

Amendments to Schedule 1,2 and 3 to the Financial Intelligence Centre Act

Name of Commentator:	VALR PTY LTD
Name of of representative:	Mr K. Nemaconde
Designation:	Head of Compliance
Date:	12 August 2022

1. Background

VALR is a cryptocurrency exchange that will be listed as an accountable institution as per below:

22. *A person who carries on the business of one or more of the following activities or operations for or on behalf of a client:*

- (a) Exchanging a crypto asset for a fiat currency or vice versa;*
- (b) exchanging one form of crypto asset for another;*
- (c) conducting a transaction that transfers a crypto asset from one crypto asset address or account to another;*
- (d) safekeeping or administration of a crypto asset or an instrument enabling control over a crypto asset; and*
- (e) participation in and provision of financial services related to an issuer's offer or sale of a crypto asset,*

where "crypto asset" means a digital representation of perceived value that can be traded or transferred electronically within a community of users of the internet who consider it as a medium of exchange, unit of account or store of value and use it for payment or investment purposes, but does not include a digital representation of a fiat currency or a security as defined in the Financial Markets Act, 2012 (Act 19 of 2012).

2. Comments and submission

Section	Legal Provision	Comments	Response to Comments
Financial sanctions			

<p>26B. Prohibitions relating to persons and entities identified by Security Council of the United Nations</p>	<p>(1) No person may, directly or indirectly, in whole or in part, and by any means or method—</p> <p>(a) acquire, collect, use, possess or own property;</p> <p>(b) provide or make available, or invite a person to provide or make available property;</p> <p>(c) provide or make available, or invite a person to provide or make available any financial or other service;</p> <p>(d) provide or make available, or invite a person to provide or make available economic support; or</p> <p>(e) facilitate the acquisition, collection, use or provision of property, or the provision of any financial or other service, or the provision of economic support, intending that the property, financial or other service or economic support, as the case may be, be used, or while the person knows or ought reasonably to have known or</p>	<p>Sanctions controls are currently in place using external systems. Our processes extend to cater for positive and partial positive sanction matches. However, we request more guidance in a PCC or guidance note for CASPs.</p>	
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suspected that the property, service or support concerned will be used, directly or indirectly, in whole or in part, for the benefit of, or on behalf of, or at the direction of, or under the control of a person or an entity identified pursuant to a resolution of the Security Council of the United Nations contemplated in a notice referred to in section 26A(1).

(2) No person may, directly or indirectly, in whole or in part, and by any means or method deal with, enter into or facilitate any transaction or perform any other act in connection with property which such person knows or ought reasonably to have known or suspected to have been acquired, collected, used, possessed, owned or provided for the benefit of, or on behalf of, or at the direction of, or under the control of a person or an entity identified pursuant to a

	<p>resolution of the Security Council of the United Nations contemplated in a notice referred to in section 26A(1).</p> <p>(3) No person who knows or ought reasonably to have known or suspected that property is property referred to in subsection (1), may enter into, or become concerned in, an arrangement which in any way has or is likely to have the effect of—</p> <p>(a) making it possible for a person or an entity identified pursuant to a resolution of the Security Council of the United Nations contemplated in a notice referred to in section 26A(1) to retain or control the property;</p> <p>(b) converting the property;</p> <p>(c) concealing or disguising the nature, source, location, disposition or movement of the property, the ownership thereof or any interest anyone may have therein;</p> <p>(d) removing the property from a jurisdiction; or (e) transferring the</p>		
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	property to a nominee.		

