



The Central Bank of The Bahamas

**CONSULTATION PAPER: Proposed Legislation
for the Regulation of the provision and use of Central Bank issued
Electronic Bahamian Dollars**

15th February, 2021

I. INTRODUCTION

In October 2020, the Central Bank of The Bahamas (“the Central Bank”) began issuing to some of its’ supervised financial institutions, a digital version of the Bahamian dollar through an initiative called “Project Sand Dollar”. This marked an important milestone in the Bank’s payments system modernization initiative. The aim of Project Sand Dollar is for all persons resident in The Bahamas, to have equal, expanded access to digital currency in the same way that cash is currently available. This digital fiat currency dubbed “Sand Dollars”, is stored on digital wallets maintained and offered through commercial banks, money transmission businesses, credit unions and payment service providers (hereinafter referred to as “wallet providers”).

II. THE ROLE OF THE CENTRAL BANK

The role of the Central Bank in relation to electronic money is defined by the Central Bank of the Bahamas Act, 2020 (“the CBBA”) wherein pursuant to section 5(p) the Bank is responsible to:

“regulate and oversee the issuance, provision, and functioning of payment instruments, operating either with or without the opening of an account, including the issuance of electronic money or other forms of stored value.”

Pursuant to section 12 of the CBBA, electronic money issued by the Central Bank is considered legal tender.

In furtherance of the aforementioned, section 15 of the CBBA empowers the Central Bank to:

“make regulations for the purpose of prescribing the framework under which electronic money issued by the Bank as legal tender may be held or used by the public in keeping with best international practices for the development and functioning of the payment system.”

The aim of the proposed **Central Bank (Electronic Bahamian Dollars) Regulations, 2021** (“the draft Regulations”), is to develop the appropriate legislative framework for the Bank’s oversight of wallet providers, in line with international best practices. Accordingly, the draft Regulations once brought into force, will provide the Central Bank with specific powers to regulate wallet providers and set out the minimum requirements to which wallet providers must adhere.

The Central Bank remains dedicated to its role of affording economic protection to consumers, and intends that this digitalised system, fosters an effective and modernised process for facilitating payments; provides safeguards to ensure stability in the deposit base of commercial banks; affords data privacy and data sovereignty for consumers and promotes an aggressive cyber security posture.

A review of existing legislation which impacts wallet providers was also carried out to identify any potential areas of inconsistency with the draft Regulations. As a result of its’ review, the Central Bank is also proposing consequential amendments to the *Payment Systems Act (No. 7 of 2012)* and the *Computer Misuse Act (Ch. 107A)*. The proposed amendments support the draft Regulations and will help to establish a comprehensive legislative framework for the Bank’s oversight of wallet providers.

This Consultation Paper summarises the key provisions of the draft Regulations and the other consequential legislative amendments and invites public comments on the proposed legislation. Annexed to this Consultation Paper are the draft Regulations (Annex 1) and the draft amending Bills (Annex 2).

III. DETAILS OF THE PROPOSED LEGISLATION

A. THE DRAFT CENTRAL BANK (ELECTRONIC BAHAMIAN DOLLARS) REGULATIONS, 2021

The key provisions of the draft Central Bank (Electronic Bahamian Dollars) Regulations 2021 relate to the following matters:

a. Who qualifies to be a Wallet provider

Regulation 4 of the draft Regulations provides that only a commercial bank, a co-operative credit union, a money transmission business or a payment service provider licenced or registered by the Central Bank qualifies to be a wallet provider.

b. Application Process

Regulation 7 sets out the information and documents which must accompany an application for registration to operate as a wallet provider, while regulation 8 specifies the conditions wallet providers must meet and maintain to be registered.

c. Interoperability

Pursuant to the Regulations, each wallet provider would be required to meet minimum standards of interoperability which demonstrate to the Central Bank that it has a safe and reliable information technology system that adequately interfaces with other existing information technology and operating systems. These include standards which enable wallet holders to send and receive funds by means of -

- a unique user alias that is independent of the registered domain of the wallet provider;
- a standard, universal and unique account number independent of the registered domain of the wallet provider; and
- QR code scanning.

(see Regulation 8).

Additionally, all wallet providers will be required to adhere to technically compliant standards to enable the transfer or receipt of digital wallets including continuance of the use of aliases and universal account numbers.

d. Consumer Protection

Consumer protection is of great importance to the Central Bank. Accordingly, Regulation 10 (1)(e) when brought into force, will give the Bank the power to at any time cancel the registration of any person

registered as a wallet provider on being satisfied on reasonable grounds that the wallet provider is carrying on its business in a manner detrimental to the public's interest or to the interests of its wallet holders.

e. Financial Stability

Regulation 18 gives the Central Bank the power to suspend the withdrawal of deposits, or limit the maximum amount of withdrawals from any wallet provider or group of wallet providers where such withdrawals are settled or converted to Sand Dollars. The Central Bank may only exercise its power where it considers the continued cash withdrawals of deposits settled or transferred in Sand Dollars, poses risks to the stability of the financial system of The Bahamas. However, such suspension may only be maintained for as long as it is required to adopt other measures to address the financial stability concerns, provided that suspension does not exceed 7 calendar days. Nevertheless upon consultation with the Minister of Finance, the Bank may extend the suspension for a further period of up to 14 days.

