A guide to blockchain and cryptocurrency laws and regulations 2026: British Virgin Islands (GLI chapter)

Briefing Summary: Regulatory clarity in the digital assets and crypto space continues to be a moving target. Yet, the interest among policymakers and regulators worldwide has never been more pronounced. The BVI has established itself as a leading offshore finance centre that is resilient, agile and innovative in the face of regulatory changes, economic challenges and natural disasters. Now in its eighth edition, this publication is dedicated to assisting legal practitioners navigate these complexities, whether advising clients in the U.S. or internationally.

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Government attitude and definition

The BVI has established itself as a leading offshore finance centre that is resilient, agile and innovative in the face of regulatory changes, economic challenges and natural disasters. Companies, institutions and individuals, including those operating in the cryptocurrency, blockchain technology and Web3 space, use BVI vehicles to support their international business activities in order to benefit from the familiarity and stability of the BVI's English common law-based legal system, tax-neutral treatment and business-friendly flexibility of the BVI's regulatory and judicial regime.

The Government of the BVI works closely with the Island's industry leaders, from lawyers and accountants to insolvency practitioners and regulators, recognising that a collaborative industry will be able to better serve the needs of those persons doing business there, whilst ensuring that the jurisdiction is well equipped to identify, and mitigate against, any associated risks.

This is evident in the approach taken by the Government of the BVI to regulating virtual assets (as detailed further below). The Virtual Assets Service Providers Act, 2022 (the "**VASP Act**") (available here), which seeks to ensure the BVI's continued compliance with international standards and to adhere to specific recommendations from the Financial Action Task Force in respect of virtual assets, is the result of a public consultation process in which the BVI Financial Services Commission (the "**Commission**") sought the feedback, opinions and comments of all stakeholders.

Key Contacts

Chris Duncan
PARTNER,
CAYMAN ISLANDS
+1 345 749 2057
EMAIL CHRIS

Katrina Lindsay
COUNSEL,
BRITISH VIRGIN ISLANDS
+1 284 394 4032
EMAIL KATRINA

This key feature of the VASP Act will be discussed in greater detail throughout this chapter. At a high level, however, the VASP Act can be described as a balanced piece of legislation that is proportionate and relevant. Companies engaged in custody and exchange business, which are considered higher risk to end users, attract a higher level of regulatory oversight, whilst other activities, such as innovative technology-based projects and issuances of tokens (an activity that has historically been undertaken by BVI incorporated entities), generally fall outside the VASP Act.

Under the VASP Act, a "virtual asset" is defined as a digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes. Specifically excluded from this are digital representations of fiat currencies, as well as digital records of credit against a financial institution of fiat currency, securities or other financial assets that can be transferred digitally.

Cryptocurrency regulation

The VASP Act came into force on 1 February 2023. Any entity wishing to provide virtual asset services or to act as a VASP (as defined below) in or from within the BVI is required to be registered by the Commission. Whilst VASPs already operational at the time the VASP Act came into force had until 31 July 2023 to submit an application to the Commission (enabling them to then carry on providing their virtual asset services whilst their application is under review), any new entities must register with the Commission before commencing any of the activities prescribed by the VASP Act.

An application for registration as a VASP must be made in the Commission's approved form specifying the category of VASP registration being applied for, and accompanied by, ***inter alia***, (a) a business plan setting out the nature and scale of the virtual asset activities to be conducted, (b) details of the proposed directors, senior officers and compliance officer, including documentation to evidence that they satisfy the Commission's fit and proper criteria, (c) policies and procedures to be adopted by the applicant to meet the obligations under the VASP Act and the AML/CTF/PF legislative regime, and (d) the applicable application fee.

When the Commission approves a VASP application, it will register the applicant, issue a certificate of registration and impose such conditions (if any) on the registration as it considers appropriate (including a requirement to obtain professional indemnity insurance).

The VASP Act defines a "VASP" as a virtual asset service provider who provides, as a business, a virtual asset service and is registered to conduct one or more of the following activities or operations for or on behalf of another person:

- exchange between virtual assets and fiat currencies;
- exchange between one or more forms of virtual assets;
- transfer of virtual assets, where the transfer relates to conducting a transaction on behalf of another person that moves a virtual asset from one virtual asset address or account to another;
- safekeeping or administration of virtual assets or instruments enabling control over virtual assets;

- participation in, and provision of, financial services related to an issuer's offer or sale of a virtual asset; or
- perform such other activity or operation as may be specified in the VASP Act or as may be prescribed by regulations.

