

## **Wild Wild West of ICO's time to move over, Regulated ICO's are coming (#TAO) by Oscar A Jofre**

Those that can remember the wild wild west of crowdfunding back in 2010-2011 will have a feeling of dejavu seeing the 2017 ICO market take off. Not that crowdfunding ever saw the numbers that we are seeing in the ICO market, but that is because the securities regulators stepped in early when crowdfunding launched in order to protect the market.

What ICO's are demonstrating, that crowdfunding never had the chance to, is the global willingness of investors from a variety of countries to invest in all sorts of early stage companies. The main reason here why ICO's are having success where crowdfunding did not comes down to the underlying technology, namely "Blockchain".

ICO's have demonstrated that investors are willing to invest in companies anywhere in the world. Traditionally, it was believed that investors like to only invest locally. This local investing premise has been the driving force behind the success of Silicon Valley and other hot spots where companies and local investors meet.

So what is different with ICO's? It is mainly due to the underlying Blockchain technology that brings TRUST to investors/contributors who immediately get a token in exchange for their contribution.

According to the cryptocurrency statistics website [Coinschedule](#), a total of **235 ICO's** have raised over **\$3.7 billion in 2017**. There does not appear to be any slow down in this market as this seems to be the new flavour for companies raising money.

Going forward what does it mean for investors and issuers alike who are preparing for the opportunity of utilizing an ICO as a way of accessing capital in 2018?

The wild wild west of ICO's is now done and the days of fluff whitepapers, will not be enough to get your ICO off the ground. Going forward companies will need to comply with full disclosures, managing, directors, agreements, compensation, financial statements, etc

So where to start:

I won't go into the merits of which type of token you want to offer: utility or security. This article will be solely based on Regulated ICO, Security Token, or TAO (Token Asset Offering) in the USA and Canada for companies, investors and platform operators. But I strongly believe that most global regulators (as we are seeing more and more) will be regulating ICO's as securities.

What is a Security Token, Regulated Token, or TAO?

The main characteristic of all of these that is important to understand is that they are subject to securities laws. The token has to be sold through a securities exemption to allow the investor to purchase and sell the token in a secondary exchange.

It's very important to understand the exemptions you will use to sell your Security Token as each one will have different qualifications and rights to the investor who is purchasing your token. This is outside of the workings of your token, these exemptions must and should be applied using a smart contract to protect the company, investor and platform who are all part of the crowd sale for the Security Token.

For the pre-sale stage of your Security Token companies are opting for issuing a [Simple Agreement For Future Tokens \("SAFT"\)](#) to investors, this allows the company the time to build out its protocol and issue the token to the general public under the securities exemptions they will use. The [SAFT](#) was created by one of the leading authorities in the USA [Marco Santori at Cooley LLP.](#)

**What is a [SAFT](#)?** Simple Agreement for Future Tokens

As outlined in the article, [SAFTs](#) are designed to be sold to accredited investors as a means of funding development in a way similar to the way equity changes hands in traditional venture capital. In a SAFT sale, no coins are ever offered, sold or exchanged, rather, money is exchanged for traditional paper documents that promise access to future tokens.

Now we have the framework so let's look at how investors, companies and platforms operated by dealer can participate in these Security Tokens.

### **USA Investors, Issuers & Platforms**

USA has two main exemptions that investors must fall under in order to invest:

#### **1. Accredited Investor (AI) 506(c) Reg D**

Any accredited investor (AI) who qualifies under the regulations can invest any amount and purchase Security Tokens from any qualified issuer. The AI will have the ability to also sell and exchange their security token in a secondary security exchange like Overstock Tzero. Filecoin raised US\$150M utilizing this exemption with a SAFT.

#### **2. Non accredited Investors RegA+**

This is for everyone else over the age of 18 who can now invest in companies and also have the ability to purchase Security Tokens. For companies who have used this exemption it has allowed investors after a 4 month hold to sell their securities in public stock exchanges. For the same to occur in token's a new exchange will be required to be able to sell or purchase these tokens.

For companies based in the USA you have two exemptions under which you can sell your Security Tokens. For non USA based companies you can only use the AI exemption unless you are a Canadian based company in which case you are allowed to use the RegA+.

