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A practical cross-border resource to inform legal minds

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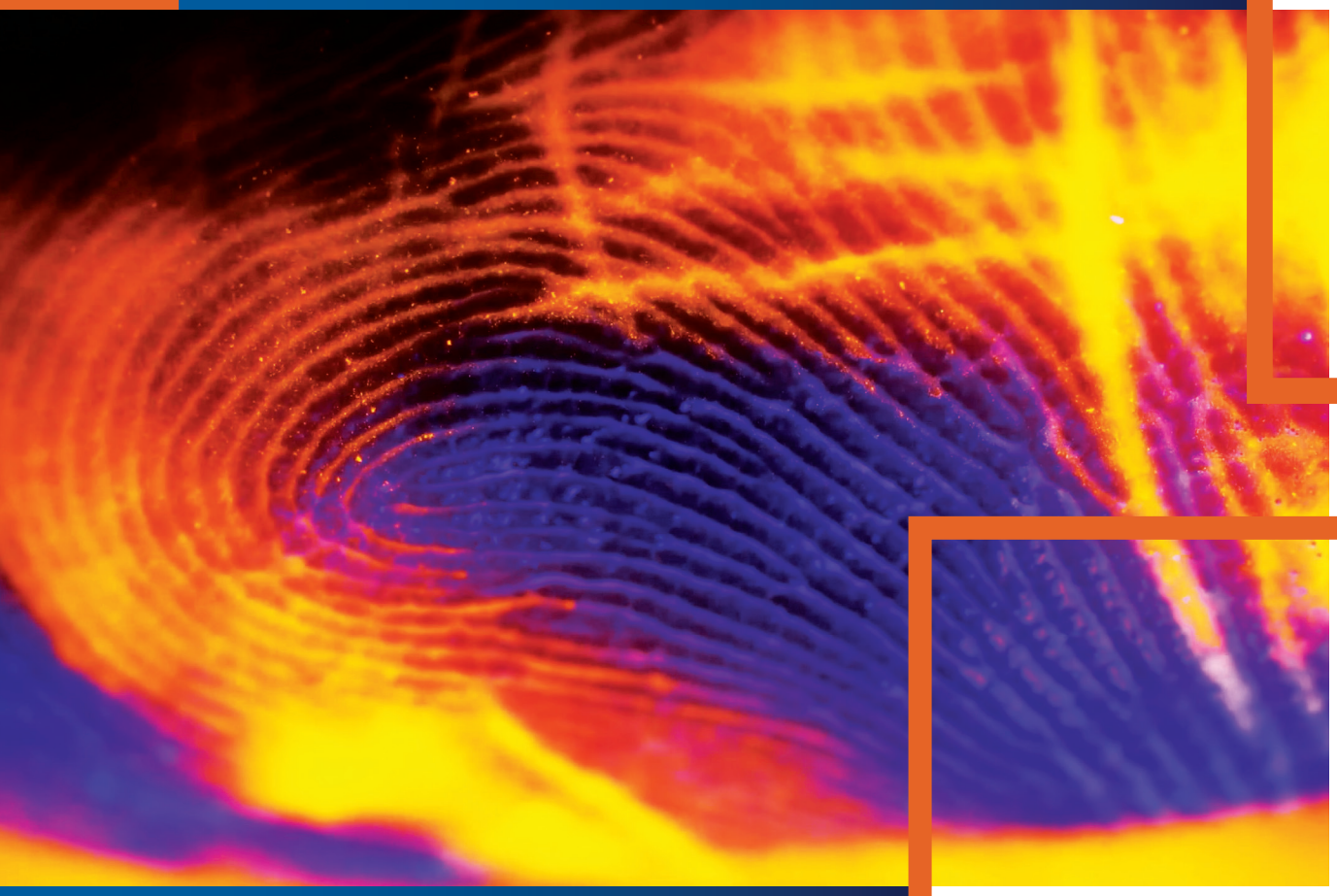
Contributing Editors:
David Ives, David Shone & James Cook
Slaughter and May



