



**Effective date: 1 November 2022**

**GUIDELINES NO. CMA/G-3/2022/12**

**GUIDELINES ON OFFERING AND TRADING OF SECURITY TOKENS**



## **1. INTRODUCTION**

- 1.1 These Guidelines are issued pursuant to Section 32 of the Brunei Darussalam Central Bank Order, 2010.
- 1.2 The objective of these Guidelines is to provide guidance and clarity to applicants that wish to offer or issue security tokens in Brunei Darussalam.
- 1.3 These Guidelines are not exhaustive and subject to revision from time to time as deemed necessary by the Authority.
- 1.4 These Guidelines are to be read together with the Securities Markets Order, 2013 ["SMO"] and any regulations, notices, directives and guidelines made thereunder.
- 1.5 These Guidelines shall come into effect on 1 November 2022.

## **2. DEFINITIONS**

- 2.1 For the purpose of these Guidelines:
  - 2.1.1 "Authority" means Brunei Darussalam Central Bank;
  - 2.1.2 "CMSL" means capital markets services licence;
  - 2.1.3 "SMO" means Securities Markets Order, 2013 and any regulations or other subsidiary legislation made thereunder;
  - 2.1.4 "SMR" means Securities Markets Regulations, 2015.
- 2.2 Any expression used in these Guidelines shall, except where expressly defined in these Guidelines or where context requires otherwise, have the same meaning as in the SMO.

## **3. APPLICATION OF THE SMO ON OFFERS OR ISSUES OF SECURITY TOKENS IN BRUNEI DARUSSALAM**

### **Definition of security tokens and its scope**

- 3.1 Security tokens may be tokens that provide rights and obligations akin to securities as set out in Part I, Schedule - Securities and Investment Business of the SMO. These security tokens should have characteristics, which are similar as, or akin to traditional investment instruments like shares, debentures or units in a collective investment scheme.



- 3.2. Offers or issuances of security tokens are regulated by the Authority if the security tokens fall within the definition of securities under the SMO.

### **Offering of security tokens**

- 3.3. Any person who wishes to make an offer to sell or sell security tokens are subject to the regulatory regime under Part V of the SMO.

### **Entities who wish to facilitate offers or issues of security tokens**

- 3.4. The offering and issuance of security tokens to the public in Brunei Darussalam can typically be done in the following manner:

3.4.1 Primary platform: A person who operates a platform on which one or more offerors of security tokens may make primary offers or initial issues of security tokens; or

3.4.2 Trading platform: A person who operates a trading platform on which security tokens are traded.

- 3.5. A person who operates a primary platform in Brunei Darussalam in relation to security tokens may be carrying on business in one or more regulated activities under the SMO. Where the person is carrying on business in any regulated activity, or holds himself out as carrying on such business, he must hold a capital markets services licence for that regulated activity under the SMO, unless otherwise exempted.

- 3.6. A person who establishes or operates a trading platform in Brunei Darussalam in relation to security tokens may be establishing or operating a regulated market. A person who establishes or operates a regulated market or maintains or assists in establishing, operating or maintaining, or holds himself out as providing, operating or maintaining a regulated market must be –

3.6.1 a licensed, recognised or designated securities exchange;

3.6.2 a licensed, recognised or designated clearing house; or

3.6.3 a licensed, recognised or designated trading system,

unless otherwise exempted.

### **Territoriality of the SMO**

- 3.7. The provision on general prohibition under Section 22 of the SMO provides that the requirement to be licensed, recognised, designated or exempted only applies in relation to regulated activities that are carried out in Brunei Darussalam. The



territoriality of security tokens with a large cross-border element may be determined on a case-to-case basis.

#### 4. APPLICATION OF ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM LAWS

4.1. All persons specified in paragraph 3.4 of these Guidelines must comply with the relevant requirements relating to anti-money laundering and combating the financing of terrorism (“AML/CFT”), including but not limited to those set out in:

- 4.1.1. the Criminal Asset Recovery Order, 2012;
- 4.1.2. the Anti-Terrorism Order, 2011;
- 4.1.3. the Anti-Terrorism (Terrorist Financing) Regulations, 2013; and
- 4.1.4. directions or guidelines issued by the Authority.

4.2. All persons specified in paragraph 3.4 of these Guidelines are expected to develop and implement an AML/CFT programme, which among others should include but is not limited to the following:

- 4.2.1. Oversight by the board and the senior management, if applicable, on the overall implementation and operation of AML/CFT requirements;
- 4.2.2. Take appropriate steps to identify, assess and understand their money laundering and terrorism financing (ML/TF) risks, and where higher ML/TF risks are identified, to effectively manage and mitigate such risks;
- 4.2.3. Have in place written policies and procedures that are in accordance to the relevant AML/CFT legislation and guidance issued, with measures including but not limited to – conduct of know your customer / customer due diligence (KYC/CDD) and ongoing due diligence, transaction monitoring, sanctions screening, record keeping and filing of suspicious transactions reports;
- 4.2.4. Ensure that all new recruitment of staff, officers and senior management are subjected to thorough screening and background checks;
- 4.2.5. Provide all staff, officers and senior management with the level of training on ML/TF risk and vulnerabilities, and regulatory requirements of the Authority, appropriate to their roles and responsibilities; and



- 4.2.6. Ensure that independent audit arrangements are in place to review and verify the effectiveness of existing AML/CFT measures in place.

## **5. SUBMISSION OF APPLICATION**

- 5.1. Any person who wishes to offer security tokens in Brunei Darussalam or operate a platform involving security tokens in Brunei Darussalam, should seek independent legal advice to ensure that the proposed activities are compliant with all applicable laws, rules and regulations in Brunei Darussalam.
- 5.2. The applicant should read these Guidelines carefully to assess whether he/she is required to comply with the relevant laws administered by the Authority.
- 5.3. After going through these Guidelines, the applicant may submit an application to the Authority enclosing all the information required by the Authority.
- 5.4. All submissions relating to the application and any correspondence should be addressed to:

**MANAGING DIRECTOR,  
BRUNEI DARUSSALAM CENTRAL BANK,  
LEVEL 14, MINISTRY OF FINANCE AND ECONOMY BUILDING,  
COMMONWEALTH DRIVE,  
BANDAR SERI BEGAWAN BB3910,  
BRUNEI DARUSSALAM.**

Attention to:  
**SUPERVISION II,  
REGULATORY AND SUPERVISION GROUP.**

**MANAGING DIRECTOR  
BRUNEI DARUSSALAM CENTRAL BANK**

Issue Date: 13 Rabiulakhir 1444/ 8 November 2022