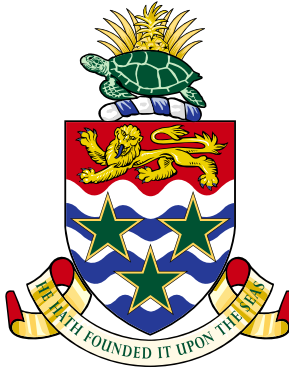


CAYMAN ISLANDS



VIRTUAL ASSET (SERVICE PROVIDERS) (AMENDMENT) BILL, 2024

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A BILL FOR AN ACT TO AMEND THE VIRTUAL ASSET (SERVICE PROVIDERS) ACT (2024 REVISION) TO AMEND DEFINITIONS AND PROVIDE NEW DEFINITIONS OF TERMS USED IN THE ACT; TO IMPROVE THE SUPERVISION OF CERTAIN VIRTUAL ASSET ACTIVITIES; TO PROVIDE THAT THE FEES PAYABLE UNDER THE ACT ARE NON-REFUNDABLE; AND FOR INCIDENTAL AND CONNECTED PURPOSES

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Ministry of Financial Services and Commerce (FSC)



Memorandum of OBJECTS AND REASONS

This Bill seeks to amend the Virtual Asset (Service Providers) Act (2024 Revision) (“the principal Act”) to amend definitions and provide new definitions of terms used in the legislation. The Bill also seeks to improve the supervision of certain virtual asset activities.

Clause 1 of the Bill provides the short title of the legislation.

Clause 2 provides for the deletion of certain definitions and the insertion of new definitions. The new definitions inserted include “convertible virtual asset”, “financial services business” and “originator”.

Clause 3 amends section 3 of the principal Act to change the reference to “an existing licensee” to “a supervised person”. This amendment is consistent throughout the amending legislation and reflects the changed reference to persons who are licensed or registered by the Authority under any of the other regulatory laws but are not licensed or registered under the principal Act.

Clause 4 amends section 4 of the principal Act to provide that, among other things, a person who is not registered, licensed or granted a waiver shall not state, imply or convey that the person is regulated or authorised by the Authority to provide virtual asset service.

Clause 5 amends section 5 of the principal Act to adjust the application procedure and the point at which the fees are payable by applicants for registration or a licence. The amendment also empowers the Authority to publish in the Gazette a notice of lapse of licence or registration where the renewal fee remains unpaid for three full months after becoming due on 15th January in a given year. The amendment to section 5 provides that the prescribed fees under the legislation are non-refundable.

Clause 6, among other things, amends section 6 of the principal Act to empower the Authority to impose conditions on an applicant for registration based on the nature, risk and scale of the business. The clause also amends section 6 of the principal Act to provide that the shareholders, directors and senior officers of an applicant for registration shall be fit and proper persons. If a registered person wishes to engage in activities for which a licence is required under the Act, clause 6 provides that the Authority shall require the registered person to apply for a licence and cancel the registration if a licence is granted.

Clause 7 amends section 8 to empower the Authority to impose conditions on an applicant for a licence at the time of the application or at any time after having regard to the nature, risk and scale of the business. The clause also amends section 8 to provide that the Authority shall grant the licence on payment of the licence fee and the licence shall state the specific service that the licensee is permitted to carry on.



Clause 8 amends section 9 to provide that, as a part of the general requirements for virtual asset service providers, the Authority may require a registered person to provide audited financial statements where it determines that they are required due to the nature, size or complexity of the registered person or where the registered person may have provided false or misleading accounts. The clause also provides for an amendment to section 9 to provide that the virtual asset provider is required to ensure the accuracy of not only the communications, but all disclosures, and advertising materials relating to the virtual asset service. The clause also provides, among other things, that where a virtual asset service provider wishes to make a change to the approved business plan that modifies the provision of the virtual asset service for which a licence or registration has been granted, the virtual asset service provider must seek the written approval of the Authority.

Clause 9 amends section 10 to expand on the disclosures to clients that the Authority may require a licensee to provide. These include disclosures to clients regarding regulatory obligations, grievance procedures, the sharing of client's information to third parties and internal custodial governance arrangements. The clause also amends section 10 to provide that the Authority may impose requirements on a licensee regarding the manner in which virtual assets are held and maintained on behalf of clients and the provision of products and services which derive their value from underlying virtual assets. Clause 9 provides further, among other things, for the amendment of section 10 to require that a virtual asset service licensee that is providing virtual asset custody services shall take steps as may be necessary to safeguard virtual assets held on behalf of third parties, maintain accurate records that readily establish the precise nature, amount, location and ownership of client assets and segregate client assets from proprietary assets and the assets of any affiliate.

Clause 10 provides for the repeal of section 13.

Clause 11 provides for the repeal and substitution of sections 14 and 15.

The new section 14 empowers the Authority to direct a virtual asset service provider to apply for a licence or registration under any of the other regulatory laws where—

- (a) it is carrying on financial services business that is materially similar to the financial services business for which a licence or registration regime under any of the other regulatory laws provides sufficient oversight and supervision for that business; or
- (b) it requires additional oversight that is provided for in the licensing or registration regime under another regulatory law.

