



BLOCKFINANCE: INNOVATIVE TECHNOLOGY ARRANGEMENTS & AML CHALLENGES

03 April 2019

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REGULATING DLT FROM A PMLFT PERSPECTIVE

DIFFERENT KINDS OF RISKS

Sunday, March 4, 2018, 00:01
Could blockchain be the new dawn for anti-money laundering?

How Criminals Use Cryptocurrency giving criminals a safe haven for laundering, it's important that you stay compliant. Here's everything you need to know.

CYBER RISK JANUARY 25, 2018 / 1:01 PM / 9 MONTHS AGO

U.S. says illicit activity is top cryptocurrency concern

million in cryptocurrency

CRYPTOCURRENCIES AND MORE THAN EUR 8

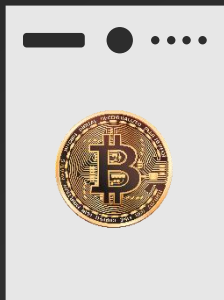
31,146 views | Dec 28, 2017, 12:18pm
Using Bitcoin Or Other Cryptocurrency To Commit Crimes? Law Enforcement Is Onto You

Monday, March 11, 2019, 16:05 by Vanessa Macdonald
MFSA appoints partner to help cryptocurrency asset checks
US company would check assets used in transactions

Friday, October 5, 2018, 14:01 by Vanessa Macdonald
MFSA investing heavily to reduce virtual currency risks
Zero tolerance promised for any cases of abuse

Journal investigation documents suggest...
By **Justin Scheck** and **Shane Shifflett**
Sept. 28, 2018 11:49 a.m. ET

DIFFERENT KINDS OF RISKS



Money Laundering



Tax Evasion



Funding Terrorism

ANONYMITY

Limitations on:

- Identification
- Verification
- Monitoring



Smurfing, Structuring,
Mixing, Tumbling

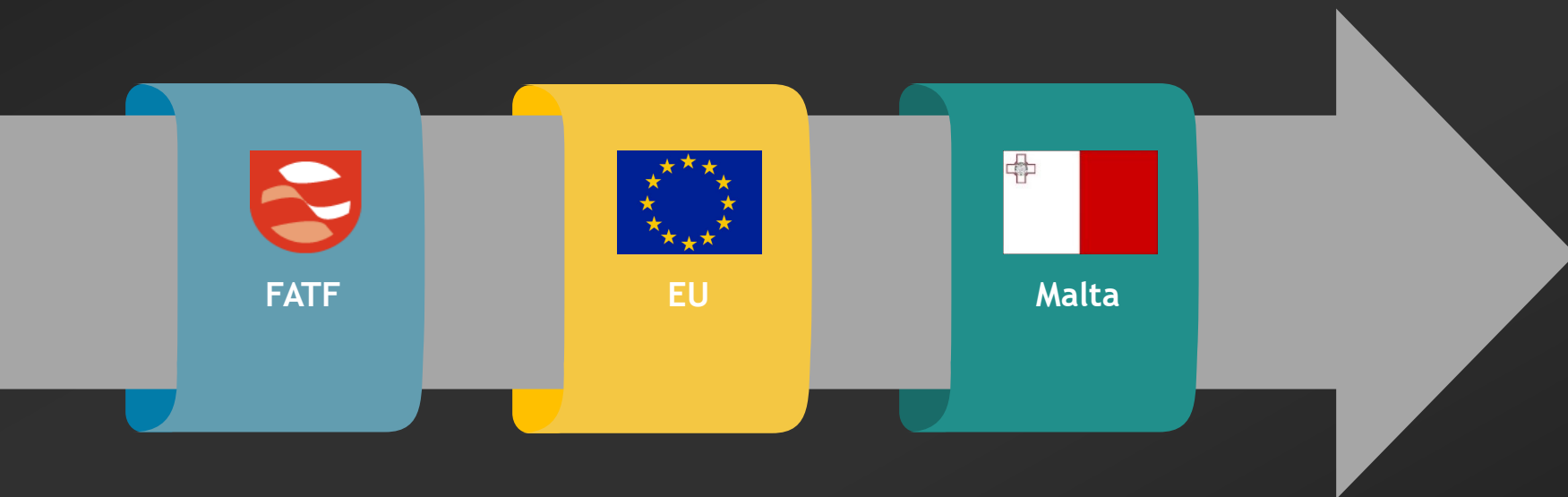


ML/FT & HIGH RISK COUNTRIES



PMLFT

Regulatory Framework





THE FATF

PMLFT & FATF



FATF

- *an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions*
- *today, 37 members: 35 jurisdictions & 2 regional organisations (Gulf Cooperation Council & EC)*
- *the core of global efforts to combat MLFT*
- *plenary meets 3 times per year*

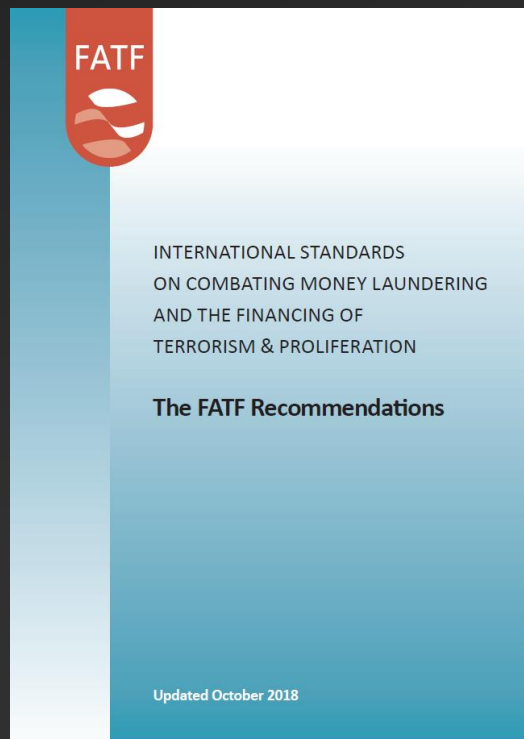
PMLFT & FATF



Objectives: to set standards & promote effective implementation of legal, regulatory and operational measures for combating:

- *money laundering*
- *terrorist financing*
- *other related threats to the integrity of the international financial system*