f. Financial Inclusion

Improving financial inclusion of unbanked individuals residing within The Bahamas and particularly in the under-served Family Islands is one of the critical goals of the Sand Dollar Project. The Regulations will promote financial inclusion by:

- (i) requiring every wallet provider to provide basic wallet services to all persons at no cost (Regulation 19(4));
- (ii) requiring each wallet provider to provide the Central Bank with its strategy to distribute its payment services to residents in the Central, South Eastern and North Western Bahamas, and to report periodically on financial inclusion data, that at a minimum, covers gender and island of residency (Regulations 7(a) and 11(2)); and

- (iii) empowering the Central Bank to intervene any Family Island, settlement or cay to ensure that licensed businesses, churches, and organizations have access to basic wallet services, if for any reasons such services are withdrawn by a wallet provider, or no such service has been offered as of 30th June, 2021. Where this is the case, the Bank shall designate a wallet provider to provide wallet services and may designate mobile applications through which such services must be provided (Regulation 9(8)).

g. Obligations of the Wallet provider

Regulation 11 requires a wallet provider to maintain record keeping measures for accurate collection of information, procedures to safeguard client assets against unauthorized data access, mitigation and control measures to manage operational and security risks and finally, effective incident management procedures for the detection and classification of major operational and security incidents. Moreover, wallet providers are required to conduct annual audits that assess the operational and security risks and adequacy of the aforementioned mitigation and control measures implemented.

h. Wallet Limits

Regulation 19 establishes limits on wallet balances and transaction values and provides that no wallet provider shall be permitted to issue more than one Basic or Tier I wallet to each wallet holder. Wallet balances and transaction values, are limited to the following amounts:

- i. Basic or Tier I wallets may hold \$500.00. Transactions having an aggregate value of up to \$1,500 may be conducted through Basic or Tier I wallets, each month.
- ii. Premium or Tier II wallets may hold \$8,000.00. Transactions having an aggregate value of up to \$100,000 may be conducted through Premium or Tier II wallets, annually.
- iii. Enterprises and organizations or Tier III wallets may hold from \$8,000 up to - a maximum of \$1 million dollars with unlimited transactions.

Transaction limits are calculated on the greater of the sum of either outbound or inbound payments and transfers.

i. Enforcement Powers of the Central Bank

The draft Regulations speak to how the Central Bank intends to enforce the Regulations and address any breaches. In this regard, Regulation 31 will give the Central Bank the power to impose administrative sanctions which sanction may include –

- temporarily suspending managers;
- removing directors, officers, or other senior managers of wallet providers of an entity not licensed or registered under the Banks and Trust Companies Regulation Act, 2020;
- publicly reprimanding a wallet provider;
- banning a wallet provider from carrying on certain activities or operations;
- requiring a wallet provider to pay an administrative penalty up to a certain amount;
- appointing a person, at the expense of the wallet provider, to oversee or assume control of the affairs of the provider;
- applying to the court for an order to take such action as the Central Bank considers necessary to protect the interest of clients or creditors of a wallet provider; and
- issuing orders requiring that a wallet provider comply with directives of the Central Bank.

In addition to imposing administrative sanctions, the draft Regulations give the Central Bank certain supervisory powers including the power to:

- cancel a wallet provider's registration;
- suspend the registration of a wallet provider forthwith on certain grounds;
- require information from a wallet provider; and

- enter and inspect the premises, and observe the business activities, or inspect any document of the wallet provider.

(Regulations 10 and 26).

B. PROPOSED AMENDMENTS TO EXISTING LEGISLATION

The Central Bank is proposing the following consequential amendments to existing legislation as a result of the draft Regulations discussed above.

1. PAYMENT SYSTEMS (AMENDMENT) BILL, 2021

Section 8(3) of the Central Bank of The Bahamas Act, 2020 defines “electronic money” as having the meaning assigned in section 29 of the Payment Systems Act 2012 (the PSA). The definition of ‘electronic money’ therefore contemplates electronic money issued by the Central Bank such as the Sand dollar and which is recognised as legal tender. Section 26 of the Payment Systems Act 2012 (PSA) allows for the issuance of electronic money in accordance with the provisions thereof by third parties licensed by the Central Bank.

The proposed Payment Systems (Amendment) Bill, 2021, when enacted, will recognise the Central Bank’s exclusive right to issue Sand dollars.

2. COMPUTER MISUSE (AMENDMENT) BILL, 2021

The Computer Misuse Act makes offences of activities typically associated with hacking, such as, without authority, using a computer to:

- secure access to any program or data held in another computer;
- modify the contents of any computer;
- intercept any function of a computer;
- obstruct another’s use of a computer;
- disclose passwords or access codes to a computer or any of its contents.

The Computer Misuse (Amendment) Bill, 2021, when enacted, will amend the definition of “computer” to include mobile phones and tablets, thereby ensuring that the Act affords protection to the key devices that would use the Sand Dollar platform.

