

Vienna, 7th May 2019

Dear FATF President, Secretariat, and Co-Chairs,

We acknowledge and support the FATF's critical work in its fight against money laundering and terrorism financing on a global scale. The Virtual Asset industry is fully committed to the prevention of money laundering and terrorist financing and we have very much welcomed this consultative forum.

We understand that the FATF has requested a summary of the principal feedback regarding the Interpretive Note to Recommendation 15 that was provided by represented Virtual Asset associations (VAAs) and individual industry participants during the 2019 FATF Private Sector Consultative Forum on May 6, 2019. This joint industry letter summarizes the principal feedback given by such VAAs.<sup>1</sup>

## 1. Support

As emphasized by all VAAs and individual industry participants, we support the need for the adoption and enforcement of a robust AML framework by Virtual Asset Service Providers (VASPs), consistent with the FATF recommendations R10-21 subject to minor comments.<sup>2</sup>

## 2. Technical challenges with regards to 7(b)

With regards to the language currently proposed in paragraph 7(b), we have material technical challenges to ensuring efficient and effective compliance and would therefore suggest small, but important, modifications to the current wording. We believe these modifications to be essential for ensuring that R16 is met in full by the industry.

The language adjustments we propose for paragraph 7(b) are as follows:

R.16 – Countries should ensure that originating VASPs obtain and hold required and accurate originator information ~~and required beneficiary information~~ on virtual asset transfers, ~~submit the above information to beneficiary VASPs and counterparts (if any);~~ and make it available on request to appropriate authorities.

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<sup>1</sup> Given the limited timeframe to prepare this letter, it may be subject to change. The footnotes reference the relevant submissions made by the VAAs underscoring the points set out herein. This letter is submitted to FATF on a private basis and not for publication.

<sup>2</sup> See the GDF submission

<https://www.gdf.io/wp-content/uploads/2018/01/GDF-Input-to-the-FATF-public-statement-of-22-Feb-2019-FINAL.pdf>

It is not necessary for this information to be attached directly to virtual asset transfers. Countries should ensure that beneficiary VASPs obtain and hold required ~~originator information and required~~ and accurate beneficiary information on virtual asset transfers, and make it available on request to appropriate authorities. Other requirements of R.16 (including monitoring of the availability of information, and taking freezing action and prohibiting transactions with designated persons and entities) apply on the same basis as set out in R.16.<sup>3</sup> Countries should also ensure that VASPs implement effective and appropriate measures to ensure that the objectives of R.16 are met, in particular the prevention of transactions with designated persons or entities.

### **3. Public-private Initiative**

We propose to combine the above with the establishment of a public-private initiative in conjunction with the FATF and industry groups that will explore solutions that are feasible, efficient and effective in ensuring that the R16 objectives can be met in full by the industry.<sup>4</sup>

### **4. Definitions**

We appreciate the definitions may already be final and not be able to be changed, we would note that the scope of the definitions creates some of the challenges set out above.

In particular, the term virtual asset is defined as “a digital representation of value that can be digitally traded, or transferred, and can be used for payment or investment purposes”. As a result, the term “virtual asset” covers any transferable asset that is used for payment or investment purposes, whether financial or not financial. This could cover a host of other uses, including fractional interests in collectibles, for example, as well as in-game tokens and event tickets to name a few. These types of assets are not currently covered in the FATF Recommendations or member-country AML regulations.

The complication is compounded by the fact that tokenization now allows consumers to hold an interest, via a digital token on a blockchain, in a real-world asset that is not necessarily a financial or monetary instrument but that may have some value.

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<sup>3</sup> See the JVCEA Input to the FATF Public Statement dated Feb 22, 2019; and the GDF submission.

<sup>4</sup> See the submissions from the Association of Crypto-Currency Enterprises and Start-ups Singapore (ACCESS); the British Blockchain and Frontier Technologies Association (bbfta.org); the Australian Digital Currency Association (ADCA); and the GDF.

As a result, we believe the definition of “virtual asset” is too broad for the purposes of the Interpretive Note generally and paragraph 7(b) in particular, and we recommend the following:<sup>5</sup>

1. For purposes of R.16, the definition of “virtual asset” could be limited to virtual assets transferable for “payment or as a medium of exchange”, and exclude virtual assets transferable “for investment purposes”.
2. The definition of “virtual asset service provider” could be limited to those institutions directly providing a financial service to a beneficial owner of virtual assets, and exclude third-party service providers to those organizations that provide services ancillary to a virtual asset platform.
3. Paragraph 7(b) could make clear that it is only applicable to virtual asset service providers that conduct a transfer on behalf of a beneficial owner of virtual assets, and only to such virtual assets that operate as a medium of exchange and not to all virtual assets.

Alternatively, these definitional matters could be addressed in the form of guidance or in the form of exclusion categories from the definitions of virtual asset and VASP.

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We look forward to working closely with the FATF.

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<sup>5</sup> See the submission from the Chamber of Digital Commerce.