

Statutory Instruments of Anguilla: 85/2020

Gazette Dated: 12th October, 2020

ANGUILLA UTILITY TOKEN OFFERING ACT, 2018 (ACT NO. 4/2018)

ANGUILLA UTILITY TOKEN OFFERING (ANTI-MONEY LAUNDERING AND TERRORIST FINANCING) REGULATIONS, 2020

Regulations made by the Governor on advice from the Commission under section 25 of the Anguilla Utility Token Offering Act, 2018 (Act No. 4/2018).

Interpretation

1. (1) In these Regulations—

“\$” means a dollar in the currency of the United States of America;

“Act” means the Anguilla Utility Token Offering Act;

“AML/CFT” means Anti- Money Laundering/Combating the Financing of Terrorism;

“Commission” means the Anguilla Financial Services Commission established under section 2 of the Financial Services Commission Act, R.S.A. c. F28;

“custodian” means a person who contracts with an issuer or a utility token offering administrator to provide the service of storing subscription funds on behalf of the issuer;

“initial utility token offering” means an initial offer to the public to subscribe for the purchase of utility tokens to be issued by an issuer and made by the issuer to any person who is not connected to the issuer;

“issuer” means a person undertaking an initial or secondary utility token offering;

“secondary utility token offering” means an offer to the public to subscribe for the purchase of utility tokens to be issued by an issuer and made by the issuer to any person who is not connected to the issuer subsequent to an initial utility token offering by such issuer, whether or not the initial utility token offering was made under the Act;

“subscriber” means a person who subscribes for, purchases or otherwise obtains a utility token or any part thereof) at an initial or secondary utility token offering in consideration of the subscription price;

“subscription funds” and “subscription price” means the value provided or to be provided by a subscriber, in the medium of exchange stipulated by an issuer, in consideration for the subscription of a utility token at an initial or secondary utility token offering conducted by such issuer;

“utility token offering administrator” means a person who, for valuable consideration, provides an issuer with any of the following services—

- (a) escrow related services in accordance with an escrow agreement filed with the Commission, including the receipt, maintenance and release of subscription funds in connection with an initial or secondary utility token offering;
- (b) administration of the register of subscribers to an initial or secondary utility token offering; and

- (c) collection, review and record-keeping of customer due diligence conducted on subscribers to an initial or secondary utility token offering;

“white paper” means a document prepared by an issuer for the purpose of detailing an initial or secondary utility token offering and that contains the information required by the Act and as may be prescribed by regulations from time to time.

Anti-Money Laundering and Terrorist Financing

2. (1) For the purpose of section 9(9) of the Act, a registered issuer shall require the utility token offering administrator to maintain on the issuer’s behalf a list of subscribers that for each subscriber includes the following information—

- (a) For subscriptions of less than or equal to a value of \$ 5,000—
 - (i) full name,
 - (ii) date of birth,
 - (iii) country of residence,
 - (iv) phone number, and
 - (v) physical address;
- (b) For subscriptions of more than a value of \$5,000 and less than or equal to a value of \$25,000—
 - (i) all information contained in paragraph (a),
 - (ii) verification of physical address in the form of a utility bill or other generally acceptable form dated within three (3) months of verification, and
 - (iii) government issued identification in the form of a passport photographic identification, driver’s licence or identity card;
- (c) For subscriptions of more than a value of \$25,000 and less than or equal to a value of \$ 100,000—
 - (i) all information contained in paragraph(b),
 - (ii) verification of physical address in the form of a letter from a licensed financial institution, and
 - (iii) a declaration by the subscriber of the source of the subscription funds or, if in digital form, the source of the fiat currency used to acquire the subscription funds in such digital form;
- (d) For subscriptions of more than a value of \$100,000—
 - (i) all information contained in paragraph (c) certified by a notary public or equivalent public official,
 - (ii) additional photographic evidence of identity certified by a notary public or equivalent public official,

- (iii) copy of one or more records that verifies the source of subscription prices declared under paragraph (c)(iii),
 - (iv) declaration by the subscriber of net worth in excess of a value of \$ 1,000,000,
 - (iv) declaration by the subscriber of source of wealth,
 - (v) declaration by the subscriber that the subscriber is not a politically exposed person such as a senior government, political or military official or an immediate relative of such person, and
 - (vi) declaration by the subscriber that the subscription is not undertaken on behalf of any other person.
- (2) For the purposes of subsection (1), the “value” of a subscription shall be—
- (a) determined at the time the subscriber sends the subscription funds to the custodian; and
 - (b) calculated as the aggregate value of that subscriber’s subscription funds in the initial or secondary utility token offering.

Form of information

3. (1) The information referred to in section 2 shall be maintained in electronic or physical form.

Review and maintenance of information by utility token offering administrator

4. (1) The utility token offering administrator appointed by the issuer pursuant to section 14 of the Act shall—
- (a) have access to the information collected in accordance with section 2;
 - (b) review the AML/CFT due diligence procedures followed in relation to it; and
 - (c) prior to any release of subscription funds to the issuer, file with the Commission confirmation that the AML/CFT due diligence procedures followed complied with the requirements of the Act and these regulations.

(2) The utility token offering administrator shall retain access to the information referenced in section 2 for a period of five (5) years following the date the initial utility token offering or secondary utility token offering ends or the date upon which the administrator ceases to provide services to the issuer under the Act, whichever is earlier.

Repeal

5. The Anguilla Utility Token Offering (Anti-Money Laundering and Terrorist Financing) Regulations, 2018 are hereby repealed.

Citation

6. These Regulations may be cited as the Anguilla Utility Token Offering (Anti-Money Laundering and Terrorist Financing) Regulations, 2020.

Made by the Governor this 9 day of October, 2020



Timothy J. Foy, OBE
GOVERNOR OF ANGUILLA