



Supporting DAOs in the Cayman Islands

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Structuring, virtual asset service provider regulations and other considerations

The Cayman Islands is one of the world's most popular jurisdictions for establishing legal structures to support Decentralised Autonomous Organisations. Known for its flexible legal framework, political stability and tax neutrality, the jurisdiction offers unparalleled advantages for the evolving landscape of digital assets and blockchain projects.

This briefing outlines the essentials of structuring decentralised projects in the Cayman Islands, the application of the Virtual Asset (Service Providers) Act (**VASP Act**), and other considerations that make the Cayman Islands the jurisdiction of choice for Web3 structures. Whether you're a developer, an investor or a Decentralised Autonomous Organisations (**DAO**) member, understanding these elements is important for leveraging the Cayman Islands' benefits for facilitating decentralisation.

Structuring

Creating a legal personality to support a DAO is important, as it allows the DAO to effectively:

- interact with third parties off-chain
- enter into contracts (particularly with digital asset exchanges)
- hold assets
- manage grant programs
- protect valuable intellectual property that may be imitated by other projects or DAOs

The Cayman Islands offers a unique corporate structure, the foundation company, which is adept for supporting on-chain projects.

Like a typical company, the foundation company has legal personality to enter into contracts and undertake actions with third parties. It is also managed by directors who carry on the business of the company. However, unlike a company, the foundation company can be structured without members. In essence, it can be ownerless - just like the DAO it supports.

In place of members, the foundation company is supervised by a supervisor (or even multiple supervisors if desired). A supervisor has no ownership or economic entitlement in the foundation company but simply acts as a steward, ensuring that the directors of the foundation company observe the foundation company's governing documents. Therefore, with no members, all of the officers of a foundation company can simply have the objectives of the project as their priority - similar to trustees and enforcers carrying out the objectives of a trust.

VASP regulation

When establishing a foundation company in the Cayman Islands to support a decentralised project, it is important to consider the application of the VASP Act - which provides the Cayman Islands' regulatory framework for virtual asset services and token issuances.

The VASP Act is derived from recommendations made by the global Financial Action Task Force. Accordingly, the regulation of virtual asset services in the Cayman Islands generally aligns with global standards implemented in other developed jurisdictions.

The VASP Act regulates the issuance of virtual assets and the business of providing one or more of the following services or operations for or on behalf of another person:

- exchange between virtual assets and fiat currencies
- exchange between one or more other forms of convertible virtual assets
- transfer of virtual assets
- virtual asset custody service
- participation in, and provision of, financial services related to a virtual asset issuance or the sale of a virtual asset

Notably, the VASP Act is being implemented in the Cayman Islands in two phases:

- Phase one, which is already in effect, focuses on AML / CFT compliance, supervision and enforcement, and other key areas of risk. Under Phase one, entities engaged in or wishing to engage in virtual asset services must be registered with the Cayman Islands Monetary Authority (CIMA)
- Phase two, which is expected to take effect during the second half of 2024, will require businesses providing custodial services of virtual assets and businesses that operate a virtual

asset trading platform to obtain a licence from, and be regulated by, CIMA

As an important first step in the journey of establishing a foundation company in the Cayman Islands, we advise clients on how the foundation company's proposed activities align with the VASP Act and other regulatory regimes in the Cayman Islands. This allows us to provide strategic advice on how to best structure the activities of the foundation company and the wider corporate group to achieve the most efficient outcome for our clients.

Other considerations

The Cayman Islands' reputation as a leading jurisdiction for digital asset projects is bolstered not only by its political stability and the flexibility of its legal frameworks but also by its world-class professional services. The jurisdiction's adherence to tax neutrality further positions it as an attractive locale for Web3 and digital asset endeavours, eliminating direct taxes and thereby enhancing the financial performance of your project. This environment, combined with the Cayman Islands' commitment to global compliance standards, makes it an ideal setting for projects to garner credibility while still having the flexibility to remain innovative.

How Ogier can help

Ogier's dedicated digital assets team has unparalleled technical and legal expertise in the Cayman Islands and has been helping clients deliver digital asset projects since 2017. Our proactive approach, commitment to understanding the unique aspects of each project and DAO, and dedication to client success make us the leading legal advisors in the Cayman Islands for your DAO initiatives.

About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

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