

S.I. 72 of 2024

VIRTUAL ASSET SERVICE PROVIDERS ACT

(Act 12 of 2024)

Virtual Asset Service Providers (Capital and other Financial Requirements) Regulations, 2024

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S.I. 72 of 2024**VIRTUAL ASSET SERVICE PROVIDERS ACT***(Act 12 of 2024)***Virtual Asset Service Providers (Capital and other Financial Requirements) Regulations, 2024**

In exercise of the powers conferred by section 16(1) as read with 38(2) of the Virtual Asset Service Providers Act, 2024, the Minister responsible for Finance, in consultation with the Authority, makes the following Regulations —

Citation

1. These Regulations may be cited as the Virtual Asset Service Providers (Capital and other Financial Requirements) Regulations, 2024.

Interpretation

2. In these Regulations —

“alternative financial services” means services provided outside traditional banking institutions;

“paid-up capital” means the money received from shareholders as guarantee for the licensee to meet its liabilities in the eventuality of bankruptcy or winding-down;

“reserve assets” means virtual assets that are held by a licensee as a store of value or to back the value of its virtual assets issued or being held strictly for discharging liabilities;

“monies” means monies strictly used for discharging liabilities.

Application

3.(1) These regulations shall apply to all licensed virtual asset service providers under the Act.

(2) These regulations shall be read in conjunction with the Act, codes and guidelines issued by the Authority.

General requirements

4.(1) A licensee shall, at all times, have capital and other financial requirements of such nature and amount that commensurate to the scale, risk and complexity of the licensee based on its authorized activities so as to be financially sound.

(2) The matters which are relevant in determining whether a licensee has adequate capital and other financial requirements include, but are not limited to a licensee's ability to —

- (a) have and maintain the prescribed paid-capital requirements at all times;
- (b) have a proper accounting record framework established, documented and maintained at all times;
- (c) have adequate financial reporting mechanism at all times; and
- (d) have and maintain the required insurance policies at all times.

Paid-up capital

5.(1) A licensee shall at all times, hold and maintain a minimum paid-up capital as specified in the Schedule.

(2) The paid-up capital under subsection (1) shall be in the form of cash, bond or other security approved by the Authority.

(3) The paid-up capital under subsection (1) shall be maintained in —

- (a) a bank licensed under the Financial Institutions Act; or

- (b) a financial institution, excluding alternative money solutions, licensed in a country which complies with, at a minimum, the Basel II Requirement as approved by the Authority.

(4) Where a licensee intends or has been authorized to carry out more than one virtual asset service, the licensee shall hold the amount of paid-up capital specified in the Schedule for each activity authorized for.

Reserve assets or monies

6.(1) A licensee shall, at all times, maintain reserve assets or monies equivalent to one hundred percent of the liabilities owed to clients with respect to clients asset being held by the licensee.

(2) The reserve assets shall be maintained by the licensee itself in separate accounts under its management.

(3) The monies shall be maintained by the licensee in —

- (a) a bank licensed under the Financial Institutions Act; or
- (b) a financial institution, excluding alternative financial services, licensed in a country which complies with, at a minimum, the Basel II Requirement as approved by the Authority.

Administrative expenses

7. A licensee shall have an administrative expenses account that shall be maintained by the licensee in either Seychelles Rupee or such other currency, in a bank licensed under the Financial Institutions Act or a financial institution, excluding alternative financial services, licensed in a country which complies with at least the Basel II Requirement as approved by the Authority.

Insurance

8.(1) A licensee shall hold and maintain the following types of insurance coverage —

- (a) professional indemnity insurance; and
- (b) such other insurance policy allowing for the necessary protection and coverage of client's assets,

that commensurate with the level of risks and scale of the proposed business.

(2) Where the licensee has demonstrated that it has exhausted all means in obtaining insurance coverage under sub regulation (1), the licensee shall submit, for approval to the Authority, a proposal in respect of an alternative means to insurance coverage that address the level of risks and scale of the proposed business.

