

S.I. 70 of 2024

VIRTUAL ASSET SERVICE PROVIDERS ACT

(Act 12 of 2024)

Virtual Asset Service Providers (Advertisements) Regulations, 2024

Arrangement of Regulations

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S.I. 70 of 2024**VIRTUAL ASSET SERVICE PROVIDERS ACT***(Act 12 of 2024)***Virtual Asset Service Providers (Advertisements) Regulations, 2024**

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

PART A - PRELIMINARY**Citation**

1. These Regulations may be cited as the Virtual Asset Service Providers (Advertisements) Regulations, 2024.

Interpretation

2. In these Regulations, unless the context otherwise requires —

“Act” means the Virtual Asset Service Providers Act;

“advertisement” and “advertising” means commercial and promotional materials communicated through any medium and in any form, including —

- (a) magazines and newspapers;
- (b) radio and television;
- (c) outdoor advertising, including billboards, window displays and signs at public venues;
- (d) the internet, including web pages, banner advertisements, online messaging services and social media and networking platforms;

- (e) product brochures and promotional fact sheets;
- (f) direct mail (e.g. by post, facsimile or email);
- (g) white papers or prospectus;
- (h) telemarketing activities; and
- (i) seminars and presentations to individuals or such other groups of individuals, whether held in person or online, conducted in live format or recorded and made available for public access thereafter, which are distributed through any medium currently known or hereafter developed;

“consumer” means any actual or potential client who is intended to receive an advertisement whether within or outside the Seychelles.

Application

3.(1) No person shall carry on, or purport to carry on, the advertisement of —

- (a) virtual asset services; or
- (b) the issue or the promotion of virtual assets, including initial coin offerings and non-fungible tokens, in or from the Seychelles,

unless that person complies with the requirements of these Regulations.

(2) These Regulations shall not apply to the following persons and activities —

- (a) advertisement by Ministry, Department, Authorities or Agencies of the Government of Seychelles;
- (b) persons engaged in the business of printing commercial and promotional materials for licensees or promoters; and

- (c) persons responsible for securing the placement of an advertisement, provided they are not responsible for the contents thereof.

(3) Any terms used in these Regulations and not otherwise defined under section 2 shall have the same meaning set out in the Act.

Permissible activities

4.(1) Any person acting on behalf of a licensee or promoter shall comply with these Regulations, and the licensee or promoter shall be liable and responsible for such persons as if the licensee or promoter had undertaken the relevant advertising itself.

(2) No persons shall use an online platform aside from a licensee or promoter to carry on, or purport to carry on the advertisement of virtual assets or virtual asset services in or from the Seychelles.

(3) A person who acts in contravention with this regulation commits an offence and is liable on conviction to a fine not exceeding SCR 3,000,000 or 1 year imprisonment, or both.

PART II - REQUIREMENTS FOR ADVERTISEMENT

General requirements

5.(1) Advertisements shall be fair, clear, complete, concise, unambiguous and unbiased, and shall not be false, misleading nor deceptive.

(2) Advertisements shall contain information that is timely and consistent with any relevant virtual assets, including initial coin offerings and non-fungible tokens, or virtual asset services.

(3) Advertisements shall convey an equitable message in respect of the returns, benefits and risks associated with the relevant virtual asset, including initial coin offerings and non-fungible tokens, or virtual asset services.

(4) Advertisements shall be clearly identifiable and the media chosen for an advertisement shall be suitable for that advertisement with due consideration as to the target market and or class of consumers.

(5) Advertisement shall not lure or induce clients into malicious virtual asset services and offerings.

(6) Advertisement shall not facilitate illicit actors or high-risk virtual asset service providers in the offering of virtual assets, including initial coin offerings and non-fungible tokens, or virtual asset services.

(7) Before selling any relevant virtual asset, including initial coin offerings and non-fungible tokens, or virtual asset services because of an advertisement, any licensee or promoter shall ensure that consumers have received sufficient information, regarding such products or services, inclusive of the benefit and potential failings, so as to allow a consumer to make an informed decision.

(8) Advertisements shall be in plain language as to be capable of being clearly understood by prospective clients or consumers that might reasonably be expected to see it.

(9) Advertisements should not purport to advertise illicit or fake virtual asset services or projects.

(10) Advertisement should not contain colorful images in appearance that would induce minor in partaking in virtual asset services.

(11) Advertisements shall not state or imply that relevant virtual assets, including initial coin offerings and non-fungible tokens, or virtual asset services are suitable for a particular class of clients or consumers unless designated as being a product advertisable to a particular class of individuals and or persons.

(12) Advertisements relating to the virtual asset services rendered by a licensee, shall include such relevant information as to the type of service offered, inclusive of terms and timeframes for client deposits and withdrawals, associated fees payable and such other relevant terms under which the service is provided to clients.

(13) Where a person acts in contravention of this regulation, the Authority shall take such enforcement action as it deems necessary under the Act and may impose an administrative penalty of SCR500,000 and an additional SCR25,000 for each day or part of each day, not exceeding thirty days, for which the contravention continues.

