

ANGUILLA



REVISED STATUTES OF ANGUILLA

CHAPTER

ANGUILLA UTILITY TOKENS EXCHANGE ACT

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# ANGUILLA UTILITIES TOKENS EXCHANGE ACT

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# ANGUILLA UTILITIES TOKENS EXCHANGE ACT

## PART 1

### GENERAL PROVISIONS

#### Interpretation

1. (1) In this Act, unless the context otherwise requires—

“\$” or “dollars” means United States Dollars;

“accountant” means a person who the Commission finds to be acceptable to act as an auditor of a licensee in accordance with the Commission’s “Guidelines on Acceptability of an Auditor”;

“Act” means this Act and any regulations or code enacted thereunder;

“advertisement” means every form of advertising, whether in a publication, by the display of notices, signs, labels or show-cards, by means of circulars or other documents, by an exhibition of pictures or photographic or cinematographic films, by way of sound broadcasting or television, by the distribution of recordings, by computer output, or in any other manner, and “advertising” shall be construed accordingly;

“blockchain” means a continuously growing list of decentralized distributed ledger records that are linked and secured using cryptography;

“charge” means any mortgage, hypothecation, assignment, pledge or lien on any utility token for securing money or money’s worth;

“Commission” means the Financial Services Commission established under section 2 of the Financial Services Commission Act;

“company” means a body corporate, wherever incorporated, organized or constituted;

“distributed ledger” means a consensus of replicated, shared and synchronized digital data geographically spread across multiple sites, countries and institutions;

“document” means

- (a) information recorded in any form; and
- (b) in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

“issuer” means, in relation to any utility token, the person by whom such utility tokens have been or are to be issued;

“licensed” means licensed under this Act;

“list” means the official listing of a utility token on a licensed utility token exchange for the purpose of pairing and trading of such utility token on or through the utility token exchange;

“listed” means a utility token accepted for listing, and actually publicly listed, on a licensed utility token exchange for the purposes of trading on such exchange;

“money” or “monies” means a medium of exchange in the form of coins and banknotes designated as legal tender by any jurisdiction;

“pair” means the pairing of a listed utility token by a licensed utility token exchange with another listed utility token or money and for the purpose of trading;

“person” means an individual, company, partnership, trust, fund, foundation and any other legal entity or organised or incorporated group of persons, and the personal or other legal representative of any person to whom the context can apply;

“platform” means any blockchain based distributed ledger platform, with or without smart contract (scripting) functionality, or such other platforms prescribed from time to time by regulations;

“prescribed” means prescribed by regulations made by the Governor in Council on the recommendation of the Commission;

“regulations” or “the regulations” means regulations made under this Act;

“smart contract” means a blockchain based computer protocol intended to facilitate, verify, or enforce the negotiation or performance of a digital set of agreed upon terms or contract;

“stable token” means a class of utility token designed to minimize price volatility through a mechanism linking such utility token to a reserve asset(s) and/or money and shall, for the purposes of this Act be deemed a utility token;

“token” means any cryptographically secured digital representation of a set of rights, including smart contracts, provided on a digital platform and issued or to be issued by an issuer;

“trade” means the exchange of a listed utility token with any other listed utility token or for money on a licensed utility token exchange by and amongst users of the licensed utility token exchange;

“trade value” means the value of a listed utility token against another listed utility token with which it has been paired, or against such money with which it has been paired, by a licensed utility token exchange;

“user” means any person that maintains an account with or utilizes the facilities of a utility token exchange, licensed under this Act, for the purposes of trading utility tokens listed on that exchange;

“utility token” means any token that—

- (a) does not, directly or indirectly, provide the holder(s) thereof, individually or collectively with other holder(s), any of the following contractual or legal rights—
  - (i) ownership or equity interest in the issuer or in any person or pool of assets,
  - (ii) entitlement to a share of profits, losses, assets or liabilities of the issuer or any other person or pool of assets (other than, in the event of liquidation or dissolution of the issuer, to receive a portion of (but not in excess of) the original subscription price paid for the utility token in the initial utility token offering (“Limited Return Rights”)),
  - (iii) legal status as a creditor (other than with respect to Utility Token Features, or with respect to Limited Return Rights), or
  - (iv) entitlement to receive distributions of profits, revenues, assets or other distributions from the issuer or any other person or pool of assets other than with respect to Limited Return Rights; and
- (b) has or will have in the future, upon launch of the issuer’s Utility Token Platform, one or more Utility Token Features;

“utility token exchange” means a digital market, exchange, place or facility which provides for bringing together users, on a regular basis, for the purpose of the pairing and trading of listed utility tokens against other listed utility tokens or money, or provides for the contractual trading of futures or derivatives relating to the value of utility tokens, and sets rules for the execution of such transactions or for the negotiation or conclusion of such pairing and exchange;