The new section 15 provides for the procedure for an application for a licence, registration or waiver for a supervised person who wishes to carry on virtual asset services. An application is not required where the supervised person is carrying on virtual asset activities involving virtual service tokens only.

Clause 12 provides for the amendment of section 16. The provision empowers the Authority to revoke a waiver granted where it is of the opinion that, among other things, there is a change in the size, scope, risk or complexity of the business operations and registration or a licence is now required.



Clause 13 provides for the amendment of section 19 to delete and substitute references to “existing licensee”, “sandbox application fee” and “sandbox application fee” among others. The clause also amends section 19 to provide that the Authority in reviewing an application for a sandbox licence shall consider the fintech service and its probable effects on financial services business.

Clause 14 provides for the repeal of Part 4 which dealt with decisions to licence, register and approve issuances of virtual assets.

Clause 15 provides for the amendment of section 24 to empower the Authority to request information from any person who is carrying on virtual asset service in contravention of the principal Act and to have access to any books, documents, virtual assets or securities as the Authority may reasonably require for the performance of its functions under the Act. The Authority is empowered to authorise a person with the requisite technical expertise to examine the affairs or business of a licensee, registered person or other person carrying on virtual asset services.

Clause 16 provides for the amendment of section 25 to provide that the Authority may, at the expense of the virtual asset service provider, appoint a person to advise the virtual asset service provider on the proper conduct of its affairs and to report to the Authority on its appointment. The Authority, pursuant to the report, may revoke the licence or cancel the registration and apply to the court for an order that the virtual asset service provider be wound up by the court.

Clause 17 amends section 26 to provide that where the Authority is of the opinion that a virtual asset service provider is falsely stating, implying or conveying to the public that it is licensed in accordance with the Act, the Authority may direct that a virtual asset service provider cease carrying out the acts and instead take such steps that are necessary, in the opinion of the Authority, to remedy the conduct.

Clause 18 amends section 27 to repeal and substitute subsection (1). The new subsection (1) provides that the Authority may revoke a licence or a waiver or may cancel a registration or approval for a virtual asset issuance where it is of the opinion that the virtual asset service provider —

- (a) has failed to comply with an obligation imposed by the principal Act;
- (b) is carrying on business in a manner that is not permitted by the licence or the conditions of the registration or waiver;
- (c) has provided the Authority with false, misleading or inaccurate information;
- (d) has caused the interests of clients or potential clients for the virtual asset service provider to be threatened; or
- (e) has contravened the *Anti-Money Laundering Regulations (2023 Revision)*.

Clause 19 amends section 28 to delete and substitute the words “a legal person” with the words “a company or partnership” and the words “the legal person or legal arrangement” with “the company or partnership”.

Clause 20 amends clause 30 to provide for an appeal to the court for the refusal by the Authority to grant a waiver for a supervised person to engage in virtual asset service.

Clause 21 amends section 31 to provide, among other things, that every licensee or registered person which has been directed to provide audited financial statements shall have its accounts audited by an auditor who is a chartered accountant, a certified public accountant or other professionally qualified accountant approved by the Authority.

Clause 22 amends section 32 to require that if an auditor in the course of carrying out an audit or producing a report under section 9 becomes aware of or has reasonable grounds to believe that a licensee or registered person is carrying on, or attempting to carry on, business in a fraudulent or criminal manner to immediately give the Authority, the licensee and the registered person written notice of the belief. The clause also provides that a person who contravenes subsection (1), that sets out the requirement that an auditor notify the Authority, commits an offence and is liable on conviction to a fine of twenty thousand dollars.

Clause 23 provides for the repeal and substitution of section 33. The clause sets out the provisions for the entry and search of premises where a magistrate is satisfied by information on oath that there are reasonable grounds for believing that an offence has been committed, or is being committed, and that the evidence of the commission of the offence is to be found at any premises or in an electronic device. The clause provides that the magistrate may authorise entry to the premises in which the electronic device is located by persons as may be specified.

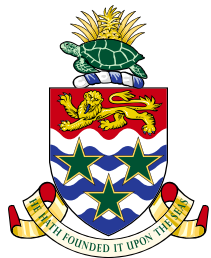
Clause 24 amends section 39 to delete and substitute the words “financial service business” with the words “financial services business”.

Clause 25 provides for general amendments to the principal Act to delete and substitute certain cross headings in the principal Act. It also provides for the deletion and substitution of the words “application fee” with the words “licensing or registration fee” and “assessment fee” with the words “application fee”.

Clause 26 provides the transitional arrangements for applications for which a decision is pending on the day immediately preceding the commencement of this amending Act. The application fee for those applications will be refundable.



CAYMAN ISLANDS



VIRTUAL ASSET (SERVICE PROVIDERS)
(AMENDMENT) BILL, 2024

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VIRTUAL ASSET (SERVICE PROVIDERS) (AMENDMENT) BILL, 2024

A BILL FOR AN ACT TO AMEND THE VIRTUAL ASSET (SERVICE PROVIDERS) ACT (2024 REVISION) TO AMEND DEFINITIONS AND PROVIDE NEW DEFINITIONS OF TERMS USED IN THE ACT; TO IMPROVE THE SUPERVISION OF CERTAIN VIRTUAL ASSET ACTIVITIES; TO PROVIDE THAT THE FEES PAYABLE UNDER THE ACT ARE NON-REFUNDABLE; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

Short title and commencement

1. (1) This Act may be cited as the Virtual Asset (Service Providers) (Amendment) Act, 2024.
- (2) This Act shall come into force on such date as may be appointed by Order made by the Cabinet and different dates may be appointed for different provisions of this Act and in relation to different matters.

