ICLG

The International Comparative Legal Guide to:

Fintech 2019

3rd Edition

A practical cross-border insight into fintech law

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Country Question and Answer Chapters:

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Country Question and Answer Chapters:

EDITORIAL

Welcome to the third edition of *The International Comparative Legal Guide to: Fintech*.

This guide provides corporate counsel and international practitioners with a comprehensive worldwide legal analysis of the laws and regulations of fintech.

It is divided into two main sections:

Two general chapters. These chapters provide an overview of artificial intelligence in fintech, and of the recent trends and challenges in the financing of cross-border fintech start-ups.

Country question and answer chapters. These provide a broad overview of common issues in fintech laws and regulations in 51 jurisdictions.

All chapters are written by leading fintech lawyers and industry specialists and we are extremely grateful for their excellent contributions.

Special thanks are reserved for the contributing editors Rob Sumroy and Ben Kingsley of Slaughter and May for their invaluable assistance.

Global Legal Group hopes that you find this guide practical and interesting.

The *International Comparative Legal Guide* series is also available online at www.iclg.com.

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1 The Fintech Landscape

1.1 Please describe the types of fintech businesses that are active in your jurisdiction and any notable fintech innovation trends of the past year within particular sub-sectors (e.g. payments, asset management, peer-to-peer lending or investment, insurance and blockchain applications).

Gibraltar's economy continues to grow year on year and this has largely been due to the financial services and gaming sectors. Gibraltar is well known as a gaming and e-gaming jurisdiction, being home to numerous blue-chip gaming companies (such as Bwin Party, Ladbrokes, Coral, Bet365, etc.).

Since the Government's announcement, in 2017, that it would be establishing a regulatory regime to regulate providers that store or transmit value belonging to others using DLT, Gibraltar has seen an astonishing growth in the DLT sector and has cemented its position as a blockchain-friendly jurisdiction. This has included companies establishing Gibraltar vehicles for Initial Coin Offerings ("ICOs") and seeking licensing in Gibraltar as crypto exchanges or crypto wallet providers.

The Financial Services (Distributed Ledger Technology) Regulations 2017 ("DLT Regulations") came into force on the 1st January 2018 and regulates any entity which, by way of business, stores or transmits value belonging to others using DLT. This licensing regime was the first of its kind, worldwide. Gibraltar led the way when it came to the creation of a tailored licensing regime engineered for DLT businesses.

As at the date of this publication, the Gibraltar Financial Services Commission ("GFSC") has received over 40 applications and has issued seven DLT providers licences. Whilst Gibraltar is at the vanguard of the DLT revolution, Gibraltar's traditional fintech businesses continue to evolve and grow despite the uncertainty with Brexit. Two new gaming companies have recently been established: MoPlay and LottoMart. Furthermore, companies such as Easy Payment Gateway Limited continue to push the boundaries in the online payments' software space, amassing countless awards in Spain and elsewhere for their innovative and technological solutions.

This melting pot of innovative entrepreneurs and savvy individuals with technological background, a pool of service providers that understand the industry, and a welcoming regulatory and taxation environment have created the ecosystem for Gibraltar to establish itself as the fintech jurisdiction of choice.

1.2 Are there any types of fintech business that are at present prohibited or restricted in your jurisdiction (for example cryptocurrency-based businesses)?

Whilst there are no legislative restrictions on the type of fintech business that can be established in Gibraltar, the activity may require licensing under either 'traditional' financial services legislation, the DLT regulations or the token offering regulations, which are scheduled to be published imminently. Advice should be sought in this regard.

2 Funding For Fintech

2.1 Broadly, what types of funding are available for new and growing businesses in your jurisdiction (covering both equity and debt)?

There are a variety of funding mechanisms available to fintech businesses in Gibraltar. Due to the size of Gibraltar's population, and thus there being a relatively small number of angel/cornerstone investors, the option of venture capital funding is limited. This is also the case as a result of a lack of risk that banks are willing to take on. Gibraltar fintech businesses seeking to undertake a VC round will typically look to the UK, and in particular, London, given the cultural and political closeness to the UK.

