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General Notice

BANK OF NAMIBIA

No. 514

2023

RISK MANAGEMENT RULES: VIRTUAL ASSETS ACT, 2023

The Bank of Namibia designated as the Regulatory Authority in terms of section 5(1) of the Virtual Assets Act, 2023 (Act No. 10 of 2023), has in terms of section 51(1) of that Act made the Risk Management Rules set out in the Schedule.

J. !GAWAXAB
GOVERNOR
BANK OF NAMIBIA

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PART 1**DEFINITIONS AND SCOPE OF RULES****Definitions**

1. In these rules, a word and or expression to which a meaning has been given in the Virtual Assets Act, 2023 (Act No. 10 of 2023), has that meaning, and –

“financial year” means a financial year referred to in section 21(1) of the Act;

“the Act” means the Virtual Assets Act, 2023 (Act No. 10 of 2023).

Scope of the rules

2. (1) These rules apply to persons issued with a licence under the Act to operate as virtual asset service providers or as token issuers.

(2) These rules must be read in together with the Act, regulations, rules, directives and guidelines issued under the Act, the laws relating to money laundering and terrorism financing and proliferation activities and other applicable laws.

PART 2

GENERAL REQUIREMENTS

General requirements

3. (1) A licence holder must have in place sound, effective and comprehensive strategies, processes and risk management systems to assess and maintain, on an ongoing basis, the amounts, types and distribution of financial resources, non-financial resources, own funds and unimpaired capital that the licence holder considers adequate to cover –

- (a) the nature and level of the risks to which the licence holder is, or might be, exposed, such that there is no significant risk that the licence holder's liabilities cannot be met as they fall due, and that in the event of a winding up, dissolution or deregistration the licence holder's business can be wound up dissolved or deregistered in an orderly manner, minimising harm to consumers, market integrity or to other market participants;
- (b) the risk that the licence holder might not be able to meet the obligations, under the Capital and other Financial Requirements Notice published under the Act, in the future; and
- (c) the need for liquid assets adequate to cover the licence holder's liabilities as they fall due.

(2) A licence holder must document how the licence holder has met the general prudential requirement referred to in subrule (1).

(3) A licence holder must review annually how the licence holder is meeting the licence holders general prudential requirement, and must complete this review within four months after the end of every financial year.

Types of risk

4. (1) A licence holder in identifying and managing the major sources of risks to which they may be exposed, must consider the following categories of risks as relevant to the licence holder, given the nature and scale of its business, including but not limited to –

- (a) credit and counterparty risk;
- (b) liquidity risk, being the risk that a licence holder, although solvent, either does not have available sufficient financial resources to enable it to meet its obligations as they fall due, or can secure such resources only at excessive cost;
- (c) operational risks;
- (d) market risk, being the risks that arise from fluctuations in values of, or income from, virtual assets or in interest or exchange rates;

- (e) interest rate risk, including –
 - (i) risks related to the mismatch of re-pricing of assets and liabilities and off balance sheet short- and long-term positions, known as re-pricing risk;
 - (ii) risks arising from hedging exposure to one interest rate with exposure to a rate which reprices under slightly different conditions;
 - (iii) risk related to the uncertainties of occurrence of transactions, for example, when expected future transactions do not equal the actual transactions; and
 - (iv) risks arising from consumers redeeming fixed rate products when market rates change;
 - (v) rate products when market rates change.
- (f) the risk that the licence holder's own funds held by the licence holder are inadequate having regard to the economic substance of the transactions the licence holder is involved in;
- (g) risks arising from changes in the licence holder's business, including the acute risk to earnings posed by falling or volatile income
- (h) the broader risk of a licence holder's business model or strategy proving inappropriate due to macro-economic, geopolitical, industry, regulatory or other factors; and
- (i) the risk that a licence holder may not be able to carry out its business plan and desired strategy;
- (j) the remuneration policy in place at the licence holder;
- (k) risk of excessive leverage;
- (l) the risk to the licence holder caused by its contractual or other liabilities to, or with respect to, any pension scheme, whether established for its staff or those of a related company or otherwise, including the risk that the licence holder will make payments or other contribution to, or with respect to, a pension scheme because of a moral obligation or because the licence holder considers that it needs to do so for some other reason;
- (m) the risk that the licence holder's financial position may be adversely affected by the licence holders relationships, both financial or non-financial, with other entities in the same group or by risks which may affect the financial position of the whole group;
- (n) concentration risk, being the risk that a combination of risks exposures will cause a loss large enough to threaten the solvency or the financial position in general of the licence holder; and
- (o) the risk that the risk mitigation techniques used by the licence holder prove less effective than expected.

(2) A licence holder must document the licence holder's assessment of the major sources of risks to which the licence holder may be exposed and how they are managing those risks.

Use of insurance

5. (1) In meeting the general requirements, a licence holder may make use of an insurance policy covering the relevant activities and services to mitigate its risks.

- (2) When considering utilising insurance, a licence holder must consider –
- (a) the type of cover provided by that insurance;
 - (b) the time taken for the insurer to pay claims, including the potential time taken in disputing cover, and the licence holder's funding of operations whilst awaiting payment of claims;
 - (c) the financial strength of the insurer, which may determine its ability to pay claims, particularly where large or numerous small claims are made at the same time; and
 - (d) the effect of any limiting conditions and exclusion clauses or excesses that may restrict cover to a small or limited number of specific losses and may exclude larger or hard to quantify indirect losses, such as lost business or reputational costs.

PART 3

ENFORCEMENT

Enforcement

6. Where a licence holder or a person to whom these rules apply contravenes or fails to comply with a provision of these rules, the Regulatory Authority, may as it consider appropriate in the circumstance and in accordance with the Act, issue a directive, suspend or cancel a licence or amend a condition of a licence, or impose administrative sanctions or institute criminal proceedings in terms of the Act.

PART 4

SHORT TITLE

Short title

7. These rules may be cited as Risk Management Rules.

PART 5

EFFECTIVE DATE

Effective date

8. These rules become effective on the date of publication in the *Gazette*.
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