



# How are Virtual Assets Service Providers navigating through the AML regulatory waters?

EY Advisory Netherlands LLP  
Financial Crime Services



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VASPs and Anti-Money Laundering: Time for action!



# The evolving environment of Virtual Asset Service Providers

The use of crypto-assets in the financial services industry is increasing at a very rapid pace, with the COVID-19 pandemic contributing to its rise. To better serve their customers, a growing list of incumbents in the financial industry are quickly building out custody solutions and trading capabilities for crypto-assets.

## How are VASPs establishing themselves as financial institutions?

Cryptocurrency exchanges and other digital firms are moving into banking and payments domain to leverage their user base and digital asset expertise to launch new products and services.

As the market continues to mature and find its place in the regulatory world, crypto-assets are increasingly becoming a priority for policymakers, regulators and international standard setters. Global initiatives and varying political approaches by governments and lawmakers have been launched to regulate the crypto-asset ecosystem and to harmonize market infrastructure.

## Why is AML relevant for VASPs?

Several of the properties that have led to the meteoric rise in the adoption of crypto-assets have also given rise to increased money laundering and terrorist financing risks. Although public blockchains are transparent and allow customer identification, there is an ever-growing list of obfuscation mechanisms that seek to protect the anonymity of crypto-asset owners.

Where there is no centralized clearing hub or exchange, there is no institution responsible for collecting and verifying know-your-client (KYC) data on customers or monitoring transactions for suspicious activity. A host of financial crime regulations have come into force across the globe aiming to close gaps in countries' supervisory and regulatory frameworks, and to counter the money laundering (ML) risks.

US \$2b

Current market  
cap of  
cryptocurrencies

34

Newly licensed  
VASPs in the  
Netherlands in  
2020

5.7m

Estimated daily  
cryptocurrency  
transactions



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# VASPs and AML: Understanding the rules and positioning wisely

Some countries have introduced anti-money laundering (AML) regulations and others enacted more stringent controls. Variations in risk appetite present bad actors with opportunities for regulatory arbitrage. This could mean that some will gravitate to jurisdictions with less rigorous AML regimes to allow for greater agility and the ability to innovate at speed. Others may gravitate to stronger regimes to demonstrate safety, soundness and confidence.

## What should you expect from regulators?

- ▶ In the EU, according to the European Commission, the sector entails “high risk” of money laundering and terrorist financing. Thus, a comprehensive legislative package was introduced in July 2021 which addresses the sector by requiring them to fully adhere to EU wide AML/CFT rules. In addition, EU moved to prohibit anonymous crypto-asset wallets.
- ▶ In the US, FinCEN assessed a US \$60 million penalty on crypto-asset “mixer” businesses for violating anti-money laundering laws. The primary operator of crypto firms Helix and Coin Ninja was served with a US \$60 million civil money penalty for violations of the Bank Secrecy Act (BSA).
- ▶ South Korea’s ban on privacy coins: Following the footsteps of the regulator in Japan, the South Korean regulator banned all “private-centric dark coins” from March 2021 onward, citing the popularity of dark coins, among cybercrime syndicates and money launderers as the reason for the ban.

## How are your peers navigating the complex regulatory landscape?

- ▶ A top-tier French bank issued the first covered bond as a security token on a public blockchain. They issued EUR 100m of covered bonds as a security token, directly registered on the Ethereum public blockchain.
- ▶ In August 2020 Singapore Exchange (SGX) completed a digital bond issuance on SGX’s digital asset issuance, depository and servicing platform, in collaboration with HSBC Singapore and Temasek.<sup>1</sup>
- ▶ So far 13 of the world's largest banks are pushing roughly US \$3b in funding into cryptocurrency and blockchain companies, according to the Dutch analytics company Blockdata. A London-based top-tier bank leads the list with US \$380 million in valuation of the funding rounds in which it participated while its London-based rival ranked as the most active investor based on the number of investments in blockchain companies.<sup>2</sup>

<sup>1</sup> See more here: [https://www.nvb.nl/media/3560/nvb-crypto-assets\\_eng.pdf](https://www.nvb.nl/media/3560/nvb-crypto-assets_eng.pdf)

<sup>2</sup> See more here: <https://markets.businessinsider.com/news/currencies/13-top-banks-investing-cryptocurrency-blockchain-technology-funding-blockdata-bitcoin-2021-8>



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# VASPs and AML:

## Overview of regulations in the Netherlands

### Implementation of AMLD5

The implementation of AMLD5 into the Dutch Money Laundering and Terrorist Financing Prevention Act (Wwft) came into force by the end of May 2020. As a consequence, providers engaged in exchange services between virtual currencies and fiat currencies and custodian wallet providers are brought into the scope of the Wwft.

