



LAW ON VIRTUAL ASSET SERVICE PROVIDER

INTERNATIONAL COOPERATION DEPARTMENT

DECEMBER 2021

Unofficial translation

LAW ON VIRTUAL ASSET SERVICE PROVIDER

17 December 2021

Ulaanbaatar city

CHAPTER ONE. GENERAL PROVISIONS

Article 1. Purpose of the law

- 1.1. This law aims to regulate the registration process of virtual asset service providers, supervising their business operations, defining their legal rights and obligations and other related aspects.

Article 2. Legislation on virtual asset service providers

- 2.1 The legislation on virtual asset service providers is consists of *The Constitution of Mongolia, Law on the Legal Status of the Financial Regulatory Commission, Civil Law, Law on Anti-money Laundering and Combatting the Financing of Terrorism, Law on Combating Weapons of Mass Destruction and Terrorism, Law on National Payment Systems, Law on Conducting Settlements in National Currency*, this law and other relevant legislation which is consistent with them.
- 2.2 If an international treaty to which Mongolia is a party states otherwise than what is provided in this law, the provisions of the international treaty shall prevail.

Article 3. Scope of the law

- 3.1 This law applies to virtual asset services provided both within and from Mongolia by virtual asset service providers who are legally registered entities in Mongolia.
- 3.2 This law does not regulate to resolve disputes arising from agreements concluded between the virtual asset service provider and its customers.

Article 4. Definitions

- 4.1 The terms used in this law shall have the following definitions:
 - 4.1.1 ‘*virtual asset*’ means an intangible digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes. This does not include digital representations of fiat currencies, securities, and electronic money licensed by the Bank of Mongolia;
 - 4.1.2 ‘*virtual asset service provider*’ means a company engaged in activities specified under Paragraph 6.1;
 - 4.1.3 ‘*Customer*’ means a natural or legal person who receives services from a virtual asset service provider;
 - 4.1.4 ‘*related person*’ means a beneficial owner of the virtual asset service provider, or legal person, or a conglomerate of legal entities that holds five percent or more of the shares of a virtual asset service provider.
 - 4.1.5 ‘*beneficial owner*’ means a person defined as pursuant to Section 3.1.6 of *Law on Anti-money Laundering and combatting the Financing of Terrorism*.

Article 5. Requirements for virtual asset service providers

- 5.1 The following principles shall apply in the provision of virtual asset service:
- 5.1.1 rule of law and justice, and business ethics;
 - 5.1.2 corporate governance system and effective management;
 - 5.1.3 identification of its own operations, customer risks and implementation of appropriate risk management;
 - 5.1.4 meet the requirements set by the law.

CHAPTER TWO. VIRTUAL ASSET SERVICE

Article 6. Virtual asset service

- 6.1 The following activities shall be included in the provision of virtual asset services or operations for or on behalf of a natural or legal persons or legal arrangements:
- 6.1.1 exchange between virtual assets and fiat currencies;
 - 6.1.2 exchange between one or more other forms of convertible virtual assets;
 - 6.1.3 transfer of virtual assets
 - 6.1.4 safekeeping and administration of virtual assets or their related instruments;
 - 6.1.5 organizing an event, participation in, and provision of, financial services related to a public issuance of virtual asset or the trading of a virtual asset;
- 6.2 It is prohibited to offer or trade virtual assets to the public without transferring them to a company registered as a service provider specified in Section 6.1.5 of this law.

Explanation: ‘*Transfer of virtual assets*’ specified in Section 6.1.3 of this law means the transfer of virtual assets between accounts (addresses) of virtual assets on behalf of others.

Article 7. Requirements for virtual asset service provider

- 7.1 The legal entity applying for registration as virtual asset service provider shall comply with the following requirements:
- 7.1.1 the services provided by the company shall be included in the services specified in Paragraph 6.1 of this law;
 - 7.1.2 ensure continuous and reliable operations, confidentiality and security of information and technology infrastructure used for virtual asset services;
 - 7.1.3 information of the applicant and related persons (associated with the activities stated in the request) shall be clear;
 - 7.1.4 have four-year business plan for the activity, an operational structure, and resources of specialized personnel to conduct the business operation;
 - 7.1.5 have an internal control framework and record keeping system;
 - 7.1.6 have an automated system for the purpose of monitoring of suspicious transactions and arrangement in place to comply with the requirements set on *Law on Anti-money Laundering and Combatting the Financing of Terrorism* and the *Law on Combating Terrorism and Proliferation of Weapons of Mass Destruction*;
 - 7.1.7 the origin of the own capital equity and shared capital should be legal;
 - 7.1.8 undertake risk assessments of money laundering and the financing terrorism related to virtual asset products, practices and technologies;
 - 7.1.9 have an action plan to be undertaken to manage and mitigate the risk of money laundering and the financing of terrorism;

