

BERMUDA

**DIGITAL ASSET BUSINESS (PRUDENTIAL STANDARDS)
(ANNUAL RETURN) RULES 2018**

BR / 2018

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	Matters to be Included in Annual Return

The Bermuda Monetary Authority, in exercise of the power conferred by section 7 of the Digital Asset Business Act 2018, makes the following Rules:

Citation

1 These Rules may be cited as the Digital Asset Business (Prudential Standards) (Annual Return) Rules 2018.

Interpretation

2 In these Rules—
“the Act” means the Digital Asset Business Act 2018;
“financial year” , means the period not exceeding fifty- three weeks at the end of which the balance of the digital asset business accounts is struck or, if no such balance is struck or if a period in excess of fifty-three weeks is employed, then calendar year;

Annual return

3 (1) A licensed undertaking shall file with the Authority an annual return in accordance with the requirements of section 7 of the Act.

(2) The annual return shall contain information in respect of the matters set out in Schedules I and II, as such matters stood when the annual return is filed.

(3) The annual return shall also be accompanied by a copy of the —
(a) audited financial statements prepared in accordance with section 31 of the Act;

- (b) business plan for the next financial year;
- (c) certificate of compliance prepared in accordance with section 66 of the Act;
- (d) any other information in a Rule or return required to be prepared by a licensed undertaking under section 7.

Declaration

4 A licensed undertaking shall, at the time of filing its annual return, file with the Authority a declaration signed by two directors or a director and an officer, that to the best of their knowledge and belief, the information in the annual return is fair and accurate.

SCHEDULE I

(section 7)

MATTERS TO BE INCLUDED IN ANNUAL RETURN

1. The following information is required in an annual return—
 - (a) name of licensed undertaking and parent company name where different from that of licensed undertaking;
 - (b) in relation to directors provide:
 - (i) official name and any given or used names where appropriate;
 - (ii) type of directors (i.e., whether executive, non- executive, independent);
 - (iii) confirmation of primary residence;
 - (iv) a copy of a circum vitae or professional qualifications and experience;
 - (c) in relation to officers and senior executives provide:
 - (i) official name and any given or used names where appropriate;
 - (ii) confirmation of primary residence;
 - (iii) role or job title
 - (iii) a copy of a circum vitae or professional qualifications and experience
 - (d) details of the digital asset services provided and associated client receipts;
 - (e) declaration of whether the company allows margin trading and if so what is the maximum leverage allowed;
 - (f) details on how a company mitigates its leveraged exposure;
 - (g) organizational and group structure ;
 - (f) business model description, business strategy and risk appetite;
 - (h) details of products, and product features, including whether any product has an enhanced anonymity feature, and services;
 - (i) number of client accounts and in the aggregate composition of client balances (i.e., in aggregate fiat currency, securities, digital asset and digital asset type);
 - (j) geographical profile of clients (i.e., aggregate number of client accounts by territory; aggregate client account balances by territories where clients reside; aggregate fiat currency, and securities);
 - (k) risk self-assessment and risk management policies;
 - (l) copies of cyber security program policy and customer private key storage policy;
 - (m) total transaction volume by digital asset type (i.e., where a licensed undertaking carries on the digital asset business activities under sections 2 (2) (a), (b), (c), and (e) of the Act;

- (n) names of outsourcing partners, copies of service level agreements setting out the roles, duties and functions of outsourced partners; including third parties or affiliates of outsourced partners performing customer asset storage, cyber security, compliance, asset custody and other key functions of it.
- (o) details of arrangements implemented in accordance with protection of client assets under section 18 of the Act.
- (p) details of insurance or other arrangement in accordance with schedule 1 section 2 (6) of the Act.

SCHEDULE II

ANTI-MONEY LAUNDERING AND ANTI-TERRORIST FINANCING

Table I

AML/ATF

A licensed undertaking shall confirm or provide:

1. If it is registered as a segregated accounts company ("SAC") in accordance with the requirements of the Segregated Accounts Companies Act 2000 or has created separate accounts in accordance with the provisions under any Private Act. If the answer is "yes" to the foregoing question, provide the number of—
 - (a) active accounts; and
 - (b) non-active accounts.
2. If its corporate governance framework, policies and procedures relating to anti-money laundering ("AML") and anti-terrorism financing ("ATF") risks are aligned with current POCA Regulations.
3. The frequency with which its AML/ATF policies, procedures or framework are reviewed by its officers.
4. If AML/ATF training is provided to employees. If yes, confirm—
 - (a) if AML/ATF training is provided to new employees at the time of commencement of their employment;
 - (b) if the AML/ATF training provided is specific to the digital asset business conducted or is of general application;
 - (c) the frequency employees must undertake AML/ATF training.
5. The experience and professional designations of the following employees—

	Number of years in current role	Number of years of AML/ATF experience	Professional Designation
Senior compliance officer			
Reporting officer "AML/ATF" reporting officer			

6. If its Senior Compliance Officer is located in Bermuda.
7. If its Money Laundering Reporting Officer is located in Bermuda.
8. If its Senior Compliance Officer is a member of the senior management.
9. The following actions are taken by it prior to hiring employees—

Verification of:	Yes/No
(a) Name	
(b) Residential address	
(c) Whether the individual should be considered as or is, a PEP	
(d) Whether individual is in contravention of any requirements under the International Sanctions Regulations 2013	
(e) Whether there is negative press concerning the proposed employee	
(f) Employment history	
(g) Professional references	
(h) Whether details have been requested	
(i) Regulatory action taken against the individual	
(j) Details of criminal conviction for fraud or other dishonesty	

10. If it monitors the transactions of its clients against their risk profile for suspicious activity.
11. If it is registered with the Financial Intelligence Agency's ("FIA") "Go AML" Program and if so, provide the date of registration.
12. The number of Suspicious Activity Reports filed for the most recent five year period (per year).

CLIENT INFORMATION

	Filed Internally	With FIA
201X	XXX	XXX
201X-1	XXX	XXX
201X-2	XXX	XXX
201X-3	XXX	XXX
201X-4	XXX	XXX
Total	XXX	XXX

13. Digital Asset Transactions
 - (a) Does the Company only allow digital asset to digital asset transactions?
 - (b) Does the Company only allow digital asset to fiat (and vice versa) transactions?
 - (c) If responded "no" to (a) above, does the Company anticipate allowing digital asset to fiat (and vice versa) transactions?
14. Which jurisdiction(s) does the Company currently operate from within:
15. Is the Company currently licensed in another jurisdiction?
 - (a) State the name of the regulatory authority (or authorities) providing the license:

16. The following information based on its clients' residence (in accordance with the geographical zones set out in Table A); **origin of transactions for the financial year**—

Geographic Zone	Transaction value US\$	Number of Clients
Zone 1	XXX	XXX
Zone 2	XXX	XXX
Zone 3	XXX	XXX
Zone 4	XXX	XXX
Zone 5	XXX	XXX
Zone 6	XXX	XXX
Zone 7	XXX	XXX
Zone 8	XXX	XXX
Zone 9	XXX	XXX
Zone 10	XXX	XXX
Zone 11	XXX	XXX
Zone 12	XXX	XXX
Zone 13	XXX	XXX
Zone 14	XXX	XXX
Zone 15	XXX	XXX
Zone 16	XXX	XXX
Zone 17	XXX	XXX
Zone 18	XXX	XXX
Zone 19	XXX	XXX
Zone 20	XXX	XXX
Total	XXX	XXX

17. The following information based on its clients' residence (in accordance with the geographical zones set out in Table A); **destination of transaction for the financial year**—

Geographic Zone	Transaction value US\$	Number of Clients
Zone 1	XXX	XXX
Zone 2	XXX	XXX
Zone 3	XXX	XXX
Zone 4	XXX	XXX
Zone 5	XXX	XXX
Zone 6	XXX	XXX
Zone 7	XXX	XXX
Zone 8	XXX	XXX
Zone 9	XXX	XXX
Zone 10	XXX	XXX
Zone 11	XXX	XXX

