

SAINT CHRISTOPHER AND NEVIS

STATUTORY RULES AND ORDERS

No. 25 of 2022

Virtual Asset (Forms) Regulations

In exercise of the powers granted under section 18 of the Virtual Asset Act, the Minister of Finance makes the following Regulations:

[Published 22nd September 2022 – Official Gazette No. 56 of 2022]

1. SHORT TITLE.

These Regulations may be cited as the Virtual Asset (Forms) Regulations, 2022.

2. INTERPRETATION.

In these Regulations, unless the context otherwise permits the expression, “Act” means the Virtual Asset Act, No. 1 of 2021.

3. APPLICATION FORMS IN THE SCHEDULE.

(1) Pursuant to section 6 of the Act, where an entity is desirous of operating as a virtual asset service provider, the entity shall complete the Application Form that is set out as Form 1 in the Schedule and submit the form to the Authority along with any prescribed fees and required documentation.

(2) Pursuant to section 6 of the Act, where a person is desirous of operating as a virtual asset service provider, the person shall complete the Application Form that is set out as Form 2 in the Schedule and submit the completed form to the Authority along with any prescribed fees and required documentation.

(3) An applicant to become a virtual asset service provider pursuant to subregulation (1), shall, along with the Application Form, complete the personal questionnaire that is set out on Form 3 in the Schedule.

SCHEDULE

Form 1

APPLICATION FORM

VIRTUAL ASSET SERVICE PROVIDER

(ENTITY)

1. Name of Applicant:

.....

2. Mailing Address:

.....
.....

3. Registered Address in St. Kitts and Nevis:

.....
.....

4. Address of the place of business (if this is different from the registered address):

.....
.....

5. Tel No.: Fax No.:

6. Email:

7. Website:

8. Name and address of Principal Representative in St. Kitts and Nevis:

.....
.....

9. Date and Place of Incorporation:

10. Incorporation Number:

11. Date of Incorporation:

12. If applicable, please state any previous names of the Entity:

.....

13. State any business names under which the applicant operates, if different from its legal name:

.....
.....

14. Name and addresses of the Significant Shareholders¹:

Name	Percentage of Shareholding	Number of Shares	Type of Shares	Address

15. Names and addresses of Directors, and Beneficial Owners as well as information on the ownership structure of the entity such as percentage of shareholding, number of shares held and types of shares.

Where the application is owned by a trust, information to be provided shall include a copy of the trust deed or instrument, names and addresses of trustees, beneficiaries, settlors, protector (if any), relationship of the settlors to the beneficiaries and name and address of the supervisory body that regulates the trustee

Name	Position	Address

16. Names and Addresses of Senior Management and Officers:

Name	Position	Address

¹ Significant shareholder – 10% or more controlling interest

17. If the applicant is a trust, provide the following information:

a) Name and addresses of beneficiaries, trustees and settlors (if any):

Name	Position	Address

b) The relationship between the settlors and the beneficiaries:

c) The name and address of the supervisor that regulates the trust:

18. Is the entity licensed to conduct virtual asset business in another jurisdiction?

Yes

No

If yes, please provide the following:

a. Other jurisdiction(s) of operations:

.....

b. Date on which the virtual asset business began operations in the
aforementioned jurisdictions:

.....

c. Name(s) and address(es) of each regulator which has issued a licence or
registration:

Name	Address

- d. Specify whether there are specific requirements, restrictions or prohibitions on the conduct of the activity for which it is registered or licensed:

.....
.....

- e. State if any office has been opened or if any physical presence has been established. If yes, please provide the address. If no, please provide the proposed location of the business operations:

.....
.....

- 19. Has the entity ever been denied an application for a licence to conduct virtual asset business in another jurisdiction(s)?

Yes No

If yes, please state the jurisdiction(s):

- 20. Is the entity presently applying for a licence to conduct virtual asset business in another jurisdiction(s)?

Yes No

If yes, please state the jurisdiction(s):

- 21. Does the entity have a controlling interest in any other business that is engaged in virtual asset business? If yes, please state the name and where it is licensed:

.....
.....

