



GOVERNMENT OF THE BAHAMAS

THE FUTURE OF DIGITAL ASSETS IN THE BAHAMAS

-POLICY WHITE PAPER-
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1 INTRODUCTION

- 1.1** This White Paper sets out a vision and a framework to guide Bahamian digital asset policy between now and 2026. It is a complete policy update and its actions have been informed by The Bahamas' initial success in attracting significant digital asset businesses to set up in the country, and by our vision to transform The Bahamas into the leading digital asset hub in the Caribbean and a global leader in the progressive regulation of businesses in this profoundly innovative space. By this we mean that we will substantially grow the sector by 2025, while ensuring that only well-run, trustworthy, and thriving digital asset businesses, which are able to maintain high standards and sustain the good reputation of The Bahamas, are allowed to operate from the country. The growth of the digital asset sector is seen as a critically important part of rebuilding an economy that has been badly damaged by Hurricane Dorian and the effects of the COVID-19 pandemic.
- 1.2** The use of digital assets has grown exponentially since the first cryptocurrency, Bitcoin, was launched in 2009, and more strongly since 2017. Digital assets can be said to have gone mainstream globally in 2021 with large banks, investment firms and other financial institutions beginning to invest and trade in them. By November 2021, the total market value of all crypto assets exceeded USD 3 trillion. To date, more than 12,000 crypto assets are traded on exchanges and this number continues to grow daily as new use cases are discovered. Central banks, such as the European Central Bank, the Federal Reserve, the Bank of England, and the Central Bank of China are at various stages of exploring, developing, launching, or trialling Central Bank Digital Currencies (CBDCs). Some Central Banks are exploring cryptography and blockchain technology in the development of their CBDCs. Significantly, on 9th March 2022, President Biden, issued a wide ranging executive order tasking multiple government agencies with developing policy recommendations on digital assets and crypto currencies. Specifically he directed the Secretary of the Treasury to develop and "submit a report on the future of money and payment systems, including the conditions that drive broad adoption of digital assets," This directive clearly indicates the United States intention to explore options for developing its own CBDC and acknowledged that crypto is here to stay.
- 1.3** Volatility in the value of crypto assets remains high, and therefore they are not suitable for all investors. While the opportunity for making money in digital assets is high when prices go up, so too is the risk of suffering losses when prices go down. These risks and the risks associated with financial crime, such as fraud, money laundering and illicit financing, necessitate proportionate and relevant policy responses. Many jurisdictions fail to strike the right balance between, on the one hand, effective risk-adjusted regulation appropriate to a novel and burgeoning industry and, on the other, supporting the growth and economic potential that innovative financial technology can bring. This policy will support both objectives in ways that will provide sustainable growth for The Bahamas' economy and increase the prosperity of its citizens.

- 1.4** The Government's approach to digital assets builds on examples of successes in other countries, including Gibraltar, Switzerland, Liechtenstein, and France. We have also considered current and proposed regimes in places such as the USA, the UK, the European Union, Dubai, Singapore, Japan, and Australia. We have sought to formulate a balanced policy that safely encourages innovation and fosters opportunity while adhering to best practices and rigorous standards along with meeting our international obligations.
- 1.5** This framework has been developed in the context of the significant growth of digital assets and international efforts to regulate the space. These include initiatives by the G20, the Bank for International Settlements (BIS), the Financial Action Task Force (FATF), the Organization for Economic Cooperation and Development (OECD) and the International Organisation of Securities Commissions (IOSCO). The Bahamas was one of the first nations to comprehensively regulate digital asset businesses and initial token offerings (ITOs) when we introduced the Digital Assets and Registered Exchanges Act, 2020 (the DARE Act) and established safeguards for the custody of digital assets in the Financial and Corporate Service Providers Act, 2020 (the FCSP Act). This framework will ensure that The Bahamas remains at the forefront of nations seeking to provide a well-regulated safe space for digital asset businesses.
- 1.6** The FATF clarified that virtual assets fall in scope of its global anti-money laundering standards — the 40 FATF Recommendations — in October 2018, and published an Interpretive Note and Guidance on a Risk-Based Approach to Virtual Assets and Virtual Asset Service Providers the following year. The Guidance was substantially updated in October 2021. The DARE Act and FCSP Act implement FATF requirements relating to virtual assets. We will review the latest Guidance and implement any necessary changes to our anti-money laundering and countering threat financing regime.
- 1.7** The Government is committed to the fight against money laundering, as well as against illicit and threat financing. We will ensure that our legal and regulatory frameworks relating to digital assets are kept up-to-date and fully aligned with sound and accepted international standards, including FATF's recommendations, and that registration, supervision, regulatory and law enforcement, together with financial intelligence regimes are effective in the fight against money laundering and illicit financing. As their primary regulator, the Securities Commission of The Bahamas (SCB) ensures that digital asset businesses understand their compliance obligations. Digital asset businesses in The Bahamas are expected to uphold thorough antimoney laundering and counter-illicit financing standards, and to continually train and evaluate their compliance and operational staff in the prevention of bribery, corruption and counter threat finance related to money laundering risks potentially involved with the use of digital assets.
- 1.8** The DARE Act takes a pragmatic and proportionate approach to the regulation of digital asset businesses. It delivers an expansive regime while ensuring that the highest standards are applied and maintained by those businesses. The introduction of the legal regime established by the DARE Act positions The Bahamas as an attractive destination for some of the world's largest digital asset exchanges. The first such exchange was registered as a Digital Asset Business in September 2021.

