



# UNTITLED

STRATEGIC FIDUCIARY ADVICE

# VIRTUAL ASSETS SERVICES PROVIDERS ACT

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The British Virgin Islands (BVI) passed a law which regulates individuals and companies providing services related to crypto assets, known as "Virtual Assets Service Providers" (VASPs).

**The law requires VASPs to apply for and obtain a license from the BVI Financial Services Commission (FSC).**

Until 2022, the BVI had chosen not to directly regulate crypto assets unless they were classified as "securities" and/or involved the provision of financial services. However, **with this new regulation, it is now necessary to obtain a license to carry out certain services related to virtual assets.**

## WHAT IS CONSIDERED A VIRTUAL ASSET?

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The law defines a virtual asset as a digital representation of value that can be traded and exchanged digitally, being useful for payments or investment purposes. This category includes various crypto assets, ranging from well-known ones like Bitcoin to utility tokens.

## OBJECTIVE OF THE LAW

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The aim of the BVI is to adhere to specific recommendations from the Financial Action Task Force (FATF) and demonstrate ongoing commitment to complying with international transparency standards. Ensuring quality practices associated with digital asset businesses, and making every effort to facilitate international cooperation to combat the use of financial services for money laundering and other illicit activities.

**BELOW YOU WILL FIND RELEVANT INFORMATION ON THIS TOPIC:**

## WHO DOES THE LAW APPLY TO?

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The law applies to all individuals, including foreign companies, engaged in or wishing to engage in the business of providing virtual asset services from or within the British Virgin Islands. These services include buying or selling virtual assets, custody services, and others.

## WHAT IS A VASP UNDER THE LAW?

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The law defines a VASP as a provider of virtual asset services engaged in one or more of the following activities or operations:

- Exchange between virtual assets and fiat currencies.
- Exchange between one or more forms of virtual assets.
- Transfer of virtual assets, which involves their movement from one address or account to another on behalf of another person.
- Custody or administration of virtual assets or instruments that enable control over them.
- Participation in and provision of financial services related to the offer or sale of a virtual asset by an issuer.

A person is considered to be providing services if they engage in one or more of the following activities:

- Hosting wallets or maintaining custody or control over virtual assets, wallets or private keys of others.
- Providing financial services related to the issuance, offer or sale of virtual assets.
- Operating kiosks (such as ATMs, Bitcoin ATMs, or vending machines) actively facilitating the exchange of virtual assets for fiat currency or other virtual assets.
- Engaging in any other activity that, according to the guidelines, constitutes the conduct of the business of providing virtual asset services, issuing virtual assets, and/or engaging in virtual asset activities.

## WHAT ACTIVITIES ARE EXCLUDED FROM THE LAW?

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The law is not intended to regulate the underlying technology of virtual assets and even establishes a set of services and activities that are not subject to this regulation:

- Provision of software development services involving only the design and sale of software.
- Provision of auxiliary infrastructure, such as wallet hardware.
- Personal investments in crypto assets without facilitating transactions for third parties.
- Acceptance of virtual assets as payment for services or goods.
- Provision of infrastructure services, such as databases.

## WHAT DO I NEED TO DO IF MY ACTIVITY IS REGULATED BY THE LAW?

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Those qualifying as a virtual asset service provider must apply for a specific license, or both available, to start or continue their business with a BVI company. This depends on the services they provide under the following subcategories:

- Provision of custody services.
- Provision of buying-selling and/or exchange of crypto assets.

This application must be made to the regulatory body of the BVI, the Financial Services Commission (FSC).

## IF MY COMPANY WAS ESTABLISHED BEFORE THE LAW, DO I STILL NEED TO APPLY FOR A LICENSE?

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If the company continues its activities, the law allowed a period to regularize their situation without risking penalties by **applying for the license before July 31st, 2023. However, if the company was created as a Special Purpose Vehicle (SPV) and has ceased its activities, it is not necessary as the law is not retroactive.**

## WHAT HAPPENS IF I DON'T SUBMIT THE APPLICATION?

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Failure to comply may result in penalties of up to US\$ 75.000.

## WHAT DO I NEED TO APPLY?

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The application requires the submission of several documents and compliance with internal anti-money laundering policies, as well as a business plan and its projections.

**Application form.** The form can be found [here](#) as a reference.

**At UNTITLED, we can assist you with all the necessary documents and support you throughout the process.**

If you suspect that your company's activities may fall under the regulation applicable to VASPs, please do not hesitate to contact **Daniela Baldovino**, Global Head of Corporate & Funds, to evaluate your situation and provide assistance. Her contact email is [daniela.baldovino@untitled-slc.com](mailto:daniela.baldovino@untitled-slc.com)





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