Many fintech businesses also seek investment via a public offering pursuant to the EU's prospectus directive and/or raise funds through an ICO or STO. The raising of funds through an ICO or STO will also be subject to the token offering regulations which are due to be published shortly. These will require that the issuing company comply with certain risk disclosures and that the smart contract has been audited.

2.2 Are there any special incentive schemes for investment in tech/fintech businesses, or in small/medium-sized businesses more generally, in your jurisdiction, e.g. tax incentive schemes for enterprise investment or venture capital investment?

Corporation tax is set at 10% of profits which accrue or derive from Gibraltar. It should be noted that a firm which is licensed by the GFSC is deemed to be deriving its income from Gibraltar for the purposes of tax. It should be noted that Gibraltar does not have VAT, capital gains tax or withholding taxes. In light of this, there has not been a need to create a special incentive scheme or tax incentive for fintech or small/medium-sized businesses.

2.3 In brief, what conditions need to be satisfied for a business to IPO in your jurisdiction?

The business would need to produce a prospectus which would need to comply with the Prospectuses Act (which transposes the provisions of the Prospectuses Directive) and the Companies Act (if relevant). The business can, if it so chooses, rely on the specific provisions exempting it from producing a prospectus. If an exemption is not available, then the prospectus would need to be approved by the GFSC. Following the GFSC's approval and relevant passporting notifications, the company would be able to passport into other EU jurisdictions.

If the business is going to list on an exchange, then the listing rules for that exchange would also apply, and in such circumstances it is unlikely that it would be able to rely on any of the exemptions contained under Gibraltar law regarding the publication of the prospectus.

2.4 Have there been any notable exits (sale of business or IPO) by the founders of fintech businesses in your jurisdiction?

The fintech sector is still relatively young and whilst there have been a number of private sales of fintech businesses in the last 12 months, the figures in question have not been made public. We expect the trend of private sales to continue within the next six to 12 months, with IPOs to also start during that same period.

3 Fintech Regulation

3.1 Please briefly describe the regulatory framework(s) for fintech businesses operating in your jurisdiction, and the type of fintech activities that are regulated.

As mentioned above, the applicable licensing regime is completely dependent on the business's activities. It should be noted that traditional financial services regimes may continue to apply notwithstanding that the relevant business may be using blockchain technology. Traditional financial services licences that stem from European Law typically would permit the licensee to passport throughout the European Union.

In the case of firms operating within the blockchain space and not falling into a traditional financial services regime, generally the DLT Regulations will apply. It should be noted that the DLT regime is domestic legislation and therefore does not provide passporting rights. This is the case with all other EU countries that have followed Gibraltar's DLT Regulations.

The DLT Regulations are a principle-based regulation and therefore allow for technological advances without hopefully having to amend and update the law. The GFSC have issued guidance to assist with interpretation of the principles. The DLT Regulations seek to regulate businesses that are "carrying out by way of business, in or from Gibraltar, the use of distributed ledger technology for storing or transmitting value belonging to others". If you fall into this category whilst not falling into traditional financial services legislation, you will need to seek authorisation from the GFSC to be a licensed DLT Provider.

The application process takes in the region of three to four months and will involve an initial assessment by the GFSC, whereby they will determine the complexity level of the business.

3.2 Is there any regulation in your jurisdiction specifically directed at cryptocurrencies or cryptoassets?

The Government has released for public consultation the draft token bill which will seek to govern the issuance of tokens from in or within Gibraltar. These regulations will apply to both utility token offerings and security token offerings ("STOs"). Consequently, an STO will be required to comply with the provisions of the Prospectus Act and these new provisions.

The regulations are not burdensome, and at their core is the ultimate protection of consumers and the reputation of the jurisdiction. The regulations will apply to all token sales which are seeking to raise funds in excess of a specific level.

They will require the token issuing company to either:

a. appoint an authorised sponsor (who is licensed by the GFSC to act as the Authorised Sponsor) who will ensure that the risk and legal disclosures are included in the offeror's documentation and that the smart contract has been verified; or

b. two independent parties, who are verified by the GFSC and who will be required to each confirm one of the following:

   i) that the risk and legal disclosures are included in the offeror's documentation; and

   ii) that the smart contract has been audited.

