Callidus News

ADVOCATES, CONSULTANTS & NOTARY

DUBAI | SINGAPORE | DELHI | MUMBAI | KOLKATA | CHENNAI | COCHIN info@calliduscmc.com

Branches

Dubai
7th Floor, Office #713
Business Avenue Building
Port Saeed Area, P.O. Box # 90992
Dubai, UAE, Tel : +97142956664
Fax : +97142956099

Singapore
20 Maxwell Road
#04-02 D, Maxwell House
Singapore - 069113
Tel: +65 6221 4090

Delhi
D 1st 145 Basement (Rear)
Lajpat Nagar R 1
New Delhi - 110 024
Tel: +91 11 4132 1037

Mumbai
8-B, Dariya Building
2nd Floor, In between
American Dry Fruits & Zara
Dr. D.N.Road, Fort, Mumbai 400 001
Tel: 022-22853371

Chennai
Old No. 123, New No.255,
3rd Floor, Hussiana Manzil,
Ankapanaiken Street,
Parrys, Chennai - 600 001
Tel: +91 98 40 844463

Cochin
Near St.Joseph's High School
Chittoor Road, Cochin - 12, India
Tel : +91 484 4010566
Fax : +91 484 2391895
office@callidusindia.com

INDIAN HIGH COURT NOTIFIES DRAFT **ADMIRALTY RULES :** BUT, A TAD LATE

The High Court of Kerala is the highest court in the State of Kerala, India, with its jurisdiction covering the entire State of Kerala and the Union Territory of Lakshadweep. It came into being on the 1st November 1956, with the integration of Travancore – Cochin State with the Malabar province of the Madras State. As a High Court, it is a court of record having original, appellate and other jurisdictions, including Admiralty Jurisdiction. But, even though, it had Admiralty Jurisdiction; no rules were framed by the High Court to regulate the procedures.

It was only recently that the High Court of Kerala notified the Draft of the Admiralty Rules. The same was notified in the Kerala Gazette on 8th August 2017 notifying 30 days time for suggestions and objections, if any.

Ever since, the judgement in "M.V Free Neptune" (2011 (1) KLT 904) on 18/02/2011, the legal fraternity was eagerly awaiting the framing of Kerala High Court Admiralty Rules, since, the lack of such rules in the Kerala High Court was not conducive for the trial of the matters filed under the Admiralty Jurisdiction of the Kerala High Court.

In fact, the Kerala High Court, in the judgement delivered in "M.V Free Neptune", had laid down the position that any person invoking the 'Admiralty Jurisdiction' of the Kerala High Court should institute a suit in accordance with the procedure contemplated under the Code of Civil Procedure, 1908. The High Court further declared that the Rules framed by the Madras High Court, shall for the time being in force apply to the conduct of such suit till such time the Kerala High Court modifies the Rules or Legislature intervenes in the matter.

It was in such background, that the Kerala High Court began the task of framing rules for the conduct of suits filed invoking the 'Admiralty Jurisdiction' and notified the draft rules in the Gazette on 8th August 2017.

Meanwhile, on the Legislature level, a major development as regards 'Admiralty Jurisdiction' in India as a whole was taking place. After getting assent from both Houses of Parliament, 'The Admiralty (Jurisdiction and Settlement of Maritime Claims), Act 2017 (The Admiralty Act 2017) finally got the Presidential assent and was notified by the Govt in the Gazette of India

"An ounce of practice is worth more than tons of preaching"

-Mahatma Gandhi.

on 9th August 2017, thus bringing revolutionary changes in the Admiralty/Maritime Laws in the Country by repealing archaic colonial laws passed more than a century ago.

The Admiralty Act 2017 gives rule making powers to the Central Govt with the rider that until rules are thus made by the Central Govt, the rules for the time being in force governing 3 the draft rules on 8th August 2017, and the Admiralty Act 2017 came into force on 9th August 2017, the High Court could not notify the final rules in the Gazette due to the fact that the Admiralty Act 2017 clearly specifies that only the Central Govt has got rule making powers and till the time, the Central Govt frames such rules, the existing rules of the High Court would apply.