“Utility Token Features” means the contractual right for a holder thereof to utilise a token to—

- (a) have access to, become a member of, or become a user of a Utility Token Platform developed and managed, or proposed in the issuer’s white paper to be developed and managed, by the issuer,
- (b) use as the sole or preferred (by economic discount, preferred access, preferred use or otherwise) purchase, lease or rental price for the products and/or services provided or proposed to be provided by or in the Utility Token Platform developed and managed, or proposed in the issuer’s white paper to be developed and managed, by the issuer, or
- (c) use as a means of voting on matters relating to the governance, management or operation of the Utility Token Platform developed and managed, or proposed in the issuer’s white paper to be developed and managed, by the issuer;

“Utility Token Platform” means the digital platform in which a utility token may be utilised;

“white paper” means any one or more documents prepared by an issuer containing the information required by the Act or the regulations;

(2) A company is deemed to be—

- (a) a subsidiary of another company (its holding company) if that other company—
  - (i) holds a majority of the voting rights in it,

(ii) is a member of it and has the right to appoint or remove a majority of its board of directors, or

(iii) is a member of it and controls alone, or pursuant to an agreement with other shareholders, a majority of the voting rights in it; or

(b) a subsidiary of another if the first-mentioned company is a subsidiary of a company which is itself a subsidiary of that other company.

## **PART 2**

### **UTILITY TOKEN EXCHANGES**

#### **Restriction on establishment of utility token exchanges**

2. (1) No person shall establish or operate a utility token exchange in or from within Anguilla except under and in accordance with a utility token exchange licence granted with respect to such utility token exchange by the Commission under this Act.

(2) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction—

(a) in the case of an individual, to a fine of \$25,000 or to imprisonment for 2 years or to both;

(b) in the case of any person other than an individual, to a fine of \$50,000;  
and

if the offence is a continuing offence, the person is liable to a further fine of \$1,000 for every day that the offence continues after conviction.

(3) A person convicted of an offence under this section shall, following an assessment by the Commission, be liable to pay to the Commission any monies received or the monetary equivalent of any assets obtained, as a result of establishing or operating the utility token exchange without a licence.

### **Application for utility token exchange licence**

3. (1) An applicant for a utility exchange licence shall be a company incorporated under the laws of Anguilla, unless otherwise permitted by the Commission.

(2) Only a company whose activity includes or will include the operation of a utility token exchange may apply to the Commission for a utility token exchange licence.

(3) An application under subsection (1) shall be made in the prescribed form and accompanied by the prescribed fee.

### **Grant of utility token exchange licence**

4. (1) Upon receipt of an application duly made under section 3, the Commission may grant a utility token exchange licence to the applicant with respect to the relevant utility token exchange if it is satisfied that—

(a) it is appropriate to do so in the public interest, including for the proper regulation of markets in utility tokens; and

(b) the applicant satisfies the conditions specified in subsection (2).

(2) The conditions to be satisfied by the applicant are that—

(a) the applicant's activities will be limited to the operation of a utility token exchange, along with such asset custody, currency exchange and other activities directly related to the operations and usage of a utility token exchange;

(b) the applicant can provide and maintain, to the satisfaction of the Commission, adequate and properly equipped facilities and systems for the operation of a utility token exchange;

(c) the rules and practices proposed to be followed by the applicant are sufficient reasonably to ensure that the operations conducted by means of its facilities and systems will be conducted in an orderly and fair manner;

(d) the applicant has made such arrangements as the Commission considers satisfactory:

(i) for the safety and security of the utility tokens, currency and other digital assets utilized by users on or through the utility token exchange;

- (ii) to ensure compliance with anti-money laundering and terrorist financing provisions as applicable to users of the utility token exchange;
- (iii) to ensure the safe and timely performance of transactions effected on the utility token exchange, and for the recording and publication of such transactions;
- (iv) to conduct market surveillance with regard to transactions conducted on the utility token exchange;
- (v) for the effective monitoring and enforcement of compliance with its rules, this Act and the regulations; and
- (vi) to investigate complaints in respect of transactions by any of its users.

(4) Upon the grant of a utility token exchange licence, the grantee thereof shall be deemed the holder of a utility token exchange licence and the utility token exchange to which such licence relates shall be deemed a licensed utility token exchange.

(5) The holder of a utility token exchange licence shall pay an annual licence fee in such amount and at such time as may be prescribed.

