



BERMUDA

DIGITAL ASSET BUSINESS EXEMPTION ORDER 2023

BR 66 / 2023

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The Minister of Finance, acting on the advice of the Bermuda Monetary Authority, in exercise of the power conferred by section 11 of the Digital Asset Business Act 2018 makes the following Order:

Citation

- 1 This Order may be cited as the Digital Asset Business Exemption Order 2023.

Interpretation

- 2 In this Order—
 - “Act” means the Digital Asset Business Act 2018;
 - “Authority” means the Bermuda Monetary Authority;
 - “investment fund” has the meaning given in section 3 of the Investment Funds Act 2006;

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“non-specified person” means a person listed in Schedule II, who shall be required to notify the Authority of its intention to be exempt from the requirement to obtain a licence under the Act, in accordance with paragraph 4 of this Order;

“specified person” means a person listed in Schedule I who is, in accordance with paragraph 3 of this Order, exempt from the requirement to obtain a licence under the Act.

Exemption – Specified person

3 Every specified person is exempt from the prohibition to carry on digital asset business without a licence under section 10 of the Act.

Exemption Notification – Non-specified person

4 (1) Every non-specified person shall notify the Authority of its intention to be exempt from the requirement to obtain a licence under section 10 of the Act.

(2) A notification shall be in such form as the Authority may direct and be accompanied by such information as the Authority may require.

Annual declaration: Continuation of exemption qualification

5 (1) Subject to subparagraph (2), every non-specified person shall on or before 31 March in every year where such person continues to qualify for exemption, file a declaration with the Authority stating that it continues to qualify for exemption.

(2) A declaration filed with the Authority in accordance with subparagraph (1), shall be—

- (a) in such form and contain such information and documents as the Authority may determine; and
- (b) signed by a director of the non-specified person.

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SCHEDULE I

(paragraph 2)

SPECIFIED PERSONS

- 1 The Authority
- 2 The Government of Bermuda and any entity owned by it
- 3 A public authority.

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SCHEDULE II

(paragraph 2)

NON-SPECIFIED PERSONS

1 A person providing an affinity or rewards programme, where value is granted as part of such programme, which value cannot be taken from or exchanged with the person for legal tender, bank credit or any digital asset.

2 A publisher issuing, either himself or via another person on his behalf, a digital representation of value, which is used exclusively within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform.

3 A person providing data storage or security services for a digital asset business, but is not otherwise engaged in digital asset business activity on behalf of other persons.

4 (1) An undertaking providing any digital asset business activity solely for the purpose of its business operations or the business operations of any group undertaking.

(2) For the purposes of subparagraph (1), “group” means an undertaking and any person who is—

- (a) a parent of an undertaking;
- (b) a subsidiary of an undertaking;
- (c) a subsidiary of a parent of an undertaking;
- (d) a parent of a subsidiary of an undertaking;
- (e) an entity in which an undertaking or an entity in sub-subparagraphs (a), (b), (c) or (d) has a participating interest.

5 An investment fund that has appointed an investment manager that is licensed under the Investment Business Act 2003; or authorised by a recognized regulator, as such term is defined under section 2 of the Investment Business Act 2003.

Made this 23rd day of June 2023

Minister of Finance

[Operative Date: 23 June 2023]