Memorandum of Advice

Regulation of the D1 Mint Pursuant to Cayman Law

Ogier
Diamundi Pte. Ltd.
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CONTENTS

1 Introduction and summary

You have asked us to provide our preliminary advice as to whether the D1 Mint (defined below), if established in the Cayman Islands, would be subject to licensing or regulation under Cayman Islands laws.

In providing our advice, we will address the applicable Cayman Islands legal and regulatory considerations regarding an "initial coin offering" or "token generation event" (**TGE(s)**) pursuant to which potential purchasers will be afforded an opportunity to purchase diamond-backed cryptographic digital tokens (**D1 Coins**) generated by and recorded on a blockchain network supported by a smart contract software application executed by a Cayman Islands exempted company (**D1 Mint**) (collectively, the **Proposed TGE**). We will also address: (i) points to consider when determining whether the D1 Coins may be considered a "security" for the purposes of the Securities Investment Business Law (defined below); (ii) whether an analysis of the D1 Coins as a "collective investment" is necessary; and (ii) the legal status of cryptographic digital tokens such as the D1 Coins.

The Proposed TGE will have the features set out in the D1 White Paper dated 29 September 2017 previously circulated to us (the **White Paper**). Capitalised terms not defined herein have the meanings ascribed to them in the White Paper.

Summary

In respect of whether the D1 Mint is regulated under the laws of the Cayman Islands, we are of the view that:

(a) **for the purposes of the Securities Investment Business Law (defined below)**, the D1 Mint would not be considered to be carrying on a Securities Investment Business (defined below) and therefore would not be required to be licensed or registered in the Cayman Islands under such law;0

(b) **for the purposes of the Money Services Law (defined below)**, the D1 Mint is not in the business of providing a Money Services Business (defined below) and therefore would not be required to be licensed in the Cayman Islands under such law;

(c) **for the purposes of the Mutual Funds Law (defined below)**, the D1 Mint would not be considered to be a "mutual fund" and therefore would not be required to be licensed or registered in the Cayman Islands under such law;

(d) **for the purposes of Cayman anti-money laundering requirements**, the D1 Mint would be required to comply with the provisions of the Proceeds of Crime Law (defined below) and may be required to comply (and if not required, should comply) with the Anti-Money Laundering Regulations (defined below), which requires, among other things, the D1 Mint to adopt written policies and procedures, designate a person at managerial level to act as the Anti-Money Laundering Compliance Officer and

perform customer due diligence measures when establishing a Business Relationship or One Off-Transaction (defined below); and

(e) **for the purposes of FATCA and CRS (defined below)**, if the D1 Coins are considered "Securities" (as defined below), the D1 Mint is likely an Investment Entity and would therefore have registration, operational and potential reporting obligations under FATCA and CRS.

Although this memorandum includes an initial overview of applicable Cayman regulatory considerations, technical guidance on how the D1 Mint should comply with these requirements will require further instructions.

2 Limitations and assumptions

Limitations

Initial coin offerings and token generation events are novel transactions both in the Cayman Islands and globally. Accordingly, analysis of the applicable legal, regulatory and tax treatment of such transactions and the structures that conduct them continues to evolve in numerous jurisdictions. The laws and regulations applicable to the financial industry, and the regulatory and judicial interpretation of those laws and regulations, wholly or largely pre-dates the development cryptocurrencies and the offering of digital tokens on public blockchain networks. Specifically, in the Cayman Islands, there have been no amendments to the existing laws and regulations to cater for these developments, nor have there been any regulatory decisions or judicial interpretation of the applicable laws and regulations that may inform the preliminary advice contained herein.

Our advice therefore represents our view as to the likely treatment of the establishment of the D1 Mint and offering of D1 Coins under existing laws and regulations in force in the Cayman Islands as at the date of this memorandum. Given the novelty of TGEs and the lack of any developed "best practice", it is not possible for us to provide definitive advice as to the legal and regulatory treatment of the D1 Mint and/or D1 Coins. There is a material risk that a regulatory authority or court in the Cayman Islands may differ in its interpretation of the applicable laws and regulations, or may promulgate laws, regulations or guidance that have an adverse effect on stakeholders in the Proposed TGE, including the promoters, the D1 Mint, the D1 Agent, the D1 Foundation, the underlying business or D1 Coin owners.

The advice provided in this memorandum does not address:

(a) any laws other than the laws of the Cayman Islands, and we have not, for the purposes of this memorandum, made any investigation of the laws of any other jurisdiction, nor do we express any view as to the meaning, validity, or effect of statutes, rules, regulations, codes or judicial authority of any jurisdiction other than the Cayman Islands; Unless expressly stated otherwise, references to laws in this memorandum are to laws of the Cayman Islands;

(b) whether or not the commercial terms, or the validity, enforceability or effect, of the Proposed TGE; or

(c) whether or not the commercial terms of the TGE Documents (as defined in the paragraph below) reflect the intentions of the parties.

In preparing this memorandum, we have relied only upon the description of the Proposed TGE provided in the White Paper. We have not reviewed any documentation in connection with the Proposed TGE, including any simple agreements for future D1 Coins, offering memorandums, subscriptions agreements, general terms and conditions applicable to the subscription of D1 Coins or any other similar documentation in relation to the D1 Mint or its proposed TGE (together, **TGE Documents**). We have also assumed that conducting the Proposed TGE will not violate any third party intellectual property rights, including the terms of any open source code. Our analysis of the applicability of the relevant legislation may be revised following any changes to the assumptions regarding the Proposed TGE.

3 Regulatory laws

Currently, there are eight "regulatory laws" that are defined as such in the Monetary Authority Law (Revised). In our view, the "regulatory laws" that are relevant to the Proposed TGE are the Securities Investment Business Law (Revised) (**Securities Investment Business Law** or **SIBL**), the Money Services Law (Revised) (**Money Services Law**), the Mutual Funds Law (Revised) (**Mutual Funds Law**), the Proceeds of Crime Law (Revised) (**Proceeds of Crime Law**) and the Anti-Money Laundering Regulations (Revised) (**Anti-Money Laundering Regulations**) issued under the Proceeds of Crime Law. Our consideration of each appears below.

3.1 Securities Investment Business Law

The initial point of analysis for the Proposed TGE is the SIBL. The SIBL prohibits a person from carrying on, or purporting to carry on, a "securities investment business" (**Securities Investment Business**) unless that person holds a licence granted under the SIBL or is eligible for an exemption. Under the SIBL, the definition of Securities Investment Business is dependent on the definition of "securities" under this law (**Securities**), which is defined by referencing instruments and other rights that are traditionally understood as being a security.

Definition of Securities

The carrying on of a Securities Investment Business requires a person to be engaged in the course of business in any one or more of the activities listed in this memorandum. Broadly, such activities involve dealing in, arranging deals in, managing or advising on "securities" as defined in the SIBL. The complete statutory definition of Securities is set out in Schedule 2 of this memorandum and includes:

(a) instruments acknowledging or creating indebtedness;

(b) warrants[1] and other instruments entitling the holder to subscribe for shares and stock, partnership interests and debt instruments;

(c) certificates or other instruments which confer contractual or proprietary rights in respect of:

(i) shares and stock of any kind in the share capital of a company;

(ii) partnership interests, debt instruments and warrants; or

(iii) options to acquire or dispose of a security or any currency; and

(d) *rights under a contract for the disposal of a commodity or property of any other description under which delivery is to be made at a future date and at a price agreed upon when the contract is made other than a contract made for commercial and not investment purposes.*

We note that unlike securities legislation in other jurisdictions, the definition of Securities under SIBL does not explicitly encompass the broad concept of an "investment contract", and therefore an analysis of whether the D1 Coins are an "investment contract" is not necessary.