### Dutch regulatory AML/CFT framework

The Dutch regulation is in line with several other EU countries and distinguishes particular requirements on how the registration of a VASP should take place as well as specifics on the information required on the natural persons representing it. A few general remarks of what is expected from the regulatory bodies:

- ▶ Registration of exchange service providers and custodian wallet providers should take place in timely and orderly manner
- ▶ Persons who hold a management function in these providers, or the UBOs of these providers, must be fit and proper persons.
- ▶ General AML/CFT requirements:
  - Obligation to identify and assess ML/TF risks related to the business activities
  - Customer due diligence requirements
  - Reporting obligations to the FIU-Netherlands
  - Obligation to provide ongoing AML/CFT training requirements for employees

### Registering of VASPs in the Netherlands

The Dutch supervisor (DNB) has the right to decline the registration if:

- ▶ The information provided during the registration process is not complete or not correct, or
- ▶ The person(s) who hold a management function or the UBO of the provider are not fit and proper.

Additionally, DNB has the possibility to withdraw a registration, for example if:

- ▶ Incorrect information has been provided during the registration process
- ▶ Relevant circumstances or facts have been concealed during the registration process
- ▶ The requirements of the Wwft are not met.

Providers without a registration are not permitted to provide services in or from the Netherlands.

Providers which are only established in a third country (i.e., outside the European Union) are not allowed to provide services in or from the Netherlands.



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# VASPs and AML:

## Key trends and challenges

### Expansion of EU AML/CFT framework to entire crypto sector

The recently presented AML package of the European Commission from July 20, 2021, aims to apply the EU AML/CFT framework to the entire crypto sector, bringing in scope the following services related to crypto-assets:

- ▶ The custody and administration of crypto-assets on behalf of third parties
- ▶ The operation of a trading platform for crypto-assets
- ▶ The exchange of crypto-assets for other crypto-assets
- ▶ Placing of crypto-assets
- ▶ The exchange of crypto-assets for fiat currency that is legal tender
- ▶ The execution of orders for crypto-assets on behalf of third parties
- ▶ The reception and transmission of orders for crypto-assets on behalf of third parties
- ▶ Providing advice on crypto-assets
- ▶ Anonymous crypto-asset wallets will be prohibited

### Impact



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# Main challenges for setting up a compliant AML/CFT function

## Risk Assessment – Risk Appetite Statement

1

Section 2b of the Wwft obligates crypto service providers to prepare an integrity risk analysis. EY can support you with identifying and analyzing the possible ML/FT risks. More important, EY is able to tailor the risk appetite and risk statement to the specific risks of the products and services you are offering. EY's risk assessment methodology incorporates *virtual currencies* specific customers, products, transactions and control mitigating measures. In addition, EY pay specific attention to the (new) digital asset risks.

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## Know Your Customer – Customer Due Diligence

2

Article 3 of the Wwft sets out the requirement to perform customer due diligence. The anonymous nature of virtual asset transaction requires additional due diligence measures. EY is able to support you with enhancing existing specialized due diligence practices to mitigate virtual asset risks, including collecting and refreshing virtual asset specific information. In addition EY supports you with the performance of transactions reviews to assess the nature and purpose of the account.

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## Screening

3

VASPs must check whether their clients and any ultimate beneficiary owners (UBOs) are on a Dutch or European sanctions list and report any hits to DNB. EY can support in performing blockchain analytics and sanctions screening on virtual asset related data. In addition, EY is able to support you in implementing a sanctions control framework, including the identification of beneficiaries of transactions of your clients to prevent your business from TF. Also, EY is capable of creating transactional controls to support rejecting or blocking of transactions.

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## Transaction Monitoring and FIU reporting

4

VASPs are required to monitor on an ongoing basis the transactions of their clients in order to report every unusual transaction to the FIU. Existing monitoring systems often offer partial coverage for virtual asset typologies. EY teams can support you with segmentation and tuning to further capture unusual activity for virtual asset, including scenarios to reflect inherent risk of virtual asset transactions. In addition, EY facilitates the integration of blockchain analytics into the monitoring program to allow for holistic monitoring.

