



FINANCIAL ACTION TASK FORCE
THE PRESIDENT

Professor Joseph Cannataci
Special Rapporteur on Right to Privacy
United Nations
Human Rights

18 June 2019

Our Ref. : 20190618AWD01

Subject : Adoption of Draft Interpretive Note to FATF Recommendation 15, at the plenary meeting of the FATF in Orlando, United States of America, on 16-21 June 2019

Dear Professor Cannataci,

In response to your letter dated June 13, 2019, I note that the United Nations has recognised the Financial Action Task Force (FATF) as the global standard-setter for combating money laundering, terrorist financing, and proliferation financing. Over its thirty-year history, the FATF has demonstrated that anti-money laundering and countering the financing of terrorism (AML/CFT) measures complement and help protect human rights globally. Effective implementation of the FATF standards disrupts the ability of criminals, including human rights abusers and kleptocrats, to fund their heinous acts and profit from their ill-gotten gains.

Among other obligations under the FATF Recommendations, the FATF's preventative measures, such as customer due diligence, recordkeeping, and suspicious transaction reporting, apply to all financial institutions. They foster both financial inclusion and financial transparency, including by enabling financial institutions and law enforcement to know who is ultimately behind transactions in order to identify, deter, and disrupt illicit finance.

Given the range of financial activities that virtual assets and their providers make possible, the FATF's actions relating to virtual assets are designed to apply the same standards to the virtual asset sector as those that apply to other financial institutions. As the G-20 and the United Nations have both noted, urgent action is necessary in light of the growing illicit financing risks associated with virtual assets, virtual asset financial activities, and related providers.

Your letter is therefore curious, given that the United Nations Security Council this Spring passed Resolution 2462 on terrorist financing. It specifically welcomed the FATF's ongoing work concerning virtual assets and virtual asset service providers and encouraged Member States to apply risk-based AML/CFT regulations to and identify effective systems to conduct risk-based monitoring or supervision of virtual asset service providers. Resolution 2462 further calls on Member States to assess and address the potential risks associated with virtual assets and take steps to ensure that providers of such assets are subject to AML/CFT obligations.

Over the past year, the FATF has worked to amend Recommendation 15 on New Technologies and add two new technology-neutral definitions to the FATF Glossary on "virtual assets" and "virtual asset service providers," draft an Interpretive Note to Recommendation 15, and prepare updated guidance to further assist countries and providers in complying with their AML/CFT obligations. Notably, the FATF expects that the latter forthcoming guidance paper will underscore the importance of data privacy in the context of AML/CFT.

Recognising the importance of this issue and the potential for new technologies and financial innovations to support financial inclusion globally, the FATF agreed in February that its Private Sector Consultative Forum (PSCF) in May 2019 should include virtual assets as a primary topic for discussion with industry and civil society. The United Nations graciously hosted the weeklong FATF PSCF at its Vienna, Austria headquarters, and played a major role during our discussions. At no time did the United Nations raise any concerns relating to data privacy or human rights during the PSCF, where such matters were

discussed with convened experts, the private sector, and civil society in a fruitful dialogue. Your letter therefore expresses views not raised by the United Nations during the FATF meetings, nor supported by the United Nations Security Council.

Indeed, for your awareness, the FATF developed Recommendation 16 on Wire Transfers many years ago with the objective of preventing terrorists and other criminals from having unfettered access to electronically facilitated funds transfers for moving their funds and for detecting such misuse when it occurs. It establishes requirements in the context of any transaction carried out on behalf of an originator through a financial institution by electronic means with a view to making the funds available to a beneficiary person at a beneficiary financial institution.

The longstanding obligations and collection of information required under Recommendation 16 have therefore been key to enabling countries as well as obliged institutions across the financial system to—among other AML/CFT measures—identify and report suspicious transactions; take freezing actions; and prohibit transactions with designated persons and entities in order to comply with targeted financial sanctions obligations, including in the context of United Nations Security Council resolutions relating to terrorism, terrorist financing, and proliferation.

The forthcoming Interpretive Note to Recommendation 15 thus serves to bring virtual asset financial activities and related providers in line with longstanding and globally accepted requirements for financial institutions in order to create a level playing field and enable all countries to effectively regulate and supervise this space. Pursuant to Recommendation 2 on National Cooperation and Coordination, the FATF would expect countries to coordinate with data privacy authorities in implementing Recommendation 15 and its Interpretive Note.

It is a core, foundational principle of the international financial system that the respect for data privacy does not mean acceptance of anonymity of transactions. The FATF standards require financial institutions to identify who the senders and recipients of funds transfers are. These requirements best position financial institutions and law enforcement to identify and manage illicit finance risks. Far from threatening human rights, FATF standards ensure the viability of our financial systems and contribute to human rights and well-being around the globe.

Respectfully,

A handwritten signature in dark ink, reading "Marshall Billingslea". The signature is fluid and cursive, with the first name "Marshall" written in a larger, more prominent script than the last name "Billingslea".

Marshall Billingslea
FATF President

Cc: David Lewis, FATF Executive Secretary, david.lewis@fatf-gafi.org