Content of advertisement

6.(1) A licensee or promoter shall avoid extensive use of technical, legal terminology or complex language in an advertisement which may not convey a clear message to the consumers or may be such as to cause confusion if the likely audience is unfamiliar with the concepts.

- (2) All advertisements shall —
- (a) include details of the licensee or promoter, including its full name and tradename (if applicable), licence number and registered office.
 - (b) include, if a known third party is issuing or cause the advertisement to be issued on behalf of the licensee or promoter of the virtual asset, the relevant details of the third party;
 - (c) be accurate and up-to-date;
 - (d) not omit any material relevant facts, and do not make definitive statements that cannot be sustained;
 - (e) use a design and presentation that shall be easily and clearly understood;
 - (f) include, if relevant, any approved trademark, tradename, slogan or associated marker to the licensee or promoter;
 - (g) not be given undue prominence of benefits compared to risks, and always give a fair, balanced and clear indication of any relevant risks when referencing potential benefits;

- (h) include the contact details where consumers can make enquiries;
- (i) ensure that changes to original information about the virtual asset or virtual asset service are promptly notified and described, with the advertisement indicating the date the information contained therein was updated.

(3) Where information is sourced externally, the licensee or promoter shall disclose it as being such, and shall ensure that the information is accurate, complete and up-to-date and include the original source origin.

(4) An advertisement shall only make a comparison, reference to past performance or future performance where this can be provided clearly, accurate, fair, balanced and not misleading, and does not take unfair advantage of the recipient of the communication.

(5) Any reference to the involvement of the Authority in the advertisement shall not be construed or imply that the Authority has approved the advertisement or taken the responsibility for the soundness of the virtual asset, including an initial coin offerings and a non-fungible token, or virtual asset service, and shall be limited to reference as to licensing and or registration.

(6) A virtual asset service provider shall not make reference to the name of any regulator, including the Authority or government in a way that is misleading and shall not use the name of any regulator, including the Authority, without seeking prior approval with the concerning regulator or the Authority.

(7) Where a person acts in contravention with this regulation, the Authority shall take such enforcement action as it deems necessary under the Act and may impose an administrative penalty of SCR1,000,000 and an additional SCR50,000 for each day or part of each day, not exceeding thirty days, for which the contravention continues.

Performance Information

7.(1) An advertisement shall —

- (a) not contain any projection of performance returns based on borrowing plans where it cannot be evidenced and substantiated;
 - (b) when referring to a comparison, ensure that —
 - (i) the comparison is meaningful and presented in a fair and balanced way;
 - (ii) the sources of the information used for the comparison are specified; and
 - (iii) the key facts and assumptions used to make the comparison are included, with clear provision as to its being an assumption and not a guarantee.
 - (c) when referring to past performance —
 - (i) contain a clear and prominent statement that past performance is not an indicator of future performance;
 - (ii) clearly state the reference period and the source of the information provided; and
 - (iii) is based on objective, up-to-date and accurate information.
- (2) Advertisements that refer to future performance shall ensure that —
- (a) the information gives a balanced impression, covering both negative and positive scenarios;
 - (b) it is clear as to the basis on which future performance is predicted; and
 - (c) there is a clear and prominent statement that such forecasts are not a reliable indicator of future performance.

(3) An advertisement shall not contain information on future performance if it is not able to obtain objective data to substantiate the advertisement.

(4) Future performance shall not be based on nor refer to simulated past performance.

(5) An advertisement shall advise that a customer should undertake their own research and not rely solely on the information provided within the advertisement or other materials prepared.

(6) Where a person acts in contravention with this regulation, the Authority shall take such enforcement action as it deems necessary under the Act and may impose an administrative penalty of SCR500,000 and an additional SCR25,000 for each day or part of each day, not exceeding thirty days, for which the contravention continues.

Fees, costs or commissions

8.(1) Where a fee or cost is referred to in an advertisement, it shall give a realistic impression of the overall level of fees and costs a consumer is likely to pay with clear indication as to the fee or cost being an estimate, if applicable.

(2) Where an entity is due a commission for the execution of an advertisement, the commission shall be referred to within the advertisement.

Risk and warning disclosures

9.(1) An advertisement shall adequately display and explain any risks associated with relevant virtual asset, including initial coin offerings and non-fungible tokens, or virtual asset service.

(2) Where the price of a relevant virtual asset, including initial coin offerings and non-fungible tokens, or virtual asset service, is denominated in a currency other than that of Seychelles Rupees, the consumer shall be warned that changes to the rates of exchange may have an effect on the value, price or income obtained from relevant advertisement.

(3) Where a person acts in contravention with this regulation, the Authority shall take such enforcement action as it deems necessary under the Act and may impose an administrative penalty of SCR2,000,000 and an additional SCR75,000 for each day or part of each day, not exceeding thirty days, for which the contravention continues.

