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International Exchange of Information Manual

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IEIM8000150 - Making available a trading platform

An individual or entity may also effectuate exchange transactions for or on behalf of customers by making available a trading platform that provides the ability for such customers to effectuate exchange transactions on such platform.

A trading platform includes any software program or application that allows users to effectuate (either partially or in their entirety) exchange transactions.

An individual or entity will be considered to make available a trading platform to the extent it exercises ‘control or sufficient influence’ (COSI) over the platform, allowing it to comply with the due diligence and reporting obligations with respect to exchange transactions conducted on the platform.

A group of individuals or entities may also have COSI over a trading platform. This may occur through the coordinated efforts of multiple individuals and/or entities, which may be located in multiple jurisdictions. In such cases, each individual or entity that exercises COSI over the platform is considered a RCASP. For such scenarios, the CARF due diligence rules provide for the option of RCASPs designating a single party to fulfil the due diligence requirements. Each RCASP remains responsible for the fulfilment of the obligations.

Whether an individual or entity, or group of individuals and entities, exercises such control or sufficient influence should be assessed in a manner consistent with the 2012 Financial Action Task Force (FATF) recommendations (as amended in June 2019 with respect to virtual assets and Virtual Asset Service Providers) and related FATF guidance. See the guidance IEIM8000160 - Assessing Control or Significant Influence in a manner consistent with Financial Action Task Force (FATF) Guidance (https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information/ieim8000160)

It is important to note that software programs or applications cannot be RCASPs under the CARF, in the same way that they are not considered Virtual Asser Service Providers (VASPs) under FATF anti-money laundering (AML) or know your customer (KYC) rules. Rather, it is the individuals or entities that provide and maintain COSI over such software programs or applications as part of a service that can be RCASPs or VASPs.

Example – simple trading platform example

An entity provides access to software marketed as ‘decentralised’ that automatically matches a buyer and seller, and facilitates exchange transactions between those cryptoasset users. The entity maintains continuing control over the parameters of the software and profits from the arrangement. Therefore, the entity is acting as a business making available a trading platform it maintains COSI over and is an RCASP under the rules.

Example – bulletin board is not a trading platform

An individual or entity that is making available a platform that solely includes a bulletin board functionality for posting buy, sell or conversion prices of relevant cryptoassets would not be a RCASP. This is because it does not provide a service allowing users to effectuate exchange transactions.

Example – creators of software

An individual or entity that solely creates or sells software or an application is not a RCASP, as long as it is not using such software or application for the provision of a service effectuating exchange transactions for or on behalf of customers.

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