Amendment of section 2 of the Virtual Asset (Service Providers) Act (2024 Revision) - interpretation

2. The *Virtual Asset (Service Providers) Act (2024 Revision)*, in this Act referred to as the “principal Act”, is amended in section 2 as follows—
 - (a) in subsection (1) as follows —

- (i) by deleting the following words and their definitions —
 - (A) **“application fee”**;
 - (B) **“existing licensee”**;
 - (C) **“fintech service”**;
 - (D) **“operator”**;
 - (E) **“originator”**; and
 - (F) **“senior officer”**;
- (ii) in the definition of the words **“fiat currency”**, by deleting the words “that is issued” and substituting the words “that is issued exclusively”;
- (iii) by inserting, in the appropriate alphabetical sequence, the following definitions —

“application fee” means the fee that is payable by an applicant for licensing or registration under section 5(1);

“convertible virtual asset” means a virtual asset which may be accepted, exchanged or transferred in exchange for another virtual asset or fiat currency or any other value by way of any type of function or feature of the virtual asset or third-party intermediary;

“financial services business” has the meaning assigned by section 2 of the *Monetary Authority Act (2020 Revision)*;

“fintech service” means a service that uses innovative technology to improve, change or enhance how a financial services business is conducted but is not a virtual asset service;

“licence fee” or **“registration fee”** means the respective fee that is payable by an applicant for a licence or registration under section 5(2);

“originator”, in relation to a transfer of a virtual asset, means a person, whether natural or legal, who places an order with the virtual asset service provider for a virtual asset transfer;

“owner” or **“operator”**, in relation to a virtual asset trading platform, means —

- (a) the single entity or group which exerts management control over the platform;
- (b) where a single entity or group which exerts management control is not identifiable, either —
 - (i) the entity through which the platform operates; or
 - (ii) the entity through which the platform contracts with users of the platform; or



(c) where an entity or group under paragraph (a) or (b) is not identifiable, the entity or group that provides the services offered by the platform to the users of the platform;

“senior officer” means a director, managing director, president, chief executive officer, partner, managing partner, general partner, ultimate partner, manager, anti-money laundering compliance officer, money laundering reporting officer, deputy money laundering reporting officer or a person who has a similar control function; and

“supervised person” means a person that is licensed or registered by the Authority under any of the other regulatory laws but is not licensed or registered under this Act;”;

- (b) in subsection (2) as follows —
 - (i) by deleting the words “centralised or decentralised”; and
 - (ii) in paragraph (a), by deleting the words “which facilitates the exchange” and substituting the words “which provides a virtual asset service and facilitates the exchange”; and
- (c) by repealing subsection (3).

Amendment of section 3 - meaning of “virtual asset service provider”

3. The principal Act is amended in section 3(1), by deleting the words “an existing licensee” and substituting the words “a supervised person”.

Amendment of section 4 - registration or licence required

4. The principal Act is amended as follows —
- (a) in section 4(1)(c) by deleting the words “an existing licensee” and substituting the words “a supervised person”;
 - (b) in subsection (2), by inserting after the words “course of business” the words “and the Authority shall not grant registration, a licence or a waiver to a natural person”; and
 - (c) by inserting after subsection (4) the following subsection —

“(5) A person who is not registered, licensed or granted a waiver under this Act, including an applicant for registration, a waiver or a licence, shall not state, imply or convey that the person is regulated or authorised by the Authority to provide virtual asset service.”.

Amendment of section 5 - fees

5. The principal Act is amended in section 5 as follows —
- (a) by repealing subsections (1), (2) and (3) and substituting the following subsections —

- “(1) An application for registration or a licence shall be accompanied by the prescribed application fee.
- (2) On the Authority’s decision to approve an application for registration or a licence, the Authority shall notify the applicant of its approval and the applicant shall pay the respective prescribed registration or licence fee.”;
- (b) by repealing subsection (4), and substituting the following subsection —
 - “(4) The respective prescribed licence or registration fee shall be paid by the applicant no later than thirty days after being notified by the Authority of the approval of the application and where the fee is not paid the approval shall be cancelled by the Authority.”;
- (c) by repealing subsection (7) and substituting the following subsections—
 - “(6A) The Authority may publish in the Gazette a notice of lapse of licence or registration where either a licence or registration lapses in accordance with subsection (6).
 - (7) The Authority may, for good cause, waive any surcharge imposed under subsection (5) or administration fee under subsection (6)(c) or both.”; and
- (d) by inserting after subsection (8) the following subsection —
 - “(9) The prescribed fees payable under this Act are non-refundable.”.

Amendment of section 6 - application for registration

6. The principal Act is amended in section 6 as follows —

- (a) by repealing subsections (1) to (3) and substituting the following subsections —
 - “(1) Subject to subsection (3), a person, not being a supervised person who has been granted a waiver for registration or a licence under section 16, who —
 - (a) at the commencement of the Virtual Asset (Service Providers) (Amendment) Act, 2024 is carrying on virtual asset service for which a licence is not required under this Act;
 - (b) wishes to carry on virtual asset service for which a licence is not required under this Act; or
 - (c) has been directed by the Authority to apply for registration under this Act,
- shall apply in the prescribed form to be a registered person under this Act and submit the application along with the prescribed assessment fee to the Authority.



