

Statutory Instruments of Anguilla: /2018

Gazette Dated: , 2018

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

ANGUILLA UTILITY TOKEN OFFERING (ANTI-MONEY LAUNDERING AND TERRORIST FINANCING) REGULATIONS, 2018

Regulations made by the Governor on advice from the Commission under section 27 of the Anguilla Utility Token Offering Act, 2018 (Act No. 4/2018).

Interpretation

1. (1) In these Regulations—

“Act” means the Anguilla Utility Token Offering Act;

“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 and/or a utility token offering administrator to provide the service of storing subscription funds on behalf of the issuer;

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

“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 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 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;

“white paper” means any document of an issuer the purpose of which is to make an initial or secondary utility token offering and that contains the information –required by this Act and as may be prescribed by regulations from time to time;

“\$” means the currency of the United States of America.

Anti-Money Laundering and Terrorist Financing

2. For the purpose of subsection 9(9) of the Act, a registered issuer shall have the utility token offering administrator appointed under section 15 of the Act maintain on the issuer’s behalf a list of subscribers that for each subscriber includes, or attaches as an electronic or physical copy, 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 subsection 2(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 subsection 2(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, including verification from a financial institution or other person acceptable to the Commission;
- (d) For subscriptions of more than a value of \$100,000—
 - (i) all information contained in subsection 2(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 funds declared under subsection (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 wwealth,
- (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.

Time and form of information

3. (1) The information ~~and material~~ referenced in section 2 may be ~~received and~~ maintained in electronic or physical form. ~~by the issuer in digital or physical form.~~

- (2) For the purposes of section 2, the “value” of a subscription shall be:

(a) –be determined at the time the subscriber sends the subscription funds to the custodian of the collection of the relevant information and material for the purposes of this Regulation; and.

(b) calculated as the aggregate value of that subscriber’s subscription funds in the initial or secondary utility token offering.

Review Transmission o and maintenance off information and material byto Uutility Ttoken Offering Aadministrator

4. (1) ~~The information and material referenced in section 2 shall be transmitted by the issuer to the Utility Token Offering Administrator no less than three (3) days prior to any initial utility token offering or secondary utility token offering, in digital or physical form.~~

~~(2) Following Upon receipt receipt of the information and material referenced in subsection 24(a), †The uUtility Ttoken Ooffering Aadministrator appointed by the issuer under section 15 of the Act shall collect, have access to review and maintain the information records relating to such information and material collected in accordance with section 2, shall review the AML/CFT due diligence procedures followed in relation to it and, prior to any release for compliance with section 2 and, prior to any release of subscription funds to the issuer, shall file with the Commission confirmation that the AML/CFT due diligence procedures followed complied with the requirements of the Act~~

~~and these regulations. information has been received from all of the subscribers in compliance with section 2, shall prepare a Register of subscribers setting out the names and address of each subscriber.~~

~~(2) The registered issuer shall maintain, with the Utility Token Offering Administrator appointed by the issuer under section 15 of the Act shall maintain shall retain access to the information, material and records referenced in subsection 24(b), on behalf of the issuer, for a period of five (5) years following the date conclusion of 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 later earlier.~~

Citation

5. These regulations may be cited as the Anguilla Utility Token Offering (Anti-Money Laundering and Terrorist Financing) Regulations, 2018.

Made by the Governor this day of , 2018

Timothy J. Foy, OBE
GOVERNOR OF ANGUILLA