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Expert Analysis Chapter

Q&A Chapters

Bahamas


Christel Sands-Feaste


Portia J. Nicholson


Julia Koga da Silva

Higgs & Johnson

1 The Fintech Landscape

1.1 Please describe the types of fintech businesses that are active in your jurisdiction and the state of the development of the market. Are there any notable fintech innovation trends of the past year within particular sub-sectors (e.g. payments, asset management, peer-to-peer lending or investment, and insurance) including those relating to cryptoassets, tokenisation and artificial intelligence?

The Bahamas has a regulatory and policy framework that favours the regulation and establishment of business in the fintech sector in The Bahamas. As at the time of writing this chapter (April 2026), most of the regulated activity in the fintech space relates to digital assets business and token offerings. The Digital Assets and Registered Exchanges Act, 2024 ("DARE Act") has been central to positioning the jurisdiction as a hub for digital asset exchanges, custodians and token issuers, while the Sand Dollar, the digital currency backed by the Central Bank of The Bahamas has driven the development of a domestic digital payments ecosystem. The Securities Commission of The Bahamas ("SCB") is the regulator responsible for the sector.

The market is more developed in terms of its legal and regulatory framework than in terms of scale of local adoption and most of the activity in the sector is cross-border rather than domestic. The use of artificial intelligence is beginning to emerge, mainly in compliance and risk management functions, while areas such as peer-to-peer lending and insurtech remain relatively limited.

1.2 Are there any types of fintech business that are at present prohibited or restricted in your jurisdiction (for example cryptoasset-based businesses)?

The DARE Act prohibits the mining of digital assets as a business in or from within The Bahamas or purporting to do so, except where: (a) the mining is ancillary to a digital asset business registered under the DARE Act; or (b) the person carries on proprietary mining of digital assets. Additionally, no issuer may offer privacy tokens for sale in or from within The Bahamas. Other than the aforementioned, subject to obtaining the relevant regulatory approvals, a fintech business may operate in The Bahamas as long as it is not established for an unlawful purpose or a purpose that is contrary to public policy.

2 Funding For Fintech

2.1 Broadly, what types of funding are available for new and growing businesses in your jurisdiction (covering both equity and debt)?

Equity and debt funding (from both public and private sources) are available to new and growing businesses in The Bahamas.

Where a business wishes to raise capital by offering its securities for sale to the general public, it may do so subject to meeting the requirements for initial public offerings ("IPO") prescribed under the Securities Industry Act ("SIA"), the Security Industry Regulations ("SIR"), and the listing rules of the Bahamas International Securities Exchange ("BISX"). A fintech business that wishes to make an initial token offering ("ITO") must comply with the requirements under the DARE Act.

Additionally, fintech businesses may obtain loans from private lenders, including financial institutions and individuals in The Bahamas, free from regulatory restraints. Fintech businesses under Bahamian proprietorship also have the option of approaching the Bahamas Development Bank or the Small Business Development Centre and availing themselves of the various loans and grants offered by those institutions.

2.2 Are there any special incentive schemes for investment in tech/fintech businesses, or in small/medium-sized businesses more generally, in your jurisdiction, e.g. tax incentive schemes for enterprise investment or venture capital investment?

There are no special incentive schemes dedicated to fintech businesses in The Bahamas. However, the Commercial Enterprises Act ("CEA") offers streamlined regulatory approvals and certain incentives to specified commercial enterprises, including a number of technology focused enterprises. These may be extended to cover certain fintech businesses. In order to fall within the CEA, the business must (i) be established by a Bahamian, a non-Bahamian with an investment of not less than B$250,000 or a joint venture or partnership between a Bahamian and non-Bahamian, (ii) carry on business in a prescribed sector, including – among others – computer programming, software design and writing, bioinformatics and analytics, nanotechnology and data storage, and (iii) be specifically approved by the Bahamas Investments Board.

