Global AML Regulator Amends Its International Standards for Virtual Assets

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On 19 October 2018, the global anti-money laundering and counter terrorism financing watchdog, the Financial Action Task Force (FATF), made a series of amendments to its rules framework (Standards), in response to international developments in the use and exchange of virtual assets such as cryptocurrencies and other virtual tokens.

The Standards set out the FATF’s recommended framework of rules and measures which countries, including Australia, should adopt in order to combat money laundering and terrorist financing.

As part of the revised Recommendation 15, the FATF has written “to manage and mitigate risks emerging from virtual assets, countries should ensure that virtual asset providers are regulated for AML/CTF purposes”.

‘Virtual Asset Service Providers’ are defined in the glossary of the Standards as any natural or legal person who, as a business conducts one of more of the following activities:

- exchange between virtual assets/fiat currencies and fiat currencies/virtual assets;
- transfer of virtual assets;
- safe-keeping and/or administration of virtual assets or instruments enabling control over virtual assets; and
- participation in and provision of financial services related to an issuer’s offer and/or sale of a virtual asset.

While Australia has already made changes to its legislation making digital currency exchanges subject to AML/CTF regulation, the additional wording in the FATF amendments suggests going further to cover other service providers such as wallet and custodial providers and any entity involved in ICOs.

Significantly, these amendments to the Standards may trigger further changes to local AML/CTF laws in Australia for two key reasons. Firstly, the Australian Government routinely undertakes statutory reviews of the Anti-Money Laundering and Counter Terrorism Financing Act 2006 (Cth) in order to assess its compliance with the Standards since 2012. Secondly, the AML/CTF laws state that the domestic AML/CTF regulator must, in performing its functions, have regard to the Standards.

For more information on the changes to the Standards click here.