

## Central Bank of The Bahamas' Responses

### to Comments and Questions on

### the Discussion Paper on The Proposed Approaches to Regulation of Crypto Assets in The Bahamas

Section	Information from Discussion Paper	Question/Comment Received	Central Bank Response
Page 1: Section 1: Executive Summary	When referring to the various types of tokens, international regulatory convention has settled on "crypto assets" rather than "cryptocurrencies." The Central Bank supports this nomenclature, as it clearly distinguishes between the central bank issued fiat currency, and private sponsored innovations that rely on cryptographic or distributed ledger technology.	We would like to recommend naming these assets 'Digital Assets' as the term 'crypto', while referencing cryptographic security currently, has unfortunately a negative connotation in the public eye, associating 'crypto' with anonymity rather than technology security. It should be noted that Digital Assets include Blockchain based instruments.	<p>As the term "crypto" can have a negative connotation, some private sector participants may prefer to broadly refer to these assets as digital or virtual assets. The Central Bank will ensure that its word use and definitions are aligned with international regulatory convention and any changes therein.</p> <p>Specific definitions aside, it is important that the public distinguish between private sponsored digital innovations and Central Bank digital currencies going forward.</p>
Page 1: Section 1: Executive Summary	The Bank will also prohibit direct convertibility between Bahamian dollar (B\$) currency or officially sanctioned B\$ crypto instruments and foreign currency denominated crypto assets or non-resident sponsored instruments. This is consistent with the current EC requirements. For transactions involving Bahamian residents and non-residents, commercial banks (authorised dealers) are still charged with conversion into and out of domestic currency.	As long as requirements are in line with prevailing exchange control requirements, this is fine. We feel, however, that requirements for B\$ crypto instruments should be the same as for B\$ traditional instruments.	It will be the same. Bahamian dollar crypto-assets will have the same treatment as traditional B\$ instruments. Where the crypto-asset is denominated in foreign currency, then it will be treated as a foreign currency asset for exchange control purposes.

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Page 1: Section 1: Executive Summary	The Central Bank has identified scope for amendments to the Payments Instrument (Oversight) Regulations, 2017 (PIOR). This will ensure comprehensive coverage of both Bahamian dollar and foreign currency denominated crypto payments instruments. However, it is likely that only Central Bank sponsored digital currencies, or payments instruments fully backed by Central Bank issued currencies or legal tender deposits, will be eligible for issuance by licensed payment services providers.	Can it be clarified to which types of Digital Assets would be excluded in the new scope for PIOR? (for example, would payment service providers be able to transact in utility and payment tokens such as Bitcoin under this clause?) If issuance means creating new tokens and issuing as a currency treasury, we would then agree - if issuance simply is referring to processing payments then we would disagree as we would see it as too restrictive and essentially this would remove the main purpose of payment tokens.	<p>It is likely that the utility and asset tokens will be excluded in the new scope for PIOR, as these have characteristics more in line with securities and are expected to be covered under the Digital Asset and Registered Exchanges legislation.</p> <p>As per the current PIOR, payment service providers are allowed to issue payment instruments or transform fiat currency to digital up to funds held in their clients' accounts.</p>
Page 1: Section 1: Executive Summary	Crypto assets and the associated technological platforms (such as distributed ledger technology), may offer fast, accurate and secure record keeping. They may also allow for increased payment efficiency (in-country and cross-border), with lower transaction times and costs. Because transactions can be made on a peer-to-peer basis without financial intermediaries, these technological advances can readily be used by unbanked populations. This has the potential to increase financial inclusion worldwide.	Very important and good to note as a means of payment for the unbanked. Highly beneficial to the Family Islands.	Noted
Page 2: Section 2: Understanding Crypto Financial Instruments	These digital tokens can represent a range of assets, such as: actual ownership in companies or ventures; earnings streams or interest payments; entitlement of access to services; or entitlement of use for payments. Based on the distinct features, or intended use, the most common forms are: (i) payment; (ii) security; and (iii) utility tokens. However, some products are not easily classified.	The Central Bank should consider including a glossary and/or definitions in the final guideline or legislation. Terms used throughout the document have specific and distinct meanings; e.g. crypto assets, crypto financial instruments, digital currencies, digital tokens or "coins", prohibited payment tokens, and as such should be defined.	Agreed