2.3 In brief, what conditions need to be satisfied for a business to IPO in your jurisdiction?

IPOs in The Bahamas are governed by the SIA and SIR. A business

seeking to launch an IPO in The Bahamas is required to a register a preliminary prospectus and a prospectus with the SCB, unless an exemption from this requirement applies. There are a number of exemptions from the requirement to register a prospectus, including offerings to accredited investors only and offerings by approved foreign issuers (as defined in the SIA).

Under BISX listing rules, each issuer must expect a foreseeable market capitalisation of at least B$1 million for shares and B$400,000 for each class of debt securities to be listed. The business must have been in operation for at least three years, and audited annual accounts must have been prepared in accordance with the law of the country in which the company was registered. In the case of a company with subsidiaries, its annual accounts must be in consolidated form. Where a new applicant has a controlling shareholder, BISX may require the appointment of a majority of independent non-executive directors. The listed securities must be in dematerialised form and freely transferable. The offering must be for at least 25% of the class of securities offered.

2.4 Have there been any notable exits (sale of business or IPO) by the founders of fintech businesses in your jurisdiction?

At present, there is no information available that indicates notable exits or sales of businesses or IPOs in the fintech sector in The Bahamas.

3 Fintech Regulation

3.1 Please briefly describe the regulatory framework(s) for fintech businesses operating in your jurisdiction, and the type of fintech activities that are regulated.

The primary regulator for fintech activities such as non-banking financial services and digital assets business is the SCB.

Any person engaging in digital assets business in or from The Bahamas must be registered with the SCB under the DARE Act. For the purposes of the DARE Act, (i) "digital assets" includes "digital representation of value or a right which may be transferred and stored electronically, using distributed ledger technology or similar technology", and (ii) "digital assets business" includes: (a) operating a digital asset exchange; (b) exchanging digital assets for fiat currency; (c) exchanging digital assets for other digital assets; (d) operating as a payment service provider business involving digital assets; (e) executing orders for digital assets; (f) issuing a stablecoin; (g) placing digital assets; (h) providing the reception and transmission of orders for digital assets; (i) providing transfer services; (j) providing the custody of digital assets; (k) providing advice on digital assets; (l) providing management of digital assets; (m) providing DLT network node services; (n) providing anonymity-enhancing services; (o) providing digital asset derivative services; (p) providing staking services; and (q) any other activity which may be prescribed by regulations.

The DARE Act applies to any person carrying on a digital asset business in or from within The Bahamas. A digital asset is considered to be issued: (a) in The Bahamas, if irrespective of physical location, the issuer offers digital assets to Bahamian residents, whether natural persons or entities, from anywhere in the world; and (b) from within The Bahamas, if the issuer, whether or not a legal entity registered or incorporated under the laws of The Bahamas, offers digital assets to persons outside or within The Bahamas from or through a place in The Bahamas. ITOs are also regulated under the DARE Act.

A non-banking entity providing financial services in or from The Bahamas must be licensed with the SCB as a financial services provider under the Financial and Corporate Services Providers Act, 2020 ("FCSPA"). Licensable activities include money lending, money broking, payday and cash advances, credit extension, bill paying services, debt collection and financial leasing.

Fintech activities in the form of payment systems and the issuance of electronic money (fiat) are regulated by and require a licence from The Central Bank of The Bahamas.

3.2 Are financial regulators and policy-makers in your jurisdiction receptive to fintech innovation and technology-driven new entrants to regulated financial services markets, and if so how is this manifested? Are there any regulatory 'sandbox' options for fintechs in your jurisdiction?

Policy-makers in The Bahamas and the SCB are receptive to and supportive of fintech innovation in The Bahamas. One of the policy objectives set out in the Government's White Paper, "The Future of Digital Assets in The Bahamas", is "to encourage innovation in the Fintech space and identify emerging technologies that would help maintain The Bahamas' competitive advantage".