IV. CONSULTATION PERIOD

The Central Bank invites comments on the draft Central Bank (Electronic Bahamian Dollars) Regulations, 2021 and the proposed amendments to existing legislation, which should be submitted no later than the 31st March, 2021. Your comments and questions regarding these proposals should be directed via telephone or email to:

The Policy Unit
Bank Supervision Department
Central Bank of The Bahamas

Tel (242) 302-2615
Email: Policy@centralbankbahamas.com

Annex 1

CENTRAL BANK OF THE BAHAMAS (ELECTRONIC BAHAMIAN DOLLAR) REGULATIONS, 2021

The Central Bank of The Bahamas, in the exercise of powers conferred upon it by Section 15 of the Central Bank of The Bahamas Act, 2020, makes the following Regulations —

PART I – PRELIMINARY

1. Citation

- (1) These Regulations may be cited as the Central Bank of The Bahamas (Electronic Bahamian Dollar) Regulations, 2021.
- (2) These Regulations shall come into force on such date as the Minister may appoint by Notice published in the Gazette.

2. Interpretation

In these regulations —

“Act” means the Central Bank of The Bahamas Act, 2020;

“Basic or Tier I wallet” means an electronic Bahamian dollar wallet held by an individual or natural person;

“Central Bank” means the Central Bank of The Bahamas preserved and continued pursuant to section 3 of the Act;

“commercial bank” has the same meaning assigned by section 2 of the Central Bank of The Bahamas Act, 2020;

“electronic Bahamian dollar” is electronic money issued by the Central Bank under regulation 13 pursuant to the authority conferred upon it by the Act, fully backed by reserves held by the Central Bank and represents a direct claim against the Central Bank;

“electronic Bahamian dollar wallet” means a digital wallet issued by a wallet provider that holds electronic Bahamian dollars”;

“electronic money” has the same meaning assigned by section 29 of the Payment Systems Act, 2012 (*No. 7 of 2012*);

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“Enterprises and organizations or Tier III wallets means an electronic Bahamian dollar wallet held by public sector entities and agencies, for profit and not for profit organizations, sole proprietorships and other private entities;

“fiat currency” means coin and notes of any jurisdiction that is designated by the issuing monetary authority or central bank of such country as legal tender;

“Minister” means the Minister responsible for Finance;

“Payment Systems Act” means the Payment Systems Act, 2012;

“Premium or Tier II wallet” means an electronic Bahamian dollar wallet held by an individual or natural person;

“QR code” means a universal matrix bar code which is a device readable optical label that contains pertinent information about the payment transaction to which it is attached;

“virtual currency” has the same meaning as in the Financial Transactions Reporting Act, 2018;

“wallet holder” a person to whom wallet services are provided;

“wallet services” means the provision of electronic Bahamian dollar wallets by use of a software program that interfaces with fiat currencies, stores private and public keys and interacts with distributed ledger technology to enable users to send, receive and monitor their electronic Bahamian dollars; and

“wallet provider” means a person that is registered pursuant to these Regulations to provide wallet services.

3. **Derogation**

- (1) The obligations, requirements, powers and regulatory schemes established under or pursuant to the provisions of these Regulations shall be in addition to, and shall not derogate from
 - (a) the obligations, requirements, powers and regulatory schemes established under or pursuant to any other written law; and
 - (b) the powers conferred on the Central Bank by the Act, the Payment Systems Act, or by any other written law for the time being in force.
- (2) The provisions of these Regulations shall be read and construed in conformity with the Act and the Payment Systems Act.

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PART II – REGISTRATION

4. **Persons that may provide wallet services**

A person shall not provide wallet services unless the person is -

- (a) a commercial bank, a co-operative credit union, a money transmission business or a payment institution licensed or registered in The Bahamas under any other written law administered by the Central Bank, and
- (b) registered with the Central Bank as a wallet provider to provide such services.

5. **Register of Wallet providers**

- (1) The Central Bank shall maintain a register of all persons who have been registered as wallet providers under these Regulations and their agents.
- (2) The Central Bank shall make the register publicly available for inspection and accessible online.
- (3) The register shall contain the name of the wallet provider and its' agent, the date of registration, and contain such other particulars relating to the wallet provider as the Central Bank may decide.
- (4) The Central Bank shall—
 - (a) update the register on a regular basis; and
 - (b) provide a certified copy of the register, or any part of it, to any person who asks for it—
 - (i) on payment of the fee (if any) fixed by the Central Bank; and
 - (ii) in a form (either written or electronic) legible to the person asking for it.

6. **Application for registration**

- (1) Any person referred to in regulation 4 desirous of being registered as a wallet provider shall first make application to the Central Bank.
- (2) An application made pursuant to paragraph (1) shall be in writing and contain or be accompanied by the information and documents prescribed by regulation 7.
- (3) The applicant may withdraw its application, by giving the Central Bank notice in writing, at any time before the Central Bank finally determines such application for registration.

