

INFORMATIVE ALERT

**VIRTUAL ASSETS SERVICE
PROVIDERS ARE NOW SUBJECT
TO THE FINANCIAL
INVESTIGATIONS UNIT'S
REGULATIONS**

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ABOGADOS

Virtual asset service providers are now subject to the financial investigations unit's regulations

On 4 December 2024, the Financial Investigations Unit (“UIF”) issued Administrative Resolution No. 58/2024 (“RA 58”), which designates as Obligated Subjects individuals and/or legal entities conducting any of the following activities or operations as Virtual Asset Service Providers (“PSAV”):

- a) Exchange between Virtual Assets¹ and FIAT currencies.
- b) Exchange between one or more forms of Virtual Assets.
- c) Transfer of Virtual Assets.
- d) Custody and/or Administration of Virtual Assets or Instruments that allow control over Virtual Assets.
- e) Participation and Provision of Financial Services related to the offering by an issuer and/or the sale of a Virtual Asset.

Current Obligations for Obligated Entities

RA 58 establishes the following obligations for PSACs designated as Obligated Subjects:

- a) Register with the UIF as Obligated Subjects.
- b) Update their registration as Obligated Subjects if they are already registered and have begun conducting activities or operations as PSAVs.

Future Obligations for Obligated Subjects

The next anticipated step by the UIF is the issuance of a specific directive for PSAVs, detailing their obligations as Obligated Subjects. Although the publication date has not been announced, it is expected to include requirements similar to those established for other Obligated Subjects, such as:

- a) Designating a Responsible Officer to develop risk management policies and procedures, evaluate and ensure the application of due diligence, and report suspicious transactions.
- b) Preparing Internal Audit Reports, which must be periodically submitted to the supervisor designated by the UIF.
- c) Developing an Internal Procedures Manual that considers their clients and the complexity of their operations/services.
- d) Reporting suspicious transactions, such as cases where clients refuse to provide further information, where the source of funds cannot be verified, or where there are reasonable grounds to suspect the funds originate from illegal activities.

¹ Virtual assets are defined as the digital representation of value that can be traded or transferred digitally and can be used for payments or investments. Virtual assets do not include digital representations of fiat currency, securities, or other financial assets.

While the issuance of this directive appears highly probable, the specific regulation of PSAVs within the financial regulatory framework remains pending. According to Article 19, Paragraph IV of the Financial Services Law, the constitution and operation of Financial Technology Companies (“ETFs”) will be regulated by Supreme Decree. This means that, in the medium term, the financial regulator (ASFI) will likely impose additional obligations on PSACVs.

Designated Supervisor

At present, the UIF has not designated the authority responsible for supervising PSAVs. However, it is expected that, following the issuance of the specific directive, the UIF will announce through an administrative resolution which entity will oversee compliance.

If PSAVs are ultimately regulated as ETFs, it is likely that ASFI will assume the supervisory role, as it currently oversees all entities within the financial sector.

Deadline for Registration

According to RA 58, PSAVs must complete their registration within 30 calendar days following the publication of the resolution. The estimated deadline for this requirement is 3 January 2025.

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