

Custody Services Rulebook

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Introduction

The Dubai Virtual Assets Regulatory Authority [**VARA**] was established and authorised by *Law No. [4] of 2022 Regulating Virtual Assets in the Emirate of Dubai [Dubai VA Law]* to regulate Virtual Asset Service Providers [**VASPs**].

This Custody Services Rulebook is issued pursuant to, and forms part of, the Virtual Assets and Related Activities Regulations 2023 [the **Regulations**] issued by VARA and applies to all VASPs Licensed by VARA to carry out Custody Services in the Emirate.

This Custody Services Rulebook applies in addition to all other requirements in the Regulations as may be in force from time to time. As such, VASPs Licensed by VARA to carry out Custody Services must also comply with the following Rulebooks applicable to all VASPs:

1. Company Rulebook;
2. Compliance and Risk Management Rulebook;
3. Technology and Information Rulebook;
4. Market Conduct Rulebook; and
5. All Rulebooks specific to the VA Activities that a VASP is Licensed by VARA to carry out.

Where a VASP is Licensed by VARA to carry out other VA Activities in the Emirate in addition to Custody Services, it must comply with all Rulebooks which apply to those other VA Activities. Unless otherwise stated, the Rules in VA Activity specific Rulebooks apply cumulatively for each VA Activity a VASP carries out.

Capitalised terms in this Custody Services Rulebook have the meanings ascribed to them in the Regulations or as otherwise provided in Schedule 1.

Part I – Additional Board Requirements

A. Board constitution

1. The Board of a VASP providing Custody Services shall consist of executive directors and non-executive directors, with a minimum of one [1] director qualifying as an independent director as set out below.
2. The Board of a VASP providing Custody Services shall convene at least on a quarterly basis.
3. VASPs providing Custody Services shall mandate the length of each term and number of terms each Board member may serve on the Board.
4. A Board member is not regarded as an independent director of a VASP if—
 - a. they or any of their first degree relatives are working or have worked as a member of the Senior Management, or held a role in the VASP's Group equivalent to Senior Management within the preceding two [2] years preceding the date of their nomination to the Board;
 - b. they or any of their first degree relatives have a direct or indirect interest in the contracts and projects concluded with the Group during the preceding two [2] years, provided that the aggregate value of such contracts and projects do not exceed the lower of [i] ten percent [10%] of the Paid-Up Capital of the VASP or [ii] the amount of AED 5,000,000 or its equivalent in other foreign currency, unless such contracts and projects relate to the ordinary course of business of the VASP and do not contain any preferential conditions;
 - c. they are working or have worked for the Group during the preceding two [2] years preceding the date of their appointment to the Board;
 - d. they work for, or are a partner of, a company that performs consultancy services for the VASP or any members of its Group, or has performed such services during the preceding two [2] years;
 - e. they have any personal service contracts with the VASP or any members of its Group, or have had such contract during the preceding two [2] years, excluding any contract under which they are appointed as a non-executive director;

- f. they are directly or indirectly linked to any Entity that receives substantial funding from the VASP's Group;
- g. they or any of their first degree relatives are a partner or an employee of the auditor of the VASP, or if, during the preceding two [2] years preceding the date of their Board membership, were a partner or an employee of the auditor of the VASP;
- h. the ownership held by them and their first degree relatives reaches ten percent [10%] or more of the share capital of the VASP;
- i. they have served more than seven [7] years as a Board member of the VASP; or
- j. they are the representative of an investor in the VASP holding ten percent [10%] or more of the share capital of the VASP.

B. Board committees

1. The Board of a VASP providing Custody Services shall establish remuneration, nomination and audit committees, and may establish additional committees, to perform certain delegated functions on behalf of the Board. The Board may delegate specific authority, but not its responsibilities, to its committees, provided that it continuously monitors and oversees the work conducted by all committees.
2. Each committee created by the Board of a VASP providing Custody Services shall—
 - a. have a charter or other instrument that sets out its membership, mandate, scope, working procedures and means of accountability to the Board; and
 - b. report to the Board on findings and recommendations relating to the work entrusted by the Board to it regularly.
3. The Board and its committees shall keep minutes to record details of the matters discussed, recommendations made, decisions taken, resolutions passed and any dissenting opinions at a Board meeting for a period, notwithstanding any requirements in any law or regulations, of not less than eight [8] years.

