FATF Standards on Virtual Asset and Virtual Assets Service Providers

African AI and Blockchain Policy Forum

16 November 2023

Dooyoung Kim
Financial Action Task Force
Leads global action to tackle money laundering, terrorist & proliferation financing

- Researches how money is laundered and terrorism & proliferation are funded
- Promotes global standards to mitigate the risks
- Assesses whether countries are taking effective action
  - More than 200 jurisdictions are assessed with the help of 9 FATF Associate Member organisations and other global partners, the IMF and World Bank.
  - Jurisdictions with strategic AML/CFT deficiencies are reviewed by the FATF’s International Co-operation Review Group (ICRG).
Understanding the FATF Recommendation 15

Additional Measures for specific customers and activities

- R.12 Politically exposed persons
- R.13 Correspondent banking
- R.14 Money or value transfer services
- R.15 New technologies
- R.16 Wire transfers

15.1 – 15.2 New Technologies

15.3 – 15.11 Virtual Assets and Virtual Assets Service Providers (VA and VASPs)
Understanding the FATF Recommendation 15

Recommendation 15. New technologies

- **R15.1 – R15.2**
  - Development of new products and new business practices, including new delivery mechanisms
  - Use of new or developing technologies for both new and pre-existing products

- **R15.3 – R15.11**
  - Management and mitigation of risks emerging from virtual assets (VA)
  - Regulation of virtual asset service providers (VASPs) for AML/CFT purposes
Revision of FATF Standards on VA and VASPs: Recommendation 15 (2019)

Objectives

▪ To place and clarify how FATF’s anti-money laundering and counter-terrorism financing (AML/CFT) requirements apply in relation to virtual assets (VA) and virtual asset service providers (VASPs)

Requirements

15.3 Risk assessment & risk-based approach
15.4 Licensing/registering VASPs
15.5 Identification of natural persons/legal entities conducting VASP activities
15.6 Supervision and regulation of VASPs
15.7 Establishment of guidelines
15.8 & 15.10 Sanctions & Targeted Financial Sanctions compliance
15.9 Preventative AML/CFT measures including the Travel Rule
15.11 International Cooperation
Compliance with revised R.15/INR.15 by 98 jurisdictions
(October 2019 – April 2023)

- Compliant: 1
- Largely Compliant: 24
- Partially Compliant: 50
- Not Compliant: 23

Overall compliance: 75%
Progress in implementation of the revised R.15

Compliance with revised R.15/INR.15 by 98 jurisdictions
(October 2019 – April 2023)

- FATF: 14
  - Compliant: 2
  - Largely Compliant: 4
  - Partially Compliant: 5
  - Non-Compliant: 3
- APG: 6
  - Compliant: 3
  - Largely Compliant: 1
  - Partially Compliant: 2
  - Non-Compliant: 0
- CFATF: 5
  - Compliant: 3
  - Largely Compliant: 2
  - Partially Compliant: 0
  - Non-Compliant: 0
- EAG: 1
  - Compliant: 1
  - Largely Compliant: 0
  - Partially Compliant: 0
  - Non-Compliant: 0
- ESAAMLG: 5
  - Compliant: 1
  - Largely Compliant: 1
  - Partially Compliant: 3
  - Non-Compliant: 0
- GABAC: 2
  - Compliant: 2
  - Largely Compliant: 0
  - Partially Compliant: 0
  - Non-Compliant: 0
- GAFILAT: 3
  - Compliant: 3
  - Largely Compliant: 0
  - Partially Compliant: 0
  - Non-Compliant: 0
- GIABA: 5
  - Compliant: 5
  - Largely Compliant: 0
  - Partially Compliant: 0
  - Non-Compliant: 0
- MENAFATF: 4
  - Compliant: 3
  - Largely Compliant: 0
  - Partially Compliant: 1
  - Non-Compliant: 0
- Moneyval: 18
  - Compliant: 4
  - Largely Compliant: 3
  - Partially Compliant: 5
  - Non-Compliant: 6
Compliance with revised R.15/INR.15 by 27 jurisdictions in African region (October 2019 – April 2023)

ESAAMLG  Eastern and Southern Africa Anti-Money Laundering Group
GABAC  Central Africa Anti-Money Laundering Group
GIABA  Inter Governmental Action Group against Money Laundering in West Africa
MENAFATF  Middle East and North Africa Financial Action Task Force
Challenges: Criterion 15.3, 15.4, and 15.9

- Assessment results indicate that countries continue to struggle with several fundamental requirements, including conducting a risk assessment, developing a regime for VASPs, i.e., registering/licensing or prohibiting VASPs, and implementing the Travel Rule. ([Targeted Update 2023](#))

**Requirements**

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<th>15.3</th>
<th>Risk assessment &amp; risk-based approach</th>
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Areas jurisdictions face particular challenges implementing R.15

15.3 Risk-assessment of the ML/FT risks from VAs and misuse of VASPs

15.4 Licensing/Registration of VASPs

15.9 Application of AML/CFT measures to VASPs, including the Travel Rule

Developing, implementing and enforcing a regime for VASPs
Q. What is your jurisdiction’s approach to VAs and VASPs?

- Prohibits the use of VA and VASPs: 16 (increased slightly over the past 1 year)
- Permits the use of VA and VASPs: 90
- Has not decided yet: 45 (nearly 1/3 of survey respondents)
Q. What is your jurisdiction’s approach to VAs and VASPs?