Zone 12	XXX	XXX
Zone 13	XXX	XXX
Zone 14	XXX	XXX
Zone 15	XXX	XXX
Zone 16	XXX	XXX
Zone 17	XXX	XXX
Zone 18	XXX	XXX
Zone 19	XXX	XXX
Zone 20	XXX	XXX
Total	XXX	XXX

18. Are there procedures to identify clients who are Politically Exposed Persons (PEPs)?

19. The information based on the residence of PEPs who are clients of it (in accordance with the geographical zones set out in Table A); and the transactions for the financial year—

Geographic Zone	Number of PEPs
Zone 1	XXX
Zone 2	XXX
Zone 3	XXX
Zone 4	XXX
Zone 5	XXX
Zone 6	XXX
Zone 7	XXX
Zone 8	XXX
Zone 9	XXX
Zone 10	XXX
Zone 11	XXX
Zone 12	XXX
Zone 13	XXX
Zone 14	XXX
Zone 15	XXX
Zone 16	XXX
Zone 17	XXX
Zone 18	XXX
Zone 19	XXX
Zone 20	XXX
Total	XXX

20. Digital Asset Transactions

- (a) Percentage of transactions, including client transactions, which are digital asset to digital asset.
- (b) Percentage of transactions, including client transactions, which are fiat to digital asset.

- (c) Percentage of transactions, including client transactions, which are digital asset to fiat.
- (d) Other

21. For transactions that are fiat related please indicate:

- (a) The manner by which funds are received, whether cash, cheque, bank transfer, wire transfer or other means.
- (b) The manner by which funds are paid out, whether cash, cheque, bank transfer, wire transfer or other means.

22. For transactions which are digital asset related please indicate:

- (a) Whether transactions involve mixing or tumbling services or technologies?
- (b) Whether transactions completed through anonymous browsers (Tor), or logless VPNs?
- (c) Whether multiple receiving addresses generated to transact for the same client?

23. If it screens clients and beneficiaries (where relevant) to determine if they are subject to measures imposed under Bermuda sanctions laws.

24. Whether clients are risk rated for ML/TF risk?

25. The number of its clients in the following risk assessment category—

	Number of Clients	Total assets in custody US\$
Low Risk	XXX	XXX
Medium Risk	XXX	XXX
High Risk	XXX	XXX
Unknown	XXX	XXX
Total	XXX	XXX

26. The frequency with which it rates the AML/ATF risks of its clients.

27. Whether senior management approval is required to approve new business, if the client has been risk rated as—

Low	Medium	High
XXX	XXX	XXX

28. If senior management approval is required to retain an existing client, if the client's risk rating has changed to—

Low	Medium	High
XXX	XXX	XXX

29. The manner in which it conducts business with its clients (allows transactions on its platform) by percentage of the total business—

	% of total transaction value
Directly with the client	XXX%
Via a partner company intermediary arrangement	XXX%
Via unrelated intermediary arrangement	XXX%
Introduced from a member of a financial group	XXX%
Other (provide examples)	XXX%
Total	XXX%

30. The percentage of business conducted by each of the following methods—

	% of total transactions in financial year
Face to face with clients	XXX%
Via intermediary	XXX%
By phone, email, fax, or post	XXX%
Internet	XXX%
Other (provide examples)	XXX%
Total	XXX%

31. If it engages intermediaries, confirm if it performs AML/ATF due diligence prior to the engagement.

32. The following information for each type of client that is verified by it prior to commencement of new business—

	Low Risk client	Medium Risk client	High Risk client	Non-Risk Rated client
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Public company (i.e., Digital Asset Business quoted on a stock exchange)

Full legal name	XXX	XXX	XXX	XXX
Address of client	XXX	XXX	XXX	XXX
Nature of business	XXX	XXX	XXX	XXX
Evidence of exchange listing	XXX	XXX	XXX	XXX

Private company (i.e. Digital Asset Business not quoted on a stock exchange)