3.3 Are financial regulators and policy-makers in your jurisdiction receptive to fintech innovation and technology-driven new entrants to regulated financial services markets, and if so how is this manifested? Are there any regulatory 'sandbox' options for fintechs in your jurisdiction?

One must remember that Gibraltar is a small jurisdiction and therefore has the ability to move relatively quickly when necessary. Approximately four to five years ago, industry lobbied HM Government of Gibraltar with the intention of creating another branch to Gibraltar's vibrant economy, and thereby sought to recreate a similar environment that it did with the Gaming sector within the DLT space. What followed was several years of preparation, collaboration and coordination with DLT practitioners to create a regulatory framework that would enable what was, until then, an unregulated industry, to thrive whilst protecting consumers and the good reputation of Gibraltar. Following on from this, the Government has recently released the public consultation for the token offering regulations. This continued desire to be at the forefront of the DLT and crypto revolution is clear evidence of the receptive and innovative approach we in Gibraltar take.

The GFSC prides itself on being approachable and ensures it has proximity to the industry and its practitioners. This has meant that there has been no need to create a sandbox, and instead the GFSC has permitted a sandbox type arrangement with applicants on a case by case basis as and when required.

3.4 What, if any, regulatory hurdles must fintech businesses (or financial services businesses offering fintech products and services) which are established outside your jurisdiction overcome in order to access new customers in your jurisdiction?

Please see the responses at questions 3.1 and 3.2. This will be largely dependent on the exact activities and nature of the business, whether they fall into an existing licensing regime and whether they are seeking to rely on the passporting rights which enable them to provide their services in Gibraltar. With Brexit, it is unknown how these rights will continue, if it all.

The United Kingdom is in the process of enacting a statutory instrument which permits Gibraltar-licensed firms to passport into the UK following Brexit, as they do currently. The same will apply for UK firms wishing to passport into Gibraltar. Gibraltar will be the only country with this unencumbered UK access, unless a deal is reached.

4 Other Regulatory Regimes / Non-Financial Regulation

4.1 Does your jurisdiction regulate the collection/use/transmission of personal data, and if yes, what is the legal basis for such regulation and how does this apply to fintech businesses operating in your jurisdiction?

The collection, use and transmission of personal data (being any information or data from which an individual can be identified) is regulated in Gibraltar. The legal framework consists of: (i) Regulation EU 2016/679 ("GDPR") (which takes direct effect in Gibraltar by virtue of Gibraltar being a territory to which the regulations of the European Union apply); (ii) the Data Protection Act 2004 (the "DPA"); and (iii) the Communications (Personal Data and Privacy) Regulations 2006 ("data privacy laws").

Collecting, using and transmitting personal data would each fall within the broad definition of "processing" (defined in each of the GDPR and the DPA). As such, where an individual's personal data is collected/used/transmitted by a "controller" or "processor" (more on these below), the data privacy laws require that it must be done so lawfully, fairly and in a transparent manner. Some of the legal bases include circumstances where the personal data is processed: (i) with the consent of the individual (whose personal data is being processed); (ii) for the performance of a contract (between the business and the individual); and (iii) for the purpose of complying with a legal obligation (in statute or in an order of the court). Ultimately, the specific lawful basis relied upon by an organisation will be fact-specific, and businesses will need to consider on which basis it may process personal data. Additional consideration should be given where the business is processing "special categories of personal data" (such as data which identifies religious, political or philosophical beliefs).

With data fast becoming the world's most valuable commodity, most business models will need to consider its compliance with data protection legislation. Fintech businesses will be particularly susceptible to these requirements given the mass amounts of data they will be collecting as part of their business and in order to provide services to their clients. A fintech business will (depending on its specific business model) either be a "controller" (the organisation that decides how and why personal data is used/collected/transmitted) or a "processor" (the organisation that uses/collects/transmits personal data on the controller's behalf).

