



# 2022

## THE BAHAMAS: A COMPLETE AND COMPELLING CHOICE

A *WealthBriefing* mini-series  
on The Bahamas financial  
services industry

### EDITION 1

*'Currency Evolves in  
The Bahamas - a Story  
of Innovation' and  
'Captive Insurance in  
The Bahamas - a  
Success Story'*



**WealthBriefing**  
*News Insight Intelligence*

## INTRODUCTION

# The Bahamas: Innovative Regulators in the Driving Seat

Financial regulators are crucial to the success of every jurisdiction in this age of rapid change. They involve themselves in technological advances, they shape laws and regulations to attract business and they resolve clashes between products and services to a degree never seen before.

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This is the story of The Bahamas in recent years, as evidenced by its creation of the Sand Dollar, the world's first central-bank digital currency to be issued on the blockchain. It is fully backed by reserves that the central bank holds and everyone who possesses it therefore has a direct claim against the central bank. The regulations that safeguard the rights of wallet holders are prudent and rigorous. In implementing this digital coin of the realm, The Bahamas beat China's 'digital renminbi' to the market by six months and is leading the pack among various Caribbean jurisdictions that are treading the same path.

Meanwhile, the Insurance Commission of the Bahamas has spent the last few years 'onboarding' many candidates for captive insurance business through a stringent application process. The pandemic of 2020 made only a small and temporary dent in the upward trend among total numbers of captive insurers and segregated accounts. All of these are of use to high-net-worth individuals and family offices as they invest in construction, real estate, retail and wholesale distribution, agriculture, medical administration and other sectors, especially in turbulent times. At present the ICB and the Government as a whole are working on a revamp of the *Insurance Act 2005* and the *External Insurance Act 2009*.

This communiqué is part of a larger report on financial services in The Bahamas which will come out in stages during the course of the year.

## 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.

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## ADVERTISING SUPPLEMENT

# CAPTIVE INSURANCE IN THE BAHAMAS – A SUCCESS STORY

**\*By Carl Culmer Jr, Manager for Policies and Practices at the Insurance Commission of the Bahamas**

*Over the past 10 years, the number of licensed captive insurance entities registered in The Bahamas has grown – at first very rapidly and, in the last five years, steadily. As a result, growth has occurred in overall net premium volume along with an expansion in the number of parent-company regions throughout the US and Europe.*



The growth in The Bahamas' captive market is largely attributed to small-to-medium sized entities (SMEs) seeking to set up their own segregated accounts. This option has proven to be cost-effective for those SMEs, especially since they can and do outsource administrative and operational oversight to locally-registered insurance managers, financial

and corporate service providers and other financial service professionals such as lawyers and accountants.

## ***Presently, all captives are licensed as external insurers***

SMEs across varying industries are all interested in the Bahamian captive market. Their aim is to minimise losses that they might incur during the course of their operations. Such an entity might be either a stand-alone company, i.e. a single-parent company, or a registered segregated account in an already licensed segregated account (captive insurance) company. A stand-alone entity is incorporated, while a segregated account (or cell captive) forms part of a registered Segregated Accounts Company. A typical company considers the size, nature and complexity of its operations before applying for the appropriate category of licence that best fits its strategy and commercial interests.

Presently, all captives are licensed as 'external insurers' in accordance with the *External Insurance Act 2009*. The Bahamas continues to register captives that insure risk associated with various industries such as medical and healthcare administration, retail and wholesale distribution, agriculture, construction and real estate. The lines of business extended as coverage within these structures include workers' compensation benefits, cyber-risk, directors' and officers' (D+O) insurance and excess liability.

After a spate of growth earlier in the last decade, the aggregate number of segregated accounts continues to demonstrate

gradual growth over the past three years. The chart below outlines the number of external insurers identified as captives for the period 2019 – 2021.

The present legislation has certainly helped the insurance sector to grow to a satisfactory degree and the Commission is determined to keep the applicable law competitive. It also remains intent on keeping its regulatory and supervisory regime effective and in line with the high standards of the International Association of Insurance Supervisors and the recommendations submitted by the Financial Action Task Force.

In 2021, as part of its strategic plan to amalgamate legislation, the Commission began a review of the jurisdiction's two principal insurance laws – the *Insurance Act, 2005* and the *External Insurance Act, 2009*. The purpose of the review, which is still in progress, is to streamline regulatory and supervisory requirements and to enhance legislation to help insurance structures. The Commission has collaborated with industry associations, professionals and the general public as part of its consultative effort. Individuals and companies have been keen to use these discussions to find out more about the captive market with a view to establishing captives of their own to support their medium-to-long-term risk-management strategies.