A person engaged in any of the following activities or operations, for or on behalf of another person, will be deemed to be carrying on a virtual asset service:

- hosting wallets or maintaining custody or control over another person's virtual asset, wallet or private key;
- providing financial services relating to the issuance, offer or sale of a virtual asset;
- providing kiosks (such as automated teller machines, bitcoin teller machines or vending machines) for the purpose of facilitating virtual asset activities through electronic terminals to enable the owner or operator of the kiosk to actively facilitate the exchange of virtual assets for fiat currency or other virtual assets; or
- engaging in any other activity that, under the Guidelines, constitutes the carrying on of the business of providing a virtual asset service, issuing virtual assets or being involved in virtual asset activity.

Whether an entity is carrying on a virtual asset service will turn on, among other things, whether the asset in question constitutes a "virtual asset". For example, crypto-based derivative products would require more careful consideration and may be caught by one or both the VASP Act or the BVI Securities and Investment Business Act, 2010 ("**SIBA**").

Similarly, consideration should also be given to the list of excluded activities that would take a BVI company outside the scope of the VASP Act, such as providing ancillary infrastructure to allow another person to offer a service, such as a cloud data storage provider or integrity service provider responsible for verifying the accuracy of signatures.

Whilst not intended to regulate cryptocurrency specifically, a BVI entity operating in the cryptocurrency, blockchain technology and Web3 space could also be caught by the BVI's existing regulatory regime, including under:

- the BVI Business Companies Act, 2004 (as amended);
- SIBA (as discussed further below);
- the Financing and Money Services Act, 2009 ("**FMSA**") (as discussed further below);
- the Anti-Money Laundering Regulations, 2008 (as amended) (the "**AML Regs**") (as discussed further below);
- the Anti-Money Laundering and Terrorist Financing Code of Practice (as discussed further below); and
- the Economic Substance (Companies and Limited Partnerships) Act, 2018 (as amended) – this will be of particular relevance if the BVI company is proposing to hold any intellectual property rights in connection with the underlying technology.

To avoid duplication of regulation, the VASP Act does specifically provide that a person registered under the VASP Act who carries on only the business of providing a virtual asset service need not be licensed under SIBA or FMSA.

Sales regulation

VASP Act

Under the VASP Act, whilst not expressly excluded, it is generally accepted that the sole act of issuing or selling virtual assets in or from within the BVI is not an activity regulated by the VASP Act in and of itself. However, the provision of financial services related to a virtual asset issuance, as well as the transfer of virtual assets, if being carried out by a BVI entity as a business on behalf of another party, will likely constitute virtual asset services and require that entity to be registered with the Commission under the VASP Act.

SIBA

SIBA regulates, among other things, the provision of investment services from within the BVI. SIBA provides that any person carrying on, or presenting themselves as carrying on, investment business of any kind in or from within the BVI must do so through an entity regulated and licensed by the Commission (subject to the safe harbours in SIBA). Investment business is widely defined and covers: (i) dealing in investments; (ii) arranging deals in investments; (iii) investment management; (iv) investment advice; (v) custody of investments; (vi) administration of investments; and (vii) operating an investment exchange.

"Investments" is also widely defined and may include: (i) shares, interests in a partnership or fund interests; (ii) debentures; (iii) instruments giving entitlements to shares, interests or debentures; (iv) certificates representing investments; (v) options; (vi) futures; (vii) contracts for difference; and (viii) long-term insurance contracts.

Whether a virtual asset falls under the SIBA regime will depend on whether it has characteristics similar to the shares, etc. within the definition of investments.

Additionally, any pooling vehicle that is investing into the virtual asset space, or accepting virtual assets by way of subscription and then investing into more traditional asset classes, would be advised to seek BVI legal advice as to whether such activities would require registration as a fund.

Taxation

The BVI International Tax Authority has not issued any formal statement in relation to the taxation of virtual assets. However, the BVI is a tax-neutral jurisdiction and its income tax is set at 0%, which means that there is no income tax actually levied or paid to the Government of the BVI. As such, there is no requirement for BVI entities to file an income tax return, although they must submit an annual economic substance declaration and an annual return. In addition, there are no capital gains taxes, gift taxes, profits taxes, inheritance taxes or estate duty in the BVI.