- 22. Does the entity have a controlling interest in any other licensed financial institution or Designated Non-Financial Business or Profession (DNFBP)? If yes, please state the name and where it is licensed:

.....
.....

- 23. State any penalties or enforcement actions that have been imposed or taken against the entity in another jurisdiction:

.....
.....

24. Has a virtual asset service provider licence or any other licence to conduct financial services business ever been suspended, cancelled or revoked in another jurisdiction?

Yes No

25. State the name of the Compliance/Reporting Officer²:

.....

26. State the name and address of the Auditor:

.....
.....

27. State the Financial Year End:

28. State whether the business would be funded by the beneficial owners, significant shareholders, controllers, officers or directors:

a) Type of Funds: _____

b) Amount: _____

c) Source of funds and type of source

I have reviewed and completed the application and enclosed the required documents outlined within this application.

I, _____, (Name) do hereby declare, on behalf of _____ (Name of Virtual Asset Service Provider), that the information provided in this document is true and accurate and that all supporting documents submitted for the purpose of the renewal have been verified as authentic.*

Signed by: _____

² Each Compliance/Reporting Officer must complete the Application Form for the Approval of the Appointment of Compliance Officer/Reporting Officer

Name: _____

Position: _____

Date: _____

**“Please be advised, that in accordance with Section 8 of the Perjury Act, it is an offence punishable by a maximum fine of thirty thousand dollars or at least five years imprisonment for a person to knowingly make either*

- (a) a false voluntary declaration; or
- (b) a false statement when any act requires information to be provided.”

An Application should be accompanied by the following information:

- Certified copies of Statutory Statement, Memorandum and Articles of Association or equivalent documents
- Certified copy of the Certificate of Incorporation or Registration or official record of formation
- A Certificate of Good Standing
- An organizational chart showing all entities in which the applicant has an interest
- Business Plan which includes the following:
 - o 3 – year proforma financial statements
 - o Nature and scope of virtual asset business
 - o Proposed date of commencement of business
 - o Name of countries of operation
 - o Website address (if applicable)
 - o Promotional material
 - o Target markets
 - o Corporate governance arrangements
- Audited Financial Statements (3 years) (if applicable)
- Organizational Chart
- Anti-Money Laundering/Countering the Financing of Terrorism/Counter Proliferation Financing (AML/CFT/CPF) Policies and Procedures Manual
- Completed Application Form for the Approval of the Appointment of Compliance Officer/Reporting Officer
- Detailed enterprise-wide Risk assessment of the Applicant’s proposed business outlining the anti-money laundering, countering the financing of terrorism and proliferation financing risks of the Applicant’s customers/clients, new and existing products and services, delivery channels, market and geographical location of customers/clients. Technological, operational, strategic, legal and regulatory risks are also required to be assessed.

- Policies and Procedures on data protection, security and confidentiality
- Overview of the cyber-security safeguard systems
- Overview of business continuity and disaster recovery procedures
- Copy of an initial prospectus
- If the applicant is a trust, the following should be provided:
 - o Copy of the trust deed
 - o Copy of any supplementary deeds removing and/or adding beneficiaries
 - o Copy of any supplementary deeds appointing and/or retiring trustees
- For all significant shareholders, beneficial owners, directors and senior management, the following should be submitted:
 - o Two (2) government-issued Identification Documents (IDs) (notarized)
 - o Police Record
 - o Résumé
 - o a sworn declaration by the applicant that he or she is not a beneficial owner or controller of a bank
 - o Certified copies of Qualifications
 - o Copies of certificates representing training received
 - o Two reference letters (bank and professional)
 - o Completed Personal Questionnaire
 - o Amount payable for Due Diligence on each Director and Senior Management member - US\$8,000 or EC\$21,600.00

Form 2

**APPLICATION FORM
VIRTUAL ASSET SERVICE PROVIDER
(INDIVIDUAL)**

1 Name of Applicant:

.....

2 Current residential and Mailing Address:

.....

.....

3 Date of Birth:

.....
.....

4 Address of the place of business (if this is different from the residential address):

.....
.....