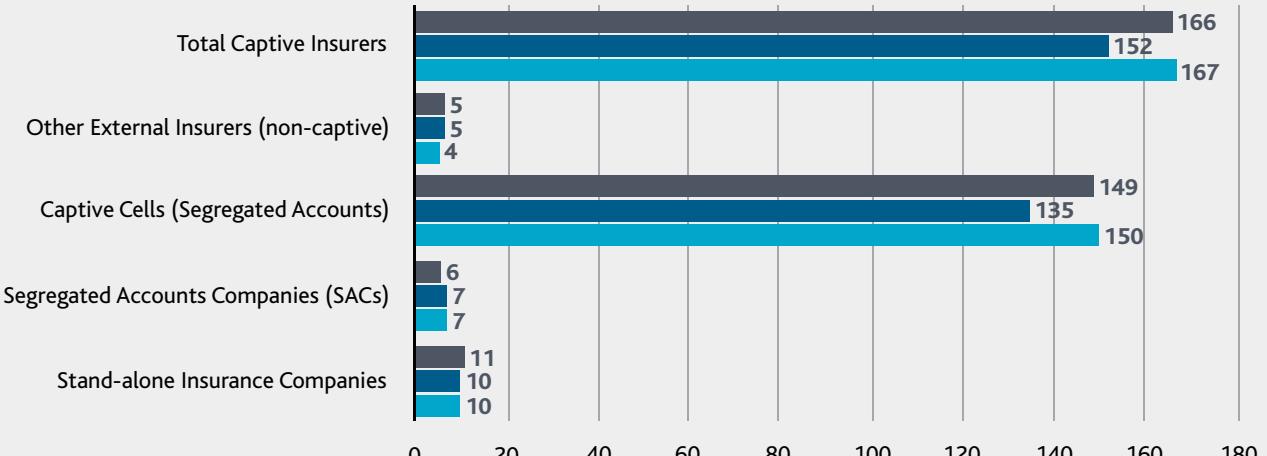
## ***The present legislation has certainly helped the insurance sector to grow***

Despite the lingering effects of the global pandemic of 2020, international companies are still expressing interest about the establishment of captives in The Bahamas. The insurance industry continues to demonstrate its financial resilience to economic shocks. The effective use of captives can also serve as an additional absorber for companies that have suffered from such global shocks.

The Bahamas' participation in the captive insurance industry dates back to the 1960s. Given the islands' rich history in this niche industry, the Government has taken steps in recent years to ensure that this business actively contributes to the overall growth of the financial services sector. Local insurance managers and other

## EXTERNAL INSURERS IN THE BAHAMAS

■ 2019 ■ 2020 ■ 2021



financial intermediaries are still finding ways to promote both their own services and the jurisdiction as a whole in the captive market. The Bahamas Financial Services Board (BFSB) has helped them do so, highlighting the jurisdiction as a competent and competitive international financial centre that promotes synergies between the industries of the financial services sector. The Commission, along with the BFSB and the country's captive insurance professionals, participates actively in the captive insurance industry's events and training seminars. This ensures that all stakeholders remain well-acquainted with the industry's trending topics, challenges and opportunities. The Commission's partnership with the BFSB has extended the promotional outreach of the jurisdiction as a captive domicile and has provided a forum in which meaningful discussions take place.

The BFSB, along with the Commission, will continue to work with the Government of The Bahamas to target the captive insurance and reinsurance industry as an area of economic interest. Companies that want to base their insurance business in The Bahamas should note the key regulatory requirements for approval.

The external (captive) insurer application process includes the following:

1. A scheduled pre-application meeting to discuss the proposed business plan.
2. Submission of a completed application which includes, but is not limited to, the following:
  - a. a detailed business plan;
  - b. an actuarial review or feasibility study;
  - c. projected financial statements for three years (inclusive of balance sheet, income statement and solvency calculations);
  - d. sample policies to be marketed and sold by the applicant;
  - e. details of the reinsurance programme (where applicable); and
  - f. 'due diligence' documents for proposed shareholders, directors and senior officers.
3. Review of the application and consideration for approval by the Commission's Board of Commissioners.

This is generally a two-stage process. Subject to a satisfactory review of the application, the Commission initially grants the applicant

approval in principle with conditions. Applicants are then given 30-60 days to satisfy these conditions of approval.

### *The insurance industry continues to demonstrate its financial resilience to economic shocks*

Once the conditions of approval are met, the Commission issues a certificate of licence to the applicant. Every captive insurance company in The Bahamas must, among other things, satisfy the following requirements:

- A minimum of two directors.
- The appointment of a resident representative in the Bahamas at whose office books and records must be maintained.
- A minimum of US\$100,000 in share capital (additional regulatory capital may be required depending on the nature, size, and scope of the proposed entity).
- Application fee of US\$100 (stand-alone) and US\$250 (per segregated account).
- Annual (stand-alone) renewal fee of US\$2,500.

Information about captive insurance in The Bahamas can be found on our website at [www.icb.gov.bs](http://www.icb.gov.bs). Interested persons may also contact [info@icb.gov.bs](mailto:info@icb.gov.bs).

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INSURANCE COMMISSION  
OF THE BAHAMAS