By way of additional information, if and when Brexit occurs, the GDPR, along with other EU regulations, will cease to have direct effect. As at the date of writing this chapter, there is no deal to govern the relationship between the United Kingdom (and consequently Gibraltar) and the EU. To ensure the Gibraltar data protection framework continues to operate effectively when the UK is no longer an EU Member State, HM Government of Gibraltar will make appropriate changes to the DPA to absorb the GDPR in its entirety into local legislation.

4.2 Do your data privacy laws apply to organisations established outside of your jurisdiction? Do your data privacy laws restrict international transfers of data?

The data privacy laws can apply to controllers or processors that may be incorporated/registered outside of Gibraltar, but conducts part of its processing activities through Gibraltar.

The transfer of personal data outside of Gibraltar to a jurisdiction that is outside of the EU/EEA (referred to as a "third country") is restricted, save for circumstances where one of the following apply:

i. Adequacy decision: this means that the European Commission has decided that the third country in which the data importer (the entity receiving the personal data) is based ensures an adequate level of protection in respect of that personal data. The effect of an adequacy decision is that personal data can be freely transferred from Gibraltar (or indeed the EEA generally) to that third country without restriction.

ii. Transfers subject to appropriate safeguards: these are circumstances where the relevant data importer can prove that it maintains appropriate safeguards in respect of personal data. Such appropriate safeguards most commonly take the form of an agreement entered into between the data importer and the data exporter (the entity transferring the personal data) which adopts the EU's "standard contractual clauses". These clauses create legally binding obligations on the data importer to provide for such safeguards. Other common forms are the use of "Binding Corporate Rules" (essentially an intra-group code of conduct with regard to data privacy).

iii. Consent: this includes circumstances where the data subject has given their consent to the transfer of personal data to a third country. This is a less desirable option given that the threshold for the provision of consent is now very high – it must be freely given, fully informed and unambiguous.

It should be noted that when Brexit takes effect, the United Kingdom (and Gibraltar) will no longer be a part of the European Union and, as such, will technically be deemed to be a third country for the purposes of data protection. This means that post-Brexit, data transfers from the EU/EEA to Gibraltar will be restricted and subject to the criteria highlighted above. As at the date of writing, it is unclear whether an adequacy decision will be given in respect of Gibraltar.

4.3 Please briefly describe the sanctions that apply for failing to comply with your data privacy laws.

There are a range of sanctions applicable for failure to comply with data privacy laws. Briefly, these include:

i. Fines: under the DPA, controllers/processors can be issued with fines of up to level five on the standard scale for certain breaches. Under the GDPR, controllers/processors can be issued administrative fines of up to €20,000,000, or to 4% of the controller/processors total worldwide annual turnover (whichever is higher). The fine will depend on the nature, gravity and continuation of the breach that has occurred.

ii. Criminal liability: the DPA includes a number of criminal offences including the unlawful obtaining, disclosure or procurement of personal data. Where an offence is committed by a company, the company's directors, secretary or other officers may be personally liable for prosecution.

iii. Notices: controllers/processors in breach of data protection laws may also be issued with certain notices, including notices that restrict the controller/processor's ability to process data, and a notice ordering that controller/processor to rectify incorrect personal data.

4.4 Does your jurisdiction have cyber security laws or regulations that may apply to fintech businesses operating in your jurisdiction?

The legal framework for cybersecurity in Gibraltar is largely derived from the regulations and directives of the European Union. In addition to the legislation already referred to in this section, fintech businesses should also consider any requirements under the Proceeds of Crime Act 2015 (see question 4.5 below for more). Fintech firms should also take note of any specific licence requirement or other (non-legislative) guidance that might be required of it in connection with the conduct of its business.

4.5 Please describe any AML and other financial crime requirements that may apply to fintech businesses in your jurisdiction.

The Proceeds of Crime Act 2015 ("POCA") transposes into Gibraltar law the 4th Anti-Money Laundering Directive. It imposes certain obligations on relevant financial businesses to seek to prevent the financial system from being used for the laundering of illicit money and the financing of terrorism.