Does the definition of "Securities" encompass the D1 Coins?

The D1 Coins may be considered Securities for the purposes of the SIBL pursuant to the definition of a "futures contract" under the SIBL, which is broadly defined as "rights under a contract for the disposal of a commodity or property of any other description under which delivery is to be made at a future date and at a price agreed upon when the contract is made other than a contract made for commercial and not investment purposes." However, certain features of the D1 Coins and the rights of the D1 Coin owners do not align with this definition and therefore an argument can be made that the D1 Coins may not be considered Securities for the purposes of the SIBL. As such, we cannot provide definitive advice with respect to whether the D1 Coins would fall within the definition of "Securities" under the SIBL. However, we have outlined several interpretations below.

Please also note that if the D1 Coins are considered Securities, pursuant to section 175 of the Companies Law (Revised) (the **Companies Law**), the D1 Mint is prohibited from making any invitation to the public in the Cayman Islands to subscribe for the D1 Coins.[2]

We have examined each relevant aspect of the most pertinent definition relating to the D1 Coins which would be under sub-paragraph (d) of the definition of "Securities" under the SIBL which provides:

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[1] The definition of a "warrant" is not described in particular detail under the Securities Investment Business Law; however, the language that immediately follows the word is instructive in that a warrant must be an instrument "entitling the holder to subscribe for shares and stock, partnership interests and debt instruments."

[2] Section 175 of the Companies Law provides that an exempted company that is not listed on the Cayman Islands Stock Exchange is prohibited from making any invitation to the public in the Islands to subscribe for any of its securities.

"rights under a contract for the disposal of a commodity or property of any other description under which delivery is to be made at a future date and at a price agreed upon when the contract is made other than a contract made for commercial and not investment purposes."

Rights under a contract for the disposal of a commodity or property of any other description…

Cayman Islands laws and commentary are silent on whether cryptographic digital tokens such as the D1 Coins or diamonds may be considered a "commodity". However, regardless of whether D1 Coins would be considered a "commodity" under the definition of "futures contract", the D1 Coins would likely be caught by "property of any other description". It may be argued that by subscribing for D1 Coins (and executing the relevant documentation and providing the subscription monies), investors have the contractual right to diamonds to be disposed of by the D1 Foundation through the D1 Agent. The "rights" included in the above definition are exercisable rights and do not strictly require the holder of the rights (i.e. the D1 Coin owners) to exercise their option for the disposal of the diamonds, and therefore captures the fact that the D1 Coins are not required to be redeemed for diamonds, although they have a redeemable feature.

Alternatively, it may also be argued that by subscribing for D1 Coins, investors have not received the direct right to the disposal of the diamonds, but rather rights only relating to the D1 Coins. The disposal of the diamonds actually requires the D1 Coins to be redeemed by the D1 Coin owner, at which point the rights to the diamonds crystallise, which is problematic for this definition.

…under which delivery is to be made at a future date…

After obtaining ownership of a specific diamond, the redeeming D1 Coin owner must either collect the diamond or arrange for delivery. It can therefore be argued that upon subscription, subscribers agree that if the redemption rights are exercised, D1 Coins will be converted to diamonds that will be delivered at a future date.

Alternatively, it may be argued that the exact date of delivery has not been specifically identified and agreed to by the parties and therefore the D1 Coins are not a security on this basis.

…and at a price agreed upon when the contract is made…

D1 Coin owners may redeem their D1 Coins for diamonds by redeeming a quantity of D1 Coins that corresponds to the value of the diamonds as priced by the D1 Matrix. The D1 Matrix analyses the characteristics of the diamond and its price, taking into account real market conditions and the liquidity and desirability of a diamond. As such, by agreeing that the conversion ratio shall be determined by the D1 Matrix according to pre-determined criteria, it may be argued that investors have agreed to a methodology to determine the price for the diamonds upon subscription for the D1 Coins, albeit that a specific price has not been specifically identified. We think this argument clearly has some problems if you follow the strict interpretation of this language.

Alternatively, it can clearly be argued that although the methodology has been determined at the date of subscription, the exact conversion ratio / price of the diamonds has not been identified, and

therefore the D1 Coins would not fall within this definition, and on that basis, not be considered a security under the SIBL.

…other than a contract made for commercial and not investment purposes.

The SIBL lists a number of characteristics of both commercial and investment contracts, which are set out in Schedule 2 of this memorandum. While the offering of the D1 Coins does meet certain characteristics of both an investment contract and a commercial contract, it fails to meet other described characteristics of both forms of contracts, and therefore this is the least compliant aspect of the definition with respect to the D1 Coins.

Securities Investment Business

Securities Investment Business is defined by reference to a number of activities involving Securities. The complete statutory definition of a Securities Investment Business is set out in Schedule 2 of this memorandum and includes the following businesses:

(e) buying, selling, subscribing for or underwriting securities as:

(i) an agent;

(ii) as principal where the person entering into that transaction holds himself out as willing, as principal, to buy, sell or subscribe for securities…at prices determined by him generally and continuously rather than in respect of each particular transaction…or…regularly solicits members of the public with the purpose of inducing them, as principals or agents, to buy, sell, subscribe for or underwrite securities and such transaction is entered into as a result of such person having solicited members of the public in that manner;

(f) making arrangements with a view of another person (whether as principal or agent) buying, selling, subscribing for or underwriting securities; and

(g) advising a person on securities if the advice is given to the person in his capacity as an investor or potential investor…[and the advice relates to] the buying, selling, subscribing for or underwriting a particular security or exercising any right conferred by a security to buy, sell, subscribe for, underwrite a security.

Cayman Islands courts are willing to interpret activities considered a Securities Investment Business broadly, and will look at substance over form. For example, in a Cayman Island's judicial decision involving wine futures, Justice Henderson writing for the Grand Court stated that,

> [SIBL] is essentially consumer protection legislation, designed to protect the investing public. It requires persons engaged in the business of selling securities to register under the Law and to abide by the regulatory regime established under it. The intent of the legislation is remedial. For these reasons, the legislation should be construed broadly. When determining

whether a certain business activity is caught by the Law, the emphasis must be on substance not form.[3]

Is the D1 Mint carrying on a "Securities Investment Business"?

There are certain activities involving Securities that are deemed not to be activities in furtherance of Securities Investment Business by virtue of section 4(2) of SIBL. These excluded activities, which are set out in Schedule 3 of this memorandum, includes the arrangement by a company relating to a transaction to which that person will himself be a party (as principal or agent).

As the D1 Mint will be party to the issuance of the D1 Coins to subscribers through the D1 Agent, the D1 Mint would be considered party to the transaction as principal.