Not only has the Government set out its policy objectives for the sector for the next five years, but The Bahamas was also one of the first jurisdictions to regulate the digital assets space through the Prior DARE Act. The recent launch of the DARE Act demonstrates the commitment by the SCB to ensure that the regulatory regime for digital assets in The Bahamas continues to keep pace with the rapid evolution of the space and international best practices.

3.3 What, if any, regulatory hurdles must fintech businesses (or financial services businesses offering fintech products and services) which are established outside your jurisdiction overcome in order to access new customers in your jurisdiction?

A fintech business established outside The Bahamas wishing to access new customers in The Bahamas must obtain (i) if owned by non-Bahamians, approval of the National Economic Council to conduct business from The Bahamas, (ii) approval of the relevant financial services regulator, such as the SCB under the DARE Act, the FCPSA or the SIA or the Central Bank of The Bahamas under the Banks and Trust Companies Regulation Act ("BTCRA"), as applicable, (iii) a business licence from the Department of Inland Revenue ("DIR") to conduct business in The Bahamas, (iv) registration with the DIR for value-added tax purposes, (v) work permits for any non-Bahamian citizens who wish to work in The Bahamas, and (vi) registration with the National Insurance Board.

Although not specifically a regulatory hurdle for fintech businesses established outside of The Bahamas, Exchange Controls exist in The Bahamas, which require that "residents" for Exchange Control purposes obtain the prior approval of the Central Bank of The Bahamas to deal in foreign currency and to hold assets denominated in foreign currency.

3.4 How is your regulator approaching the challenge of regulating the traditional financial sector alongside the regulation of big tech players entering the fintech space?

The traditional financial sector, consisting of banks, trust

companies and money transmission businesses, are regulated by a separate regulator, the Central Bank of The Bahamas, while the big tech players entering the fintech space are primarily within the purview of the SCB. This bifurcated regulatory arrangement allows each regulator to remain focused on the objectives pertinent to the particular sector while ensuring appropriate regulatory overview of each. The DARE Act serves as clear evidence that the SCB is staying up to date with industry developments and actively working to establish regulatory frameworks for emerging players in the fintech sector. By addressing the evolving landscape, the SCB shows its commitment to fostering innovation while ensuring compliance and stability within the market.

4 Other Regulatory Regimes / Non-Financial Regulation

4.1 Does your jurisdiction regulate the collection/use/transmission of personal data, and if yes, what is the legal basis for such regulation and how does this apply to fintech businesses operating in your jurisdiction?

The collection/use/transmission of personal data in The Bahamas is regulated by the Data Protection (Privacy of Personal Information) Act ("DPA"). Specifically, under the DPA, data controllers are required to comply with the following requirements in relation to personal data kept by them: (i) the data must have been collected by means which are both lawful and fair in the circumstances of the case; (ii) the data must (a) be accurate and, where necessary, kept up to date, (except in the case of back-up data) and kept only for one or more specified and lawful purposes, (b) subject to certain statutory exceptions, not be used or disclosed in any manner incompatible with that purpose or those purposes, (c) be adequate, relevant and not excessive in relation to that purpose or those purposes, and (d) not be kept for longer than is necessary for that purpose or those purposes, except in the case of personal data kept for historical, statistical or research purposes; and (iii) appropriate security measures must be taken against unauthorised access to, or alteration, disclosure or destruction of, the data and against its accidental loss or destruction. In addition, data controllers owe a duty of care regarding the collection of personal data or information intended for inclusion in such data. Data processors are also subject to statutory duties of confidentiality.

For the purposes of the DPA, a "data controller" is a person who, either alone or with others, determines the purposes for which and the manner in which any personal data is processed. The DPA applies to a data controller in respect of any data only if: (a) the data controller is established in The Bahamas and the data is processed in the context of that establishment; or (b) the data controller is not established in The Bahamas but uses equipment in The Bahamas for processing the data otherwise than for the purpose of transit through The Bahamas.