- 7.1.10 have an action plan to be taken in case of a decision to terminate or liquidate its activities;
 - 7.1.11 be registered as a taxpayer with the General Department of Taxation and have a taxpayer number;
 - 7.1.12 reference from the General Department of Taxation confirming that it has no overdue tax debt;
 - 7.1.13 use equipment that meets the standards specified in Paragraph 28.2 of the *General Law of Taxation*;
 - 7.1.14 pay the stamp duty and regulatory fees set by the Financial Regulatory Commission;
 - 7.1.15 meet the requirements specified in the Paragraph 7.2 of this law;
 - 7.1.16 if the Financial Regulatory Commission deems necessary, it shall successfully operate a Sandbox in accordance with the procedure set forth in Section 6.1.12 of the *Law on the Legal Status of the Financial Regulatory Commission*;
 - 7.1.17 others specified in the law.
- 7.2 The executive management of virtual asset service provider and its authorized officials specified in Paragraph 84.1 of the *Company Law* should meet the requirements below:
- 7.2.1 have no overdue debt under a loan, warranty, and/or guarantee agreement;
 - 7.2.2 not have been found guilty of committing money laundering crimes and other crimes investigated in connection with money laundering, the financing of terrorism, and the proliferation and financing weapons of mass destruction;
 - 7.2.3 have appropriate ethical and business reputation that shall not adversely affect the management of the business;
 - 7.2.4 be specialized in one or more areas of finance, economics, law, information technology, and corporate governance;
 - 7.2.5 others specified in the law.
- 7.3 Virtual asset service providers shall have their own capital equity. The Financial Regulatory Commission shall set the amount of capital equity.
- 7.4 Own capital equity specified in Paragraph 7.3 of this law shall not include assets registered abroad.
- 7.5 The related person shall meet the requirements set forth in Sections 7.2.1, 7.2.2, 7.2.3 and 7.2.5 of this law.
- 7.6 A national or legal person who is not registered in accordance with the law shall be prohibited from providing virtual asset services.
- 7.7 It is prohibited for a virtual asset service provider to engage in activities other than those specified in Paragraph 6.1 of this law.

Article 8. Obligations of virtual asset service providers

- 8.1 Providers of virtual asset services shall have the following obligations:
- 8.1.1 virtual asset service provider shall fully meet the requirements set forth in this law, and additional requirements set by Financial Regulatory Commission, prior to starting their operations and while providing their services;
 - 8.1.2 properly protect customer's interests, and communicate fairly with the customer; clearly and without creating confusion;
 - 8.1.3 inform the customer about risks specified in Sections 9.1.8, 9.1.9, 9.1.10, 9.1.11, 9.1.12, 9.1.13 of this law, before entering into the agreement/contract with the customer;
 - 8.1.4 provide conditions and opportunities for its customers to transact, transfer, exchange, keep, and manage virtual assets and cash related to its services;

- 8.1.5 be liable for any damage caused by non-fulfillment of obligations specified in Section 8.1.4 of this law;
- 8.1.6 maintain its customer's fiat currency and accounts separately from virtual assets of service providers;
- 8.1.7 the business plan specified in Section 7.1.4 of this law shall be notified to the Financial Regulatory Commission in the case of any changes be made;
- 8.1.8 if a legal or natural person described in Section 4.1.4 and Paragraph 7.2 of this law is changed, the virtual asset service provider shall make a formal request in advance and get approval as formed in the procedures approved by the Financial Regulatory Commission;
- 8.1.9 immediately notify its customers if its operations are temporarily banned and registration is terminated by the Financial Regulatory Commission.
- 8.2 The virtual asset service provider, the persons and employees specified in Section 4.1.4 and Paragraph 7.2 of this Law shall provide the documents and information (without hindrance, completely, and accurately) required by the Financial Regulatory Commission and its supervisors within the scope of their powers granted by law, and provide conditions for independent and prompt conduct of supervision.
- 8.3 If documents, information and data requested by the Financial Regulatory Commission, and their supervisors under relevant legislations are deemed unavailable, the natural person described in Paragraph 7.2 of this law shall be obliged to send explanations regarding the unavailability of such documents in writing.
- 8.4 Only customers or trusted representatives shall have the right to disburse/manage assets in a customer's accounts of fiat currency and/or virtual assets.
- 8.5 Virtual asset service provider shall be prohibited from disbursing fiat currency and/or virtual assets in a customer's accounts for purposes other than providing its services.
- 8.6 Virtual asset service providers shall comply with international financial reporting standards when conducting accounting and shall have their financial statements audited annually by an auditing legal entity registered with the Financial Regulatory Commission and submit them to the Financial Regulatory Commission.

