



Estonia to tighten regulation of virtual asset service providers

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On December 23, the Estonian government approved draft legislation to more effectively regulate virtual asset service providers (VASPs) to mitigate the risk of financial crime. The revised draft law builds further on the general prohibition to open anonymous virtual accounts, a rule that came to force in summer 2020 after the booming of license applications and favorable legal environment brought the virtual assets under the scrutiny of FIU and law enforcement authorities.

The regulation is not applied to customers, but to VASPs who conduct activities for or on behalf of natural or legal person as a permanent business. This means that the legislation does not contain any measures to ban customers from owning and trading virtual assets and does not in any way require customers to share their private keys to wallets. The regulation does not affect individuals who own virtual currency through a private wallet not provided by a VASP. However, accounts opened with Estonian VASPs cannot be anonymous and Estonian VASPs cannot offer anonymous accounts or wallets.

According to the draft legislation, virtual asset service providers who facilitate transactions of virtual assets are required to identify their customers. Identifying information must be retained in a way that would enable it to be linked to the transaction, similarly to bank transfers. If the receiving party is unable to process such information, VASPs are required to implement real-time risk analysis.

The measures are analogous to rules that apply to transactions facilitated by banks and payment service providers, since virtual assets are also used first and foremost for value transfers. Collecting and exchanging data significantly reduces the risk that virtual assets will be used for financial crime.

The amendment transposes FATF recommendations to allow service providers to conduct transactions with parties from other jurisdictions where such requirements do not yet apply. The proposed draft would incorporate the updated international standards on VASPs by FATF, including types of virtual asset services that are defined by FATF but had not been clearly defined under the current law.

The new regulation also states that only companies who operate in Estonia or are connected to Estonia can apply for a license to operate as a VASP. Current rules allow the resale of companies that have obtained a license to third parties who are not connected to or do not operate in Estonia. Supervising such entities is unfeasible and the risk of abuse endangers Estonian VASPs who operate transparently and in good faith. Under new rules, the Financial Intelligence Unit can decline a license where the entity does not have any business operations in Estonia nor has any apparent connection to Estonia.

One of the most significant amendments affecting smaller VASPs are capital requirements, which will be raised, to ensure that licensed VASPs are active companies. VASPs will be required to have a minimum of 125 000 or 350 000 euros of share capital, depending on the type of service offered, increased from the current floor of 12 000 euros. The average annual turnover of VASPs licensed by Estonia is currently 80 million euros. This measure will further reduce the risk of registering or keeping dormant VASPs for resale.

The draft law has now been submitted to Riigikogu, the Estonian parliament, where the bill needs to undergo three readings to become law.

[For more information, please see the FAQ.](#)

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