C. Board remuneration reporting requirements

1. On an annual basis, VASPs providing Custody Services shall submit to VARA the following information—
 - a. details of all compensation and/or remuneration of all members of the Board and its committees, including but not limited to salaries, allowances, expenses, bonuses, benefits, or other incentive programmes [whether or not denominated in Virtual Assets]. Such details shall include the type, nature and conditions of all such compensation and/or remuneration; and
 - b. reasons for all such compensation and/or remuneration.
2. All information submitted by VASPs in compliance with Rule I.C.1 of this Custody Services Rulebook shall be kept confidential by VARA, except to the extent that disclosure is required to comply with any applicable laws or regulations.

Part II – Policies, Procedures and Public Disclosures

A. Policies and procedures

1. In addition to all other requirements in the Regulations and Rulebooks, VASPs providing Custody Services shall establish, implement and enforce appropriate written internal policies and procedures relating to the following—
 - a. the ability of clients to have access to and withdraw their Virtual Assets including, but not limited to, during periods of high uncertainty and/or extreme volatility; and
 - b. such other policies or procedures as VARA may require from time to time.
2. VASPs providing Custody Services shall assess and, in any case, at least yearly review the effectiveness of their policies and procedures and take appropriate measures to address any deficiencies.

B. Public disclosures

1. VASPs providing Custody Services shall publish on their website in a prominent place or make available by other publicly accessible means—
 - a. a detailed description of any actual or potential conflicts of interest arising out of their activities, and how these are managed;
 - b. their policies and procedures relating to data privacy, whistleblowing and handling of client complaints; and
 - c. a statement of whether the VASP has accounts, funds or Virtual Assets maintained by a third party and if so, provide the identity of that third party.
2. Other disclosable matters. To the extent permissible under applicable laws, VASPs providing Custody Services shall publish on their website or by other publicly accessible means—
 - a. details of any past convictions or prosecutions of any member[s] of their Senior Management or Board, whether before the courts of the UAE or the courts of another jurisdiction; and
 - b. any such other information relating to their business or activities as VARA may reasonably require.

3. The disclosure requirements set out in this Rule II.B of this Custody Services Rulebook are in addition to all disclosures required under the Market Conduct Rulebook and to all notifications to VARA required under the Compliance and Risk Management Rulebook.

Part III – VA Storage and Custody Rules

A. General requirements

1. VASPs that provide Custody Services must comply with the provisions in this Part III of this Custody Services Rulebook.
2. To the extent any provisions are inconsistent with the Client VA Rules in the Compliance and Risk Management Rulebook, this Part III of this Custody Services Rulebook shall have precedence.
3. VASPs must ensure that all Custody Services are only provided in accordance with verified client instructions.

B. Segregation and control

1. Virtual Assets held by a VASP providing Custody Services are not depository liabilities or assets of the VASP.
2. VASPs shall not authorise or permit rehypothecation of Virtual Assets for which they provide Custody Services, regardless of whether they have obtained a client's consent and VASPs providing Custody Services shall not seek or attempt to obtain such consent as part of the Custody Services that they provide.
3. VASPs providing Custody Services shall segregate the Virtual Assets of each client in separate VA Wallets containing the Virtual Assets of that client only.
4. VASPs must maintain control of each Virtual Asset at all times whilst providing Custody Services.
5. VASPs providing Custody Services must be a separate legal Entity from any member of their Group that provides services relating to VA Activities other than Custody Services and must implement and strictly enforce policies and procedures to achieve necessary segregation between operations relating to Custody Services and all other businesses.
6. VASPs must have adequate policies and procedures to ensure that there is sufficient operational and physical segregation between individuals handling operations for Custody Services and their other core businesses and operations including, but not limited to, other VA Activities conducted by their Group. Such policies and procedures shall establish a separate team to handle the

VASP's Custody Services only, consisting of individuals who have no conflicting duties or access to information which may give rise to any conflicts of interest.