5 Tel No.: Fax No.:

6 Email:

7 Website:

8 Name and address of Principal Representative in St. Kitts and Nevis:

.....
.....

9 Trading Name of the Business:

10 Name and address of Affiliated Company:

.....

11 Names and Addresses of Beneficial Owner, Senior Management and Officers:

Name	Position	Address

12 Are you licensed to conduct virtual asset business in another jurisdiction?

Yes

No

If yes, please provide the following:

f. Other jurisdiction(s) of operations:

.....

g. Date on which the virtual asset business began operations in the
aforementioned jurisdictions:

.....

h. Name(s) and address(es) of each regulator which has issued a licence or
registration:

Name	Address

i. Specify whether there are specific requirements, restrictions or prohibitions
on the conduct of the activity for which it is registered or licensed:

.....

.....

j. State if any office has been opened or if any physical presence has been
established. If yes, please provide the address. If no, please provide the
proposed location of the business operations:

.....

.....

13 Have you ever been denied an application for a licence to conduct virtual asset business
in another jurisdiction(s)?

Yes No

If yes, please state the jurisdiction(s):

14 Are you presently applying for a licence to conduct virtual asset business in another
jurisdiction(s)?

Yes No

If yes, please state the jurisdiction(s):

15 Do you have a controlling interest in any other business that is engaged in virtual asset business? If yes, please state the name and where it is licensed:

.....
.....

16 Do you have a controlling interest in any other licensed financial institution or Designated Non-Financial Business or Profession (DNFBP)? If yes, please state the name and where it is licensed:

.....
.....

17 State any penalties or enforcement actions that have been imposed or taken against you or any business in which you have or had controlling interest in another jurisdiction:

.....
.....

18 Has a virtual asset service provider licence or any other licence to conduct financial services business ever been suspended, cancelled or revoked in another jurisdiction?

Yes No

19 State the name of the Compliance /Reporting Officer³:

.....

20 State the name and address of the Auditor:

.....
.....

21 State the Financial Year End:

22 State whether the business would be funded by the beneficial owners, controllers or directors:

³ Each Compliance/Reporting Officer must complete the Application Form for the Approval of the Appointment of Compliance Officer/Reporting Officer

- a) Source and Type of Funds: _____
- b) Amount: _____
- c) State whether the Applicant will be providing the funding

I have reviewed and completed the application and enclosed the required documents outlined within this application.

I, _____, (Name) do hereby declare, on behalf of _____ (Name of Virtual Asset Service Provider), that the information provided in this document is true and accurate and that all supporting documents submitted for the purpose of the renewal have been verified as authentic.*

Signed by: _____

Name: _____

Position: _____

Date: _____

**“Please be advised, that in accordance with Section 8 of the Perjury Act, it is an offence punishable by a maximum fine of thirty thousand dollars or at least five years imprisonment for a person to knowingly make either*

- (c) a false voluntary declaration; or
- (d) a false statement when any act requires information to be provided.”

The Application should be accompanied by the following:

- o Two (2) government-issued Identification Documents (IDs) (notorized if copies) one of which must be a valid unexpired passport)
- o Police Record – no later than 3 months in duration and a police record shall also be required in respect of any place where the Applicant has resided for more than 6 months in the last fifteen years
- o Résumé
- o a sworn declaration by the applicant that he or she is not a beneficial owner or controller of a bank
- o Certified copies of Qualifications
- o Copies of certificates representing training received
- o Two reference letters (bank and professional)
 - o Business Plan which includes the following:
 - o 3 – year proforma financial statements

