Understanding Virtual Assets & VASP Regulation | FAQs

Why is the regulation of virtual assets service providers important in the Virgin Islands (VI)?

Virtual asset service provider regulation is important to protect the jurisdiction against **money laundering (ML)**, **terrorist financing (TF)**, **proliferation financing (PF)** and other related financial crimes emanating from virtual assets as identified in the VI's ML, TF and PF risk assessments.

Regulating virtual asset service providers also strengthens the VI's AML/CFT framework to ensure compliance with the FATF Recommendations, particularly Recommendation 15.

What legislation governs virtual assets service providers in the VI?

The Virtual Assets Service Providers Act, 2022 (VASP Act), which came into effect on 1st February 2023, provides the legal framework for the registration, regulation and supervision of VASPs operating in or from within the VI.

From 1st December 2022, VASPs are required to comply with the Virgin Islands' existing AML/CFT legislation including the ***Anti-Money Laundering Regulations, 2008*** and the ***Anti-Money Laundering and Terrorist Financing Code of Practice, 2008*** (both as amended).

What are virtual assets?

Under the VASP Act, *a 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.

Note: This does *not* include digital representation of fiat currencies, or a digital record of a credit against a financial institution of fiat currency, securities or other financial assets that can be transferred digitally.

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What is a virtual asset service provider?

Section 2 of the VASP Act defines a virtual asset service provider as any virtual asset service provider who provides, as a business, a virtual asset service and is registered under the VASP Act to conduct one or more of the following activities or operations for, or on behalf of another person:

(a) exchange between virtual assets and fiat currencies;
(b) exchange between one or more forms of virtual assets;
(c) transfer of virtual assets, where the transfer relates to conducting a transaction on behalf of another person that moves a virtual asset from one virtual asset address or account to another;
(d) safekeeping or administration of virtual assets or instruments enabling control over virtual assets;
(e) participation in, and provision of, financial services related to an issuer's offer or sale of a virtual asset; or
(f) perform such other activity or operation as may be specified in the VASP Act or as may be prescribed by Regulations.

What activities are considered "virtual assets service" under the VASP Act?

As per Section 2 of the VASP Act, virtual assets service involve the business of engaging, on behalf of another person, in any VASP activity or operation, including:

(a) hosting wallets or maintaining custody or control over another person's virtual asset, wallet or private key;
(b) providing financial services relating to the issuance, offer or sale of a virtual asset;
(c) providing kiosks for the purpose of facilitating virtual asset activities through electronic terminals to enable the owner or operator of the kiosk to actively facilitate the exchange of virtual assets for fiat currency or other virtual assets; and
(d) engaging in any activity under guidelines issued pursuant to section 41A of the Financial Services Commission Act that constitutes the carrying on of the business of providing virtual assets service or issuing virtual assets or being involved in virtual asset activity.

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What is the role of the FSC regarding VASPs?

The **FSC** is the designated regulatory authority for the **registration, regulation and supervision** of VASPs. Its responsibilities include:

- Registering VASPs;
- Supervising the sector and providing regulatory oversight to registered VASPs to monitor and mitigate risks;
- Ensuring compliance with the VASP Act;
- Policing the perimeter to identify and address unauthorised activity; and
- Taking enforcement action when necessary.

Do persons who provide virtual assets service in or from within the Virgin Islands required approval to provide these services?

Under **Section 5 of the VASP Act,** entities providing virtual asset service are required to be registered by the FSC.

Individuals are *not* permitted to carry on or hold themselves out as carrying on virtual assets services as a business or in the course of their business.

What are the penalties for operating a VASP without registration?

Under **Section 46 of the VASP Act,** a person (i.e. a corporate or unincorporate body) providing virtual assets service without being registered, or an individual carrying on or holding out as carrying virtual assets service commits an offence.

The penalty for carrying on virtual assets service without registration:

1. in the case of a corporate or unincorporate body is **US$100,000**, or **5 years imprisonment or both**;
2. in the case of an individual is **US$75,000** or **5 years imprisonment or both**.

For an individual carrying on or holding out as carrying on virtual asset service the penalty is **US$75,000 or 5 years imprisonment or both**.

What are some key compliance obligations for VASPs?

VASPs must:

a. Register with the FSC;
b. Maintain effective AML/CFT systems and controls;
c. Appoint a Compliance Officer and MLRO;
d. Maintain accurate records; and
e. Undergo periodic audits.

Where can I find more information about VASP regulation in the VI?

The following legislation and guidance regarding VASPs is available on the FSC's website:

a. The VASP Act;
b. The VASP Guide to the Prevention of Money Laundering, Terrorist Financing and Proliferation;
c. VASP Travel Rule; and
d. Guidance on Application for Registration of a Virtual Assets Service Provider