### **Suspension and revocation of utility token exchange licence**

5. (1) The Commission may suspend a utility token exchange licence granted under section 4 if the holder of such licence—

- (a) temporarily, for a period of time not exceeding forty-eight (48) hours, ceases to operate the relevant utility token exchange, other than to address maintenance or operational issues after notice is posted in advance in accordance with the regulations;
- (b) goes into receivership;
- (c) contravenes a provision of this Act;
- (d) is operating in a manner detrimental to the public interest;
- (e) fails to provide the Commission with information lawfully required;
- (f) fails to comply with a lawful direction of the Commission; or
- (g) fails to pay its annual licence fee.

(2) The Commission may revoke a utility token exchange licence granted under section 4 if the holder thereof—

- (a) ceases to operate the relevant utility token exchange for a period of time exceeding forty-eight (48) hours;
- (b) is being wound up or compounds or compromises with its creditors;
- (c) contravenes a provision of this Act;
- (d) is operating in a manner detrimental to the public interest;
- (e) fails to continue to comply with the conditions specified in section 4(2);
- (f) fails to pay its annual licence fee; or
- (g) requests the Commission to do so.

#### **Duties of holder of utility token exchange licence**

6. (1) A holder of a utility token exchange licence shall ensure, so far as is reasonably practicable, an orderly and fair market in the listed utility tokens that are traded through its facilities.

(2) In performing its duties under subsection (1), the holder of a utility token exchange licence shall—

- (a) act in the interests of the users of the utility token exchange; and
- (b) ensure that such interests of the users prevail where they conflict with any other interests the holder of the utility token exchange licence is required to serve under any other law.

(3) The holder of a utility token exchange licence shall ensure that users comply with its rules, this Act and regulations.

(4) The holder of a utility token exchange licence shall provide and maintain at all times to the satisfaction of the Commission—

- (a) adequate and properly equipped digital facilities and systems for the conduct and security of its operations;
- (b) competent personnel for the maintenance and security of the digital facilities and systems utilized in the conduct of its operations; and
- (c) automated or other systems with adequate capacity and facilities to meet emergencies and security arrangements.

### **Rules of utility token exchange**

7. (1) Subject to the approval of the Commission, the holder of a utility token exchange licence shall make rules for the proper and efficient supervision, operation, management and control of the licensed utility token exchange.

(2) Without limiting the general effect of subsection (1), the holder of a utility token exchange licence shall make rules—

(a) restricting the listings on the licensed utility token exchange to utility tokens as defined in accordance with this Act;

(b) in respect of applications for listing and the requirements for initial listing and continued listing;

(c) regarding any agreements to be entered into between the licensed utility token exchange and other persons for listing utility tokens and enforcing those agreements;

(d) regarding the cancellation and withdrawal of the listing of utility tokens and the suspension of dealings in them;

(e) regarding trading procedures and practices

(f) obliging a person to observe specified standards of conduct, including in relation to users trading through the facilities of the utility token exchange, or to perform, or refrain from performing, specified acts reasonably imposed for the listing or continued listing of utility tokens; and

(g) regarding the penalties and sanctions which the holder of the utility token exchange licence may impose for a breach of the rules of the licensed utility token exchange.

### **Amendment to rules of utility token exchange**

8. (1) The holder of a utility token exchange licence that wishes to make any amendment to the rules related to such licensed utility token exchange shall submit a draft of the proposed amendment to the Commission for approval.

(2) The Commission shall, by notice in writing to the holder of the utility token exchange licence, approve the amendment or disapprove the whole or any specified part of

the amendment in question and until notice of approval is given by the Commission the amendment shall not have force and effect.

### **Fixing of trading and position limits**

9. (1) The Governor in Council may, on the recommendation of the Commission, make regulations prescribing limits on the amount of trading which may be done, or positions which may be held, by a single user of a utility token exchange.

(2) Subsection (1) does not prohibit the Governor in Council, on the recommendation of the Commission, from fixing different trading or position limits for different types of transactions, or from exempting specified transactions.

(3) Without limiting the general effect of subsection (1), the Governor in Council may, on the recommendation of the Commission, make regulations to prohibit a person from

(a) directly or indirectly entering, during a prescribed period, into transactions of a specified class or in excess of the prescribed amount; or

(b) directly or indirectly holding or controlling positions of a specified class or in excess of a prescribed position limit.

### **Power of Commission to issue directive to utility token exchange**

10. Where the Commission is satisfied that it is necessary for the protection of users or for the proper regulation of a licensed utility token exchange, or in the public interest, the Commission may issue a directive to the holder of a utility token exchange licence with respect to any matter including —

(a) trading on or through its facilities generally or with respect to the trading of a particular utility token; or

(b) the manner in which the licensed utility token exchange carries on any aspect of its operations; and

the holder of the utility token exchange licence shall comply with such directive.

### **Power of Commission to require amendment to rules**

11. Where the Commission considers it necessary for the protection of users, it may by notice in writing require the holder of a utility token exchange licence to make or to amend or repeal any rule, including the dates those amendments shall have force and effect.

