MODELS OF STATE REGULATION OF THE VIRTUAL ASSETS MARKET IN OFFSHORE ZONES (ON THE EXAMPLE OF BERMUDA ISLANDS, GIBRALTAR, AND MALTA)

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Abstract
Since the emergence of the virtual currency Bitcoin in 2009, the problem of the development of an effective model of the virtual assets market regulation became extremely relevant for each country in the world. For the offshore zones, the emergence of the virtual assets market has become a new opportunity to attract investments while creating the simplest and clearest legal regulation. This paper aims to identify the concept similarities of the virtual assets market regulation in the offshore zones of Bermuda Islands, Gibraltar, and Malta. We found a tendency towards developing a new set of legislation specifically aimed at regulating the relations in the virtual assets market in selected jurisdictions. We argue that that the trend of introducing a mono-regulatory model of government regulation of the virtual assets market dominates in the offshore zones. However, we found that there are clear limits of the discretionary powers of the local regulators. Comparative regulatory practices of selected jurisdictions serve as a guide to improve the existing Ukrainian regulatory framework in this sphere and regulatory challenges, in order to assess urgent issues that the legislature and regulators are facing.

***Keywords*:** *virtual assets market, digital assets market, cryptocurrency, distributed ledger technology, offshore zones, legal regulation*

Introduction

The problem of the development of an effective model of state regulation of the virtual assets market is relevant for each country in the world. While some countries have opted for the approach to legalize and tax virtual assets (including cryptocurrency) as investment, other countries like North Macedonia have taken action to declare cryptocurrencies to be practically illegal (Jozipović, Perkušić, Ilievski, 2021, p. 3). For those countries that are classified as offshore zones, the emergence of the virtual assets market has become a new opportunity to attract investments while creating the simplest and clearest legal regulation. The market potential is used to form a "virtual economy version 2.0" with a capitalization of hundreds of billions of US dollars (Kud, 2020, p. 14). It is logical that the participants of the virtual assets market, especially the virtual asset service providers, are interested in finding opportunities to conduct business under the most favourable conditions, considering the offshore zones for this purpose.

Regarding the ongoing process of the development of the state regulation model of the virtual assets market in Ukraine, the analysis of existing and implemented models in countries whose main goal is to develop simple and clear state regulation will provide an opportunity to adopt positive experience to use in the law-making process. On February 17, 2022, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Virtual Assets" which will enter into force with the adoption and publication of the amendments to the Tax Code of Ukraine regarding the taxation of transactions with virtual assets. However, there are still ways to improve legal regulation of virtual assets market in Ukraine.

Oxford Analytica experts stated that cryptocurrencies have robust potential in key Balkan markets, including North Macedonia (Oxford Analytica, 2022). Therefore, the experience of the offshore zones in legal regulation of the virtual assets market could be useful for both Ukrainian and North Macedonian legislators and regulators.

Scholars from Ukraine and other countries have studied some aspects of the state regulation model of the virtual assets market. For example, Oksana Panova and co-authors analysed international models of legal regulation and some ethics aspects of cryptocurrency use (Panova, Leheza, Ivanytsia et al., 2019). Apolline Blandin and co-authors worked on an issue of global regulation of virtual assets (Blandin, Cloots, Hussain et al., 2019). Aspects of the use of cryptocurrency as a legal tender within North Macedonia and the EU was studied by Šime Jozipović, Marko Perkušić and Andrej Ilievski (Jozipović, Perkušić, Ilievski, 2021).

However, the analysis of models for regulating the market of virtual assets in offshore zones has not yet been the subject of a separate study. The above mentioned indicates the relevance of the topics and the feasibility of the analysis of the submitted question.

The aim of this article is to analyse the models of the virtual assets market regulation in the offshore zones of Bermuda Islands, Gibraltar, and Malta and to identify positive experiences that may be useful for Ukraine.

For this aim to be achieved, the following tasks were set:

1) To specify the types of the state regulation models of the virtual assets market.
2) To analyse the state regulation models of the virtual assets market in the offshore zones of Bermuda Islands, Gibraltar, and Malta.
3) To identify the conceptual similarities of the virtual assets market regulation in the offshore zones and to draw an inference on the positive foreign experience that is worth to be borrowed.

The following methods were used in the research process.

By the means of the formal and logical method, the basic concepts were studied and the normative legal acts, which regulate the virtual assets market in the offshore zones, were analysed.

The system and structural methods were used to specify the state regulation model of the virtual assets market, which is inherent to the offshore jurisdiction.

By the means of the comparative legal method, the analysis of the relevant legislation in the offshore zones was carried out with further identification of the positive experience.

By the means of the formal and legal method, the corresponding proposals were prepared for its further use in the legislation and law enforcement.

