

Open for fintech business



In 2018, Bermuda passed several key pieces of fintech legislation, paving the way for digital transformation in the financial sector. **Chris Garrod** of Conyers explains the recent developments

Bermuda has a long history of being a leading jurisdiction, quick to meet the changing needs of business. From captive insurance to alternative investments, the island has welcomed innovation, with its government and the private sector successfully working together to foster thriving, but well-regulated, new markets. Blockchain and digital assets are no exception. The jurisdiction has focused on developing a business-friendly environment for this new industry – both a creative framework for the launch of initial coin offerings (ICOs) and, separately, a supportive platform for the creation of digital asset businesses. To foster these developments, two main pieces of legislation were introduced last year: amendments to the island's existing companies' legislation to introduce ICOs (ICO Act) and the Digital Asset Business Act (DABA).

The ICO Act permits offerings of digital tokens or coins being issued to the public for largely crowdfunding purposes. The requirements are relatively simple: incorporate a company, complete an ICO application form, produce an offering document setting out details of the offering, and file those documents with the Ministry of Finance for review and approval (which may entail the assistance of a Fintech

Advisory Committee). If approved, the Minister of Finance will grant his consent for the ICO to be conducted as a 'restricted business activity' and the ICO can commence. ICO issuers are not subject to regulation – they are only required to have their offering approved.

The ICO Act does not cover businesses which are simply engaged in digital asset business, such as digital asset dealing, acting as an exchange, acting as a services vendor or providing custodial wallet services in connection with digital assets. Such businesses fall under the scope of the DABA and are regulated on an ongoing basis by the Bermuda Monetary Authority (BMA). Before engaging in digital asset business, one must apply to the BMA for one of two classes of licence: a full digital asset business licence or one which is issued for a defined time. The intention for allowing the latter is to promote innovation and allow novelty start-ups to establish in Bermuda. The fully licensed vehicles are subject to comprehensive but sensible regulation by the BMA, whose aim is to ensure customer protection.

Bermuda is widely respected as an offshore financial centre that meets or exceeds global standards of compliance and regulation, and investors are comfortable with its reputation for quality and integrity. With its new robust legislative framework for regulating digital assets, it is the clear jurisdiction of choice for establishing a fintech business.

About the author

Chris Garrod is a Director and the Head of Fintech at Conyers, a leading international law firm with a broad client base including FTSE 100 and Fortune 500 companies, international finance houses and asset managers.

Further information

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