### **Utility token exchange to assist Commission**

12. The holder of a utility token exchange licence shall provide such assistance to the Commission as the Commission reasonably requires for the performance of its functions, including the furnishing of returns and providing information in respect of dealings in listed utility tokens or any other specified information as the Commission may require for the proper administration of this Act.

### **Closure of utility tokens exchange in emergency**

13. (1) The Commission may, after consulting the holder of a utility token exchange licence, direct it to close its licensed utility token exchange for a period not exceeding 5 trading days.

(2) The Commission may give the direction under subsection (1) if it is of the opinion that the orderly transaction of utility tokens on the licensed utility token exchange is being, or is likely to be, substantially disrupted because—

(a) of an impending emergency or natural disaster or where such emergency or disaster has occurred in Anguilla or elsewhere that affects the proper operation of the licensed utility token exchange; or

(b) there exists an economic or financial crisis, whether in Anguilla or elsewhere, or any other circumstance, which is likely to prevent orderly trading on the licensed utility token exchange.

(3) The Commission may, on consultation with the Governor in Council, extend the direction for further periods not exceeding 10 trading days.

### **Restriction on use of titles relating to exchanges or markets**

14. (1) No person other than the holder of a utility token exchange licence may take

or use the title or description “utility token exchange”, “utility token market” or anything which so closely resembles any of them as to be calculated to deceive.

(2) Subsection (1) shall not prevent a person from using any of the restricted terms in connection with an application, including application for the formation of a company, to the Commission for a licence.

(3) A person who contravenes subsection (1) commits an offence.

### PART 3

#### AUDITS OF UTILITY TOKEN EXCHANGE

##### **Auditor to be appointed**<sup>[L]</sup><sub>[SEP]</sub>

15. (1) Within one month after becoming licensed under this Act, the holder of a utility token exchange licence shall appoint an auditor who is acceptable to the Commission.

(2) No person shall be qualified for appointment as an auditor under subsection (1) unless he is an accountant.

(3) An auditor shall not be eligible for appointment under subsection (1) if he is—  
(a) a director, officer, employee or shareholder of the licensee; or<sup>[L]</sup><sub>[SEP]</sub>  
(b) a partner or employee of such person.<sup>[L]</sup><sub>[SEP]</sub>

(4) The holder of a utility token exchange licensee shall, within 7 days of the appointment of an auditor, notify the Commission in writing of the name and address of the auditor.

(5) The holder of a utility token exchange licensee shall, within 7 days of the removal or resignation of an auditor, notify the Commission in writing.

### **Audited accounts to be filed with Commission**

16. (1) A holder of a utility token exchange licensee shall submit to the Commission, within 90 days after the end of each financial year beginning the year in which it commences to carry on business, audited accounts prepared in accordance with international accounting standards, and which contain such additional information as may be prescribed.

(2) A holder of a utility token exchange licence who contravenes subsection (1) commits an offence.

### **Auditor reports to Commission**

17. If, during the performance of his duties as auditor for a holder of a utility token exchange licence, an auditor becomes aware of any matter which in his opinion adversely affects the financial position of the licensee to a material extent, he shall as soon as is practicable, and in any event within 7 days, report it in writing to the Commission and to the holder of the utility token exchange licence.

### **Power of Commission to appoint auditor<sup>[11]</sup><sub>[SEP]</sub>**

18. (1) Where the Commission is satisfied that -

(a) the holder of a utility token exchange licence has failed to file an auditor's report under section 16; or

(b) the Commission has received a report under section 17;

it may appoint in writing an auditor to examine, audit, and report, either generally or in relation to any matter, on the books, accounts and records of such licensee, and on utility tokens, currency or other digital assets held on account of any other person by such licensee or by a nominee appointed by the licensee.

(2) The appointment of an auditor under subsection (1) will be at the expense of the holder of the utility token exchange licence.

## PART 4

### DISCLOSURE REQUIREMENTS FOR LISTED UTILITY TOKENS

#### Informational requirements of listed utility tokens

19. (1) No licensed utility token exchange shall list a utility token unless the informational material required by this Part is made accessible to users on or through such exchange.

(2) A holder of a utility token exchange licence that is in contravention of subsection (1):

- (a) shall immediately delist the relevant utility token upon the direction of the Commission; and
- (b) unless the licensee reasonable believes that the informational material required by this Part is made accessible to users on or through such exchange, commits an offence and shall be liable upon summary conviction to a fine of \$ 10,000.00 with respect to each utility token listed in contravention of subsection (1).

(3) The Commission may exempt the listing of any utility token from the informational requirements of this Part if, among other things, the Commission determines that the applicable utility token has attained sufficient public distribution and usage.