For tax purposes, BVI entities may become resident in any jurisdiction, based on such tests as "management and control". All BVI entities are exempt from tax in the BVI and can obtain a certificate from either the BVI registrar or the Inland Revenue to that effect. Moreover, the BVI operates a source-based tax system under which BVI entities will be taxed in the BVI on their BVI net income after all BVI expenses. Consequently, BVI entities operating outside of the BVI, if tax resident in the BVI, should not have their foreign source income taxed in the BVI.

Where there is an initial token/coin offering, the exchange operators will need to be cognisant of the impact of the Foreign Account Tax Compliance Act ("**FATCA**") and Common Reporting Standards ("**CRS**").

Money transmission laws and anti-money laundering requirements

The relevant money transmittal law in the BVI is FMSA, which regulates money services business. FMSA defines money services business as including:

- automated teller machine services;
- money transmission services;
- cheque exchange services;
- currency exchange services; and
- the issuance, sale or redemption of money orders or travellers' cheques.

Whilst the consensus is that "money" and "currency" refer to fiat currencies rather than cryptocurrencies, the specific exclusion in the VASP Act, noted above, whereby any person registered under the VASP Act to carry on only the business of providing a virtual asset service will be exempt from FMSA, will be of particular relevance, and helps to provide certainty to many virtual asset service providers (for example, those involved in the transfer of virtual assets from one account to another). Care will, however, need to be taken where a company is deemed to be carrying out any activities that fall outside the scope of the VASP Act, as the above-noted exemption would not apply in those circumstances.

Also applicable to VASPs are the Anti-Money Laundering (Amendment) Regulations, 2022 and the Anti-Money Laundering and Terrorist Financing (Amendment) Code of Practice, 2022, which, from 1 December 2022, brought VASPs within scope of the BVI AML/CTF regime for transactions involving virtual assets valued at $1,000 or more.

Although a detailed consideration of the specific requirements of the BVI's AML/CTF regime falls outside the scope of this chapter, any person subject to the regime will generally need to do, among other things, the following:

- appoint a named individual as an AML compliance officer to oversee its adherence to the AML Laws and to liaise with the supervisory authorities (and, under the VASP Act, a VASP must have such officer approved by CIMA);
- appoint a named individual as the money laundering reporting officer to act as a reporting line within the business; and

- implement procedures to ensure that counterparties are properly identified, risk-based monitoring is carried out (with specific regard to the nature of the counterparties, the geographic region of operation, and any risks specifically associated with new technologies such as virtual assets), proper records are kept, and employees are properly trained.

In addition, the Commission has issued the Virtual Assets Service Providers guide to the prevention of money laundering, terrorist financing and proliferation financing (available here), and new regulatory requirements have been put in place to ensure that sufficient information is obtained relating to transfers of virtual assets by intermediaries.

In our experience, most parties will be best advised to consult specialist third-party providers to assist with this process.

Promotion and testing

The BVI introduced the Financial Services (Regulatory Sandbox) Regulations, 2020 (the "**Sandbox Regulations**") to encourage technological innovation in the financial technology sector under a lighter touch regulatory regime. The Sandbox Regulations were introduced to assist:

- start-ups that wish to provide new financial services solutions that involve a FinTech business model that is not currently covered (whether explicitly or implicitly) under current BVI legislation;
- start-ups that wish to test innovative technology to deliver a licensable financial service; and
- entities already licensed by the Commission that wish to test an innovative technology as part of their already approved financial service offering.

A person approved under the Sandbox Regulations as a Sandbox participant prior to the VASP Act coming into force can notify the Commission in writing of its intention to provide innovative FinTech in relation to virtual assets (with such notification being treated as an application for registration as a VASP).

Where a VASP that is not registered under the VASP Act or approved under the Sandbox Regulations wishes to carry on a virtual asset service and provide innovative FinTech in accordance with the Sandbox Regulations, it may submit an application to the Commission in accordance with the Sandbox Regulations, with it being noted in the application that it intends to carry on the business of providing virtual asset services in relation to which the innovative FinTech will be applied.

