# REFERENCE GUIDE

Brazilian Regulation for Virtual Asset Service Providers (VASPs)

October 13, 2025

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# INDEX

# KEY DEFINITIONS

## A. KEY DEFINITIONS

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| **"VASP"** | means a Virtual Asset Service Provider in Brazil ("*Sociedade Prestadora de Serviços de Ativos Virtuais*"). |
| **"BCB"** | means the Central Bank of Brazil. |
| **"CVM"** | means the Comissão de Valores Mobiliários (the Brazilian Securities and Exchange Commission). |
| **"Public Consultation 97"** | means the Public Consultation No. 97/2023 of the Central Bank of Brazil. |
| **"Public Consultation 109"** | means the Public Consultation No. 109/2024 of the Central Bank of Brazil. |
| **"Public Consultation 110"** | means the Public Consultation No. 110/2024 of the Central Bank of Brazil. |
| **"Public Consultation 111"** | means the Public Consultation No. 111/2024 of the Central Bank of Brazil. |
| **"Public Consultation 122"** | means the Public Consultation No. 122/2025 of the Central Bank of Brazil. |
| **"FATF"** | means the Financial Action Task Force. |
| **"COAF"** | means Brazil's financial intelligence unit ("*Conselho de Controle de Atividades Financeiras*"). |
| **"KYC"** | means the customer identification procedure known as "*Know Your Client*". |
| **"KYT"** | means the procedure for recording and analyzing transaction-related information known as "*Know Your Transaction*". |
| **"AML/FT"** | means Anti-Money Laundering and Combating the Financing of Terrorism. |

## B. SCOPE AND LEGAL DISCLAIMERS

This Reference Guide has been prepared by Veirano Advogados to serve as a quick reference guide for VASPs operating or intending to operate in Brazil. It contains a summary of the primary legal and regulatory requirements applicable to the industry in Brazil, with a particular focus on the forthcoming regulations being developed by the Central Bank of Brazil, especially those addressed in Public Consultations 109, 110, and 111. The rules set forth in such Public Consultations are not final and remain subject to substantial changes.

The Guide covers topics such as authorization to operate, services categories, compliance requirements, operational limitations, among other critical points for the regulatory compliance of VASPs. The information gathered herein has been structured based on the legislation and regulations in force or under discussion as of the date of closing of this material.

**We emphasize that this Guide does not constitute, and shall not be construed as, legal advice, a legal opinion, or a recommendation by Veirano Advogados. Nothing contained in this Guide shall be construed as a representation or a warranty by Veirano Advogados as to the completeness, accuracy or timeliness of the information.**

**The information in the Guide may become outdated over time, and Veirano Advogados is not obliged to report any legal, regulatory or court interpretation change that has or may have an impact on the issues covered hereunder, nor any additional information to which it has access on the subject, even if not protected by confidentiality.**

**The content presented herein is merely an introduction to the topics addressed and should under no circumstances be relied upon as the sole basis for legal, regulatory, or business decisions. The document is strictly for informational purposes and does not replace an individual analysis by qualified professionals.**

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# VIRTUAL ASSET SERVICE PROVIDERS

## C. DEFINITION

Pursuant to Law No. 14,478/2022[i], ***"Virtual Asset Service Providers"*** **(VASPs) are legal entities that perform, on behalf of third parties, at least one of the following activities qualified as "virtual asset services"**: (i) the exchange between virtual assets and national or foreign currency; (ii) the exchange between one or more virtual assets; (iii) the transfer of virtual assets; (iv) the custody or administration of virtual assets or instruments that allow their control; and (v) participation in financial services and the provision of services related to the offer or sale of virtual assets by an issuer. Such entities may provide virtual asset services on an exclusive basis or cumulate them with other activities, provided such other activities are consistent with the applicable regulations.

The Law defines virtual asset as **"a digital representation of value that can be traded or transferred by electronic means and used for payment or investment purposes"**. The provision contains express exclusions, so the following items are not considered virtual assets: (i) national and foreign currencies; (ii) electronic money (EM), as defined by Law No. 12,865/2013; (iii) instruments that grant their holder access to specified products or services or to benefits derived from such products or services, such as loyalty points and rewards; and (iv) representations of assets whose issuance, registration, trading, or settlement is provided for under applicable law or regulation, such as securities and financial assets.