#### Listing of utility tokens

20. (1) A licensed utility token exchange shall not list a utility token unless at the time of the listing:

(a) the Utility Token Platform linked to such utility token is open and accessible to holders of such utility token;

(b) the issuer of such utility token is registered under the Anguilla Utility Token Offering Act (No 4/2018) with respect to such utility token; or

(c) the Commission has issued written acceptance of the filing of a white paper with respect to such utility token containing the particulars required under the Anguilla Utility Token Offering Act (No 4/2018), providing always that if the issuer of such utility token is no longer operational, involved in or in control of, such utility token, any person

holding an interest in such utility token may make the filing with the Commission and the licensed utility token exchange.

(2) In the event of a listing pursuant to subsections 1(b) and (c), the licensed utility exchange shall, prior to such listing, establish a link to the specific website pages containing a copy of the relevant white paper, available and accessible to each user of such exchange.

(3) The Governor in Council, on the recommendation of the Commission, may issue regulations providing for further or other requirements for the initial listing and/or continuation of listing of utility tokens on a licensed utility token exchange.

(4) Any holder of a utility token exchange license who fails to comply with this section commits an offence and shall be liable upon summary conviction to a fine of \$10,000.00 with respect to each utility token listed in contravention of this section.

### **Token Information**

21. (1) With respect to any listed utility token, a licensed utility token exchange shall make information (“Token Information”) available or accessible to users of the exchange, regarding the supply and distribution of the listed utility token, to include the following:

(a) The maximum and total supply of the listed token;

(b) The distribution of the total supply of the listed tokens amongst individually distinguishable blockchain addresses or accounts;

(c) The volume of the listed tokens traded over a twenty-four (24) hour period, over a period of no less than three (3) months;

(d) The nominal market capitalization, as denoted in \$, of the listed token;  
and

(e) The price variation of the listed token, as measured against \$, over a twenty-four (24) hour period, over a period of no less than three (3) months.

(2) The Token Information contained in subsections 1(a) through (c) shall be sourced from the underlying blockchain for the listed token and the Token Information contained in subsections 1(d) and (e) shall be sourced from the aggregated information provided by no less than seven (7) publically available trading platforms approved by the Commission.

(3) No licensed utility exchange shall bear any responsibility or liability to any user with regard to the accuracy or completeness of the Token Information provided under this section.

(4) The Governor in Council, on the recommendation of the Commission, may issue regulations providing for any additional information to be included in the Token Information.

(5) Any holder of a utility token exchange license who fails to comply with this section commits an offence and shall be liable upon summary conviction to a fine of \$ 25,000.00.

## **PART 5**

### **SHORT SELLING, INSIDER DEALING AND MARKET ABUSES**

#### **Short selling**

22. (1) Except in accordance with regulations made by the Governor in Council on the recommendation of the Commission, a person shall not trade any listed utility token which that person does not own or control.

(2) For the purposes of subsection (1), a person who trades listed utility tokens includes a person who—

- (a) purports to trade a listed utility token;
- (b) offers to trade a listed utility token;
- (c) holds himself out as entitled to trade a listed utility token.

(3) For the purposes of subsection (1), a person is treated as owning or controlling a listed utility token only if that person or his agent legally owns or is legally entitled to control such listed utility token.

(4) A person who contravenes subsection (1) commits an offence and is liable on summary conviction—

(a) in the case of an individual, to a fine of \$25,000 or to imprisonment for up to 3 years or to both;

(b) in the case of a company, to a fine of \$50,000.

### **Insiders**

23. (1) For the purposes of this Part, an individual has information as an insider if—

(a) it is inside information, and that individual knows that it is inside information; and

(b) that individual has the information, and knows that he or she has the information, from an inside source.

(2) For the purposes of subsection (1), an individual has information from an inside source if—

(a) the individual has it through—

(i) being a director, employee or shareholder of an issuer of a listed utility token, or such other person as may be prescribed by the Commission, or

(ii) having access to the information by virtue of that individual's employment, office or profession related to an issuer of a listed utility token, or such other person as may be prescribed by the Commission; or

(b) the direct or indirect source of the individual's information is a person referred to in paragraph (a).

### **Inside information**

24. For the purposes of this Part—

(a) “inside information” means information which—

(i) relates to a particular listed utility token and not to utility

tokens generally,

- (ii) is specific or precise,
- (iii) has not been made public, and
- (iv) if it were made public would be likely to have a significant

effect on the trading or market price of any listed utility token; and

(b) listed utility tokens are “price-affected utility tokens”, in relation to inside information, if the information would, if made public, be likely to have a significant effect on the trading or market price of the listed utility tokens.

