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Client Alert

Bank of Ghana Issues Draft Guidelines on Digital Assets

The Bank of Ghana ("BoG") has issued an exposure draft (the "Draft") inviting public comments and feedback on its proposed regulatory framework for digital assets. This development marks a pivotal moment in Ghana's digital financial landscape, as the BoG moves towards crafting regulations aimed at fostering innovation while safeguarding the integrity of the financial sector.

Background

Historically, the BoG has discouraged the use, holding, and trading of digital currencies in Ghana. The BoG issued notices advising the public against engaging with digital currencies due to the absence of a regulatory framework. However, due to the increasing penetration of mobile technology, a growing tech-savvy youth population, widespread internet access, and the rise of businesses offering cryptocurrency and other virtual asset services, the BoG has now released a draft framework. This framework seeks to promote innovation while addressing risks associated with digital assets, such as cybersecurity threats, market manipulation, and consumer protection issues.

The Draft outlines several key objectives for regulating digital assets in Ghana. These objectives focus on:

- Maintaining financial stability and integrity
- Protecting consumers and investors
- Preventing financial crime (such as money laundering and terrorism financing)
- Encouraging innovation while promoting market integrity
- Coordinating domestic efforts to manage risks posed by virtual asset service providers (VASPs)
- Promoting international cooperation in combating financial crime
- Addressing cybersecurity risks

Regulatory Scope and Objectives

Virtual Asset Service Providers (VASPs)

A primary focus of the Draft is the regulation of Virtual Asset Service Providers (VASPs). Under the Draft, VASPs are defined as entities that provide services related to virtual assets, including:

- Exchanges
- Wallet management
- Brokerage
- Custodial services
- Transfer services
- Fundraising through Initial Coin Offerings (ICOs) or Security Token Offerings (STOs)
- Financial advice and management related to virtual assets

VASPs will be subject to comprehensive regulations aimed at preventing money laundering, terrorism financing, and other illicit activities. They will be required to implement strict consumer protection protocols, conduct thorough due diligence on their customers, and monitor transactions. Suspicious activities will need to be reported to the Financial Intelligence Centre (FIC), ensuring that financial crime is closely monitored and mitigated.

Registration and Authorisation Requirements

To legally operate in Ghana, VASPs will be required to obtain authorisation from either the Bank of Ghana or the Securities and Exchange Commission (SEC), depending on the nature of their services. Failure to register within the specified timeframe will result in the entity being deemed non-compliant and operating illegally.

Prospective VASPs must meet several requirements to qualify for registration, including:

- A detailed company profile, governance, and ownership structure
- Current or projected financial statements (audited)
- A robust control and risk management framework
- An office located in Ghana
- A comprehensive description of technology infrastructure, including asset storage and access control measures
- Cybersecurity and data privacy policies
- Consumer protection measures

Additionally, VASPs must adopt a risk-based approach in preventing financial crime, in alignment with global best practices and standards set forth by the Financial Action Task Force (FATF).

Role of Enhanced Payment Service Providers (EPSPs) and Commercial Banks

The Draft also clarifies the roles of Enhanced Payment Service Providers (EPSPs) and commercial banks in the evolving digital asset landscape. While EPSPs may be authorised to process virtual asset transactions, they will only be allowed to do so exclusively for registered VASPs and with prior approval from the BoG. EPSPs will not be permitted to operate exchanges, hold virtual assets, or provide custodial services. However, shareholders of EPSPs may establish separate entities for virtual asset-related businesses, provided these are funded independently of EPSP operations.

Commercial banks, on the other hand, may offer banking services to registered VASPs under similar conditions. Like EPSPs, banks will be prohibited from engaging in virtual asset-related activities such as operating exchanges, holding virtual assets, or offering custodial services.

Industry Feedback and Next Steps

The Bank of Ghana's Draft is open for public consultation until 31 August 2024. Stakeholders—including industry participants, legal practitioners, and the general public—are encouraged to provide their feedback on the proposed guidelines. Contributions can be submitted via email to FinTech@bog.gov.gh

This consultation period presents a valuable opportunity for stakeholders to shape the future of digital asset regulation in Ghana. The final framework, once adopted, will not only provide legal certainty to businesses operating in this space but also help protect consumers and maintain the stability of the broader financial system.

Conclusion

The issuance of the Draft by the Bank of Ghana marks a significant step toward creating a regulated environment for digital assets. While the Draft does not currently legitimise cryptocurrency transactions in Ghana, it offers a preliminary view of the regulatory landscape that stakeholders can expect in the near future.

For businesses, particularly VASPs and financial institutions, this is the time to prepare for compliance with the forthcoming regulations. Implementing robust risk management, cybersecurity, and consumer protection measures now will ensure readiness when the final framework comes into force.

If you have any questions about how the Bank of Ghana's Draft guidelines may affect your business, or if you would like assistance in submitting feedback, please do not hesitate to contact us.