7. **Documents to be submitted**

An applicant for registration under regulation 6(1), shall submit the following information and documents:

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- (a) a description of the nature and scope of the services to be offered and how these services fit in with its overall strategy to distribute wallet services to residents in the Central, South Eastern and North Western Bahamas;
- (b) a description of the criteria for the selection of agents and/or the outsourcing of parts of the applicant's information technology systems, where applicable, and copy of any agency or outsourcing agreement, as appropriate;
- (c) a signed document detailing the features and operational modalities of all information technology systems used or proposed to be used, including the operating systems, software and interfaces explaining at a minimum the following:
 - (i) a description (including diagrams) of the configuration of any information technology and operating system used by the applicant and its capabilities showing:
 - (aa) how such system is linked to other host systems or the network infrastructure in the applicant;
 - (bb) how transaction and data flow through the network, settlement process and timing;
 - (cc) what types of telecommunication channels and remote access capabilities (e.g. direct modem dial-in, internet access, or both) exist; and
 - (dd) the security controls or measures installed.
 - (ii) a list of software and hardware components indicating the purpose of the software and hardware in the infrastructure; and
 - (iii) how the system is interoperable with other existing information technology and operating systems.
- (d) such further or additional information or documents as the Central Bank may require for the purpose of considering an application.

8. **Conditions for registration**

No applicant may be registered or no wallet provider having been registered may continue to be so registered under these Regulations unless it has satisfied the Central Bank that it complies with the following minimum conditions -

- (a) it has adequate software and hardware components;
- (b) it has taken adequate measures for the purpose of safeguarding the funds of wallet holders;

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- (c) it has clear rules to resolve disputes associated with the provision of wallet services;
- (d) it has 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;
- (e) it has effective arrangements in place for the protection of client assets and money arrangements consistent with any prescribed rules or guidelines issued by the Central Bank;
- (f) it has effective corporate governance arrangements consistent with any prescribed rules or guidelines issued by the Central Bank;
- (g) it has systems in place to prevent, detect and disclose money laundering and terrorist financing;
- (h) it is compliant with the provisions of these Regulations or any written law administered by the Central Bank or relating to compliance with anti-money laundering or countering the financing of terrorism and proliferation financing requirements;
- (i) it is and remains compliant with the provisions relating to the fit and proper requirements under the Payment Instruments (Oversight) Regulations, 2017 and the Banks and Trust Companies Regulation Act, 2020;
- (j) it has met the interoperability standards established by the Central Bank, which include but are not limited to standards which enable wallet holders to send and receive funds by means of -
 - (aa) a unique user alias independent of the registered domain of the wallet provider;
 - (bb) a standard, universal, unique account number, independent of the domain of the wallet provider; and
 - (cc) a QR code scanning to send and receive payments;
- (k) it has dealt openly and honestly and cooperatively with the Central Bank; and
- (l) it has provided information relevant to its operations as the Central Bank may require from time to times.

9. **Decision to grant or refuse registration**

- (1) The Central Bank may, if satisfied that the information and evidence accompanying the application for registration complies with all of the requirements specified in

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regulation 8, register an applicant as a wallet provider, subject to such terms and conditions, if any, as the Bank deems necessary.

- (2) Where the Central Bank decides to grant its approval to register an applicant, it must give the applicant notice of –
 - (a) its decision that the registration has been granted;
 - (b) any conditions pursuant to which such registration has been granted and;
 - (c) the date on which the approval takes effect.
- (3) The Central Bank may, by notice in writing, at any time after approving registration pursuant to paragraph (1), impose, vary or amend any conditions pursuant to which approval was given provided that before taking such action the Bank shall provide the wallet provider with an opportunity to make written representations regarding any proposed action within such time as may be specified in the notice, but not being less than seven days.
- (4) Subject to paragraph (5) of this regulation, where the Central Bank proposes to refuse to grant its approval to register an applicant, it must give the applicant notice in writing of its intention to refuse, setting out a statement of the reasons for the proposed refusal and specifying a period (not less than 7 days) within which the applicant may make submissions in writing in relation to the proposed refusal.
- (5) Whenever the Central Bank considers it to be in the public interest, the Bank may refuse to grant approval for an applicant to be registered as a wallet provider and shall not be required to give reasons for such refusal.
- (6) Where the Central Bank refuses to register an applicant as a wallet provider on grounds other than those mentioned in paragraph (5), the person may re-apply if it is able to remedy the particulars of its application that gave cause for the decision
- (7) A person that is registered as a wallet provider under these regulations shall provide the services and execute the activities permitted in its registration and may do so from any location listed in its registration.
- (8) Where a wallet provider withdraws wallet services from a location or where such services are not offered by 30th June 2021, the Central Bank, in its sole discretion and in the discharge of its functions under these Regulations and the Act, may by notice published in the Gazette, designate a wallet provider to provide wallet services and the mobile application through which such services must be provided.