The express exclusion of securities is particularly relevant, as it means that companies engaged in the offering of tokens of receivables characterized as securities do not fall under the definition of virtual asset service providers. In this regard, institutions such as crowdfunding platforms operating under CVM Resolution No. 88 that offer tokens of receivables classified as securities are, in principle, not subject to the requirements set forth in Law No. 14,478/2022[ii].

Pursuant to the Law, **VASPs may only operate in Brazil upon prior authorization from the Central Bank of Brazil**[iii], which has been granted the authority to: (i) regulate the provision of virtual asset services; (ii) authorize and supervise virtual asset service providers; and (iii) decide on other matters established under Law No. 14,478/2022.

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# REGULATION BY THE CENTRAL BANK OF BRAZIL

## D. PUBLIC CONSULTATIONS 97, 109, 110, 111 E 122

In compliance with the provisions of Law No. 14,478/2022 and Decree No. 11,563/2023 and in the effort to initiate a regulation about the provision of virtual asset services in Brazil, the Central Bank opened, in December 2023, Public Consultation 97. The contributions to such Public Consultation subsidized the development of draft rules which were then presented for further market evaluation, through Public Consultations 109, 110, 111 and 122. Each of these new consultations had specific purposes:

Public Consultation 109: proposed the general regulation of virtual asset services set forth under Law No. 14,478/2022. Through Public Consultation 109, the Central Bank submitted for public discussion: (i) a draft rule addressing the incorporation and operation of VASPs, as well as the provision of virtual asset services by other authorized institutions; and (ii) a draft rule of the National Monetary Council regulating the charging of fees, to include virtual assets within the scope of the regulations applicable to financial institutions.

Public Consultation 110: proposed a draft rule aimed at regulating the authorization processes applicable to the VASPs. In compliance with the legal mandate, the draft provides for a special treatment for entities already operating in the Brazilian virtual asset market prior to the regulation's effective date.

Public Consultation 111: introduced a draft rule to include the activities of VASPs within the foreign exchange market and sets forth the circumstances under which they will be required to comply with the regulations governing Brazilian capital abroad and foreign capital in Brazil.

Public Consultation 122: proposed the establishment of accounting criteria for the recognition, measurement, derecognition, and disclosure of virtual assets and utility tokens by financial institutions and other institutions authorized to operate by the Central Bank.

As of the closing of this Guide, the final versions of the above mentioned rules are yet to be published by the Central Bank, and hence the information hereafter does not constitute an assurance of what will be required by the regulator, but only an expectation of the proposed regulations. It is recommended to continuously monitor regulatory developments and seek specialized legal advice to assess its specific impact on each business model.

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# VASPS CATEGORIES

## E. VIRTUAL ASSETS INTERMEDIARIES, CUSTODIANS AND BROKERS

According to the draft rule of the Central Bank of Brazil presented by Public Consultation 109, **there should be three types of VASP:**

Virtual asset intermediaries: institutions whose corporate purpose must be the performance of one or more of the activities provided for in article 5 of the draft, such as, for example, the activities of intermediation of the distribution of virtual assets and the purchase, sale and exchange of virtual assets;[iv]

Custodians of virtual assets: institutions responsible for providing custodial services of virtual assets, which includes: (i) the safekeeping and control of the virtual asset on behalf of the client, as well as of the instruments affecting the exercise of ownership rights over the asset; (ii) the continuously updated description of the virtual asset position, by type of asset held by each owner, together with the reconciliation of such position against the relevant information available in distributed ledger systems; (iii) the execution of transfer instructions issued by the virtual asset holder or by the person to whom authority has been delegated to act in the holder's interest, as well as the retention of such instructions; (iv) the handling of events affecting the virtual asset; (v) the creation and release of encumbrances and liens over the virtual asset; and (vi) the management of information relevant to the performance of any of the aforementioned activities concerning the holder and the virtual assets under custody; and

Virtual asset brokers: institutions dedicated to the combined exercise of custody and intermediation activities (provided that such activities are carried out by separate business units with independent teams, and that rules are established for the management of potential conflicts of interest).

Also according to the text of Public Consultation 109, **intermediaries and custodians of virtual assets will not be allowed to combine services of other categories**. Thus, any VASP willing to combine custody and intermediation activities must apply for authorization to operate as a virtual asset broker.

