

Securities Commission of The Bahamas

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## MEDIA RELEASE

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FOR IMMEDIATE RELEASE

### DARE Legislation Opens the Door for New Industry

*Nassau, The Bahamas, 4 December 2020* – The passage of the Digital Assets and Registered Exchanges Bill, 2020 (DARE) has put in place the legal framework for a vital, well-regulated and compliant industry in The Bahamas for those interested in entering the digital asset space.

It also creates specific opportunities for entrepreneurial Bahamian Fintech firms to enjoy the credibility of being licensed and functioning under a comprehensive regulatory regime and participate in the Fintech industry that is being forged with the DARE Bill.

DARE legislation passed in the House of Parliament on 3 November, facilitates the registration of digital token exchanges, and the provision of services related to digital token exchanges. It also provides for the regulation of digital assets- based payment service businesses and for the registration of financial services related to the creation, issuance or sale of digital tokens and other digital assets.

Prime Minister and Minister of Finance the Most Hon. Dr. Hubert Minnis said a Fidelity Digital Assets' Institutional Digital Assets Report illustrates the explosive growth of virtual assets, including virtual currencies, and the need for a jurisdiction like The Bahamas to equip itself with compliant and competitive legislation to participate in the digital asset space.

"The survey of almost 800 institutional investors across the US and Europe indicated that thirty-six percent (36%) of respondents are invested in digital assets, and that 6 out of 10 believe digital assets 'have a place in their investment portfolio'," said the Prime Minister.

According to the report, over 80 percent of investors indicated that they would be interested in institutional investment products that hold digital assets.

"As an international financial centre with a considerable wealth management focus, this trending investor interest speaks to the potential for Bahamas-based wealth management experts to offer financial service related to digital assets," the Prime Minister said.

The SCB has been working in close consultation with industry and outside consultants on the development of DARE for the past two years. SCB Executive Director Christina Rolle noted that with the intense interest in digital asset related businesses, it was essential for the jurisdiction to have an appropriate regulatory framework in place.

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

Ms. Rolle added, “DARE solidifies a legislative structure with standards for entry into and participation in the digital assets 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.”

Strict adherence to established anti-money laundering (AML) and counter-financing of terrorism (CFT) laws by DARE participants is also included in the legislation to ensure data protection measures related to the personal information of clients, and implement measures to prevent data breaches that would jeopardize clients’ digital assets. Specifically DARE participants are required to implement the same AML/CFT measures as Designated Non-Financial Business Professionals and financial institutions.

By establishing the legal foundation for a new industry, DARE expands the playing field for financial services activity in the country, potentially creating new businesses and providing expansion opportunities for existing financial services providers and corporate services providers to grow their businesses into the digital space. It also allows for new fintech operators to establish operations in The Bahamas, or to work with firms already in country.

In developing the legislative framework for DARE, the SCB examined the status and regulatory environment of crypto currencies in competitive IFCs such as Switzerland, Hong Kong, Malta and Gibraltar as well as the United States. “We left no stone unturned in analyzing what others are doing to ensure DARE creates a digital asset environment that is one par or exceeds what is being offered in other jurisdictions,” said Ms. Rolle.

On the same day DARE legislation was passed Parliament approved The Financial and Corporate Service Providers Bill, 2020 (FCSP), providing legal clarity for both corporate and financial service providers. FCSP modernizes the two-decade old legal framework of the existing Act and establishes a full regulatory, internationally compliant framework with appropriate powers vested in the SCB as regulatory authority.

More important from a DARE perspective is that the FCSP provides for the custody of digital assets and wallet service providers.

Similar to DARE the SCB began its extensive engagement with the industry in 2016 to develop a modern framework for FCSPs that is in keeping with international best practices and standards. With 344 financial and corporate services licensees in The Bahamas the FCSP Act, 2020 directly impacts Bahamian entrepreneurs and operators, perhaps more than any other financial services legislation.

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 is also responsible for administering the Financial and Corporate Service Providers Act, 2020 as well as the Digital Assets and Registered Exchanges Act, 2020.

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#### **Editor's Information:**

1. **The Securities Commission of The Bahamas (the Commission) 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.**
2. **The Commission's mandate is defined in the Securities Industry Act, 2011 (SIA, 2011).**
3. **The Commission is responsible for the administration of the SIA, 2011 and the Investment Funds Act, 2019 (the IFA), which provides for the supervision and regulation of the activities of the investment funds, securities and capital markets.**
4. **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.**
5. **The functions of the Commission are to:**
  - **advise the Minister on all matters relating to the capital markets and its participants;**
  - **maintain surveillance over the capital markets and ensure orderly, fair and equitable dealings in securities;**
  - **foster timely, accurate, fair and efficient disclosure of information to the investing public and the capital markets;**
  - **protect the integrity of the capital markets against any abuses arising from financial crime, market misconduct and other unfair and improper practices;**
  - **promote an understanding by the public of the capital markets and its participants and the benefits, risks, and liabilities associated with investing;**
  - **create and promote conditions that facilitate the orderly development of the capital markets;**
  - **and perform any other function conferred or imposed on it by securities laws or Parliament (SIA, 2011, s.12).**