1. The concept and list of the offshore zones

Despite its geographical origin, the notion “offshore” refers to the jurisdictions with a certain favourable condition for doing business, such as: transparent and clear regulation and low tax burden. Offshore zones arose when “… in order to attract investments several micro-states began to offer almost zero government regulation if or when necessary” (Palan, 2003, p. 6). An

offshore zone is a territory or a state with low tax rate guarantees and no strict currency control over the foreign capital (Bazylevych, 2007, p. 701). Olha Shutova considers the simplicity of the business activities regulation as a positive experience of the offshore zones, "… such a simplicity leads to the attraction of the additional investment to the budget" (Shutova, 2012, p. 145). The offshore jurisdictions provide simple requirements for licensing and regulation of the private company's activities (Leshchenko, 2014, p. 151).

The list of the offshore jurisdictions may be determined at the international and national levels. The same states may be included or be absent in different lists. As an example, the standards of the information exchange for tax purposes were developed at the international level by the Organization for Economic Co-operation and Development (OECD). Thus, the jurisdictions are rated based on the fact of the correspondence to these standards. The states, included to the "black" or "grey" lists are in fact classified as the offshore zones (OECD, 2021). At the national level, the states determine such a list independently. In Ukraine, it is defined and adopted by the Cabinet of Ministers of Ukraine in the order "On the enrolment of the states to the offshore zones list" dated February 23, 2011 (Order of the Cabinet of Ministers of Ukraine; Specification on February 23, 2011, № 143-r).

The Laura Szepesi's research indicate that the majority of the world's cryptocurrencies marketplaces are concentrated in Bermuda Islands, Gibraltar, and Malta (Szepesi, 2020, p. 10). Therefore, as the above-mentioned jurisdictions are included in the offshore zones list, this proclaims a possible conceptual similarity of the state regulation models of the virtual assets market in the offshore zones and provide means to carry out the analysis based on these states as an example.

2. State regulation models of the virtual assets market

Currently the classification of the state regulation models of the virtual assets market is not presented in the legal science. Oleksandr Harahonych defined the notion of the state regulation of the economic activity in a market economy as a "system of standard measures of legislative, executive, and controlling nature, carried out by the authorized state institutions and aimed at directing the economic entities in the necessary direction to achieve the desired socio-economic results" (Harahonych, 2010, p. 36). It can be assumed that the models of the state regulation for the different types of the economic activities may be similar, or even the same. Therefore, in order to determine which models may exist in the virtual assets market, it is necessary to refer to the

experience of their analysis in the market of financial services. Thus, Oksana Yashchyshchak presents two main models of the state regulation of the financial services market:

1) Mono-regulatory model that is characterized by the existence of a single public authority that regulates the activities of all financial intermediaries and determines the powers of the self-regulatory organizations.
2) Multi-regulatory model that provides the existence of a several public authorities to regulate the financial services market (Yashchyschak, 2011, pp. 29-31).

These two models of the government regulation can be applied to the context of the virtual assets market.

Nataliia Kovalko, while analysing the global models of the securities market regulation, notes that the regulation of the securities market always includes a list of basic principles specific to each market: legislative activity; legal regulation; mechanism of the direct market regulation (licensing, certification, etc.); control and supervisory functions on compliance with law (Kovalko, 2018, p. 213). This gives a possibility to analyse the same basic principles specific to virtual asset market in this research.

3. The state regulation model of the virtual assets market in Bermuda Islands

The development of the state regulation model of the virtual assets market in Bermuda began in November of 2017 with the establishment of two working groups. The first group, on the legal and regulatory issues, has had to develop an appropriate regulation that is relevant to the current virtual assets market. The second group on the business development in the field of blockchain, was tasked to promote the development of the technology in this area (Regulation of Cryptocurrency Around the World, 2018, p. 8). Sarah Swammy notes that the aim of both working groups was to develop an innovative legislation that would reaffirm the island's reputation as a world-class regulator. The working groups brought together the representatives of the international community, public authorities, experts, and other stakeholders and was aimed at considering all the views concerning the regulation of the virtual asset market (Swammy, 2018, p. 176). Finally, the joint work resulted in the development and adoption of the Digital Asset Business Act (2018), the provisions of which formed the legal basis for the functioning of the virtual asset market in Bermuda.

This law deciphers what is meant by the business in the field of digital assets, including issuance and sale of virtual coins, tokens, or any other virtual assets as well as providers of payment services, services for the exchange of the virtual assets, or their storage in the electronic wallets (Bermuda Digital Asset Business Act, 2018). The legislation determined what kind of activity in this area should be considered as entrepreneurial. However, mining is not considered as a virtual asset business and is not a regulated activity in Bermuda. In addition, the Digital Asset Business Act does not apply to Initial Coin Offerings (ICOs), which involve investment attraction by issuing and selling cryptocurrencies to investors. Instead, ICO is governed by the Companies Initial Coin Offering Regulations (2018) and the Limited Liability Company (ICO) Regulations (ICO), 2018.