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# How can EY support VASPs in their AML compliance journey?



**We leverage the knowledge from a worldwide network of experts**

EY joins forces with dedicated teams of engineers, cryptographers, compliance and security experts. We developed cross-industry and -service line Global Working Groups to approach compliance issues from a multidimensional perspective.



**We use our insights to participate in proactive discussions**

EY, cooperates with public parties to find practical solutions and improve system implementation for AML/CFT compliance. As an example, EY teams contributed to public consultations of the FATF\* and the European Commission\*\*.



**We understand your business based on our experience with previous clients**

EY has supported several clients with obtaining their license or completing their registration as well as addressing regulatory findings and developing the AML controls. In addition, EY teams assisted multiple VASPs with the implementation of the financial crime and compliance plan to enhance the AML controls and risk frameworks.

\* March 2021, the FATF published a public consultation on its draft guidance on a risk-based approach to virtual assets and virtual asset service providers

\*\*December 19th 2019, the Commission published a consultation document seeking views on the EU regulatory framework for crypto-assets. Other topical areas discussed include the promotion of digital finance and blockchain, and the development of stable coins

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# Why is EY ahead of the pack ...

## The EY organization commits US \$100 million funding to blockchain research, solutions

EY has launched both public and private blockchain solutions, including participating in the creation of the Baseline Protocol, which aims to help enterprises adopt the public blockchain<sup>7</sup>

### Market Leaders

## EY selected as a market leader in enterprise blockchain solutions

We are considered the market leaders by independent research companies in the field on (public) enterprise blockchain<sup>5</sup>

## One-Third Of Hedge Fund Managers To Invest In Crypto, EY Reveals

We are at the forefront of understanding market trends and supporting clients in bringing to life long term visions<sup>9</sup>

### Vision Definers

## The DeFi wave is approaching: How can you navigate this new form of financial intermediation?

EY continuously provides thought leadership on the topics related to VASPs, cryptocurrencies and DeFi<sup>8</sup>

## EY Blockchain platform

Allows businesses to digitalize and integrate the complete business life cycle of your operations and finance at the ecosystem level<sup>4</sup>

### EY Solutions

## EY integration with Polygon protocol and framework on Ethereum scaling solutions

Offers enterprise users increased transaction volumes with predictable costs. Provides the option to move transactions onto the public Ethereum main net<sup>6</sup>

<sup>4</sup> <https://blockchain.ey.com/>

<sup>5</sup> Enterprise Blockchain Is at a Private-Public Crossroads - CoinDesk

<sup>6</sup> [https://www.ey.com/en\\_gl/news/2021/09/ey-announces-integration-with-polygon-protocol-and-framework-on-ethereum-scaling-solutions](https://www.ey.com/en_gl/news/2021/09/ey-announces-integration-with-polygon-protocol-and-framework-on-ethereum-scaling-solutions)

<sup>7</sup> <https://www.ledgerinsights.com/ey-commits-100-million-to-blockchain-research-solutions/>

<sup>8</sup> [https://assets.ey.com/content/dam/ey-sites/ey-com/en\\_gl/topics/consulting/ey-the-defi-wave-is-approaching-v2.pdf?download](https://assets.ey.com/content/dam/ey-sites/ey-com/en_gl/topics/consulting/ey-the-defi-wave-is-approaching-v2.pdf?download)

<sup>9</sup> <https://www.benzinga.com/markets/cryptocurrency/21/11/24232674/one-third-of-hedge-fund-managers-to-invest-in-crypto-ey-reveals>

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# EY profile and across the global FinCrime footprint

8+

Global  
FinCrime Hubs

The industry leader in AML and KYC services. Led Financial Crime transformation and remediation programs at 7 of the 10 largest financial services organizations and more than 20 regional institutions.

120+

Countries  
supported

We bring a depth and breadth of technical and service experience, as well as a vast network of subject-matter resources, to provide a set of integrated services that can address your needs. Our industry experience, credibility and advanced technology offerings provide increased effectiveness and efficiency for payment service providers as they manage the many risks of FinCrime.

1.7K+

Consultants with  
FinCrime experience

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