42. Risk Management and Compliance Programme	<p>(1) An accountable institution must develop, document, maintain and implement a programme for anti-money laundering and counter-terrorist financing risk management and compliance.</p> <p>(2) A Risk Management and Compliance Programme must—</p> <p>(a) enable the accountable institution to—</p> <p>(i) identify;</p> <p>(ii) assess;</p> <p>(iii) monitor;</p> <p>(iv)mitigate, and</p> <p>(v) manage,</p> <p>the risk that the provision by the accountable institution of products or services may involve or facilitate money laundering activities or the financing of terrorist and related activities;</p> <p>(b) provide for the manner in which the institution determines if a person is—</p> <p>(i) a prospective client in the process of establishing a business relationship or entering into a single transaction with the institution; or</p>	<p>Our organisation currently has an RMCP that is compliant. As the RMCP is critical to maintain compliance governance and manage risk and due to the nature of block chain technology and crypto currency, we request a guidance note or PCC to provide more guidance on an RMCP specifically for CASPs. This wopuld be very informative for all CASPs in the industry.</p>	
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<p>(ii) a client who has established a business relationship or entered into a single transaction;</p> <p>(c) provide for the manner in which the institution complies with section 20A;</p> <p>(d) provide for the manner in which and the processes by which the establishment and verification of the identity of persons whom the accountable institution must identify in terms of Part 1 of this Chapter is performed in the institution;</p> <p>(e) provide for the manner in which the institution determines whether future transactions that will be performed in the course of the business relationship are consistent with the institution's knowledge of a prospective client;</p> <p>(f) provide for the manner in which and the processes by which the institution conducts additional due diligence measures in respect of legal</p>		
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	<p>persons, trusts and partnerships; (g) provide for the manner in which and the processes by which ongoing due diligence and account monitoring in respect of business relationships is conducted by the institution; (h) provide for the manner in which the examining of— (i) complex or unusually large transactions; and (ii) unusual patterns of transactions which have no apparent business or lawful purpose, and keeping of written findings relating thereto, is done by the institution; (i) provide for the manner in which and the processes by which the institution will confirm information relating to a client when the institution has doubts about the veracity of previously obtained information; (j) provide for the manner in which and the processes by which the</p>		
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	<p>institution will perform the customer due diligence requirements in accordance with sections 21, 21A, 21B and 21C when, during the course of a business relationship, the institution suspects that a transaction or activity is suspicious or unusual as contemplated in section 29;</p> <p>(k) provide for the manner in which the accountable institution will terminate an existing business relationship as contemplated in section 21E;</p> <p>(l) provide for the manner in which and the processes by which the accountable institution determines whether a prospective client is a foreign prominent public official or a domestic prominent influential person;</p> <p>(m) provide for the manner in which and the processes by which enhanced due diligence is conducted for higher-risk business relationships</p>		
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	<p>and when simplified customer due diligence might be permitted in the institution;</p> <p>(n) provide for the manner in which and place at which the records are kept in terms of Part 2 of this Chapter;</p> <p>(o) enable the institution to determine when a transaction or activity is reportable to the Centre under Part 3 of this Chapter;</p> <p>(p) provide for the processes for reporting information to the Centre under Part 3 of this Chapter;</p> <p>(q) provide for the manner in which—</p> <p>(i) the Risk Management and Compliance Programme is implemented in branches, subsidiaries or other operations of the institution in foreign countries so as to enable the institution to comply with its obligations under this Act;</p> <p>(ii) the institution will determine if the</p>		
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	<p>host country of a foreign branch or subsidiary permits the implementation of measures required under this Act; and</p> <p>(iii) the institution will inform the Centre and supervisory body concerned if the host country contemplated in sub-paragraph (ii) does not permit the implementation of measures required under this Act;</p> <p>(r) provide for the processes for the institution to implement its Risk Management and Compliance Programme; and</p> <p>(s) provide for any prescribed matter.</p> <p>(2A) An accountable institution must indicate, in its Risk Management and Compliance Programme, if any paragraph under subsection (2) is not applicable to that accountable institution and the reason why it is not applicable.</p> <p>(2B) The board of directors, senior management or other person or</p>		
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	<p>group of persons exercising the highest level of authority in an accountable institution must approve the Risk Management and Compliance Programme of the institution.</p> <p>(2C) An accountable institution must review its Risk Management and Compliance Programme at regular intervals to ensure that the Programme remains relevant to the accountable institution's operations and the achievement of the requirements contemplated in subsection (2).</p> <p>(3) An accountable institution must make documentation describing its Risk Management and Compliance Programme available to each of its employees involved in transactions to which this Act applies.</p> <p>(4) An accountable institution must, on request, make a copy of the documentation describing its Risk Management and Compliance Programme available</p>		
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	to— (a) the Centre; or (b) a supervisory body which performs		
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