# Factsheet - Virtual Asset Service Providers *This fact sheet is to be read in conjunction with other relevant guidance issued by both the Department of Internal Affairs and the Financial Markets Authority such as the Financial Institutions Sector Risk Assessment, Risk Assessment Guideline, and AML Programme Guideline.*

## Introduction

Virtual Asset Service Provider (VASP) is a term that encompasses several different activities and services – an individual business may offer some or all of these. VASPs deal in Virtual Assets (VAs) – digital representations of value, which can be digitally traded, or transferred, and can be used for payment or investment purposes. A common example of a VA is a cryptocurrency such as Bitcoin.

## Types of VASP and Supervisors

Under the NZ AML/CFT regime, VASPs may be supervised by either the Department of Internal Affairs (DIA) as the primary regulator, or the Financial Markets Authority (FMA). The supervisor is determined based upon the activities a VASP undertakes. VASPs that are unsure of who their supervisor is should contact the DIA in the first instance.

In the New Zealand Context, 5 broad categories of VASP are recognised. These categories, along with their likely supervisor, are detailed in the table below.

|  |  |  |
| --- | --- | --- |
| Type of VASP | Typical activities | Examples of possible capture points |
| **Virtual Asset Exchanges** | Issuing virtual assets such as virtual currency/digital tokens to facilitate virtual asset trading  Providing a digital online platform facilitating virtual asset trading.  Trading may occur between virtual assets or between virtual asset and fiat currency. | * issuing or managing the means of payment * transferring money or value for, or on behalf of, a customer * money or currency changing |
| **Virtual Asset Wallet Providers** | Providing storage for virtual assets or fiat currency on behalf of others and facilitating exchanges between virtual assets or fiat currency. | * accepting deposits or other repayable funds from the public * transferring money or value for, or on behalf of, a customer * money or currency changing |
| **Virtual Asset Broking** | Arranging transactions involving virtual assets. | * transferring money or value for, or on behalf of, a customer |
| **Initial Coin Offering (ICO) Providers** | Issuing and selling virtual assets/digital tokens to the public | * transferring money or value for, or on behalf of, a customer * issuing or manging the means of payment * money or currency changing |
| **Providing investment opportunities in virtual assets** | If you are providing investment opportunities in virtual assets (e.g. via a derivatives issuer providing virtual asset options), AML/CFT obligations will apply in the same way as if you were providing investment opportunities in traditional assets or financial products. For more information, see <https://www.fma.govt.nz/compliance/amlcft/> | |

## Compliance Obligations for VASPs

VASPs have the same ML/TF obligations as other financial institutions under the Act and are encouraged to review the guidance offered by the Department. Two areas of specific interest for VASPs are detailed below:

### Financial Service Providers Register

In the New Zealand context, registration of Financial Services Providers is required via the Financial Service Providers Register (FSPR).

All VASPs should consider their obligation to register on the FSPR – offering services that come under the Financial Services Providers (Registration and Dispute Resolution) Act 2008 without registering may constitute an offence under that Act.

The FMA has produced [guidance](https://www.fma.govt.nz/compliance/cryptocurrencies/) for cryptocurrencies which includes information on where VASPs may need to register on the FSPR.

### Wire transfers

Wire transfers are an especially important captured activity for VASPs. In New Zealand, the definition of wire transfer is set out in section 5 of the Act. For VASPs this definition covers:

* Transactions from fiat currency to virtual assets, and
* Transactions from virtual assets to fiat currency,
* But does not include virtual asset to virtual asset transactions.

VASPs must be particularly aware of their wire transfer obligations as described in sections 27 and 28 of the Act, as well as the associated PTR obligations. These obligations apply to any transaction that is over NZD$1,000.

VASPs should, in addition, be aware of the FATF recommendations in relation to wire transfers, which include virtual asset to virtual asset transactions. VASPs should be aware that other international jurisdictions they deal with (and other VASPs based in those jurisdictions) may require this, and consequently, it would be considered ‘best practice’ for VASPs to include virtual asset to virtual asset transactions in their wire transfer procedures.

***Disclaimer: This fact sheet is intended to be read in conjunction with the AML/CFT guidelines from the AML/CFT supervisors. While reasonable measures have been taken to ensure the quality and accuracy of the information contained in this fact sheet, it does not replace information contained in the Act or related provisions and regulations. This fact sheet is for general information only and is not a substitute for independent, professional legal advice.***