The SCB is currently processing several applications for registration under the DARE Act with other interested companies either applying for registration or evaluating The Bahamas and its digital asset regime.

1.9 Globally, digital asset businesses find it challenging to open bank accounts and maintain banking relationships. While governments cannot dictate banks' commercial decisions, we will encourage banks licensed in The Bahamas to incorporate a calculated and robust risk-based approach to onboarding and monitoring digital asset businesses, as an alternative to following a pro forma de-risking policy by avoiding entities operating in the digital asset space. We will also have dialogue and an appropriate approach with international correspondent banking institutions to ensure healthy relationships are maintained for our Bahamian licensed institutions so a framework to ensure they can provide transactional services to clients that deal in digital assets.

1.10 To ensure that our long-term digital asset policy is transparent, robust, and coherent, we will publish an annual update and undertake a comprehensive policy review by December 31, 2023.

2 POLICY OBJECTIVES

2.1 For The Bahamas to remain at the forefront of regulated digital asset jurisdictions, our policy framework seeks:

- to explore new opportunities in a rapidly and continuously evolving digital asset landscape, including developments in decentralised finance (DeFi), non-fungible tokens (NFTs), stablecoins and asset-referenced tokens;
- to improve the attractiveness of The Bahamas as a well-regulated jurisdiction where well-run digital asset businesses, of any size, can operate, grow, and prosper;
- where necessary, to clarify and expand the scope of the current legislative framework, generally, and the DARE Act, in particular, to continue to safely regulate digital assets and digital asset businesses;
- to encourage innovation in the Fintech space and identify emerging technologies that would help maintain the Bahamas' competitive advantage;
- to explore linkages between the Bahamas' existing financial services toolkit (i.e. corporate and fiduciary services) to facilitate continued innovation in the international financial services sector;
- to develop the necessary skills and expertise to fill jobs created in The Bahamian digital asset sector;
- to work with the Central Bank of The Bahamas to ensure that policies are adjusted and clarified to enable Bahamians to access digital assets in Bahamian Dollars (B\$);

- to build capacity and expand the resources of the SCB in order to support and enhance its role as the pre-eminent digital asset regulator and to enable it to become a global centre of excellence in the pragmatic, risk-adjusted regulation of digital assets and digital asset businesses; and
- to provide sustainable funding for our digital asset policies, initiatives, and programmes.

3 PROMOTING ECONOMIC GROWTH

3.1 Between 2008 and late-2021, the global total dollar value of digital assets grew from zero to USD 3 trillion. Until recently, much of the benefit of this new asset class and its related business sector has been concentrated in high income economies. However, more recently, developing economies, including small island economies such as The Bahamas, have leveraged their agility to seek out and exploit opportunities to compete in the innovative and largely borderless, global markets, facilitated by distributed ledger technologies. Digital assets have become a web enabled digital economy capable of creating, as well as facilitating, new business and growth opportunities beyond Bahamian shores.

3.2 The introduction of a carefully calibrated regulatory regime for digital asset businesses, and its pragmatic implementation by the SCB, has attracted leading global digital asset brands to set up operations in The Bahamas and seek registration under the DARE Act. These businesses will provide much-needed employment as well as investment in local infrastructure and social projects, resulting in a positive economic impact for the nation.

3.3 The presence of leading digital asset businesses has had a multiplier effect of attracting yet more firms to The Bahamas, initiating a powerful virtuous cycle that promises to mitigate some of the adverse economic impact of Hurricane Dorian and COVID-19 pandemic, and further promote responsible economic growth.

3.4 Central to our digital asset policy is our focus on expanding the economic benefit derived from safely developing opportunities created by the novel and innovative use of digital assets, as well as non-financial use cases for distributed ledger and blockchain technologies (the technologies that underpin most digital assets), such as Web3.

4 MAINTAINING THE BAHAMAS' REPUTATION AND GOOD STANDING

4.1 The introduction of innovating technologies, especially those with financial applications, is not without risk. Risks include those that are technological (security and reliability), criminal (financial crime such as fraud and money laundering), financial (economic, monetary, and financial stability), consumer-focused (consumer and investor protection), and market-based (market abuse and misuse of information). The purpose of optimal regulation is to mitigate against these risks.