### **Information “made public”**

25. (1) For the purposes of Section 24, “made public”, in relation to information, shall be construed in accordance with the following provisions of this section.

(2) Information is made public if—

(a) it is published in accordance with the rules of a licensed utility token exchange for the purpose of informing users of the exchange;

(b) it is contained in records which by virtue of any enactment are open to inspection by the public and can be readily acquired by those likely to deal in any listed utility tokens to which the information relates, or

(c) it is derived from information which has been made public through being published by the issuer of the listed utility token or others on its behalf on the internet.

### **Offence of insider trading**

26. (1) With respect to a utility token listed on a licensed utility token exchange, a person who has information as an insider commits the offence of insider trading if that person—

(a) trades in listed utility tokens that are price-affected in relation to that information;

(b) encourages another person to trade in listed utility tokens that are (whether or not that other person knows it) price-affected utility tokens in relation to the information, knowing or having reasonable cause to believe that the trading would take place;

or

(c) discloses the information, otherwise than in the proper performance of the functions of that individual's employment, office or profession, to another person.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of \$50,000 or to imprisonment for up to 3 years or to both.

(3) In addition to the penalty stated in subsection (2), the court may make an order imposing on the convicted person a penalty, payable to the Commission, of an amount not exceeding 100% of the amount of any profit realized or loss avoided by such convicted person as a result of the insider trading.

(4) No contract shall be void or unenforceable by reason only of an offence under this section.

### **False trading**

27. (1) A person commits an offence if that person, in Anguilla or elsewhere, creates, or does anything that is calculated to create, a false or misleading appearance—

(a) of active trading in a listed utility token on a licensed utility token exchange; or

(b) in the price of a listed utility token traded on a licensed utility token exchange.

(2) Without limiting the general nature of what constitutes a false or misleading appearance of active trading under subsection (1), a false or misleading appearance of active trading in listed utility tokens is created for the purpose of this section if a person—

(a) carries out, either directly or indirectly, a trade of listed utility tokens that does not involve a change in the beneficial ownership or control of them, or offers to do so; or

(b) offers to buy listed utility tokens at a price that is substantially the same as the price at which that person has made or proposes to make, or knows that an associate of his has made or proposes to make, an offer to sell the same or substantially the same, number of them and at the same pair exchange.

### **Trade rigging**

28. A person commits an offence if that person maintains, increases, reduces, or causes fluctuations in, the trading value of a listed utility token by means of trades that do not involve a change in the beneficial ownership or control of those listed utility tokens or by fictitious transactions or devices.

### **Market manipulation**

29. A person commits an offence if that person enters into or carries out, whether in Anguilla or elsewhere, either directly or indirectly, a transaction in a listed utility token and on a licensed utility token exchange, that by itself or in conjunction with another transaction, and for the sole purpose thereof, —

(a) increases, or is likely to increase, the trading value of such listed utility token with the intention of inducing other persons to trade, or to refrain from trading, such listed utility token;

(b) reduces, or is likely to reduce, the trading value of such listed utility token with the intention of inducing other persons to trade, or to refrain from trading, such listed utility token; or

(c) stabilises, or is likely to stabilise, the trading value of such listed utility token with the intention of inducing other persons to trade, or refrain from trading, such listed utility token.

### **Use of deceptive statements as inducements**

30. A person commits an offence if that person knowingly induces a user of a licensed utility token exchange to trade in a listed utility token —

(a) by knowingly making or publishing any statement, promise or forecast that that person knows to be misleading, false or deceptive; or

(b) by any intentional dishonest concealment of material facts.

### **False or misleading statement inducing utility token trading**

31. A person commits an offence if that person, directly or indirectly, for the purpose of inducing the trade of a listed utility token by any user on a licensed utility token exchange, or to raise, lower or stabilise the trading value of a listed utility token, makes with respect to such

listed utility token—

(a) any statement which is, at the time and in light of the circumstances in which it is made, false or misleading with respect to any material fact and which that person knows to be false or misleading; or

(b) any statement which is, by reason of the omission of a material fact, rendered false or misleading and which that person knows is rendered false or misleading by reason of omission of that fact.

### **Penalties for offences under sections 27 to 31**

32. A person who commits an offence under Section 27, 28, 29, 30 or 31 is liable on summary conviction—

(a) in the case of an individual, to a fine of \$50,000 or to imprisonment for up to 3 years or to both; and

(b) in the case of a company, to a fine of \$100,000.

### **Liability to pay damages**

33. A person who is convicted of an offence under Section 27, 28, 29, 30 or 31 shall, in addition to criminal liability for the offence, be liable, and as the sole means of recourse at the suit of any person who has sustained pecuniary loss as a result of having traded a listed utility token at a price affected by the act or transaction which comprises or is the subject of the offence, to an action for damages in respect of the loss concerned.

