



23 June 2020

NOTICE
Digital Asset Issuance Statement of Principles
and
Digital Asset Issuance Rules 2020

Industry stakeholders will recall that in February 2020 the Bermuda Government passed in the House of Assembly the DIGITAL ASSET ISSUANCE ACT 2020 (the Act), which effectively transferred the responsibility for the administration of offerings of digital assets to the public from the Registrar of Companies to the Bermuda Monetary Authority (the Authority). The Act requires that pursuant to sections 7 and 9, respectively, the Authority shall publish a Statement of Principles and may make Rules in relation to certain matters which shall be complied with by all authorised undertakings where applicable. In furtherance of these obligations, the Authority is posting the attached Statement of Principles and Rules for public consultation.

The Statement of Principles is relevant to the Authority's decisions on whether to authorise a Digital Asset Issuance and whether to revoke or restrict an authorisation. Thus, the Statement of Principles considers and details the factors underlying the interpretation of each of the minimum authorisation criteria under Schedule 1 to the Act.

The Rules provide explicit requirements as to how a Digital Asset Issuance shall be conducted and are structured as follows:

- 1) **Minimum required information for digital asset issuance:** This section includes the minimum disclosures required to be made by issuers to digital asset acquirers via their issuance document, including a detailed description of the underlying project, the digital asset and the terms and conditions of the digital asset issuance

- 2) **Ongoing disclosures and other requirements:** This section refers to the communications and disclosures to be made to digital asset acquirers through the

issuer's electronic facility, as well as other obligations applicable to issuers on an ongoing basis, including: (i) the submission of quarterly returns to the Authority, (ii) the requirement for issuers to have adequate mitigating controls in place against market abuse when their digital assets are traded in the secondary market and (iii) the requirement to establish and have at all times in place a robust risk management framework

- 3) **Information technology and cybersecurity:** This section includes requirements vis-à-vis issuers' technological and cybersecurity architecture, including the establishment and implementation of a robust cybersecurity programme as well as the periodical submission of cybersecurity reports to the Authority. Under this section, the requirement for issuers to establish and have at all times in place a data audit node in Bermuda is also introduced, the aim of which is to store information relevant to the digital asset issuance real-time in an accurate and tamper-proof manner, including transactions and other events taking place on-chain or off-chain
- 4) **Custody of assets:** This section introduces some high-level requirements for those issuers holding custody of digital asset acquirers' assets
- 5) **Compliance measures:** This section includes certain requirements of an Anti-Money Laundering/Anti-Terrorist Financing (AML/ATF) nature applicable to issuers, including the identification and verification of digital asset acquirers (and the timing thereof), enhanced due diligence, reliance on third parties and record-keeping
- 6) **Exemptions:** This section introduces certain exemptions from the aforementioned requirements in relation to: (i) issuers offering their digital assets to the public via an accredited Digital Asset Business, (ii) local issuers and (iii) digital asset issuances which are subject to the rules and regulations of an equivalent jurisdiction

It is important to note that the Authority is seeking specific feedback with regards, *inter alia*, to the following issues:

- 1) The definition of local issuer, examples of issuers to which this definition may apply and the appropriateness of exemptions applicable to these issuers in the Rules (Section 30 – *Local issuers*)

- 2) The various types of custody arrangements seen in Digital Asset Issuances and the appropriateness of the applicable Rules (section 4 paragraph (16) – Minimum required information to be included in the issuance document and section 18 – Custody of assets)
- 3) The availability and cost of technology systems to support the requirements of the Rules (section 15 relating to the data audit node). The data audit node is intended to provide information to the Authority to reconstruct the full sequence of communications, transactions and events in situations where it is required

Finally, as the Authority continues its innovation journey through various initiatives, in addition to traditional means of responding to consultation, responses can be provided through the use of the following online tool: [link](#)

The goal of piloting this digital tool is to broaden stakeholder engagement with the ability to respond on tablet/mobile devices, as well as to increase efficiency in the compilation of feedback.

The Authority is piloting the digital consultation initiative, alongside its usual consultation methods. The views of stakeholders, industry partners and any other interested persons on any aspects of the Statement of Principles or the Rules are invited. Comments can be sent to the Authority, addressed to policy@bma.bm. Responses to the survey should be submitted no later than 20 July 2020. The survey is accessible through this [link](#) or the below QR code:

