



Digital Asset Business (DAB) – Frequently Asked Questions (FAQs)

1. What legislation, rules, and/or documents should I review prior to submitting a DAB application to the Bermuda Monetary Authority (Authority)?

i. Digital Asset Business Act 2018

<http://www.bermudalaws.bm/laws/Annual%20Laws/2018/Acts/Digital%20Asset%20Business%20Act%202018.pdf>

ii. Digital Asset Business Statement of Principles

<https://www.bma.bm/viewPDF/documents/2019-04-23-14-51-20-DAB-Statement-of-Principles-2018.pdf>

iii. Digital Asset Code of Practice

<https://www.bma.bm/viewPDF/documents/2019-05-20-16-07-35-Digital-Asset-Custody-Code-of-Practice-2018.pdf>

iv. Assessment and Licensing Committee (ALC) Digital Asset Application Process

<https://www.bma.bm/viewPDF/documents/2019-04-23-14-53-39-ALC-Information-Bulletin-DAB-Application-Process.pdf>

v. Digital Asset Business (Prudential Standards) (Annual Return) Rules 2018

[http://www.bermudalaws.bm/laws/Annual%20Laws/2018/Statutory%20Instruments/Digital%20Asset%20Business%20\(Prudential%20Standards\)%20\(Annual%20Return\)%20Rules%202018.pdf](http://www.bermudalaws.bm/laws/Annual%20Laws/2018/Statutory%20Instruments/Digital%20Asset%20Business%20(Prudential%20Standards)%20(Annual%20Return)%20Rules%202018.pdf)

vi. Digital Asset Business (Client Disclosure) Rules 2018

[http://www.bermudalaws.bm/laws/Annual%20Laws/2018/Statutory%20Instruments/Digital%20Asset%20Business%20\(Prudential%20Standards\)%20\(Annual%20Return\)%20Rules%202018.pdf](http://www.bermudalaws.bm/laws/Annual%20Laws/2018/Statutory%20Instruments/Digital%20Asset%20Business%20(Prudential%20Standards)%20(Annual%20Return)%20Rules%202018.pdf)

vii. Digital Asset Business (Cybersecurity) Rules 2018

[http://www.bermudalaws.bm/laws/Annual%20Laws/2018/Statutory%20Instruments/Digital%20Asset%20Business%20\(Client%20Disclosure\)%20Rules%202018.pdf](http://www.bermudalaws.bm/laws/Annual%20Laws/2018/Statutory%20Instruments/Digital%20Asset%20Business%20(Client%20Disclosure)%20Rules%202018.pdf)

viii. Proceeds of Crime (AML/ATF Financing) Regulations 2008

[http://www.bermudalaws.bm/laws/Consolidated%20Laws/Proceeds%20of%20Crime%20\(Anti-Money%20Laundering%20and%20Anti-Terrorist%20Financing\)%20Regulations%202008.pdf](http://www.bermudalaws.bm/laws/Consolidated%20Laws/Proceeds%20of%20Crime%20(Anti-Money%20Laundering%20and%20Anti-Terrorist%20Financing)%20Regulations%202008.pdf)

ix. BMA Guidance Notes for AML/ATF Regulated Financial Institutions on AML/ATF Financing 2016

<https://www.bma.bm/viewPDF/documents/2018-12-29-02-24-04-Guidance-Notes-for-AML-ATF-Regulated-Financial-Institutions-on-AML-and-ATF-2016-BMA-Notice-2016.pdf>

x. BMA Annex VIII Sector-Specific Guidance Notes for Digital Asset Business

<https://www.bma.bm/viewPDF/documents/2019-04-23-14-52-09-Annex-VIII-Sector-Specific-Guidance-Notes-for-Digital-Assets.pdf>

xi. International Sanctions Regulations 2013

<http://www.bermudalaws.bm/laws/Consolidated%20Laws/International%20Sanctions%20Regulations%202013.pdf>

xii. Ministry of Legal Affairs – Financial Sanctions Implementation Unit Financial Sanctions Guidance – the Company should take note of the Sanctions Reporting Requirements

<https://www.gov.bm/sites/default/files/Financial-Sanctions-Guidancev4.pdf>

2. Which types of DAB licences are available?

Class F – Full licence

Class M – Modified licence

3. What differentiates the two types of DAB licences?

A class F licence is a full licence to operate as a regulated DAB in Bermuda. This licence does not have an expiration date, however, is subject to regular supervisory visits by the Authority's Fintech supervisory unit, Anti-Money Laundering unit, and Cybersecurity unit. A full licensee must meet all of the minimum licensing criteria as detailed in the Digital Asset Business Act, as well as any additional conditions set forth by the Authority.

A class M licence is akin to a sandbox licence to operate as a temporary DAB in Bermuda. This licence typically has a variable expiry date, ranging from six months to a year and is subject to certain restrictions imposed by the Authority, as well as supervisory visits from the Authority. The M licence is meant to prove the viability and sustainability of the DAB by proving any conditions set forth by the Authority and evaluating business performances against co-developed key performance indicators. Towards the cessation of the licence, the Authority and the DAB will discuss next steps. This will include whether the DAB has proven the viability and sustainability of its operations, has complied with any conditions set forth by the Authority, and has met the minimum licensing criteria for a class F licence (there is potential for a DAB to graduate from an M licence to an F licence).

4. What type of restrictions are imposed for the Class M Licence?

The restrictions vary in nature depending on the type of business activities being conducted by the DAB. Restrictions can include:

1. Number of customers on boarded
2. Volume of transactions
3. Nature of assets to be traded
4. Amount of capital to be traded
5. Any restrictions deemed appropriate by the Authority

5. Can I extend the M licence beyond its initial deadline?

The BMA reviews each M licensee on a case-by-case basis. The Authority will require the DAB to build a business case, indicating why an extension is required, additional key performance indicators to measure future performance, and a timeline containing the length of the extension required as well as key milestones to achieve.

6. Which business activities constitute requiring a DAB licence?

The following business activities are considered digital asset business as referenced in the Digital Asset Business Act 2018 (2)(a):

- a. Issuing, selling or redeeming virtual coins, tokens or any other form of digital asset
- b. Operating as a payment service provider business utilising digital assets which include the provision of services for the transfer of funds
- c. Operating as an electronic exchange
- d. Providing custodial wallet services
- e. Operating as a digital asset services vendor

7. How long does it take to process a DAB licence in Bermuda?

There is a four-week turnaround from the time the DAB licence application is submitted (this timeline is due to be affected if the Authority needs to seek clarity on any of the submitted documents.) Typically, DAB licence applicants can expect initial feedback prior to four weeks.

8. Do I need to apply for a Digital Asset Business licence prior to applying for an Initial Coin Offering?

Registration of a DAB licence is not required to apply for an Initial Coin Offering.

9. Do I need to have a physical presence in Bermuda to attain a DAB licence?

Yes. Please review the Head Office requirements in the Digital Asset Business Act as well as the interpretation of the Head Office requirements in the Statement of Principles.

10. Is there an international standard we can reference to ensure we achieve a best practice baseline of Cyber Risk & Cyber Security controls?

While there is not an internationally recognised best practice standard for digital asset Cyber Risk and Cyber Security controls, the Authority uses the National Institute of Standards and Technology (NIST) Cyber Security Standard as a high-level baseline of generic IT Security controls.

11. Can I arrange for a meeting with the Authority before filling out a formal application?

While it is not a requirement to meet with the Authority prior to making an application, such meetings are highly encouraged to provide the Authority with a preview of the proposed business model. The Authority is also prepared to provide guidance where needed. Concurrently, the Authority encourages engagement with competent industry persons in the legal profession who understand relevant Bermuda laws.

12. I am unsure if I require a DAB licence, can I still meet with the Authority?

Yes. Please contact the Authority to book a meeting with the Fintech unit.

13. Whom can I contact within the Bermuda Monetary Authority for additional information?

The Fintech unit can be contacted at fintech@bma.bm.

14. Which documents are required as a part of the AML/ATF submission?

i. AML/ATF Policies and Procedures

A copy of the company's AML/ATF policies and procedures that comprehensively demonstrates how the company applies each individual regulatory and/or legislative requirement to comply with the Proceeds of Crime (AML/ATF Financing) Regulations 2008.