C. VA Wallet management

1. Hot and cold Virtual Asset storage.

- a. VASPs providing Custody Services shall at all times maintain appropriate certifications as may be required under industry best practices applicable to the safekeeping of Virtual Assets.
- b. VASPs providing Custody Services should conduct a risk-based analysis to determine the method of Virtual Asset storage including different types of VA Wallets [e.g. hot versus cold storage].
- c. VASPs providing Custody Services should document in detail the methodologies and behaviour determining the transfer of Virtual Assets between different types of VA Wallets [e.g. hot, cold and warm wallets]. The mechanisms for transfer between different types of VA Wallets should be well documented and subject to internal controls and audits performed by an independent third-party auditor in ensuring compliance with Rule III.C.1.a of this Custody Services Rulebook.

2. Seed or key generation, storage, and use.

- a. When creating any seed, asymmetric private and public key combinations, or other similar mechanisms required for providing Custody Services, VASPs shall use industry best standards to create the seed, asymmetric private and public key combinations, or other similar mechanisms to ensure a secure generation mechanism. In addition, all VASPs providing Custody Services shall consider all risks associated with producing a private key or seed for a signatory including whether the signatory should be involved in the generation process or whether creators of the seed, private key, or other similar mechanism should be prohibited from cryptographically signing any transaction or from having access to any relevant systems.
- b. VASPs providing Custody Services shall adopt industry best practices when using encryption and secure device storage for a client's private keys when not in use. VASPs must ensure that any keys stored online or in one physical location are not capable of

- conducting a Virtual Asset transaction, unless appropriate controls are in place to ensure that physical access itself by an individual is insufficient to conduct a transaction.
- c. All key and seed backups must be stored in a separate location from the primary key and seed. Key and seed backups must be stored with encryption at least equal to the encryption used to protect the primary seed and key. If VASPs use mnemonic back-up seed phrases, it should ensure that the mnemonic back-up seed phrase is broken into at least two [2] parts. Any backups that when combined could facilitate a transaction must not be stored in a single point of access.
 - d. VASPs providing Custody Services should consider using multi-signature approaches where appropriate. VARA reserves the right to require VASPs to use multi-signature approaches in specific situations, including for specific types of Virtual Assets. If a VASP has multi-signature arrangements that vary depending on the risk of the transaction, the VASP must have well-documented and audited procedures.
 - e. VASPs providing Custody Services must mitigate the risk of collusion between all authorised parties or signatories who are able to authorise the movement, transfer or withdrawal of Virtual Assets held under custody on behalf of clients. The risk of collusion and other internal points of failure should be addressed during recurring operational risk assessments.
3. Lost or stolen keys.
- a. VASPs providing Custody Services shall establish and maintain effective policies and procedures in the event that any seed or cryptographic keys of any VA Wallet are lost or otherwise compromised. Such policy and procedures shall address matters including but not limited to—
 - i. recovery of affected Virtual Assets;
 - ii. timely communications with all clients and counterparties regarding consequences arising from relevant incidents and measures being taken to remedy such consequences;
 - iii. cooperation with law enforcement agencies and regulatory bodies; and
 - iv. if applicable, preparation of winding down arrangements and public disclosure of such arrangements.

D. Additional obligations

1. Written agreements with clients.

- a. In addition to all applicable requirements in the Market Conduct Rulebook, Client Agreements entered into between VASPs providing Custody Services and clients should include the following—
 - i. description of the overall custodial framework used by the VASP when providing Custody Services, including but not limited to security, risk mitigation, safeguarding procedures;
 - ii. address what will happen when source code versions underlying a Virtual Asset supported by the VASP materially change in a way that may affect the Custody Services provided [e.g. a “fork” of the network protocol], including but not limited to—
 1. notification requirements if the VASP will not support the original source code version;
 2. notification requirements if the VASP will support the original source code version;
 3. notification requirements if the original source code version will no longer exist or is not reasonably expected to continue to exist, or if the original source code version will no longer function securely and/or as originally intended; and
 4. the actions which will be taken by the VASP if any of the above takes place;
 - iii. when and how the Virtual Assets under custody will be returned;
 - iv. address settlement finality, including when a Virtual Asset will be deemed fully transferred and the VASP discharged of any obligations upon transfer of the Virtual Asset [including but not limited to withdrawals initiated by the client];
 - v. the frequency of account statements to be provided to clients and the content of those statements;

- vi. who [e.g. the VASP, its agent or another third party] is responsible for securing the Virtual Assets and protecting them from theft or loss;
- vii. the VASP's Outsourcing practices including, if the VASP Outsources some or all of the Custody Services to third parties, the qualifications of those third parties;
- viii. the VASP's cybersecurity and data privacy policies, procedures, controls and systems, including how the VASP will respond to data breaches and cyberattacks and notification, reimbursement and remediation policies; and
- ix. the VASP's policies and procedures for safeguarding access to Virtual Assets, including policies and procedures related to multi-signature/multi-key safeguards, access management controls, and revocation of key signers' access.