Thus, the rules existing in the Kerala High Court, as on the date of notification of the Admiralty Act 2017 (9th August 2017) was the Rules framed by the Madras High Court and the same will apply till such time the Central Govt frames rules in exercise of the powers under the Admiralty Act 2017.

Now, it will depend on the collective efforts of the legislatures to push the Central Govt to frame rules at the earliest so as to make the Admiralty/Maritime Law of the Country more at par with the changing and developing global Admiralty/Maritime Law.

Is cryptocurrency going to take over fiat currency?

I would begin this article by briefly explaining certain terminologies and concepts; thought most of us may be familiar with their existence our knowledge and understanding is quite limited.

Firstly, "cryptocurrency" is digital currency in which encryption techniques are used to regulate the generation of units of currency and to verify the transfer of funds, operating independently of a central bank. For instance, Bitcoin, Litecoin, Ethereum, Ripple etc.

On the other hand, "fiat currency" is legal tender whose value is backed by the government that issued it. For instance all major world currencies like the United States Dollar, the Indian Rupee, the Euro etc.

The modus operandi of Cryptocurrencies are that they use cryptographic protocols, or extremely complex coding systems based on advanced mathematics and computer engineering principles, that encrypt sensitive data transfers, to secure the units of exchange, making it virtually impossible to break into the system, thereby protecting the currency from duplication or counterfeiting. Most cryptocurrencies are designed to have a finite supply, and hence ultimately the demand and supply will determine its value.

We can safely say that functionally, most cryptocurrencies are variations of the first widely used cryptocurrency, which is the "Bitcoin"

A "Bitcoin" is basically a digital decenteralised currency or asset; an unknown programmer or a group of programmers, under the name of Satoshi Nakamoto take credit for its invention.

Essentially there are 3 ways to obtain a Bitcoin - you can either buy one, trade for one, by exchanging it for other currencies, products, and/or services, or you can "mine" for a Bitcoin. Mining for bitcoins is the process of verifying other bitcoin transactions, for which miners are rewarded with Bitcoin's.

In order to buy, sell, receive or transact in cryptocurrency you need a wallet. Once you have installed a wallet on your computer or mobile phone, it will generate your first cryptic address, using this address you can transact with your currency. It must be borne in mind that if you lose your wallet, you lose your money. It is therefore necessary to conduct a due diligence check and research before you obtain a wallet. To safeguard your interest, established bitcoin users recommend using wallets that verify the entire block chain, which is the history; such as, BitcoinQT or Armory.

Records of all prior transactions and activity, validating ownership of all units of exchange at any given point in time are stored in a "block chain" which functions like a master ledger of sorts.

A cryptocurrency transaction attains finality only when it is added to the block chain, which usually occurs within minutes. Once the transaction is finalized, it's typically irreversible. During the time frame between the moment of initiation of the transaction and its finalisation, the units are not available for use by either party. The block chain thus prevents duplicity of transactions, multiple use of currency units, etc., thereby ensuring that the buyer and the seller get what they have consented for.

An additional security feature is that every cryptocurrency holder has a private key that authenticates their identity and allows them to exchange units. The down side to this is that if the key is lost or irretrievable then the holder can not spend or convert their cryptocurrency making the investment worthless. Further it is the duty of the holder to ensure the safe keeping of their keys as being a decentralised asset you cannot approach any authority to redress such grievances.

Some of the major criticisms are that cryptocurrency is extremely volatile; transacting for illegal and illicit activities have also brought it under the scanner. The asset is more virtual than real, as there is no tangible asset that is owned. Presently most governments do not have regulations in place and legality of these transactions are uncertain; there is eminent fear that in the near future governments could term the use or trading of cryptocurrencies as illegal or heavily regulate and tax such transactions, which could in turn impact its market value. If the owner's wallet or key are lost, stolen or irretrievable, the asset owned is meaningless.

