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65+ Top Real Estate Tokenization Questions

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Tokenization involves representing ownership of an interest in real estate with virtual tokens that exist on a blockchain (forming a type of security token).

Tokenization and the blockchain offer numerous advantages over traditional methods of dealing in real estate. These include increased liquidity and transparency, enhanced security, and simplified management.

But tokenization is also a highly complicated process, both technically and legally. Companies interested in launching a real-estate-backed virtual token must carefully consider and resolve a wide range of issues when planning, developing, and launching their real-estate token.

Our team identified some of the common issues and questions attached to these issues that come up in the process of launching real estate tokenization projects. Below is the list of top 65+ real estate tokenization questions for your consideration.



Yours,
Brayden Hill

Initial Planning Considerations

- Why tokenize real estate?
- How to broaden the reach of a client's security token offering to attract retail investors in the U.S. and abroad?
- Why are real estate non-fungible tokens (NFTs) and decentralized autonomous organizations (DAOs) considered a myth?

- Why can't a client trade real estate security tokens on decentralized or centralized cryptocurrency exchanges (e.g., Uniswap, Coinbase, Binance, etc.)?
- How to avoid common pitfalls in launching a security token offering in the U.S. and abroad?
- What is the screening process for choosing a broker-dealer, transfer agent, technology platform, advisors, and SEC-regulated Alternative Trading System ("ATS")?

Legal

- How to calculate a token price?
- How to calculate the number of tokens offered?
- When is it advisable to form an onshore vs. offshore corporate/tax structure for tokenizing U.S. real estate?
- What's the process for tokenizing shares of a company that owns real estate?
- What are the considerations for transferring real estate from a holding company to a special purpose vehicle (SPV) and tokenizing shares in the SPV?
- What are the key considerations when tokenizing real estate that is encumbered by a mortgage?
- What are the considerations for designing token holders' rights? (e.g., voting rights, redemptions, mandatory buyout provisions, etc.)
- In which case(s) should a client consider launching a tokenized 3(c)(5) real estate fund?

- What are the legal considerations for managing the realization buyback if one of the portfolio properties is sold?
- How to structure the US\$ conversion rate if investors are subscribing to the offering in Bitcoin, Ethereum, or other types of cryptocurrency?
- In which international jurisdictions a client is not permitted to sell tokenized securities?
- What are the marketing restrictions for selling tokenized securities in Singapore, Hong Kong, Japan, Malaysia, Spain, France, Italy and Germany?

Tax

- What's the tax characterization of real estate security tokens?
- What are the capital gains tax considerations that may apply when tokenizing an existing real estate portfolio?
- What are the pitfalls for tokenizing U.S. real estate owned by a limited liability company (LLC)?
- What are the tax considerations to keep in mind when launching a tokenized onshore and offshore real estate fund?
- What is the best strategy for planning and streamlining FIRPTA tax withholdings with offerings involving non-US token holders?
- What are the potential legal and tax ramifications when tokenizing an income-producing property?
- What is the process of issuing tax compliance documents to U.S. and non-US token holders?

Business

- What are the key considerations for tokenizing an existing real estate portfolio vs. fundraising to complete a target acquisition?
- What are the fundraising limits for a security token offering under Reg. CF, Reg. D/S or Reg A+ exemptions from the registration with the SEC?
- What types of real estate interests can be tokenized (e.g., underlying real estate asset, real estate fund, equity in a legal entity that owns a real estate asset)?
- How soon can a client list newly minted real estate security tokens for secondary market trading on ATS platforms?
- What is the process for fractionalizing a portion of an existing income-producing real estate portfolio?
- When launching a security token offering, what is the industry standard for developing an investor/pitch deck, business plan and company's financials?
- What are the restrictions for marketing tokenized securities to accredited and non-accredited investors in the U.S.?

Primary Issuance and Investor Onboarding

- What is the best way to streamline the process for onboarding investors?
- When minting security tokens and onboarding investors, what key business and legal terms must a client negotiate with a token-issuing platform?

- How can a client accept subscriptions in crypto?
- What is the process for converting crypto investments to USD?
- Which banks and custodians should a client use for its security token offering?
- Which KYC, AML, and accreditation checks must U.S. and non-US investors pass in order to participate in a security token offering?
- How can a client optimize technology and licensing costs during a primary token issuance?
- What is the process for distributing tokens into investors' wallets?

Technology

- Should a client launch its own real estate tokenization platform or work through an existing technology provider? If yes, how long would it take to launch the platform?
- Which blockchain should a client use for minting security tokens? (e.g., Ethereum, Avalanche, Algorand, Matic, Tezos, etc.)?
- When issuing security tokens, why should a company rely on the industry's certified security token standards instead of minting its own tokens?
- What are the gas fees for issuing security tokens?
- Which blockchains are not compatible with regulation D/S offerings?
- What's the process for managing lost or destroyed security tokens?
- How best to handle token security considerations in the event of a blockchain bug, denial of service attack, consensus-based attack, etc?

Securities Regulations

- What's the process of launching security token offerings under Reg. D/S & CF+ exemptions?
- What's the process for the U.S.-based token issuer to sell its securities outside of the U.S.? Can a foreign security token issuer sell its securities in the U.S.?
- What are the restrictions for trading Reg D & Reg CF securities on secondary marketplaces?
- What are the limitations on the number of investors in a tokenized offering under Reg. D/S & CF exemptions?
- Why could the Reg. CF exemption be an attractive framework for real estate developers looking to raise up to \$30M+?
- What's the process for automating compliance via smart contracts, such as jurisdictional restrictions?
- Can a client fundraise for its tokenized real estate project without hiring a broker-dealer?
- What are some considerations when selecting a broker-dealer for a client's tokenized project in the U.S., Europe, Asia, and Middle East?

Secondary Market Trading

- What are the underwriting requirements for listing a company's security token offering on ATS platforms for secondary market trading?

- On which ATS platforms can a company list its security tokens for secondary trading in the U.S., Europe, and Asia?
- What key business and legal terms must a company negotiate with an ATS platform and a broker-dealer before placing its security token offering on the secondary market for trading in the U.S. and abroad?
- What are the industry bottlenecks for cross-listing security tokens on U.S. and international ATS platforms?
- What are the legal, tax, and business considerations for managing a security token offering during secondary market trading?
- What are the timelines, processes, and fees for registering an ATS platform in the U.S. for trading security tokens?

Post-Issuance Considerations

- What is the real-time process for managing the lifecycle of security tokens, including distributions, voting and investor engagement?
- What's the process for effectively managing a security token cap table in compliance with Rule 144 for reselling restricted or controlled securities?
- What's the process of burning tokenized shares and managing distribution/payout for redeemed tokens?
- What are the considerations for burning investors' tokens if a piece of property is sold from the tokenized real estate portfolio?



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