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Page 2: Section 2: Understanding Crypto Financial Instruments	In the fintech space, crypto financial instruments can assume a variety of features, each with different purposes. While the term “cryptocurrencies” has been widely used to denote instruments that simulate money or central bank issued currencies, it has also covered broader categories of digital tokens originating from “initial coin offerings” (ICOs).	Security Tokens, Utility Tokens, Payment Tokens.	Noted
Page 2: Section 2: Understanding Crypto Financial Instruments	<p>Payment tokens: Commonly known as a cryptocurrency, a payment token can be a store of value and a unit of measurement (e.g. Bitcoin).</p> <p>As digital representations of value, payment tokens can be traded. Like central bank issued currency, they are supposed to function: (i) as mediums of exchange, (ii) units of account, and (iii) stores of value. However, they do not have legal tender status, are not guaranteed by any jurisdiction, and face well-documented challenges meeting these three functions. They also lack the capacity to be used by their issuers, or owners, to support “lender of last resort” operations.</p>	<p>We note that while payment tokens are not issued by a jurisdiction, there are self-governing instruments, safeguarded by a protocol that is immutable and cannot be controlled by any party whether malicious or otherwise. Therefore, not being backed or issued by a jurisdiction may not be the main concern for the user, as user’s deposit is never at risk if user’s private key is secured (i.e: the coin is being used and stored properly)</p> <p>As a medium of exchange most major payment tokens work for this purpose - there is no settlement risk, and most of the prevailing issues have to do with the fiat side of an exchange transaction as fiat currencies have delayed settlement periods.</p> <p>While there is no lender of last resort, the payment token ledger is publicly available and immutable; therefore all institutions using a payment token would constantly have their operations transparently available to any regulatory institution to monitor for solvency at any moment</p>	The Central Bank notes your comments. The advantages that you raise regarding payment tokens relate broadly to blockchain technology, i.e. immutability, speedy settlement, public ledger, etc. Further, payment tokens (e.g. bitcoin) are not equivalent to fiat currency nor will they be equal to Central Bank digital currencies, as they are originated from a decentralized system. However, the lender of last resort issue underscores that should a crisis emerge, there are limits on how the Central Bank can effectively respond. If systemic risks emerge, there is greater scope for intervention if a lender of last resort exists. This has implications for how failed institutions are resolved.

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Page 2: Section 2: Understanding Crypto Financial Instruments	Asset-backed or security tokens are a digital representation of an actual asset or revenue stream. They may also include rights to exchange the tokens for the physical asset, or for equity or debt interests in the entity.	We recommend that, if the token provides revenue stream or represents ownership of a company, it would be a security. Tokens that are asset-backed (currency or commodity) and do not pay out revenues/interests from the issuer should not be considered as security tokens. These are non-security asset-backed tokens.	The Central Bank notes your comments. Internationally agreed definitions will be used so that stakeholders inside and outside of the jurisdiction will have a better understanding of our requirements.
Page 2 - 3: Section 2: Understanding Crypto Financial Instruments	Utility tokens represent a right to a good or service, similar to a gift card (e.g. StorjCoin).  In the crypto asset space, the regulator must determine whether according to the underlying features or use(s) of digital tokens, they meet the characteristics of financial products and services that are already regulated. In those instances, they will attract similar or “like” regulatory treatment.	Agreed.	Noted
Page 3: Section 3: International Regulatory Expectations	SSBs have highlighted several important areas of concern. Those concerns which do not relate to the essential properties of money can be countered through regulation. However, the other challenges are risks which consumers and investors must consider when holding, or transacting with, crypto assets. These risks include tax evasion, fraud, money laundering/terrorist financing, etc.	Innovative technological and software solutions when dealing with the key challenges raised by SSBs do exist in the development and publication of code that when utilized and integrated correctly into the operations by the SFI (for example) can serve as a technological based regulation meant to account for and enforce for regulations written into the laws. This is done simply through an electronic means of the regulations enforcement which can also be automated.	The Central Bank acknowledges that innovative technological systems and software solutions have been developed, broadly known as “RegTech”, to assist financial institutions with transaction monitoring and risk management. Nonetheless, there is anecdotal evidence that financial crime involving crypto-assets is on the rise in certain countries. As such, the Central Bank will continue to encourage the public to be aware of the relevant risks while proceeding in its development of broad regulatory parameters around the crypto-asset space.