According to these regulations, the ICO is considered as a type of business activity; therefore, the ICO is a subject to the general requirements of the law for business activities and additionally requires the approval of the Ministry of Finance of Bermuda.

In the Digital Asset Business Act, a digital asset means "anything that exists in binary format and comes with the right to use it and includes a digital representation of value that (a) is used as a medium of exchange, unit of account, or store of value and is not legal tender, whether or not denominated in legal tender; (b) is intended to represent assets such as debt or equity in the promoter; (c) is otherwise intended to represent any assets or rights associated with such assets; or (d) is intended to provide access to an application or service or product by means of distributed ledger technology; but does not include - (e) a transaction in which a person grants value as part of an affinity or rewards program, which value cannot be taken from or exchanged with the person for legal tender, bank credit or any digital asset; or (f) a digital representation of value issued by or on behalf of the publisher and used within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform" (Bermuda Digital Asset Business Act, 2018, art. 2).

The Bermuda Monetary Authority (BMA), as the regulator of financial services in Bermuda, has the full range of powers to regulate the virtual assets market. Thus, the Digital Asset Business Act empowers the BMA to oversee the virtual asset exchange transactions, to oversee the activities of the virtual asset service providers, and anyone who assists in the issuance of the virtual assets, such as token design and ICO administration.

Entities operating in the virtual asset market are required to obtain a license, which can be one of two types. The first one, class F, is a full and permanent license. The other one, class M, is temporary and gives the right to carry out the relevant activities for a certain period determined by the regulator.

The BMA has an exclusive discretion concerning the use of the license. The regulator has the power to impose fines, revoke a license, or restrict its validity. No licensing requirements will be imposed solely as a result of the possession of the virtual assets, if the person does not conduct business activity with them (Bermuda Digital Asset Business Act, 2018, art. 10, 11).

One of the conditions for obtaining a license is the registration of a legal entity in Bermuda and disclosure of the ultimate beneficial owners. Legal entities are required to be physically present in Bermuda, including an authorized representative who will be responsible for communicating with the Bermuda Monetary Authority in a specific case (Swammy, 2018, p. 178).

There is no tax on income, retention, or other taxation of virtual assets in Bermuda. Moreover, those operating in the virtual asset market may be ensured by the Bermuda Ministry of Finance that if a law establishing a tax on virtual assets is enacted in the future, such a business will remain exempt from taxes (Carey Olsen Law Firm, 2020).

Bermuda has introduced a mono-regulatory model of the virtual assets market state regulation, as it is carried out by a single body, the Bermuda Monetary Authority. The relations within this market are regulated in accordance with the Digital Asset Business Act. This law defines key concepts of the virtual asset market, sets the scope of requirements for licensing of the business activities in this area, and gives the broad scope of powers to the regulator. In addition, Bermuda tax law provides the full exemption from taxation of the virtual assets' transactions.

4. The state regulation model of the virtual assets market in Gibraltar

The development of the state regulation model of the virtual assets market in Gibraltar was begun in 2014 with the initiative of the Ministry of Trade to establish a working group on cryptocurrencies in order to develop a regulation model that would promote economic development and effective protection of market participants (Scholl, Bolívar, 2019, p. 604). The result of joint work and the ongoing process of improving the legislation was the adoption of the Financial Services (Distributed Ledger Technology Providers) Regulations 2017. Later this law was repealed and replaced with the Financial Services (Distributed Ledger Technology Providers) Regulations 2020.

Financial Services (Distributed Ledger Technology Providers) Regulations 2020 is a special legal act that regulates the relations within the virtual assets market participants in Gibraltar. At the same time, the broader

scope of the provisions of the Financial Services Act 2019 also covers the virtual assets market.

Hans Jochen Scholl and co-author have concluded that while applying a substantially similar regulatory approach to the online gaming industry, Gibraltar has enjoyed a tremendous economic success for more than three decades, that brings the significant revenues to the budget, leads to almost zero unemployment and the creation of more than 24,000 jobs with a total population of Gibraltar just over 34,000 (Scholl, Bolívar, 2019, p. 612).

The term "virtual asset", as well as the other terms with a similar meaning, are not used in the Financial Services Act 2019. At the same time, the Financial Services Act 2019 decrypts distributed ledger technology (DLT) as a database system in which "(a) information is recorded and consensually shared and synchronised across a network of multiple nodes; and (b) all copies of the database are regarded as equally authentic. "Value" includes assets, holdings and other forms of ownership, rights, or interests, with or without related information, such as agreements or transactions for the transfer of value or its payment, clearing or settlement" (Gibraltar Financial Services Act, 2019, para 138, part 16, schedule 2).

