

## REGULATORY INTELLIGENCE

**COUNTRY UPDATE-United Arab Emirates: Crypto-asset regulation**

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Lindsay Anderson and Jean Hurley, Regulatory Intelligence

Few areas of finance are developing faster than crypto assets, a category that includes cryptocurrencies, securities tokens and utility tokens, whose common feature is use of distributed ledger technology (DLT). Today there are more than 16,000 individual cryptocurrencies in circulation and daily trading volumes are estimated to be more than \$275 billion on more than 400 platforms. Their rise has led to calls for better regulation due to potential investor protection, money laundering and market integrity risks.

This article provides an overview of crypto-asset regulation in the United Arab Emirates by [Charlotte Bijlani](#) and [Haya Al Bawab](#) of [Watson Farley & Williams](#) (Middle East) LLP.

**Introduction**

The legal framework within the UAE is unique with each of the seven Emirate's having its own separate set of local laws that apply within it specifically. Dubai and Abu Dhabi have a further layer of legislation that applies in designated offshore (common law) jurisdictions namely, the [Dubai International Financial Centre](#) (DIFC) and the [Abu Dhabi Global Market](#) (ADGM).

Crypto-asset (or virtual asset) regulations are set out in three separate layers of laws. Consequently, crypto-assets are regulated by three separate sets of regulators: federal, local, and offshore, with their application dependant on where the relevant crypto asset is traded, located, or dealt with.

**Crypto-asset regulation in the United Arab Emirates****1) Which body regulates crypto-assets and related services?**

Crypto assets are regulated by different bodies subject to where the relevant crypto related activity is taking place.

On a federal level, the [Securities and Commodities Authority](#) (SCA) together with the [Central Bank of the UAE](#) regulate crypto assets and related services. On a local level, the Emirate of Dubai has recently established a dedicated [Virtual Assets Regulatory Authority](#) (VARA), who will act as the primary virtual asset's regulator in Dubai. VARA, an affiliate of the [Dubai World Trade Centre Authority](#), has been mandated with setting up the rules and controls regulating virtual assets.

While no equivalent exists in onshore Abu Dhabi as of yet, its offshore common law jurisdiction, the ADGM, has pioneered the regulation of crypto assets globally. The ADGM's regulator [Financial Services Regulatory Authority](#) (FSRA) states it is "the first regulator globally to regulate platforms that enable the trading of Virtual Assets as multilateral trading facilities".

In the DIFC, the [Dubai Financial Services Authority](#) (DFSA) acts as regulator. That said, the DFSA issued a statement in October 2021 clarifying that "other than Investment Tokens, the DFSA ... does not regulate any other types of cryptocurrencies, crypto-assets, virtual assets, or digital assets (called crypto-assets for the purposes of this statement) and ... no firms are licensed or supervised by DFSA to provide financial services relating to Crypto Assets in or from the Dubai International Financial Centre (DIFC)".

**2) Does any law regulate crypto-assets or crypto-asset service providers such as exchanges?**

As touched on above, given the make-up of the UAE legal system, crypto assets and crypto asset providers are regulated differently depending on which legal system applies.

Onshore at a federal level, laws issued by the SCA predominantly regulate crypto assets, namely: The SCA's Decision No 23 of 2020 issued on November 2020, concerning Crypto Asset Activity Regulation (CAAR), together with its guidance set out in the SCA's Decision No. 11/2021. CAAR applies to:

1. Offerors, issuers, and promoters of crypto assets in the UAE;
2. Those who offer/provide crypto custody services;
3. Operators of crypto fundraising platforms or a crypto asset exchanges in the UAE; and
4. Anyone who conducts other financial activities in respect of crypto assets, in the UAE.

The UAE Central Bank has separately issued regulations on Stored Value Facilities (SVF) which include virtual currencies, digital currencies, stored value units, payment tokens and payment units. While SVFs are crypto assets in their nature, the purpose of these regulations is to regulate SVFs specifically, rather than crypto assets more generally.



Accordingly, while CAAR sets out the standards that govern crypto trading platforms, the promotion of crypto assets and operates as an exchange for crypto assets, tokens and digital/virtual currencies, SVFs fall outside the scope of CAAR.

On a local level, Dubai Law No. 4/2022, regulates virtual assets in the Emirate of Dubai (the Virtual Assets Law). The Virtual Assets Law was designed to supplement the provisions of CAAR and SVF regulations. It has two important functions:

1. To set out more detailed regulations and controls that apply to virtual assets traded and dealt with in the Emirate of Dubai; and
2. To set up VARA, the supervisory body referred to in the response to question (1) above.

While Abu Dhabi has not yet enacted a local law regulating crypto asset service providers as of yet, future legislation is anticipated, particularly in light of the very recent establishment of the Abu Dhabi Blockchain and Virtual Assets Committee. According to a statement issued by the Abu Dhabi Department of Economic Development, this committee "is established to improve Abu Dhabi's competitiveness in blockchain and virtual asset space, coordinate efforts of entities active in the industry, liaising with regulators, and promoting compliance of industry participants with global standards and regulatory requirements, particularly AML/CFT regulations, and supporting exchange of information and best practices".