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Page 3: Section 3: International Regulatory Expectations	Tax evasion—When conducted on a peer-to-peer basis, cross-border transactions using crypto assets tend to be anonymous. This creates opportunities for individuals to evade tax.	All transactions are stored on the blockchain and publicly available. For example, major exchanges (for example Coinbase) release account statements for all trades done by their US clients to the IRS. Since their client base are properly KYC'd and on boarded, their blockchain based addresses are identified and tied to their KYC, which removed all anonymity. For The Bahamas, the fiat component of a conversion transaction is already under FATCA and CRS. Jurisdictions that aren't under CRS, and exchanges that don't report to appropriate supervisory bodies, should be considered high risk and potentially be limited from transacting with entities regulated by this new framework.	The Central Bank acknowledges your comments.
Page 3: Section 3: International Regulatory Expectations	Unstable valuation caused by fluctuating demand—The absence of central issuers with mandates to guarantee stability, combined with the constant influx of new crypto assets into the marketplace leaves them susceptible to large valuation changes, including a collapse to zero value.	Central issuers do not guarantee stability as this system is based on trust of jurisdiction/issuer. The supply of central issuers is at the discretion of the largest jurisdictions (quantitative easing) but with payment tokens the supply is controlled and is therefore predictive. We note there are many processes by which Digital Assets can be used in processing that do not expose the user to market volatility (such as using Bitcoin as a means of payment, where the merchant has Bitcoin automatically converted to USD at an agreed upon rate).	The Central Bank notes your comments. There are "stablecoins" and other tokens that maintain more stable value. However, other tokens can have sizeable valuation swings, which when negative can result in losses. The public must always be made aware of this.
Page 3: Section 3: International Regulatory Expectations	Fraud—The sale of these assets via initial coin offerings (ICOs) is mostly unregulated, leaving consumers susceptible to fraud. Consumer protection advisories have been issued by a number of authorities, warning customers that by investing in	The existence of a solid regulatory framework will be the best deterrent to unregulated ICOs and to the fraudulent usage of Digital Assets. Investors should be well informed on the risks of investing in these assets, and that due diligence should be done no differently than with traditional markets and	Agreed. This is the position of regulators that argue for "same risk, same regulation" which recognizes that there should be no difference in the regulation of crypto products and services when they serve like purposes and have similar risk characteristics as

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	crypto assets they are vulnerable to theft, hacking, phishing and investment fraud.	investments. Typical risks of investment fraud, social engineering, etc. are always present as it is in every other industry.	products provided through the regulated financial sector.
Page 3: Section 3: International Regulatory Expectations	Scalability—Maintaining decentralised, “trustless” systems has led to volatile, unpredictable transactions costs. Therefore, payment tokens do not always prove cost effective for low-value transactions. There is also uncertainty about the length of time that it takes to confirm transactions. When coupled with price volatility, these attributes diminish their usefulness as reliable stores of value or mediums of exchange.	The space is ever evolving, and these issues can be seen improving. For instance, Bitcoin Cash is emerging as a faster alternative to Bitcoin. Stable coins such as Paxos, Tether, or True USD that are pegged to fiat currencies offer solution to the price volatility issue. Overall the issues of specific coins are known and quantified, therefore businesses intending to use coins are able to structure themselves accordingly based on approximate confirmation time or volatility of a given coin.	The Central Bank notes your comments and acknowledges that the usefulness of payment tokens as a store of value or medium of exchange will ultimately depend on businesses willingness to accept such form of payment, whether it is a stable coin or not.
Page 4: Section 3: International Regulatory Expectations	Money laundering and/or terrorist financing—Decentralised systems are especially vulnerable because of anonymity risks. In many instances, there is no name or other customer identification attached to the crypto asset; no trusted central server or service provider, or issuing authority; no central oversight body; and no available anti-money laundering (AML) software to monitor and identify suspicious transaction patterns. The inherent pseudonymity of virtual currencies, combined with their global reach, make them ideal vehicles to conceal the identity of the originators of fund transfers, and the destination of end-users. Because they permit transfers where senders and recipients may not be adequately identified, crypto assets can be, and have been, used to facilitate money laundering and terrorist financing. The Financial Action Task Force (FATF) has already	Today, leaders in the crypto space are all taking significant steps (if they haven’t already) to meet the standards of international KYC. Addresses are known and associated to fully KYC’d individuals and companies. Tools such as chainanalysis offer pattern monitoring and identification of coin ownership, movement, and complete history. As a recent example of where the blockchain has actually assisted in AML/CFT breaches, the US Treasury dept. recently released the addresses of two Iranian individuals from their vast database of identified addresses. Not only are these Iranian Individual’s funds seen, but all subsequent transactions to and from these addresses can be viewed to determine the entire network. This is an issue that is more related to the lack of existing frameworks obligating	The Central Bank notes your comments. There have been some efforts to curtail the money laundering and/or terrorist financing risks in the crypto-asset space. However, concerns remain, and caution must be exercised. Particularly, adequate KYC standards must be implemented, and as much as possible, the vulnerabilities that can be exploited for financial crime fully understood.