The Financial Services (Distributed Ledger Technology Providers) Regulations 2020 just prescribes that "DLT service provider's business" means a regulated activity that falls within paragraph 139 of Schedule 2 Financial Services Act 2019, i.e., the use of DLT to store or transfer "value". The law provides rules for the activities of DLT service providers. First, in the manner prescribed by art. 3(1), part 2 Financial Services (Distributed Ledger Technology Providers) Regulations 2020 DLT service provider must obtain the permission from the regulator, Gibraltar Financial Services Commission, GFSC. Financial Services (Distributed Ledger Technology Providers) Regulations 2020 art. 3(1), part 2 stipulates that "a person who proposes to apply for permission to carry on DLT Provider's business, before doing so, must submit (a) an initial application assessment request to the GFSC in the form and manner it directs; (b) any documents and other information that the GFSC may direct; and (c) the prescribed initial application assessment fee". In addition, GFSC must ensure that the DLT service provider complies with the "regulatory principles" to conduct business honestly and in a good faith, detect and prevent financial crimes related to money laundering, and ensure the adequacy of financial and non-financial resources. If it appears to the GFSC that a person is not fit to carry out any function in relation to DLT Provider's business, the GFSC may restrict the person from performing a specified function, i.e. any function falling within a specified description, or any function as stated in the direction. The person has the right to appeal the decision directly

to the Supreme Court (Gibraltar Financial Services (Distributed Ledger Technology Providers) Regulations, 2020, art 7(1), 7(4)).

However, the Gibraltar's legislation lacks definitions of key concepts in this area, and the legal regime of virtual assets has been overlooked. It is worth noting that there is also no regulation for ICO in Gibraltar, but the process of its development is ongoing (Regulation of Cryptocurrency Around the World, 2018, p. 62).

From the above mentioned, we can conclude that Gibraltar has introduced a mono-regulatory model of the virtual assets market state regulation. The market is regulated by the GFSC mostly "manually", but the limits of its discretion are clearly defined. Gibraltar's virtual assets market is governed by the Financial Services (Distributed Ledger Technology Providers) Regulation 2020 and the Financial Services Act 2019. Laws set requirements for obtaining an approval to conduct business in the virtual assets market, and the regulator is endowed with the broad scope of powers. At the same time, the key concepts in this area are not delineated.

5. The state regulation model of the virtual assets market in Malta

Malta, in line with other offshore zones, aims to become one of the most convenient jurisdictions for the virtual assets market participants. According to Christopher Buttigieg and Christos Efthymiopoulos, the Maltese system of regulation of the virtual assets achieves the goals of the financial regulation due to the approach based on the principles ensuring technological neutrality without stifling innovation (Buttigieg, Efthymiopoulos, 2018, p. 1). A favourable and innovative approach for development of a regulatory framework has encouraged the well-known companies such as Binance, OKEx, TRON, and others to relocate their business to Malta, or at least to consider Malta as one of the best options for doing business (Ciric, Ivanišević, 2018, p. 573). Malta has become known as a "blockchain island" because of the adoption of three important laws, the Virtual Financial Assets Act, the Malta Digital Innovation Authority Act and the Innovative Technological Arrangement and Services Act, that should work as a triad to provide the industry with a comprehensive legal framework (Tranova, 2019, p. 64).

The Malta Digital Innovation Authority Act defines the legal status of this public body and empowers it to regulate the virtual assets market. Malta Digital Innovation Authority is also responsible for overseeing the ICO.

In turn, the Innovative Technological Arrangement and Services Act establishes the criteria and requirements for innovative technological services

and for those who provide these services. Joshua Ellul and co-authors noted that "… the Innovative Technology Arrangements and Services Act (ITASA) is the law which introduced the initial licences for which one could apply. The law does not say one needs a licence to design, develop and deploy blockchain, DLT or smart contracts - as that would be absurd. The deployment of technology has even been assimilated to freedom of expression. What the Act seeks to do is to offer certification to a developer of an innovative technology arrangement which should provide a level of trust in the market. It is voluntary and one can apply for it if one wishes to meet the standards of the law and obtain confirmation of such compliance." (Ellul, Galea, Ganado et al., 2020, p. 217).