In summary, we are of the view that:

(a) the D1 Coins have several questionable aspects that may prevent them from fulfilling the definition of a "futures contract" as part of the definition of Securities under the SIBL, however we are unable to make a final determination as to the categorisation of the D1 Coins under the SIBL; and

(b) even if the D1 Coins were deemed to be Securities for the purposes of the SIBL, the D1 Mint would not be considered to be carrying on a Securities Investment Business by virtue of section 4(2) of SIBL.

3.2 Money Services Law

The Cayman Islands has, pursuant to the Money Services Law, implemented a regulatory and licensing regime that applies to all Money Services Businesses (as defined in Schedule 4 attached hereto). In summary, a Money Services Business includes a business providing, as a principal business, money transmission services, currency exchange services and services relating to the issuance, sale or redemption of money orders, among other things.

Under the Money Services Law, all persons wishing to carrying on a Money Services Business must abide by certain requirements, including the requirement to (i) be licensed under the Money Services Law; (ii) meet certain minimum net worth requirements established in law; (iii) have a minimum of two directors; (iv) obtain the written approval of the Cayman Islands Monetary Authority (**CIMA**) prior to the approval of all directors and officers; (v) submit quarterly returns to CIMA and (vi) provide CIMA with annual audited financial statements.

We are of the view that the D1 Mint would not be carrying on a Money Services Business on the basis that the D1 Mint's principal business would not fall within one of the specified categories contained in the definition of a Money Services Business. In particular, we consider that the Money Services Law is concerned with money in the traditional sense, not cryptocurrencies and the like.

[3] *Re Paradigm Holdings Limited*, 2004–05 CILR 542, para 29.

3.3 Mutual Funds Law

Under the Mutual Funds Law, there are regulatory and/or license requirements for mutual fund businesses. A "mutual fund" is generally defined to include an entity that issues "equity interests", the purpose or effect of which is the pooling of investor funds with the aim of spreading investment risks and enabling investors in the mutual fund to receive profits or gains from the acquisition, holding, management or disposal of investments.

In order for an entity to be considered a mutual fund, its "equity interests" must be a share, trust unit or partnership interest that: (i) carry an entitlement to participate in the profits or gains of the company and (ii) be redeemable or repurchasable at the option of the investor.

We are of the view that the D1 Mint is not a mutual fund on the basis that the D1 Coins are not a share, trust unit or partnership interest, and do not provide D1 Coin owners with the right to participate in the profits or gains of the D1 Mint.

3.4 Proceeds of Crime Law and the Anti-Money Laundering Regulations

Broadly, money laundering is characterised by an attempt to conceal the illegal source of funds to give those funds the appearance of a legitimate source. Money laundering is generally motivated by illegal or criminal activity. Once laundered, funds derived from illegal means can more easily be used for other purposes. Offences under the Proceeds of Crime Law

The PCL is one of the key legislative enactments in the Cayman Islands to regulate anti-money laundering (**AML**). The PCL is modelled on the UK Proceeds of Crime Act, 2002 and applies to all businesses as well as individuals.

Under the PCL, a person commits a criminal offence if such person:

(a) conceals, disguises, converts or transfers criminal property or removes criminal property from the Cayman Islands;[4]

(b) enters into or becomes concerned in an arrangement which he knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person;[5]

(c) acquires, uses or has possession of criminal property;[6]

(d) fails to disclose to an Anti-Money Laundering Reporting Officer or the Financial Reporting Authority (**FRA**) suspicion or knowledge of another person engaging in a prohibited act. Disclosure of suspicion to the FRA is a defence; however, failure to disclose may be subject to a "negligence test" whereby the Court may rule that a

[4] Section 133, Proceeds of Crime Law. Section 144 defines "criminal property" as property that constitutes a person's criminal benefit from criminal conduct and the alleged offender knows or suspects that it constitutes such a benefit.
[5] Section 134, Proceeds of Crime Law.
[6] Section 135, Proceeds of Crime Law.

person had reasonable grounds for knowing or suspecting criminal conduct even if they did not actually know or suspect such conduct;[7] or

(e) makes a disclosure (other than to the FRA) which is likely to prejudice an investigation being or about to be conducted by the FRA (also known as "tipping off").[8]

Once established, the D1 Mint will be subject to the PCL and will need to remain in compliance with the provisions of that law.

Relevant Financial Businesses

As a supplement to the PCL, the Anti-Money Laundering Regulations require those engaged in a Relevant Financial Business (as defined in the PCL and set out in Schedule 5 attached hereto) to perform certain administrative actions designed to prevent money laundering and terrorist financing including, maintaining policies and procedures (having regard to the risks and size of the business), designating a person at the managerial level to serve as AML compliance officer, assessing its money laundering and terrorist financing risks (in relation to its customers, products, services, and delivery channels), taking appropriate measures to manage and mitigate its risks, performing due diligence and identification verifications on its customers at certain stages of the client-customer relationship and filing suspicious activity reports in instances where there is suspicion of money laundering or terrorist financing.

The definition of a Relevant Financial Business is set out in Schedule 5 of this memorandum, and includes businesses that accept deposits and other "repayable funds" from the public, perform "money transmission services", issue and administer a "means of payment (e.g. credit cards, travellers cheques and bankers drafts)", participate in securities issues, provides services related to securities issues, provide "money broking", provide safekeeping and administration of securities, conduct a Securities Investment Business and businesses that otherwise invest, administer or manage funds or money on behalf of other persons[9].

Requirements applicable to Relevant Financial Businesses

As referenced above, the Anti-Money Laundering Regulations require that Relevant Financial Businesses have in place AML policies, procedures and practices to facilitate that business' ability to comply with the AML regime of the Cayman Islands. Specifically, the Anti-Money Laundering Regulations provide that Relevant Financial Businesses should not form any Business Relationship or carry out One-Off Transactions (each as defined in the Anti-Money Laundering Regulations and set out in Schedule 6 attached hereto) with or for another person (i.e., an applicant for business) unless they, *inter alia*:

[7] Sections 136-137, Proceeds of Crime Law.
[8] Section 139, Proceeds of Crime Law.
[9] Businesses that otherwise invest, administer or manage funds or money on behalf of other persons have until 31 May 2018 to comply with the Regulations.

(a) maintain as appropriate, having regard to the money laundering and terrorist financing risks and size of that business, a number of procedures in relation to that business, including –

(i) identification and verification procedures (as set out in the Anti-Money Laundering Regulations);

(ii) the adoption of a risk based approach to monitor financial activities, which would include categories of activities that are considered to be of high risk, and adoption of risk-management procedures;

(iii) procedures to screen and employees to ensure high standards when hiring;

(iv) record-keeping procedures (in accordance with the Anti-Money Laundering Regulations);

(v) adequate systems to identify risks in relation to persons, countries and activities, including checks against all applicable sanctions lists;

(vi) adoption of risk-management procedures concerning the conditions under which a customer may utilize the business relationship prior to verification;

(vii) observance of the list of countries, published by any competent authority, which are non-compliant, or do not sufficiently comply with the recommendations of the Financial Action Task Force;

(viii) internal reporting procedures (in accordance with the Anti-Money Laundering Regulations); and

(ix) such other procedures of internal control, including an appropriate effective risk-based independent audit function and communication as may be appropriate for the ongoing monitoring of business relationships or one-off transactions for the purposes of forestalling and preventing money laundering and terrorist financing.[10]

The Anti-Money Laundering Regulations also provide that Relevant Financial Businesses should:

(a) comply with the identification and record-keeping requirements of the Anti-Money Laundering Regulations[11], which includes

(i) performing initial customer due diligence measures when establishing a Business Relationship and certain One Off-Transaction in accordance with Part IV of the Anti-Money Laundering Regulations;[12] and

[10] Regulation 5, Anti-Money Laundering Regulations (2017).
[11] Regulations 11-12, Anti-Money Laundering Regulations (2017).

