



# CRYPTOCURRENCIES AND THE OFFSHORE FINANCIAL CENTRES

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In 2018, we published an article, “[Rise of the Crypto Market](#)” and predicted that in the coming years we would see “an increased number of Crypto fund launches, combined with volatile market conditions and expected life cycle of certain Crypto funds, we may see a large quantity of Crypto fund closure/liquidations in the not-too-distant future”.

## So what has happened since 2018?

Following the soaring heights achieved in late 2017/early 2018 when Bitcoin's (BTC) price had climbed to nearly US\$20,000, the period between 2018 to January 2019 was characterised by a market correction, which saw BTC decline to US\$3,500. Following 'the Crypto Winter' of 2018, the digital assets industry has seen a resurgence, with growth led by the adoption of digital assets by large institutional investors and BTC and other Alt Coins reaching new highs and nearing the values of 2017.

**According to data from CoinMarketCap, in December 2020, there are more than 7,800 different types of crypto-currencies that exist in the world today with a total market cap of US\$835.5 billion**

Some examples of the penetration and integration of digital assets into traditional global banking systems are:

- *The growth of the licensed crypto banks. In September 2020 Kraken became the first cryptocurrency firm in the US to be licenced as a bank.*
- *In June 2020, 36% of institutional investors of the United States and Europe own crypto assets<sup>†</sup>.*
- *The Satis Group Crypto Research report estimates that cryptocurrencies will penetrate approximately 91% of the offshore deposits market during the next decade.*
- *The Central Bank of the Bahamas officially launched its national digital currency which is the first of its kind in the world to have been fully deployed. The sand dollar is a digital version of the Bahamian dollar.*
- *In October 2020, PayPal announced that it has been granted a conditional Bitlicense which would enable its 346 million customers to buy, sell and hold crypto directly within the PayPal digital wallet .*

## REGULATION AND CORPORATE GOVERNANCE

### *Where the banks go, regulators will follow*

As interest in the market grows in respect of digital assets as a new alternative investment class, regulators around the World are dedicating resources to create a regulatory environment which fosters and protects investment in this sector.

In the British Virgin Islands (BVI) and Cayman Islands, regulators, along side the private sector and the policy makers, have been on the forefront of such regulation.

The Cayman Islands have recently introduced a number of pieces of legislation to assist with the regulation of Virtual Asset Services Providers (VASPs). Under this legislation, VASPs, that is parties who are involved in providing services that use or rely on virtual assets, will be supervised persons / entities.

Likewise, the BVI Financial Services Commission (FSC) recently issued the Guidance on the Regulation of Virtual Assets in the BVI, relating to the regulation of virtual assets generally, which would include crypto-currencies and utility tokens. The FSC has taken a constructive attitude towards virtual assets and, generally, is not seeking to impose regulation on virtual assets that would not have been subject to under the existing, "mainstream" financial services regulatory framework in the BVI.



Cryptocurrencies were initially viewed by traditional financial institutions as radical and risky but as knowledge and understanding of cryptocurrencies has grown, their use and adoption by mainstream institutions, even sovereign government, has similarly increased.



On August 31, 2020, the Financial Services (Fintech Regulatory Sandbox) Regulations 2020 came into force in the BVI. Under the Sandbox Regulations, BVI companies and other undertakings will be able to test FinTech and relevant financial services products on a trial basis within a "light touch" regulatory environment

Read more [HERE](#)

## BVI AND THE CAYMAN ISLANDS' MARKETS: A SNAPSHOT

The BVI and the Cayman Islands are both considered to be major global players in respect of digital asset / fintech related businesses, Initial coin offering (ICOs), and cryptocurrency funds. Statistics show that the BVI is the second biggest cryptocurrency market in the world in terms of trading value, second only to the US.