- (2) The Authority, in determining whether to approve the application from a person in subsection (1), shall consider whether —
 - (a) the applicant should apply instead for a virtual asset service licence or a sandbox licence as the virtual asset service is one for which a licence is required; or
 - (b) the applicant should apply instead for registration or a licence under one of the other regulatory laws.
- (2A) The Authority may impose conditions on an applicant for registration at the time of application or at any time thereafter, as the Authority may consider appropriate having regard to the nature, risk and scale of the business.
- (2B) An applicant for registration shall not be registered unless the applicant has satisfied the Authority that the applicant's shareholders, directors and senior officers are fit and proper persons.
- (3) The Authority shall either —
 - (a) where it determines that the applicant is suitable to be registered, register the applicant on —
 - (i) the fulfilment of the conditions under subsection (2A) where conditions are imposed; and
 - (ii) the payment of the registration fee; or
 - (b) where the applicant is found to be unsuitable, refuse the application for registration.”; and
- (b) by repealing subsections (6) and (7) and substituting the following subsections —
 - “(6) If a registered person wishes to engage in activities for which a licence is required under this Act, the Authority shall require the registered person to apply for a licence and the Authority shall cancel the registration if the licence is granted.
 - (6A) A registered person who at the commencement of the *Virtual Asset (Service Providers) (Amendment) Act, 2024* is engaged in an activity for which a licence is required shall apply for a licence within ninety days of the commencement.
 - (7) A registered person shall not publicly state, imply or convey that it is —
 - (a) licensed in the Islands for the provision of virtual asset custodial services or the operation of a trading platform; or
 - (b) otherwise licensed under this Act.”.

Amendment of section 8 - application for virtual asset service licence

7. The principal Act is amended in section 8 as follows —

- (a) in subsection (1) as follows —
 - (i) by repealing paragraph (c) and substituting the following paragraph —

“(c) is a supervised person conducting virtual asset services and has been directed by the Authority to obtain a virtual asset service licence; or”; and
 - (ii) by deleting the words “may apply for” and substituting the words “shall apply for”;
- (b) in subsection (2)(c) as follows —
 - (i) by deleting the words “applicant to apply for a licence” and substitute the words “applicant to apply for a licence or registration”; and
 - (ii) by deleting the words “and for which supervision under this Act is not required”;
- (c) in subsection (4) as follows —
 - (i) by deleting the words “the matters set out in section 22 and”;
 - (ii) by inserting after paragraph (a) the following paragraph —

“(aa) the applicant has satisfied the Authority that the applicant’s beneficial owners and senior officers are fit and proper persons;”; and
 - (iii) by deleting the words “application fee under section 5(3)” and substituting the words “prescribed application fee”;
- (d) by repealing subsection (5) and substituting the following subsections —

“(5) On payment of the licence fee, the Authority shall grant the licence and the licence shall set out the specific service that the licensee is permitted to carry on.

(5A) The Authority may impose conditions on an applicant for a licence at the time of application, or at any time after, as the Authority considers appropriate having regard to the nature, risk and scale of the business.”; and
- (e) in subsection (8)(a), by deleting the words “regulatory requirements on a virtual asset” and substituting the words “requirements on a virtual asset”.

Amendment of section 9 - general requirements for virtual asset service providers

8. The principal Act is amended in section 9 as follows —

- (a) by inserting after subsection (2) the following subsection —



- “(2A)The Authority may require a registered person to provide audited financial statements in accordance with section 31 where the Authority —
- (a) determines that they are required due to the nature, size or complexity of the registered person; or
 - (b) has reasonable grounds for believing that the registered person has provided false or misleading accounts under subsection (2).”;
- (b) in subsection (3) as follows —
- (i) by inserting after paragraph (a) the following paragraph —

“(aa) have no less than three directors at all times including at least one independent director without a vested interest in the virtual asset service provider;”;
 - (ii) by repealing paragraph (c) and substituting the following paragraphs —

“(c) ensure the accuracy of all disclosures, advertising materials and communications relating to the virtual asset service with clients and members of the public;”;

(ca) carry on virtual asset services only in accordance with the information given in its approved application for registration, waiver or a licence and in the business plan and only engage in the virtual asset services for which it has been licensed, registered or granted a waiver;
 - (cb) seek the prior written approval of the Authority —
 - (i) to make a change to the approved business plan which modifies or changes the provision of the virtual asset services for which it has been granted registration or a licence; or
 - (ii) to provide additional virtual asset services which were not included in the approved application or business plan;”;
 - (iii) in paragraph (d), by deleting the words “proliferation financing;” and substituting the words “proliferation financing; and”;
 - (iv) in paragraph (e), by deleting the words “systems and procedures; and” and substituting the words “systems and procedures.”; and
 - (v) by repealing paragraph (f);
- (c) in subsection (4)(c) as follows —
- (i) by deleting the words “notify the Authority of” and substituting the words “notify the Authority within thirty days of”;