- 4.2** As important as economic growth is to The Bahamas, such growth cannot be without regard to related risks. Risks will be assessed, and appropriately mitigated, alongside considering the impact on our overall policy objectives.
- 4.3** As with other financial sectors, and in common with many other nations, The Bahamas regulates digital asset businesses to ensure that those businesses are well-run and conduct their businesses fairly and in the interest of customers, that their customers' money, assets, and privacy are properly safeguarded, and that they have compliance measures in place to detect and prevent financial crime. The SCB has acquired and continues to expand the necessary expertise to perform its regulatory objectives well in relation to the digital asset sector. The combination of a sound, forward-looking regulatory regime, and an effective and capable regulator ensures that The Bahamas meets its international obligations in facilitating a well-ordered global financial system and this, in turn, helps the country uphold and enhance its global standing and reputation.
- 4.4** The SCB will take the lead, and collaborate as necessary with the Central Bank of The Bahamas and other relevant stakeholders, on all regulatory matters relating to digital assets and digital asset businesses, to ensure that the digital asset sector remains well regulated, and the reputation and good standing of The Bahamas is properly maintained.
- 4.5** The Bahamas is committed to fiscal transparency, and the enforcement of rules and international standards and best practices that ensure proper disclosure of the identity of ultimate beneficial owners and relevant stakeholders in digital asset businesses operating in the country as required. The Government will endeavour to ensure that digital assets are not used for the evasion of taxes or sanctions, and will seek to ensure compliance with all applicable Tax information exchange agreements (TIEA) and domestic laws and agreed OECD standards.
- 4.6** The Bahamas will support its courts and relevant regulatory agencies (including the Registrar General Department) so they can continue to enable parties to protect and enforce rights in trademarks, copyrights, patents, and all other forms of Intellectual Property as they relate to or implicate digital assets.
- 4.7** As technology and markets evolve, dispute resolution mechanisms in The Bahamas, including arbitration, will strive to properly address disputes relating to digital assets, smart contract, distributed ledger technology (DLT) and fintech.

5 KEEPING RELEVANT

- 5.1** The DARE Act is a progressive regime covering a new and rapidly evolving sector. Its scope covers both registration of digital asset businesses, and the issuance and public offering of new digital assets by means of initial token offerings (ITOs). Since it was passed in late-2020, new typologies have become established or grown in prominence, such as DeFi (including decentralised exchanges or DEXs), asset-referenced tokens (including stablecoins), and NFTs.

- 5.2** Each of these emerging trends and developments comprise unique features when compared with digital assets established at the time the DARE Act came into force. Some, such as DeFI, may not be suitable for regulating in the same way as for those with clearly defined (centralised) issuers, operators, or exchangers. Algorithmic asset-referenced tokens have different regulatory attributes than those that are asset-backed. NFTs can have financial or non-financial (or even hybrid) use cases. Exchanges today can be either centralised or decentralised, and not everything that is labelled decentralised is strictly so. Issuance models — other than the ITO model — are now commonplace.
- 5.3** Unfettered promotion of digital assets, such as unfairly balanced or biased statements and the use of social media influencers, is a growing concern globally. We will review whether there is need for controls to be implemented on the marketing and promotion of digital assets and digital asset businesses. It is important to adhere to and adopt international standards for financial consumer and investor protection.
- 5.4** To ensure that our policy objectives are met and that all branches of government are aligned and working together to deliver the desired outcomes, we will establish the DPC, chaired by the Prime Minister, whose members will include the Financial Secretary, the Executive Director of the SCB, the Governor of the Central Bank of The Bahamas, and the Chair of the Digital Advisory Panel.
- 5.5** We will establish the Digital Advisory Panel (DAP), including leading digital asset experts, to keep digital asset and related digital developments, emerging trends, and associated risks constantly under review. A key component of the DAP would be to have a composition that can provide focus on regulatory standards from international bodies and have key engagement with regulatory stakeholders domestically and abroad. It will be charged with keeping the Government, the Digital Asset Policy Committee (DPC), and the appropriate regulators regularly updated, and also with recommending appropriate changes to digital policies and initiatives, to the DARE Act, and other legislation to ensure The Bahamas maintains its place as a wellregulated digital asset jurisdiction while continuing to remain relevant and attractive for digital asset businesses to operate from, grow, and prosper.

6 SKILLS AND EDUCATION

- 6.1** With the growing number of jobs in the digital asset sector in The Bahamas comes the need for Bahamians to acquire the knowledge and skills necessary to fill those jobs. We will expand the range of sector-specific, academic, professional, and vocational education opportunities available to enable Bahamians to secure positions in the industry.
- 6.2** We will encourage and support collaboration between the applicable regulators, including the SCB, and private sector with the University of Bahamas (UB) to develop a series of crypto asset courses and certificate and degree offerings. International experts will be consulted to work with UB's administration and professors and academia to develop the curriculum and teach the courses.