### ICOs

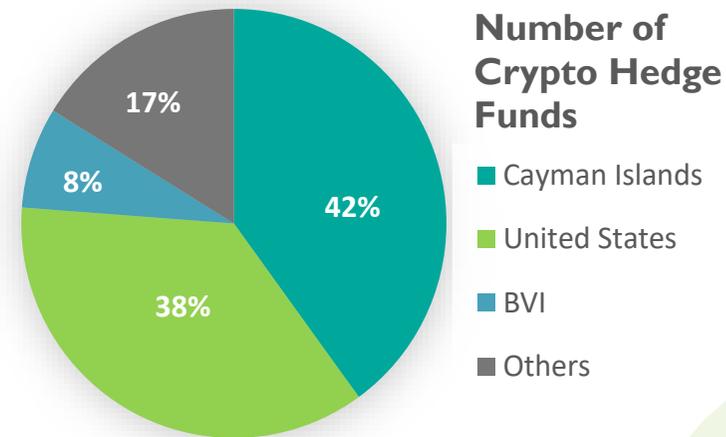
ICOs, somewhat akin to an Initial Public Offering (IPO), are smart contracts which use blockchain technology to raise external finance. Unlike an IPO, an investor in an ICO will not receive shares in the company but instead tokens. By the end of 2019, 5,600 ICOs worldwide had raised more than US\$27 billion, with the single largest ICO recorded to date structured through the Cayman Islands.

As at February 2020, the BVI and Cayman Islands' rankings in respect of the ICO market is set out in the below table:

Country	No. of ICOs	Amount Raised	Global rankings in respect of the amounts raised
BVI	71	\$2.4bn	3 <sup>rd</sup>
Cayman Islands	119	\$1.4bn	6 <sup>th</sup>

### Crypto Hedge Funds

It is estimated that globally total assets under management of crypto hedge funds doubled from US\$1 billion to US\$2 billion in 2019, with the experts noting the correlation between the performance of crypto hedge funds as compared to the price of BTC over time.



Global value of Initial Coin Offerings

**\$27bn**

Global value of Initial Coin Offerings

**\$2bn**

## PROMINENT INTERNATIONAL INSOLVENCIES SINCE 2018

Equally with the rise of cryptocurrencies, since 2018, we have seen an increase in the number of digital asset related insolvencies of token issuers, funds, service providers (such as exchanges). We expect that insolvencies will only continue to increase as the industry becomes increasingly mature and further regulated.

Company	Location	Value of Assets	Events leading to insolvency
	Japan	US\$432m	<b>Hack of the Exchange</b> Launched in 2010, prior to its liquidation, it was handling over 70% of all BTC transactions worldwide. Beginning in late 2011, over time 850,000 BTC, valued at more than US\$450 million, were stolen straight out of the Mt. Gox hot cryptocurrency wallet. Due to litigation from its customers, Mt. Gox filed for bankruptcy protection in the US.
	New Zealand	US\$170m	<b>Hack of the Exchange</b> An estimated US\$17.8 million worth of cryptocurrencies and tokens were stolen from Cryptopia in January 2019 during a hack of the exchange. Cryptopia entered liquidation in May of that year. The liquidators are undertaking claim adjudication of 960,000 account holders, in order to distribute assets worth \$100m.
	Canada	US\$215m	<b>Director Fraud</b> In December 2018, Mr Cotten, the CEO, of QuadrigaCX died while on honeymoon. Following his passing, the company attempted to access crypto assets held within “cold” wallets because he held the private key. Following investigation however, it was found that Cotten “spent, traded and used” at will the assets clients deposited with QuadrigaCx and that Quadriga operated like a Ponzi scheme.
	Italy	US\$432m	<b>Hack of the Exchange / Mismanagement</b> In early 2018, US\$170 million worth of Nano coins suddenly disappeared from the Italian exchange Bitgrail. Following this announcement, the company was brought under the control of a trustee. Information from the court documents filed in the legal proceedings showed that the founder did not place suitable safeguards to prevent unauthorised withdrawals.
	Switzerland/ Germany	US\$98m	<b>Director Fraud</b> In March 2019, the regulator issued enforcement proceedings against envion AG, a cryptocurrency mining firm, after investigations showed that the company had unlawfully accepted funds amounting to over ~US\$98m from at least 37,000 investors in the context of an initial coin offering without the necessary statutory licence. The company was thus acting illegally and seriously violated supervisory law.