- o Nature and scope of virtual asset business
- o Proposed date of commencement of business
- o Name of countries of operation
- o Website address (if applicable)
- o Promotional material
- o Target markets
- o Corporate governance arrangements
- o Audited Financial Statements (3 years) (if applicable)
- o Organizational Chart
- o Anti-Money Laundering/Countering the Financing of Terrorism/Counter Proliferation Financing (AML/CFT/CPF) Policies and Procedures Manual
- o Completed Application Form for the Approval of the Appointment of Compliance Officer/Reporting Officer
- o Completed Personal Questionnaire for all beneficial owners, directors and senior management.
- o Detailed enterprise-wide Risk assessment of the Applicant's proposed business outlining the anti-money laundering, countering the financing of terrorism and proliferation financing risks of the Applicant's customers/clients, new and existing products and services, delivery channels, market and geographical location of customers/clients. Technological, operational, strategic, legal and regulatory risks are also required to be assessed.
- o Policies and Procedures on data protection, security and confidentiality
- o Overview of the cyber-security safeguard systems
- o Overview of business continuity and disaster recovery procedures
- o Copy of an initial prospectus
- Amount payable for Due Diligence on each Beneficial Owner, Director and Senior Management member - US\$8,000 or EC\$21,600.00

Form 3

VIRTUAL ASSET SERVICE PROVIDER PERSONAL QUESTIONNAIRE [Fit and Proper Test]

Part A

NAME: _____

PREVIOUS NAMES (IF ANY): _____

ALIASES: _____ DATE OF BIRTH: _____

GENDER: _____

NATIONALITY: _____ If Dual Nationality, please state: _____

PLACE OF BIRTH _____

[SOCIAL SECURITY] [NIS] NUMBER: _____

PASSPORT NUMBER: _____

ADDRESS (Home): _____

(Business):

OCCUPATION/POSITION (eg. Beneficial owner, shareholder, director or senior management):

1. If Shareholder, please state the shareholding held: _____

2. Do you have any pending applications with any other Regulatory Body?

Yes

No

If yes, please provide details:

Name of Regulator	Country	Type of Application

3. Are you currently or were you previously approved by any other Regulatory Body? (within the past 10 years)

Name of Regulator	Country	Position Held	Name of Entity	Date Approved	Is the Approval Active?

4. Has an application for your regulatory approval ever been refused? If yes, please provide details:

5. Have you ever at any time been involved with an application for regulatory approval in any jurisdiction where that application has been refused or withdrawn? If yes, please provide details:

6. Have you at any time been charged or convicted of any offence by a civil, criminal or military court? (excluding minor Road Traffic offences). If so, please give details of charge, and if convicted, the date of conviction and full particulars of the offence and the penalty imposed.

7. Have you ever been the subject of investigation/disciplinary procedures, censured, disciplined by any professional body to which you belong or have belonged? If so, give particulars.

8. Have you ever been refused entry to any profession or vocation? If so, give particulars.

9. Have you ever been dismissed or requested to resign from any office or employment? If so, give particulars.

10. Have you ever been censured, disciplined by, or made the subject of a court order at the instigation of:-

- (a) any regulatory authority?
- (b) any officially appointed enquiry?
- (c) any other established body concerned with the regulation of a relevant activity? If so, give particulars.

11. Have you been found guilty of conducting any unauthorized regulated activity or been investigated for possible conduct of unauthorized regulated entity?

12. In connection with the formation or management of any corporation, partnership or unincorporated entity, have you been adjudged by a court civilly or criminally liable for any fraud, misfeasance or other misconduct towards that corporation, entity, partnership or any member of the corporation, entity, partnership? If so, give particulars.

13. In connection with the formation or management of any corporation have you been disqualified by a court from being a director or from acting in the management or conduct of the affairs of any corporation? If so, give particulars.

14. Have you ever –

- (a) filed for bankruptcy?
- (b) been adjudged bankrupt by a court in any jurisdiction?
- (c) had a receiving order made against you?

- (d) had your estate sequestrated?
- (e) entered into a deed of arrangement, or other composition or arrangement with your creditors?

If so, give particulars.

15. Has a bankruptcy petition ever been served on you? If pending, give details of the circumstances and if not pending, how was the matter resolved?

16. Have you, your company or your employer, previously dealt on a regular basis with any person carrying on a relevant activity who has, to your knowledge at any time, indicated that he is unwilling to effect further transactions with you, your company or your employer, by reason of any act or omission by you? If so, give particulars.

17. Will you be actively engaged in the business or the entity to which this application relates and devote the major portion of your time to it?