Offshore, the DIFC's DFSA and ADGM's FSRA issued separate legislations that apply to the dealing of crypto assets within these jurisdictions.

In the DIFC, the DFSA has launched a regulatory framework for the regulation and control of investment tokens but has not - so far - legislated for other types of crypto assets. That said, the DFSA has issued a Consultation Paper seeking public comment on its proposal for a regulatory regime for persons wishing to provide financial services activities in or from the DIFC in respect of Crypto Tokens. Later that year, in June 2022, the DFSA carried out a short survey amongst authorised market institutions operating within the DIFC, to gain a better understanding of their interest in a potential Crypto Token Regulatory Regime. As such, considering recent developments in the UAE, it is anticipated that regulations on crypto assets will soon be introduced.

In the ADGM, the FSRA issued a regulatory framework as part of the Financial Services and Markets Regulations, on virtual assets within the ADGM (the Framework). The Framework was updated in 2020 to reflect global trends and developments in crypto asset businesses and earlier this year, the ADGM published guiding principals on the FSRA's approach to the Framework.

Under the Framework, trading facilities and exchanges are required to comply with FSRA regulations concerning market surveillance, settlement, transaction recording, transparency and other systems and controls.

### **3) Has a national law or regulation defined "crypto-asset" and/or "cryptocurrency"?**

Crypto assets or virtual assets have slightly different definitions depending on the jurisdiction to which they relate.

Onshore, CAAR defines crypto assets as "a record within an electronic network or distribution database functioning as a medium for exchange, storage of value, unit of account, representation of ownership, economic rights, or right of access or utility of any kind, when capable of being transferred electronically from one holder to another through the operation of computer software or an algorithm governing its use".

The DFSA consider Crypto Assets to include investment tokens, all types of cryptocurrencies, crypto assets, virtual assets, or digital assets. Investment Tokens are defined as either a Security Tokens or a Derivative Tokens. Essentially, these are:

- a Security or Derivative in the form of a cryptographically secured digital representation of rights and obligations that is issued, transferred and stored using Distributed Ledger Technology (DLT) or other similar technology; or
- a cryptographically secured digital representation of rights and obligations that is issued, transferred and stored using DLT or other similar technology and: (i) confers rights and obligations that are substantially similar in nature to those conferred by a Security or Derivative; or (ii) has a substantially similar purpose or effect to a Security or Derivative.

### **4) What money laundering regulations, including any due diligence requirements, apply to crypto assets?**

The UAE does not yet have comprehensive Anti-Money Laundering (AML) and Combating of Financing of Terrorism (CFT) laws specifically designed to apply to crypto assets. However, existing crypto-related legislation such as the SCA's CAAR impose general obligations on persons carrying out financial activities with crypto assets to apply applicable FATF guidance to mitigate AML risks when dealing in virtual assets.

Similarly, the FSRA's Framework and related guidance apply federal, local and ADGM AML and CFT rules to virtual assets. The FSRA also expects full compliance with FATF guidance.

That said, the SCA has recognised the risks associated with crypto assets from an AML and CFT perspective and is in consultation with the concerned authorities in the country, on a supervisory framework designed to assure AML/CFT compliance for virtual assets in the UAE. Other regulatory bodies in the UAE will undoubtedly follow suit.

### **5) What rules apply to the promotion of crypto assets?**

As set out above in response to question (2), the promotion of crypto assets is regulated by CAAR at a federal level.

In Dubai, VARA the authority established pursuant to the Virtual Assets Law, issued a Dubai Administrative Order No. 1/2022 the purpose of which is to regulate marketing, advertising and the promotion of virtual assets. This Order applies to all entities that market



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virtual assets to resident customers, regardless of whether such entities are domestic or foreign and irrespective of whether they are licensed by VARA.

Generally, the rules applicable to the promotion of crypto assets are not unlike those that apply to promotion overall. In summary, marketing/promotion activities are required to:

1. Be transparent, fair, clear, not misleading;
2. Be carried out by suitably licensed entities;
3. Include appropriate disclaimers; and
4. Clearly be identifiable as marketing/promotional material (especially in circumstances where the relevant promotion is being made in exchange for payment (i.e. paid content)).

The laws also include crypto specific prohibitions on promoting the purchase of virtual assets using credit cards or other methods of interest accruing facilities.

#### **6) Do different crypto-asset rules apply to wholesale and retail markets, for example, on the sale of derivatives?**

The Central Bank of UAE has not licensed cryptocurrencies or recognized them as legal tenders. However, there are no prohibitions against crypto assets and they can be traded on crypto exchange platforms provided the trade is in compliance with the provisions of CAAR.

#### **7) Does any existing or proposed national law impose requirements on issuers of stablecoin?**

No regulations have been put in place as at the date of this article on issuers of stable coins. However, the SCA is scheduled to release a further suite of regulations to cover governance of tokens not already covered by CAAR or SVF regulations (this includes certain asset-backed tokens such as stablecoins).

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