

MONTSERRAT
STATUTORY RULES AND ORDERS
S.R.O. 6 OF 2024

VIRTUAL ASSET BUSINESS REGULATIONS 2024

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THE VIRTUAL ASSET BUSINESS REGULATIONS 2024 MADE BY THE GOVERNOR ACTING ON THE ADVICE OF CABINET UNDER SECTION 19(1) OF THE VIRTUAL ASSET BUSINESS ACT (ACT NO. 10 OF 2023).

1. Citation

These Regulations may be cited as Virtual Asset Business Regulations, 2024.

2. Interpretation

In these Regulations —

“**Act**” means the Virtual Asset Business Act 2023 (Act 10 of 2023);

“**beneficiary**”, with respect to a transfer of a virtual asset, means the person that will own the virtual asset on completion of a transfer;

“**beneficial owner**” —

(a) has the meaning assigned to it in the Anti-money Laundering and Terrorist Financing Regulations (Cap 04.04);

(b) includes—

- (i) a natural person who ultimately owns or controls a licensee,
- (ii) a natural person on whose behalf a transaction is being conducted,
- (iii) a person who exercises ultimate effective control over a licensee,
- (iv) where no natural person is identified under subparagraphs (i) or (iii), the natural person who holds the position of senior managing official;

“**client**” means a person —

- (a) with whom the virtual asset business establishes or intends to establish business relations; or
- (b) for whom the virtual asset business undertakes or intends to undertake a transaction;

“market abuse” means—

- (a) insider dealing;
- (b) the unlawful disclosure of insider information;
- (c) market manipulation in relation to a transaction, an order or behaviour concerning a virtual asset; or
- (d) dissemination of false or misleading information to potential clients, investors, agents, and others;

“technology platform” means an online mechanism for the sale, trade or exchange of a virtual asset offered by a licensee to its clients;

“originator”, with respect to a transfer of a virtual asset, means –

- (a) the person that places an order with a virtual asset business for the transfer of virtual assets; or
- (b) where the transfer is carried out by a virtual asset business on behalf of a client or other third party, the client or third party who owned the virtual asset immediately before the transfer;

“transfer of virtual asset” means any transaction carried out on behalf of another person that moves a virtual asset from one virtual asset address or account to another; and,

“virtual asset service” means a service provided in relation to a virtual asset business or transaction.

3. Application for licence

- (1) For the purposes of sections 4 and 6 of the Act, a person shall make an application to the Commission for a licence to carry out a virtual asset business in the form set out in the Schedule.
- (2) In addition to the requirements under section 6 of the Act, an application for a licence under subregulation (1) must be accompanied by—
 - (a) full personal details, police records, documents proving qualifications, experience, economic interests, including, the percentage of ownership, and occupation of the—

- (i) managers, and other officers;
 - (ii) directors,
 - (iii) investors or shareholders
 - (iv) beneficial owner; and,
 - (v) significant shareholders.
- (b) in the case of a legal person, articles of association or bylaws of the applicant and other constituent or incorporating documents which specify the roles and responsibilities of the managers, directors and other officers;
- (c) a business plan that includes the—
- (i) nature and scope of the virtual asset business,
 - (ii) financial and operational projections of the virtual asset business,
 - (iii) systems and controls of the virtual asset business,
 - (iv) internal control procedures of the applicant, and,
 - (v) proposed organisational structure, staffing requirements and the powers and duties of officers;
- (d) copies of contracts and arrangements for oversight of activities as the Commission requires;
- (e) evidence of the ability to meet the capital and liquidity requirements as required under regulation 6;
- (f) in the case of an existing business, audited financial statements or management accounts for the last 3 years;
- (g) evidence of human and technological resources sufficient to efficiently operate and manage the virtual asset business as required under regulation 15, including the applicant's principal business address and website;
- (h) adequate business rules, as required under regulation 8, for a virtual assets business utilising virtual assets to ensure, as far as is reasonably practicable, that the virtual asset business will operate fairly, transparently and in an orderly manner;
- (i) adequate internal systems and controls, as required under regulation 14, to maintain market integrity, including avoidance of market abuse;
- (j) Evidence of risk mitigation measures with respect to money laundering and terrorist financing risks including —
- (i) controls for user access,
 - (ii) measures to reduce the scope of a client's or users' ability to transact anonymously;
- (k) a non-refundable application fee; and