(ii) conducting ongoing due diligence on a Business Relationship including scrutinising transactions undertaken throughout the course of the relationship to ensure that transactions being conducted are consistent with the person's knowledge of the customer, the customer's business and risk profile, including where necessary, the customer's source of funds;

(b) designate a person at managerial level to act as the Anti-Money Laundering Compliance Officer (as defined therein), who shall ensure that the measures set out in the Anti-Money Laundering Regulations are adopted by the applicable Relevant Financial Business and function as the point of contact with regulators;[13]

(c) designate a person at managerial level to act as the Money Laundering Reporting Officer (as defined therein), who will be responsible for (i) disclosing any instance of suspicious activity to the Financial Reporting Authority and (ii) maintaining a register of suspicious activity reports;

(d) designating a manager or official employed at a managerial level as an alternative for the Money Laundering Reporting Officer who shall in the absence of the Money Laundering Reporting Officer, discharge the functions of the Money Laundering Reporting Officer;

(e) provide appropriate AML training to employees, if any, in accordance with the Anti-Money Laundering Regulations;

(f) not keep "anonymous accounts or accounts in fictitious names";[14]

(g) take steps appropriate to the nature and size of the business to identify, assess, and understand its money laundering and terrorist financing risks in relation to a customer of that Relevant Financial Business, a country or geographic area in which the customer resides and the products, services and delivery channels of the Relevant Financial Business;[15] and

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[12] Regulation 11 requires customer due diligence in certain circumstances (including the establishment of a Business Relationship or carrying out a One Off-Transaction valued in excess of fifteen thousand dollars). Relevant Financial Businesses providing services associated with cryptocurrencies and/or digital tokens generated and recorded on a blockchain network are required to determine who their clients or "applicants for business" are and collect and maintain client identification documentation on such persons. For a relevant financial business providing services related to cryptocurrencies and digital tokens, determining who may be classified as a client of that business may not be straightforward. A relevant financial business that is conducting an initial coin offering or token generation event should generally treat initial token purchasers (i.e., purchasers receiving tokens upon an initial coin offering) as that business' client. Determining whether a subsequent token holder is a client of a relevant financial business will be fact specific and will depend on the nature of the relationship between the relevant financial business and such token holders. For example, where a token holder receives a distribution as a result of holding that token, such token holder will likely be a client of the relevant financial business at the time of such distribution. Where a relevant financial business conducts an initial coin offering and operates in a manner similar to a mutual fund, the clients of that relevant financial business will likely be all investors of that issuer.

[13] Regulations 3-4, Anti-Money Laundering Regulations (2017).

[14] Regulation 10, Anti-Money Laundering Regulations (2017).

[15] Regulation 8, Anti-Money Laundering Regulations (2017).

(h) undertake a risk assessment when launching new products or developing technologies.[16]

Relevant Financial Businesses have AML obligations in addition to the ones mentioned above. For example, financial groups or other persons carrying out Relevant Financial Business through a similar group arrangement must implement group wide programmes.[17]

Customer due diligence requirements under Part IV of the Anti-Money Laundering Regulations require a Relevant Financial Business to identify a customer and verify that customer's identity using reliable, independent, source documents, data or information. For the purposes of the Anti-Money Laundering Regulations, evidence of the identity of an applicant for business is satisfactory if the evidence is reasonably capable of establishing that the applicant for business is the person the applicant claims to be and the person who obtains the evidence is satisfied, in accordance applicable AML procedures, that it does establish that fact.

If the D1 Coins are considered "Securities", we are of the view that the D1 Mint is conducting a Relevant Financial Business for the purposes of the Anti-Money Laundering Regulations and, therefore, is subject to, and must remain in compliance with, the requirements set out in the Anti-Money Laundering Regulations. However, regardless of whether the D1 Coins are considered "Securities" and therefore whether the D1 Mint is conducting a Relevant Financial Business for the purposes of the Anti-Money Laundering Regulations, we are of the view that it is advisable to comply with the requirements set out in the Anti-Money Laundering Regulations. For the purposes of Section 3.5 of this memorandum we will assume that the D1 Mint is considered a Relevant Financial Business.

3.5 CIMA Guidance Notes

CIMA and the financial industry associations have issued "Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands" (**Guidance Notes**) which provide guidelines that should be adopted by those involved in the provision of financial services in developing responsible AML procedures. The Guidance Notes present the background on the issues of money laundering by referring to areas of concern and the need for vigilance in identifying and assessing potential cases of money laundering. The Guidance Notes also provide information regarding the legislative and regulatory framework in place in the Cayman Islands to combat money laundering, with a particular focus on issues such as client identification, record-keeping procedures and employee-training requirements.

All businesses that are deemed to be a Relevant Financial Business are expected to observe the Anti-Money Laundering Regulations and the Guidance Notes. Accordingly, as a Relevant Financial Business, the D1 Mint will need to be aware of and understand the requirements of the Guidance Notes and the Anti-Money Laundering Regulations to ensure it remains compliant with the AML regime of the Cayman Islands.

[16] Regulation 9, Anti-Money Laundering Regulations (2017).
[17] Regulations 6-7, Anti-Money Laundering Regulations (2017).

The purpose of this memorandum is to assist in the determination of whether the D1 Mint is subject to (among other legislation and regulations) the AML regime of the Cayman Islands. Although we have provided an initial overview of the Cayman's AML regime in this analysis, providing a technical guidance on how the D1 Mint would comply with this regime, in the form of a written manual, would require additional work and is outside the scope of this memorandum.

4 Beneficial ownership regime

The Cayman Islands beneficial ownership regime came into force on 1 July 2017. The regime requires certain in-scope Cayman companies to establish and maintain a beneficial ownership register (the **Beneficial Ownership Register**) which is a secure, offline, non-public database containing information about the beneficial owners of the company.

Beneficial owners are individuals who, in respect of an in-scope company:

(a) hold, directly or indirectly, more than 25% of the company's shares;

(b) hold, directly or indirectly, more than 25% of the voting rights of the company;

(c) hold, directly or indirectly, the right to appoint or remove a majority of the company's board of directors;

(d) have the absolute and unconditional legal right to exercise, or actually exercise, significant influence or control over the company; or

(e) have the absolute and unconditional legal right to exercise, or actually exercise, significant influence or control over a trust, partnership or other entity which owns the company.

Based on the information we have been provided, we are of the view that the D1 Mint would be within the scope of Cayman's beneficial ownership regime. However, we are also of the view that D1 Coin owners are not beneficial owners of the D1 Mint by virtue of their ownership of the D1 Coins and therefore the D1 Mint would not be required to report information about D1 Coin owners on the Beneficial Ownership Register.