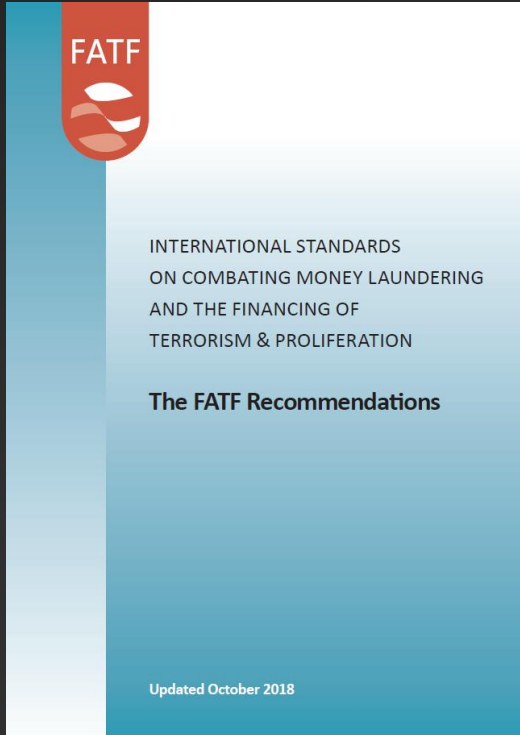
PMLFT & FATF



FATF |

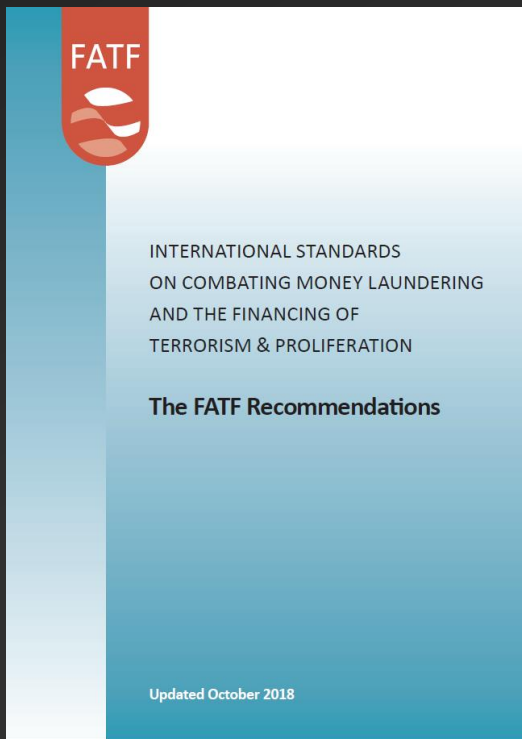
40 recommendations

PMLFT & FATF



- *response to the increasing use of virtual assets for ML & FT*
- *requested by G20 Ministers*
- *clarifying to which activities & businesses the FATF recommendations apply in the case of virtual assets*

PMLFT & FATF



Countries should ensure that virtual asset service providers are:

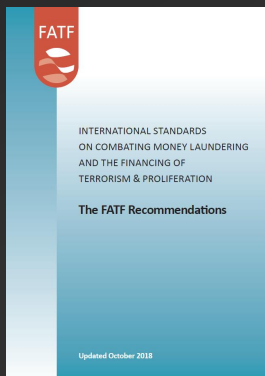
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regulated for AML/CFT purposes, and

2

licensed / registered and subject to effective systems for monitoring and ensuring compliance with the relevant measures called for in the FATF Recommendations

PMLFT & FATF



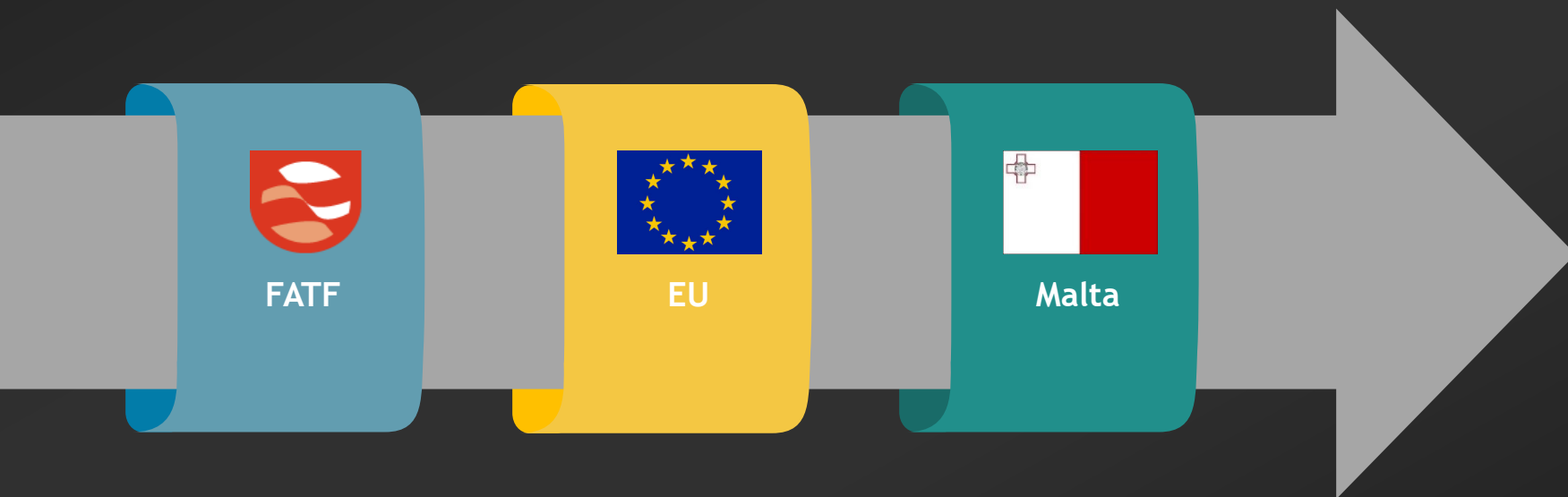
Virtual asset service provider means any natural or legal person who is not covered elsewhere under the Recommendations, and as a business conducts one or more of the following activities or operations for or on behalf of another natural or legal person:

- i. exchange between virtual assets and fiat currencies;*
- ii. exchange between one or more forms of virtual assets;*
- iii. transfer* of virtual assets;*
- iv. safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets; and*
- v. participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset.*

** In this context of virtual assets, transfer means to conduct a transaction on behalf of another natural or legal person that moves a virtual asset from one virtual asset address or account to another.*

PMLFT

Regulatory Framework





EU REGULATORY FRAMEWORK

PMLFT & THE EU

- ▶ regulating financial institutions with a view to preventing money laundering & financing of terrorism
- ▶ minimum harmonisation directives



PMLFT & THE EU

Current Regime | 4AMLD

“Today, we are putting forward stricter transparency rules to cut terrorist financing and step up our fight against money laundering and tax avoidance...”

Věra Jourová

EU Commissioner for Justice, Consumers & Gender Equality



PMLFT & THE EU

Current Regime | 4AMLD

...The update of the 4AMLD will prevent any loopholes in Europe for terrorists, criminals or anyone trying to play with taxation rules to finance their activities. Better cooperation to fight these issues will make the difference.”

Věra Jourová

EU Commissioner for Justice, Consumers & Gender Equality



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5AMLD

“We welcome the adoption by the EP of the 5th Anti-Money Laundering Directive. The new rules will bring more transparency to improve the fight against money laundering and terrorist financing across the European Union ... In July 2016, in the aftermath of terrible terrorist attacks that struck the EU and the vast financial dealings uncovered by the “Panama Papers”, the Commission decided to take urgent counter-measures. The revised directive is part of that action plan.”