POCA outlines the measures that relevant financial businesses must adopt to prevent money laundering and terrorist financing. A relevant financial business includes, amongst others, all firms that holds a financial services licence issued by the GFSC and more recently token offering companies.

POCA defines relevant financial businesses as:

> "*Undertakings that receive, whether on their own account or on behalf of another person, proceeds in any form from the sale of tokenised digital assets involving the use of distributed ledger technology or a similar means of recording a digital representation of an asset.*"

It should be noted that the GFSC has also issued Guidance Notes which apply to relevant financial businesses.

Accordingly, a fintech business operating in Gibraltar would have to comply with the provisions of both POCA and the GFSC Guidance Notes if it is to be considered a "relevant financial business".

What does POCA require?

Relevant financial businesses must:

1. appoint a director, senior manager or partner to ensure compliance with the provisions of POCA;
2. carry out customer due diligence measures;
3. conduct ongoing monitoring of its clientele;
4. have internal reporting procedures to enable reporting to senior management and then externally to the GFIU of actual knowledge or suspicions of money laundering or terrorist financing;
5. keep records for at least five years of all business relationships and transactions;
6. take appropriate steps to identify and asses the risks of money laundering and terrorist financing; and
7. have in place appropriate and risk-sensitive policies, controls and procedures proportionate to is nature and size of the business. This should consider and include:
   (a) customer due diligence measures and ongoing monitoring;
   (b) reporting;
   (c) record-keeping;
   (d) internal control;
   (e) risk assessment and management;
   (f) compliance management including, where appropriate with regard to the size and nature of the business, the allocation of overall responsibility for the establishment and maintenance of effective systems of control to a compliance officer at management level (being a director or senior manager); and
   (g) employee training and screening.

Furthermore, and where appropriate having regard to the size and nature of the business, the firm must undertake an independent audit function of the CDD and AML practices for the purposes of testing policies, controls and procedures.

What do the GFSC Guidance Notes require?

The GFSC's statements of principle for regulated firms are the following:

- Whilst the senior management of a firm is responsible for ensuring that the systems of control appropriately address the requirements of both POCA and the GFSC Guidance NoteS, the GFSC Guidance Notes require that the firm appoint a Money Laundering Reporting Officer ("MLRO").
- Firms must adopt a documented risk-based approach. The firm should adopt a risk profile and take into account the following four risk elements prior to entering into a business relationship: (i) customer risk; (ii) product risk; (iii) interface risk; and (iv) country risk.
- The GFSC Guidance Notes require that all firms must know their customer to such an extent as is appropriate for the risk profile of that customer.
- The firm must ensure that effective measures are put in place to have both internal and external reporting requirements whenever money laundering or terrorist financing is known or suspected by the firm.
- The firm will establish and maintain effective training regimes for all of its officers and employees to ensure that they understand their obligations under POCA.

POCA and the GFSC Guidance Notes therefore apply to fintech businesses generally when licensed by the GFSC or if they are undertaking a token sale.

Token offering companies must also appoint an MLRO. The policies and procedures required by firms undertaking a token sale should, mainly, focus on the AML/CFT procedural policy adopting the risk-based approach.

4.6 Are there any other regulatory regimes that may apply to fintech businesses operating in your jurisdiction?

As mentioned throughout, this will depend on the business activities of the fintech business. If, for example, an entity is providing remote gaming services or lending services, then other legislation may also apply. Furthermore, with the incoming token offering regulations soon to be enacted, a fintech business may well also fall within the parameters of the new regime.

5 Accessing Talent

5.1 In broad terms, what is the legal framework around the hiring and dismissal of staff in your jurisdiction? Are there any particularly onerous requirements or restrictions that are frequently encountered by businesses?

In order for a company to register with the Department of Employment as an employer in Gibraltar, it must have a licence in

place. Depending on the business activity of that particular company, the licence may be issued by the GFSC, the Gambling Commissioner or Business Licensing Authority.

The company is obliged to register all of the vacancies in the company with the Employment Service; these will be advertised for a period of two weeks. It follows that there must be a minimum period of two weeks between the date the vacancy is advertised and the start date of employment. Once a prospective employee is identified the company must provide each prospective employee with a "Terms of Engagement" form, setting out the required details of the employment arrangements. Such Terms must be agreed on and signed by both the company and the employee, and then filed with the Employment Service.