**Virtual asset intermediation and custody services may also be provided by other authorized institutions**, including commercial banks, investment banks, securities brokers and securities distributors.

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# AUTHORIZATION TO OPERATE

## F. THE AUTHORIZATION PROCESS FOR VIRTUAL ASSET SERVICE PROVIDERS

According to the draft rule presented by Public Consultation 110, the VASP authorization process for operation will be split into two stages:

Stage 1: intended to assess whether the VASP commenced its activities prior to the regulation's effective date, so as to verify compliance with the minimum capital and net worth requirements (which may be evidenced through the submission of audited financial statements), and to collect information regarding controlling shareholders, responsible persons, types of services provided, and the scale of operations.

Stage 2: focused on verifying compliance with requirements such as the economic and financial capacity of the controlling shareholders (which must be consistent with both the capital needed to operate the company and the risks in connection with market dynamics), the lawful source of the funds used to pay in the company's capital, the economic and financial viability of the business, the suitability of the information technology infrastructure to the complexity and risks of the business, among other requirements set forth in Article 2 of the draft rule[v].

**The proposal provides for a special treatment for VASP companies already in operation at the time the regulation enters into force: these entities will be allowed to continue operating until the Central Bank grants their operating authorization** (such period is commonly referred to as the "transition period" or "grandfathering period"). In order to enjoy this treatment, VASPs must operate before the entry into force of the regulation on a regular and professional basis, that is, on a recurring and remunerated basis, and it is not enough, for example, to operate merely sporadically and/or on their own account. It is also important to warn that the **VASP must provide with regularity and professionalism all those services for which it wishes to continue to be allowed to provide until the final decision on the authorization application**. Accordingly, if the entity intends to operate as a virtual asset broker during the transition period, it must be able to demonstrate that it was effectively carrying out brokerage activities prior to the entry into force of the regulations. Merely including such services in its corporate purpose, without actually providing them, will not be sufficient.

Corporate reorganizations and changes to the share capital and corporate name will also require prior authorization by the Central Bank.

Pursuant to the Law No. 14.478/2022[vi], **the VASPs will, in principle, have a maximum period of six (6) months to implement the necessary adjustments** to comply with the regulation and other applicable rules[vii].

# CORPORATE STRUCTURE, MINIMUM CAPITAL AND NET WORTH

## G. CORPORATE ORGANIZATION, MINIMUM CAPITAL AND NET WORTH

From a corporate perspective, under the Central Bank's draft regulation, a VASP:

**1.** Must be incorporated either as a limited liability company ("*sociedade empresária limitada*") or as a corporation ("*sociedade anônima*"). No VASP can be wholly owned by single individual;

**2.** Must have as its corporate purpose **at least one of the activities listed in arts. 5 to 8 of the draft rule of the Central Bank presented by Public Consultation 109**[viii]**;**

**3.** Pursuant to article 7 of the draft rule presented by Public Consultation 110, **must be controlled by (i) natural persons, (ii) institutions authorized to operate by the BCB, (iii) financial institutions or similar institutions headquartered abroad; or (iv) legal entities headquartered in Brazil whose exclusive corporate purpose is to hold equity interest in institutions authorized to operate by the Central Bank Brazil;**[ix]

**4.** Must appoint **at least three officers who will be responsible before the Central Bank**[x] (an Officer of AML/FT, an Officer of Internal Controls and Compliance and, finally, a Risk Management Officer), and at least one member of the Board of Officers ("*Diretoria*") or managing partner must be appointed to be responsible for asset segregation in the VASP (art. 24, Paragraph 2 of the draft rule presented by Public Consultation 109);

**5.** Must include the expression **"Virtual Asset Service Provider Company" in its corporate name**;

**6.** Must have a **net worth and a minimum capital fully paid-in** of: (i) BRL1,000,000.00 (one million reais), if its authorization category is that of virtual asset intermediary; (ii) BRL2,000,000.00 (two million reais), if its authorization category is that of virtual asset custodian; or (iii) BRL3,000,000.00 (three million reais), if its authorization category is that of a virtual asset broker. About item 6: i) **the Central Bank must require, at the time of filing for authorization, a certification of the sufficiency of capital and net worth attested by an independent auditor;** (ii) the capital must be paid in Brazilian currency; (iii) **BRL2,000,000.00 (two million reais) of additional capital must be added if the VASP provides *staking*[xi] services or offers margin accounts for virtual assets**; and (iv) the limits provided for in item 6 consist of the minimum levels required, and hence **the regulatory capital to be actually required by the Central Bank from each VASP will take into account the volume and risk of its operations.**

## H. ASSET SEGREGATION OF FUNDS AND VIRTUAL ASSETS

Section II of the draft rule presented under Public Consultation 109 is entirely dedicated to the mandatory segregation of the VASP's own resources and virtual assets and those of its clients.