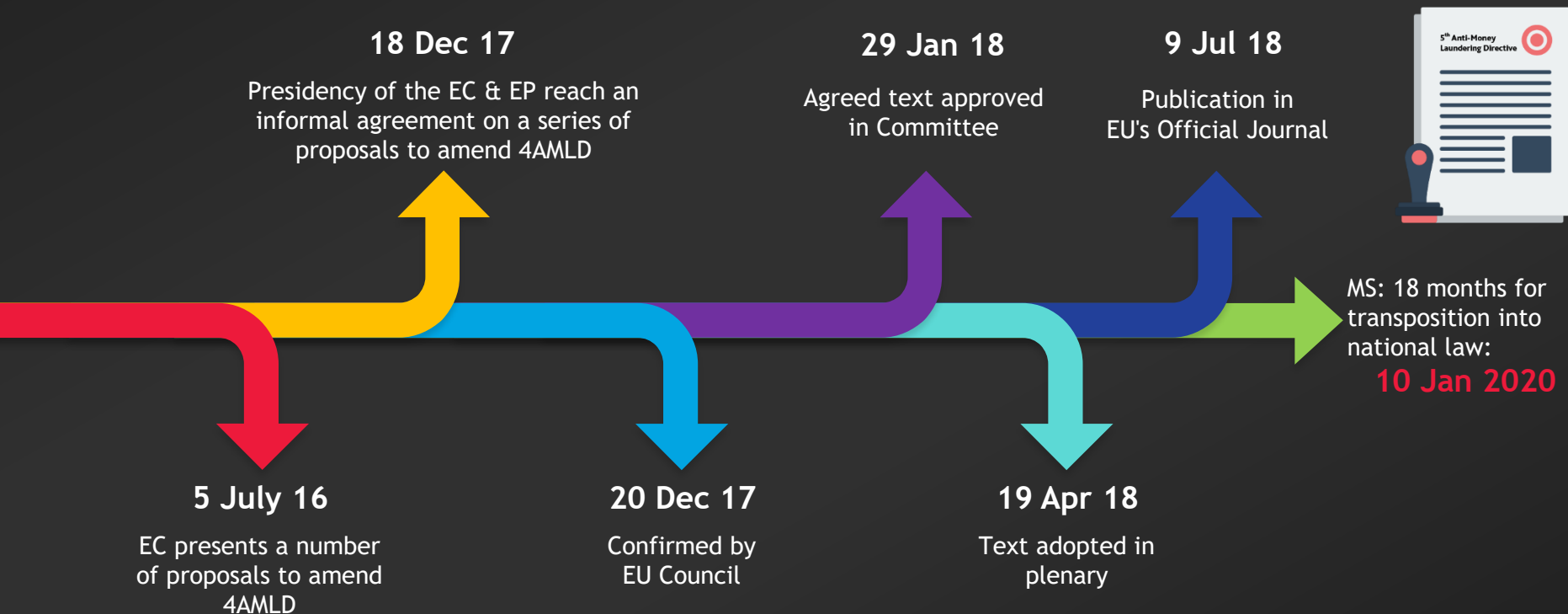


Comm. Věra Jourová

1st VP Timmermans, VP Dombrovskis

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5AMLD Timeline



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5AMLD

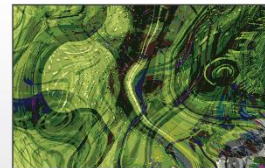
New Obligated Entities



Fintech industry



persons providing similar
services to those provided by
auditors, external
accountants, tax advisors



persons trading
in works of art

PMLFT & THE EU

5AMLD

New Obligated Entities - Fintech:

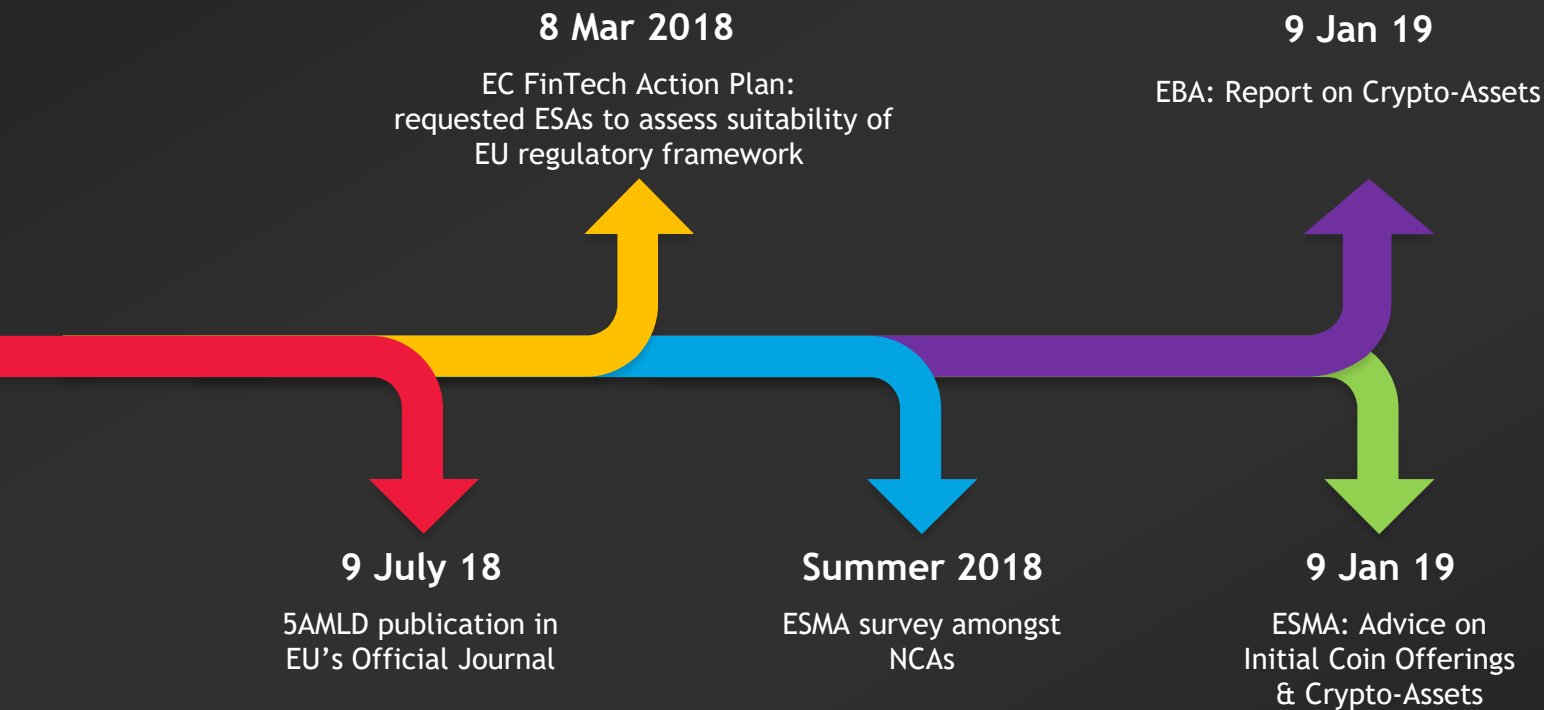


- ▶ *providers engaged in exchange services between virtual currencies & fiat currencies*
- ▶ *custodian wallet providers*

Fintech industry

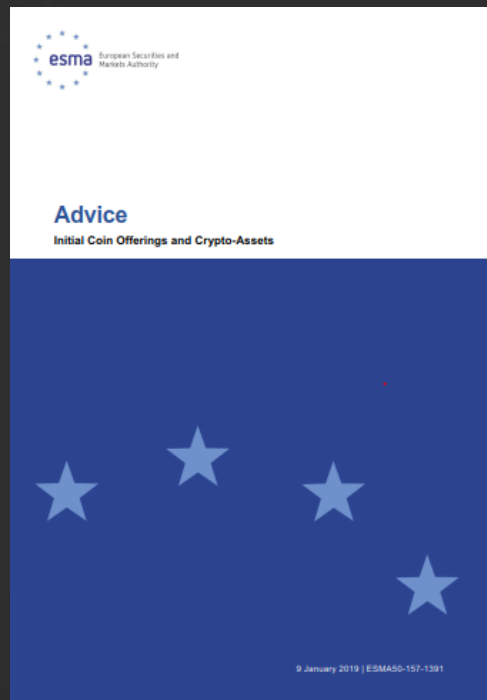


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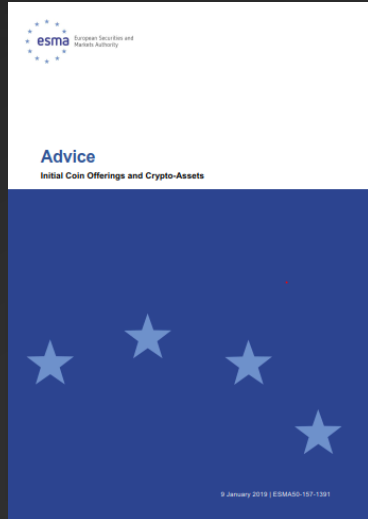
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European Securities & Markets Authority



PMLFT & THE EU

European Securities & Markets Authority

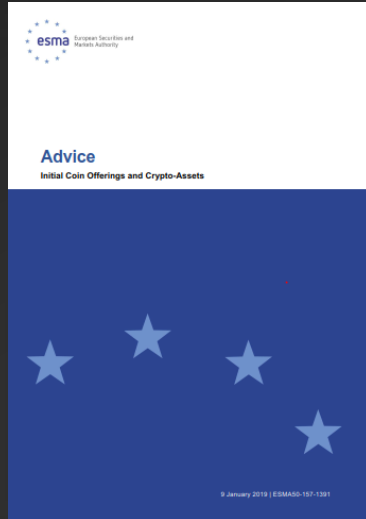


to attain a better understanding of the applicability & suitability of EU regulation to crypto-assets to address:

- *potential financial stability*
- *market integrity*
- *investor and consumer protection*
- *personal data protection*
- *MLFT risks*

PMLFT & THE EU

European Securities & Markets Authority



- ▶ *5AMLD: providers engaged in exchange services between virtual currencies & fiat currencies*
- ▶ *5AMLD: custodian wallet providers*
- ▶ providers engaged in exchange services between crypto-assets & crypto-assets
- ▶ providers of financial services for ICOs

PMLFT & THE EU

European Banking Authority



- *EBA July 2014 Opinion*
- *prevalence of crypto-to-crypto exchanges*
- *FATF recommendations updates of Oct 2018*
- *enhancing resilience of the financial system by reducing PMLFT risks*

PMLFT & THE EU

European Banking Authority



“any wider assessment by the EC of any extension to the EU regulatory perimeter with regard to crypto-asset activities (e.g. in terms of the establishment of new authorisation or registration requirements from a prudential/conduct of business perspective) would be relevant to a consideration of the implementation of the FATF recommendations”



MALTA REGULATORY FRAMEWORK

PMLFT

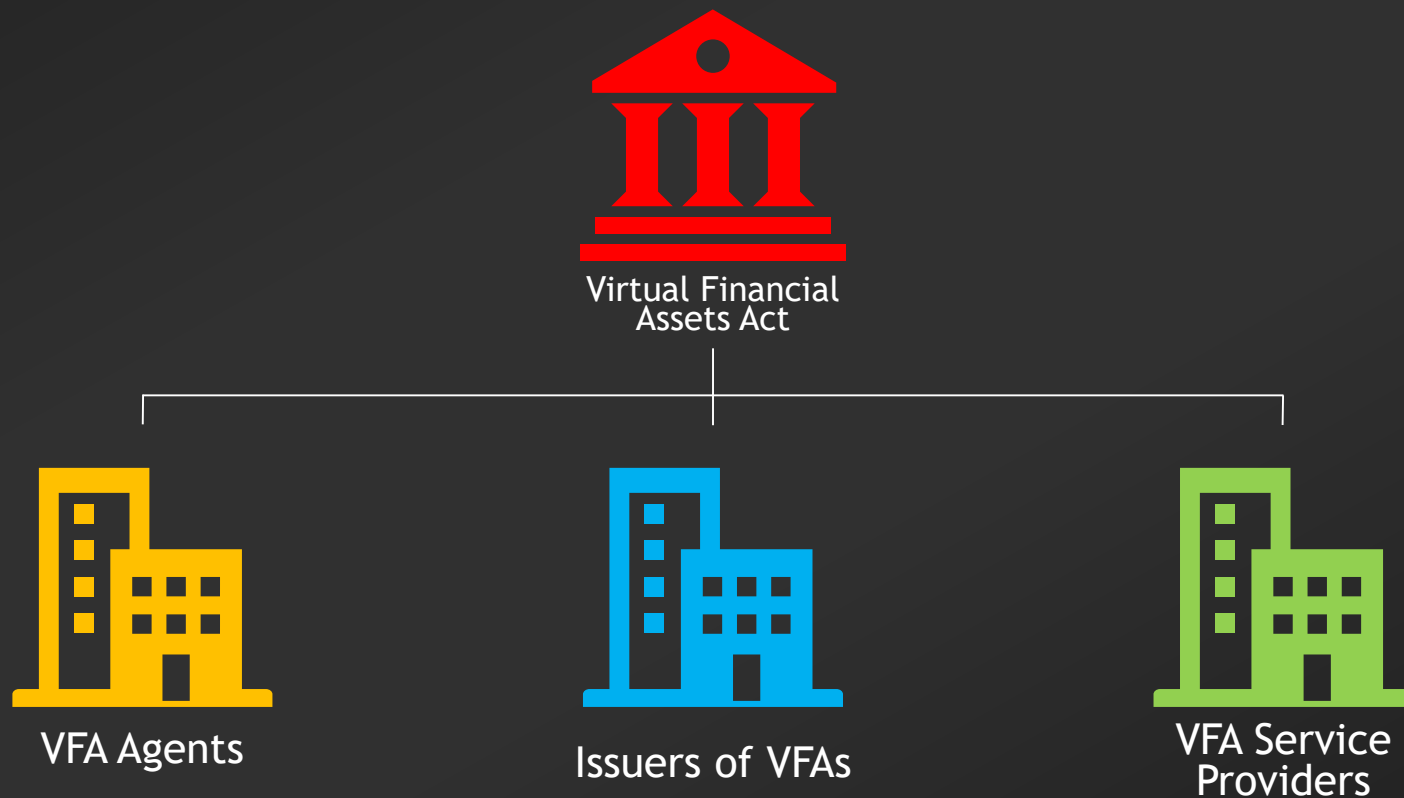
Regulatory Framework

FATF | 40 recommendations

EU | 4th AML Directive 2015/849
5th AML Directive

Malta | Prevention of Money Laundering Act
Prevention of Money Laundering & Funding of
Terrorism Regulations
VFA Act, Rules, Guidance
FIAU Implementing Procedures

MALTA REGULATORY FRAMEWORK

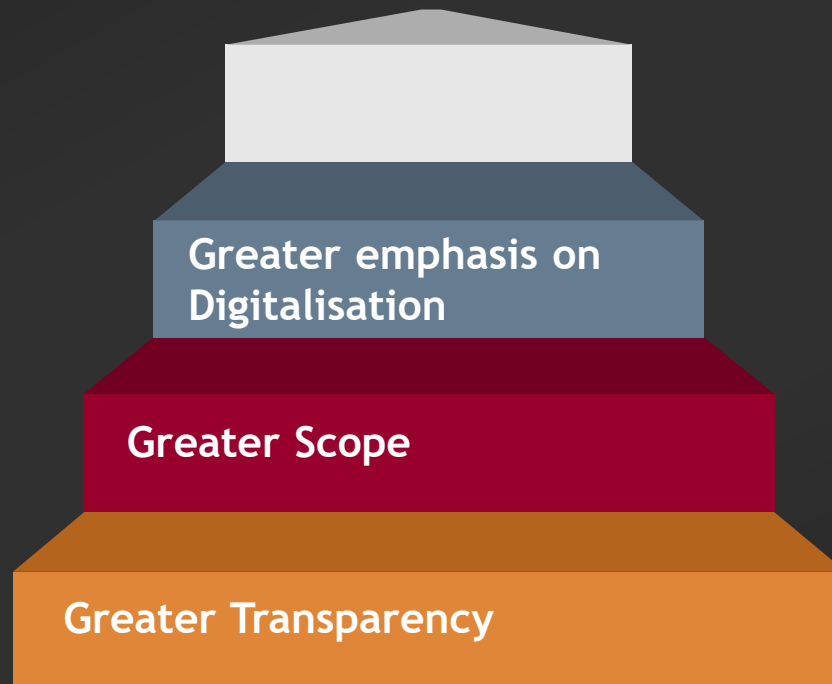


MALTA REGULATORY FRAMEWORK



VFA Service
Providers

- ▶ *Reception and Transmission of Orders*
- ▶ *Execution of orders on behalf of other persons*
- ▶ *Dealing on own account*
- ▶ *Portfolio Management*
- ▶ *Custodian or Nominee Services*
- ▶ *Investment Advice*
- ▶ *Placing of virtual financial assets*
- ▶ *The operation of a VFA exchange*





THANK YOU

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