If during the course of the employment relationship there are variations to the initial terms of engagement, the company is required to agree such variations with the employee in writing, and to provide those details to the Employment Service on the appropriate form. Failure to register as an employer and to notify the Employment Service of the employment and/or dismissal of an employee within specific periods of time will be subject to the issue of fixed penalty notices and/or prosecution by the Labour Inspectorate.

If a prospective employee is not an EU national, they are classified as "non-entitled" workers, and as such will require a work permit issued by the Director of Employment on application by the company seeking to employ the individual. Employment cannot commence until such time as the work permit is obtained and any additional immigration requirements are satisfied (please refer to question 5.3 below).

Notwithstanding any contractual periods of notice between the parties, Gibraltar legislation provides for minimum periods of notice dependant on the years of employment. There is also statutory protection for an employee not to be unfairly dismissed and, as such, it shall be for the employer to demonstrate whether the dismissal was fair or unfair. The onus on the employer shall be to show the reason, or if there is more than one, the principal reason for the dismissal, and that it was for one of the reasons that would justify the dismissal such as capability, conduct, redundancy, statutory illegality or breach of a statutory restriction.

5.2 What, if any, mandatory employment benefits must be provided to staff?

Annual Holiday – the entitlement to annual leave starts at a minimum of 15 working days for a five-day working week if employed for less than three years, and increases *pro rata* to 25 days if employed for more than eight years.

Sick Pay – provided that the employee has been continuously employed by the company for at least three months, the illness is reported to the company within three days of the absence and a medical certificate is produced, the entitlement is to two weeks' full pay and four weeks' half pay in any 12-month period.

Maternity Leave – the entitlement is to 14 weeks' unpaid maternity leave.

Parental/Adoption Leave – provided that the employee has been continuously employed by the company for at least one year, the entitlement is to four months' unpaid leave to be taken up to the child's fifth birthday or up to five years following adoption. A maximum period of four weeks' parental leave may be taken in respect of any individual child in any one year, subject to notification requirements.

Time off work for urgent family reasons – the entitlement is to five days unpaid leave in any one year, without prior notice, intended to allow employees to deal with emergencies that may arise in relation to "immediate family" members, which includes a child under the age of 18, parent, spouse or dependant of the employee who has no other means of support or assistance.

5.3 What, if any, hurdles must businesses overcome to bring employees from outside your jurisdiction into your jurisdiction? Is there a special route for obtaining permission for individuals who wish to work for fintech businesses?

Persons who are not EU nationals are classified as non-entitled workers, and, as such, require a work permit issued by the Director of Employment on application by the company seeking to employ the individual. Applications are considered on a case by case basis. Employment cannot commence until such time as the work permit is obtained and any additional immigration requirements are satisfied. If the non-entitled worker is issued with the work permit and/or takes up residence in Gibraltar, additional immigration formalities such as visa requirements and permits of residence will need to obtained.

Work permits will not be issued for a period in excess of one year and will require to be renewed. The Director of Employment may request such additional information as may be required for him to be satisfied that the provisions of the regulations are satisfied. The employer will need to satisfy the Director of Employment that there are no suitable entitled workers – that is to say, EU nationals – capable of undertaking the role. The employer will need to deposit an amount of money with the Director of Employment, equal to the costs of repatriating the worker to his/her place of origin.

The Liaison Department of HM Government of Gibraltar provides assistance and support to the financial services and gaming sectors regarding queries with the Employment Service, Civil Status and Registration Office, Income Tax and Social Security Departments and any other stakeholders.

6 Technology

6.1 Please briefly describe how innovations and inventions are protected in your jurisdiction.

Gibraltar is not an originating registry for the purposes of patent registrations. Consequently, a patent must be successfully registered in the United Kingdom and one would thereafter apply to have it extended in Gibraltar.