10. **Suspension and cancellation of registration**

- (1) Subject to paragraph (4) the Central Bank may at any time cancel the registration of any person registered as a wallet provider on being satisfied on reasonable grounds that—

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- (a) the person has not distributed electronic Bahamian dollars within 12 months of the date on which the registration was approved;
 - (b) the person has obtained approval for registration through false statements or any other irregular means;
 - (c) the person ceases to meet the criteria set out in Regulation 4;
 - (d) the person is contravening the provisions of these Regulations or any other law of The Bahamas;
 - (e) the person is carrying on its business in a manner detrimental to the public interest or to the interests of its wallet holders;
 - (f) the person is contravening any term or condition subject to which the registration was granted;
 - (g) the person fails to comply with a direction of the Central Bank pursuant to regulation 22;
 - (h) the person is or is likely to become insolvent is wound up or dissolved;
 - (i) the person requests, or consents to, cancellation;
 - (j) the person ceases to engage in business activity for more than six months;
 - (k) the person is convicted of a crime including but not limited to one involving fraud, dishonesty, money laundering or financing of terrorism or proliferation financing; or
 - (l) the person's business is being marketed or advertised in a manner that is fraudulent or misleading or otherwise injurious to the public.
- (2) A request for cancellation of a person's registration under paragraph (1)(i) must be made in such manner as the Central Bank may from time to time determine and subject to such conditions as the Central Bank may impose in its sole and absolute discretion.
- (3) At any time after receiving a request under paragraph (1)(i) and before making a determination, the Central Bank may require the person making the request to provide it with such further information as it reasonably considers necessary to enable it to determine the request.
- (4) Whenever the Central Bank is of the opinion that any action under paragraphs 1(d), (e) or (f) should be taken in respect of a person mentioned in paragraph (1), the Central Bank
- (a) may forthwith suspend the person's registration;

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- (b) shall, before taking action pursuant to paragraph (1) give that person notice in writing of its intention so to do setting out in such notice the grounds on which it proposes to act and shall afford the person within such time as may be specified therein, not being less than seven days, an opportunity of submitting to the Bank a written statement of objection to such action, and thereafter the Bank shall advise the person of its decision.
- (5) The Central Bank shall, having considered any representations made pursuant to paragraph (4), give the person notice in writing of its final decision.
- (6) A suspension notice may state the conditions for reinstatement and the timeline in which the conditions must be met.
- (7) Any suspension of registration under paragraph (4) shall be for a period of up to thirty days, or until the Bank takes action under paragraphs 1(d), (e) or (f) or until the Bank notifies the person concerned that the suspension is removed, whichever period is the shorter.
- (8) Where a wallet provider has met the conditions for re-instatement to the register of wallet providers, to the Central Bank's satisfaction, following a suspension of its registration, the Central Bank may reinstate the wallet provider subject to such conditions as the Bank deems fit.
- (9) Where the Central Bank suspends or cancels the registration of a wallet provider, the Central Bank may cause notice of such suspension or cancellation to be published on its website or in such other manner as the Central Bank may determine.

11. **Record keeping, reporting and security audits**

- (1) A wallet provider shall establish and maintain where applicable—
 - (a) record keeping measures for the accurate collection of information and documents as may be prescribed by the Central Bank from time to time;
 - (b) procedures to safeguard client assets against unauthorized data access by third parties;
 - (c) a framework with appropriate mitigation measures and control mechanisms to manage the operational and security risks, relating to the wallet services that it provides; and
 - (d) as a part of the framework referred to in sub-paragraph (c), effective incident management procedures, including for the detection and classification of major operational and security incidents.

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- (2) For the purpose of paragraph (1)(a), wallet providers shall make a report to the Central Bank at such intervals, and in such form containing such particulars, as the Bank may require but at a minimum to include:
 - (a) financial inclusion data including but not limited to data on gender and island of residency of wallet holders, and
 - (b) economic data and statistics.
- (3) For the purpose of paragraph (1)(b), the procedures to be established and maintained shall include but not be limited to taking measures to—
 - (a) assess and address security risks; and
 - (b) address—
 - (i) the use of encrypted communications;
 - (ii) assignment of client-only passwords; and
 - (iii) the installation of hardware and software appropriate to the level of security risk.
- (4) For the purpose of paragraph (1)(c) every wallet provider shall on an annual basis cause to be conducted an audit that assesses:
 - (a) the operational and security risks relating to the wallet services provided by the wallet provider, and
 - (b) the adequacy of the mitigation measures and control mechanisms implemented in response to those risks.
- (5) Every wallet provider shall not later than [seven] days following the completion of the audit, provide the Central Bank with a certificate from its auditor in the form set out in the Schedule.
- (6) For the purposes of paragraph (4), the audit shall be conducted by an independent third-party auditor that has the necessary experience and skills acceptable to the Central Bank.
- (7) For the purpose of paragraph (1)(d) a wallet provider must give the Central Bank immediate written notification of any major operational and security incidents.

PART III – ISSUE AND DISTRIBUTION OF ELECTRONIC BAHAMIAN DOLLARS

12. Authority to Issue

The Central Bank has the sole right and authority to issue the currency of The Bahamas as electronic money in accordance with the terms and subject to the conditions contained in these Regulations. Any electronic money issued by the Central Bank in accordance with the

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term hereof shall constitute legal tender in The Bahamas at its face value for the payment of any amount

13. Issuance of electronic Bahamian dollars

- (1) Pursuant to the authority conferred upon the Central Bank by the Act, the Central Bank may issue any amount of electronic Bahamian dollars as the Central Bank shall deem fit, having regard to its obligations under the Act to promote and ensure the oversight of a safe, sound and efficient national payment system.
- (2) No person other than the Central Bank may issue in The Bahamas the currency of The Bahamas as electronic money.
- (3) The aggregate amount of electronic money in circulation issued by the Central Bank shall appear as a liability in a statement of the accounts of the Central Bank.

