

CAYMAN ISLANDS



VIRTUAL ASSET (SERVICE PROVIDERS) (AMENDMENT) BILL, 2023

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A BILL FOR AN ACT TO AMEND THE VIRTUAL ASSET (SERVICE PROVIDERS) ACT (2022 REVISION) TO PROVIDE FOR THE LIABILITY OF PARTNERSHIPS, LIMITED LIABILITY PARTNERSHIPS, EXEMPTED LIMITED PARTNERSHIPS, PARTNERS, UNINCORPORATED ASSOCIATIONS AND PERSONS CONCERNED IN THE MANAGEMENT OR CONTROL OF UNINCORPORATED ASSOCIATIONS FOR OFFENCES; AND FOR INCIDENTAL AND CONNECTED PURPOSES

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Ministry of Financial Services and Commerce (FSC)



Memorandum of OBJECTS AND REASONS

The Virtual Asset (Service Providers) (Amendment) Bill, 2023 amends the Virtual Asset (Service Providers) Act (2022 Revision) (the “principal Act”) to provide for the liability of partnerships, limited liability partnerships, exempted limited partnerships, partners, unincorporated associations and persons concerned in the management or control of unincorporated associations for offences.

Clause 1 provides the short title of the legislation.

Clause 2 amends section 2 of the principal Act by inserting definitions of the words “exempted limited partnership”, “limited liability partnership” and “partnership”.

Clause 3 amends section 36 of the principal Act by repealing and substituting the section heading. The clause also inserts proposed new subsections (3) and (4) to provide for the liability of —

- (a) a partner concerned in the management or control of a partnership or a limited liability partnership, or a partner who takes part in the conduct of the business of an exempted limited partnership where an offence under the principal Act is committed by the partnership, the limited liability partnership or the exempted limited partnership; and
- (b) a person concerned in the management or control of an unincorporated association other than a partnership, a limited liability partnership or an exempted limited partnership where an offence under the principal Act is committed by the unincorporated association.

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ENACTED by the Legislature of the Cayman Islands.

Short title

1. This Act may be cited as the Virtual Asset (Service Providers) (Amendment) Act, 2023.

Amendment of section 2 of the Virtual Asset (Service Providers) Act (2022 Revision) - interpretation

2. The *Virtual Asset (Service Providers) Act (2022 Revision)* is amended in section 2 by inserting in the appropriate alphabetical sequence the following definitions —
“**exempted limited partnership**” has the meaning assigned by section 2 of the *Exempted Limited Partnership Act (2021 Revision)*;

“**limited liability partnership**” means a limited liability partnership registered under section 18(4) or 33(4) of the *Limited Liability Partnership Act (2021 Revision)*; and

“**partnership**” has the meaning assigned by section 3 of the *Partnership Act (2013 Revision)*”.

Amendment of section 36 of the Virtual Asset (Service Providers) Act (2022 Revision) – offences by corporations

3. The *Virtual Asset (Service Providers) Act (2022 Revision)* is amended in section 36 as follows —

- (a) by repealing the section heading and substituting the following section heading —

“Offences by corporations, partnerships, limited liability partnerships, etc.”; and



- (b) by inserting after subsection (2) the following subsections —
- “(3) Where an offence under this Act is committed by a partnership, a limited liability partnership or an exempted limited partnership and it is proved that the offence —
- (a) was committed with the consent or connivance of; or
- (b) is attributable to any neglect on the part of,
a partner concerned in the management or control of a partnership or a limited liability partnership, or a partner who takes part in the conduct of the business of an exempted limited partnership, that partner, as well as the partnership, the limited liability partnership or the exempted limited partnership, as applicable, commits the offence and is liable to be proceeded against and punished accordingly.
- (4) Where an offence under this Act is committed by an unincorporated association other than a partnership, a limited liability partnership or an exempted limited partnership and it is proved that the offence —
- (a) was committed with the consent or connivance of; or
- (b) is attributable to neglect on the part of,
a person concerned in the management or control of the unincorporated association, that person, as well as the unincorporated association, commits the offence and is liable to be proceeded against and punished accordingly.”.

Passed by the Parliament the _____ day of _____, 2023.

Speaker

Clerk of the Parliament

