



## Publications

### "D&O ISSUES WITH BLOCKCHAIN, CRYPTOCURRENCIES & ICOS," *PROPERTY CASUALTY 360*

"We can't turn on a television, go online, or engage in a conversation during a cocktail reception without blockchain or cryptocurrency coming up," partners Todd D. Kremin and Jonathan L. Schwartz write in *Property Casualty 360*. "There is typically little discussion of the practical application of the blockchain technology, and even less about the attendant risks associated with investments in cryptocurrencies utilizing the technology." Todd and Jonathan warn insurance professionals to be aware of blockchain-related exposures defined by recent litigation.

In their article, Todd and Jonathan — partners in the Global Insurance Services Practice Group at Goldberg Segalla — explain the concept of a blockchain as "a digital ledger that is verified by the users of a network, with the transactions stored in units of data called blocks — and the blocks are securely linked to each other, forming a chain back to the beginning of the ledger." They note the Securities and Exchange Commission's (SEC) position that "many of these cryptocurrencies or 'tokens' constitute an investment contract and, therefore, are considered securities under the federal securities laws" — meaning that cryptocurrencies are subject to enforcement actions.

"Even those companies whose policy provides some private placement coverage may find themselves with uninsured exposure as a result of the SEC's position in connection with ICOs," Todd and Jonathan conclude. "This should strike a chord with the broader insurance community because if the plaintiffs' bar can't access private D&O insurance policy proceeds, they will try a different — and perhaps more insidious — avenue to access insurance assets."

The article is based on "Cryptocurrencies and Initial Coin Offerings," an episode of the Goldberg Segalla podcast *Timely Notice*, which examines the latest trends, breaking news, and sea-changes in global insurance law and the insurance marketplace.

#### Read the article:

"D&O Issues with Blockchain, Cryptocurrencies & ICOs" *Property Casualty 360*, June 26, 2018

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