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	provided some guidance on managing the risks of virtual currencies when they function as payment products and services.	institutions to follow proper KYC procedures rather than issues inherent to the Digital Assets themselves.	
Page 4: Section 3: International Regulatory Expectations	In addition to AML/CFT considerations, SSBs have focused on investor protection standards, advocating that regulations should treat crypto products and services similarly when they serve like purposes as products provided through the regulated financial sector. However, fragmented regulatory approaches at the international level could make it difficult to manage emerging risks in the fintech arena.	Entities operating with Digital Assets should be expected to follow the same investor education and protection standards than other investments instruments, so that investors can properly protect themselves from risks associated with any investment in both the traditional and digital space.	Agreed.
Page 4: Section 4: Developing a Bahamian Approach	The Central Bank's considerations will vary depending on the type of token involved, limited in some cases to Exchange Control Regulations, in others to the Payment Systems Act, 2012, and yet others to prudential considerations for the Central Bank's supervised entities (SFIs). Additional adaptations will be made in consultation with the SCB regarding its SFIs, and the evolution of regulatory standards for the securities industry generally. That said, when the instrument's purpose is to confer digital access rights as a utility token, there may be no obvious connection to the Central Bank's remit, other than the application of the Exchange Control Regulations. This would also be the case for asset-backed/security tokens, where the determined jurisdiction of the SCB may also apply.	The Securities Commission of The Bahamas and the Central Bank should consider and address scenarios in which utility tokens are traded on exchanges for value. While not intended as payment tokens, utility tokens can and have taken on properties of payment tokens.	The Central Bank and the Securities Commission will consult to ensure adequate oversight of this space.  If a utility token is being traded on an exchange, the Securities Commission would have to define the necessary processes. The Digital Asset and Registered Exchanges Bill, 2019 (DARE 2019) will soon be issued for consultation by the Securities Commission, if it has not already been issued. This Bill will establish the framework for the regulation of the issuance, sale and trade of digital assets in and from within The Bahamas.

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Page 5: Section 4.2: Treatment of Central Bank Supervised Financial Instruments (SFIs)	Treatment of Central Bank Supervised Financial Institutions (SFIs): The Central Bank is taking a conservative stance on SFIs' exposure to crypto-instruments. Although these institutions may establish some direct exposures to certain crypto assets, they must be fully aware of the attendant risks, and maintain the appropriate frameworks to manage them.	What is the Central Bank's position on mining? Will companies be allowed to establish crypto exchanges?	If a bank decides to mine crypto-assets, the decision must be approved by the Board of Directors (whether such assets are held on or off balance sheet). The prudential treatment of such exposures are discussed in Section 4.2.5 of the Discussion paper. As for the establishment of crypto-exchanges, they would fall under the purview of the Securities Commission and be governed by the DARE 2019.
Page 5: Section 4.2.1: Issuance of ICOs	As banks have successfully raised funds through initial public offerings (IPOs) in the past, ICOs for asset tokens and security tokens that have similar properties as shares would be supported. Conversely, direct issuance or sponsorship of non-fiat linked payment tokens will not be supported. Banks are already empowered to issue electronic money, linked to either credit or deposits, which can be disposed of digitally. Banks may exploit blockchain technology to manage such claims more efficiently, subject to extant regulations and guidance on outsourcing risks.	The paper should address the treatment of pre-sale of tokens, which are usually used to finance ICOs	This matter would fall under the purview of the Securities Commission and may be governed by the DARE 2019.
Page 5: Section 4.2.1.: Issuance of ICOs	As banks have successfully raised funds through initial public offerings (IPOs) in the past, ICOs for asset tokens and security tokens that have similar properties as shares would be supported. Conversely, direct issuance or sponsorship of non-fiat linked payment tokens will not be supported. Banks are already empowered to issue electronic money, linked to either credit or deposits, which can be disposed of digitally. Banks may exploit blockchain technology to manage such claims more efficiently, subject to extant regulations and guidance on outsourcing risks.	Would this mean that today credit institutions in our jurisdiction can issue stable coins backed by assets that they are allowed to custody?	Under the current legislation, banks can provide e-money directly to the customers via digital means as long as the monetary value is represented by an existing claim. Issuance of stable- coins backed by fiat currency would therefore be broadly consistent with the Central Bank's endorsed approach of tethering.



