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CONTENTS

Page

GENERAL NOTICE

No. 510 Bank of Namibia: Travel Rules: Virtual Assets Act, 2023 1

General Notice

BANK OF NAMIBIA

No. 510

2023

TRAVEL 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 read with section 18(5) of that Act made the Travel Rules set out in the Schedule.

J. !GAWAXAB
GOVERNOR
BANK OF NAMIBIA

SCHEDULE**ARRANGEMENT OF RULES****PART 1****DEFINITIONS AND SCOPE OF RULES**

1. Definitions
2. Scope of rules

PART 2**TRANSFER OF VIRTUAL ASSETS**

3. Transfer of virtual assets

PART 3**CROSS BORDER WIRE TRANSFERS**

4. Cross border wire transfers
5. Batch file transfers of virtual assets
6. Specific requirements for intermediary virtual asset service provider

PART 4**ENFORCEMENT**

7. Enforcement

PART 5**SHORT TITLE**

8. Short title

PART 6**EFFECTIVE DATE**

9. Effective date

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

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

“batch file transfer of virtual assets” means several individual transfers of virtual assets which are bundled together for transmission;

“cross-border wire transfer” refers to –

- (a) any wire transfer where the ordering financial institution, including the originating virtual asset service provider and beneficiary financial institution are located in different countries; and
- (b) any chain of wire transfer in which at least one of the financial institutions involved is located in a different country;

“domestic wire transfer” refers to any wire transfer or any chain of wire transfer where the originating virtual asset service provider, and beneficiary virtual asset service provider or financial institution are both located in Namibia;

“financial institution” means any institution that offers financial services to the public;

“intermediary virtual asset service provider” means a virtual asset service provider which –

- (a) participates in the execution of a transfer of virtual assets; and
- (b) is not the originating virtual asset service provider or the beneficiary virtual asset service provider;

“Regulatory Authority” means the Bank or any other entity designated as the Regulatory Authority in terms of section 5(1) of the Act; and

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

“wire transfer” means any transaction carried out on behalf of an originator through a virtual asset service provider or a financial institution by electronic means with a view to making an amount of funds available to a beneficiary person at a beneficiary virtual asset service provider or a financial institution, irrespective of whether the originator and the beneficiary are the same person.

Scope of rules

2. (1) These rules apply to the originating virtual asset service provider, beneficiary virtual asset service provider, intermediary virtual asset service provider and a financial institution when carrying out on behalf of customers, the wire transfer of virtual assets, cross-border wire transfers or batch file transfers of virtual assets, amongst others.

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

PART 2

TRANSFER OF VIRTUAL ASSETS

Transfer of virtual assets

3. (1) The originating virtual asset service provider, beneficiary virtual asset service provider, intermediary virtual asset service provider and a financial institution, involved in wire transfer must ensure that all wire transfers including cross border wire transfers comply with this rule.

(2) The originating virtual assets service provider must as required under section 18(3)(a) of the Act, in respect of each transfer of virtual assets, obtain and hold the following information:

- (a) the name of the originator;
- (b) the originator virtual asset account number where such an account is used to process the transaction or, in the absence of a virtual asset account number, a unique transaction reference number which permits traceability of the transaction; and
- (c) any of the following information:
 - (i) the originator's physical address;
 - (ii) the originator's national identity card number or passport number;
 - (iii) the originator's customer identification number; or
 - (iv) the originator's place of birth;
- (d) the name of the beneficiary; and
- (e) the beneficiary virtual asset account number where such an account is used to process the transaction or, in the absence of a virtual asset account number, a unique transaction reference number which permits traceability of the transaction.

(3) The beneficiary virtual assets service provider must as required under section 18(3)(b) of the Act, in respect of each transfer of virtual assets, obtain and hold the following information:

- (a) the name of the originator;
- (b) the originator virtual asset account number where such an account is used to process the transaction or, in the absence of a virtual asset account number, a unique transaction reference number which permits traceability of the transaction;
- (c) any of the following:
 - (i) the originator's physical address;
 - (ii) the originator's national identity card number or passport number;
 - (iii) the originator's customer identification number; or
 - (iv) the originator's place of birth;
- (d) the name of the beneficiary; and
- (e) the beneficiary virtual asset account number where such an account is used to process the transaction or, in the absence of a virtual asset account number, a unique transaction reference number which permits traceability of the transaction.

- (4) A beneficiary virtual asset service provider must –
- (a) take reasonable measures, which may include post event monitoring or real-time monitoring where feasible, to identify transfers of virtual assets that lack the required originator information or required beneficiary information;
 - (b) have risk-based policies and procedures for determining –
 - (i) when to execute, reject or suspend a transfer of virtual asset lacking required originator or required beneficiary information; and
 - (ii) the appropriate follow-up actions.
- (5) This rule applies with changes required in the context to a financial institution when sending or receiving virtual assets transfers on behalf of customers.

PART 3

CROSS BORDER WIRE TRANSFERS

Cross border wire transfers

4. Where several individual cross-border wire transfers from a single originator are bundled in a batch file for transmission to beneficiaries the batch file must contain the required and accurate originator and beneficiary information, as set out in rule 3, that is fully traceable within the beneficiary's country.

Batch file transfers of virtual assets

5. (1) For batch file transfers of virtual assets from a single originator, the individual transfers of virtual assets bundled must contain the following information:

- (a) the name of the originator;
- (b) where an account is used to process the transfer of virtual assets by the originator, the account number of the originator;
- (c) the address of the originator, the originator's national identity card number or passport number, the originator's customer identification number or date and place of birth;
- (d) the individual transfers of virtual assets must carry the account number of the originator or a unique identifier; and
- (e) any other information and documents as the Regulatory Authority may require.

(2) A batch file referred to in subrule (1) must contain the name, account number or unique identifier of the beneficiary that is traceable in the beneficiary's country.

Specific requirements for intermediary virtual asset service provider

6. (1) For cross-border wire transfers an intermediary virtual asset service provider must ensure for the appropriate retention of information on the originator or beneficiary for a period of at least five years after the completion of the transaction to which it relates.

(2) An intermediary virtual asset service provider which participates in a transfer of virtual assets, must ensure that all information received on the originator and the beneficiary that accompanies a transfer of virtual assets is kept for a period of at least five years after the completion of the transaction to which it relates.

(3) An intermediary virtual asset service provider must –

(a) take reasonable measures, consistent with current procedures, to identify transfers of virtual assets that lack required originator or beneficiary information; and

(b) adopt risk-based policies and procedures for determining –

(i) when to execute, reject or suspend a transfer of virtual assets; and

(ii) the resulting procedures to be applied, where the required originator or beneficiary information is incomplete.

(4) Where technical limitations prevent the information referred to in subrule (1) from remaining with a related domestic wire transfer, the intermediary virtual asset service provider must keep a record, for at least five years after the completion of the transaction to which it relates, of all information received from the originating virtual asset service provider or a financial institution.

PART 4

ENFORCEMENT

Enforcement

7. Where a licence holder, financial institution or 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, impose administrative sanctions or institute criminal proceedings in terms of the Act.

PART 5

SHORT TITLE

Short title

8. These rules may be cited as Travel Rules.

PART 6

EFFECTIVE DATE

Effective date

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