**Pursuant to the Article 23 of the Section, VASPs must keep their own funds segregated from those of their clients**, including through the use of individualized payment or deposit accounts**.**

**For intermediaries and virtual assets brokers, offering payment accounts to customers is mandatory** (Articles 5, XI and 23, Paragraph 1 of the draft rule). The payment accounts must be carried out in accordance with the regulations that govern the offer of these accounts by other institutions authorized to operate by the Central Bank of Brazil.

In the provision of custodial services, **the draft regulation requires custodians to segregate the virtual assets they hold in custody from their own virtual assets, in accordance with minimum standards such as the full allocation of clients' assets to wallets that are separated from those containing the custodian's own virtual assets**[xii]**.**

As a general rule, with the exception of staking operations and transactions carried out with virtual assets owned by qualified or professional investors (as defined in CVM regulations), VASPs are prohibited from using assets belonging to their clients or to other counterparties for their own proprietary transactions.

The draft regulation requires the **preparation of an asset segregation policy** that must establish, at a minimum: (i) the segregation of clients' virtual assets into wallets distinct from those used by the virtual asset service provider for its own proprietary operations; (ii) the methods employed to conduct proof-of-reserves exercises; (iii) independent audits of the virtual asset service provider's records and distributed technological systems, on a regular basis, with public disclosure; and (iv) the circumstances in which it will be necessary to transfer clients' or users' virtual assets to other VASPs or to the clients and users themselves[xiii].

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## I. AML/FT CONTROLS IN THE PROVISION OF VIRTUAL ASSET SERVICES

Law No. 14,478/2022 identified the prevention of money laundering, terrorist financing, and the proliferation of weapons of mass destruction as one of the guiding principles applicable to the provision of virtual asset services, in line with international standards. The Law also included VASPs among the entities subject to the obligations set forth in Law No. 9,613/1998 (the Anti–Money Laundering Law). As a result, **VASPs will be required to comply with obligations such as carrying out customer identification procedures and maintaining updated transaction records** (*i.e.*, KYC and KYT procedures).

Money laundering and terrorism financing prevention are contemplated also at the regulatory levels, in rules such as BCB Circular No. 3,978, generally applicable to all institutions regulated by the Central Bank of Brazil. The Central Bank has made it clear on several occasions that its intention is to align, as much as possible, the AML/FT rules applicable to authorized institutions. Accordingly, it is recommended that VASPs also familiarize themselves with BCB Circular No. 3,978.

The draft rule under Public Consultation 109 also addressed issues related to AML/FT control by providing, that VASPs must: (i) prepare AML/FT policies and procedures (Art. 34, IX)[xiv]; (ii) appoint of an officer responsible for preventing and combating money laundering and terrorist financing (Art. 10, III, a); (iii) maintain transaction records available to the Central Bank for a minimum period of five (5) years (Article 37, I); and (iv) proceed with the mandatory identification and reporting of suspicious transactions to the competent authorities, such as COAF (for information on access to SISCOAF, see item “L”).

The draft rule also requires **custodians to create and maintain, within their systems, a record of the position history of each client for each virtual asset in custody. This record must cover the entire sequence of positions, from the original to the current one, and must enable the precise identification of the origin (sender) and destination (recipient) of the virtual assets in each transaction**. This requirement mirrors the rule traditionally referred to as the “travel rule” and its implementation in the virtual asset market has been widely questioned by VASPs due to the technological challenges involved in identifying the owner and/or beneficiary of a wallet on a blockchain network.