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Page 6: Section 4.2.2.: Sponsorship/Promotion of ICO	SFIs may act as sponsors or promoters of ICOs, as long as they create no on balance sheet obligations, or fall within the range of prohibited payment tokens. They may only act as agent in these offerings to facilitate sales on a best-efforts basis. In such cases, the prior consent (or non- objection) of the Central Bank must be obtained.	Importantly we feel that, as with an investment bank, the consent should be a blanket consent granted to the SFI after reviewing the SFI's ability to perform professionally the tasks at hand, rather than a one by one consent approach that would quickly create a bottleneck at CBoB.	The Central Bank will take your recommendation under consideration.
Page 6: Section 4.2.2.: Sponsorship/Promotion of ICO	In reviewing proposed sponsorship of ICOs, the Central Bank will determine whether the offering would meet the definition, and satisfy the requirement of a sanctioned instrument under the PSA, or be subject to any regulatory oversight criteria that the SCB may establish. If the instrument falls outside the scope of either regulated framework, the Central Bank may still object to the ICO on the basis that it poses unmanageable risk to the SFI or The Bahamas.	It may be prudent to provide timelines for reviews on ICO sponsorship.	This may be difficult to define, especially since such assessments have not been completed before. Over time, experience conducting such reviews will provide the necessary information to allow for the establishment of reasonable processing times.
Page 6 Section 4.2.2.: Sponsorship/Promotion of ICO	An ICO will be considered sponsored by a central bank SFI where any of the following criteria is met:  § The offering creates a direct claim on or obligation of the SFI; § The SFI underwrites or guarantees the offering; § The SFI sells or markets the offering; or § The marketing of the offering either implies an association with, or carries the endorsement of, the SFI.	This last items could create confusion in the definition of sponsoring, as basically anyone with a banking relationship with a SFI could be considered sponsored, which appears too large for us.  We suggest the CB predefines requirements to combat the major concerns: such as investor protections by requiring SFIs to do the appropriate due diligence in crypto assets to determine crypto assets they allow investors to purchase, and have proper risk disclosures to all investors. Crypto asset technology risk of ICO token should be addressed by having tokens held in custody with approved custodians that properly KYT (Know Your Transaction) on tokens and KYC crypto account	Your comments are well received and will be considered. The definition of sponsorship will be consistent with that in the Digital Asset and Registered Exchanges legislation  Due to all the concerns raised in Section 3 of the discussion paper, the Central Bank is committed to protecting investors. Also, The Central Bank will require that banks put in place customer due diligence (CDD) processes that are at least equivalent to that for other financial activities of similar risk.  The Central Bank notes your comment on the definition of payment tokens and will seek to clarify

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		<p>holders, KYC for all investors be performed by the SFI directly or approved 3rd party provider, incoming investment source of funds documented with KYT technology, etc..</p> <p>We also believe that the definition of payment token is too broad and would encompass almost all utility tokens. The definition of the payment token should exclude tokens that can only be used in the ecosystem for which it provides utility.</p>	<p>these terms further to ensure that they are in line with internationally accepted definitions.</p>
<p>Page 6: Section 4.2.3 Acceptance of Crypto-Deposits/Assets from Client</p>	<p>Banks are not to accept “cryptocurrency” deposits on balance sheet, or to extend such loans to customers. Also, given the price volatility and uncertainties around valuation, crypto assets held “in custody” cannot be pledged as collateral for other loans. Similarly, banks are not to extend credit to clients for the purchase of crypto assets.</p>	<p>Will the Securities Commission and Central Bank consider an accommodation for licensees to extend credit for the purchase of crypto assets, where credit is fully secured by cash or other low-risk category assets such as Government securities?</p> <p>Regulations should include detailed due diligence procedures including use of a public key to be used in determining beneficial ownership of a crypto asset.</p>	<p>The Central Bank will clarify this statement. Credit may be extended for the purchase of crypto-assets, where the credit is fully secured by cash or other assets; and the exposure created is not directly to the crypto asset.</p> <p>At a minimum, Central Bank guidance will include detailed due diligence procedures to be used in determining beneficial ownership of a crypto asset.</p>
<p>Page 6: Section 4.2.3: Acceptance of Crypto-Deposits/Assets from Client</p>	<p>Banks are not to accept “cryptocurrency” deposits on balance sheet, or to extend such loans to customers. Also, given the price volatility and uncertainties around valuation, crypto assets held “in custody” cannot be pledged as collateral for other loans. Similarly, banks are not to extend credit to clients for the purchase of crypto assets.</p>	<p>We note the prohibition relating to extending credit to clients for purchase of crypto assets. Note that when a credit card is issued to a client, a bank does not know what will be purchased with the card in the future. Currently there is no way to identify if someone purchases crypto currency with a card; there is no specific identifier for this type of transaction. While attempts are made to block the cards from being used at specific merchants which are Crypto Currency Exchanges, this is not fool proof. The Central Bank should provide clarity as to how licensees should comply with the referenced prohibition in relation to credit cards.</p>	<p>There will be no prohibition against extending credit to clients for the purchase of crypto assets. Banks, however may not create direct exposures to such instruments through credit practices. Credit should be backed by cash or a low-risk asset.</p> <p>Banks would also be responsible for advising customers that crypto-assets are considered to be foreign assets and therefore investment in these assets would have to be processed via the Investment Currency Market (ICM).</p>