5 FATCA and CRS

The Cayman Islands administers international frameworks designed to promote the automatic exchange of information for tax purposes with relevant jurisdictions. The Cayman Islands “competent authority” is the Cayman Islands Tax Information Authority (**TIA**). The delegated functions of the TIA are carried out by the director and staff of the Department for International Tax Cooperation (**DITC**) which is the government department responsible for the operation of all mechanisms for the automatic exchange of information for tax purposes.

5.1 FATCA

FATCA means Sections 1471 through 1474 of the US Internal Revenue Code of 1986 (the **Code**), as amended. When used in legal documents, the term is expanded to include all rules, regulations and other guidance issued under the FATCA sections of the Code, and all administrative and judicial interpretations of those sections, any agreements entered into pursuant to 1471(b)(1) of the Code, and all applicable intergovernmental agreements entered into between the United States and another country (or local country legislation enacted pursuant to such intergovernmental agreement).

FATCA was introduced by the United States in 2010 as part of the Hiring Incentives to Restore Employment (HIRE) Act with the purpose of reducing tax evasion by their citizens. FATCA requires financial institutions outside the US to report information on financial accounts held by their US customers to the US Internal Revenue Service (**IRS**). The information to be reported by foreign financial institutions is equivalent to that required to be reported by US citizens in their US tax returns.

The Cayman Islands signed a Model 1(b) (non-reciprocal) inter-governmental agreement with the United States (the **US IGA**) to give effect to FATCA.

First and foremost, FATCA is an information exchange regime that requires the collection of information and, in some circumstances, the reporting of that information to the appropriate authority. Ultimately, if financial institutions do not comply with FATCA, a 30% withholding tax is imposed on the US source income of that financial institution. As an IGA partner jurisdiction, Cayman Islands financial institutions will not be subject to a 30% withholding tax on US source income unless they fail to meet the requirements set out in the US IGA and in the Cayman Islands' implementing legislation.

5.2 CRS

The Standard for Automatic Exchange of Financial Account Information (the **Standard**) was developed by the Organisation for Economic Co-operation and Development (**OECD**), working with the G20 countries and in close co-operation with the EU, with the goal of developing a global standard for the gathering and automatic exchange of financial account information. The idea for the Standard and many of its concepts came from FATCA and the CRS (defined below) was modelled on the FATCA model intergovernmental agreement so as to enable both governments and financial institutions to benefit from steps already taken in implementing and ensuring compliance with FATCA. However, there are important differences of which financial institutions need to be aware.

The Standard is comprised of two components: (a) the Common Reporting and Due Diligence Standard (**CRS**) and (b) the Model Competent Authority Agreement (**CAA**). There is a multilateral CAA and a form of bilateral CAA. The most commonly used is the multilateral CAA (**MCAA**). On 29 October 2014, 51 jurisdictions, including the Cayman Islands, signed up to the MCAA. To date, over 96 countries have signed up. The CAA can be executed within existing legal frameworks. However, the CRS must be translated into domestic law. The Cayman Islands published its list of Participating Jurisdictions on 4 December 2015 and updated the list on 31 March 2017. The Cayman Islands' list of Participating Jurisdictions is comprised of all jurisdictions committed to adopting the CRS. There are 100 countries on the TIA's list of Participating Jurisdictions.

With the exception of those Participating Jurisdictions that have chosen to be non-reciprocal (i.e. do not wish to receive information), the Cayman Islands intend to exchange information with all Participating Jurisdictions, subject to satisfaction of the relevant CAA. These are Reportable Jurisdictions. Cayman's list of Reportable Jurisdictions for 2017 was published on 19 April 2017 and revised on 16 June 2017. There are 45 Reportable Jurisdictions on the list for reports due in 2017, with a further 44 Reportable Jurisdictions on the list for reports due in 2018 onwards.

5.3 Classification

FATCA and CRS apply to "Financial Institutions". Every Cayman Islands "entity" organised under the laws of the Cayman Islands has a classification under FATCA and CRS. A Cayman Islands entity will either be a Financial Institution or not. There are four categories of Financial Institution: Custodial Institution; Depository Institution; Investment Entity and Specified Insurance Company. If the entity is a Financial Institution, it will have notification requirements, and may have reporting requirements. In many (most) cases, an entity's classification under both FATCA and CRS will be the same. However, it is possible for the classification to be different, for example, where an entity has sought to rely on a "deemed compliant" category under one or more of the regimes.

There are four types of **Financial Institution**:

(a) Custodial Institution;

(b) Depositary Institution;

(c) Investment Entity; and

(d) Specified Insurance Company.

The definition of Investment Entity under FATCA as implemented in the Cayman Islands is:

> *any Entity that conducts as a business (or is managed by an entity that conducts as a business) one or more of the following activities or operations for or on behalf of a customer:*
>
> *(1) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;*
>
> *(2) individual and collective portfolio management; or*
>
> *(3) otherwise investing, administering, or managing funds or money on behalf of other persons.*

The definition of Investment Entity under CRS as implemented in the Cayman Islands is:

> *…any Entity:*

A(6)(a) that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:

i) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;

ii) individual and collective portfolio management; or

iii) otherwise investing, administering, or managing Financial Assets or money on behalf of other persons;

(b) the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in subparagraph A(6)(a).

An Entity is treated as primarily conducting as a business one or more of the activities described in subparagraph A(6)(a), or an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of subparagraph A(6)(b), if the Entity's gross income attributable to the relevant activities equals or exceeds 50% of the Entity's gross income during the shorter of: (i) the three-year period ending on 31 December of the year preceding the year in which the determination is made; or (ii) the period during which the Entity has been in existence. The term "Investment Entity" does not include an Entity that is an Active NFE because it meets any of the criteria in subparagraphs D(9)(d) through (g).

Under CRS, the Term Financial Asset is defined as follows:

The term "Financial Asset" includes a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), Insurance Contract or Annuity Contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, Insurance Contract, or Annuity Contract. The term "Financial Asset" does not include a non-debt, direct interest in real property.

In summary, the differences between the IGA definition and the definition under CRS and the IRS Regulations are:

(e) Under CRS and the IRS Regulations there is a threshold test, i.e. an Investment Entity is one that "primarily" conducts an investment business. An entity is deemed "primarily" to conduct an investment business if the entity's gross income attributable to the relevant investment activity equals or exceeds 50% of the entity's gross

income. The test applies to the three years from 31 December of the preceding year or the period since commencement, if shorter.

(f) Under CRS and the IRS regulations the "managed by" test also requires the threshold test to be met. Therefore, if the entity's gross income is primarily attributable to non-financial assets, e.g. real property, then, even if managed by a Financial Institution, it will not be an Investment Entity under CRS or the IRS Regulations, but it would under the IGA definitions.

5.4 Obligations

(a) Registration with the IRS

Every Reporting Cayman Islands Financial Institution must apply to register with the IRS regardless of whether or not it has US accountholders and regardless of whether or not it does business in the US. Registration must be done in compliance with the applicable registration requirements of the IRS and in the manner that the IRS may from time to time require. Currently, the IRS requires that the application to register be made electronically via the following web portal: http://www.irs.gov/Businesses/Corporations/FATCA-Foreign-Financial-Institution-Registration-ToolAdditional Considerations.

