

P.U.(A) 12/2019

CAPITAL MARKETS AND SERVICES ACT 2007

**CAPITAL MARKETS AND SERVICES (PRESCRIPTION OF SECURITIES)
(DIGITAL CURRENCY AND DIGITAL TOKEN) ORDER 2019**

IN exercise of the powers conferred by section 5 of the Capital Markets and Services Act 2007 [Act 671], the Minister, on the recommendation of the Commission, makes the following order:

Citation and commencement

1. (1) This order may be cited as the **Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019**.

(2) This Order comes into operation on 15 January 2019.

Interpretation

2. In this Order—

“digital currency” means a digital representation of value which is recorded on a distributed digital ledger whether cryptographically-secured or otherwise, that functions as a medium of exchange and is interchangeable with any money, including through the crediting or debiting of an account; and

“digital token” means a digital representation which is recorded on a distributed digital ledger whether cryptographically-secured or otherwise.

Digital currency and digital token are prescribed to be securities

3. (1) A digital currency which—

- (a) is traded in a place or on a facility where offers to sell, purchase, or exchange of, the digital currency are regularly made or accepted;
- (b) a person expects a return in any form from the trading, conversion or redemption of the digital currency or the appreciation in the value of the digital currency; and
- (c) is not issued or guaranteed by any government body or central banks as may be specified by the Commission,

is prescribed as securities for the purposes of the securities laws.

(2) A digital token which represents a right or interest of a person in any arrangement made for the purpose of, or having the effect of, providing facilities for the person, where—

- (a) the person receives the digital token in exchange for a consideration;
- (b) the consideration or contribution from the person, and the income or returns, are pooled;
- (c) the income or returns of the arrangement are generated from the acquisition, holding, management or disposal of any property or assets or business activities;
- (d) the person expects a return in any form from the trading, conversion or redemption of the digital token or the appreciation in the value of the digital token;
- (e) the person does not have day-to-day control over the management of the property, assets or business of the arrangement; and

- (f) the digital token is not issued or guaranteed by any government body or central banks as may be specified by the Commission, is prescribed as securities for the purposes of the securities laws.

Application of requirements under securities laws

4. The provisions of securities laws shall apply to a digital currency and digital token that are prescribed as securities under this Order except for Division 3 of Part VI of the Act.

Digital currency and digital token are not share, etc.

5. For the purpose of securities laws, a digital currency and digital token that are prescribed as securities under this Order that is offered or traded on or through a recognized market is not—

(a) a share in or debenture of, a body corporate or an unincorporated body; or

(b) a unit in a unit trust scheme or prescribed investments scheme.

Made 8 January 2019

[KK/SID/(S)/483/669/4 JLD.2 (SK.12); GC(LR)1/2018(263)-1 DIGITAL ASSETS;
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Minister of Finance