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<p>Page 6: Section 4.2.3: Acceptance of Crypto-Deposits/Assets from Clients</p>	<p>Banks are not to accept “cryptocurrency” deposits on balance sheet, or to extend such loans to customers. Also, given the price volatility and uncertainties around valuation, crypto assets held “in custody” cannot be pledged as collateral for other loans. Similarly, banks are not to extend credit to clients for the purchase of crypto assets.</p>	<p>We respectfully disagree here. While there is price volatility, it is still a quantifiable volatility. Below are historically the largest drops, with the largest single day drop in the last three years averaging at about 11% per day. An automatized credit structure margin calling at 60% of collateral value, while only lending 30% of the Bitcoin value in custody would have protected loan issuers from even the largest historical drops. We note that today we have the tools to adapt credit terms based on liquidity and price action of the asset class held in collateral. The Digital Asset market also trades 24/7 so it is not exposed to off-hour crisis risk that the traditional markets are exposed to overnight and weekends. A structure with approved subcustodian holding custody, with an automatic margin call, appropriate conservative levels for lending (for instance no more than 30%), would bring safety to loans collateralized by Digital Assets. There are today instruments monitoring LTV by the minute and able to automatically sell the Digital Assets as soon as it reaches a certain threshold (for instance 20% above the approved level).</p>	<p>The Central Bank notes that these mechanisms are more applicable to brokerage firms than banks. With respect to the categorization of crypto-assets, the Central Bank considers them to be in a higher risk category, which carries a minimum risk weight of 100%. Crypto-assets will most likely be pledged as collateral for retail exposures, which carry a risk weight of 75%. As such, the retail exposure which is collateralized by the crypto-asset would carry a risk weight of 100%; being that it would receive the risk weight applicable to the collateral instrument. In this context, the crypto-asset will not be considered an allowable credit risk mitigation technique as no transaction where credit risk mitigation techniques are used should receive a higher capital requirement than the same transaction where such techniques are not used.</p>

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Page 6: Section 4.2.3: Acceptance of Crypto-Deposits/Assets from Clients	Banks are not to accept “cryptocurrency” deposits on balance sheet, or to extend such loans to customers. Also, given the price volatility and uncertainties around valuation, crypto assets held “in custody” cannot be pledged as collateral for other loans. Similarly, banks are not to extend credit to clients for the purchase of crypto assets.	<p>The acceptance of crypto-deposits, issuance and crypto currency loans can be facilitated, as these already exist in both regulated and unregulated fashions within other jurisdictions adopting crypto asset regulations. For example, an SFI with proper regulation and integration for usage of technological based products and services can take advantage of being partnered with a technological system that will enable the SFI to access these services in a technologically regulated manner.</p> <p>When a technological system is implemented and integrated correctly within SFI operations (for example) this can create both secure and efficient delivery of financial products and services like the crypto deposits and crypto loans systems which are enforced by technological regulation and can spur financial inclusion, international investment and more decentralized access to financial products and services.</p>	The Central Bank notes your comments and will consider them. As you indicated, the SFI must have the proper technological systems and software systems , i.e. "RegTech", as well as risk management processes, particularly to mitigate financial crime, when accepting crypto-currency deposits and extending loans.
Page 6- 7: Section 4.2.3: Acceptance of Crypto-Deposits/Assets from Clients	SFIs will likely be prohibited from conducting transactions involving crypto assets (such as Monero, Particl, Dash and Zcash) that are intentionally designed to hide details about end users’ identity. When new clients wish to use custodial services, they must satisfy enhanced customer due diligence (CDD) requirements, and where applicable, provide their public key to confirm that they are the beneficial owner of the crypto asset. These and other safeguards are to ensure that ALL banks operating in and from within The Bahamas do not facilitate crypto assets “in custody” from clients wishing to engage in tax evasion,	<p>We recommend that Digital Asset custodians follow all the standards that banks follow in terms of KYC and AML. We recommend the addition of KYT checks on the coin entering the ecosystem, and proof of ownership checks on the addresses from which funds are received. Once within the custodian, addresses are tied to individual identities and funds can never be mixed between beneficial owners.</p> <p>Custodians and banks must do all the appropriate KYC/AML/CFT checks using not only traditional approach but also additional tools geared to digital assets. Once a client is properly on-boarded, this</p>	Your comments are well received and consistent with our proposed due diligence approach to clients investing in crypto-assets.