Any person may be authorised by a Financial Institution to complete the Financial Institution's registration application through the IRS portal and obtain a GIIN. Cayman Islands Financial Institutions may find it helpful if the person authorised by the fund to complete the registration process, is also authorised by the fund: to answer queries raised by the IRS regarding the Financial Institution's registration application for a GIIN; to make tax disclosures on behalf of the Financial Institution (including signing any Form W-8BEN-E, Form W-8IMY or any other IRS or Cayman self-certification forms as may be required from time to time); and to do anything else as may be required to ensure the Financial Institution meets its registration requirements under FATCA.

A Cayman Islands Financial Institution must complete its registration with the IRS not later than 30 days following the commencement of its business as a Financial Institution.

(b) Registration with the TIA

In its first year of reporting, a Cayman Islands Financial Institution, including a Non-Reporting Cayman Islands Financial Institution, is required to provide to the TIA, by 30 April of that year, its name, categorization and, where applicable, its GIIN. A Non-Reporting Financial Institution must also notify the TIA of the relevant exemption under the CRS Regulations being relied upon. The Financial Institution is also required to provide the full name, address, designation and contact details of (i) a natural person identified and authorised by the Financial Institution to be the principal point of contact (**PPoC**) for the Financial Institution for all purposes of compliance with the Cayman AEOI Rules and (ii) a natural person authorised to inform the TIA of any changes to the identity or contact details of the PPoC.

(c) Due diligence and reporting

A Cayman Financial Institution must conduct due diligence to determine whether it has any Financial Accounts that would trigger reporting obligations.

The first step for a Financial Institution is for it to identify whether it maintains Financial Accounts. There are five types of Financial Accounts:

(i) Depository Accounts

(ii) Custodial Accounts

(iii) Cash Value Insurance Contracts

(iv) Annuity Contracts

(v) Equity and Debt Interests, in the Financial Institution (subject to certain exceptions)

Both FATCA and CRS provide guidance on what is meant by an "Equity Interest". In the case of a partnership it means an interest in the capital or profits of the partnership.

(d) Policies and procedures

A Reporting Financial Institution is required to establish and maintain policies and procedures designed to identify Reportable Accounts. For the purposes of CRS, written policies and procedures are required. Where a Financial Institution is relying on a third party (e.g. the administrator) to conduct due diligence on its accounts, its written policies and procedures must describe: (i) what functions have been delegated; (ii) the management/oversight of the delegation and (iii) the performance of any CRS obligations that have not been delegated.

(e) Summary

If the D1 Coins are considered "Securities", we are of the view that the D1 Mint is likely an Investment Entity and would therefore have registration, operational and potentially reporting obligations under FATCA and CRS. If the D1 Coins are interpreted as a debt or equity interest in the D1 Mint, the D1 Mint may be required to report certain prescribed information about its Token holders to the Cayman TIA. Accordingly, it is important when drafting the terms and conditions of the TGE Documents that the D1 Coins not be categorised as a debt or equity interest in the D1 Mint.

5.5 Legal status of D1 Coins

The legal status of cryptographic digital tokens supported and/or recorded on a blockchain platform, such as the D1 Coins, has not been judicially considered in the Cayman Islands and for that reason we cannot comment on how tokens would be legally characterised nor can we comment on what a court may decide to be the necessary conditions to validly issue, transfer and grant a security interest over a token. In our view, tokens issued pursuant to a TGE and which do not advance an illegal or improper purpose should generally be construed as a property right that a holder possess in or to a digital asset, the nature and extent of which will be determined by the representations made by the

issuer, the license agreement of the relevant token smart contract and the protocols of the given blockchain network. That said, where a token issuer has made certain representations to a token purchaser as to the characteristics of a token, we anticipate that a court in the Cayman Islands will endeavour to objectively determine the intention of the parties and the reasonable expectation of the token purchaser. Accordingly, we advise our clients to instruct us to review the terms and conditions and of the documents issued and the statements made by the issuer to prospective token purchasers.

We understand that various legislative and executive bodies throughout the world are currently considering, or may in the future consider, laws, regulations, guidance, or other actions, which may severely impact the ability to conduct a TGE. Failure by any issuer to comply with any laws, rules and regulations, some of which may not exist yet or are subject to interpretation and may be subject to change, could result in adverse consequences, including civil penalties and fines. It is possible that any jurisdiction may, in the near or distant future, adopt laws, regulations, policies or rules directly or indirectly affecting the blockchain network upon which the D1 Coins are based, or restricting the right to acquire, own, hold, sell, convert, trade, or use D1 Coins, or to exchange D1 Coins for either fiat currency or other digital D1 Coins.

6 Additional Considerations

6.1 Exempted Company

Exempted companies are the most common form of offshore company in the Cayman Islands and are incorporated under the Companies Law (Revised). An exempted company is a body corporate which has separate legal personality capable of exercising all the functions of a natural person of full capacity and having perpetual succession. As exempted companies are the most common offshore vehicles in the Cayman Islands, we envision that such a structure will be used to conduct the Proposed TGE. For your reference, please review our briefing note that provides a summary of the main legal requirements and general principles applicable to the incorporation, operation and maintenance of exempted companies in the Cayman Islands.

6.2 Bank Accounts

Exempted companies are not required to establish nor maintain a local bank account in the Cayman Islands. If the D1 Mint wishes to open a local bank account, the issuer may experience significant challenges and/or delays in such process.

Schedule 1

Definition of Securities under the SIBL

Securities is defined in the SIBL as assets, rights or interests specified below:

Shares

1 Any of the following securities:

(a) shares and stock of any kind in the share capital of a company;

(b) interests in a limited partnership established under the Partnership Law (2013 Revision);

(c) interests in an exempted limited partnership as defined in the Exempted Limited Partnership Law, 2014;

(d) interests in a limited partnership, or an exempted limited partnership, constituted under the laws of a jurisdiction other than the Islands; and

(e) units of participation in a unit trust as defined in the Mutual Funds Law (2015 Revision).

Instruments creating or acknowledging indebtedness

2 Debentures, debenture stock, loan stock, bonds, certificates of deposit and any other instruments creating or acknowledging indebtedness other than:

(a) any instrument acknowledging or creating indebtedness for, or for money borrowed to defray, the consideration payable under a contract for the supply of goods or services;

(b) a check or other bill of exchange, a bankers draft or a letter of credit;

(c) a bank note, a statement showing a balance in a current, deposit or savings account, a lease or other disposition of property;

(d) a contract of insurance;

(e) any instrument creating or acknowledging indebtedness in respect of money raised by the Government of the Islands or any public authority created thereby; and

(f) an instrument creating or acknowledging indebtedness and creating security for that indebtedness over land.

Instruments giving entitlements to securities

3 Warrants and other instruments entitling the holder to subscribe for securities falling within paragraph 1 or 2.

Certificates representing certain securities

4 Certificates or other instruments which confer contractual or proprietary rights:

(a) in respect of any security falling in paragraph 1, 2 or 3 being a security held by a person other than the person on whom the rights are conferred by the certificate or instrument; and

(b) the transfer of which may be effected without the consent of that person.

