

**ANTIGUA AND BARBUDA**



**DIGITAL ASSETS BUSINESS (AMENDMENT) BILL, 2020**

**No. Of 2020**

No. of 2020

2 *Digital Assets Business  
(Amendment) Bill, 2020*

**DIGITAL ASSETS BUSINESS (AMENDMENT) BILL, 2020**

**ARRANGEMENT OF CLAUSES**

**CLAUSE**

**PART I  
PRELIMINARY**

1. Short title.....	4
2. Interpretation.....	4
3. Amendment of section 2 – Interpretation.....	4
4. Amendment of section 3 .....	4
5. Amendment of section 11 – Grant and refusal of applications .....	4
6. Amendment of section 23 – Compliance Officer to report certain events .....	4
7. Amendment of section 25 – Material change to business .....	5
8. Insertion of section 25A – Annual attestation on beneficial ownership and control.....	5
9. Access to and maintenance of client transaction records .....	5

**SCHEDULE I**

**ANTIGUA AND BARBUDA**

**DIGITAL ASSETS BUSINESS BILL, 2020**

**No. Of 2020**

**AN ACT** to amend the Digital Assets Business Act, 2020, No. 16 of 2020 and for matters related thereto.

**ENACTED** by the Parliament of Antigua and Barbuda as follows:

**1. Short title**

This Act may be cited as the Digital Assets Business (Amendment) Act 2020.

**2. Interpretation**

In this Act —

“principal Act” means the Digital Assets Business Act, 2020, No.16 of 2020.

**3. Amendment of section 2 – Interpretation**

Section 2 of the principal Act is amended by inserting the following words and meanings in the correct alphabetical position –

(a) “AML/CFT” means anti-money laundering and countering the financing of terrorism;

(b) “beneficial owner” means the natural person or persons who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted;”

**4. Amendment of section 3 – Meaning of “director”, “controller”, senior executive” and “associate”**

Section 3 of the principal Act is amended in subsection (5), by inserting after the number “50” the word “per cent”;

**5. Amendment of section 11 – Grant and refusal of applications**

Section 11 subsection (2) of the principal Act is amended, at paragraph (e), by inserting after the “deposit” the words, “or statutory reserve, as the case may be,”

**6. Amendment of section 23 – Compliance Officer to report certain events**

Section 23 of the principal Act is amended –

(a) by repealing subsection (1) thereof and replacing it as follows:

“(1) A Compliance Officer shall forthwith notify the Commission, in such manner as it may direct –

(a) on his reaching a view that there is a likelihood of the licensed undertaking for which he acts becoming insolvent;

(b) on its coming to his knowledge, or his having reason to believe, that an event to which this section applies has occurred.”

(b) by inserting after subsection (1) the following new subsection (1A):

“(1A) The Compliance Officer shall forthwith notify the Office of the National Drug and Money Laundering Control Policy, in such manner as it may direct, of any suspicious activity that would violate AML/CFT requirements.”

### **7. Amendment of section 25 – Material change to business**

Section 25 subsection (2) of the principal Act is amended by inserting after paragraph (f) the following paragraphs –

“(g) change of the beneficial owner.”

### **8. Insertion of section 25A – Annual attestation on beneficial ownership and control**

The principal Act is amended by inserting after section 25 a new section numbered 25A as follows

–

#### **“25A. Annual attestation on beneficial ownership and control**

(1) A licensed undertaking shall submit annually an attestation report to the Commission on beneficial ownership and control of the licensed undertaking which shall include the following:

(a) the name and address of any person who owns five percent or more of the licensed undertaking;

(b) the name and address of any person who controls the licensed undertaking acting directly or indirectly, and acting individually or jointly;

(c) the name of all of the directors and officers; and

(d) any other information as the Commission may determine.

(2) Any licensed undertaking that willfully fails to file an attestation report on beneficial ownership is liable to an administrative penalty of Five Thousand Eastern Caribbean Dollars and for a further penalty of Five Thousand Eastern Caribbean Dollars for each day of default.

(3) The administrative penalty levied pursuant to this section shall be recovered as a civil debt by the Commission.”

### **9. Access to and maintenance of client transaction records**

Section 43 subsection (2) of the principal Act is amended by repealing the words “five years” and replacing these with the words “six years”.

---

Passed the House of Representatives on  
the day of , 2020.

Passed the Senate on the day of  
, 2020.

.....  
*Speaker of the House*

.....  
*President of the Senate*

.....  
*Clerk to the House of Representatives.*

.....  
*Clerk to the Senate.*

## EXPLANATORY MEMORANDUM

**This Bill** seeks to provide for the amendment of the Digital Assets Business Act, 2020, No. 16 of 2020. The objective of the amendment is to bring the Bill in line with certain international requirements as it relates to the fight against money laundering and the countering of terrorism financing.

**Clauses 1 and 2: Short title and Interpretation** which puts the Bill in context.

### **Clause 3 – Amendment of Section 2 (Interpretation)**

In this clause, the term AML/CFT which is used in the legislation is defined; also, the term “beneficial owner” was inserted in the legislation. The reason for this forms the crux of certain amendments being done by virtue of this Bill.

### **Clause 4 – Amendment of section 3 – Meaning of “director”, “controller” etc.**

This is a minor amendment to add “per cent” in an effort to clarify the statement made in subsection (5) of section 3.

### **Clause 5 – Amendment of section 11 – Grant and refusal of application.**

Previously, the legislation gave the FSRC the right to require an applicant to provide a statutory deposit as a condition of the license. This amendment gives the FSRC greater flexibility in that they may require a statutory deposit, or, depending on the nature of the activity being carried on under the license, the FSRC, as Regulators, may require that a licensee provide a statutory reserve.

### **Clause 6 – Amendment of section 23 – Compliance Officer to report certain events**

This amendment was necessary to facilitate a clear understanding of the role of the ONDCP and the FSRC. The FSRC, as Regulators, ensure the integrity of the activity of the licensee, by, among other things, ensuring that proper market conduct is observed and that the persons associated with the business are fit and proper to hold a licence and undertake the task. The ONDCP, on the other hand, their mandate is to supervise to ensure that licensed undertakings do not become embroiled in money laundering and terrorism financing. The original section 23 did not sufficiently distinguish the role of these two agencies.

**Clause 7 – Amendment of section 25.** This amendment is to insert that a change of the beneficial owner of the licensed undertaking qualifies as a material change to the business.

### **Clause 8 – Insertion of section 25A – Annual attestation on beneficial ownership and control**

In 2017, in an effort to satisfy Antigua and Barbuda’s treaty obligations with respect to fighting money laundering and terrorism financing, we passed a Law Miscellaneous Amendments Act in which several legislations touching on the issues of finance and international investments, were amended by inserting a clause that required persons involved in these businesses to file a document referred to as the Attestation Report, on an annual basis. This amendment inserts the same requirement in the Digital Assets Business Bill.

**Clause 9 – Access to and maintenance of client transaction record**

This brings the period for which it is required to maintain records of digital asset transactions in line with the requirements under the Money Laundering Act.

Hon. Gaston Browne  
Minister of Finance