## WHERE KALO CAN HELP

With the blockchain ecosystem being an established notion, the inherent risks underlying the participants and therefore the possible events preceding an insolvency or restructuring is not new. Kalo has expertise spanning three decades and is well equipped to deal with appointments in respect of the participants of the blockchain ecosystem.

### Tokens / ICOs

A way of crowd funding now being used by companies as a funding mechanism.  
*Fraudulent schemes*

### Miners

Companies which are involved in the process of verifying transactions, once the authenticity of the information is confirmed by the company the blockchain digital ledger is updated.  
*Overleveraged companies susceptible to declines in crypto value*

### Wallets

Companies that have developed virtual wallets for storing, buying, and selling cryptocurrencies.  
*Theft*

### Fintech business

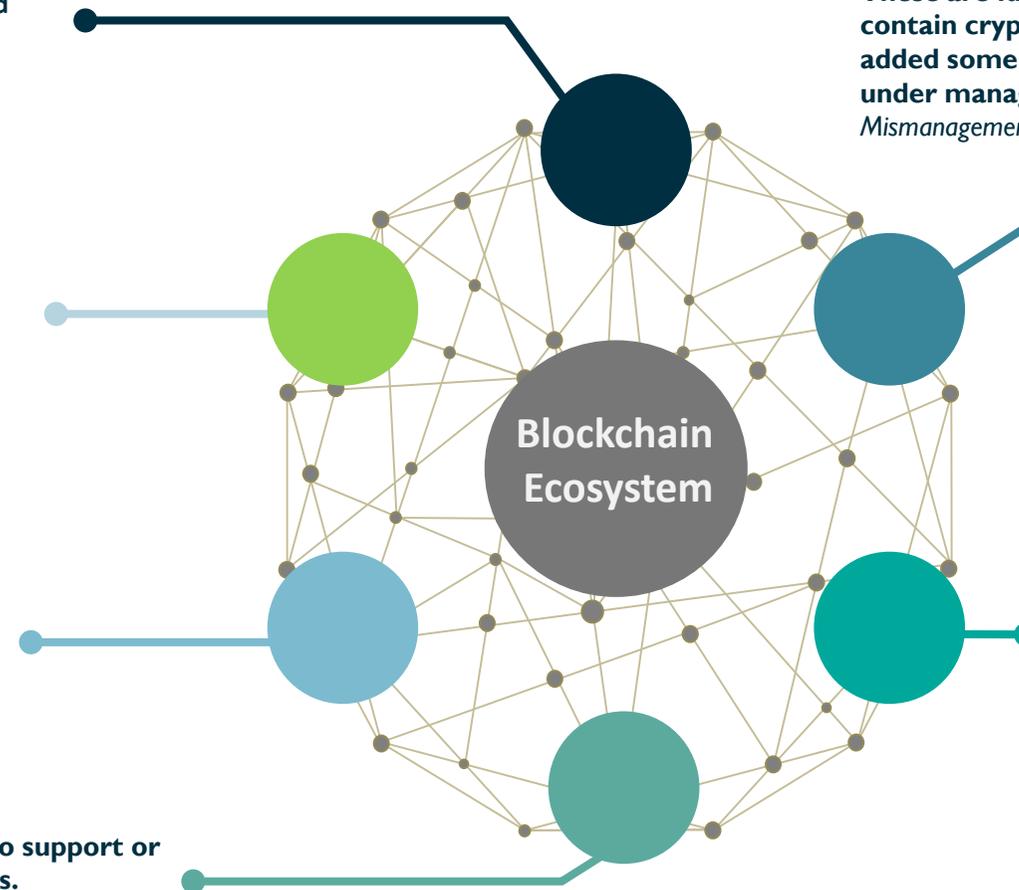
Companies that utilise technology to support or enable banking and financial services.  
*Regulatory breaches*

### Crypto funds

These are funds that either exclusively contain cryptocurrency and those that have added some cryptocurrency to the assets under management.  
*Mismanagement*

