



BERMUDA

DIGITAL ASSET BUSINESS (CLIENT DISCLOSURE) RULES 2018

BR 100 / 2018

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 (Client Disclosure) Rules 2018.

Interpretation

2 In these Rules—

“Act” means the Digital Asset Business Act 2018;

“Authority” means the Bermuda Monetary Authority established under the Bermuda Monetary Authority Act 1969.

Disclosures and other protections for clients

3 (1) Every licensed undertaking prior to entering into an initial transaction for, on behalf of, or with a client shall disclose to such client—

- (a) all material risks associated with its products, services and activities;
and
- (b) any additional disclosure the Authority determines reasonably necessary for the protection of clients.

(2) A disclosure required by paragraph (1) must be made separately from any other information provided by the licensed undertaking to the client and shall be provided in a manner which allows for the client to record the disclosure.

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(3) At the time of entering into an agreement to provide products and services to a client, each licensed undertaking shall disclose to such client to the extent such matters are applicable to the product or service to be provided the following matters—

- (a) the class of licence that it holds and the specific digital asset business activity such undertaking is allowed to carry on under its licence;
- (b) a schedule of fees and charges for any service or product to be provided by the licensed undertaking;
- (c) the manner in which fees and charges will be calculated by the licensed undertaking if such are not set in advance and disclosed at the time the agreement is entered into and the manner in which payment is to be made by the client to the licensed undertaking in respect of any fee or charge payable;
- (d) whether the licensed undertaking has obtained insurance such as cyber or any other theft coverage to address losses which may arise as a result of the provision of any service or product the licensed undertaking may offer, and provision of related information including the beneficiary of this insurance coverage;
- (e) whether a transfer or exchange of a digital asset is irrevocable and any exceptions to irrevocability;
- (f) governance or voting rights regarding client assets where the licensed undertaking will maintain custody of those client assets;
- (g) a description of—
 - (i) the licensed undertaking's liability and other remedies available to the client for an unauthorized, mistaken, or accidental transfer or exchange of a client's digital asset;
 - (ii) the basis for any recovery by the client from the licensed undertaking for losses to client assets;
 - (iii) the manner in which a client must update contact information required to be provided to the licensed undertaking;
 - (iv) a client's ability to stop a pre-authorized transfer of digital assets and where clients do have the ability to stop a transfer, the procedure to initiate a stop-payment order to transfer or exchange digital assets or to revoke authorization for a subsequent transfer of digital assets;
 - (v) the client's ability to receive a receipt or other evidence of a transfer or exchange and the process for receiving such receipt;
 - (vi) the requirement for the client to receive, as soon as practicable, prior notice of—
 - (A) changes in fees, charges and interest rates;

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- (B) material modifications to or discontinuation of products or services; and
 - (C) any material change to the terms and conditions of any services provided by the licensed undertaking, which includes amendment to policies applicable to the client's account;
- (h) at the conclusion of a transaction with a client, the licensed undertaking shall provide to the client by confirmation in writing the following information—
 - (i) the name and contact information of the licensed undertaking;
 - (ii) contact information allowing for a client to request information about—
 - (A) its account;
 - (B) the licensed undertaking's business activities in general; or
 - (C) the making of a complaint to the licensed undertaking;
 - (iii) the type, value, date, precise time, and amount of all transactions applicable to the client's account;
 - (iv) the fee charged for transactions, including any charge for conversion of a digital asset to another digital asset or to fiat currency;
- (i) in relation to Class M and Class T licence holders, a brief description of the nature of the licence.

(4) Every licensed undertaking shall disclose to affected clients a cyber reporting event, as defined under section 2(1) of the Act, where a breach leads to unauthorized access to or misuse of client information.

[Regulation 3 amended by BR 70 / 2023 reg. 2 effective 4 October 2023]

Made this 7th day of September 2018

Chairman
The Bermuda Monetary Authority

[Operative Date: 11 September 2018]

[Amended by:

BR 70 / 2023]