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DIRECTIVE NO. 07 OF 2023

BANK OF NAMIBIA LICENSING AND REGISTRATION WITH THE FINANCIAL INTELLIGENCE CENTRE: VIRTUAL ASSETS SERVICE PROVIDERS (VASPs)

First Issued: 26 September 2023

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1. INTRODUCTION

The Financial Intelligence Centre (FIC) is tasked with the coordination of Namibia's Anti-Money Laundering, Combatting the Financing of Terrorism and Proliferation (AML/CFT/CPF) activities. In furtherance of this mandate, the FIC's responsibility includes supervision of Virtual Assets Service Providers (hereinafter referred to as VASPs). This Directive is issued in terms of section 9(2)(c) read with 54(2) of the FIA to help mitigate risks emanating from, or relating to Virtual Assets (VAs).

2. DEFINING VIRTUAL ASSETS AND VIRTUAL ASSETS SERVICE PROVIDERS

The Virtual Assets Act, 2023 (Act No. 10 of 2023), passed in July 2023, defines a Virtual Asset as a digital representation of value:

- a) that can be digitally transferred, stored or traded;
- b) that uses a distribution ledger technology or similar technology; and
- c) that can be used for payment or investment purposes. This does not however include digital representations of fiat currencies, and securities or other financial assets regulated under the securities or financial assets law of Namibia.

In simple terms, a Virtual Asset Services Provider (VASP) means a person that by way of business provides virtual asset services for or on behalf of another person. The Virtual Assets Act, 2023 can be accessed via:

<https://www.bon.com.na/CMSTemplates/Bon/Files/bon.com.na/90/90d8c518-f9a2-4e6d-98a4-b192c1a93253.pdf>

3. LICENSING AND REGISTRATION OF VASPs

The Virtual Assets Act, 2023, as per sections 7 to 10, require VASPs to be licensed and registered with the regulatory authority. Such authority is the Bank of Namibia (BoN). VASPs should thus apply for licensing with the BoN.

VASPs are Accountable Institutions and therefore need to register with the FIC, as per the Financial Intelligence Act, 2012 (The FIA). See section 20(A)(3). FIC registration enables supervision of such VASPs to combat Money Laundering (ML), Terrorism Financing (TF) and Proliferation Financing (PF) activities.

Foreign VASPs that may be targeting the Namibian domestic market or dealing with local clients must engage the FIC and BoN for licensing and registration requirements as contained herein.

4. DIRECTIVE TO REGISTER

This directive calls on all VASPs to register with the FIC and submit Annual Returns by **no later than Friday, 13 October 2023**. VASPs not licensed by the BoN, nor registered with the FIC are unduly exposing the financial system to ML, TF and PF risks as there is no assurance around their internal controls' effectiveness. After such deadline, the FIC will take actions to reduce risk exposure related to or emanating from all non-complying VASPs, in terms of the FIA. Such sanctions may include fines, orders to cease operations and instructing financial service providers (and other designated service providers as per FIA) to deny non-complying VASPs access to designated services, amongst others.

5. REGISTRATION REQUIREMENTS

Upon registration with the FIC, the following are primary VASP requirements:

- a. Proof of **incorporation or registration** of the VASP as an entity;
- b. Proof of **licensing or market entry authorisation** from the BoN;
- c. Documented risk assessment outcomes in-line with section 4.2 of Revised Directive 01 of 2021 and Guidance Note 10 of 2023. This directive and guidance notes are accessible on the FIC website at:
 - i. <https://www.fic.na/index.php?page=2021-directives>
 - ii. <https://www.fic.na/index.php?page=2023-guidance-notes>

Note that FIC can provide additional guidance in this regard, upon request.

- d. **A policy document or standard operating procedures** that outline how the VASP manages Money Laundering, Terrorism and Proliferation Financing risks. VASPs must

implement controls to reduce such risks. Further, VASPs should use Guidance Note 11 of 2023 in this regard. This guidance note is on the FIC website, under 'Publications' (<https://www.fic.na/index.php?page=2023-guidance-notes>). The FIC can further help with guidance in this regard, at no cost.

- e. Nomination of one person (within the management) who will be the **Compliance Officer**. This person will be the point of contact with the FIC and coordinate the implementation of risk management measures as per the law, with the VASP;
- f. Depending on the outcomes of the FIC's risk assessment of the VASP upon registration, the FIC may further request the following:
 - Identification and address details **of an internal oversight or governance body** which can be a Board or Management Committee Members;
 - Demonstration that such Board or Management Committee Members are **fit and proper**. VASP must present valid **Police Clearance Certificates** for such members. These certificates may take time to source, **VASPs are cautioned to apply for these as early as possible**.

Directive 03 of 2020 explains all registration requirements in detail. The Directive can be accessed on the FIC website, under 'Publications' or via the following link:

<https://www.fic.na/index.php?page=2020-directives>

Going forward, VASPs are required to update the FIC as soon as there are any changes to any information availed upon registration.

6. CONCLUSION

FIC registration is **free and can be finalised within a week**, provided all requirements are met. A letter confirming registration is issued to an entity when registration is completed.

DATE ISSUED: 26 SEPTEMBER 2023

ACTING DIRECTOR: FINANCIAL INTELLIGENCE CENTRE

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All registration forms and attachments to be send to: register@fic.na

ALL OTHER CORRESPONDENCE AND ENQUIRIES MUST BE ADDRESSED TO:

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