



BERMUDA

DIGITAL ASSET BUSINESS AMENDMENT ACT 2020

2020 : 46

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SCHEDULE
CONSEQUENTIAL AMENDMENTS

WHEREAS it is expedient to amend the Digital Asset Business Act 2018 to, amongst other matters, introduce a new class of licence; refine the definitions of digital asset exchange, digital asset derivative exchange and digital asset services vendor; to revise the power of the Authority to exempt any undertaking from the payment of any fee imposed under the Bermuda Monetary Authority Act 1969, or to reduce such fees; and for purposes connected with and incidental to those matters;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

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Citation

1 This Act, which amends the Digital Asset Business Act 2018 (the “principal Act”), may be cited as the Digital Asset Business Amendment Act 2020.

Amends section 2

2 Section 2(1) of the principal Act is amended—

(a) by repealing and replacing the definition of “digital asset derivative exchange” as follows—

“digital asset derivative exchange” means a centralized or decentralized marketplace used for digital asset derivatives issuances, distributions and trades with or without payment; provided that digital asset derivatives trades may also be entered into by the marketplace as principal or agent;”;

(b) by repealing and replacing the definition of “digital asset exchange” as follows—

“digital asset exchange” means a centralized or decentralized electronic marketplace used for digital asset issuances, distributions, conversions and trades, including primary and secondary distributions, with or without payment; provided that digital asset conversions and trades may also be entered into by the electronic marketplace as principal or agent;”;

(c) in the definition of “digital asset services vendor” by deleting “means” and substituting the word “includes”.

Amends section 11

3 Section 11 of the principal Act is amended by repealing subsection (5)(a).

Amends section 12

4 Section 12 of the principal Act is amended in subsection (3)—

(a) by deleting “or” where it appears at the end of paragraph (a), and by deleting the full stop at the end of paragraph (b) and inserting “; or”;

(b) by inserting after paragraph (b) the following—

“(c) class T licence, under which a person shall be licensed to provide any digital asset business activity under the definition of digital asset business, for a defined period determined by the Authority and for the purpose of carrying out pilot or beta testing in relation to such activity.”;

(c) in subsection (4) by inserting after “licence” the words “or class T licence”;

(d) in subsection (5) by inserting after “licence” the words “or class T licence”.

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Amends section 15

5 Section 15 of the principal Act is amended—

- (a) in subsection (1), by inserting after “undertaking”, the words “, other than a licensed undertaking granted a class T licence pursuant to section 13,”;
- (b) by inserting after subsection (1) the following—

“(1A) A class T licensee shall—

- (a) not be required to keep its licence on display at its principal place of business in Bermuda; and
- (b) publish a statement on its website for the duration of its licence, that it has been issued a class T licence by the Authority to carry out pilot or beta testing in relation to the digital asset business activity.”.

Amends section 16

6 The principal Act is amended in section 16 as follows—

- (a) in subsection (1), by deleting “A licensed ” and substituting the word “An”;
- (b) in subsection (5)(a) and (b), by deleting “a licensed ” and substituting “an”;
- (c) in subsection (7), by deleting “licensed”.

Amends section 19

7 The principal Act is amended in section 19(3) by inserting after “Bermuda”, the words “; except where such representative has been approved by the Authority to be appointed to a licensed undertaking granted a class T licence pursuant to section 13.”

Amends section 21

8 The principal Act is amended in section 21(1) by inserting after “undertaking”, the words “, other than a licensed undertaking granted a class T licence pursuant to section 13,”.

Amends Schedule 1

9 Schedule 1 to the principal Act is amended in paragraph 2—

- (a) in subparagraph (3), by inserting after “A licensed undertaking” the words, “, other than an undertaking granted a class T licence,”;
- (b) by inserting the following after subparagraph (3)—

“(3A) An undertaking granted a class T licence shall not be regarded as conducting its business in a prudent manner unless it maintains or, as the case may be, will maintain minimum net assets of \$10,000 or such amount as the Authority may direct taking into consideration the nature, size and complexity of the licensed undertaking.”;

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- (c) in subparagraph (6) by inserting after “A licensed undertaking” the words,
“, other than an undertaking granted a class T licence,”.

Consequential amendments

10 The consequential amendments set forth in the Schedule have effect.

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SCHEDULE

(Section 10)

CONSEQUENTIAL AMENDMENTS

Amends the Bermuda Monetary Authority Act 1969

1 The Bermuda Monetary Authority Act 1969 is amended in the Fourth Schedule under “PART C- 2021 Digital Asset Business Act 2018”—

(a) by inserting the following new paragraph after paragraph 2(h)—

“

PART C - 2021			
Digital Asset Business Act 2018			
	(i)	The fee payable by an undertaking carrying on digital asset business in accordance with a Class T licence pursuant to section 12(3) shall be \$1000”;	”.

(b) by inserting the following new paragraph after paragraph 3(h)—

“

PART C - 2021			
Digital Asset Business Act 2018			
	(i)	The fee payable by an undertaking carrying on digital asset business in accordance with a Class T licence pursuant to section 12(3) shall be \$1000”;	”.

[Assent Date: 11 December 2020]

[Operative Date: 11 December 2020]