14. Distribution of electronic Bahamian dollars

- (1) The Central Bank may, in the discharge of its functions under these Regulations, open one or more accounts for, accept deposits from, and collect money for or on account of, any wallet provider, for the purpose of facilitating the distribution by such wallet provider of electronic Bahamian dollars.
- (2) Wallet providers shall, without delay, distribute electronic Bahamian dollars upon receipt of and in exchange for the equivalent value in fiat currency, other electronic money or virtual currency acceptable to the wallet provider.
- (3) Wallet providers are prohibited from distributing or redeeming electronic Bahamian dollars at the request of a wallet holder other than in exchange for the equivalent value in fiat currency at a ratio of 1:1.

15. Prohibition of interest payments

A wallet provider shall not award—

- (a) interest in respect of the holding of electronic Bahamian dollars; or
- (b) any other benefit related to the length of time during which a wallet holder holds electronic Bahamian dollars.

16. Fees on distribution and redemption

The distribution of electronic Bahamian dollars by wallet providers and the redemption of electronic Bahamian dollars by a wallet holder shall be at par with the Bahamian Dollar and no fees or services charges shall be levied by wallet providers in connection with the distribution or redemption of electronic Bahamian dollars.

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17. **Limits on money in circulation**

The Central Bank in its sole and absolute discretion shall determine the amount of electronic Bahamian dollars in circulation at any time; and particularly, shall determine in its sole and absolute discretion the amount of electronic Bahamian dollars distributable by any wallet provider from time to time.

18. **Suspension and limit on withdrawal of deposits**

(1) Where the Central Bank is of the view that continued cash withdrawals of deposits settled or transferred in electronic Bahamian dollars poses risks to the stability of the financial system of The Bahamas, the Central Bank may –

- (a) suspend the withdrawal of such deposits; or
- (b) limit the maximum amount of withdrawals,

from any wallet provider or a group of wallet providers.

(2) Where the Central Bank suspends the withdrawals pursuant to paragraph (1), the suspension shall not exceed 7 days.

(3) Notwithstanding paragraph (2), the Central Bank may, following consultation with the Minister, extend the period of suspension for such further period not exceeding 14 days.

PART IV – TRANSACTIONS IN ELECTRONIC BAHAMIAN DOLLARS

19. **Wallet Limits**

(1) The maximum amount of electronic Bahamian dollars that an electronic Bahamian dollar wallet may hold at any one time shall be limited to such amounts as the Central Bank may determine by Notice published in the Gazette, and shall vary in accordance with the level of customer due diligence which a wallet provider shall undertake when opening an account for or otherwise establishing a business relationship with a wallet holder. For the purposes of this regulation, electronic Bahamian dollar wallets, shall be subject to the following levels of customer due diligence, in accordance with regulatory guidance on customer due diligence requirements, issued by the Central Bank and the provisions of the Financial Transactions Reporting Act, 2018 and the Financial Transactions Reporting Regulations, 2018 —

- (a) Basic or Tier I wallets subject to the lowest level of customer due diligence,;
- (b) Premium or Tier II wallets, subject to additional specified customer due diligence;

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- (c) Enterprises and organizations or Tier III wallets, for use by public sector entities and agencies, for profit and not for profit organizations, sole proprietorships and other private entities.
- (2) Each wallet described in paragraph (1) shall have a transactional limit in such amount as the Central Bank may determine by Notice published in the Gazette. Such transactional limit shall be fixed against the greater amount of the sum of all payments and transfers into the wallet or all payments and transfers out of the wallet for the period specified.
- (3) Notwithstanding any provision of these Regulations, a wallet provider may not issue more than one Basic or Tier I wallet to any person.
- (4) No transaction fees shall be levied on the holders of Tier I and Tier II wallets for funds received into or remitted from such wallets.
- (5) A wallet provider may charge other fees in connection with other services attached to Tier I and Tier II wallets, provided that the wallet holder subscribes to such services.

PART V – CENTRAL BANK OVERSIGHT OF ELECTRONIC BAHAMIAN DOLLARS

20. **Cryptography**

No person shall, without the prior consent of the Central Bank, seek to decrypt or decode or otherwise penetrate the security or secrecy of communication of transactions in respect of electronic Bahamian dollars or the distributed ledger technology platform generally.

21. **Central Bank to promulgate codes, guidelines**

- (1) The Central Bank may, as and in such manner as it considers appropriate, issue and publish such codes, rules, guidelines, policy statements and practice notes for the imposition of rules and standards concerning the imposition of limits or restrictions on wallet balances and transaction values for different categories of wallet holders and otherwise providing guidance and—
 - (a) in furtherance of its regulatory objectives;
 - (b) in relation to any matter relating to any of the functions of the Central Bank under any of the provisions of these Regulations; and
 - (c) in relation to the operation of any of the provisions of these Regulations.
- (2) Subject to paragraph (3), the Central Bank may, in such manner as it thinks fit, revoke, vary, revise or amend the whole or any part of a code, rule, guideline, policy statement or practice note issued under this Regulation.

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- (3) This paragraph shall apply in the same manner to a code, rule, guideline, policy statement or practice note both before and after its variation, revision or amendment and any reference in these Regulations to such code, guideline, policy statement or practice note however expressed shall, unless the context otherwise requires, be a reference to it as so varied, revised or amended.
- (4) A code, rule, guideline, policy statement or practice note—
 - (a) may be of a general or specific application; and
 - (b) may specify that its different provisions apply to different circumstances or provide for different cases or classes of cases.

22. Power to issue directions

- (1) The Central Bank may issue written directions of a general or specific nature to any wallet provider in any case where the Central Bank is of the opinion that—
 - (a) it is necessary or expedient for ensuring the integrity or proper management of electronic Bahamian dollars and the technology platform;
 - (b) it is necessary or expedient for the effective administration of these Regulations;
 - (c) it is otherwise in the interests of the public;
 - (d) a person is engaged in, or is about to engage in, any unsafe, unsound or unfair practice with respect to electronic Bahamian dollars; or
 - (e) a person has contravened or failed to comply with, or is likely to contravene or fail to comply with, the provisions of these Regulations or any codes, rules, guidelines, policy statements and practice notes given under it or any other written law which, in the opinion of the Central Bank, relates to systems or any category of system.
- (2) Without prejudice to the generality of paragraph (1)—
 - (a) any written direction issued by the Central Bank may relate to—
 - (i) the appropriate actions to be taken by the wallet provider;
 - (ii) the appointment of a person approved by the Central Bank to advise a wallet provider on the proper conduct of its business;
 - (iii) the conditions that will apply if any function of a wallet provider is outsourced; and

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- (iv) such other matters as the Central Bank may consider necessary or expedient or in the interests of the public or a section of the public;
 - (b) the Central Bank may by a written direction specify that a wallet provider shall, within such timeframe as the Central Bank considers necessary —
 - (i) cease or refrain from engaging in an act or course of conduct; or
 - (ii) perform such acts as in the opinion of the Central Bank are necessary in the public interest.
- (3) A person or class of persons to whom the Central Bank issues directions hereunder shall comply with such directions.
- (4) The person to whom the Central Bank gives a written direction under this regulation shall, within [thirty days] after implementing the direction and completing any actions required to be taken in connection with it, notify the Central Bank that the direction has been implemented and the action completed.
- (5) Any person who fails to comply with a direction issued by the Central Bank hereunder commits an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars and, in the case of a continuing offence, to a further fine not exceeding five hundred dollars for each day or part of a day during which the offence continues after conviction.

23. **Procedure for issuance of directions.**

- (1) The Central Bank shall, prior to issuing a direction under regulation 22, consult the person to whom it is directed, and such interested persons as the Central Bank considers appropriate, with respect to the content and the effect of the direction.
- (2) Every direction issued by the Central Bank under regulation 22 shall be—
 - (a) communicated to the person to whom it is directed and come into operation from the date of its communication;
 - (b) binding on the person to whom it is directed and contain a statement of the penalty prescribed for non—compliance pursuant to regulation 22(5).

24. **General oversight authority.**

The Central Bank shall have oversight of wallet providers distributing electronic Bahamian dollars pursuant to these Regulations, whether provided directly or through agents.

25. **Publication of information.**

The Central Bank may prepare and publish consolidated statements aggregating any information provided under these Regulations for statistical purposes and other statements that relate to or are derived from any information provided under these Regulations.

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26. Authority to perform inspections.

- (1) The Central Bank may at any reasonable time, enter and inspect the premises of a wallet provider and observe the business activities of a wallet provider as part of the licensing process.
- (2) The Central Bank may, at any reasonable time, enter and inspect the premises of a wallet provider and observe the business activities of—
 - (a) a wallet provider;
 - (b) an agent appointed by a wallet provider; or
 - (c) an entity to which a licensed wallet provider has outsourced any of its business activities in order to satisfy itself that the provisions of these Regulations, the relevant antimoney laundering and countering the financing of terrorism laws or any other relevant law is being complied with and that the wallet provider is in a sound financial position.
- (3) The Central Bank may require any person on the premises of a wallet provider to provide an explanation of any document or to state where it may be found or to give such explanation as the Central Bank may reasonably require in the exercise of its functions under these Regulations.
- (4) The Central Bank may appoint an auditor or other party, at the expense of the wallet provider, to conduct an examination pursuant to paragraph (1) and may require the auditor or other party to report to the Central Bank on their findings.
- (5) The Central Bank or a person appointed by the Central Bank pursuant to paragraph (4), may inspect and retain any books, accounts, records, vouchers, documents, cash, access devices, equipment, (or interview staff) or other items as the Central Bank may reasonably require for the purpose of enabling the Central Bank to perform its functions under these Regulations.

PART VI – GENERAL PROVISIONS

27. Offences.

- (1) Any person who fails to comply with the provisions of these regulations commits an offence and shall be subject to fine and imprisonment or both.
- (2) Notwithstanding paragraph (1), where an offence under these regulations has been committed and it is proved that the offence occurred with the consent or connivance or any neglect of an officer, director, manager, partner, or person purporting to act in any such capacity, each such person shall also be guilty of the offence.

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- (3) For the purpose of this regulation, any person who commits an offence under these regulations for which no penalty is provided is liable on summary conviction to a fine not exceeding fifty thousand dollars or imprisonment up to six months.

