

NAVIGATING THE DIGITAL SANDS: THE REGULATION OF VIRTUAL ASSETS IN THE UAE

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Legal System in the UAE

The legal system in the UAE operates at two levels: federal level and local level, and each of the seven Emirates has the power to follow the federal system, or retain its own local system. As a result, there are both federal courts and laws, and Emirate-level courts and laws, in the UAE.

There are also two financial free zones in the UAE – the Dubai International Financial Centre (**DIFC**) and the Abu Dhabi Global Market (**ADGM**). These free zones are entitled to exclude the application of certain federal laws (with some exceptions, such as criminal laws), enact their own laws, and establish their own regulatory authorities.

At federal level, financial services are regulated by the Central Bank of the UAE (**CBUAE**) and the Securities and Commodities Authority (**SCA**). There are also two other regulatory bodies in the UAE for financial services, namely the Dubai Financial Services Authority (**DFSA**) in the DIFC, and the Financial Services Regulatory Authority (**FSRA**) in the ADGM.

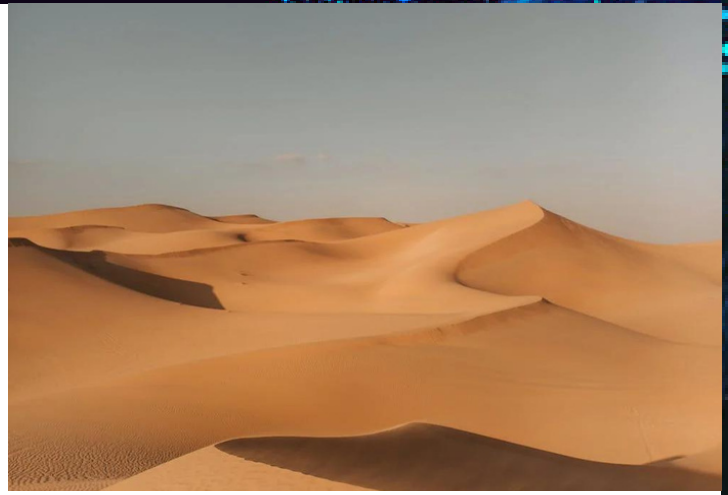
This comparatively complex structure means there is no single regulatory authority to turn to when considering how virtual assets are regulated in the UAE. A brief overview of the relevant regulatory authorities is set out below.

The UAE's overall approach to virtual assets

The UAE continues to prove itself as a leader in digital economy by rapidly developing a range of world-leading, and often first-of-their-kind, regulations which set a standard for the industry around the world.

The government has recognised the need to find the right balance in regulating the sector with cautious optimism, by fostering innovation, economic diversification, and growth, without compromising on protection against risks.

As a result, the UAE is seen by industry players as an enticing yet credible place to be, and we are seeing an increase in businesses from around the world looking to enter the UAE's virtual assets sector.



Federal Regulation

The SCA is responsible for monitoring and regulating the UAE's financial markets, including platforms that enable the trading of virtual assets, authorised persons that carry out virtual asset custody services, and virtual asset intermediaries.

In 2020, the SCA issued Decision No.23 of 2020 Concerning Crypto Assets Activities Regulation (**CAAR**)⁽¹⁾, which regulates the offering, issuing, listing, and trading of crypto assets and related financial activities in onshore UAE.

In December 2022, Cabinet Resolution No.111 of 2022 on the Regulation of Virtual Assets and Services Providers⁽²⁾ was issued, which assigned the supervisory and regulatory responsibility for the virtual assets sector in onshore Dubai to the SCA "with the aim of developing the legislative system for the sector, its related activities and service providers, in a manner that guarantees the rights and duties of all parties participating therein."⁽³⁾ This includes a general framework for the regulation of virtual assets, including in relation to licensing, and prohibits any person from conducting virtual asset activities in onshore Dubai without approval and the necessary license from the SCA (or the local licensing authorities as the case may be).

The CBUAE is the UAE's supervisory and regulatory authority of the financial services sector. It is doing significant work in the FinTech sector, working with industry and regulatory authorities to ensure innovation and digital transformation take a central role alongside robust risk management. In particular, the CBUAE's FinTech Office has been considering the impact of new technologies on the financial sector, including in relation to digital currencies, and as a result has been releasing regular guidance for licensed financial institutions (**LFIs**) to follow.

(1) (7053) (sca.gov.ae)

(2) (7053) (sca.gov.ae)

(3) The Securities and Commodities Authority undertakes the tasks of regulating, supervising and controlling the virtual assets sector | News | Media Center | Securities and Commodities Authority (sca.gov.ae)

For example, in February 2023, the CBUAE issued guidance for LFI on risks related to virtual assets and virtual asset service providers, to assist the understanding and effective performance by LFIs of their obligations under the legal and regulatory framework in force in the UAE.⁽⁴⁾

Dubai Virtual Assets Regulatory Authority (VARA)

VARA is the entity in charge of regulating, supervising, and overseeing virtual assets and related activities in all zones across the Emirate of Dubai (including Special Development Zones and Free Zones but excluding the DIFC). Its sole purpose is the regulation of virtual assets.

