

By Email

21 February 2023

To Senior Executive Officers of DFSA Authorised Firms, Authorised Market Institutions, Designated Non-Financial Business or Professions (DNFBPs), Managing Partners of Registered Auditors, and Principal Representatives of Representative Offices (“Regulated Entities”).

DIFC CRYPTO TOKEN REGIME - TRANSITIONAL PERIOD

The purpose of this letter is to remind Regulated Entities about certain critical dates concerning the DIFC Crypto Token regime which came into effect on 1 November 2022. In particular, the transitional period from **1 November 2022 to 30 April 2023** which applies to all Authorised Persons carrying on Crypto Business before 1 November 2022.

This six-month transitional period was put in place to provide Authorised Persons with sufficient time for regulatory compliance, and to obtain appropriate licence variation(s). In the event an Authorised Person fails to obtain an approval to vary their licence on or before **30 April 2023**, that Firm must cease all Crypto Business, or face potential enforcement action.

For those Authorised Persons intending to carry on Crypto Business, but who were not doing so prior to 1 November 2022, such Firms must obtain an approval to vary their licence before engaging in any Crypto Business.

The DFSA reminds persons operating with Non-Fungible (NFTs) and/or Utility Tokens (UTs) that there is no transitional rule when it comes to the registration as a DNFBP with the DFSA. Relevant issuers and service providers in NFTs and UTs must register as a DNFBP with the DFSA from 1 November 2022, or face potential enforcement action.

Transitional requirements

The transitional period does not relieve any Authorised Person from compliance with the following DFSA administered legislation:¹

- a. Article 41B of the Regulatory Law, Chapter 2 of Part 4 of the Regulatory Law, Part 6 of the Markets Law and, in the GEN Module:
 - i. GEN Rule 3A.2.2;
 - ii. Chapter 3 of GEN; and
 - iii. Section 4.2 of GEN; and
- b. the AML Module, as well as UAE Federal Anti-Money Laundering Legislation.²

Each Regulated Entity should ensure that they properly assess their current, and intended, activities in the context of the DIFC Crypto Token regime to avoid possible enforcement action. The DFSA is aware that certain Firms were undertaking Crypto activities and services before 1 November 2022. The DFSA is also aware that certain Firms have failed to familiarise

¹ Refer to GEN Section 10.5.

² As defined in Articles 70(1) and (2) of the Regulatory Law.

themselves with the DIFC Crypto Token regime,³ including the licensing implications concerning their Crypto activities and services.

Below are a few examples of Crypto Business activities that require DFSA authorisation:

- arranging for clients to buy or sell indirect exposure to Crypto Tokens (e.g., through funds or other financial products), including transactions executed by group entities or a third party;
- advising on the buying and selling of Crypto Tokens and/or indirect exposures to Crypto Tokens;
- discretionary portfolio management which provides clients with direct or indirect exposure to Crypto Tokens; and
- brokerage services offering clients the ability to trade exposures to Crypto Tokens via derivatives, such as Contracts for Differences.

Regulated Entities are reminded that if they are carrying on any business in the DIFC that involves Crypto Tokens, regardless of the scale, they must apply for the appropriate authorisation from the DFSA.

Relevant Persons intending to continue their Crypto activities or services in the DIFC who delay in obtaining relevant DFSA authorisation(s) before 30 April 2023 may contravene DFSA Rules and be forced to unwind existing transaction positions.

Application process

When applying for a licence variation, Firms must first submit a pre-application. This pre-application is intended to assist the DFSA in assessing the Firm's fitness and operational readiness to undertake the existing or proposed Crypto Business. The DFSA's pre-application assessment will include:

- the proposed business model;
- the Firm's understanding of applicable DFSA legislation;
- fitness and propriety of human resources;
- adequacy of financial and human resources; and
- nature and scope of due diligence and other activities undertaken to enable the Firm to effectively, and responsibly, undertake Crypto Business in or from the DIFC. For example, preparing and implementing appropriate AML/CFT policies and procedures.

The pre-application form must be submitted using the [General Inquiries contact form](#).

All information provided to the DFSA must be current, complete and accurate, and specific to our request(s). The DFSA will not accept outdated documents, nor documents submitted to other regulators, unless the Firm can demonstrate that it has properly reviewed and verified

³ See Consultation Paper [CP143: Feedback Statement; and Amendments to Legislation 2022](#)



those documents as being relevant to the DFSA's request. Failure to disclose relevant information will also likely impact the DFSA's assessment of a Firm's integrity, fitness and propriety, and may also have formal consequences.

When assessing a licence or variation of licence application, the DFSA will not take forward the application where the Firm and its senior management have failed to demonstrate a proper understanding of the relevant financial products or services and applicable legislation in the DIFC, and that the Firm has adequate financial, technical, human and system resources. In such circumstances, the applicant Firm will be required to reconsider these areas before submitting another pre-application.

If you have any questions in relation to this letter, please contact us using the DFSA Supervised Firm Contact Form found on the [DFSA ePortal](#).

Yours faithfully,

Peter Smith
Managing Director
Strategy, Policy and Risk