However, the most important law is the Virtual Financial Assets Act (VFAA), which entered into force on November 1, 2018. This law introduced the concept of the virtual assets that exist based on DLT. In the broadest sense, DLT-based virtual assets include virtual financial asset, virtual token, electronic money and financial instruments (Malta Virtual Financial Assets Act, 2018, art 2, section 1). A "virtual financial asset" or "VFA" means any form of digital medium recordation that is used as a digital medium of exchange, unit of account, or store of value and that is not "(a) electronic money; (b) a financial instrument; or (c) a virtual token. In turn, a virtual token means a form of digital medium recordation whose utility, value or application is restricted solely to the acquisition of goods or services, either solely within the DLT platform on or in relation to which it was issued or within a limited network of DLT platforms". As it is defined in art 2 of Chapter 1 of the Virtual Financial Assets Act, the competent public authority, i.e., the regulator, is Malta Financial Services Authority (MFSA). The regulator is authorized to grant or deny licensing to providers of services related to virtual assets. Malta Virtual Financial Assets Act, 2018, art 2, part 1 stipulates that a licensee be a legal person, and must be either in Malta, in accordance with the laws of Malta, or in a recognised jurisdiction (provided that where the applicant resides is constituted in a recognised jurisdiction, it shall abide with any local presence requirements prescribed or as may be prescribed). Malta Virtual Financial Assets Act, 2018, art 2, part 1 also stipulates that a licensee purposes or objects are limited to acting as a licence holder and carrying on activities ancillary or incidental thereto, and do not include purposes or objects which are not compatible with the VFA services of a licence holder. It is also important that when issuing a license, MFSA may subject a license to such conditions as it deems appropriate, and, by granting a license, may from time-to-time change or revoke any conditions thus established or establish new ones (Malta Virtual Financial Assets Act, 2018, art 15, part 4). This gives the regulator an exclusive discretion to license in the virtual assets market.

The Virtual Financial Assets Act also sets out several rules for conducting an ICO (Section 2 of the Virtual Financial Assets Act). In particular, it is necessary to appoint a virtual financial assets agent (VFA Agent), who reports on the progress of the ICO to the regulator, and to develop a White Paper. The White Paper should be concise and contain the necessary information on ICOs as well as warnings, for example, such as that the proposed virtual assets are not financial instruments. Christopher Buttigieg and Gerd Sapiano noted "… the concept of the VFA Agent is a novel one. Introduced to ensure that a first line of defence independent from the MFSA is set up in order to keep persons who are not fit and proper out of the Maltese financial services industry, the VFA Agents' checks do not replace those performed by the MFSA; but rather complement them by introducing yet another filter. Whilst this evidences the MFSA's commitment to protect the integrity of the local financial services sector, it will also ensure effective investor protection and safeguard the soundness of operators. A proper functioning framework for VFA Agents should reduce the risk of financial market misconduct and crime, which should, in turn, serve as an additional safeguard for consumers and Malta's reputation as a financial centre" (Buttigieg, Sapiano, 2019, p. 8).

The regulation also enshrines the provisions to prevent the abuse in the virtual assets market, such as insider trading or illegal market manipulation of any transaction or any virtual asset. For example, an insider relationship arises when a person possesses inside information and uses that information to decide to acquire or dispose of, for his own or at the expense of a third party, directly or indirectly, of the virtual financial assets to which that information relates (Malta Virtual Financial Assets Act, 2018, art 34, part 4).

MFSA intends to periodically review the regulatory framework of the virtual assets market to reflect the features and risks associated with the latest technological advances. In this regard, the Government of Malta has issued "Frequently Asked Questions about the Virtual Asset Market", which is meant to be the official guidelines for virtual asset market participants (Virtual Financial Assets Framework Frequently Asked Questions, 2018).

B. Derevyanko and O. Turkot noted "… the general trend by the example of Malta indicates the application of preferential taxation compared to the taxation of income from activities in other areas and sectors of the economy and household taxation" (Derevyanko, Turkot, 2022, p. 59).

Christopher Buttigieg and co-authors have concluded "… the Maltese legislative framework proactively regulates virtual asset activity including various categories of virtual asset services providers, and is thus compatible with the recent amendments of The Financial Action Task Force standards, despite the establishment of the VFA Framework having occurred prior to these

developments. Furthermore, the framework also goes well above and beyond the EU's fifth Anti-Money Laundering Directive in adequately mitigating the money laundering and funding of terrorism risks associated with crypto assets." (Buttigieg, Efthymiopoulos, Attard et al., 2019, p. 13). In turn FATF notes that "regulatory certainty and strong Anti-Money Laundering and Combating the Financing of Terrorism controls at the international level can also act as a facilitator to business development, public adoption, and the creation of necessary national regulatory frameworks, rather than an inherent barrier." (FATF, 2021, p. 22).

The state regulation of the virtual assets market in the Republic of Malta is carried out by a single regulator, the Malta Financial Services Authority, which indicates the introduction of a mono-regulatory model of the state regulation of the virtual assets market. Relationships in the virtual assets market in Malta are regulated by three laws: Virtual Financial Assets Act, Malta Digital Innovation Authority Act and Innovative Technological Arrangement and Services Act. Those laws include the key definitions concerning the market of the virtual assets, determine the procedure for licensing of the economic activities and specify the powers of the regulator in this area.