- (ii) in subparagraph (ii), by deleting the words “or establishing a physical presence” and substituting the words “, subsidiary, agency, branch or other physical presence”; and
- (iii) by repealing subparagraph (iii) and substituting the following subparagraph —
 - “(iii) any penalties that are imposed or enforcement actions taken against it or any litigation proceedings brought against the virtual asset service provider in this or another jurisdiction; or”;
- (d) by repealing subsection (5) and substituting the following subsection —
 - “(5) When performing a transfer of virtual assets, a virtual asset service provider shall —
 - (a) collect and maintain information on the beneficiary and originator of the transfer in accordance with the *Anti-Money Laundering Regulations (2023 Revision)*;
 - (b) comply with any other requirements relating to virtual asset service providers set out in the *Anti-Money Laundering Regulations (2023 Revision)*; and
 - (c) collect and retain any information regarding the beneficiary and originator or take any additional measures regarding the virtual asset transfer as may be specified by the Authority,and the records shall —
 - (i) be made available, at the request of the Authority or any competent authority, through the virtual asset service provider’s registered office; and
 - (ii) where a request for information is made under subparagraph (i), be provided by the virtual asset service provider within forty-eight hours of receipt of the request.”;
- (e) in subsection (7), by deleting the words “to ensure compliance with the *Anti-Money Laundering Regulations (2023 Revision)*”; and
- (f) by repealing subsections (8) and (9) and substituting the following subsections —
 - “(8) A virtual asset service provider shall not appoint a senior officer or trustee without the prior approval of the Authority.
 - (9) The Authority shall not grant the approval specified in subsection (8) where a senior officer or trustee is not a fit and proper person.
 - (9A) Approval granted under subsection (8) —



- (a) lapses if the senior officer or trustee becomes bankrupt or is convicted of an offence involving dishonesty; and
- (b) may be revoked by the Authority where the Authority has sufficient cause to believe that the senior officer or trustee is no longer able to perform the functions required by the appointment.

(9B) A virtual asset service provider who knowingly makes, issues or permits to be made or issued any representation about or description of the provider's virtual asset activities in any form or by any method that is misleading to the public commits an offence.”.

Amendment of section 10 - requirements: virtual asset custody services

9. The principal Act is amended in section 10 as follows —

- (a) in subsection (1) as follows —
 - (i) by repealing paragraph (c) and substituting the following paragraph —
 - “(c) disclosures to clients concerning —
 - (i) the transparency of operations including the risks associated with custodial arrangements;
 - (ii) internal safeguards;
 - (iii) the methods of access to virtual assets held;
 - (iv) insurance arrangements;
 - (v) regulatory obligations;
 - (vi) grievance procedures;
 - (vii) third party sharing of clients' information; and
 - (viii) internal custodial governance arrangements including safeguards;”;
 - (ii) in paragraph (d), by deleting the words “cybersecurity measures; and” and substituting the words “cybersecurity measures;”;
 - (iii) by inserting after paragraph (d) the following paragraphs —
 - “(da) requirements for the manner in which virtual assets are held and maintained on behalf of clients, including any necessary arrangements regarding the safe custody of virtual assets;
 - (db) requirements for the provision of products and services which derive their value from underlying virtual assets; and”;
- (b) in subsection (3) as follows —
 - (i) in paragraph (c), by deleting the words “proceeds relating to” and substituting the words “proceeds or tangible benefits relating to”; and

- (ii) by repealing paragraphs (d) and (e) and substituting the following paragraphs —
 - “(d) where a licensee holds fiat currency on behalf of a client, hold the fiat currency in a bank regulated by the Authority or another regulator in a non high-risk jurisdiction in a manner where the fiat currency is segregated from any fiat currency owned by the licensee;
 - (e) take steps as may be necessary to safeguard the virtual assets held on behalf of third parties including where virtual assets are held on behalf of the virtual asset service licensee by third parties;
 - (f) have adequate safeguards, including safeguards against theft and loss;
 - (g) maintain accurate and up-to-date records and accounts of client assets that readily establish the precise nature, amount, location and ownership status of client assets and the clients for whom the assets are held; and
 - (h) segregate client assets from proprietary assets and the assets of any affiliate or a virtual asset service provider held by the licensee, and place client assets in trust or in segregated bankruptcy remote accounts (or provide equivalent protection through legal or accounting mechanisms recognised in the relevant jurisdiction) so that client assets are separate and distinct from the licensee’s own assets or estate.”.

Repeal of section 13 - directions to apply for licence under this Act

10. The principal Act is amended by repealing section 13.

Repeal and substitution of sections 14 and 15 - directions to apply for a licence under another regulatory law; notice by existing licensee

11. The principal Act is amended by repealing sections 14 and 15 and substituting the following sections —

“Directions to apply for licence or registration under another regulatory law

- 14.** (1) The Authority shall require a virtual asset service provider registered or licensed under this Act to apply for a licence or registration under any of the other regulatory laws, where the virtual asset service provider is carrying on financial services business —
- (a) that is materially similar to financial services business for which there is a licensing or registration regime under any of the other



- regulatory laws that provides sufficient oversight and supervision for that financial services business; or
 - (b) that requires additional oversight that is provided for in a licensing or registration regime under the other regulatory laws.
- (2) On approval of a licence or registration under any of the other regulatory laws in respect of a virtual asset service provider carrying on financial services business referred to in subsection (1)(a), the Authority shall cancel the registration or revoke the licence under this Act and waive the requirement for registration or a licence under this Act in accordance with section 15.
- (3) Where a virtual asset service provider is carrying on financial services business referred to in subsection (1)(b), the licence or registration approved under any of the other regulatory laws is in addition to the licence or registration under this Act.

