

inBrief

**VARA announces rules on marketing of crypto currencies and other virtual assets**

By Shahram Safai, Suditi Surana and Dimple Soni |

15 September 2022

The issue of the Dubai Law No. 4 of 2022 regulating Virtual Assets in Dubai (**VA Law**) issued in March 2022 created a lot of buzz and further strengthened Dubai's position as a global hub for digital assets. The VA Law also established the Dubai Virtual Assets Regulatory Authority (**VARA**) which was tasked with creating a legal framework for virtual assets sector.

In its first administrative order (Administrative Order 1/2022 dated 18 August 2022), VARA has issued regulations relating to the marketing, advertising and promotion of virtual assets (**Marketing Regulations**).

Who does it apply to?

- All entities that facilitates marketing in virtual assets and cater to resident customers - domestic or foreign, whether or not licensed by VARA.
- Any entity that is not authorized by VARA but wishes to conduct any form of marketing must seek authorization from VARA or provide a valid permit, by the competent authority outside UAE.
- Marketing by an entity: (i) not conducting virtual assets activity in Dubai; (ii) that originates outside the UAE; and (iii) is not targeting any UAE residents - is not required to comply with Marketing Regulations. However, VARA will have authority to act if it views that such marketing poses a risk to its reputation or UAE or Dubai's reputation.

What do you mean by marketing activities?

Considering the importance of social media and other new-age media in the virtual assets sector, the Marketing Regulations have provided a very wide definition of the term marketing. Marketing, promotion or advertising includes any direct or indirect:

- a. communications, promotional-influenced or sponsored material - across any traditional and new-age multi-media channels;

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- b. self-generated or third-party published social media posts, non-written communications, banners or billboards, videos, livestreams;
- c. activities held in Dubai to encourage market participation; or
- d. advertisements (paid or non-paid) and all forms of publicity-driving content.

Guidelines for marketing activities

- All marketing activities must:
 - a. be fair, clear, not misleading, early identifiable as marketing or promotional in nature;
 - b. not advocate that investments are safe or low risk or imply guaranteed future return and include a prominent disclaimer that the value of virtual assets is variable and highly volatile;
 - c. not imply that past performance of investments is an effective guide for, or guarantee of a future return or imply an urgency to buy;
 - d. not advocate the purchase of virtual assets using credit or other interest accruing facilities; and
 - e. ensure that any targeted marketing is undertaken responsibly by suitably licensed entities.
- If any entity posts or presents content on any physical or virtual media platform (including social media, OTT etc.) in relation to virtual assets, in exchange for any remuneration (which may include issue of virtual assets) or value in kind, such content should clearly be marked as paid content.
- Further, the issuance of any kind of virtual assets as part of marketing is classified as a virtual asset activity, and will be subject to licensing approval by VARA.
- Any entity undertaking marketing must retain a record of relevant content for two years and provide all such information for inspection on request.

Consequences for breach

VARA has the power to issue a cease-and-desist warning or to suspend the activity. If VARA requires an event to be suspended or cancelled, the entity must state non-compliance with the Marketing Regulations as the reasons for suspension or cancellation.

The consequences for any non-compliance with the Marketing Regulation are set out under VARA Administrative Order No. 02/2022 and these include suspension of marketing activities, revocation of licenses and fines ranging from AED 50,000 to AED 200,000 with such fine being doubled if same violation is repeated within one year. ■

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