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	money laundering, terrorism financing, or other illicit activity.	client should be entitled to make investments in crypto assets at his/her discretion, given that the SFI gives the appropriate disclosures and disclaimers of risks when investing in crypto assets.	
Page 7: Section 4.2.4: On Balance Sheet Investments in Crypto Assets	SFIs may only invest in crypto assets and/or entities heavily exposed to crypto assets with shareholder funds--not client deposits. When doing so, they will be precluded from holding instruments that are designed to remain anonymous. When considering investment in permitted assets, a rigorous due diligence process should be conducted to understand the relevant risks, and the transaction should be approved at the board-level.	Agreed. We recommend putting conservative policies in place, only where the policies are exceeded does the decision escalate to the board level.	The Central Bank receives your recommendation. Once an SFI wants to invest in crypto-assets or entities heavily exposed to crypto-assets, a corporate level policy with respect to crypto-assets, inclusive of risk tolerance limits, has to be developed and approved by the board of directors. If there is to be any deviation from the policy, such transactions should be escalated to the board level.
Page 9: Section 4.3: Exchange Control Consideration	Unless they are denominated in Bahamian dollars and sponsored by resident entities, the Central Bank views crypto assets as foreign assets for EC purposes. Residents are entitled to invest in these as they would any foreign assets. In this case, the investments may only be funded with foreign exchange purchased through the investment currency market (ICM). The use of credit cards to purchase crypto assets does not negate the fact that there is an intervening settlement in foreign currency, and hence a sale of foreign currency.	The last sentence of the second paragraph suggests that cards are allowed to be used to invest in crypto assets. This conflicts with the last sentence of the second paragraph of Section 4.2.3.	There will be no prohibition against extending credit to clients for the purchase of crypto assets. Banks, however, may not create direct exposures to such instruments through credit practices. Credit should be backed by cash or a low-risk asset.

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<p>Page 10: Section 6: Issues for Stakeholder Comments: Question 1</p>	<p>Do stakeholders agree with the proposed prohibition on use of intentionally anonymous crypto assets?</p>	<p>Anonymous private cryptocurrencies or crypto assets intentionally designed to hide details about end users' identity for traditional privacy reasons ranging from private wealth management to private business accounting may not need to be prohibited in usage when engaged with SFIs as these crypto assets could be viewed as similar in characteristic to traditional cash (in this case e-cash) that could also be anonymized due to physical characteristics.</p> <p>Instead of becoming prohibited for SFIs to engage in anonymous crypto assets, the anonymous crypto assets can become regulated through creative and innovative technological based regulations, smart contracts, decentralized exchanges, or codes. In practice, this will enable enforcement of the CDD processes or beneficial ownership registration processes required by written regulation by having the SFI communicating off-chain to a decentralized exchange blockchain operating system that is to be backed in usage by the written laws during the enforcement of these technological based regulations. In practice, the decentralized exchange blockchain operating system will be used to communicate and de-anonymize the crypto assets accounting and blockchain data when interfacing with the SFI. Data communication between different blockchains, including blockchain networks which facilitate anonymous crypto asset transactions, could be licensed for usage by the SFI or be provided (as a product or a service) directly to the SFI's customer in collaboration with the crypto asset banking product or service of the SFI to ensure enforcement of the regulations.</p>	<p>To ensure that The Bahamas is not being used for financial crime, emphasis will be placed on CDD processes, inclusive of the beneficial ownership of crypto-assets, how it was acquired and the source of funds to acquire it. Although mention was made of systems that SFIs can use to de-anonymize, regulatory measures surrounding the application of tools, such as chainanalysis, smart contracts, decentralized exchanges, etc., have been largely unproven and untested over a sustainable period of time. Further, the SFI must also consider, as part of its CDD process, why a client would want to have an anonymous identity on the blockchain.</p> <p>The SFI should always have the beneficial owner information and understand how the assets were acquired, as blanket anonymity can facilitate financial crime. As such, it is more prudent, from a regulatory perspective, to take a conservative stance by prohibiting anonymity at the outset.</p>

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Page 10: Section 6: Issues for Stakeholder Comments: Question 1	Do stakeholders agree with the proposed prohibition on use of intentionally anonymous crypto assets?	<p>(a) Yes. The proposed prohibitions appear to lift the veil from the faces of crypto users by requiring them to provide information on: source of funds used to acquire the crypto assets; the origination of the assets, and a list of the beneficiaries and signatories. However, additional guidance is required to guide SFIs in the assessment of crypto assets to determine which satisfy the “intentionally anonymous” standard.</p> <p>While the named examples of intentionally anonymous crypto assets are helpful, SCB and Central Bank should expand guidance on properties or indicators that would warrant a crypto asset’s classification as “intentionally anonymous” or as an instrument “designed to remain anonymous”. SCB or Central Bank should consider publishing and maintaining a list of known crypto assets deemed “intentionally anonymous”.</p> <p>(b) Barring prohibition, the use of risk assessment tools such as chainanalysis can be explored. This can be used to trace the origins of transactions and at a minimum determine whether there exists a Dark Web connection within the chain of transactions for a transaction originator and connecting crypto exchanges.</p>	<p>The Central Bank notes your comments in (a) and will take them under consideration. However, should further guidance be forthcoming, it would most likely be general in nature providing broad characteristics. The issuance of a list would be too prescriptive, especially as there are new "crypto-assets" continuously coming to market.</p> <p>The Central Bank notes your comments in (b). Please see our responses above regarding chainanalysis.</p>
Page 10: Section 6: Issues for Stakeholder Comments: Question 1	Do stakeholders agree with the proposed prohibition on use of intentionally anonymous crypto assets?	Yes, we agree with this.	Noted