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# HIRING ESSENTIAL SERVICE PROVIDERS

## J. RETAINING ESSENTIAL SERVICE PROVIDERS TO THE PROVISION OF VIRTUAL ASSET SERVICES

Under Public Consultation 109, **essential services for the provision of virtual asset services are considered to be those that affect the performance of the virtual asset service provider or that affect, or may affect, the full exercise of any of the rights of the virtual asset service provider's clients**. Examples of essential services include virtual asset custody, the provision of liquidity for transactions in the virtual asset market, and technology services when specifically related to the provision of virtual asset services.

In order to hire an essential services provider, the VASP must adopt a series of minimum safeguards, including conducting a preliminary assessment of the technical and operational capacity of the contracted entity, as well as its ability to comply with applicable laws and regulations, and preparing contingency and recovery plans to ensure the restoration of positions and control over assets in the event of incidents affecting clients' virtual assets involving the contracted entity. In the interest of transparency in service provision, the VASP must also provide its clients and other counterparties with clear information regarding the entities involved in the provision of such services.

For the engagement of foreign custodians by VASPs, the requirements are more stringent. In addition to the minimum safeguards applicable to the outsourcing of essential services, it is required that: (i) the laws and regulations of the jurisdiction where the foreign custodian is incorporated provide for standards compatible with those of Brazilian regulation; (ii) the competent regulatory authority of the custodian's home jurisdiction must have a cooperation agreement in force with the Central Bank of Brazil; (iii) the foreign custodian: (iii.a) must be duly authorized to operate by the competent authority of its jurisdiction of incorporation; (iii.b) must have a legal representative in Brazil; (iii.c) must hold assets and rights located in Brazil (or, alternatively, the VASP may require or contract guarantees as a substitute); (iii.d) must enable the VASP to monitor position records, access relevant information, and exercise control over the virtual assets under custody that are subject to the custody agreement; (iii.e) must grant the Central Bank of Brazil access to the records and other relevant systems of the entity relating to the custody of the virtual assets subject to the agreement; and (iii.f) must adopt segregation between clients' virtual assets and the institution's own resources.

According to the draft regulation, the VASP must appoint an officer responsible for the engagement of essential service providers and for overseeing the services provided by them, in compliance with the rules on the prevention of conflicts of interest.

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## K. THE INCLUSION OF VIRTUAL ASSET SERVICE PROVIDERS IN THE FOREIGN EXCHANGE MARKET

Under Public Consultation 111, **the VASPs that operate foreign exchange must file for an authorization to operate in the foreign exchange market simultaneously with their application for authorization to operate as a VASP.**

According to the draft, the provision of virtual asset services comprising: **(i) international payment or transfer through the transmission of virtual assets is included in the foreign exchange market; (ii) purchase, sale, exchange or custody of virtual assets denominated in reais owned by non-residents; and (iii) the purchase, sale, exchange, transfer, or custody of virtual assets denominated in foreign currency**.

If the VASP does indeed qualify as a virtual asset service provider included in the foreign exchange market, it may face some market restrictions listed by the draft presented under Public Consultation 111, which are: (i) **until the authorization process is completed, the VASP is not permitted to provide international payment or transfer services through the transmission of virtual assets** (Art. 76-B); ii) **after obtaining the authorization, the VASP may only conduct international payments or transfer operations with virtual assets up to a limit of USD 100,000.00 (one hundred thousand dollars)** (Art. 29, IV); and iii) **both before and after obtaining authorization, the transmission of virtual assets (in any amount or volume) by the VASP to self-hosted wallets belonging to non-residents is prohibited** (Art. 76-N).

It should be noted that, in light of the strong opposition from market participants, in particular the restrictions set out in items (i) and (iii), the Central Bank has indicated that it may revisit these prohibitions, although there is no assurance that any such relaxation will be reflected in the final version of the regulation.

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## L. VIRTUAL ASSET SERVICES IN THE FOREIGN EXCHANGE MARKET BEFORE THE ENACTMENT OF THE REGULATION

In 2017, the Central Bank of Brazil enacted the Communiqué No. 31,379, in which it clarified that "**transactions involving virtual currencies and other related instruments that entail international transfers referenced in foreign currencies do not exempt parties from complying with foreign exchange regulations, particularly the requirement that such transactions be carried out exclusively through institutions authorized by the Central Bank of Brazil to operate in the foreign exchange market**".