Application by supervised person

15. (1) A supervised person who wishes to carry on virtual asset service shall apply to the Authority, in the manner specified by the Authority, for any of the following —
- (a) a virtual asset service licence;
 - (b) registration; or
 - (c) a waiver of licensing or registration requirements under this Act in accordance with section 16,
- setting out in detail the nature and scope of the virtual asset service that the supervised person wishes to carry on.
- (2) The supervised person shall provide any additional information as the Authority considers necessary in order for it to make a determination under this section.
- (3) An application under this section is not required where the supervised person is carrying on virtual asset activities that involve virtual service tokens only.
- (4) In making a determination regarding an application under this section, the Authority may —
- (a) grant or deny the licence or registration as requested;
 - (b) grant or deny the waiver as requested; or
 - (c) direct the supervised person to apply for a licence or registration under one of the other regulatory laws.
- (5) A supervised person shall comply with any relevant provisions of this Act as the Authority may require.

- (6) A supervised person who fails to make an application under this section while carrying on virtual asset service commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.”.

Amendment of section 16 - waiver

12. The principal Act is amended in section 16 as follows —

- (a) by deleting the words “an existing licensee” wherever they appear and substituting the words “a supervised person”;
- (b) by deleting the words “the existing licensee” wherever they appear and substituting the word “the supervised person”;
- (c) in subsection (2), by deleting the words “provided in the notice” and substituting the words “provided in the application”; and
- (d) by inserting after subsection (3) the following subsection —

“(4) The Authority may revoke a waiver granted under this Act where it is of the opinion that —

 - (a) the supervised person has failed to comply with any conditions imposed by the Authority;
 - (b) the virtual asset service provided by the supervised person has changed materially and requires registration or a licence under this Act; or
 - (c) there is a change in size, scope, risk or complexity of the business operations and requires registration or a licence under this Act.”.

Amendment of section 19 - application for a sandbox licence

13. The principal Act is amended in section 19 as follows —

- (a) in subsection (1)(b)(ii), by deleting the words “existing licensees” and substituting the words “supervised persons”;
- (b) in subsection (4), by deleting the words “An existing licensee” and substituting the words “A supervised person”;
- (c) in subsection (5), by deleting the words “application fee as may be specified by the Authority” and substituting the words “prescribed application fee”;
- (d) in subsection (6), by deleting the words “sandbox application fee” and substituting the words “sandbox licence fee”; and
- (e) in subsection (8), by deleting the words “the matters set out in section 22” and substituting the words “the fintech service and its probable effects on financial services business”.



Repeal of Part 4 - decisions to licence, register, approve issuances

14. The principal Act is amended by repealing Part 4.

Amendment of section 24 - powers and duties of the Authority

15. The principal Act is amended in section 24 as follows —

- (a) in subsection (1)(c), as follows —
 - (i) in subparagraph (iii), by deleting the words “a licensee is” and substituting the words “a virtual asset service provider is”; and
 - (ii) in subparagraph (iv), by deleting the words “whether a licensee’s” and substituting the words “whether a virtual asset service provider’s”;
- (b) by inserting after subsection (2) the following subsections —
 - “(2A) In the performance of its functions under this Act, the Authority may, at all reasonable times, request—
 - (a) any information, matter or thing from any person whom the Authority has reasonable grounds to believe is carrying on virtual asset service in contravention of this Act; and
 - (b) access to view and to make copies of any books, records, documents, cash, virtual assets or securities,as the Authority may reasonably require for the performance of its functions under this Act.
 - (2B) The Authority may require a supervised person whom the Authority has reasonable grounds to believe is conducting virtual asset services in contravention of this Act to grant access in order that it may view and make copies of any books, records and documents, cash, virtual assets and securities.
 - (2C) For the purpose of performing its duties under subsection (1)(b), the Authority may authorise, in writing, a person with the requisite technical expertise to examine the affairs or business of a licensee, registered person or other person carrying on virtual asset services and to report to the Authority the results of the examination.
 - (2D) The Authority, in the performance of its functions, is entitled to access at reasonable times the necessary books and records and to request any information or thing from any person as may be reasonably required to enable the Authority to perform its functions.
 - (2E) The Authority may charge a fee for the performance of its functions under subsection (1)(c) such fee being commensurate with the nature, size and complexity of the virtual asset service provider.”; and
- (c) by repealing subsection (4).

