Virtual Assets Service Providers' AML Guidelines:

A Tool for Demonstrating Compliance

Virtual Asset Service Providers (***VASPs***) are innovative service providers that present tremendous opportunities to traditional financial services and the wider global economy. Following the passing of the Virtual Assets Service Providers Act, 2022 (the ***Act***) the Commission issued the Virtual Assets Services Providers' Guide to the Prevention of Money Laundering, Terrorist Financing and Proliferation Financing (the ***VASP AML Guidelines***) in January 2023. The VASP AML Guidelines were issued to provide useful context for persons that fall under the regulatory remit of the Commission. It also complements the Guidance for a Risk-Based Approach for Virtual Assets and Virtual Asset Services Providers published by the Financial Action Task Force (the ***FATF***), which provides typologies of the distinctive risks impacting VASPs.

The VASP AML Guidelines clarify the requirements for VASPs under Virgin Islands (***VI***) law. These requirements should be embedded in compliance manuals and procedures of VASPs. The Guidelines include requirements for robust customer due diligence and enhanced customer due diligence procedures, proper record-keeping measures, frameworks to fulfil statutory reporting obligations and risks that are present in the use and exchange of virtual assets and in the operations of VASPs themselves.

Relevant Risks and Mitigation Measures

To operate in the VI, VASPs must establish and maintain strong compliance measures designed to prevent risks of being used for ML, TF, PF and other risks; there are, however, some associated risks. VASPs may be exposed to ML/TF/PF and other risks through their engagement with other VASPs operating in jurisdictions that have poor controls for the mitigation of AML/CFT risks. On this basis, VASPs should take all measures towards assessing risks including ensuring risk assessments and proper due diligence is carried out in relation to any foreign VASP it may engage with.

Risk indicators to be monitored for VASPs may include (but, are not limited to):

- **a)** A foreign VASP that cannot evidence stringent AML/CFT measures and controls.
- **b)** The use of mixers, tumblers, privacy coins, decentralised platforms and other digital tools designed to increase anonymity in the sale or trade of virtual assets, as these are methods that have been observed in illicit activities.
- **c)** Practices that reduce transparency of transactions facilitated by virtual assets as well as fiat currencies being converted to or from virtual assets as these are examples of possible illicit financing activities.

Establishing and enhancing a resilient compliance framework includes full implementation of the VASP AML Guidelines, as well as the appointment of a Compliance Officer.

To ensure that your compliance framework is robust, consider the following four action points below:

ACTION POINT 1: Adhere to the FATF Travel Rule where VASPs must collect originator and beneficiary information for transfers of virtual assets.

ACTION POINT 2: Investigate suspicious activities and patterns that may indicate emergent risks of ML/TF/PF or other illicit financing risks.

ACTION POINT 3: File suspicious activity reports (SARs) to the BVI Financial Investigation Agency promptly.

ACTION POINT 4: Train staff on the risks and risk mitigation strategies set out in the VASP AML Guidelines and other laws, as this is also an essential facet of a robust compliance framework.

The utility and applications for virtual assets continue to expand. As such, VASPs must be vigilant against being used to effect layering of virtual assets that further obscure possible criminal activities. Typologies continue to emerge in relation to VASPs being used to support criminal activities, including human trafficking, smuggling, sale of narcotics, tax evasion and illegal gambling activities. Therefore, VASPs must be diligent in ensuring that their risk assessment frameworks are regularly updated and calibrated to changes in risks with particular reference to risks identified in the 2022 ML Risk Assessment and other relevant risk assessments.

The Commission's Expectations

The Commission expects VASPs to remain vigilant in relation to evolving ML, TF and PF threats, as well as other threats that could negatively impact their operations. All VASPs should integrate the VASP AML Guidelines into their compliance framework and ensure that staff are properly trained (and assessed). These elements will be reviewed by the Commission for compliance and strength of VASPs' mitigation strategies of ML, TF and PF risks.