Legal name	XXX	XXX	XXX	XXX
Trading name	XXX	XXX	XXX	XXX
Registered trading address	XXX	XXX	XXX	XXX
Nature of business	XXX	XXX	XXX	XXX
Jurisdiction of operations	XXX	XXX	XXX	XXX
Identity of beneficial owner and whether identify is verified	XXX	XXX	XXX	XXX
Address of beneficial owners	XXX	XXX	XXX	XXX
Identity of directors/senior executives and whether identity is verified	XXX	XXX	XXX	XXX
Address of directors/senior	XXX	XXX	XXX	XXX

executives

Natural Person

Name	XXX	XXX	XXX	XXX
Address	XXX	XXX	XXX	XXX
D.O.B.	XXX	XXX	XXX	XXX
Nationality	XXX	XXX	XXX	XXX
Gender	XXX	XXX	XXX	XXX
Occupation	XXX	XXX	XXX	XXX
Salary	XXX	XXX	XXX	XXX
Employer	XXX	XXX	XXX	XXX
Source of funds	XXX	XXX	XXX	XXX
Source of wealth	XXX	XXX	XXX	XXX
Reason for application	XXX	XXX	XXX	XXX
Expected activities	XXX	XXX	XXX	XXX

33. The mechanism(s) used by it to transact with clients.

	Transaction volume in financial year US\$
Bank transfer	XXX
Cash	XXX
Cheque	XXX
Credit/debit card	XXX
Digital assets	XXX
Other (provide examples)	XXX

34. A copy of the Proceeds of Crime Anti Money Laundering (Supervision and Enforcement) Act 2008 policies. Where such policies have not changed from the previous year (i.e., there is no amendment from previous submissions); then confirmation of such shall be required to be provided in the declaration.

35. Any additional information or comments that could be relevant to this report or which may further clarify any information provided by it.

Table - Transaction Geographical Zones

Transaction Zone	Location
Zone 1 – Central & Western Asia	Armenia, Azerbaijan, Bahrain, Georgia, Iraq, Israel, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Lebanon, Oman, Palestine, Qatar, Saudi Arabia, Tajikistan, Turkey, Turkmenistan, United Arab Emirates and Uzbekistan
Zone 2 – Eastern Asia	China, Hong Kong, Japan, Macao, Mongolia, North Korea, South Korea and Taiwan
Zone 3 – South and South Eastern Asia	Afghanistan, Bangladesh, Bhutan, Brunei Darussalam, South-Eastern Cambodia, India, Indonesia, Iran, Lao PDR, Malaysia, Maldives, Asia Myanmar, Nepal, Pakistan, Philippines, Singapore, Sri Lanka, Thailand, Timor-Leste, and Vietnam
Zone 4- Oceania	American Samoa, Australia, Cook Islands, Fiji, French Polynesia, Guam, Kiribati, Marshall Islands, Micronesia,