Amendment of section 25 - enforcement powers of the Authority

16. The principal Act is amended in section 25 as follows —

- (a) in subsection (3) as follows —
 - (i) by repealing paragraph (a) and substituting the following paragraph —

“(a) revoke a virtual asset service licence, a sandbox licence, a waiver or cancel a registration;”;
 - (ii) in paragraph (b), by deleting the words “upon the licence” and substituting the words “on the licence, registration or waiver”;
 - (iii) by repealing paragraph (j) and substituting the following paragraph—

“(j) at the expense of the virtual asset service provider, appoint a person to advise the virtual asset service provider on the proper conduct of its affairs and to report to the Authority on the appointment; or”;

and
 - (iv) in paragraph (k) as follows —
 - (A) by deleting the words “the licensee” and substituting the words “the virtual asset service provider”;
 - (B) by deleting the words “the licensee’s” and substituting the words “the virtual asset service provider’s”;
- (b) in subsection (4)(d), by deleting the words “the licensee’s right” and substituting the words “the virtual asset service provider’s right”;
- (c) in subsection (5), by deleting the words “of the licensee” and substituting the words “of the virtual asset service provider”; and
- (d) in subsection (6), by repealing paragraph (d) and substituting the following paragraph —

“(d) revoke the licence or cancel the registration and apply to the court for an order that the virtual asset service provider, if it is —

 - (i) a company, be wound up by the court and, in the event of the winding up, the provisions of the *Companies Act (2023 Revision)* relating to the winding up of a company shall apply;
 - (ii) a general partnership or a limited partnership, be wound up by the court and, in the event of the winding up the provisions of the *Partnership Act (2024 Revision)* relating to the winding up of a general partnership or a limited partnership shall apply;



- (iii) a limited liability partnership be wound up by the court and, in the event of the winding up, the relevant provisions of the *Limited Liability Partnership Act (2023 Revision)* shall apply;
- (iv) an exempted limited partnership be wound up by the court and, in the event of the winding up, the relevant provisions of the *Exempted Limited Partnership (2021 Revision)* shall apply; or
- (v) a limited liability company be wound up by the court and, in the event of the winding up, the relevant provisions of the *Limited Liability Companies Act (2023 Revision)* shall apply;”.

Amendment of section 26 - direction to cease and desist

17. The principal Act is amended in section 26 as follows —

- (a) in subsection (1) as follows —
 - (i) in paragraph (a), by deleting the words “service provider; or” and substituting the words “service provider;”;
 - (ii) in paragraph (b), by deleting the words “service provider,” and substituting the words “service provider; or”; and
 - (iii) by inserting after paragraph (b) the following paragraph —

“(c) registered or granted a waiver and does not hold a licence but is publicly stating, implying or conveying that it is licensed in accordance with this Act;”;
- (b) by inserting after subsection (1) the following subsection —

“(1A) Where the Authority has determined that a person is engaged in virtual asset services without a licence or registration or a waiver under this Act, or is otherwise in contravention of this Act, the Authority may direct the person to cease and desist from carrying out the activity which is in contravention of this Act.”;
- (c) in subsection (2), by deleting the words “by the Authority under subsection (1)” and substituting the words “by the Authority under subsection (1) or (1A)”;
- (d) by repealing subsection (3).

Amendment of section 27 - revocation of licence

18. The principal Act is amended in section 27 as follows —

- (a) by deleting the section heading and substituting the following section heading —

“Revocation of licence or cancellation of registration”;

- (b) by repealing subsection (1) and substituting the following subsection —
 - “(1) The Authority may revoke a virtual asset service licence, revoke a sandbox licence, revoke a waiver, cancel a registration or cancel the approval for a virtual asset issuance where it is of the opinion that —
 - (a) the virtual asset service provider has failed to comply with an obligation imposed on it by this Act;
 - (b) the virtual asset service provider is carrying on business in a manner that is not permitted by the licence or the conditions of its registration or the conditions of the waiver;
 - (c) the Authority has been provided with false, misleading or inaccurate information by or on behalf of the virtual asset service provider or a person who is a senior officer or trustee of the virtual asset service provider;
 - (d) the interests of the clients or potential clients of the virtual asset service provider are threatened; or
 - (e) the virtual asset service provider has contravened the *Anti-Money Laundering Regulations (2023 Revision)*.”; and
- (c) in subsection (2), by deleting the words “it shall publish” and substituting the words “it may publish”.

Amendment of section 28 - shares not to be issued or transferred without the prior approval of the Authority

19. The principal Act is amended in section 28(4) as follows —

- (a) by deleting the words “a legal person” and substituting the words “a company or partnership”; and
- (b) by deleting the words “the legal person or legal arrangement” and substituting the words “the company or partnership”.

Amendment of section 30 - appeals against decisions made by the Authority

20. The principal Act is amended in section 30(1) by repealing paragraph (f) and substituting the following paragraph —

- “(f) for refusal of a waiver under section 16 for a supervised person to engage in virtual asset service.”.

Amendment of section 31 - audit of accounts

21. The principal Act is amended in section 31 as follows —

- (a) by repealing subsections (1) and (2) and substituting the following subsections —
 - “(1) Every licensee or registered person which has been directed to provide audited financial statements under section 9(2A) shall have



its accounts audited annually or at such other times as the Authority may require by an auditor who shall be a chartered accountant, certified public accountant or other professionally qualified accountant approved by the Authority.

