it is necessary to remember that streamlining does not mean lowering environmental standards, and much less disregarding the Environment”.

New mining and agroindustrial ventures of Buenaventura and Chapi

Estudio Laos, Aguilar, Limas & Asociados

Peru

The Buenaventura Mine Company (Peru) is aiming to develop a copper processing plant with reduced levels of acid, said its CEO, Victor Gobitz, in an interview with the Reuter news agency, quoted by the newspaper Gestión.

The company has plans to locate the facility next to the existing Rio Seco manganese plant in the city of Huaral, about 100 km from Lima, Reuters reported.

“ We have all the spaces, and we are obtaining all licenses and permits to install an arsenical copper plant in the future ”

added Gobitz, without giving details or construction deadlines.

“ It’s a great technological and financial challenge. As part of Buenaventura’s strategy, we will formally seek partners to the development of this project ”

The executive explained that the plant would serve to give a solution with sustainable value for shareholders in projects such as its Marcapunta site.

More gold in Tambomayo

Likewise, by April 2018, Buenaventura plans to carry out further exploration of its gold operation in Tambomayo (Arequipa). These works are part of a modification of the environmental impact study that the company presented to the Ministry of Energy and Mines (MEM) in August. The initiative proposes 106 drilling in the vicinity of the current operation, where underground work was carried out, and a debris deposit will be installed. The goal is to find more gold resources as well as expand the project area. The exploration, habilitation, closure and post-closing will last ten years (120 months).

The explorations are carried out in eight mining concessions belonging to the company in the province of Caylloma-Arequipa, which comprehend an effective area of 935 hectares. The total of the perforations will add more than 51,000 meters of depth. The application is in the evaluation stage. The company had already received the Ministry of Energy and Mines (MEM) approval of a semi-detailed environmental impact study (EIASD) in 2010, a first modification of the EIASD in 2013 and a technical report in 2014. The construction of Tambomayo required approximately US \$ 362 million. The company announced at the time that Tambomayo would reach commercial production this August, and would close the year with a delivery of 60,000 and 90,000 ounces of gold, and by 2018 would reach an output of 150,000 ounces of gold.

Agrícola Chapi is also looking for a partner for projects in Olmos

Indeed, the company currently has more than 30% of the 1,000 hectares of the Olmos Project (located 700 km north of Lima) in the process of cultivation. The new partner that it is looking for, and that would be incorporated in 2018, would allow accelerating the projects that the company also has in Casma and Ica, where the company has 500 hectares and 1,500 hectares respectively.

Currently, the company has a partnership with ICCGSA Agroindustrial for the development of the Project that has in Olmos; however, this last company that owns 50% stake in the Olmos Project, it plans to withdraw from the project.

The Chapi's agricultural plan for its fields is to boost avocado production in the Hass variety, taking advantage of the rise in the price of this product. In Ica, for example, they have tripled the hectares of avocado (300 ha) that will give their first harvest towards 2019.

In Casma, Chapi owns 500 Has, however only cultivates 150 Has. of asparagus, but it is looking forward to starting with 200 Has. of Mango Kent.

The improvement of the expectations in the investment projects can be observed. The increase in the prices of minerals, coupled with an increase in confidence in the policies of the Government, is pushing the Peruvian companies to value their mining projects, as well as the agroindustrial enterprises.

Law Firms and Sketchy Papers

By: Lic. Orly Jasqui Esquenazi

Bitar Abogados

Mexico

There are the Panama Papers, Paradise Papers and many other sketchy documents that show the infinite ways in which the wealthy can abuse of the secretive offshore tax regimes, which we do not know about just yet. These papers are generally documents that belong to accounting, financial and law firms' files that have been leaked to the public, putting their clients' offshore investments and operations for the whole world to see and, mostly, to judge.

Let's be clear, having offshore companies, bank accounts or investments is not by itself a crime. However, using them as part of a tax evasion strategy to hide money or assets from the government is against the law, as the government cannot tax what it does not know about.

Tax evasion through offshore investments or companies often works as follows: a wealthy person sets up a corporation, entity or trust fund in a "tax haven" where the name of the ultimate beneficiary of the assets is nowhere to be seen. This entity is often a "shell company", which generally does not perform any commercial activities, and only pretends it does. by the use of this "shell company", according to the owner needs and operations, a scheme is set up to hide the money from the relevant government's reach.

Tax evasion has social and economic consequences, as only a very small group of the population has the means to set up this kind of strategies to not pay taxes, therefore the government has fewer resources to

provide services and most of the tax burden falls into the middle and lower classes, causing a more unequal society.


It is estimated that tax avoidance globally costs as much as USD \$240 billion in lost revenues per year.¹

So, **what should a law firm do when it is approached by a client who is interested in having offshore investments and operations?** Lawyers shall always give guide and advice to their clients by providing with alternatives that meet their needs. Firms in Mexico can help their clients in this situation through different legal mechanisms.

For example, lawyers must explain that they can participate in offshore investments and companies in compliance with Mexican Law. Specifically, by acting pursuant to Title VI of the Income Tax Law (ITL), which states that income from certain types of companies and operations in low tax jurisdictions might be subject to a preferential tax regime. In this case the taxpayer might be allowed to pay fewer taxes, as the business was made, and the income was earned out of the country.

The income is deemed to come from a low tax jurisdiction when it was generated abroad, and it is not subject to taxes in that country, or it is subject to a local income tax at a rate that is less than 75% of Me-

¹ Organization for Economic Co-operation and Development (OECD).



xico's income tax rate. Passive income (i.e. dividends, royalties, etc.) of a Mexican resident, derived by an entity in a low tax jurisdiction, should be taxed in Mexico in the year it was caused. Active income might be considered nontaxable in certain circumstances.² In any case lawyers, must make sure their clients understand that all income earned in a preferential tax regime should be informed to the Mexican authorities by filing an annual tax return.

Lawyers are bound by legal ethics, so they should always act pursuant to principles and values such as honesty, good faith, justice and respect, among others.³ Part of their duties is to make their best efforts to avoid a conflict from arising and, to abstain from advising fraudulent operations.⁴ Therefore, the firm's role is to advice the client without putting him at risk, keeping him away from sketchy operations, and papers, that might take him behind bars.

² Income Tax Law. Federal Official, México, 2017. Article 176.

³ Professional Ethics Code of the Mexican Bar Association (Barra Mexicana de Abogados), México, 2017. Article 1.

⁴ IBID. Article 9, sections 9.1 y 9.2.