6. A positive experience of the offshore zones that is worth borrowing for Ukraine

The Ukrainian legislature and regulators should analyse international experience of virtual assets market regulation and find the most suitable one for Ukrainian realities. In this context it seems necessary to borrow the provisions of Maltese law, that prevent insider trade on virtual assets market, as they may be useful for implementation in Ukraine. Establishing the norms prohibiting the use of insider trading is not a novelty in Ukrainian legislation. As an example, we can mention art 145-146 of the Law of Ukraine "On Securities and Stock Market", which provides a definition of insider information and prohibits its usage (Law of Ukraine "On Securities and Stock Market", 2006). A. Nashynets-Naumova notes "… the anticipation of the fastest and the most honest public disclosure of information related to insider information will help to combat the market manipulation and to increase the investor confidence in the financial markets. The experience of the countries with the developed stock markets shows that the ensuring of the fastest disclosure of insider information need is an effective tool for protection the investors" rights (Nashynets-Naumova, 2016, p. 76).

It seems that the investor appeal of the virtual assets market entails the risks of the market manipulation. Therefore, in order to secure investment trust

to the virtual asset market, the use of insider information should be prohibited in the Law of Ukraine "On the virtual assets", as the basic law governing the virtual assets market in Ukraine.

Due to the dynamic development of the virtual assets market, the ability to provide clarification by the regulator, like "Frequently Asked Questions about the Virtual Asset Market", which is meant to be the official guidelines for virtual asset market participants in Malta, seems to be the best solution for the market regulation in Ukraine. It seems that the Ukrainian legislation should provide among the powers of the regulator the possibility of clarifications, methodological and consulting assistance on the application of the virtual assets market legislation in the form of official guidelines. These provisions could be enshrined in the basic law governing public relations in the virtual assets market (Law of Ukraine "On the virtual assets") or in specific law, which will define the status of the regulator in virtual assets market in Ukraine.

Conclusion

Based on the provided study, it can be argued that exists a trend of introducing a mono-regulatory model of government regulation of the virtual assets market in the offshore zones. The Bermuda Islands has introduced a mono-regulatory model of the virtual assets market state regulation, as it is carried out by a single body, the Bermuda Monetary Authority. Gibraltar has also introduced a mono-regulatory model of the virtual assets market state regulation. The market is regulated by the Gibraltar Financial Services Commission. Finally, the state regulation of the virtual assets market in the Republic of Malta is carried out by a single regulator, the Malta Financial Services Authority.

We also found a tendency towards developing a new set of legislation specifically aimed at regulating the relations in the virtual assets market. In the Bermuda Islands, the relations within this market are regulated in accordance with the Digital Asset Business Act. This law defines key concepts of the virtual asset market, sets the scope of requirements for licensing of the business activities in this area, and gives the broad scope of powers to the regulator. In addition, Bermuda tax law provides the full exemption from taxation of the virtual assets' transactions.

Gibraltar's virtual assets market is governed by the Financial Services (Distributed Ledger Technology Providers) Regulation 2020 and the Financial Services Act 2019. Laws set requirements for obtaining an approval to conduct business in the virtual assets market, and the regulator is endowed with the

broad scope of powers. At the same time, the key concepts in this area are not delineated.

Relationships in the virtual assets market in Malta are regulated by three laws, the Virtual Financial Assets Act, the Malta Digital Innovation Authority Act and the Innovative Technological Arrangement and Services Act. These laws proposed the key definitions concerning the market of the virtual assets, determined the procedure for licensing of the economic activities and specified the powers of the regulator in this area.

The analysis of legislation in the selected jurisdictions reveals the conceptual similarity of some legal provisions, i.e. the clear definition of the limits of the discretionary powers of the regulator and the participation of the stakeholders in the law-making process.

A positive experience that is worth borrowing for Ukraine is the ban on the use of insider information, as well as the authority of the virtual assets market regulator to provide the official guidelines for clarifications, methodological and consulting assistance on the application of the virtual assets legislation. It seems that the investor appeal of the virtual assets market entails the risks of the market manipulation. Therefore, in order to secure investment trust to the virtual asset market, the use of the insider information should be prohibited in the basic law governing the virtual assets market in Ukraine.

