



# **BERMUDA MONETARY AUTHORITY**

## **INFORMATION BULLETIN**

### **Assessment and Licensing Committee (ALC) Digital Asset Business Application Process**

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## **I. INTRODUCTION**

The Assessment and Licensing Committee (ALC) structure was established in 2007 by the Board of Directors of the Bermuda Monetary Authority (the Authority) to consider applications for licensing of financial service businesses seeking to operate in or from within Bermuda.

The ALC for Digital Asset Business consists of senior management from the supervisory, policy and information technology departments within the Authority. This information bulletin serves to update the Digital Asset Business industry with respect to the ALC's Digital Asset Business application process and related licensing documentation requirements.

## **II. THE ROLE AND FUNCTION OF THE ALC**

The functions and powers of the Authority under the Bermuda Monetary Authority Act 1969 (the Act) are delegated to the Chief Executive Officer by the Board of Directors by virtue of the Resolution on the Delegation of the Authority Functions. The responsibility to make decisions on applications for licensing under the Act is subdelegated to the ALC. This Committee consists of a Chairperson, who is ordinarily the Director or Managing Director responsible for supervising Digital Asset Business, and includes a multi-disciplinary panel of relevant expertise (with a minimum of two (2) senior managers) drawn from the Fintech, Licensing & Authorisations, Supervision, Actuarial, Policy and Anti-Money Laundering Departments within the Authority.

The Committee generally convenes once a week on Thursday mornings at 9:00 a.m. to review the applications presented for consideration in order to reach consensus on whether to approve, defer or decline the applications for licensing. Applicants will be informed of the ALC decision as soon as possible subsequent to the meeting, followed by a formal letter from the Authority confirming the same.

### **III. DIGITAL ASSET BUSINESS APPLICATION REQUIREMENTS**

#### **A. GENERAL REQUIREMENTS**

A detailed, comprehensive Digital Asset Business application must be submitted for the licensure of an entity under the Digital Asset Business Act 2018 in the appropriate form as follows:

1. Applications must be received by the Authority no later than 5:00 p.m. on the relevant Thursday in order to be considered by the ALC on a Thursday four weeks later and responded to on the Friday (next day). Applications received after the aforementioned deadline may not be considered by the ALC until the following week.
2. Applications should be e-mailed to [innovate@bma.bm](mailto:innovate@bma.bm) with a hard copy submitted to the Authority for the attention of the Fintech Department.
3. All documents included in a Digital Asset Business application must be provided to the Authority in English.

#### **Digital Asset Business applications must include the following documents:**

1. A cover letter providing an executive summary of the application, and highlighting how the minimum licensing criteria (per the Schedule to the Digital Asset Business Act 2018) for the relevant class or category of Digital Asset Business being applied for is satisfied; and in cases where required documentation has not been provided by the applicant within its application, a written explanation for the said omission(s) is required.
2. Copies of the Memorandum of Association, Certificate of Incorporation or Registration Permit (if available).
3. A business plan, which should include the following matters:
  - a. Ownership of the applicant, including identification of its ultimate parent and other relevant details of its group organisational structure;
  - b. Information, including curriculum vitae, on the applicant's board of directors, senior management and/or key functionaries, including the senior

manager to fulfil the Chief Information Systems Officer (or equivalent) role;

- c. Description of the applicant's business purpose for licensing in Bermuda, outlining the rationale for Bermuda as the chosen jurisdiction;
- d. Assessment and description of the business environment as follows:
  - i. Opportunity the applicant seeks to exploit and risks that will likely threaten success;
  - ii. Overview of the applicant's business strategy and risk appetites (e.g. acceptable and unacceptable risks, such as, for example, in the area of AML, customers and product types the applicant is not prepared to accept or adopt);
  - iii. Type(s) of business to be conducted, and products and services to be delivered by the applicant, highlighting the intended launch date for each. Note: any digital asset products and product features relating to the applicant's business including those related to the anonymity of its customers (including but not limited to privacy coins) must be described;
    1. If anonymity features exist, policies and controls that will be in place to ensure appropriate Enhanced Due Diligence when onboarding customers then ongoing monitoring.
  - iv. Description of the mitigation in place (or to be put in place and associated timeline) to ensure adequate protection of customers in the event the applicant becomes insolvent and is liquidated (e.g. insurance, surety bond, bankruptcy remote custodial arrangements or other);
  - v. Description of approach to ensuring that customer assets are segregated from the applicant's assets, and (if customer assets are to be held in an omnibus account) how said assets are to be secured and

separately accounted for;

