



Bermuda to Introduce Initial Coin Offering (ICO) Legislation

On 13 April 2018, the House of Assembly is returning to Bermuda Parliament for the purpose of tabling Initial Coin Offering (ICO) legislation.

This move is part of a larger plan for Bermuda to become a global leader in the cryptocurrency arena.

A blockchain working group, including government, industry, legal and regulatory professionals, has been working collaboratively to achieve this goal and has set an ambitious timeline to develop a legal framework and regulatory regime which consists of the four key stages outlined below.

The aim is to provide legal certainty without inhibiting innovation.

Stage 1 - ICO Legislation

The ICO legislation will endeavour to strike a balance between market integrity and consumer protection. Under the ICO legislation, an ICO will be treated as a restricted business activity which will require consent from the Minister of Finance. Other key provisions of the ICO legislation will include:

- the establishment of a FinTech Advisory Committee to assist with consent applications;
- establishing minimum requirements for all ICOs (including a Code of Conduct); and
- setting out publication and content requirements of ICO white papers.

Stage 2 - Virtual Currency Business Consultation Paper (VCB Consultation Paper)

The Bermuda Monetary Authority released a VCB Consultation Paper on 11 April 2018 which includes the following draft legislation:

- Virtual Currency Business Act 2018 (VCB Act)
- Virtual Currency (Cybersecurity) Rules 2018
- Virtual Currency (Client Disclosure) Rules 2018

Comments regarding the proposals, outlined in the consultation paper, are due by 2 May 2018. If you are interested in reviewing the VCB Consultation Paper, please contact us for further details.

The VCB Act will seek to establish a robust regulatory framework to govern virtual currency business (VCB) within or from Bermuda and will include a Code of Practice and a Statement of Principles. In anticipation of a variety of businesses seeking to be licenced as VCBs, there will be a tiered licensing structure which will include two classes of licence: Class F which will be a full licence, and Class M which will be a defined period licence that is analogous to a regulatory "sandbox" environment.

Stage 3 – E-IDs

The third stage of the timeline is proposed for July 2018 with the establishment of a Bermuda E-ID scheme. The scheme will bolster Bermuda's FinTech credentials by providing a single electronic aggregation platform to comply efficiently with Know Your Customer and Anti-Money Laundering rules. A key feature of this platform is to enable individuals to have control over their data by allowing them to grant data permissions for specific data for a specified time.

Stage 4 – Virtual Currency Exchanges

The final stage of the initiative is planned for September 2018. The working group will be developing a legal and regulatory framework for virtual currency exchanges.

Appleby has a team of lawyers already advising existing clients and is ready to assist others who are interested in establishing and conducting virtual currency business in or from Bermuda.

We will provide further updates with respect to these legislative developments as matters progress. Should you have any queries, or wish to obtain any advice, please do not hesitate to contact us.

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