Ownership and licensing requirements

There are no restrictions in the BVI on an investment manager owning cryptocurrencies for investment purposes. Whilst currently untested, due to the infancy of the VASP Act, we would expect that an investment manager may need to apply for registration under the VASP Act in order to hold those virtual assets (if it is determined that the investment manager is holding those virtual assets for and on behalf of a third party). Whether an investment manager that is licensed under the Approved Manager regime would also need to be registered separately under the VASP Act is also yet to be confirmed.

Again, whilst as yet untested, an investment fund incorporated or formed in the BVI that proposes to deal in virtual assets as part of its investment strategy will likely be able to do so without being registered by the Commission under the VASP Act, provided that it is dealing with those virtual assets on a proprietary basis.

Mining

Mining cryptocurrencies is not within scope of the VASP Act and therefore remains an unregulated activity from a BVI perspective, whether conducted in the BVI or by a BVI company outside of the BVI. The BVI has high electricity costs and as such, mining within the BVI, particularly on a large scale, is unlikely to be efficient.

Border restrictions and declaration

The BVI does not impose any general border restrictions on the ownership or importation of virtual assets.

As part of the BVI's commitment to combatting money laundering and terrorist financing, the Customs Management and Duty Act, 2010 mandates that any person entering or departing the BVI shall make a declaration of anything contained in the person's baggage or carried with the person that, being an amount of cash (which includes coins, notes, travellers' cheques and negotiable instruments such as money orders, cheques, stock and bonds in any currency), exceeds $10,000. Whilst the VASP Act does require that value-based terms contained in any financial services legislation or any other enactment relating to money laundering, terrorist financing and proliferation financing shall be construed to include virtual assets, there is a conceptual question of what would amount to the importation or transportation of such assets given the nature of these assets, particularly those based or recorded on a distributed ledger. As such, we would not expect such a requirement to apply to virtual assets.

Reporting requirements

As noted above, a BVI company providing a virtual asset service in connection with a transaction involving virtual assets valued at $1,000 or more will be deemed to be carrying on a "relevant business" for the purposes of the AML Regs and will be required to comply with the BVI AML/CTF/PF legislative regime, including complying with the "travel rule" and reporting suspicions of money laundering or other criminal activity with the Commission and/or the BVI's Financial Investigation Agency, as applicable.

The OECD has also published a final version of its Crypto-Asset Reporting Framework ("**CARF**") and 2023 update to the CRS, creating a cross-border reporting framework to provide for standardised exchange of information on transactions in crypto-assets. As such, we can expect amendments to be made to the CRS legislative framework in the BVI in order to implement the recommendations under CARF.

Estate planning and testamentary succession

Cryptocurrencies and other virtual assets have not been widely used for the purposes of estate planning and testamentary succession under BVI law.

Neither the VASP Act nor any other particular regime under BVI law deals specifically with the treatment of virtual assets upon the death of an individual holding them. This means that, in principle, and assuming BVI law governs succession to the deceased's estate, virtual assets will be treated in the same way as any other asset.

As is the case in many jurisdictions beyond the BVI, there is likely to be some uncertainty as to where the situs of a virtual asset is located (or indeed whether or not a situs can be determined at all). To the extent that the asset can be analysed under traditional conflict-of-laws rules as sited in the BVI, then a deceased's virtual asset could not be validly transmitted to his/her heirs or beneficiaries until an application is made to the BVI High Court Probate Registry (the "**Registry**"). To deal with a deceased's virtual asset, a person would need to be appointed as legal personal representative of the deceased, by obtaining the appropriate grant from the Registry. There are two types of grant that may be obtained:

- Grant of Probate (where the deceased left a will that expressly deals with the BVI situs virtual asset); and
- Grant of Letters of Administration (where the deceased did not leave a will expressly covering the BVI situs virtual asset).

In respect of the latter, the deceased would be deemed to have died "intestate" in relation to the BVI situs virtual asset – even if they had a valid will covering assets in other jurisdictions. The main potential difficulty that may arise is practical; namely that anyone inheriting a virtual asset will, on the face of it, often only be able to access that virtual asset if the personal representative of the deceased or the beneficiary (as the case may be) has or can obtain the information needed in order to gain access and control over that virtual asset (e.g. a private key to the wallet in which it is stored). Most exchanges have policies in place to transfer virtual assets to next of kin, but these policies, and the transfer requirements, will vary across exchanges, and it is generally regarded as prudent to avoid leaving significant value on exchanges for any length of time due to the risks of hacking and insolvencies.