2. Relationship between a VASP and client for the provision of Custody Services.

- a. The provision of Custody Services shall be a contractual arrangement between a VASP and a client under which a client lawfully in control of, or entitled to control, a Virtual Asset, transfers control of the Virtual Asset to a VASP solely for the purpose of receiving Custody Services and does not in any way transfer to the VASP any legal interest in the Virtual Asset or any discretionary authority not stated in the Client Agreement or otherwise agreed to by the client.
- b. In addition to all Reserve Assets requirements in the Company Rulebook, VASPs providing Custody Services will keep a register and record of reconciliation of each client's positions that correspond to the client's rights to the Virtual Assets subject to the Custody Services.

3. Outsourcing and third-party suppliers.

- a. If a VASP Outsources some or all of the Custody Services to third parties, the VASP is responsible for ensuring that all applicable laws, Regulations, Rules and Directives are complied with.
- b. VASPs must have established roles and responsibilities for its Custody Services operations and its operational risk management. The responsibility for manually executed core functions of Custody Services should only be performed by authorised employees.

4. Account statements. VASPs providing Custody Services must provide at least every month, and promptly at the request of a client, a statement with all Virtual Asset transactions specific to each client account, the dates and transaction amount of the corresponding transactions, and balances and value for each type of Virtual Asset.
5. Audit. VASPs should maintain a full audit trail of all transaction activities that occur on a client's account for at least eight [8] years. The audit trail should include specific information regarding each transaction, such as the date and time, the transaction type, the relevant signatories, and the Virtual Assets involved.

Schedule 1 – Definitions

Term	Definition
“Client Agreements”	has the meaning ascribed to it in the Market Conduct Rulebook.
“Company Rulebook”	means the Company Rulebook issued by VARA pursuant to the Regulations, as may be amended from time to time.
“Compliance and Risk Management Rulebook”	means the Compliance and Risk Management Rulebook issued by VARA pursuant to the Regulations, as may be amended from time to time.
“Custody Services”	has the meaning ascribed to it in Schedule 1 of the Regulations.
“Custody Services Rulebook”	means this Custody Services Rulebook issued by VARA pursuant to the Regulations, as may be amended from time to time.
“Directive”	has the meaning ascribed to it in the Regulations.
“Dubai VA Law”	means <i>Law No. [4] of 2022 Regulating Virtual Assets in the Emirate of Dubai</i> , as may be amended from time to time.
“Emirate”	means all zones across the Emirate of Dubai, including Special Development Zones and Free Zones but excluding the Dubai International Financial Centre.
“Entity”	means any legal entity or individual.
“Group”	has the meaning ascribed to it in the Company Rulebook.
“Licence”	has the meaning ascribed to it in the Regulations.
“Licensed”	means holding a valid Licence.
“Market Conduct Rulebook”	means the Market Conduct Rulebook issued by VARA pursuant to the Regulations, as may be amended from time to time.
“Outsourcing”	has the meaning ascribed to it in the Company Rulebook.
“Paid-Up Capital”	has the meaning ascribed to it in the Company Rulebook.
“Regulations”	means the Virtual Assets and Related Activities Regulations 2023, as may be amended from time to time.
“Reserve Assets”	has the meaning ascribed to it in the Company Rulebook.

Term	Definition
“Rule”	has the meaning ascribed to it in the Regulations.
“Rulebook”	has the meaning ascribed to it in the Regulations.
“Senior Management”	has the meaning ascribed to it in the Company Rulebook.
“UAE”	means the United Arab Emirates.
“VA Activity”	means the activities listed in Schedule 1 of the Regulations, as may be amended from time to time.
“VARA”	means the Dubai Virtual Assets Regulatory Authority.
“VASP”	means an Entity Licensed by VARA to conduct VA Activity[ies] in the Emirate.
“Virtual Asset” or “VA”	has the meaning ascribed to it in the Dubai VA Law.
“VA Wallet”	has the meaning ascribed to the term “Virtual Asset Wallet” in the Dubai VA Law.