## **PART 6**

### **SELF-REGULATORY ORGANISATIONS**

#### **Regulations for self-regulatory organizations**

34. The Governor in Council, on the recommendation of the Commission, may issue regulations for the establishment, imposition and conditions of a self-regulatory organization or organizations for the purposes of the promulgation of rules and other regulatory matters for the conduct and management of operations of any person licensed under this Act.

**PART 7**  
**CUSTODY OF USER ASSETS**

**Custody of User Assets**

35. (1) The Governor in Council may, on the recommendation of the Commission, make regulations with respect to the segregation and safekeeping of users' utility tokens, currencies or other digital assets held by a licensed utility token exchange on behalf of users.

(2) Without limiting the general effect of subsection (1), regulations may - <sup>[1]</sup><sub>SEP</sub>

(a) make provision with respect to the opening and keeping of user accounts, including provision as to the circumstances in which utility tokens, currencies or other digital assets other than users' may be paid into such accounts and the circumstances in which and the persons to whom such assets held in such accounts may be paid out; <sup>[1]</sup><sub>SEP</sub>

(b) require the keeping of accounts and records in respect of users' utility tokens, currency or other digital assets; and

(c) require the accounts and records to be examined by an auditor and require the auditor to report to the Commission whether in his opinion the provisions of the regulations have been complied with and on such other matters as may be specified in the regulations.

<sup>[1]</sup><sub>SEP</sub>

(3) A holder of a utility token exchange licence that, directly or through a nominee controlled by it, holds utility tokens, currency or other digital assets that are the property of a user, shall -

(a) hold and account for the utility tokens, currency or other digital assets in the manner prescribed in this Act or regulations; and

(b) not dispose of, assign or lend the utility tokens, currency or other digital assets or deposit them as security for loans or advances except as may be prescribed in this Act or regulations.

(4) Utility tokens, currency or other digital assets held by a holder of a utility token exchange licence on account of a user shall not be available for payment of the debts of such licensee or liable to be paid or taken in execution under the order or process of any court

against the such licensee.

- (5) A payment made in contravention of subsection (4) is void from the outset, and a person to whom the utility tokens, currencies or other digital assets is paid does not obtain any title to them.

## **PART 8**

### **TRANSFER OF LISTED UTILITY TOKENS**

#### **Transfer of listed utility tokens**

36. (1) Notwithstanding the provisions of any other law in Anguilla, and subject to the provisions of this Part, a written instrument is not necessary to evidence or transfer the title, possession, control, ownership or other rights of or to listed utility tokens.

(2) The Governor in Council may, on the recommendation of the Commission, make regulations—

(a) providing for procedures for recording and transferring title, possession, control, ownership or other rights of or to listed utility tokens;

(b) providing for the regulation of those procedures and the persons responsible for or involved in their operation;

(c) containing such safeguards as appear to the Governor in Council appropriate for the protection of persons trading listed utility tokens and for ensuring that competition is not restricted, distorted or prevented;

(d) providing for the transmission of title, possession, control, ownership or other rights of or to listed utility tokens by operation of law; and

(e) including such supplementary, incidental and transitional provisions as appear to the Governor in Council to be necessary or expedient.

(3) Regulations may make different provisions for different cases.

**PART 9**  
**MISCELLANEOUS**

**Information relating to transactions**

37. (1) In addition to any other power of the Commission to gather information from a holder of a utility token exchange licence, the Commission or a person authorised in writing by the Commission for the purpose of this section may require the holder of a utility token exchange licence to disclose to the Commission or the person authorised by the Commission the information referred to in subsection (2) in relation to the trading of listed utility tokens.

(2) The information that may be required under subsection (1) is—

(a) the name, address and telephone number of the person from, to or through whom listed utility tokens were traded on a licensed utility token exchange, or other particulars within the possession of the relevant holder of a utility token exchange licence that are capable of establishing the identity of the person; and

(b) the quantity of listed utility tokens traded by one or more persons on the licensed utility token exchange within a specified period.

(3) A holder of a utility token exchange licence commits an offence if that person

(a) without reasonable excuse fails to disclose to the Commission or the authorised person information required to be disclosed under this section and which is in his possession or under his control; or

(b) furnishes to the Commission or the authorised person in purported compliance with the requirement of disclosure under this section information which that person knows to be false or misleading in a material particular, where the Commission or an authorised person requires information under subsection (1).

**Offences and penalties**

38. A person who contravenes or fails to comply with any provision of this Act, where the provision expressly creates an offence but does not provide a penalty is liable on summary conviction—

(a) in the case of an individual, to a fine of \$ 10,000;

- (b) in the case of a company, to a fine of \$ 25,000.