18. Have you in the last ten years been found liable in a civil suit which elicited dishonest or unlawful conduct on your part? If so, please provide details.

19. Is there any outstanding litigation (civil or criminal) against you in your capacity as beneficial owner, shareholder, director or senior management or any company with

which you are an officer or are there any current proceedings issued by you? If yes, please provide details.

Please note that due diligence will be conducted on each Beneficial Owner, Significant Shareholder, Director, Senior Management member and major Shareholder at a cost of US\$8,000 or EC\$21,600.

PART B
RELATED OR OTHER INTEREST

1. Are you a director of any company, partnership, corporate body or any other business organisation engaged in virtual asset business activity? If so, state –
 - (a) name of company/corporation/etc;
 - (b) nature of business;
 - (c) date of commencement of directorship;
 - (d) whether or not employed on service contract (e.g. Managing Directorship) in any case.

2. Have you ever been a director of a deposit taking institution, credit extending institution, other financial services provider, any other limited company or corporation other than those stated in the previous questions? If so state –
 - (a) name of company/corporation/etc;
 - (b) nature of business;
 - (c) date of commencement of directorship;
 - (d) date of cessation of directorship.

3. Are you or have you been engaged –
 - (a) in partnership? or
 - (b) in business as a principal on your own account?

If so, give particulars.

4. Are you a beneficial owner or have any controlling interest in any unlisted private or public company? If so, give particulars.

5. Have you ever been a beneficial owner, shareholder, director, senior manager, officer or controller of any body corporate, partnership, financial institution or unincorporated institution –

- (a) that has been wound up by a court?
- (b) the licence of which has been suspended, revoked or cancelled?
- (c) which has been placed in receivership?
- (d) which has entered into a composition with its creditors?
- (e) whose business had been adjudged to have been conducted imprudently or fraudulently?
- (f) which has failed to meet the solvency requirement prescribed by law?

If so, give particulars.

6. Have you ever failed to satisfy any debt adjudged due and payable by you as a judgement-debtor under an order of court or made any compromise arrangement with your creditors within the last 15 years? If yes, please provide full details.

7. Have you ever been disqualified, suspended, dismissed or requested to resign from any fiduciary office or position of trust or employment or barred from entry to any profession or occupation? If yes, please provide details

8. Have you ever been a beneficial owner, shareholder, director, or been directly concerned with the management of a bank or other financial institution-

- (a) name of company;
- (b) name of liquidator;
- (c) address of liquidator.

If so, give particulars.

9. Have you ever in your capacity as beneficial owner, shareholder, director, senior management or any officer concerned with the management of an entity or unincorporated institution been censured or disciplined by –

- (a) any regulatory authority?
- (b) any professional body?
- (c) Any governmental body?
- (d) any official appointed enquiry?
- (e) any other body concerned with regulation of a relevant activity?

If so, give particulars.

10. Have you ever been subject to any enforcement action (including penalties and fines) by a regulatory body? If yes, please provide details (including the name of the regulatory body, details of the incident and the penalty amount applied).

11. Do you (in your personal capacity or through any entity controlled by you) have outstanding debt of any amount sixty or more days in arrears? If so, state the following-

- (a) form
- (b) amount
- (c) source
- (d) maturity date

12. Has any person, firm or company granted the indebtedness? If so, give particulars (see previous question).

13. Are you at present guaranteeing the debts and obligations of any third party? If so, give particulars.

14. Have you, a family member or a close associate, at any time been designated a politically exposed person (PEP)? If yes, please provide details.

I do hereby declare that the personal information provided in this application is true and accurate and that all documents submitted with this application in respect thereof are authentic, and have been notarized, as necessary. I understand that providing false and misleading information in respect of this application may cause the Commission to deny the application and any subsequent applications which may be submitted on my behalf.

I also undertake to notify the Commission in case of any change in the information furnished herein within a reasonable time but not exceeding 30 days of such change.

Signature:

Name (Print):

Date:

Made this 14th day of September, 2022.

TERRANCE M DREW
Minister responsible for Finance