

Cayman Islands Update: Virtual Asset Service Provider Regime

VASP Transitional Provisions

The Virtual Asset Service Providers (Amendment) Act, 2020 ("VASP Amendment Act") is now in force, as of 15 January 2021. The VASP Amendment Act supports the continuing implementation of Cayman Islands' virtual asset service provider regulatory framework by allowing persons engaged in the provision of virtual asset services ("VASPs") to continue operating as the provisions of the Virtual Asset (Service Providers) Act, 2020 (the "Act") are commenced. Notably, the VASP Amendment Act brings the Virtual Asset (Service Providers) (Savings and Transitional) Regulations, 2021 ("Savings and Transitional Regulations") into effect.

The Savings and Transitional Regulations provide that:

- (a) a VASP who:
 - (i) was carrying on virtual asset service immediately before 31 October 2020; and
 - (ii) is not an existing licensee

may, until 30 January 2021, continue to carry on virtual asset service without being registered under section 6(3) of the Act where the VASP submits the application for registration under section 6(1) promptly to the Cayman Islands Monetary Authority ("CIMA"),

in order to be registered by CIMA on or before 31 January 2021;

- (b) an existing licensee who was carrying on virtual asset service immediately before 31 October 2020 may, until 30 January 2021, continue to carry on virtual asset service by providing notice to CIMA in accordance with section 15 of the Act on or before 31 January 2021, or such earlier date as may be specified by CIMA; and
- (c) no liability for a criminal offence under section 35 of the Act for which there is a penalty of conviction or an administrative fine shall be imposed on:
 - (i) a VASP who fails to be registered in accordance with section 6 prior to 31 January 2021; or
 - (ii) an existing licensee who fails to notify the Authority prior to 31 January 2021 in accordance with section 15 of the Act.

Supervisory Circular

On 15 January 2021, CIMA issued an industry advisory ("Advisory"), confirming that it has commenced the registration and notification process for entities wishing to provide virtual asset services with effect from 31 October 2020.

The Advisory reminded industry that all New Market Entrants, Pre-Existing Service Providers and Other Authorized Entities (as defined in the [Supervisory Information Circular issued on 30 October 2020](#)¹) wishing to provide virtual asset services are required to complete the registration / notification process by completing the following forms via REEFS, on or before 31 January 2021:

- (a) *VASP Registration Process -- APP-101-84* (Registration / Notification Application); and
- (b) *AML / CFT Inherent Risks – Virtual Asset Service Provider – AIR 157-84* (Inherent Risk Form).

Entities providing virtual asset services that fail to complete these forms on or before 31 January 2021 will, in respect of the conduct of virtual asset services, be in breach of the Act as of 1 February 2021 and must cease the conduct of virtual asset services as of that date. Failure to do so, may result in enforcement measures being taken by CIMA, including potential administrative fines.

Overview of the VASP Regime

The Act was introduced to align the Cayman Islands' framework with international standards for VASP regulation.

The Act, in conjunction with:

- (a) amendments made to related laws;
- (b) the Virtual Asset (Service Providers) Regulations, 2020 ("VASP Regulations"); and
- (c) guidance (yet to be introduced)

provides a prudential regulatory framework for oversight and enforcement for VASPs, virtual asset custodians and virtual asset trading platforms ("VASP Framework"). CIMA will be the principal authority with regulatory oversight of the VASP Framework.

The Act will be relevant, and potentially applicable, to entities that provide services in relation to ICOs, crypto-funds, as well as issuers of utility or security tokens. The CI Government has decided to bring the VASP Act into force in phases, focusing first on AML and registration (by February 2021), followed by licensing (by July 2021).

If you have any questions relating to the VASP Framework, please reach out to any of the below members of our dedicated Regulatory & Compliance team or your usual Maples Group contact.

Cayman Islands

Chris Capewell

+1 345 814 5666

chris.capewell@maples.com

Martin Livingston

+1 345 814 5243

martin.livingston@maples.com

Anna Whaley

+1 345 814 5534

anna.whaley@maples.com

Patrick Head

+1 345 814 5377

patrick.head@maples.com

Tim Dawson

+1 345 814 5525

tim.dawson@maples.com

¹ https://www.cima.ky/upimages/publicationdoc/SupervisoryInformat_1604090134.pdf

Quentin Cregan

+1 345 814 4415

quentin.cregan@maples.com

January 2021

© MAPLES GROUP

This update is intended to provide only general information for clients and professional contacts of Maples Group. It does not purport to be comprehensive or to render legal advice.