Although both the legislation and the terminology used in the Communiqué have evolved significantly, none of the regulations published or proposed since then have expressly revoked the 2017 Communiqué. As a result, under the current regulatory framework and in light of the Central Bank's unequivocal position, **any international transfer or payment transaction using virtual assets carried out in Brazil today, including retail remittances and international payments related to imports or exports, must comply with the formalities of the traditional foreign exchange marke**t. Therefore, such transactions must be formally registered as foreign exchange transactions and conducted through institutions authorized by the Central Bank of Brazil, in accordance with Law No. 14,286/21, which establishes the legal framework for the Brazilian foreign exchange market).

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# ADEQUACY TO NORMATIVE INSTRUCTION RFB 1,888/2019

## M. THE REPORTING OF TRANSACTIONS INVOLVING VIRTUAL ASSETS TO THE BRAZILIAN FEDERAL REVENUE SERVICE (RFB)

Normative Instruction RFB No. 1,888/2019 sets out the obligation to report information on transactions involving cryptoassets to the Brazilian Federal Revenue Service (Receita Federal do Brasil).

Under the terms of the IN, **the following are required to provide information: (i) cryptoasset exchanges domiciled in Brazil for tax purposes**, and it is important to note that, under the Normative Instruction, exchanges are defined as legal entities that offer services related to operations carried out with cryptoassets, including intermediation, negotiation or custody, and that may accept any means of payment, including other cryptoassets; **and (ii) individuals or legal entities resident or domiciled in Brazil that carry out transactions with cryptoassets in exchanges domiciled abroad or outside of exchanges, whenever the total monthly value of such transactions exceeds BRL 30,000.00 (thirty thousand reais).**

The transactions subject to reporting consist of the following operations involving cryptoassets: purchase and sale, exchange, donation, transfer to an exchange, withdrawal from an exchange, temporary assignment (rental), payment in kind ("*dação em pagamento*"), issuance, and any other transactions that involve the transfer of cryptoassets. For each transaction, information must be provided such as: date, type of transaction, parties involved, cryptoassets used, quantity traded (to the tenth decimal place), transaction value in Brazilian reais (excluding fees), amounts of fees charged, and, of course, the identification of the exchange (when applicable).

Normative Instruction RFB No. 1,888/2019 is expected to be replaced by a new regulation, referred to as "DeCripto", after the name of the new declaration that will be required under the forthcoming rule. The new regulation is expected to make reporting requirements somewhat more complex, significantly increasing the compliance burden for obligated entities. The draft, however, is still under public consultation.

Given that Normative Instruction RFB No. 1,888/2019 remains in effect, it is highly recommended that any VASPs falling within the definition of cryptoasset exchanges set out in the Instruction duly report their transactions to the Brazilian Federal Revenue Service to ensure continued compliance with applicable laws and regulations.

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# ACCESS TO SISCOAF

## N. THE ACCESS OF VIRTUAL ASSET SERVICE PROVIDERS TO SISCOAF

COAF is Brazil's financial intelligence unit and it is responsible for receiving and reviewing reports of events that may constitute money laundering, terrorist financing, or other economic crimes, with the objective of supporting the prevention and enforcement actions of the competent authorities.

SISCOAF (COAF's system) is the official electronic platform used in Brazil for submitting reports of suspicious or unusual transactions to COAF. The system serves to centralize and standardize the information provided by individuals and legal entities that are legally required to cooperate with COAF.

SISCOAF must be used by institutions and professionals from various economic sectors considered vulnerable to money laundering, as set out in Law No. 9,613/1998 and specific regulations.

Before September 2022, temporary access to SISCOAF had been granted on an experimental basis to certain VASPs, with the aim of assessing the technical and operational aspects of their participation in Brazil's AML/FT framework, while the regulatory framework for virtual asset services was still under discussion in Congress. This access, however, was terminated in September 2022. Even after the enactment of Law No. 14,478/2022, which included VASPs among the entities subject to Law No. 9,613/1998 (the Anti–Money Laundering Law), COAF has not yet reinstated the registration and onboarding process for VASPs into the system.

Access, however, was terminated in September 2022, and even after the enactment of Law No. 14,478/2022, which included VASPs in the list of entities subject to Law No. 9,613/1998 (Money Laundering Law), COAF has not yet reestablished the procedure for registering/enabling VASPs in the system.

