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## Securities Commission's Regulation of Digital Asset Exchanges

On 31 January 2019, the Securities Commission issued amendments to its **Guidelines on Recognized Markets** with the introduction of a new **Chapter 15** to regulate the trading of digital assets, such as cryptocurrencies.

The amendment follows the regulation of Digital Currency and Digital Token as securities with effect from 15 January 2019.<sup>[1]</sup>

The subject of the new regulation is the Digital Asset Exchange (DAX), defined as any electronic platform that facilitates the trading of a digital asset, which includes:

- (a) Digital Currency: 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
- (b) Digital Token: a digital representation which is recorded on a distributed digital ledger whether cryptographically-secured or otherwise.<sup>[2]</sup>

Any person who is interested in operating a DAX must apply to the Securities Commission to be registered as a recognized market operator. The Guidelines prescribe rules governing recognized market operators in general, which include rules on the safeguarding of client assets, record-keeping and qualifying criteria for key personnel responsible for its operations or financial management.<sup>[3]</sup>

Chapter 15 of the Guidelines prescribes rules governing DAX specifically, which includes rules on real-time market surveillance, business continuity plan and management of excessive volatility.<sup>[4]</sup>

In general, the introduction of Chapter 15 is welcomed as it recognizes the reality of innovative business models that are here to stay, while safeguarding investors' interests. The Malaysia Digital Economy Corporation (MDEC) issued a statement on 23 January 2019 in support of this.

On 23 April 2019, Bank Negara Malaysia and the Securities Commission issued a joint statement in conjunction with the 16th BNM-Securities Commission Bilateral Meeting, stating that both have entered into digital asset regulation coordinating arrangements, which will facilitate industry innovation, fundraising activities for early-stage companies and trading of digital assets.

The Securities Commission also issued the recent public consultation paper on 6 March 2019 for the proposed regulatory framework for the issuance of digital assets through initial coin offerings (ICOs).

Malaysia is one of the first countries in ASEAN, apart from Thailand and Singapore, to regulate trading of digital assets as a licensed activity. In Thailand, a regulatory framework was issued for digital asset businesses as early as 2018, and in Singapore, the new Payment Services Act passed in January 2019 introduced the regulation of cryptocurrency exchanges. Both Indonesia and the Philippines introduced their regulations on cryptocurrency exchanges after Malaysia in February 2019. As of now, the laws in the other ASEAN member states either prohibit cryptocurrency trading altogether or do not provide a clear and comprehensive framework for its regulation.

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- [\[1\]](#) Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019 [PU(A) 12/2019]
  - [\[2\]](#) Chapter 15 of the Guidelines, para 15.01
  - [\[3\]](#) Parts B to E of the Guidelines
  - [\[4\]](#) Chapter 15 of the Guidelines