(3) All insurance policies shall be held and maintained with an insurer licensed in Seychelles or an insurer licensed in a jurisdiction outside of Seychelles, which has been approved by the Authority.

(4) Insurance policies may be held in the name of another entity within the licensee's group, provided that the relevant insurance policy —

- (a) explicitly states the licensee is an insured party; and
- (b) states the nature and the level of cover applicable to the licensee.

Accounting records

9.(1) A licensee shall keep accurate accounting records which are able to show and explain its transactions, whether they are effected on its own behalf or on behalf of clients, and that —

- (a) disclose with reasonable accuracy, at any time, the financial position of the licensee at that time; and
- (b) enable the licensee to prepare a balance sheet and a profit and loss account as at any time and which comply with the requirements of these Regulations.

- (2) The accounting records shall, in particular, contain —
- (a) entries from day to day of all sums of monies and virtual assets, including initial coin offerings and non-fungible tokens, received, exchanged, sold, transferred and held in custody;
 - (b) details on administrative expenditures, receipts of commissions and charges imposed for transactions by the licensee;
 - (c) a record of all assets and liabilities of the licensee including any commitments or contingent liabilities;
 - (d) entries from day-to-day transactions of all virtual assets, including initial coin offerings and non-fungible tokens, distinguishing those which are made by the licensee on its own account and those which are made by and on behalf of others;
 - (e) entries from day-to-day of all clients' monies, virtual assets, initial coin offerings and non-fungible tokens which is paid into or out of a client's bank account or client's virtual asset, initial coin offerings and initial coin offerings account or any wallet;
 - (f) record of balances on client's account.

(3) The obligations under this section are continuous and should be complied to on a daily basis.

(4) The accounting records that a licensee are required to keep shall conform to the requirements of international accounting standards.

(5) A licensee shall preserve, in original digital form, the accounting records that is required to be kept under this regulation for at least seven years from the date of completion of the transactions or operations to which they each relate.

(6) Accounting records which are required to be kept under this regulation shall, at any time during the period in which they are required to be preserved, be produced for inspection to the Authority, or any person authorised by the Authority to receive the records, on demand at a reasonable time and place as may be specified by the Authority or the authorised person.

Auditor's report

10.(1) Where the auditor's report is qualified on the grounds of the auditor's uncertainty as to the completeness or accuracy of the accounting records under regulation 9, that report when submitted by the licensee to the Authority shall be accompanied by a written document signed by at least two directors stating whether all —

- (a) the accounting records of the licensee have been made available to the auditor for the purposes of the audit;
- (b) transactions undertaken by the licensee have been properly reflected and recorded in its accounting records; and
- (c) other records of the licensee and related information have been made available to the auditor.

(2) If the auditor is of the opinion that any of the requirements in regulation 9 have not been met, the auditor shall as soon as is practicable, and in any event within 7 days, report it in writing to the Authority and the licensee.

SCHEDULE**Part 1****Entities not operating as a virtual asset service provider
on the date of commencement of the Act**

| | Initial paid-up capital | As at beginning of 3 rd year of operation |
|------------------------------------|---|--|
| Virtual Asset Wallet Providers | \$75,000 | 2.5% of annual turnover |
| Virtual Asset Exchange | \$100,000 | |
| Virtual Asset Broking | \$50,000 | |
| Virtual Asset Investment Providers | \$25,000 | |
| | <i>To show proof at licence application</i> | <i>To show proof at payment of 3rd annual licence fee</i> |

Part 2**Entities operating as a virtual asset service provider
as of the date of commencement of the Act**

| | Initial paid-up capital |
|------------------------------------|---|
| Virtual Asset Wallet Providers | 2.5% of annual turnover |
| Virtual Asset Exchange | |
| Virtual Asset Broking | |
| Virtual Asset Investment Providers | |
| | <i>To show proof at licence application</i> |

MADE this 5th day of September, 2024.

**NAADIR HASSAN
MINISTER FOR FINANCE,
NATIONAL PLANNING AND TRADE**