Article 9. Virtual asset service contract

- 9.1 The following conditions shall be included and agreed upon in the agreement/contract between a virtual asset service provider and its customer:
 - 9.1.1 termination plan in case virtual asset service provider encounters difficulty to run its normal operations;
 - 9.1.2 measures to be taken in case of deregistration of the virtual asset service provider and termination of its operations;
 - 9.1.3 disclosure of the fact that virtual currency is not legal tender, and is not backed by the central bank and government;
 - 9.1.4 disclosure of the fact that virtual assets are not subject to deposit insurance or any other insurance to protect securities investors;
 - 9.1.5 disclosure of the condition that virtual currency transactions shall be deemed to be made when recorded on a public ledger, which is not necessarily the date or time that the customer initiates the transaction;
 - 9.1.6 rights and obligations of virtual asset service providers and their customers;
 - 9.1.7 conditions for the issuance of funds or transfer of virtual assets related to the customer's virtual asset services at the customer's initial request;

- 9.1.8 disclosure of the risks that legislative and regulatory changes or actions at the domestic or international level may affect virtual asset services or changes in the value of virtual currency abruptly;
 - 9.1.9 disclosure of the risks that virtual asset transactions may be irreversible, and, accordingly, losses due to fraudulent or accidental transactions may not be recoverable;
 - 9.1.10 disclosure of the risks that the value of virtual currency may be derived from the demand and needs of market participants, which may result in a loss because of value fluctuations;
 - 9.1.11 disclosure of risks that virtual assets' and virtual asset services' risks of fraud or cyber-attack;
 - 9.1.12 disclosure of risks that customers are not able to use their own virtual assets in the case of technological difficulties experienced by the virtual asset service provider;
 - 9.1.13 disclosure of risks that assets owned and possessed by the virtual asset service providers may not be sufficient to cover all losses incurred by customers.
- 9.2 The terms of the contract other than those specified in Paragraph 9.1 of this law may be reflected in the contract by the parties in accordance with the legislation.

CHAPTER THREE. REGISTRATION, MONITORING, DOCUMENT ARCHIVING AND PRESERVATION, AND CONFIDENTIALITY OF VIRTUAL ASSET SERVICE PROVIDERS

Article 10. Registering and monitoring virtual asset service providers

- 10.1 A company which aims to provide services defined in Paragraph 6.1 of this law shall request the Financial Regulatory Commission for registration.
- 10.2 The Financial Regulatory Commission shall decide whether to register within six months after receiving the request and the complete documents that meet requirements specified in Paragraph 10.1 of this law.
- 10.3 If necessary, the Chair of the Financial Regulatory Commission may extend the period specified in Paragraph 10.2 of this Law for up to six months.
- 10.4 If the documents submitted by the applicant are incomplete, the Financial Regulatory Commission shall notify the applicant and the applicant may re-apply for registration within 30 working days after receiving the notification.
- 10.5 If the complete document is not submitted within the period specified in Paragraph 10.4 of this law, the request shall be rejected and the request shall be deemed not to have been made.
- 10.6 The Financial Regulatory Commission shall not register the company that does not comply with the requirements set forth in Paragraph 7.1 of this law as virtual asset service provider.
- 10.7 Information and types of services provided by the virtual asset service provider shall be disclosed to the public. In case of changes in the registration, the Financial Regulatory Commission shall update the information in a timely manner.
- 10.8 The Financial Regulatory Commission may obtain an opinion from the related professional association on whether it complies with the requirements set forth in Sections 7.1.2, 7.1.5, 7.1.6 of this law. The applicant shall be responsible for the expenses related to obtaining the opinion.
- 10.9 The Financial Regulatory Commission shall exercise the following powers related to virtual asset services:

- 10.9.1 determine the requirements for registration, proper governance, operation and reports of the virtual asset service provider; determine fit and proper criteria; determine and amend the amount of share capital and capital equity of the virtual asset service provider; set restrictions on and suspend operations of virtual asset services; register, and determine requirements on registration of, legal entities that conduct off-site and on-site supervision and auditing for operations of virtual asset service providers; and approve procedure to set requirements for professional associations specified in Paragraph 10.8 of this law;
- 10.9.2 determine the amount of regulatory service fee to be paid from the virtual asset service provider;
- 10.9.3 monitor and regulate the services of the virtual asset service provider specified in Paragraph 6.1 of this law, and ensure the implementation of its obligations set by the law;
- 10.9.4 assign to take measures in improving management, operations, risk management and internal monitoring and building capacity of virtual asset service providers;
- 10.9.5 refuse to register a request for providing virtual asset services in accordance with Paragraph 10.6 of this law;
- 10.9.6 obtain necessary documents, information and data from the virtual asset service provider and the persons specified in Section 4.1.4 and Paragraph 7.2 of this law, and conduct risk-based supervision;
- 10.9.7 conduct the supervision specified in Section 10.9.6 of this law jointly with the responsible authority when necessary;
- 10.9.8 oblige or resolve to dismiss, suspend or change an authorized official of the virtual asset service provider;
- 10.9.9 restrict or temporarily suspend the virtual asset service providers' operations or deregister.
- 10.9.10 register the auditing legal entity specified in Paragraph 8.6 of this law.
- 10.10 The Financial Regulatory Commission may impose restrictions on the sending and receiving of transactions, the scope of customers, the foreign country or specific legal entity in which the transaction is made, or the attraction of foreign investment and other activities by virtual asset service providers, in accordance with anti-money laundering and combating the financing of terrorism.
- 10.11 If necessary, the Financial Regulatory Commission may cooperate with external experts based on an agreement when inspecting the activities of a virtual asset service provider.
- 10.12 If required by the Financial Regulatory Commission, the virtual asset service provider shall be audited in a specific area and shall be responsible for the related costs.
- 10.13 Registration of a virtual asset service provider shall not be considered as a guarantee for the virtual asset and the State shall not be liable for any damage caused as a result of activities related to the virtual asset service.
- 10.14 The Financial Regulatory Commission shall be prohibited from authorizing things itself other than those specified in this law, in accordance with Section 10.9.1 of this law.

Article 11. Imposing restrictions on operations of virtual asset service providers' and deregistration

- 11.1 If a virtual asset service provider fails to comply with the requirements of this law or the additional requirements set by the Financial Regulatory Commission, the Financial Regulatory Commission shall restrict and temporarily suspend operations, and deregister depending on the specific characteristics of its operation and the nature of the violation.

- 11.2 In case of deregistration of the virtual asset service provider, the right to conduct operations specified in Paragraph 6.1 of this law shall be terminated.
- 11.3 The Financial Regulatory Commission shall notify the State Registration Authority in case of deregistration of the virtual asset service provider.

Article 12. Document archiving and preservation

- 12.1 The virtual asset service provider shall preserve paper and electronic documents created in the course of its activity for at least 10 years from the date of receipt or creation.
- 12.2 The virtual asset service provider shall comply with the *Law on Archives and Records* in their record keeping and archiving activities.

Article 13. Information confidentiality

- 13.1 The Financial Regulatory Commission, its officials and/or employees shall not disclose the confidential documents and information obtained during the course of their duty stated in this law directly or indirectly, except in the following cases:
 - 13.1.1 when executing his/her duty stated in this law;
 - 13.1.2 based upon related authorities' requests in the course of criminal investigations and resolving violation processes;
 - 13.1.3 based on intelligence department's request during a case investigation related to the financing of terrorism and/or proliferation of weapons of mass destruction;
 - 13.1.4 when evidence material/document are required by the order of court and judge
 - 13.1.5 court's decision becomes effective;
 - 13.1.6 complying with Mongolia's obligations in international treaties;
 - 13.1.7 others stated in law.
- 13.2 The provisions set forth in Paragraph 13.1 of this law shall apply to virtual asset service providers.

Article 14. Stamp duty and regulatory service fee

- 14.1 The virtual asset service provider shall pay the stamp duty specified in the law and the regulatory service fee set by the Financial Regulatory Commission.

CHAPTER FOUR. MISCELLANEOUS

Article 15. Cooperation

- 15.1 In order to protect the public interest, Mongolia's economy and the financial sector's stability, the government authority which registers, supervises and investigates virtual asset service providers may cooperate with other government organizations, individuals, legal entities, foreign authorities with similar function and same level of confidentiality, and international organizations within the legal framework.

Article 16. Penalties for violating the legislation

- 16.1 A person or legal entity that violates this law shall be subject to liability specified in the *Criminal Code* or the *Law on Infringement*.

Article 17. Transitional arrangement

- 17.1 No company shall be registered by the Financial Regulatory Commission as a service provider specified in Paragraph 6.1 of this law within four months from the date of entry into force of this law.
- 17.2 A person who provided virtual asset services before the effective date of this law shall meet the requirements set forth in Paragraph 17.1 of this law and register with the Financial Regulatory Commission within three months after the expiration of the four-month period specified in Paragraph 17.1 of this law.