Bibliography

Basylevych, V. D. (2007*). Ekonomichna teoriia: Politekonomiia* [Economic Theory: Political Economy], (6th ed.). Kyiv: Knowledge-Press. Retrieved from https://vpu7.com.ua/documents/e-library/economy/ekonomichna_teoriia_bazylevych.pdf

Bermuda Companies (Initial Coin Offering) Regulations 2018, BR 65/2018, (2018). Retrieved from http://www.bermudalaws.bm/laws/Annual%20Laws/2018/Statutory%20Instruments/Companies%20(Initial%20Coin%20Offering)%20Regulations%202018.pdf

Bermuda Digital Asset Business Act 2018, 2018:28, (2018). Retrieved from http://www.bermudalaws.bm/laws/Annual%20Laws/2018/Acts/Digital%20Asset%20Business%20Act%202018.pdf

Bermuda Limited Liability Company (Initial Coin Offering) Regulations 2018, BR 64/2018, (2018). Retrieved from http://bermudalaws.bm/laws/Annual%20Laws/2018/Statutory%20Inst

ruments/Limited%20Liability%20Company%20(Initial%20Coin%20Offering)%20Regulations%202018.pdf

Blandin, A., Cloots, A. S., Hussain, H., Rauchs, M., Saleuddin, R., Allen, J. G., et al. (2019). Global cryptoasset regulatory landscape study. University of Cambridge Faculty of Law Research Paper. Retrieved from https://www.jbs.cam.ac.uk/wp-content/uploads/2020/08/2019-04-ccaf-global-cryptoasset-regulatory-landscape-study.pdf

Buttigieg, C. P., Efthymiopoulos, C. (2018). The regulation of crypto assets in Malta: The Virtual Financial Assets Act and beyond. *Law and Financial Markets Review*, 1–11. https://doi.org/10.1080/17521440.2018.1524687

Buttigieg, C. P., Efthymiopoulos C., Attard A. & Cuyle S. (2019): Anti-money laundering regulation of crypto assets in Europe's smallest member state. *Law and Financial Markets Review*. https://doi.org/10.1080/17521440.2019.1663996

Christopher P. Buttigieg & Gerd Sapiano (2019). A critical examination of the VFA framework – the VFA agent and beyond. *Law and Financial Markets Review*. https://doi.org/10.1080/17521440.2019.1640421

Carey Olsen: Offshore Law Firm. (2020). Bermuda Blockchain and cryptocurrency regulation. Retrieved from https://www.careyolsen.com/sites/default/files/CO_BER_Blockchain-and-Cryptocurrency-Regulation-2020-2nd-Edition.pdf

Ciric, Z., Ivanišević, S. (2018). Blockchain and tourism development: case of Malta. 3rd International Thematic Monograph - Thematic Proceedings: *Modern Management Tools and Economy of Tourism Sector in Present Era*, Novi Sad, Serbia. https://doi.org/10.31410/tmt.2018.565

Derevyanko, B., Turkot, O. (2022). Legal regulation of cryptocurrency relations with in Ukraine: EU experience. *Entrepreneurship, Economy and Law, 3*, 56–61. https://doi.org/10.32849/2663-5313/2022.3.07

Ellul, J., Galea, J., Ganado, M. et al. (2020). Regulating Blockchain, DLT and smart contracts: a technology regulator's perspective. *ERA Forum 21*, 209–220. https://doi.org/10.1007/s12027-020-00617-7

FATF. (2021). Second 12-month review virtual sssets and VASPs. Retrieved from https://www.fatf-gafi.org/publications/fatfrecommendations/documents/second-12-month-review-virtual-assets-vasps.html

Gibraltar Financial Services (Distributed Ledger Technology Providers) Regulations 2017, 2017/204. (2017). Retrieved from https://www.gibraltarlaws.gov.gi/legislations/financial-services-distributed-ledger-technology-providers-regulations-2017-4218

Gibraltar Financial Services (Distributed Ledger Technology Providers) Regulations 2020, 2020/012. (2020). Retrieved from https://www.gibraltarlaws.gov.gi/legislations/financial-services-distributed-ledger-technology-providers-regulations-2020-4774

Gibraltar Financial Services Act 2019, 2019-26. (2019). Retrieved from https://www.gibraltarlaws.gov.gi/legislations/financial-services-act-2019-4690

Harahonych, O. V. (2010). *Teoretychni pytannia derzhavnoho rehuliuvannia hospodarskoi diialnosti* [Theoretical issues of state regulation of economic activity]. *Materials of the first all-Ukrainian scientific-practical internet conferences,* Luhansk, Ukraine.