### **Canadian Issuers & Platforms**

Canada is similar to the USA in that it has two exemptions that can be utilized by investors:

### **1. Accredited Investor Exemption**

Similar to that of the US, and many global jurisdictions, AI's can invest in private companies. Any issuer, Canadian or not, can use this exemption to raise money from AI's in Canada.

### **2. Non Accredited Offering Memorandum (OM) Exemption**

Canada offers two types of non-accredited investors under the (OM exemption). Anyone over the age of 18 (with limits) can invest and purchase securities and Security tokens but they are not able to resell them on any secondary exchange.

Any issuer, Canadian or not, can use this exemption to raise money in Canada. Issuers can use the OM to sell their tokens to investors which allows you to reach everyone over the age of 18 who can invest as low as \$100. So this exemption gives you the ability to reach the masses. Any investor who purchased a token under this exemption there is no liquidity, you cannot take his token to an exchange to trade.

### **Summary**

For issuers you need to understand the exemptions that you can use and how it will impact your investors. For companies based in the US and Canada, you must follow these exemptions to make sure you are not offside with securities regulators.

For issuers from outside of USA and Canada, you need to understand what investors you might be able to sell to and what your regulatory requirements are for accepting that investment in your Security Token.

The best exemption at the moment in both countries and globally is the AI (accredited Investor) exemption. This exemption allows the AI to take their token to a secondary exchange and sell it to another AI.

2018 first company to announce a [Security Token is KodakCoin](#) who has also made a follow on announcement that it will list its coins on [TZeros secondary exchange](#) for Security Tokens.

As you can see the emergence of Security Token is already happening so it is time to get your company ready for the new wave - Security Tokens ( #TAO ).

### **About the Author:**

Angel List: <https://angel.co/oscarjofre>

Twitter: @oscarjofre

LinkedIn: <https://www.linkedin.com/in/oscarjofre>

### **Oscar A Jofre**

#### **Co-Founder, President/CEO**

- KoreConX Corp.
- KorePlatforms Inc.
- KoreTransfer Inc.
- Kore.Exchange Corp.

#### **Global Fintech & Blockchain Advisor:**

- Elara
- Alliance M & A
- KlondikeStrike
- VentureMarket.ca
- Techquity.ca
- Mikibrix

Oscar is currently one of the Top 10 Global Thought Leaders in Equity Crowdfunding, a Top 5 Fintech Influencer, Top 10 Blockchain and a Top 50 InsureTech. He has published an eBook that has been downloaded in over 20 countries, and been distributed by partners worldwide.

Oscar is a featured speaker on Fintech, regulated, equity

crowdfunding, compliance, shareholder management, investor relations, and transparency in the USA, Australia, UK, Germany, France, Netherlands, Canada, Singapore, Indonesia and China. He speaks to audiences covering alternative finance, equity crowdfunding, TAO, ICO/ITO, RegTech, insurance, banking, legal, and crowdfunding. Oscar also advises the world's leading research, accounting, law firms and insurance companies on the impact Blockchain, TAO, ICO, Fintech, RegTech, LegalTech, InsurTech and OrgTech is having in their business.

He is a member of the Crowdfunding Intermediary Regulatory Advocates (CFIRA) in the USA, and a contributing author to The Fintech Book, the world's first crowdsourced book on Fintech globally. He writes for Sharewise, Locavesting, Equities.com, Business.com, Crowdfund Insider, Crowdfund Beat, and Agoracom.

Oscar has been recognized as one of the 10 most influential Hispanic Leaders in Canada. In May 2010, Oscar A. Jofre Jr. was recognized by the Rt. Hon. Stephen Harper for his accomplishments.

<http://www.marketwired.com/press-release/boardsuiter-corp-president-ceo-oscar-a-jofre-jr-recognized-rt-hon-stephen-harper-1272320.htm>

Oscar was awarded the Vision 2012 Business Man of the Year by the Toronto Hispanic Chamber of Commerce on September 2012.

Angel List: <https://angel.co/oscarjofre>

Twitter: @oscarjofre

LinkedIn: <https://www.linkedin.com/in/oscarjofre>