[Diagram showing the approach of different jurisdictions to VA and VASPs: FATF, APG, CFATF, EAG, ESAAMLG, GABAC, GAFILAT, GIABA, MENAFATF, Moneyval. The diagram includes categories for permits the use of VA and VASPs, explicitly prohibits the use of VA and VASPs, has not decided yet, and did not respond.]
Jurisdiction’s decision to regulate or prohibit VASPs

Factors beyond ML/TF concerns that may impact a jurisdiction’s decision to regulate or prohibit VASPs

(IMF’s report on Elements of Effective Policies for Crypto Asset 2023)
- Comprehensive regulations > blanket ban
- Costs of enforcing bans
- Targeted restrictions

2023 FATF Survey

- A large percentage (38%; 6 of 16 jurisdictions) of jurisdictions that report prohibiting VASPs have done so **without** having undertaken any assessment of the risks relating to VAs and VASPs in their jurisdiction. (2023 FATF Survey)

- A significant portion (44%; 7 of 16 jurisdictions) of prohibition jurisdictions **have not taken any** supervisory or enforcement action to sanction illegal VASPs operating within their jurisdictions
Challenges in successfully prohibiting VASPs

- Only two jurisdictions taking the prohibition approach has been assessed as largely compliant with the FATF requirements.
- No jurisdiction taking the prohibition approach received a fully compliant rating.
15.3 Risk assessment and application of a risk-based approach

a. Identify and assess the ML/TF risks emerging from VA activities and the activities or operations of VASPs.

b. Apply a risk-based approach to ensure that ML/TF prevention/mitigation measures are commensurate with the risks identified.

c. Require VASPs to take appropriate steps to identify, assess, manage and mitigate their ML/TF risks (criteria 1.10 and 1.11).

Common challenges faced by jurisdictions (Targeted Update 2023):
- A lack of reliable and easily available data
- Limited guidance or methodologies on conducting such a risk assessment

Relevant resources:
- FATF’s 2021 guidance
- VACG Community Workspace
15.4 Licensing/Registering VASPs

VASPs are required to be licensed or registered at a minimum:
(i) when the VASP is a legal person, in the jurisdiction(s) where it is created; and
(ii) when the VASP is a natural person, in the jurisdiction where its place of business is located

competent authorities take the necessary legal or regulatory measures to prevent criminals or their associates from holding, or being the beneficial owner of, a significant or controlling interest, or holding a management function in, a VASP.

Challenges both in law & practice (Targeted Update 2023) leading to:

- Unlicensed/unregistered VASPs subject to minimal or no oversight or AML/CFT requirements
- Licensed or registered VASPs may also face increased challenges obtaining and verifying information on unlicensed or unregistered VASP counterparties
The preventive measures set out in Recommendations 10 to 21 apply to VASPs in the same manner as FIs, with two specific qualifications.

The occasional transaction designated threshold above which VASPs are required to conduct CDD is USD/EUR 1,000 (rather than USD/EUR 15,000).

The wire transfer rules set out in Recommendation 16 apply to VASPs and VA transfers in a modified form (the Travel Rule).

Travel Rule

Countries should ensure that ordering VASP obtain and hold required and accurate/verified originator information and required beneficiary information and submit the information to beneficiary VASP.

Countries should ensure that beneficiary VASP obtain and hold required originator information and required and accurate/verified beneficiary information.
15.9 Preventative AML/CFT measures including the Travel Rule

Travel Rule implementation by 135 jurisdictions (2023 FATF Survey) (excluding 16 jurisdictions which prohibit the use of VAs and VASPs)

<table>
<thead>
<tr>
<th>Has your jurisdiction passed the Travel Rule for VASPs? (2023 FATF Survey)</th>
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<tr>
<td>Has passed legislation putting in place the Travel Rule for VASPs</td>
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<tr>
<td>In the process of passing legislation to put in place the Travel Rule for VASPs</td>
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<tr>
<td>None of the above</td>
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<tr>
<td>Has not decided on the approach to VASPs</td>
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Common challenges implementing the Travel Rule

- Lack of domestic expertise, capacity, and resources to effectively supervise and enforce Travel Rule compliance
- Differences across jurisdictions (i.e. approaches to unhosted wallets, foreign VASPs, DPP, and de minimis thresholds)
- Establishment of domestic licensing/registration regimes for VAs and VASPs
- "Sunrise Issue" (i.e. mismatch due to the lack of global implementation of the Travel Rule)
- Full compliance & interoperability among Travel Rule compliance tools
VACG’s Roadmap to improve R.15 compliance

- Facilitate outreach and assistance to low-capacity jurisdictions to encourage compliance with R.15

- Public identification of countries with material VA activity and steps taken towards implementing the basics of R.15 (1H, 2024)

Promotion of global R.15 compliance
Next steps

- Continue to conduct **outreach** and provide assistance to low-capacity jurisdictions to encourage compliance with R.15

- **Publicly identify** which countries with significant VA activity have started regulating VASPs and which have not, in the first half of 2024

- Continue to **share finding, experiences and challenges**, including relating to DeFi and unhosted wallets, including P2P, and monitor market developments to ensure the relevance of current AML/CFT Standards

- **Report to FATF** in June 2024 on progress on implementation

- Continue responding to the ongoing and growing threat of VA misuse in ML/TF/PF by **promoting global implementation** of the FATF Standards and the Travel Rule.