	Nauru, New Caledonia, New Zealand, Niue, Norfolk Island, N. Mariana Islands, Palau, Papua New Guinea, Pitcairn, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu and Wallis & Futuna Islands
Zone 5 – Northern Africa	Algeria, Benin, Burkina Faso, Cameroon, Cape Verde, Central African Republic, Chad, Cote d' Ivoire, Egypt, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Saint Helena, Senegal, Sierra Leone, Sudan, Togo, Tunisia and Western Sahara
Zone 6- Southern Africa	Angola, Botswana, Burundi, Democratic Republic of Congo, Comoros, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Kenya, Lesotho, Madagascar, Malawi, Mauritius, Mayotte, Mozambique, Namibia, Republic of Congo, Reunion, Rwanda, Sao Tome & Principe, Seychelles, Somalia, South Africa, South Sudan, Swaziland, , Uganda, United Republic of Tanzania, Zambia, and Zimbabwe
Zone 7- Eastern Europe	Belarus, Bulgaria, Czech Republic, Hungary, Moldova, Poland, Romania, Russian Federation, Slovakia and Ukraine
Zone 8- Northern Europe	Aland Islands, Channel Islands, Denmark, Estonia, Faroe Islands, Finland Guernsey, Iceland, Republic of Ireland, Isle of Man, Jersey, Latvia, Lithuania, Norway, Svalbard, Jan Mayen, Sweden and United Kingdom
Zone 9 – Southern Europe	Albania, Andorra, Bosnia, Croatia, Cyprus, Gibraltar, Greece, Italy, FYR of Macedonia, Malta, Montenegro, Portugal, San Marino, Serbia, Slovenia, Spain and Vatican City
Zone 10- Western Europe	Austria, Belgium, France, Germany, Liechtenstein, Luxembourg, Europe Monaco, Netherlands and Switzerland
Zone 11- Northern America (excluding USA)	Canada, Greenland and St Pierre & Miquelon
Zone 12 - Caribbean	Anguilla, Antigua & Barbuda, Aruba, Bahamas, Barbados, British Virgin Islands, Cayman Islands, Cuba, Dominica, Dominican Republic, El Salvador, Grenada, Guadeloupe, Haiti, Jamaica, Montserrat, Netherlands Antilles, Puerto Rico, St. Barthelemy, St Kitts & Nevis, St Lucia, St Martin, St Vincent, Trinidad & Tobago, Turks & Caicos Islands, and US Virgin Islands
Zone 13 – Eastern south America	Brazil, Falkland Islands, French Guiana, Guyana, Paraguay, Suriname and Uruguay
Zone 14 – Northern, Southern and Western south America	Argentina, Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela
Zone 15 – North East United States	Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont
Zone 16 – South-East United States	Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia and West Virginia

Zone 17 – Mid –West United States	Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota and Wisconsin
Zone 18 – Western United States	Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington and Wyoming
Zone 19 – Central America	Belize, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua and Panama
Zone 20 - Bermuda	Bermuda

Table II

CORPORATE GOVERNANCE

The licensed undertaking shall confirm the following corporate governance information as at the reporting period—

CORPORATE GOVERNANCE	
1	Whether the powers, roles, responsibilities and accountabilities between it, its board of directors (“Board”) and senior management are clearly defined, segregated and understood by all.
2	Whether the Board and senior management understand how it operates through structures which may impede transparency.
3	That the Board, or any related board committee, assists the Board in fulfilling its oversight function through the review and evaluation of the financial reporting process and adequacy and effectiveness of the system of internal controls, including financial reporting and information technology security controls.
4	Confirmation that the Board receives sufficient AML/ATF information to assess and understand the senior management’s process for evaluating its system of internal controls.
5	Whether the Board ensures that it complies with all relevant laws and regulations and endeavours to adopt best AML/ATF practices.
6	That the Board and senior management declare any conflicts dealings to the Compliance Department (or other relevant internal body) when applicable or required.
7	That the Board provides oversight to it with regard to enterprise risk management and identifies key risk areas and key performance indicators and monitors these factors with due diligence.
8	Whether the Board ensures there is appropriate oversight by senior management that is consistent with it’s policies and procedures.
9	Whether the Board sets and enforces clear lines of responsibility and accountability throughout the organization.

