

FSC PROPOSES NEW RULES ON AML REQUIREMENTS ON VIRTUAL ASSETS

The FSC introduced a proposal of new rules to provide further details of anti-money laundering (AML) requirements on virtual assets under the revised Act on Reporting and Using Specified Financial Transaction Information (“the Act” hereinafter), which is scheduled to go into effect on March 25, 2021.¹ The proposal will be available for public notice and comment for forty days from November 3 to December 14, 2020.

KEY PROVISIONS

(SCOPE OF VIRTUAL ASSET SERVICE PROVIDERS)

The Act defines “virtual asset service provider (VASPs)” as business entities which engage in one or more of the following activities or operations: (i) purchase and sales of virtual assets; (ii) exchanges between virtual assets; (iii) transfer of virtual assets; (iv) safekeeping and administration of virtual assets; (v) intermediation or brokerages of virtual asset transactions; exchange of virtual assets; and (vi) other activities specified by the enforcement decree.

The enforcement decree provides examples of VASPs subject to the Act such as virtual asset trading service providers, safekeeping/administration service providers, and digital wallet service providers.

(SCOPE OF VIRTUAL ASSETS)

The Act defines “virtual assets (VAs)” as digital tokens with economic value that can be digitally traded or transferred. The Act also provides a list of items which are not included in the scope of virtual assets: (i) digital tokens that cannot be exchangeable for fiat currencies, commodities and services and whose purpose of use is limited by the issuer; prepaid electronic payment methods or e-money; electronically registered stocks; electronic notes; electronic B/L; and others specified by the enforcement decree given the formats and features of transactions.

The enforcement decree stipulates that prepaid cards, mobile gift cards and electronic bonds are excluded from the scope of VAs.

¹ The revised Act and relevant rules are designed to impose AML requirements on virtual asset service providers in accordance with the FATF recommendations. These are not intended to adopt virtual assets into financial regulatory regimes such as authorization, capital requirements, conduct regulations, investor protection, etc.

(REQUIREMENTS FOR REAL-NAME ACCOUNTS)

The Act mandates that VASPs use real-name accounts in their financial transactions with customers.

The enforcement decree prescribes additional requirements for VASPs to open real-name accounts with financial institutions (FIs): (i) separation of customers' deposit; (ii) a certificate of Information Security Management System by KISA; (iii) no record of fines and other penalties at least within 5 years; (iv) separate management of customers' transaction records; and (vi) assessment of money laundering risks associated with VASPs by FIs.

(‘TRAVEL RULE’ FOR VIRTUAL ASSETS)

The Act applies the so-called ‘travel rule’ to VASPs in transactions of VA transfer. Under the travel rule, the originating VASP is required to provide the beneficiary with information about VA transfer.

The enforcement decree stipulates that the travel rule will apply starting from March 25, 2022, to give VASPs enough time to introduce common solutions for information sharing. Under the enforcement decree, a VA transfer transaction which amounts to more than KRW1 million would become subject to the travel rule.

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