Cancellation rights

10. Where cancellation rights apply, the advertisement shall disclose, along with the liabilities attached to the exercise of such right, in the advertisement or in terms and conditions of the contract attached to the relevant virtual asset, including initial coin offering and non-fungible tokens, or virtual asset service.

PART III - ADVERTISING CONDUCT STANDARDS

Duties of licensees and promoters making advertisements

11.(1) Any person making an advertisement shall, at all times, —

- (a) act responsibly, with honesty, fairness, integrity and professionalism;
- (b) avoid aggressive or offensive sale practices;
- (c) avoid vulgar images or phrases;
- (d) deal respectfully with the consumers and ensure sufficient disclosure is made for them to make informed decisions;
- (e) be transparent regarding the nature of his, her or its relationship with the licensee or promoter; and
- (f) preserve confidentiality of the consumer's information, and not take advantage of such information for personal or another person's gain in conformity with the data protection law in Seychelles.

(2) A person who acts in contravention with this regulation commits an offence and is liable on conviction to a fine not exceeding SCR 5,000,000 or 2 years imprisonment, or both.

Duties of third parties making advertisements

12.(1) Any person acting on behalf of a licensee or promoter, where appropriate, shall —

- (a) always disclose his full and accurate identity, at the time of introduction with consumers;
- (b) always disclose to consumers before entering into any contract for relevant virtual asset, including initial coin offering and non-fungible tokens, or virtual asset service, all benefits that will be paid to him or her, whether by way of fees, commissions, dividends (directly or indirectly) or otherwise under such contract, based on his relationship and interest that he or she may share with other parties which are associated with the relevant products or services; and
- (c) always disclose if they are being paid to promote or feature such a promotion on personal, business or other web pages controlled by the person itself.

(2) A person who acts in contravention with this regulation commits an offence and is liable on conviction to a fine not exceeding SCR 3,000,000 or 1 year imprisonment, or both.

PART IV - INTERNET ADVERTISEMENTS

Internet Advertisements

13. Advertisements on the internet shall adhere to the following principles and standards —

- (a) electronic advertisements shall be identical to the most up-to-date paper versions;

- (b) there shall be a prominent statement on the relevant web pages, which is capable of being seen and read with reasonable ease by the consumer accessing the electronic copies of such advertisements, to the effect that printed copies of the advertisements are also available, as well as where and how they can be obtained;
- (c) any advertisements on the relevant web pages shall remain available for as long as it is necessary for the consumers to have a reasonable opportunity to read or access them, or for such duration of validity period as may be relevant from time to time;
- (d) consumers shall also be given the opportunity to retain the information through printing and downloading; and
- (e) downloadable advertisements should contain the date by print or watermark or through a time stamp in the downloadable version of the triggered date that the download has occurred.

Bad internet advertising and marketing practices

14.(1) A licensee or promoter shall, inter alia, abstain from the following bad internet-based advertisement practices when making an advertisement over the internet —

- (a) hiding essential information by the close proximity of promotional images and/or additional text;
- (b) reducing risk warnings in importance due to their location outside of the main advertisement border;
- (c) diminishing some statements through the use of small font sizes, hard-to-read coloring, being placed at non-prominent positioning and unclear type styles so as to render difficult or illegible to read;

- (d) hiding important information within, or in some cases absent from, the respective internet landing page and only accessed through significant scrolling down and/or multiple page links;
- (e) due to positioning, making risk warnings easy to overlook, resulting in consumers being taken directly to an application form by clicking onto a banner advertisement or accepting a cookie;
- (f) publishing risk statements within a 'pop-up' box that only appears on the consumer's initial visit to the relevant website;
- (g) providing minimal information on the risks associated to specific products being promoted;
- (h) obscuring key information or warnings, such as fees or exclusions, within the internet website or placed under a separate section or heading, such as 'FAQs', 'Legal Information', "Terms and Conditions" or 'Disclaimers' or similar subheadings;
- (i) incentives such as bonuses and inducements published on the main web page, but which are subject to conditions within pages noted in paragraph (h), that are not explained at the outset of account opening, transfer of funds or virtual asset.
- (j) not taking into account the different-sized browsers of consumers when positioning risk information whereby it is necessary to scroll down to access the information; and
- (k) superimposing important information, statements or warnings across colored or patterned backgrounds which lessen their visual impact.

(2) Where a person acts in contravention of this regulation, the Authority shall take such enforcement action as it deems necessary under the

Act and may impose an administrative penalty of SCR2,000,000 and an additional SCR75,000 for each day or part of each day for which the contravention continues.

(3) Where a person, acting on behalf of a licensee or promoter, acts in contravention of this regulation, that person commits an offence and is liable on conviction to a fine not exceeding SCR 3,000,000 or 1 year imprisonment, or both.

Record keeping

15. A licensee or promoter shall maintain adequate records of its advertisements, including details of who signed off each advertisement and when it was signed off, for at least 7 years after the advertisement ceases to be available to consumers, or such other period which the Authority may request.

MADE this 5th day of September, 2024.

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