Financial service providers are also subject to statutory and common law duties of confidentiality that prohibit the disclosure of confidential client information without their consent, subject to certain exceptions.

4.2 Do your data privacy laws apply to organisations established outside of your jurisdiction? Do your data privacy laws restrict international transfers of data?

The DPA applies to a data controller in respect of any data only if: (a) the data controller is established in The Bahamas and the data is processed in the context of that establishment; or (b) the data controller is not established in The Bahamas but uses equipment in The Bahamas for processing the data otherwise than for the purpose of transit through The Bahamas.

Under section 17 of the DPA, the Data Commissioner has the power to prohibit the transfer of personal data from The Bahamas to a place outside The Bahamas where there is a failure to provide protection equivalent to that provided under the DPA either by contract or otherwise. In determining whether to prohibit a transfer of personal data under this section, the Commissioner must consider (i) whether the transfer would be likely to cause damage or distress to any person, and (ii) the desirability of facilitating international transfers of data. Where personal data is stored outside of The Bahamas, there should be adequate security measures to comply with the requirement under section 6 of the DPA for appropriate security measures to be taken against unauthorised access to, or alteration, disclosure or destruction of, the data and against its accidental loss or destruction.

4.3 Please briefly describe the sanctions that apply for failing to comply with your data privacy laws.

Offences under the DPA include obtaining access to personal data, or information constituting such data, without the prior authority of the data controller or data processor by whom the data is kept or disclosing the data or information to another person. Such offences are punishable, on summary conviction, by a fine not exceeding B$2,000 or, on conviction on information, to a fine not exceeding B$100,000. Where a person is convicted of an offence under the DPA, the court may order any data material that appears to the court to be connected with the commission of the offence to be forfeited or destroyed and any relevant data to be erased.

In addition, the Data Commissioner may investigate, or cause to be investigated, whether any of the provisions of the DPA have been, are being or are likely to be contravened by a data controller or a data processor. If the Data Commissioner is of the opinion that a data controller or a data processor has contravened or is contravening a provision of the DPA in a way that is not an offence, the Data Commissioner may, by notice in writing, require the person to take corrective steps within the time frame specified in the notice.

4.4 Does your jurisdiction have cyber security laws or regulations that may apply to fintech businesses operating in your jurisdiction?

The principal legislation in this area is the Computer Misuse Act, which criminalises unauthorised access to computer systems, unauthorised modification of computer material, use of a computer to facilitate the commission of an offence, unauthorised interception of data and unauthorised disclosure of access codes.

In addition, cybersecurity obligations arise through the broader regulatory frameworks applicable to licensed financial institutions. Fintech businesses that are regulated are generally required to maintain appropriate systems security, technology risk management, incident response and internal control frameworks as part of their licensing and ongoing supervisory requirements. These expectations are typically set out in guidelines, codes of practice and regulatory conditions rather than in a single statute, and are enforced through supervisory oversight.

4.5 Please describe any AML and other financial crime requirements that may apply to fintech businesses in your jurisdiction.

Anti-money laundering and counter-terrorism financing ("AML/CFT") are regulated under the Proceeds of Crime Act, 2018, the Anti-Terrorism Act, 2018, the Financial Transactions and Reporting Act, 2018 ("FTRA"), the Financial Transactions Reporting Regulations, 2020 and the Financial Intelligence (Transactions Reporting), Regulations, 2001 – all of which apply to persons registered under the BTCRA, the DARE Act and the FCSPA.

Under the FTRA, financial institutions are required to conduct customer due diligence, develop and implement procedures for the prevention of activities related to identified risks (such as corruption, cybercrime, human trafficking, money laundering or financing of the proliferation of weapons of mass destruction, terrorism or financing of terrorism), designate compliance officers and report suspicious transactions.

