



ANGUILLA FINANCIAL SERVICES COMMISSION

Procedure for Registering an Issuer under the Anguilla Utility Token Offering Act, 2018 **(“AUTO Act”)**

An application to register an issuer to undertake a utility token offering under the AUTO Act must be submitted to the Anguilla Financial Services Commission (the “Commission”) on behalf of the applicant issuer by an AUTO Administrator licensed by the Commission.

Applications may be submitted in hard copy or electronically.

The Commission will not register an issuer to undertake a utility token offering that is intended to enable access to any of the following online businesses: gambling, pornography, trading in securities, foreign exchange contracts, binary options, contracts for differences and similar instruments, or any business prohibited by the laws of Anguilla.

An application to register an issuer under the AUTO Act must include:

- Schedule 1 (application form) of the AUTO (Application Process) Regulations duly completed, with the following attachments:
 - white paper (contents set out in AUTO (White Paper) Regulations)
 - directors’ resolution approving the white paper
 - auditor’s letter of engagement
 - legal counsel’s letter of engagement
 - AUTO Administrator’s letter of engagement including a copy of the agreement between the AUTO Administrator and the issuer for the provision of services to the issuer including escrow services, administration of the register of subscribers and the collection, review and record-keeping of due diligence on subscribers as required by the AUTO (Anti-Money Laundering and Terrorist Financing) Regulations (the “AUTO AML/CFT Regulations”).
 - copy of incorporation documents [Note: The applicant is required to be incorporated in Anguilla but is not required to incorporate until the Commission has reviewed the application and advised that registration will be granted, following which the applicant must file its incorporation documents].

- normally to be filed upon completion of the Commission’s review of the application. [The Commission will advise when the company may be incorporated after having reviewed the application.]
 - notice of the issuer’s place of business and its address for service in Anguilla; the name and address of a person resident in Anguilla who is authorised to accept service on its behalf; and the address of any place of business that the issuer has outside Anguilla.
 - legal opinion acceptable to the Commission that the token offered is a utility token in accordance with the AUTO Act.
 - review of the technical components of the white paper by an expert acceptable to the Commission to confirm that the proposed use of proceeds is reasonable, including the expert’s opinion on whether the proposed technology is reasonable and if developed would enable the proposed utility.
 - statement of the financial, technical and human resources and administrative facilities available for the competent and efficient conduct of the intended project.
- Schedule 4 of the AUTO (Application Process) Regulations duly completed for each director and each shareholder holding a 10% or greater, direct or indirect, ownership interest in the AUTO issuer, including the ultimate beneficial owner if any director or shareholder is not an individual, with the following attachments:
 - notarized copy of passport
 - notarized copy of proof of address
 - copy of resume
 - company documents, if necessary (certificate of incorporation, articles of incorporation, register of directors and register of shareholders if a company)
 - Schedule 6 of the AUTO (Application Process) Regulations duly completed for each director of the issuer. [Note: only a natural person can be a director of an issuer.]
 - Procedures for the conduct of due diligence on the subscribers to the offering for AML/CFT purposes in accordance with the AUTO AML/CFT Regulations.

[Note: the due diligence to be conducted on subscribers is an obligation of the issuer which must be carried out by the AUTO Administrator or by a third party acceptable to the Commission. If the due diligence is carried out by a third party, the AUTO Administrator must confirm that the AML/CFT due diligence information collected includes the information required to be collected under section 2 of the AUTO AML/CFT Regulations and to maintain access to the due diligence information collected as required.]

- If the due diligence on subscribers is to be received, uploaded, collected or reviewed by a third party, documentation evidencing the third party’s expertise in and ability to conduct AML/CFT due diligence in compliance with the AUTO AML/CFT Regulations, as well as a copy of the contract with the third party.
- Statement setting out the nature and scope of the business to be carried on by the issuer (section 5(2)(b)(i) of the AUTO Act).
- Statement pertaining to the scope of the initial or secondary utility token offering (section 5(2)(b)(iii) of the AUTO Act).
- Agreement of the issuer not to publish, on a website or elsewhere, the white paper that includes the offer of utility tokens until the Commission has registered the issuer under the AUTO Act.
- The escrow agreement(s) among the AUTO Administrator and/or issuer and a custodian acceptable to the Commission that includes terms governing the receipt, maintenance and release of subscription funds; security provisions sufficient to ensure that the funds cannot be accessed by the custodian, the AUTO Administrator, the issuer or any third party from the time the funds are received by the custodian to the time they are transferred from the custodian to the issuer or refunded to subscribers; and provisions governing:
 - the process to be followed by the custodian upon receipt of subscription proceeds, such as, for example, (i) immediately converting subscription proceeds to a stable digital currency or to fiat, subject to volume restrictions and capacity or (ii) holding the proceeds in secure “cold storage”, to be transferred to the AUTO issuer within the cold storage facility upon threshold release requirements being met;
 - the authorization procedures for the release of funds to the issuer or as a refund to subscribers;
 - the release of subscription funds in tranches (if any) subject to meeting any conditions described in the white paper;
 - notification to subscribers that the minimum level has been reached before the initial and any subsequent release of funds to the issuer;
 - before any release of funds, the statement to be filed by the AUTO Administrator with the Commission signed by an authorized officer of the AUTO issuer confirming that: (1) the offering raised the threshold amount of funds described in the white paper required for the release (attaching written verification from the Auto Administrator); and (2) no material change has occurred since the publication of the white paper or the most recent amendment to it;

- before any release of funds, the filing by the AUTO Administrator of a statement with the Commission (1) verifying that the offering raised the threshold amount of funds as set out in the white paper required for the release and (2) confirming that the AML/CFT due diligence information collected includes the information required to be collected under section 2 of the AUTO AML/CFT Regulations;
- if threshold amounts are not met as described in the white paper, how the funds not yet released will be refunded to subscribers; and
- a release of funds process so that:
 - funds cannot be released without each of the AUTO Administrator and the custodian formally enabling the release as specified; and
 - funds can be released only to (a) the issuer upon specified conditions for the release having been met or (b) subscribers as a refund.

The escrow agreement must specify that custodial arrangements will not be changed without prior approval of the Commission.

- Documentation evidencing that the custodian has appropriate security policies and procedures in place to safeguard digital assets and enable secure and authorized transfer of assets, as well as record-keeping procedures, that meet current industry standards.
- Application fees payable as follows:
 - on application US\$10,000; and
 - on acceptance for registration
 - where maximum subscription proceeds are set at less than or equal to US\$100m – US\$20,000; or
 - where maximum subscription proceeds are set at more than US\$100m – US\$30,000.