

Securities Commission of The Bahamas

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MEDIA RELEASE

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**FOR IMMEDIATE RELEASE:
2 April 2019**

New Bahamas Legislation to Establish Crypto Regulatory Framework

The Securities Commission of The Bahamas (“SCB”) has released draft legislation that would regulate the issuance or sale of digital tokens in or from within The Bahamas, and how sellers and intermediary service providers conduct themselves.

The SCB released the draft Digital Assets and Registered Exchanges Bill, 2019 (“DARE Bill, 2019”) for industry and public consultation for a period of eight weeks. The Bill proposes a legislative structure with standards for entry into and participation in the digital token space. These requirements stipulate who may participate, the level of capital required, the rules for reporting and seeking the Commission’s approval, and the penalties for failure to comply.

Additionally, the proposed legislation requires that participants adhere to established anti-money laundering (AML) and counter-financing of terrorism (CFT) laws, ensure data protection measures related to the personal information of clients, and implement measures to prevent data breaches that would jeopardize clients’ crypto assets.

SCB Chairman Mr. Robert Lotmore said the draft legislation is the first of a series that aims to establish a comprehensive approach to crypto assets regulation.

“The SCB has been working in close consultation with the industry on the development of this Bill, which we anticipate will be the first piece of a suite of legislation that will establish the regulatory framework for crypto assets in The Bahamas,” Mr. Lotmore said. “A comprehensive policy position paper will be released next, and the Securities Commission looks forward to input from the industry and general public on that as well.”

SCB Executive Director Ms. Christina Rolle said due in large part to the intense interest in crypto related business recently, the jurisdiction had to move to ensure an appropriate regulatory framework is in place.

“Over the last year, the number of queries the jurisdiction has received from entrepreneurs interested in venturing into this form of capital raising has mandated that the jurisdiction ensure legislative and regulatory parameters are in place to address how operators conduct themselves and how token issues come to market,” Ms. Rolle said.

Delving further into how the proposed framework would operate, Rolle said, “The Bill establishes a framework for regulation of digital token issuances in or from within The Bahamas. We anticipate that

while non-security tokens will not be directly approved for issuance by the SCB, the SCB will have some level of oversight. Issuance of security tokens, that is, tokens which meet criteria to be deemed securities, will require direct approval by the Commission.”

The proposed regulations provide a framework not only for token issuances but also for the registration and regulation of crypto exchanges and defines certain types of “crypto” businesses (such as custodians and wallet services), thereby paving the way for their regulation. The legislation’s requirements for crypto exchanges are applicable to not only fiat-to-crypto exchanges but also crypto-to-crypto exchanges as well as both centralised and decentralised exchanges.

The SCB is a statutory body established in 1995 pursuant to the Securities Board Act, 1995. That Act has since been repealed and replaced by new legislation. The SCB’s mandate is now defined in the Securities Industry Act, 2011 (SIA, 2011). The Commission is responsible for the administration of the SIA, 2011 and the Investment Funds Act, 2003 (the IFA), which provides for the supervision and regulation of the activities of the investment funds, securities and capital markets. The Commission, having been appointed Inspector of Financial and Corporate Services effective 1 January 2008, is also responsible for administering the Financial and Corporate Service Providers Act, 2000.



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