

ADVERTISING SUPPLEMENT

CURRENCY EVOLVES IN THE BAHAMAS – A STORY OF INNOVATION

***By Alexander Christie and Vanessa Hall, Partner and Associate at McKinney, Bancroft & Hughes**

All financial jurisdictions must evolve or die. The world is changing swiftly and it is almost essential for anyone who wants to keep up with the times to use digital currencies. Central banks around the world are experimenting with various forms of digital currency and The Bahamas is no exception.



The Bahamas is the first country to implement a government-backed, blockchain-based Central Bank Digital Currency. According to ConsenSys, the blockchain software technology company, a CBDC is “a digital form of central bank money, which is legal tender created and backed by a central bank that represents a claim against the central bank and not against a commercial bank or a Payment Service Provider.”

THE CENTRAL BANK ACT AND THE BDDC REGULATIONS

The innovative *Central Bank of the Bahamas Act 2020* includes, among other things, “electronic money” in its definition of currency. A year after passing it, legislators went a step further and implemented the *Bahamian Dollar Digital Currency [BDDC] Regulations 2021*, which define the BDDC as an electronic version of the Bahamian dollar which the Central Bank issues in accordance with the *Central Bank Act*. It is fully backed by reserves that the Central Bank holds and it represents a direct claim against the Central Bank.

The Bahamas is the first country to create a government-backed, blockchain-based CBDC

According to the *BDDC Regulations*, a Bahamian Dollar Digital Currency wallet is a digital wallet issued by a regulated wallet provider that holds BDDC and is registered under the *Central Bank Act*. The regulations set out a clear and detailed process by which a firm can apply to do this business. They also safeguard the currency in those

wallets with conditions that wallet providers must satisfy before registering as wallet providers or before continuing to provide wallet-related services.

Each applicant must:

- (i) have adequate software and hardware;
- (ii) have taken adequate steps to safeguard the wallet holders’ funds;
- (iii) have clear rules to help it resolve disputes about the provision of wallet services;
- (iv) have a safe and reliable information technology system and “adequate interfaces to ensure interoperability, access and data protection, as well as robust contingency and disaster-recovery procedures”; and
- (v) have effective arrangements in place for the protection of clients’ assets and monetary arrangements consistent with any prescribed rules or guidelines that the Central Bank might issue.

Wallet providers must follow strict guidelines if they wish to remain registered

Registered wallet providers must also follow strict guidelines if they wish to remain registered. The Central Bank can suspend or cancel a wallet provider’s registration if it believes that the wallet provider, among other things:

- (i) has not distributed BDDC within twelve months of the date on which its registration was approved;
- (ii) has obtained approval for registration through false statements or some other irregular means;
- (iii) has ceased to meet the criteria set out in the *BDDC Regulations*;
- (iv) is contravening the regulations or breaking any other law of The Bahamas;
- (v) is doing business in a manner which is detrimental to the public interest or to the interests of its wallet holders; and
- (vi) is contravening any term or condition subject to which the Central Bank granted its registration.

Although only the Central Bank can issue BDDC, the need for wallet providers creates opportunities for investment in The Bahamas.

The Act empowers the Central Bank to issue any amount of BDDC that it sees fit, as long as it promotes and oversees a safe, sound and efficient national payment system. Nobody else may issue the currency of The Bahamas as electronic money in the jurisdiction.

The need for wallet providers creates opportunities for investment in The Bahamas

The regulations empower the bank to promulgate such codes, rules, guidelines, policy statements and practice notes as it sees fit in order to set limits or restrictions on wallet balances and transaction values for different categories of wallet holders:

- (a) in furtherance of its regulatory objectives;
- (b) in relation to any matter relating to any of its functions under the regulations; and
- (c) in relation to the operation of any provisions of the regulations.

Furthermore, the Central Bank may issue written directions, generally or specifically, to any wallet provider in any circumstance where it believes that:

- (i) it is necessary or expedient for ensuring the integrity or proper management of BDDC and the technology platform;
- (ii) it is necessary or expedient for the effective administration of the regulations;
- (iii) it is of public interest;
- (iv) a person is engaged in, or is about to engage in, an unsafe, unsound or unfair practice with respect to BDDC; or
- (v) a person is likely to contravene or fail to comply with the regulations or any codes, rules, guidelines, policy statements and practice notes that have the force of law.

These provisions make the regime responsive to a fast-maturing and evolving industry.

THE SAND DOLLAR

The recent *Central Bank Act* and the implementation of the *BDDC Regulations* lay the foundation for the Bahamian CBDC, the so-called Sand Dollar. This is the digital form of the Bahamian dollar that the Central Bank of The Bahamas issues through authorized financial institutions. The user keeps the currency in his digital wallet by means of a mobile phone app or by using a physical card.

A CBDC represents a claim against the Central Bank and not against a commercial bank or a Payment Service Provider

Ultimately, a CBDC such as the BDDC is an extension of paper money, also known as fiat currency. Fiat currency is legal tender issued by the Central Bank in the form of notes (sometimes called bills) and coins. The use of fiat currency is still the most popular method of payment. Some may argue that it is the most secure means of exchange and it is certainly the fastest. A payment on a

credit or debit card, while still considered a digital payment, is nonetheless an example of a bank moving fiat currency about. It is not as secure as a fiat currency transaction, due to the threat of accounts linked to such cards being hacked or by a card being compromised, but it is certainly efficient.

Both physical fiat currency and digital fiat currency have their pros and cons and it appears that the objective of the CBDC is to merge those pros and cons. By doing so, it makes payments quick and secure.

A BRAVE NEW WORLD

Why are central banks going down this path? They have, traditionally, participated in two kinds of payment transaction – fiat currency and intermediary bank payments. Technology is progressing in both of those areas and has led to the implementation of other (decentralized) digital currencies. People sometimes argue that physical fiat currency is on its way out, but the Central Bank says that it has no plans to eliminate cash.

More and more central banks in emerging markets are thinking of setting up their own digital currencies, the better to include more people in the financial system and decrease the cost of handling cash. This school of thought is in line with the Sand Dollar's objective, which is to "[a]chieve greater financial inclusion, cost-effectiveness, and provide greater access to financial services across all of The Bahamas."

So why is this even remotely beneficial to Sand-Dollar holders? The Sand Dollar allows for a better payment process, a reduction in transaction costs and better security in the form of multi-factor authentication, wallet security and cyber-security assessment.

The Central Bank says that it has no plans to eliminate cash

Kristilina Georgina, the managing director of the International Monetary Fund, has summed up the objective of CBDCs perfectly.

"The history of money is entering a new chapter. Countries are seeking to preserve key aspects of their traditional monetary and financial systems, while experimenting with new digital forms of money."

The Bahamas has taken a bold and innovative first leap into this new chapter, accomplishing something that no jurisdiction has done before. In doing so, the country has equipped itself well for the quickly-approaching brave new world of tomorrow.

** Alexander Christie can be reached on +1-242-322-4195 or at ambchristie@mckinney.com.bs; and Vanessa Hall can be reached on the same number or at vmmiller@mckinney.com.bs*