10	That at least annually the Board monitors the senior management's compliance with any strategy and direction policies set by the Board and its performance based on approved targets and objectives.
11	That the Board receives advice on all major financing transactions, principal agreements and capitalization requiring Board approval and makes appropriate recommendations for its consideration.
12	Whether the compliance and audit function are independent of all operational and business functions when practicable; and whether such functions have direct lines of communication to the senior management.
13	That it has instituted policies or procedures to provide for the Senior Compliance Officer to have regular contact with, and direct access to, the senior management, to ensure that the senior management is able to satisfy itself that its statutory obligations are being met and the measures taken to prevent risks of ML/TF are sufficiently robust.
	Employee Integrity
14	Whether it has established and maintains and operates appropriate procedures in order to be satisfied of the integrity of new employees.
15	That appropriate mechanisms have been established to ensure the protection of its employees; to report suspicious transactions and other actions to comply with AML/ATF obligations.
16	That adequate procedures and management information systems are in place to provide relevant employees with timely information which may include information regarding connected accounts or relationships.
17	Whether adequate procedures or document information systems are in place to ensure relevant legal obligations are understood and practised by employees and adequate guidance and training are provided by it to employees.
18	Whether the incidence of financial crime committed by employees (e.g. theft, fraud) is low.
	Employee Knowledge
19	That all employees are aware of the identity of the Reporting Officer and how to report suspicious activity.
20	Confirm whether training programmes are designed to cover the AML/ATF risks of it.
21	Whether it has an appropriate number of suitably trained employees and other resources necessary to implement and operate its AML/ATF programme.
22	Whether employees fully comply with all AML/ATF procedures in respect of customer identification, account monitoring, record keeping and reporting.
23	That employees are expected to remain vigilant to the possibility of ML.
24	Whether employees who violate POCA Regulations or laws and AML/ATF policies and procedures are be subject to disciplinary action.
25	That all employees are required to (at least annually) undertake training to ensure

	that their knowledge of AML/ATF laws, policies and procedure is current.
26	Whether employees are updated on money laundering schemes and typologies on a regular basis.
27	That employees are required to declare personal dealings relevant in the jurisdictions that it operates in on a regular basis (at least annually).
	Employee Compliance
28	Whether it ensures that the Senior Compliance Officer has the requisite authority, resources and tools to oversee all activities relating to the prevention and detection of ML/TF.
29	That the Senior Compliance Officer is trained in all applicable Proceeds of Crime laws in Bermuda and ML/TF risks arising from it's business.
30	That the Board monitors compliance with corporate governance regulations and guidelines.
31	Whether the Board supports the senior management's scope of AML/ATF internal control assessment and receives regular (at least annually) reports from senior management.
	Digital Asset Business Data
32	The date it last performed an AML/ATF risk assessment.
33	The date it last had an independent audit of its AML/ATF policies and procedures.
34	The date of the last Senior Compliance and Reporting Officer report on the operation and effectiveness of its AML/ATF policies, procedures and controls.
35	If it documents the AML/ATF risk assessment associated with a product or service to be provided by it prior to launch.
36	If it is listed on a stock exchange. If yes, please provide the name of the exchange(s), the listing name and whether it is in compliance with all listing rules.

INSTRUCTIONS TO THE SCHEDULE—

For the purses of this Schedule “POCA Regulations” means the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008.

For the purposes of Table I—

- (a) in paragraph 1, “active SAC” means a segregated account cell that is undertaking transactions of business and “non-active SAC” means a segregated account cell that is not undertaking any transactions of business;
- (b) for the purposes of paragraph 7, “Reporting Officer” has the meaning given under paragraph 2(1) of POCA Regulations;’
- (c) in paragraph 9:
 - (i) “negative press” means any public information about the proposed employee

- that raises concerns about, amongst other things, the probity, fitness for the position or source of wealth of such person;
- (ii) “PEP” has the meaning given in section 11 (5) of POCA Regulations;
 - (iii), “criminal conviction” means all non-expunged criminal offences.
- (d) for the purposes of completing paragraph 8, “senior management” means chief and senior executives;
- (e) for the purposes of paragraph 16, a “beneficiary” means a beneficiary as defined under paragraph 6(7) of POCA Regulations;
- (f) in paragraph 7, “risk assessment” means the assessment of AML/ATF risks determined by the licensed undertaking in accordance with POCA Regulations and any relevant Guidance Notes issued by the Authority;
- (g) for the purposes of paragraph 24, “non-risk rated client” means a client who has not been “risk rated” in line with measures imposed under POCA Regulations and any relevant Guidance Notes issued by the Authority.

INSTRUCTIONS TO TABLE II:

For the purposes of Table II—

In paragraphs 20 and 35, “Reporting Officer” has the meaning given under paragraph 2(1) of the POCA Regulations.

Made this day of 2018

Chairman
The Bermuda Monetary Authority