Although VASPs currently do not have access to SISCOAF, it is essential that they continue to adopt strict compliance measures, including the diligent analysis of transactions, the application of customer identification procedures, and the ongoing monitoring of activities. These institutions must keep well-organized and accessible records of all evidence related to suspicious activities, so that they are prepared to cooperate with the competent authorities whenever requested.

# ANNEX I – REQUIRED POLICIES

## O. PACKAGE OF POLICIES AND PROCEDURES REQUIRED BY THE CENTRAL BANK FOR VIRTUAL ASSET SERVICE PROVIDERS

Considering the date of publication of this Guide and the draft rule presented by the Central Bank in Public Consultation 109, it is expected that VASPs will be required to prepare at least the following policies and procedures:

1. Governance Policy;
2. Internal Controls and Risk Management Policy;
3. Asset Segregation Policy;
4. Employee Conduct Policy;
5. Data Collection and Analysis Policy;
6 Fraud and General Crime Prevention Policy;
7. Business Continuity Policy;
8. Policy for the Management of Services Provided by Third Parties;
9. Private Key Safekeeping and Protection Policy;[xv]
10. Customer Transaction Approval Policy;
11. Institutional Security Policy;[xvi]
12. Policy for Preventing and Combating Money Laundering and Terrorist Financing;
13. Policies for the Selection, Listing and Delisting of Virtual Assets;[xvii]
14. Margin Account Operations Policy (applicable in the event that the service provider practices operations of this nature);
15. Custody Policy (applicable in the case where the service provider is a custodian of virtual assets);
16. Policies for the Prevention or Elimination of Conflicts of Interest.

[i] ***Note to the Guide**: Enacted on December 21, 2022, Law No. 14,478/2022 became known as the "Legal Framework for Cryptoassets" and was the first law to regulate the subject specifically in Brazil.*

[ii] ***Note to the Guide:** For more information on the offering of tokens of receivables that qualify as securities, see CVM Guidance Opinion 40 and CVM/SSE Circular Letters No. 04/2023 and No. 06/2023.*

[iii] ***Note to the Guide:** Decree No. 11,563/2023 was the instrument that granted the Central Bank of Brazil the authority to regulate the provision of virtual asset services, as well as to authorize and supervise Virtual Asset Service Providers.*

[iv] ***Note to the Guide:** Some of the activities provided for in the article in question should be excluded or substantially modified, especially because when practiced in isolation, they may constitute a mere provision of technological infrastructure, and not the provision of virtual asset services per se (e.g., advisory services or technical assistance for clients and issuers of virtual assets in the virtual asset market).*

[v] ***Note to the Guide:** For analysis of all the required requirements, see article 2 of the draft rule.*

[vi] ***Note to the Guide:** As clarified by Communiqué No. 40,874/2023 of the Central Bank, the conditions and deadlines for the compliance of VASPs, as mentioned in Article 9 of Law No. 14,478/2022, will be established in a normative act to be issued by the Central Bank of Brazil. The rules set forth in this act will apply to all service providers operating on the date the act enters into force. Until the issuance and entry into force of such normative act, VASPs may operate without prior authorization from the Central Bank.*

[vii] ***Note to the Guide**: In principle, the period of 6 (six) months constitutes a single period for full compliance with the requirements for VASPs, but the market has pleaded for a phasing of the adequacy, which can be contemplated in the final version of the regulation.*

[viii] ***Note to the Guide:** According to Article 5 of the Central Bank's Public Consultation 109, intermediaries must have as their corporate purpose at least one of the following activities: (i) intermediating the distribution of virtual assets; (ii) underwriting, individually or jointly with other authorized entities, the issuance of virtual assets; (iii) purchasing, selling, and exchanging virtual assets on their own behalf and on behalf of third parties; (iv) acting as liquidity providers in the virtual asset market; (v) managing portfolios composed of virtual assets, or portfolios composed of virtual assets, securities, financial assets, and other financial instruments permitted under specific regulations; (vi) performing trustee functions in virtual asset market transactions; (vii) carrying out staking operations in virtual assets on behalf of their clients; (viii) providing intermediation, advisory, or technical assistance services to their clients and to issuers of virtual assets; (ix) conducting margin account transactions involving virtual assets; (x) performing other financial service provider functions in distributed ledger systems or similar systems; (xi) offering payment accounts, as provided for in specific regulations; (xii) providing virtual asset services in the foreign exchange market; and (xiii) carrying out other activities expressly authorized by the Central Bank of Brazil, provided that they are of the same nature and risk as those listed above. According to Articles 6 and 7 of the same Public Consultation, virtual asset custodians must have as their corporate purpose the provision of custody services for virtual assets, which includes: (i) the safekeeping and control of the virtual asset on behalf of the client, as well as of the instruments affecting the exercise of ownership rights over the asset; (ii) the continuously updated description of the virtual asset position, by type of asset held by each owner, together with the*