The Digital Assets and Registered Exchanges (Anti-Money Laundering and Countering the Financing of Terrorism) Rules, 2022 establish a bespoke AML/CFT regulatory framework applicable to digital assets business registered under the DARE Act.

4.6 Are there any other regulatory regimes that may apply to fintech businesses operating in your jurisdiction (for example, AI)?

There are currently no additional regulatory regimes, including any specific to artificial intelligence, that apply to fintech businesses in The Bahamas beyond those already addressed.

5 Technology

5.1 Please briefly describe how innovations and inventions are protected in your jurisdiction.

The intellectual property legislative framework in The Bahamas was recently overhauled. The principal statutes relating to copyright, trade marks and patents were repealed, replaced and modernised by the implementation of the Copyright Act, 2024 ("New CPA"), the Trade Marks Act, 2024 ("New TMA") and the Patents Act, 2024 ("New PA"), all of which came into force on 1st February 2025.

A fintech business may apply for a patent for an invention under the New PA, under which, the patentee has the exclusive right to exploit the patented invention, including the right to make, import, offer for sale, sell or use the invention, as well as to assign or transmit the patent and to conclude licence agreements (section 44 of the New PA). Infringements of patent rights are actionable at the suit of the patentee, and in any proceedings for such infringement, relief by way of damages, injunction, account of profits, delivery up or otherwise is available (section 55 of the New PA).

There is currently no statutory protection in The Bahamas for trade secrets; however, trade secrets may be protected by contract or at common law.

5.2 Please briefly describe how ownership of IP operates in your jurisdiction.

There are three principal forms of intellectual property capable of statutory protection in The Bahamas:

(i) copyright;
(ii) trade marks; and
(iii) patents.

Each of the three principal forms of intellectual property is capable of being owned and such ownership is capable of assignment.

Copyrights are protected under the New CPA. The author of a protected work is the first owner of any copyright in that work. In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author unless the parties have expressly agreed otherwise in a written instrument signed by them, and the employer owns all of the rights comprised in the copyright (section 20(2) of the New CPA). Where a protected work is a work of joint authorship, the joint authors are co-owners of the copyright in that work (section 20(3) of the New CPA). Copyright in each contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work and any later collective work in the same series (section 20(4) of the New CPA).

Trade marks are, in accordance with the provisions of the New TMA, signs or combinations of signs used or proposed to be used by a person for the purpose of distinguishing their goods or services from those of others. A proprietor may seek registration of a trade mark in respect of such goods or services as may be permissible under the New TMA. Where such application is made there shall be a period of time within which objection to registration may be lodged. Registration of a trade mark is *prima facie* evidence of the validity of the original registration of such trade mark and of all subsequent assignments and transmissions of the same (section 71 of the New TMA). Notably, the New TMA now permits the registration of trade marks in relation to services in addition to goods.

With respect to patents, under the New PA, the person entered on the Register of Patents as the grantee or proprietor is the owner of the patent (the "patentee"). Where a patent is granted to two or more persons, each of them shall, subject to any agreement to the contrary, be entitled to an equal undivided share in the patent and is separately entitled to exploit the patented invention for his own benefit and without accounting to the other or others (section 37(1) and (2) of the New PA). However, one co-proprietor may not, without the consent of the other or others, grant a licence under the patent or assign or mortgage a share in the patent (section 37(3) of the New PA).

5.3 In order to protect or enforce IP rights in your jurisdiction, do you need to own local/national rights or are you able to enforce other rights (for example, do any treaties or multi-jurisdictional rights apply)?