Options

5 Options to acquire or dispose of:

(a) a security falling in any other paragraph of this Schedule;

(b) any currency;

(c) any precious metal; or

(d) an option to acquire or dispose of a security falling within this paragraph by virtue of subparagraph (a), (b) or (c) above.

Futures

6 Rights under a contract for the disposal of a commodity or property of any other description under which delivery is to be made at a future date and at a price agreed upon when the contract is made other than a contract made for commercial and not investment purposes.

7 A contract is to be regarded as made for investment purposes if it is made or traded on a recognised securities exchange or made otherwise than on a recognised securities exchange but is expressed to be as traded on such an exchange or on the same terms as those on which an equivalent contract would be made on such an exchange.

8 A contract not falling within paragraph 7 is to be regarded as made for commercial purposes if under the terms of the contract delivery is to be made within seven days.

9 The following are indications that a contract not falling within paragraph 7 or 8 is made for commercial purposes and the absence of them is an indication that it is made for investment purposes:

(a) one or more of the parties is a producer of the commodity or other property or uses it in his business; or

(b) the seller delivers or intends to deliver the property or the purchaser takes or intends to take delivery of it.

10 It is an indication that a contract is made for commercial purposes that the prices, the lot, the delivery date or other terms are determined by the parties for the purposes of the particular contract and not by reference (or not solely by reference) to regularly published prices, to standard lots or delivery dates or to standard terms.

11 The following are indications that a contract is made for investment purpose:

(a) it is expressed to be as traded on a securities exchange;

(b) performance of the contract is ensured by a securities exchange or a clearing house; or

(c) there are arrangements for the payment or provision of margin.

12 For the purposes of paragraph 6, a price is to be taken to be agreed on when a contract is made:

(a) notwithstanding that it is left to be determined by reference to the price at which a contract is to be entered into on a market or exchange or could be entered into at a time and place specified in the contact; or

(b) in a case where the contract is expressed to be by reference to a standard lot and quality, notwithstanding that provision is made for a variation in the price to take account of any variation in quantity or quality on delivery.

Contracts for differences

13 Rights under:

(a) a contract for differences; or

(b) any other contract the purpose or pretended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in:

(i) the value or price of property of any description; or

(ii) an index or other factor designated for that purpose in that contract; other than

(A) rights under a contract if the parties intend that the profit is to be secured or the loss is to be avoided by one or more of the parties taking delivery of any property to which the contract relates; or

(B) rights under a contract under which money is received by way of deposit on terms that any interest or other return to be paid on the

sum deposited will be calculated by reference to fluctuations in an index or other factor.

Schedule 2

Definition of Securities Investment Business – Regulated Activities

The following activities are activities carried on in the course of Securities Investment Business for the purpose of the SIBL:

1 Dealing in securities

(a) buying, selling, subscribing for or underwriting securities as an agent; or

(b) buying, selling, subscribing for or underwriting securities as principal where the person entering into that transaction

(i) holds himself out as willing, as principal, to buy, sell or subscribe for securities of the kind to which the transaction relates at prices determined by him generally and continuously rather than in respect of each particular transaction;

(ii) holds himself out as engaging in the business of underwriting securities of the kind to which the transaction relates; or

(iii) regularly solicits members of the public with the purpose of inducing them, as principals or agents, to buy, sell, subscribe for or underwrite securities and such transaction is entered into as a result of such person having solicited members of the public in that manner.

2 Arranging deals in securities

Making arrangements with a view to

(c) another person (whether as a principal or an agent) buying, selling, subscribing for or underwriting securities; or

(d) a person who participates in the arrangements buying, selling, subscribing for or underwriting securities.

3 Managing securities

Managing securities belonging to another person in circumstances involving the exercise of discretion.

4 Advising on securities

Advising a person on securities if the advice is:

(e) given to the person in his capacity as an investor or potential investor or in his capacity as agent for an investor or a potential investor; and

(f) advice on the merits of his doing any of the following (whether as principal or agent)-

(i) buying, selling, subscribing for or underwriting a particular security; or

(ii) exercising any right conferred by a security to buy, sell, subscribe for, underwrite a security.

Schedule 3

Securities Investment Business – Excluded Activities

The activities specified in this Schedule are not considered Securities Investment Business in the following circumstances-

1 Dealing in securities

1.1 Securities evidencing indebtedness:

Where a person as principal or agent buys, sells, subscribes for or underwrites securities and such securities create or acknowledge indebtedness in respect of any loan, credit, guarantee or other similar financial accommodation or assurance which such person or his principal has made, granted or provided.

1.2 Issuing, redeeming or repurchasing securities:

Where a company, partnership or trust issues, redeems or repurchases any of its securities falling within paragraphs 1 to 3 of Schedule 1.

(2A) Disposing of treasury shares:

Where a company disposes of any of its treasury shares.

1.3 Risk management:

Where a person buys, sells, subscribes for or underwrites securities and –

(a) the transaction relates to securities falling within paragraph 5, 6 or 13 of Schedule 1;

(b) none of the parties to the transaction are individuals;

(c) the sole or main purpose for which the person concerned enters into the transaction (either by itself or in combination with other such transactions) is to limit the extent to which a relevant business will be affected by any identifiable risk arising otherwise than as a result of the carrying on of any activities specified in Schedule 2 and which is not excluded by virtue of this Schedule; and

(d) the relevant business is a business other than securities investment business carried on by-

(i) the person entering into the transaction;

(ii) a company within the same group of companies as such person; or

(iii) another person who is or is proposing to become a participator in a joint enterprise with such person.

1.4 Disposal of goods or supply of services:

Where a person buys, sells, subscribes for or underwrites securities for the purposes of or in connection with the disposal of goods or supply of services or a related disposal or supply by a supplier to a customer and the supplier is acting-

(a) as a principal; or

(b) as an agent,

and the supplier does not hold himself out generally as engaging in the buying, selling, subscribing for or underwriting of securities and does not regularly solicit members of the public to buy, sell, subscribe for or underwrite securities.

1.5 Incidental activity:

Where a person buys, sells, subscribes for or underwrites securities in the course of carrying on any profession or business not otherwise constituting securities investment business and where such transaction is a necessary or incidental part of other services provided in the course of carrying on that profession or business and is not separately remunerated otherwise than as part of any remuneration received in respect of such other services.

1.6 Employee schemes:

Where an employer buys, sells, subscribes for or underwrites securities in connection with the operation of a share or pension scheme (and the employer is not or not yet subject to the provisions of the National Pensions Law (2012 Revision) for the benefit of employees or former employees, or of their spouses, widows, widowers or children or step-children under the age of eighteen.

1.7 Application of proprietary assets:

Where a company, partnership or trust, acting as principal and dealing only on its own behalf buys, sells or subscribes for securities by applying its proprietary assets, otherwise than as described in paragraph 1 (b) of Schedule 2.[18]

2 Arranging deals in securities

2.1 Arranging own deals:

Where a person makes arrangements relating to a transaction to which that person will himself be a party as principal or which will be entered into by that person as agent for one of the parties to the transaction.

[18] Paragraph 1(b) of Schedule 2 pertains to the buying, selling, subscribing for or underwriting securities as principal where the person entering into that transaction solicits members of the public in certain manner and/or generally acts as a market maker. Refer to paragraph 1(b).