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Page 10: Section 6: Issues for Stakeholder Comments: Question 1	Do stakeholders agree with the proposed prohibition on use of intentionally anonymous crypto assets	Yes	Noted
Page 10: Section 6: Issues for Stakeholder Comments: Question 2	Given the proposed prohibition on acceptance of crypto-deposits and issuance of crypto currency loans, is there a view on the establishment of specialized non-fiat focused crypto asset banks?	<p>Consideration may need to be given to the establishment of such a bank depending on whether or not the market for crypto assets in The Bahamas expands. This appears to be likely given the widespread recognition of the benefits of financial technology innovation for secure and efficient delivery of products and services.</p> <p>In arriving at the decision on the feasibility of a no-fiat focused crypto asset bank, consideration must be given on the strategic purpose of such a bank as well as the social change management approach. Careful thought must be given as to how this will be introduced in and how will impact the indigenous ecosystem of government, traditional financial institutions, merchants and customers.</p>	Should the Central Bank permit the establishment of crypto-bank, it would subscribe to the “same risk same regulation” philosophy. As such, crypto-banks would be required to undergo an application process similar to that of a traditional bank and would have to maintain sufficient capital and liquidity to ensure its safe and sound operation. With respect to interaction with clients, the crypto-bank would be required to implement the same CDD standards as traditional banks, at a minimum, when onboarding clients and monitoring their accounts.



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Page 10: Section 6: Issues for Stakeholder Comments: Question 2	Given the proposed prohibition on acceptance of crypto-deposits and issuance of crypto currency loans, is there a view on the establishment of specialized non-fiat focused crypto asset banks?	<p>We agree with establishing institutional safe custodian for crypto assets, which naturally lends it to being a crypto asset bank. We however believe that it is an easy step for banks to make ‘approved’ crypto assets available for deposit and purchase from client accounts in the bank as long as the bank sub-custodies the crypto assets with approved custodians that are specialized in non-fiat focused crypto assets (as to increase safety).</p> <p>We believe that where it pertains to payment tokens used or held in custody or sub-custody in an institution, that institution should have internal controls and follow regulatory standards similar to those of traditional banks in terms of payment transfers, and purchase and sale of currency or assets. As it pertains to buying selling of tokens (security, utility, or payment) we believe that controls and regulatory standards that govern traditional brokers are most applicable. As it pertains to storage of tokens a specialized custodian should be used, and act as sub custodian to banks and brokers alike.</p>	See preceding response.
Page 10: Section 6: Issues for Stakeholder Comments: Question 2	Given the proposed prohibition on acceptance of crypto-deposits and issuance of crypto currency loans, is there a view on the establishment of specialized non-fiat focused crypto asset banks?	We fully support the establishment of a specialized non-fiat focused crypto asset bank to provide banking services to unbanked Bahamians, by converting B\$ into crypto assets on a Blockchain platform utilizing wireless technology.	See preceding response.
Page 10: Section 6: Issues for Stakeholder Comments: Question 3	Is there sufficient clarity on Bahamian EC treatment of crypto assets involving nonfinancial entities and persons?	Yes, for EC purposes it is clear the B\$ denomination is the determinant factor, and all crypto assets that don’t settle to B\$ would be considered foreign assets.	Noted

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Page 10: Section 6: Issues for Stakeholder Comments: Question 3	Is there sufficient clarity on Bahamian EC treatment of crypto assets involving non-financial entities and persons?	Yes	Noted
Page 10: Section 6: Issues for Stakeholder Comments: Question 3	Is there sufficient clarity on Bahamian EC treatment of crypto assets involving non-financial entities and persons?	<p>No. While appreciated, the guidance is high-level and practical application is unclear. Given the pending reforms for the Investment Currency Market operations, the section should be revisited to address the post-implementation state.</p> <p>We note that this paper is silent on establishment on a Crypto Asset Exchange which would enable registered crypto assets to be traded for Bahamas currency. Is there any prohibitions on citizens of The Bahamas being paid in in local crypto assets?</p>	<p>The Central Bank notes your comments and will examine ways to further clarify the exchange control treatment of crypto-assets given the Investment Currency Market reforms.</p> <p>The paper is silent on the establishment of a crypto exchange, as this would fall under the purview of the Securities Commission and be governed by The Bahamas' Digital Asset and Registered Exchanges legislation.</p> <p>The Central Bank has not placed any prohibition on Bahamians being paid in local crypto-assets. However, local crypto-assets must be generated through permissible means, as highlighted in the discussion paper, and the individuals or businesses receiving crypto-assets must agree to accept them as payment as they are not deemed official legal tender. Of course, the increase in such payments are largely dependent on their acceptance, and hence usability, in conducting transactions in the domestic economy.</p>