28. **Misrepresentations.**

- (1) Any person who—
- (a) willfully makes any misrepresentation in any document required to be filed or submitted under these regulations;
 - (b) willfully makes any statement or give any information required for the purpose of these regulations which he knows to be materially false or misleading; or
 - (c) knowingly fails to disclose any fact or information required to be disclosed for the purposes of these regulations or any relevant regulations,
 - (d) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding two thousand dollars in respect of each instance or imprisonment up to six months.

29. **Administrative sanctions**

- (1) Notwithstanding any other action which may be taken by the Central Bank for a breach of or failure to comply with any provisions of, or any regulations, rules or guidelines made under these regulations, the Central Bank may impose an administrative sanction for such breach or failure, which sanction may include—
- (a) issuing a public reprimand;
 - (b) temporarily suspending a manager;
 - (c) removing a director, officer, or other senior manager or general partner of an entity not licensed or registered under the Banks and Trust Companies Regulation Act, 2020;
 - (d) an order—
 - (i) requiring that a wallet provider complies with a direction issued by the Central Bank;
 - (ii) withdrawing an exemption or waiver;
 - (iii) prohibiting a person from acting as a director, or officer of another entity not licensed or registered under the Banks and Trust Companies Regulation Act, 2020;

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- (iv) prohibiting a person from being appointed as an auditor of an entity not licensed or registered under the Banks and Trust Companies Regulation Act, 2020;
 - (v) requiring a wallet provider to make changes to its practices and procedures;
 - (vi) for restitution; or
 - (vii) for disgorgement of profits or unjust enrichment;
- (e) appointing a person, at the expense of the wallet provider, to—
- (i) oversee the affairs of the wallet provider and report to the Central Bank; or
 - (ii) assume control of a wallet provider's affairs who shall, subject to necessary modifications, have all of the powers of a person appointed as a receiver or manager of a business appointed under the law governing bankruptcy or winding up.
- (f) applying to the court for an order to take such action as the Central Bank considers necessary to protect the interest of clients or creditors of a wallet provider;
- (g) with respect to paragraph (1)(f)(vii), requiring a wallet provider to pay an administrative penalty not exceeding twice the amount of such profits or unjust enrichment; or
- (h) cancelling registration hereunder.

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SCHEDULE (Regulation 11(5))

AUDITOR'S CERTIFICATE

We, the undersigned auditors (the “auditors”) of [NAME OF WALLET PROVIDER], hereby confirm that in relation to [NAME OF WALLET PROVIDER] we have caused to be conducted an audit during the period [DATE] that assesses:

- (a) the operational and security risks relating to the wallet services provided by [NAME OF WALLET PROVIDER], and
- (b) the adequacy of the mitigation measures and control mechanisms implemented in response to those risks,

and certify that we have found same to be acceptable for the purposes of regulation 11(5) of the Central Bank of The Bahamas (Electronic Bahamian Dollar) Regulations, 2021.

Signed: _____

AUDITORS

Annex 2

PROPOSED AMENDMENTS TO EXISTING LEGISLATION

**PAYMENT SYSTEMS
(AMENDMENT) BILL, 2021**

A BILL FOR AN ACT TO AMEND THE PAYMENT SYSTEMS ACT TO RECOGNISE THE RIGHT OF THE CENTRAL BANK OF THE BAHAMAS TO ISSUE ELECTRONIC MONEY PURSUANT TO THE CENTRAL BANK OF THE BAHAMAS ACT, 2020

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act, which amends the Payment Systems Act, 2012, may be cited as the Payment Systems (Amendment) Act, 2021.
- (2) This Act shall come into force on such date as the Minister may appoint by notice publish in the Gazette.

2. Amendment of section 26 of the principal Act.

Section 26 of the principal Act is amended by the repeal and replacement of subsection (1) as follows —

- “(1) Without prejudice to the right of the Central Bank to issue electronic money pursuant to the Central Bank of The Bahamas Act 2020, no person other than a bank, bank and trust company or trust company licensed under the regulatory laws shall, after this act comes into force, commence the issue of electronic money without having applied for and obtained the grant of a license from the Central Bank.”.

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COMPUTER MISUSE (AMENDMENT) BILL, 2021

A BILL FOR AN ACT TO AMEND THE COMPUTER
MISUSE ACT TO MODERNIZE DEFINITIONS

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act, which amends the Computer Misuse Act (*Ch. 107A*), may be cited as the Computer Misuse (Amendment) Act, 2021.
- (2) This Act shall come into force on such date as the Minister may appoint by notice publish in the Gazette.

2. Amendment of section 2 of the principal Act.

Subsection (1) of section 2 of the principal Act is amended by the repeal and replacement of the definition of the word “computer” as follows —

““computer” mean an electronic, magnetic, optical, electrochemical, or other data processing device, or a group of such interconnected or related devices, performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device or group of such interconnected or related devices, and includes, for the avoidance of doubts, tablets and mobile telephones, but does not include —

- (a) an automated typewriter or typesetter;
- (b) a portable hand held calculator;
- (c) a similar device which is nonprogrammable or which does not contain any data storage facility; or
- (d) such other device as the Minister may, by notice published in the Gazette, prescribe;”