2.2 Incidental activities:

Where a person makes arrangements and such arrangements are made in the course of carrying on any profession or business not otherwise constituting securities investment business and where the making of the arrangements is a necessary or incidental part of other services provided in the course of carrying on that profession or business and is not separately remunerated otherwise than as part of any remuneration received in respect of such other services.

2.3 Enabling parties to communicate:

Where a person makes arrangements to provide means by which one party to a transaction (or potential transaction) is able to communicate with other parties to the transaction or potential transaction.

2.4 Arrangements in connection with securities evidencing indebtedness:

Where a person makes arrangements in respect of a transaction referred to in paragraph 1 (1).

2.5 Provision of finance:

Where a person makes arrangements for the sole purpose of providing finance to enable a person, as principal or agent, to buy, sell, subscribe for or underwrite securities.

2.6 Introducing:

Where a person makes arrangements to introduce a person to another person and-

(i) the person to whom introductions are to be made is a person referred to in Schedule 4; and

(ii) the introduction is made with a view to the provision of independent advice or the independent exercise of discretion in relation to securities generally or in relation to any class of securities to which the arrangements relate.

2.7 Arrangements for the issue of securities:

Where a person makes arrangements in respect of a transaction referred to in paragraphs 1 (1) and 1 (7).

2.8 Disposal of goods or supply of services:

Where a supplier makes arrangements made for, or with a view to, a transaction which is to be entered into by a customer for the purposes of or in connection with the disposal of goods or supply of services or a related disposal or supply.

2.9 Employee schemes:

Where a person makes arrangements in connection with the operation by an employer of a share or pension scheme for the benefit of employees or former employees, or of their spouse, widows, widowers or children or step-children under the age of eighteen (where the arrangements are not regulated by the National Pensions Law (2012 Revision).

3 Managing securities

Where a person manages securities that are or are to be managed for the purposes of or in connection with the disposal of goods or supply of services or a related disposal or supply by a supplier to a customer.

4 Advising on securities

4.1 Disposal of goods or supply of services:

Where a supplier gives advice to his customer for the purposes of or in connection with the disposal of goods or supply of services or a related disposal or supply.

4.2 Publications:

Where a person gives advice in any communications media and -

(a) the principal purpose is not to induce persons to buy, sell, subscribe for or underwrite particular securities; or

(b) the person responsible does not derive any direct benefit from any such purchase, disposal, subscription or underwriting;

4.3 Incidental activities:

Where a person gives legal, accounting or other advice and the advice is given in the course of carrying on any profession or business not otherwise constituting securities investment business and the giving of the advice is a necessary or incidental part of other services provided in the course of carrying on that profession or business and is not separately remunerated otherwise than as part of any remuneration received in respect of such other services.

Schedule 4

Definition of Money Services Business

Money Services Business is defined in the MSL as follows:

(a) the business of providing (as a principal business) any or all of the following services:

(i) money transmission;

(ii) cheque cashing;

(iii) currency exchange;

(iv) the issuance, sale or redemption of money orders or traveller's cheques; and

(v) such other services as the Governor in Cabinet may specify by notice published in the Gazette; or

(b) the business of operating as an agent or franchise holder of a business mentioned in paragraph (a),

and any question as to whether the provision of a service is the principal business of any person, shall be determined by the Authority.

Schedule 5

Definition of Relevant Financial Business

Relevant Financial Business, as defined in the Anti-Money Laundering Regulations, means:

1 subject to paragraph 2, the business of engaging in one or more of the following:

(a) banking or trust business carried on by a person who is for the time being a licensee under the Banks and Trust Companies Law (2013 Revision);

(b) acceptance by a building society of deposits made by any person (including the raising of money from members of the society by the issue of shares);

(c) business carried on by a co-operative society within the meaning of the Co-operative Societies Law (2001 Revision);

(d) insurance business and the business of an insurance manager, an insurance agent, an insurance sub-agent or an insurance broker within the meaning of the Insurance Law, 2010;

(e) mutual fund administration or the business of a regulated mutual fund within the meaning of the Mutual Funds Law (2013 Revision);

(f) the business of company management as defined by the Companies Management Law (2003 Revision), except that the services specified in section 3(4)(a) of that law shall not be excluded for the purposes of these regulations from the provision of the specified services as defined in subsection (2) of that section; and

(g) any of the activities set out in Schedule 6 of the Proceeds of Crime Law (Revised) (see below), other than an activity falling within paragraphs (a) to (f) of this definition.

2 For the purposes of the foregoing:

(a) "banking business" has the same meaning as in the Banks and Trust Companies Law (2013 Revision); and

(b) "building society" means a society incorporated under section 3 of the Building Societies Law (2014 Revision).

Schedule 6 of the Proceeds of Crime Law (Revised)

Schedule 6 of the Proceeds of Crime Law (Revised) lists out the following activities as falling within the definition of a Relevant Financial Business, being activity related but not limited to:

1 acceptance of deposits and other repayable funds from the public;

2 lending;

3 financial leasing;

4 money or value transfer services;

5 issuing and administering means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts and electronic money);

6 financial guarantees and commitments;

7 trading in:

(a) money market instruments (cheques, bills, certificates of deposit, derivatives, etc.);

(b) foreign exchange;

(c) exchange, interest rate and index instruments;

(d) transferable securities; or

(e) commodity futures trading;

8 participation in securities issues and the provision of services related to such issues;

9 advice to undertakings on capital structure, industrial strategy and related questions and advice and services relating to mergers and the purchase of undertakings;

10 money broking;

11 individual and collective portfolio management advice;

12 safekeeping and administration of cash or liquid securities on behalf of other persons;

13 safe custody services;

14 financial, estate agency, legal and accounting services provided in the course of business relating to:

(a) the sale, purchase or mortgage of land or interests in land on behalf of clients or customers;

(b) management of client money, securities or other assets;

(c) management of bank, savings or securities accounts; and

(d) the creation, operation or management of legal persons or arrangements, and buying and selling of business entities;

15 the services of listing agents and broker members of the Cayman Islands Stock Exchange as defined in the CSX Listing Rules and the Cayman Island Stock Exchange Membership Rules respectively;

16 the conduct of Securities Investment Business;

17 dealing in precious metals or precious stones, when engaging in a cash transaction of fifteen thousand dollars or more;

18 the provision of registered office services to a private trust company by a company that holds a Trust licence under section 6(5)(c) of the Banks and Trust Companies Law (2013 Revision);

19 otherwise investing, administering or managing funds or money on behalf of other persons.

Schedule 6

Definitions of Business Relationship and One-Off Transaction

Business Relationship, as defined in the Anti-Money Laundering Regulations, means any arrangement between two or more persons where:

(a) the purpose of the arrangement is to facilitate the carrying out of transactions between the persons concerned on a frequent, habitual or regular basis; and

(b) the total amount of any payment or payments to be made by any person to any other in the course of that arrangement is not known or capable of being ascertained at the time the arrangement is made.

One-Off Transaction, as defined in the Anti-Money Laundering Regulations, means any transaction other than a transaction carried out in the course of an established business relationship formed by a person acting in the course of relevant financial business.