That being said some of the advantages in using cryptocurreicies is that transaction fees are low in comparison to traditional methods. Trans-border transactions can take place quickly and with ease. There is certain sense of anonymity provided to the users; being decentralised governance is in the hand of the majority amongst the owners and not a designated body or certain individuals. Unlike traditional fiat currency, counterfeiting is not possible.

To conclude with digitalisation being the mantra of the present generation, the future of cyptocurrency taking over the world is not a far-fetched deduction. With the passage of time and technological advances, more people will choose to trade in cryptocurrencies, thereby recognising it as a viable and popular form of currency.

TIPS & HOT NEWS

Brexit: EU 'to prepare' for future trade talks with UK

The EU is to begin preparing for its post-Brexit trade negotiations with the UK, while refusing to discuss the matter with the British government.

An internal draft document suggests the 27 EU countries should discuss trade among themselves while officials in Brussels prepare the details.

The draft text could yet be revised.

EU Commission chief Jean-Claude Juncker said a lack of compromise over the UK's financial commitments was impeding progress - saying "they have to pay".

Speaking in Luxembourg, Mr Juncker used the analogy of someone covering the bill after ordering 28 beers at a bar to explain the EU's position - and added that the Brexit negotiating process was taking longer than expected.

As the fifth round of talks ended in Brussels on Thursday, the EU's chief negotiator, Michel Barnier, said there was "deadlock" over the UK's Brexit bill.

He said there had not been enough progress to move to the next stage of post-Brexit trade talks - as the UK had hoped - but added that he hoped for "decisive progress" by the time of the December summit of the European Council.

The draft paper submitted to the 27 EU states by European Council president Donald Tusk, suggests free trade talks could open in December - should Prime Minister Theresa May improve her offer on what the UK pays when it leaves.

The BBC's Europe correspondent Adam Fleming said the paper has been described as an "opening to the UK" to encourage the government to reach a deal with the EU.

The document calls for talks - about a transition period and the future relationship - to move to the next phase "as soon as possible".

The draft conclusions - to be put to EU leaders next Friday - also call for more concessions from the UK on its financial obligations and the rights of European nationals who wish to stay after Brexit.

The paper confirms Mr Barnier's assessment, that there has not been "sufficient progress" on three key elements of a withdrawal treaty for leaders to agree to open the trade talks now.

But it says the leaders would welcome developments on these key issues: the rights of three million EU citizens in the UK, protecting peace in Northern Ireland from the effect of a new border and Britain's outstanding "financial obligations".

The council would then pledge to "reassess the state of progress" at their December summit.

Bernd Kolmel, chairman of Germany's Eurosceptic Liberal Conservative Reformers, told BBC Radio 4's Today programme there appeared to have been little progress between the first and fifth round of talks - something he described as a "disaster".

He called on the EU to expand the talks to include its future relationships and trade with the UK.

Anders Vistisen, a Danish Eurosceptic MEP and vice-chair of the EU Parliament's foreign affairs committee, agreed, adding: "The most integral thing is the future relationship. If we are making a bad trade deal for Britain we are also hurting ourselves."

The document states that in order "to be fully ready", EU leaders would ask Mr Barnier and his officials to start preparing now for a transition - albeit without actually starting to talk to the UK about it.