On 7 February 2023, VARA issued its Virtual Assets and Related Activities Regulations 2023⁽⁵⁾ and accompanying rulebooks, an all-encompassing virtual asset regulatory framework applicable to all virtual asset service providers falling within its remit. Further discussion on the VARA Regulations can be found here - [Dubai's VARA issues Regulations for Dubai Virtual Asset Regime : Clyde & Co \(clydeco.com\)](#)

Dubai International Financial Centre

In October 2021, the DFSA introduced the Investment Token regime, and in November 2022, it introduced a comprehensive framework for regulating financial services using Crypto Tokens.⁽⁷⁾ The DFSA's regulatory regime allows firms to provide a wide range of financial services and conduct other activities relating to Crypto Tokens in or from the DIFC.

Further discussion on the Crypto Tokens regime can be found here - [Dubai Financial Services Authority unveils Crypto Tokens regime, Alexandra Lester, Lucy Nash \(clydeco.com\)](#)

In more recent news, on 28 September 2023, the DIFC announced a proposal to enact a first-of-its-kind Digital Assets Law, a new Law of Security regime, and related amendments to existing DIFC legislation.⁽⁸⁾

Rather than waiting for case law to guide the future (which is not ideal in a sector which is evolving as rapidly as this one), consulting on, enacting (and amending) legislation to address key issues such as the legal features and consequences of digital assets will provide the market with more legal certainty, increase consumer protection, and in turn increase market confidence and inward investment, whilst taking into account the unique complexities that arise in this sector.

Abu Dhabi Global Market

The ADGM has been at the forefront of embracing financial innovation in the UAE. In 2018, the ADGM was the first jurisdiction globally to introduce a comprehensive and bespoke regulatory framework for the regulation of spot virtual asset activities. Under this framework, the scope of digital assets and associated products regulated by the FSRA includes virtual assets, digital securities, stable tokens and derivatives / funds.

The FSRA's framework, rules and regulations concerning the authorisation and supervision of virtual assets related activities in the ADGM are regularly updated to keep up with global developments in the sector.

The FSRA also publishes regular guidance applicable to those operating in the sector, including the Guiding Principles for the FSRA's Approach to Virtual Asset Regulation and Supervision released in September 2022 to "support engagement with other like-minded regulatory agencies in the UAE, across the region and globally, acting as a basis for regulatory cohesion across jurisdictions" and articulate the FSRA's approach to the regulation of virtual assets in the ADGM.⁽¹⁰⁾

Working together

Whilst there has been some uncertainty in relation to the potential overlap between the various regulatory authorities, they are working together in order to take a joined-up approach where possible. For example, the authorities recently issued Joint Guidance on Combating the Use of Unlicensed Virtual Asset Providers in the UAE to "educate the public on the risks associated with unlicensed virtual asset service providers."⁽¹¹⁾

In addition, we expect other Emirates might follow Dubai and Abu Dhabi's lead in this sector with Ras Al Khaimah recently launching the RAK Digital Assets Oasis Free Zone - "a globally connected hub for digital and virtual assets companies."⁽²⁾ With these leading developments across the region, the UAE is an ever-increasingly exciting place to be for those operating in the virtual assets world.

This information is accurate as of November 2023. However, this is a rapidly developing and often changing area of law so if you are considering regulation in the UAE, it is important that you seek up-to-date advice at the time.



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⁽⁴⁾ [Basis Belated to VAAs and VARA \(centralbank.ae\)](#)

⁽⁵⁾ [Law No. 9 of 2022 Regulating Virtual Assets in the Emirate of Dubai](#)

⁽⁶⁾ [DFSA introduces regulatory framework for Investment Tokens | DFSA - THE INDEPENDENT REGULATOR OF FINANCIAL SERVICES](#)

⁽⁷⁾ [DFSA introduces and details | DFSA - THE INDEPENDENT REGULATOR OF FINANCIAL SERVICES](#)

⁽⁸⁾ [DIFC Announces Consultation on New Digital Assets Law, New Law of Security](#)

⁽⁹⁾ [VARA updates a full \(q32023.com\)](#)

⁽¹⁰⁾ [The FSRA's framework, rules and regulations concerning the authorisation and supervision of virtual assets related activities in the ADGM](#)

⁽¹¹⁾ [Joint Guidance on Combating the Use of Unlicensed Virtual Asset Providers in the UAE](#)