One can also protect brand names and logos as trademarks. However, as is the case with patents, Gibraltar is not an originating registry; therefore, trademarks must be registered in the UK. In a recent addition to this, trademarks that have been registered in the EU have also been permitted to be registered in Gibraltar.

6.2 Please briefly describe how ownership of IP operates in your jurisdiction.

Due to the fact that Gibraltar is not an originating registry, the ownership of the IP must be established in the UK. Following registration, in the UK the rights can be extended to Gibraltar.

6.3 In order to protect or enforce IP rights in your jurisdiction, do you need to own local/national rights or are you able to enforce other rights (for example, do any treaties or multi-jurisdictional rights apply)?

One must ensure ownership of the IP in the originating jurisdiction.

6.4 How do you exploit/monetise IP in your jurisdiction and are there any particular rules or restrictions regarding such exploitation/monetisation?

This is not applicable in Gibraltar as we are not an originating registry.

Acknowledgments

The authors would like to thank Chris Davis, Joseph Gomez and Marta Babiano for their assistance with this chapter. Their input and guidance have been invaluable.

Chris is an associate in the Corporate & Commercial team and regularly advises regulated entities, financial services companies and technology companies on a range of transactions.

With an extensive understanding of data privacy laws, Chris has advised a host of internet-based businesses, regulated financial services companies and online gaming companies with data privacy/protection related issues.

Joseph is a consultant at the firm and forms part of the Employment and Dispute Resolution teams. He regularly advises clients on a wide range of employment matters (contentious and non-contentious). His reputation, commercial acumen, local knowledge and contact base mean that he represents a mix of both national and international employers and Gibraltar employees on all aspects of employment law and human resources matters.

Marta is an associate in the Fintech team and specifically has expertise in relation to AML and CFT. Marta is also qualified as a Spanish lawyer.

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Javi has advised on a wide variety of financial services matters which include establishing regulated entities and advising them on their applications to the GFSC. He also regularly advises licensed entities with regulatory issues and has advised a number of clients on the establishment of crypto funds in Gibraltar. Notably, Javi was actively involved in the establishment of the first Gibraltar crypto fund to list on a recognised ESMA stock exchange.

Javi has been instrumental in establishing the Fintech team as one of the most highly regarded teams in Gibraltar, and since the enactment of the DLT Regulations, he has been advising numerous blockchain start-ups (to include DLT licences and ICOs) and traditional financial services firms using blockchain technology on their establishment and regulatory position in Gibraltar.

Javi was elected onto the executive committee of the Gibraltar Association of New Technologies and has been consulted by the Government on regulations to govern token sales.

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Jay has developed a strong reputation as an expert in financial services and regularly advises prospective funds, investment managers, insurance companies, insurance intermediaries, banks, e-money institutions, payment service providers, fintech businesses and DLT businesses on licensing requirements and regulatory, operational, passporting and distribution matters.

He has been elected on numerous occasions by the legal community in Gibraltar to represent them on the executive body of the Gibraltar Funds and Investment Association (GFIA) and is the Deputy Chairman of GFIA.

Jay was instrumental in establishing the Fintech team as one of the most highly regarded teams in Gibraltar, and has been described by legal directories as "a rising star", an "experienced figure in the world of cryptocurrency and blockchain technology", and as "highly regarded within Gibraltar for his work with crypto funds, as well as on token offerings", "really knowledgeable in crypto and blockchain", "super-cooperative" and as understanding "the start-up life and the pain of founders".

TRIAY & TRIAY
LAWYERS

Triay & Triay was established in 1905 and is a full-practice law firm with offices in Gibraltar and Spain.

Our Fintech team has been instrumental in establishing Gibraltar as a key jurisdiction for fintech and DLT businesses, and is one of the most highly regarded teams in Gibraltar. The team forms part of Triay & Triay's traditional financial services team and has the experience, industry knowledge and commercial understanding to assist these bold entrepreneurs. The lawyers have also assisted clients, such as payment service providers, with licensing applications and therefore understand the requirements of the licensing process. The team has leveraged its existing knowledge of traditional financial services to assist clients in understanding their regulatory obligations under Gibraltar's world-leading DLT Regulations.

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