- (2) The audited accounts shall be forwarded to the Authority within six months after the end of the financial year of the licensee or registered person under subsection (1) unless prior written approval for an extension has been granted by the Authority.
- (2A) A licensee or registered person under subsection (1) shall forward to the Authority consolidated accounts in respect of the parent undertaking of the group of which the licensee or registered person under subsection (1) is a member within three months after the end of the financial year of the parent undertaking of the group unless prior written approval for an extension has been granted by the Authority.”;
- (b) in subsection (3), as follows —
 - (i) by deleting the word “licensee” wherever it appears and substituting the words “licensee or registered person under subsection (1)”;
 - (ii) by deleting the words “comply with subsection (2)” and substituting the words “comply with subsection (2) or (2A)”;
- (c) by repealing subsection (4);
- (d) in subsection (5), by deleting the word “licensee” and substituting the words “licensee or registered person under subsection (1)”;
- (e) by repealing subsections (6) and (7) and substituting the following subsections —
 - “(6) If it appears to the Authority that an auditor has failed to comply with the requirements in section 32(1), the Authority may disqualify the auditor from being an auditor of a licensee or registered person under subsection (1).
 - (6A) The Authority may remove any disqualification imposed under subsection (6) if it is satisfied that the person in question will in future comply with the requirements in section 32(1).
 - (7) A licensee or a registered person under subsection (1) shall not appoint as an auditor a person disqualified under subsection (6).”.

Amendment of section 32 - duty of auditor

22. The principal Act is amended in section 32 as follows —

- (a) in subsection (1) as follows —

- (i) in paragraph (c), by deleting the words “or creditors; or” and substituting the words “or creditors;”;
 - (ii) in paragraph (d), by deleting the words “produce a report,” and substitute the words “produce a report; or”;
 - (iii) by inserting after paragraph (d), the following paragraph —
 - “(e) is carrying on or attempting to carry on business in a fraudulent or criminal manner;”; and
 - (iv) by deleting the words “the auditor shall immediately give the Authority and the licensee” and substituting the words “the auditor shall, subject to subsection (1A), immediately give the Authority, the licensee and the registered person”;
- (b) by inserting after subsection (1) the following subsection —
- “(1A) Written notice under subsection (1) shall only be given to the licensee or the registered person if the notice does not impede the obligations of the auditor.”; and
- (c) by inserting after subsection (5) the following subsection —
- “(6) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars.”.

Repeal and substitution of section 33 - entry and search of premises

23. The principal Act is amended by repealing section 33 and substituting the following section —

“Entry and search of premises

- 33.** (1) If a magistrate is satisfied by information on oath, given by the Authority or by a person authorised under section 24(2C) to assist the Authority, that either—
- (a) there is reasonable ground for believing that an offence against this Act, the *Proceeds of Crime Act (2024 Revision)*, the *Anti-Money Laundering Regulations (2023 Revision)*, or the *Beneficial Ownership Transparency Act, 2023*, has been or is being committed and that evidence of the commission of the offence is to be found at any premises, or in any electronic device, platform or computer specified in the information; or
 - (b) books, records, vouchers, documents, cash, virtual assets or securities which ought to have been produced under section 24(2A) and have not been produced are to be found at any premises or in any electronic device, platform or computer specified in the information,



the magistrate may authorise the Authority, a person authorised under section 24(2C) or any constable of the rank of Inspector or above, together with any other person named in the warrant and any other constables, to enter the premises specified in the information in which the electronic device or platform or computer so specified may be, at any time within one month from the date of the warrant, and to search the premises, electronic device, platform or computer.

- (2) The person authorised by the warrant under subsection (1) to conduct a search may —
 - (a) search every person who is found in, or whom that person has reasonable grounds to believe to have recently entered or is about to enter, the premises or had access to the electronic device, or platform or computer; and
 - (b) may seize any books, records, vouchers, documents, cash, virtual assets or securities—
 - (i) in the possession of any person referred to in paragraph (a);
 - (ii) in the premises specified in the information; or
 - (iii) stored on an electronic device, platform or computer, which the person authorised by the warrant has reasonable grounds for believing ought to have been produced under section 24(2A).
- (3) Where under this section a person has any power to enter any premises that person may use such force as is reasonably necessary for the purpose of exercising that power.
- (4) A person who obstructs the Authority or any other person in the exercise of any powers conferred on it or that person under this section commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for one year, or to both.
- (5) For the purposes of this section, “**premises**” includes any vehicle, vessel or aircraft.”.

Amendment of section 39 - regulations

- 24.** The principal Act is amended in section 39 by deleting the words “financial service business” wherever it appears and substituting the words “financial services business”.

General amendments to the Virtual Asset (Service Providers) Act (2024 Revision)

25. The *Virtual Asset (Service Providers) Act (2024 Revision)*, in this Act referred to as the “principal Act”, is amended as follows —

- (a) by deleting the cross-heading “*Directions to apply for licence*” that appears after section 12 and substituting the cross-heading “*Directions to apply for licence or registration*”;
- (b) by deleting the cross-heading “*Existing licensee*” that appears after section 14 and substituting the cross-heading “*Supervised person*”;
- (c) by deleting the words “application fee” wherever they appear and substituting the words “licensing or registration fee”; and
- (d) by deleting the words “assessment fee” wherever they appear and substituting the words “application fee”.

Transitional

26. Notwithstanding section 5 of this amending Act, the fee for an application for which a decision is pending on the day immediately preceding the commencement of this amending Act shall be refundable.

Passed by the Parliament the day of , 2024.

Speaker

Clerk of the Parliament

