

## SPECIAL SUPERVISORY REQUIREMENTS IN THE EVENT OF VASP ACTIVITY

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### A. PREAMBLE

VASP (Virtual Asset Services Provider) business models present a high risk and require reinforced supervision. To this end, ARIF has established a special supervision concept.

This supervision is of a prudential nature; it covers not only the AML aspects, but also the guarantee of proper business conduct requirements for the company and its staff. In particular, it takes into account the influence of holders of qualified participations, cross-border aspects, the competence of the auditor, group relations, the solidity of the processes and their transparency for an external observer, and its financial capacity (over at least 3 years) to comply with the AML requirements, as well as to bear the cost of reinforced supervision.

### B. PRINCIPLES

- 1 Financial intermediaries engaged in VASP activity must demonstrate that their technical and administrative processes prevent assets of criminal origin or intended to finance terrorism from entering or being transferred in the financial intermediation circuit in Switzerland or abroad, and enable the criminal prosecution authorities to follow the path of money of criminal origin or intended to finance terrorism in order to identify the perpetrators and confiscate the assets concerned.
- 2 From the point of view of the protection of VASP users and clients, the VASP financial intermediary must limit the deceptive risk for its counterparties, in particular with regard to the risk of financial loss, protect them against its failure, prevent the illicit misappropriation of the assets for which it provides its services, and ensure the achievement of the declared objectives on the basis of which the counterparty was induced to enter into the contract.
- 3 From the point of view of protecting the markets and the reputation of the Swiss financial centre, the technical and regulatory mechanisms implemented by the financial intermediary must make it possible to strictly control, by means of an internal control system, any risks of exceeding the regulatory limits set by financial services legislation in relation to the business model in question, prevent market manipulation and limit the systemic risk for the market.
- 4 At the organisational level, the VASP business model must be transparent to the regulator, in terms of how the company operates, its business model, its relationship with customers, the information it provides and its accounting. For both the financial intermediary and the regulator, the stages in the development of the VASP business, its financing, its products and its compliance must be predictable.
- 5 The number and competence (expertise and experience) of the VASP financial intermediary's management bodies and its employees according to their function, the quality of its internal

guidelines and internal control, and the measures taken to ensure continuity, must be consistent with the business model and volume of business in order to guarantee irreproachable activity.

- 6 The VASP financial intermediary must have capitalisation or a guarantee of resources enabling it to meet the costs of its supervision and to guarantee its irreproachable business, even in the long-term absence of income from VASP business. The amount required is analysed on a case-by-case basis.
- 7 The VASP financial intermediary must have access to competent internal or external legal support on all matters relating to financial intermediation, including the AML and laws regulating financial services, company law, competition rules, cross-border issues and data protection.
- 8 The VASP financial intermediary must have solid administrative and functional structures in Switzerland, in terms of personnel, premises, accounting, information technology (IT), management and continuity (economic substance essential to the activity and supervision).

#### C. INFORMATION TO THE SRO

- 9 The Applicant or the Affiliate which exercises or plans exercising a financial intermediary activity in a VASP field, or which plans a substantial change in its pre-existing VASP business model, must communicate this to ARIF at least 3 months prior to any transaction relating thereto, and must first provide ARIF with the information required by the form in annex of the present Directive. The VASP activity is subject to the express approval of ARIF, which reserves the right to order a prior diagnosis (art. 12), to subject the interested party to specific conditions (art. 13) or to seek legal advice (art. 14).
- 10 Any other change to the information required by the form appended to this Directive must be communicated to ARIF within 14 days. This form is subject to permanent modifications and improvements, so that the latest version published by ARIF must be used for each announcement.

#### D. MONITORING

- 11 It is the responsibility of the VASP financial intermediary to demonstrate that it meets the requirements of this Directive on an ongoing basis.
- 12 Upon the announcement of a VASP activity, ARIF may order a preliminary diagnosis by its own auditors or by external specialists, for the purpose of verifying that the conditions and requirements of the present Directive are fulfilled.
- 13 ARIF may impose on the VASP financial intermediary conditions, organisational measures and the implementation of processes and tools intended to guarantee irreproachable management.
- 14 ARIF may require the VASP financial intermediary to carry out a legal analysis of its business model with regard to all the relevant rules of the legislation on financial services.

- 15 The VASP financial intermediary must demonstrate the compliance of its business model with the legislation in the jurisdictions with which or to which or vis-à-vis whose nationals it plans to operate. In the event of non-compliance with foreign rules, the VASP financial intermediary must implement technical mechanisms making it possible to exclude the provision of its services in jurisdictions with which it would not be authorised to provide them or for which it would not have the necessary regulatory and/or financial authorisations. ARIF may require the financial intermediary to provide proof of having obtained the said authorisations, or failing this, the measures put in place to exclude the provision of its services in these jurisdictions.
- 16 The auditor involved in the supervision of the VASP financial intermediary must demonstrate technical and regulatory competence in this area.
- 17 A special audit of the VASP activity may be carried out after the first six months following its start-up. The subsequent ordinary audit must be carried out annually. ARIF may set up compliance tests in a real situation of the VASP financial intermediary's system. ARIF may appoint an auditor of its choice, at the financial intermediary's expense, to carry out an ordinary or special audit.
- 18 In case of simultaneous VASP and non-VASP activities, the rules applicable to VASPs are always applicable to the financial intermediary's entire activity, without prejudice to the rules laid down by ARIF's other Directives.
- 19 All the costs of supervision shall be borne entirely by the financial intermediary, in accordance with ARIF's ordinary tariff. ARIF may require the payment of provisions, both for itself and for the external auditors and specialists it appoints.

#### Appendix: Questionnaire

According to the Committee's decision of 17.03.2025 and FINMA's ratification of 08.04.2025