*reconciliation of such position against the relevant information available in distributed ledger systems; (iii) the execution of transfer instructions issued by the virtual asset holder or by the person to whom authority has been delegated to act in the holder's interest, as well as the retention of such instructions; (iv) the handling of events affecting the virtual asset; (v) the creation and release of encumbrances and liens over the virtual asset; and (vi) the management of information relevant to the performance of any of the aforementioned activities with respect to the holder and the virtual assets under custody. Finally, virtual asset brokers must combine one or more activities from each of the two categories (intermediaries and custodians).*

[ix] ***Note to the Guide:*** *Following what already applies to other authorized institutions, such as exchange brokerage companies and securities distributors, according to the text of the proposed regulation, foreign companies that are not financial institutions or similar in their jurisdiction of incorporation cannot control an VASP.*

[x] ***Note to the Guide:*** *The three (3) officers appointed under the terms of the proposed regulation cannot accumulate functions and must be individuals directly involved in the operation of VASP, so that it cannot use the hiring of merely symbolic or representative officer services for this purpose.*

[xi] ***Note to the Guide****: According to the Central Bank's Public Consultation 109, virtual asset staking means "the process through which a person, natural or legal, maintains a locked virtual asset for the purpose of participating in the validation of transactions that occur in a distributed ledger system or similar that uses proof-of-stake as consensus mechanisms, being able to enjoy receiving a reward".*

[xii] ***Note to the Guide:*** *The draft regulation does not require, in principle, the creation of a specific wallet for each client, and it is plausible to interpret that a single wallet for the set of clients, associated with the individualized control of each client by graphic account balances, would be sufficient to comply with the regulatory requirements of segregation. It is essential, however, that the wallet intended for the safekeeping of customer assets is not the same as the one that holds assets owned by VASP itself.*

[xiii] ***Note to the Guide:*** *For the other policies required by the draft regulation, see Annex I (at the end of the document).*

[xiv] ***Note to the Guide:*** *For the other policies required by the draft regulation, see Annex I (at the end of the document).*

[xv] ***Note to the Guide:*** *The Private Key Safekeeping and Protection Policy shall include, at a minimum: (i) the documented procedures for the generation, custody, and management of these private keys, including the specification of the methods used to execute the transactions; (ii) the distribution of virtual assets that must be held in the different virtual asset portfolios, in accordance with the provisions of the specific rules on the custody of virtual assets; (iii) the safety modules used for such purposes, as applicable; and (iv) the procedures for mitigating compromises, concessions and revocation of private keys (article 43 of the draft rule presented by the Central Bank under Public Consultation 109).*

[xvi] ***Note to the Guide:*** *On the subject of security, the draft regulation suggests that the policies of the virtual asset service provider include, at least, cybersecurity and information security (art. 39 of the draft rule presented by the Central Bank under Public Consultation 109).*

[xvii] ***Note to the Guide:*** *According to the draft regulation, Virtual Asset Selection, Listing, and Delisting Policies must cover at least the following aspects: (i) the categorization of the virtual assets offered, taking into account their fundamental characteristics in relation to their purpose as either investment or payment instruments; (ii) a critical review of the documentation available on the virtual asset to be offered, with an emphasis on its inherent risks; (iii) restrictions on the offering of virtual assets that exhibit features of fragility, insecurity, or risks that may facilitate fraud or criminal activity, such as assets designed to enable money laundering or terrorist financing through anonymity or*

*difficulties in identifying the holder; (iv) rules for the periodic review of the virtual assets offered by the virtual asset service provider; and (v) the establishment of procedures to precede delisting processes, aimed at safeguarding clients holding such virtual assets (Article 50, §1, of the draft rule presented by the Central Bank under Public Consultation 109).*

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