6.3 Equally important is the need for banks, other regulated firms, and the professions in The Bahamas to recognise the challenges of dealing with digital and, largely, non-face-to-face businesses and, accordingly, to expand their capabilities to support a burgeoning digital asset sector. Regulated entities will need to understand that, rightly or wrongly, digital assets are perceived as being at a higher risk for money laundering than many traditional financial assets. As such, they will have to adapt their risk management processes, develop, and implement appropriate compliance policies and procedures, and conduct appropriate staff training in order for those entities to enjoy the full advantage of the growth opportunities presented by digital asset businesses, while remaining resolute in meeting their anti-money laundering obligations. We will consider ways in which training and education for other regulated firms can best be supported by the Government, for example, by the provision of relevant continuous professional education to those working in the financial services and professional sectors.

7 BAHAMIANS' ACCESS TO DIGITAL ASSETS

7.1 Enabling access to digital assets for Bahamians in B\$ and encouraging greater use of Sand Dollars (the Central Bank Digital Currency issued by the Central Bank of The Bahamas) is a priority for the Government. We will work with the SCB, the Central Bank of The Bahamas, and the private sector on ways to enable Bahamians to access digital assets with B\$, and for Bahamians to pay taxes using Sand Dollars. We will also seek to promote wider use of Sand Dollars in commerce on the islands.

8 SUSTAINABILITY

8.1 Sustainability and climate change are global challenges. We believe that The Bahamas should play its part in helping address these crucial issues. We will explore ways in which the country can both do good and leverage new opportunities in this field. We will consider the feasibility of introducing incentives for digital asset businesses that prioritise more energy efficient digital assets (such as those using proof-of-stake mechanisms) over those that are less energy-efficient (such as those using proof-of-work).

8.2 To help mitigate the effects of greenhouse gases, we will explore the feasibility of establishing a system of carbon credits and a Caribbean carbon market using DLT and operating within The Bahamas' digital asset regime.

9 CAPACITY BUILDING

9.1 The SCB has established itself as a robust but pragmatic regulator. In short time, it has acquired the knowledge and skill to be able to regulate global-scale digital asset businesses. Where necessary, it has sought specialist resources from leading global digital asset experts, e.g., to assist with work on a sectoral money laundering and terrorist financing risk assessment.

9.2 Keeping abreast of developments in the continuously evolving field of digital assets, its technology, use cases, related products and services, and the risks posed is both necessary and resource intensive. We will ensure the SCB has the resources it needs to be the pre-eminent digital asset regulator in The Bahamas. We are committed to provide the necessary resources for the SCB to continue building capacity and to meet the growing demand to regulate and supervise an increasing number of global digital asset businesses. Our goal is to enable the SCB to become a global centre of excellence in the pragmatic regulation of digital assets and digital asset businesses, and to take the lead in our hemisphere, and globally.

10 FUNDING

10.1 An ambitious policy programme for the expedited development of a new industry sector cannot be achieved without adequate funding. Expanding educational opportunities, for example, is not cost-free. We will consider introducing a development and training levy of the largest digital asset businesses to provide a sustainable source of funding expressly for our Keeping Relevant, Skills and Education, and Capacity Building initiatives.

11 PROPORTIONATE AND BALANCED APPROACH

11.1 It is expected that caution will be applied when making policy decisions about innovative products, services, and new technology. A careful balancing of regulation and policy is required to ensure that the objective of job creation and economic advancement are made in a sound environment. Prudent policymaking depends on considering all factors, including the impact on other policies, legal and regulatory requirements and making appropriate evidence-based risk adjusted decisions.

11.2 When fulfilling our digital asset policies, we will strike a proportionate, risk-adjusted balance that considers all policy objectives and outcomes, holistically. Assessing the impact on other policy objectives and outcomes will be a prerequisite for our policy and regulatory decisions ensuring that all factors are taken into account before decisions are made and action taken.

11.3 A joined-up, multi-stakeholder approach is crucial to the success of our policies. We will ensure that all branches of government, its agencies, and the wider public sector are engaged and aligned behind this policy framework, and that they prioritise inter-departmental and inter-agency co-operation.

12 CONCLUSION

- 12.1** During 2022, we will set up the DPC and the DAP, build capacity and expand the resources of the SCB, expand digital asset skills and education opportunities, update the DARE Act, start enabling Bahamians' access to digital assets using B\$, and enable payment of taxes using digital assets.
- 12.2** This expansive digital asset policy framework will enable The Bahamas to create a vital opportunity to tackle some of our economic challenges and provide jobs and prosperity for Bahamians.



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the Prime Minister