



MEDIA RELEASE

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GOVERNMENT TABLES LANDMARK LEGISLATION

Today the Minister of National Security, the Hon. Wayne M. Caines, JP, MP, tabled the Companies and Limited Liability Company (Initial Coin Offering) Act, which is seen as landmark legislation for Bermuda.

Under the proposed Bill, an Initial Coin Offering (ICO) will be treated as a restricted business activity that will require consent from the Minister of Finance. An application for consent will be required to include specific details regarding:

- (i) The company conducting the ICO and the underlying digital asset offered for sale;
- (ii) The development and implementation of any product, service or other project related to the ICO, including timelines for completion;
- (iii) The target amount to be raised through the ICO;
- (iv) Rights, features, functionality and intended transferability of the digital asset offered for sale;
- (v) The technology to be used and confirmation of the ability of the technical platform to enable the collection, confirmation and storage of purchaser identity information; and
- (vi) Compliance and auditing of ICO transactions.

Minister Caines said today, “The emergence of new financial products and services created through the use of technology has opened new and exciting opportunities for entrepreneurs and businesses. So we consider this to be landmark legislation for Bermuda, and in that regard, this is a very exciting time for this Government.

“On Thursday, I along with members of the Blockchain Taskforce hosted a very successful presentation for more than 150 of Bermuda’s key business partners, where we outlined Bermuda’s Fintech Strategy. We recognize that there’s significant interest in virtual currencies and blockchain technology, and this Government believes that Bermuda will become a global leader in the Fintech space.

“By being one of the few countries in the world to specifically regulate ICOs, we believe that the proposed regulatory framework will provide legal certainty to companies looking to conduct ICOs in Bermuda. It is generally accepted that ICOs are, in most cases, a method of crowd-funding projects or services. However, ICOs may also be used to convey some interest in or right to access or use a physical asset.”

Minister Caines continued, “Embracing this new world with responsible regulation could lead to, the attraction of new companies and capital investment to Bermuda; additional Government revenues; new career, employment and training opportunities for Bermudians; and the laying of a foundation for a prosperous future for our next generation of Bermudians.”

Minister Caines concluded, “Ultimately, with this legislation, we are enhancing our global reputation and introducing viable ways to strengthen and diversify our economy. We are proving that we can be a leader in this space, and I wish to thank the members of Blockchain Task Force which included a Business Development Working Group and a Legal and Regulatory Working Group for working with the Government to bring forth this groundbreaking legislation.”

Minister Caines noted that the next Bill to be tabled will be the Virtual Currency Business Act (lead by the BMA). This piece of legislation will set the regulatory infrastructure to govern Virtual Currency Digital asset Exchanges.

Meanwhile, Sean Moran, Head of Business Development for the Bermuda Business Development Agency (BDA), added, “The same features that have made Bermuda a globally respected, business-friendly financial centre for insurance, asset management and private-client business are now being extended to technologists and innovators.

“This promises to be an exciting evolution for Bermuda, and we’re pleased it’s being carried forward with careful legislation, contemporary regulatory oversight, and most of all, the type of collaboration our market is renowned for. Our message is that Bermuda is a sensible platform from which these emerging technology companies can do their global business.”

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****MEDIA NOTE:**

ADDITIONAL BACKGROUND: Companies and Limited Liability Company (Initial Coin Offering)

ICO as Restricted Business Activity

Under the proposed amendments, an ICO will be treated as a restricted business activity that will require consent from the Minister of Finance (Minister). An application for consent must include details about the project(s) to be funded by the ICO proceeds as well as other information as set forth in regulations.

To ensure that there is flexibility for the Minister to adjust to the circumstances of the individual ICO as needed, the Minister will be authorized to impose appropriate conditions on the applicant/ICO.

Treatment of Digital Assets

The bill includes minimum requirements that will be applicable to all ICOs, regardless of the rights, functionality or features of the digital asset offered for sale. To the extent that the requirements of any other law govern the rights or features of any digital asset, such law shall apply and shall be enforceable.

The requirements of the Bill are applicable in relation to public issuances only. Offerings that are not extended to the general public or that satisfy specific conditions are excluded from the scope of this Bill.

Requirements in General

Under the Bill, the ICO offer document (also known as the white paper) must be published prior to commencement of the offer period. It must also be filed with the Registrar, except as otherwise provided.

The offer document must include a certification by a senior officer or counsel that it includes the requisite details required by the statute. In the event that information in the offer document becomes inaccurate in any material respect, the document must be updated as soon as reasonably practicable. Also required for inclusion in the offer document is a **general risk statement** which outlines substantial project risks, impacts to the purchasers in the event that the project fails and any disclaimers of warranties or guarantees that may impact the purchasers. Consistent with appropriate Know Your Customer protocols, collection, confirmation and retention of purchaser identity information will be

required. Penalties will be imposed as appropriate for compliance failures. To help ensure compliance with the statute, Regulations and a Code of Conduct will issued in due course.

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