Jozipović, Š., Perkušić, M., Ilievski, A. (2021). Cryptocurrencies as (I)legal tender in North Macedonia and the EU. *Iustinianus Primus Law Review, 11(2)*. Retrieved from https://www.bib.irb.hr/1114364

Kovalko, N. M. (2018). Svitovi modeli rehuliuvannia rynku tsinnykh paperiv: porivnialno-pravovyi aspekt [World models of securities market regulation: comparative legal aspect]. *Law and Society, 1,* 211-216. Retrieved from http://elar.naiau.kiev.ua/handle/123456789/7735

Kud, A. A. (2020). The phenomenon of virtual assets: economic and legal aspects. *International Journal of Education and Science, 3(4),* 13–24. https://doi.org/10.26697/ijes.2020.4.3

Leshchenko, R. M. (2014). *Ofshorni yurysdyktsii: istoriia vynyknennia, poniattia ta klasyfikatsiia* [Offshore jurisdictions: history, definitions, classification]. *Scientific Journal "Chronicles of KUL", 1,* 148-154, Retrieved from http://nbuv.gov.ua/UJRN/Chkup_2014_1_35

Malta Virtual Financial Assets Act, 590, (2018). Retrieved from https://legislation.mt/eli/cap/590/eng/pdf

Nashynets-Naumova, A. (2016). *Poniattia ta oznaky insaiderskoi informatsii yak osoblyvoho vydu informatsii z obmezhenym dostupom* [The concept and features of insider information as a particular kind of information with limited access]. *Entrepreneurship, Economy, and Law, 4*, 73-76. Retrieved from http://nbuv.gov.ua/UJRN/Pgip_2016_4_14

OECD. (n.d.). Jurisdictions committed to improving transparency and establishing effective exchange of information in tax matters. Retrieved from https://www.oecd.org/ctp/harmful/jurisdictions-committed-to-improving-transparency-and-establishing-effective-exchange-of-information-in-tax-matters.htm

Oxford Analytica. (2022). Cryptos have robust potential in key Balkan markets. *Expert Briefings*. https://doi.org/10.1108/OXAN-DB268759

Palan, R. (2006). The offshore world: sovereign markets, virtual places, and nomad millionaires. Ithaca, NY: Cornell University Press.

Panova, O., Leheza, Y., Ivanytsia, A., Marchenko, V., & Oliukha, V. (2019). International Models of Legal Regulation and Ethics of Cryptocurrency Use: *Country Review. Journal of Legal, Ethical and Regulatory Issues, (22),* 1-6. Retrieved from https://www.abacademies.org/articles/International-Models-of-legal-regulation-and-ethics-of-cryptocurrency-use-country-review-1544-0044-22-SI-2-374.pdf

Rozporiadzhennia Kabinetu Ministriv Ukrainy "Pro vidnesennia derzhav do pereliku ofshornykh zon" [Order of the Cabinet of Ministers of Ukraine "On the enrolment of the states to the offshore zones list"], 143-r. (2011). Retrieved from https://zakon.rada.gov.ua/laws/show/143-2011-p#Text

Scholl, H. J. Bolívar, M.P. (2019). Regulation as both enabler of technology use and global competitive tool: The Gibraltar case. *Government Information Quarterly, 36(3),* 601-613. https://doi.org/10.1016/j.giq.2019.05.003

Shutova, O. S. (2012). *Pravova pryroda ofshornykh zon* [Legal nature of the offshore areas]. *Scientific Journal "Chronicles of KUL", 2*, 143-146. Retrieved from http://kul.kiev.ua/images/chasop/2012_2/143.pdf

Swammy, S., Thompson, R., Loh, M. (2018). A vision for the future: the Bermuda FinTech story. *Crypto Uncovered*. Palgrave Macmillan, Cham. https://doi.org/10.1007/978-3-030-00135-3_10

Szepesi, L. (2020). Cryptocurrency exchange landscape in the EU How regulation impacts success of cryptocurrency exchanges [International Master's in Finance Thesis, Nova School of Economics and Business]. Retrieved from http://hdl.handle.net/10362/108486

The Law Library of Congress. (2018). Regulation of Cryptocurrency Around the World. Retrieved from https://tile.loc.gov/storage-services/service/ll/llglrd/2018298387/2018298387.pdf

Tranová, K. (2019). Legal and economic aspects of Initial Coin Offering (ICO). [Master's thesis, Masaryk University]. Retrieved from https://is.muni.cz/th/t4kse/ICO_Masters_Thesis_Kristyna_Tranova.pdf

Virtual Financial Assets Framework Frequently Asked Questions (2018). Retrieved from https://www.mfsa.mt/wp-content/uploads/2019/01/20190125_VFARFAQs_v1.01.pdf

Yashchishchak, O. R. (2011). *Modeli derzhavnoho rehuliuvannia rynku finansovykh posluh* [Models of state regulation of securities market]. *Lawyer, 3*, 28-33. Retrieved from http://nbuv.gov.ua/UJRN/adv_2011_3_4

Zakon Ukrainy "Pro rynky kapitalu ta orhanizovani tovarni rynky" [Law of Ukraine "On Securities and Stock Market"], 3480-IV, *Vidomosti Verkhovnoyi Rady Ukrainy*, 31, 268. (2006). Retrieved from https://zakon.rada.gov.ua/laws/show/3480-15