A fintech business may register its registrable trade mark(s) under the New TMA. A trade mark must be registered in order for proceedings to be instituted to prevent its infringement or to recover damages for its infringement (section 53 of the New TMA). Trade marks may be registered in respect of both goods and services. Although proceedings cannot be brought under the New TMA for infringement of an unregistered trade mark, it is possible to enforce such a trade mark by bringing a common law action under the tort of passing off. A trade mark registration in The Bahamas grants rights only in respect of The Bahamas. The proprietor of an unregistered trade mark which is entitled to protection under Article 6*bis* of the Paris Convention or the WTO Agreement as a "well-known" trade

mark is entitled to challenge the registration of a trade mark which is identical or similar to the well-known trade mark in relation to identical or similar goods or services where the use is likely to cause confusion (section 9(9) of the New TMA).

Works of copyright are protected under the New CPA if: (a) on the date of first publication, one or more of the authors is a qualified person; (b) the work is first published in The Bahamas or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention; or (c) the work is protected under the Berne Convention (section 8 of the New CPA). Under the New CPA, a "qualified person" is (a) in the case of an individual, a person who is a citizen of, or whose habitual residence or domicile is in, The Bahamas, or whose habitual residence or domicile is in a foreign nation that is a party to a copyright treaty to which The Bahamas is also a party, and (b) in the case of a body corporate, a body incorporated or established under any written law of The Bahamas or of a foreign nation that is a party to a copyright treaty to which The Bahamas is also a party.

5.4 How do you exploit/monetise IP in your jurisdiction and are there any particular rules or restrictions regarding such exploitation/monetisation?

Under the New CPA, the ownership of a copyright may be transferred in whole, or any of the exclusive rights comprised in a copyright may be transferred and owned separately (section 21 (1) and (2) of the New CPA). The copyright may also be licensed under an exclusive licence (section 24 of the New CPA). Otherwise, the holder of a copyright has the exclusive right to sell copies of the work in question for monetary gain in the usual manner. Moral rights, by contrast, are not assignable; however, a moral rights holder may waive those rights in whole or in part by instrument in writing (section 27 of the New CPA).

With respect to trade marks, upon registering a trade mark under the New TMA, a trade mark holder has the exclusive right to use the trade mark and to authorise others to use it in relation to the goods or services for which the trade mark is registered (section 50 of the New TMA). A trade mark holder is also at liberty to assign the mark; any such assignment must be in writing signed by or on behalf of the assignor (section 42(4) of the New TMA). The New TMA also expressly provides for the licensing of a registered trade mark, with any licence required to be in writing signed by or on behalf of the grantor (sections 48(4) and 49 of the New TMA).

Under the New PA, the patentee has the exclusive right to exploit the patented invention, to assign or transmit the patent, and to conclude licence agreements (section 44 of the New PA). A licence contract must be in writing and may, on payment of the prescribed fee, be recorded in the Register of Patents; until so recorded, a licence has no effect against third parties, unless otherwise decided by the court (section 52(2) of the New PA). Any equities in respect of a patent may be enforced in the same manner as in respect of any other personal property.

Christel Sands-Feaste is a highly experienced commercial lawyer with over 25 years of experience, primarily focused on financial services, securities and investment funds. She is a Partner at Higgs & Johnson, where she leads the firm's Financial Services and Securities, Investment Funds and Fintech practice groups. A highly regarded lawyer for her specialist expertise in advising on financing transactions, securities (in The Bahamas and international capital markets), securitisations and investment fund structuring, Christel has also developed a keen interest and expertise in emerging digital assets and related fintech. In addition to her transactional work, Christel regularly advises clients on day-to-day legal issues including licensing and compliance matters as well as other general corporate, governance and operational activities. She is currently ranked Tier 1 and Band 1 by leading legal directories *Chambers Global, IFLR1000* and *IFLR1000 Women Leaders* and *The Legal 500 Caribbean* in the area of corporate law.
Christel is a member of the Bahamas Bar and the Bar of England and Wales and the Commonwealth of The Bahamas, the International Association of Gaming Advisors, the Investment Funds Working Group of the Bahamas Financial Services Board, President of The Nassau Chapter of Links, Incorporated, the Judicial and Legal Services Commission and Chairperson of the Fiscal Responsibility Council in The Bahamas. She previously served as a Director of the Bahamas Chamber of Commerce and Employers (Co-chairing its Ease of Doing Business Division) and as Vice Chairman of the Bahamas Hospital and Health Care Facilities Licensing Board.

