



Bermuda creates new banking regime for FinTech businesses

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The Bermuda Government has taken steps towards resolving a critical unmet need for FinTech companies in Bermuda and to remove a current impediment to the development of the island as a FinTech hub as a result of the reticence of Bermuda's domestic banks to provide banking facilities locally to FinTech businesses.

The Premier and Minister of Finance, The Hon. David Burt, JP, MP and his cabinet addressed this issue by introducing the Banks and Deposit Companies Amendment Act 2018, which was approved by the House of Assembly on 27th July 2018, which amends Bermuda's existing bank licensing framework under the Banks and Deposit Companies Act 1999 to enable the island's finance service regulator, the Bermuda Monetary Authority (the "BMA") to issue restricted banking licenses to banks to enable them to serve the FinTech sector.

The Banking and Deposit Companies Amendment Act 2018 (the "Act")

The Act provides that banks can now be authorised to provide services to six types of persons:

- (i) those that have submitted a Form No.1 application to the BMA, in accordance with the Companies (Forms) Rules 1982, to be registered under the Companies Act 1981; and who have indicated on such form the intention to conduct digital asset business or undertake an initial coin offering in Bermuda;
- (ii) those who have submitted a Form 1 application to the BMA, in accordance with the Limited Liability Company (Forms) Regulations 2016, to be formed under the Limited Liability Companies Act 2016; and has indicated on such form the intention to conduct digital asset business or undertake an initial coin offering in Bermuda;
- (iii) those who are licensed to conduct digital asset business in Bermuda under the Digital Business Act 2018;
- (iv) those who have obtained the Minister's consent to undertake an initial coin offering under section 4a of the Companies Act 1981 or section 67 of the Limited Liability Company Act 2016;
- (v) those whom are an affiliated company of a person mentioned in paragraphs (i) to (iv); or
- (vi) those who are an agent of, or is contracted to provide services for, a person mentioned in paragraph (iii) to (iv).

It is hoped that the Act will bring new participants into the market to provide a much needed resource for FinTech companies wishing to establish their business in Bermuda.

Under the Act, the BMA have discretion to impose conditions or restrict the services that can be provided under a licence, if one is granted. The BMA may also vary or revoke any condition or restriction imposed under a licence.



Why is this amendment so crucial for the FinTech ecosystem to thrive in Bermuda?

As Premier Burt stated, securing banking services for an industry, like FinTech, has been a great challenge in Bermuda and other jurisdictions worldwide. By reforming the traditional banking sector in Bermuda, this would allow for the "survival and growth" of businesses, which can "only be achieved through an ability to evolve and innovate".

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