

KOFIU CAUTIONS VIRTUAL ASSET USERS AGAINST UNREGISTERED VIRTUAL ASSET SERVICE PROVIDERS

The Korea Financial Intelligence Unit (KoFIU) announced on August 18 that it has notified illegal business activities of 16 unregistered Virtual Asset Service Providers (VASPs) to the investigative authority. The KOFIU urged virtual asset users to practice extra caution in order to avoid incurring damages that may result from their transactions with unregistered VASPs.

I. UNREGISTERED OPERATION OF FOREIGN-BASED VASPs IN DOMESTIC MARKET

The KoFIU has notified the investigative authority about the violation of unregistered business activities of 16 foreign-based VASPs* carrying out business activities intended for domestic consumers pursuant to the Act on Reporting and Using Specified Financial Transaction Information (“the Act” hereinafter).

* KuCoin, MEXC, Phemex, XT.com, Bittrue, ZB.com, Bitglobal, CoinW, CoinEX, AAX, ZoomEX, Poloniex, BTCEX, BTCC, DigiFinex, Pionex, etc.

The 16 foreign-based VASPs were found to have been engaged in business activities targeting domestic consumers by offering Korean-language websites, having promotional events targeting Korean consumers and providing a payment option that supports¹ the purchase of virtual assets using credit cards. On July 22, 2021, the KoFIU notified foreign-based VASPs that have business operations targeting Koreans about their obligation to register² their business with the authority pursuant to the Act. However, the 16 aforementioned entities were found to have business operations targeting Koreans without obtaining a registration and thus the authorities plan to take necessary measures.

II. ACTIONS TAKEN ON UNREGISTERED VASPs

- a) The KoFIU has notified the investigative authority about the violation of registration duties (under the Act) of 16 unregistered VASPs, and plans to inform FIUs in their respective countries about their violation. For illegal business activities of unregistered entities, maximum 5 years of imprisonment or up to KRW50 million of fine can be imposed with a restriction³ for registering as a VASP in domestic market for certain period of time.

¹ Support credit card-based purchase of virtual assets either through direct sales of virtual assets on their own or through purchase linked with a partnered entity.

² Under the Article 6 of the Act, actions carried out overseas but have domestic consequences can also come under the purview of the Act.

³ Under the Article 7 of the Act, when a VASP is fined for violation of the Act or other financial laws, VASP registration is prohibited for a period of 5 years from the time of termination/exemption of the duty to pay fine.

- b) The KoFIU has requested the Korea Communications Commission and the Korea Communications Standards Commission to block domestic access to the websites of unregistered VASPs to prevent the use of virtual asset services provided by unregistered entities.
- c) Credit card companies will inspect and block⁴ credit card-based virtual asset purchase and payment services offered by foreign-based VASPs to disable their use in domestic market.
- d) Transfers of virtual assets to and from the 16 unregistered entities will be made impossible as the authorities have issued an administrative guidance requiring suspension of transactions⁵ between the registered and unregistered entities.

III. USER CAUTION AND FURTHER PLAN

Virtual asset users should check⁶ whether the VASPs that they are dealing with are legitimately registered with the authority according to the Act. Unregistered VASPs lack registration qualifications such as the certification for information security management system (ISMS) which leaves them vulnerable to risks of personal information breach and hacking. Moreover, unregistered entities are outside the purview of management and supervision for AML activities which leaves them prone to be used a venue for money laundering. In addition, authorities are urging for cooperation in preventing domestic dissemination of false information⁷ which intends to entice the use of virtual asset services offered by unregistered entities.

The KoFIU will continue to closely monitor illegal business activities carried out by unregistered entities (those other than the ones specified here) and maintain close cooperation with relevant authorities in taking necessary measures by immediately reporting to the investigative authority. Upon finding illegal business activities of unregistered VASPs, virtual asset users are advised to immediately contact the KoFIU (+82.2.736.1748), FSS (+82.2.3145.7543) or police (+82.112).

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For press inquiry, please contact Foreign Media Relations at fsc_media@korea.kr.

⁴ Domestic card companies have banned the use of credit cards for purchasing virtual assets since January 2018.

⁵ Article 10(20) of the Enforcement Decree of the Act prohibits transactions with unregistered VASPs for business purposes.

⁶ As of August 18, 2022, there are 35 registered VASPs, the list of which can be found at KoFIU's website (www.kofiu.go.kr).

⁷ e.g. "New Virtual asset xxx listed on Global VASPs XXX."