### **Exemption from certain enactments**

39. (1) No holder of a utility token exchange licence, licensed utility token exchange, token listed or in the process of being listed on a licensed utility token exchange, or officer, director, manager or employee (in each case related solely to their activities for and on behalf, and in accordance with the license, of the licensed utility token exchange), shall be subject to the provisions of (whether or not it would be subject to same save for this provision) the following enactments (as amended, modified or replaced from time to time) —

- (a) the Trades, Businesses, Occupations and Professions Licensing Act;
- (b) the Stamp Act;
- (c) the Securities Act;
- (d) the Mutual Funds Act;
- (e) the Money Services Business Act;
- (f) the Payment System Act;
- (g) the Banking Act;
- (h) the Trust Companies and Offshore Banking Act; and
- (i) such other laws as may be prescribed by regulations.

(2) Notwithstanding any enactment or rule of law to the contrary, a user of a licensed utility exchange shall be in all respects exempt from any and all stamp duty or similar taxes, with respect to the purchase, sale or transfer of listed utility tokens.

### **Regulations**

40. (1) Without limitation to the specific provisions in this Act enabling the Governor in Council to make regulations, the Governor in Council may make regulations, on the recommendation of the Commission, for or with respect to —

- (a) applications for utility token exchange licences, the issue of such licences and incidental matters;
- (b) the display of utility token exchange licences and the issue of such duplicate licences;

- (c) the record keeping and due diligence requirements of any holder of a utility token exchange licence;
- (d) the safety and security of the utility tokens, currency and other digital assets utilized by users on or through the utility token exchange;
- (e) the making of annual or other regular returns to the Commission by the holder of a utility token exchange licence;
- (f) the conditions subject to which utility tokens may be listed and the circumstances in which dealings in listed utility tokens shall be suspended;
- (g) insider dealings and market manipulation;
- (h) the particulars to be recorded in relation to accounts to be kept for the purposes of this Act, and the particulars to be recorded in profit and loss accounts and balance sheets;
- (i) the information to be contained in any auditors' reports required to be filed under this Act;
- (j) the remuneration of any auditor appointed, and the costs of any audit carried out, under this Act;
- (k) the form and content of advertisements relating to the holder of a utility token exchange licence;
- (l) the authorisation and regulation of any self-regulatory organisations;
- (m) fees, charges or levies to be paid in respect of matters arising under or provided for or authorised by this Act;
- (n) such matters required under this Act to be prescribed;
- (o) the better carrying out of the purposes and provisions of this Act;
- (p) any supplementary, incidental and transitional provisions as appear to the Governor in Council as necessary or expedient.

(2) The regulations may provide that a contravention of any specified provision shall be an offence and may provide financial penalties of—

- (a) in the case of an individual, a maximum amount of \$10,000; and
- (b) in the case of a company, \$25,000;

and if the offence is a continuing offence, the individual or company is liable to a further fine of \$500 for every day that the offence continues after conviction.

(3) The regulations may be of general or special application and may make different provision for different cases or classes of case.

(4) Regulations, whether made under this or any other section, may provide for the exercise of discretion in particular cases.

### **Imposition of Levy**

41. (1) There shall be imposed a levy on each holder of a utility token exchange licence.

(2) The levy payable pursuant to subsection (1) shall be payable quarterly and at such rate or rates as may be prescribed by regulations from time to time, and based on the net profits of the relevant licensed utility token exchange, as measured in dollars.

(3) Within twenty-one (21) days of the completion of each calendar quarter, the holder of a utility token exchange licence shall transmit, convey or deliver to the Comptroller of Inland Revenue such levy, payable in dollars, or if permitted by the Comptroller of Inland Revenue, in the form of one or more of the medium of exchange utilized by the holder of the utility token exchange licence.

(4) Any holder of a utility token exchange licence that willfully evades or attempts to evade the levy payable in accordance with this Act is guilty of an offence and shall be liable upon summary conviction to a fine of 100% of the levy sought to be evaded.

(5) Where an offence committed by an issuer pursuant to subsection (4) is proved to have been committed with the authorization, consent, connivance, acquiescence or participation of any director or officer of the issuer, such individual shall be guilty of an offence and liable upon summary conviction to a fine of not less than \$10,000 and not more than \$100,000 with respect to each offence.

(6) A prosecution for an offence under subsection (4) or subsection (5) shall be commenced within eighteen (18) months from the date of the contravention but not

afterwards.

(7) The Governor in Council may, on the advice of the Comptroller of Inland Revenue, make regulations with respect to prescribing any matter required to be or which may be prescribed under this section.

**Citation**

42. This Act may be cited as the Anguilla Utility Tokens Exchange Act, Revised Statutes of Anguilla, Chapter \_\_.