Higgs & Johnson
Ocean Centre, Montagu Foreshore, East Bay Street, N.P.
The Bahamas

Tel: +1 242 502 5200
Email: csands-feaste@higgsjohnson.com
LinkedIn: www.linkedin.com/in/christel-feaste-5a839035

Portia J. Nicholson is a Corporate and Commercial Partner at Higgs & Johnson and serves as Deputy Chair of the Commercial Transactions and Securities, Investment Funds and Fintech practices groups. With over 30 years of experience, she has acted as lead counsel to or been involved in many domestic and cross-border commercial transactions, including M&As, high-value structured finance transactions, IPOs and private placements of securities, as well as commercial real estate developments. Portia is a former Director of the Bahamas Financial Services Board. She is called to the Jamaica Bar and is a member of the Jamaican Bar Association.

Higgs & Johnson
Ocean Centre, Montagu Foreshore, East Bay Street, N.P.
The Bahamas

Tel: +1 242 502 5200
Email: pnicholson@higgsjohnson.com
LinkedIn: www.linkedin.com/in/portia-nicholson-45281720

Julia Koga da Silva is Of Counsel and a member of Higgs & Johnson's Financial Services and Securities, Commercial Transactions, Investment Funds and Fintech practice groups. She is a corporate and commercial attorney with over 13 years of experience advising on cross-border financial services, investment funds, corporate transactions and corporate wealth planning structures. Her practice focuses on corporate, regulatory and transactional matters under Bahamian law, with experience in fund structuring, private investment vehicles, securities offerings and the ongoing operation of regulated entities. Julia regularly advises financial institutions, investment managers and international clients on navigating the Bahamian legal and regulatory framework. Part of her practice involves bridging matters between The Bahamas and Brazil, assisting clients and advisors in structuring and implementing cross-border solutions. She has extensive experience coordinating M&As, negotiating commercial agreements and advising on general corporate matters, as well as structuring and supporting the legal operations of investment funds and implementing corporate governance frameworks. She has worked with public and private companies across multiple jurisdictions and has a strong background advising foreign investors on investments in Brazil.

Higgs & Johnson
Ocean Centre, Montagu Foreshore, East Bay Street, N.P.
The Bahamas

Tel: +1 242 502 5200
Email: jkoga@higgsjohnson.com
LinkedIn: www.linkedin.com/in/julia-koga-da-silva1a0054b

Higgs & Johnson is one of the largest full-service corporate and commercial law firms in The Bahamas, with an international reputation for sound legal advice that spans over 75 years. The Securities, Investment Funds and Fintech team provides expertise on a wide range of services across the following areas: regulatory; technology; investment funds; securities; capital markets; and financial products. The team's extensive knowledge and hands-on experience in the financial services industry allows us to provide strategic legal solutions for fintech clients operating in an environment of ever-evolving platforms, technologies and services. We work closely with clients on legislative and regulatory issues with respect to financial services and payment systems. The group draws on its capabilities in M&As, corporate finance, financial regulation and enforcement to provide expert counsel to businesses across the spectrum of the financial services and fintech industry.

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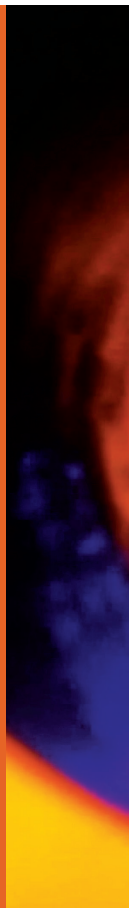
- The Fintech Landscape
- Funding For Fintech
- Fintech Regulation
- Other Regulatory Regimes / Non-Financial Regulation
- Technology



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