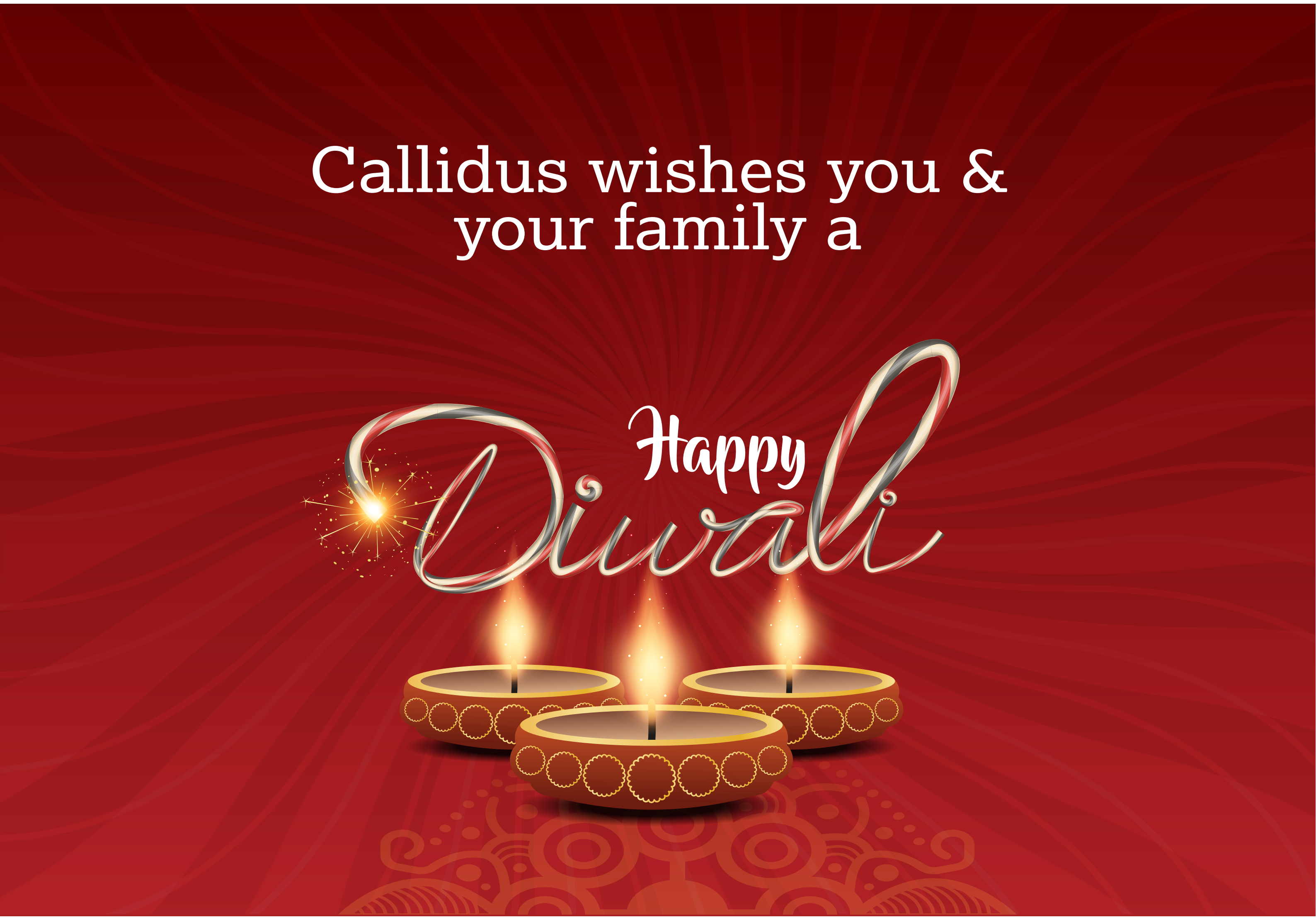
"The European Council invites the Council (Article 50) together with the Union negotiator to start internal preparatory discussions," the draft reads.

Meanwhile, a crucial plank of the government's Brexit legislation faces a raft of attempted amendments by MPs as ministers seek to steer it through Parliament.

The EU (Withdrawal) Bill will end the supremacy of EU law in the UK and incorporate existing Brussels legislation onto the UK statute book.

Commons Leader Andrea Leadsom said going through the proposed changes was "taking a bit of time" as she confirmed there would be no debate on the bill next week.

-BBC News



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Address: Near St.Joseph's High School, Chittoor Road, Cochin- 12, India, T: +91 484 4010566, F: +91 484 2391895, office@callidusindia.com