- vi. Details of insurance or other mitigating arrangements to protect the applicant's own operations in the event of a significant loss;
- vii. If the business model employs smart contract technology, both must have a confirmation that an independent audit of the smart contract was performed and the independent audit report;
- viii. Financial assessment and related information as follows:
  - 1. Pro forma income statements and balance sheets prepared on a two-year period (all financial information should be presented in US Dollars; if the original statements are prepared in a foreign currency other than US Dollars, those amounts must be converted into the US Dollar equivalent);
  - 2. An assessment of the minimum net assets required to successfully achieve the applicant's business goals over the next two years and demonstration through the pro forma financial statements that the relevant minimum net assets will be maintained at all times;
  - 3. Support for the assumptions used to compile the aforementioned financial statements and minimum net asset assessment; and
  - 4. Capitalisation amount and the applicant's source(s) of funding.
- ix. Explanation of how the applicant plans to meet Head Office requirements;
- x. Projections for staffing requirements upon licensing and a best estimate for two (2) years post-licensing;
- xi. Description of the following functions:
  - 1. Risk management

2. Internal audit
3. Compliance
  - xii. Description of substantive outsourced functions, governance processes to monitor performance and identification of substantive service providers (including the applicant's information systems auditor), and where available, draft copies of all related Digital Asset Business and service provider agreements; and
  - xiii. Any other information which the applicant determines may be relevant.
4. A copy of its Anti-Money Laundering and Anti-Terrorism Financing policies and procedures as required by [Regulation 16 of The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008].
5. Information in respect of the applicant's corporate shareholders and ultimate beneficial owners, including:
  - a. Most recent audited financial statements
  - b. Copies of regulatory filings, if applicable
  - c. Background information
6. Information in respect of individual shareholders and ultimate beneficial owners, including:
  - a. Personal declaration forms (to be completed by the respective individual);
  - b. Questions as set out in the personal declaration forms that are answered in the affirmative should be accompanied by a written statement of findings, including any relevant information discovered in the assessment of the fitness and propriety of individuals;
  - c. Bank references of ultimate beneficial owners; and
  - d. Net worth statements (for ultimate beneficial owners), with any foreign currency denominated amounts converted into US Dollars.

7. Copy of the applicant's proposed cybersecurity programme, including policies and procedures related to hot and cold customer private key storage.
8. Description of the steps that either have been taken (or will be and associated timing) to ensure that the Authority has access to a node or other arrangement to allow the Authority to monitor both the client and the applicant's own digital asset transaction records with online or automated real-time read-only access, and provision of wallet public addresses (hot wallet addresses (if used) and customer deposit addresses).
9. Acceptance letters indicating unconditional acceptance from the applicant's:
  - a. Approved auditor
  - b. Senior representative
10. Curriculum vitae of applicant's senior representative.
11. Address of the applicant's head office.
12. A declaration from an officer of the applicant that the applicant is aware of and will abide by the Code of Practice as required pursuant to the Digital Business Act 2018.

**Applicants for a continuation of an overseas operation from a foreign jurisdiction into Bermuda must additionally provide:**

1. A Certificate of Good Standing from the relevant regulatory authority in the foreign jurisdiction;
2. Contact information for the regulatory authority in the relevant foreign jurisdiction, including contact person name/title, organisation name/address, e-mail address and telephone contact details; and
3. Copies of the most recent statutory financial statements and/or any other relevant financial information evidencing compliance of the applicant with the capital, solvency and liquidity requirements of the foreign jurisdiction.

## **B. ADDITIONAL REQUIREMENTS FOR CLASS M APPLICATIONS**

1. In addition to the General Requirements noted above, the following information is required for each category of the applicant proposing to be registered:-
  - a. The business plan (under section A above) should also include:
    - i. The roadmap to deploy services and delivery mechanisms on a broader scale once the modified class license has expired; and
    - ii. The ability of the applicant to meet the legal and regulatory requirements that will apply upon exit.
  - b. Details of any current or past participation of the applicant in a regulatory sandbox in another jurisdiction/country;
  - c. Description of the proposed product, service or distribution channel to be offered under the class M license, including:
    - i. How the sandbox eligibility criteria outlined in the Digital Asset Business Regulatory Sandbox Guidance Note are met;
    - ii. Details of how the product/service or technology applied differs from those already existing in the market;
    - iii. Benefits that the proposed product/service will have and foreseen risks; and
    - iv. Any licenses, patents or copyrights that the company holds in relation to the proposed product/service.
  - d. Nature of testing that will be performed during the proof-of-concept stage, including:
    - i. Intended start and end date of the class M license (duration);
    - ii. Legal and regulatory requirements that the applicant requests to be modified for the duration of the class M license;
    - iii. Test plan, controls and scenarios;
    - iv. Details of clients and counterparties who will be involved;
    - v. Critical success factors to monitor and measure progress;
    - vi. Monitoring plan to ensure prompt notification to the Authority of

- any breach of class M conditions; and
- vii. Contingency plan for winding-up in the event the testing is unsuccessful or the company must otherwise prematurely exit the sandbox, and protections in place for clients should this occur.

**Note:** *While the Authority acknowledges that all documents required for a comprehensive Digital Asset Business Application may not be available at the time of application, or may not be applicable based on the proposed business plan, applicants are advised to submit all pertinent documents as applicable (in draft form if necessary) to assist in the ALC review process. In cases where required documentation is not provided, a written explanation for any such omission is required. Applications that do not contain the necessary documents may be deferred or deemed insufficient for review.*