### Exchanges

These are platforms that allow investors to convert fiat currencies into cryptocurrencies and also can be used for crypto-to-crypto trading.  
*The subject of cyber crimes and attacks*



## WHO IS KALO?

Kalo is an advisory firm in the BVI and Cayman Islands with global reach and a wealth of experience dealing with international restructurings, stakeholder disputes, asset realisation and investigations. We were founded on core principles that affirm our commitments:

- *to assess every situation on their individual merit and identify a pragmatic solution;*
- *to determine the best path forward to create a lasting impact; and*
- *to employ rigorous testing and extensive analysis.*

Kalo brings the knowledge and experience of an international practice with the benefits of a specialised practice. Decades of experience have confirmed to us that no two situations are the same. No matter what special circumstances are involved, at Kalo, we offer our expertise and analysis to provide our clients with the most efficient and optimal solutions.

Any combination of our Restructuring and Liquidation Services, Advisory Services, and Forensic Services may be appropriate and most helpful in advancing the process towards any unique resolution especially in unique situations such as crypto. Working together with key stakeholders, we will determine the best course of action through that critical path to success.

Kalo has led the way in many industry firsts over the last decade including:

- The first Cayman liquidator to be part of a court approved, multi-jurisdictional debt restructure of a PRC based group.
- The first BVI liquidator to be part of an international rescue where US bankruptcy proceedings were used to restructure a Sharia compliant Middle Eastern Business.
- Appointed as the first soft touch provisional liquidators in the BVI.
- Administering the first BVI liquidator appointments to ever be recognized in Dubai and Singapore.

## WHY KALO?

Our knowledge of crypto currencies; independence; and our experience conducting complex forensic investigation and cross-border litigation will all be critical in any crypto-related collapse.

Kalo has invested time and resources in understanding the lessons learnt from the bankruptcy of Mt. Gox and the other prominent insolvency collapses in other jurisdictions to ensure an efficient management of the next crypto restructuring in our jurisdictions.

Our in-house language skills are also unrivalled with fluent speakers in English, Cantonese, Mandarin, Hindi, Bahasa Indonesian, Russian and Ukrainian.

Kalo is confident that its preparation is unrivalled by any other in BVI and Cayman Islands. Our track record of being first has built a strong culture of innovation at Kalo. As we are unencumbered with other services means our independence is assured. Our size makes us flexible and quick to act. Putting these together means, at Kalo, you will get a team that is incredibly innovative, independent, flexible and quick to act.

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**In readiness for any future scenario, and cognizant that any engagement will come with it the reputation of the Territory, Kalo has sourced a number of Cold Wallets which are held securely.**

**Kalo also has a number of relationships with custodians to facilitate the transfer of crypto into digital wallets and will soon be looking to accept crypto as payment of services, if desired.**

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## OUR JURISDICTIONS

The BVI and the Cayman Islands are leading offshore financial centers which specialise in alternative investments. Whilst BVI and the Cayman Islands' respective legislature does not specifically deal with the matters concerning crypto related liquidations, or restructurings, the courts are nevertheless well equipped to deal with such complex matters.

## FINAL COMMENTS

*As we enter into the second decade since the release of the world's first cryptocurrency, virtual assets and distributed ledgers are becoming common place, and will therefore play some role in investors' lives.*

*Central Banks and publicly listed corporations are placing their treasury reserves into cryptocurrency (<https://bitcointreasuries.org/>) and large payment operators like PayPal and Square Inc. are adopting crypto into their platforms which gives increased access to crypto to many more investors. Consequently, insolvencies and restructurings relating to these types of assets will form part of the restructuring and insolvencies of the future.*

*Our prediction is that crypto will continue to increase over the coming years to unprecedented levels. The increase in late 2020 appears different to the 2017 rise with large investments being made by major players in this space in line with the increasing consumer demand. Also the pandemic has been a factor, with many investors looking to move from cash to crypto.*

*Business owners and advisors who are seeking urgent advice in relation to the restructuring or liquidation of BVI / Cayman Island entities with digital asset exposure should contact Kalo for prompt and proactive advice. We welcome any discussion on this topic as we look to the future.*

## CONTACT US

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