The following documents may assist with this:

- Proceeds of Crime (AML/ATF Financing) Regulations 2008
- BMA Guidance Notes for AML/ATF Regulated Financial Institutions on AML/ATF Financing 2016
- BMA Annex VIII Sector-Specific Guidance Notes for Digital Asset Business

ii. Sanctions Policies and Procedures

A copy of the company's sanctions policies and procedures that comprehensively demonstrates how the company will apply the regulatory and/or legislative requirements to comply with the International Sanctions Regulations 2013.

The following documents may assist the Company with this:

- International Sanctions Regulations 2013
- Ministry of Legal Affairs – Financial Sanctions Implementation Unit Financial Sanctions Guidance – the company should take note of the Sanctions Reporting Requirement

iii. Business ML/TF Risk Assessment

A copy of the business ML/TF risk assessment that demonstrates the company's assessment of its ML/TF risks against the four pillars of ML/TF risks (Customer, Geographic, Delivery Channel and Products/Services). The business ML/TF risk assessment should include the identification of the company's inherent risks of ML/TF and sanctions against the four pillars, the assessment of the results of the National Risk Assessment and its impact on the company, the company's mitigation measures in place and the subsequent residual risk.

The following document may assist the company with this:

- BMA Guidance Notes for AML/ATF Regulated Financial Institutions on AML/ATF Financing 2016 (Section 2.13 – 2.84)

iv. *Customer ML/TF Risk Assessment*

A copy of the customer ML/TF risk assessment for new and ongoing business relationships. The customer ML/TF risk assessment should adequately assess the four pillars of ML/TF risks (Customer, Geographic, Delivery Channel and Products/Services) in order to determine the customer's risk-rating of high, medium or low, determining the level of customer due diligence required.

In addition to the customer ML/TF risk assessment, the company must provide the Authority with a written methodology for the application and ongoing monitoring of the customer's risk rating for new and existing customers.

15. Are there any special requirements for AML/ATF outsourced functions?

Yes. For AML/ATF and sanctions functions that are outsourced, as required by the Proceeds of Crime (AML-ATF) Regulations 2008, the company must provide the following to the Authority:

- i. The identity of which company(s) the AML/ATF functions have been outsourced to
- ii. A description of what AML/ATF functions have been outsourced
- iii. A copy of the service level agreements in place detailing the outsourced functions
- iv. Information and/or evidence documenting how the company monitors and manages the outsourced functions and retains ultimate responsibility for the AML/ATF compliance function
- v. A copy of the outsourced company's AML/ATF and sanctions policies and procedures and/or information to demonstrate that the outsourced party has in place AML/ATF systems, controls and procedures compliant with Bermuda's AML/ATF requirements

16. What are the requirements for the Compliance Officer and Reporting?

Compliance Officer

The applicant must appoint a Compliance Officer, who must be at the managerial level, and who must have the authority to:

- Oversee the establishment, maintenance and effectiveness of the Regulated Financial Institution's (RFI) AML/ATF policies, procedures and controls Monitor compliance with the relevant Acts, regulations and guidance
- Access all necessary records in a timely manner
- Provide the Authority with information to demonstrate the Compliance Officer's training and/or experience to show that they are adequately trained to carry out the role

Money Laundering Reporting Officer

The applicant must appoint a Money Laundering Reporting Officer (MLRO) with the Authority to:

- Receive suspicious activity disclosures from the RFI's employees
- Access all necessary records in a timely manner
- Make final determinations on whether disclosures should be reported to the FIA
- Where appropriate, make external reports to the FIA
- Provide the Authority with information to demonstrate the MLRO's training and/or experience to show that they are adequately trained to carry out the role

The MLRO is not required to be a member of the Senior Management. The Compliance Officer and MLRO may be the same individual.

17. How do I file Suspicious Activity Reports (SAR) in Bermuda?

The MLRO must file a SAR with the Financial Intelligence Agency (FIA) electronically via the GoAML system, which is available at www.fia.bm. The company and MLRO are required to register with the FIA in order to file an external SAR.