

Special Attention, Reinforced Monitoring and Reporting: the Financial Information Unit (UIF) issued Regulation No. 300/2014 that imposes certain compliance requirements to appointed bound parties that conduct operations with virtual currencies. Does it change anything?

Money Laundering (ML) and Financing of Terrorism (FT) prevention

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UIF Regulation No. 300/2014 (official gazette 10 July 2014) established a specific monitoring regime for operations with virtual currencies entered into by certain bound parties.

The UIF is the authority appointed by Act 25,246, Section 6, as responsible for the analysis, handling and transmission of information with the purpose of preventing ML and FT crimes.

The UIF recognizes the economic relevance and the global expansion of the virtual currencies and at the same time it warns of the potential risks and vulnerabilities for the ML and FT prevention system that people seeking to avoid it could take advantage of.

The documents issued in January and June 2014 by the Financial Action Task Force (FATF)¹ point out to the anonymity and the eventual impossibility of a nominative traceability of transactions as one of the most important risks associated with virtual currencies.

The UIF understands that the detection of suspicious transactions by the bound parties might be affected by the ability provided by virtual currencies to be traded online and to be transferred across borders, which entails the possibility of involving entities from jurisdictions that do not have adequate ML and FT controls.

As a result, the UIF issued this new regulation on the grounds that it will allow the proper mitigation of ML and FT risks in Argentina and follow FATF Recommendation 1 out of 40 on this topic, that is that “countries shall require financial institutions and appointed non financial activities and professions to identify, evaluate and take an effective action to mitigate the risks of ML and FT”².

¹ FATF REPORT, Virtual Currencies: Key Definitions and Potential AML/CFT Risks, Junio 2014, disponible en: <http://www.fatf-gafi.org/media/fatf/documents/reports/Virtual-currency-key-definitions-and-potential-aml-cft-risks.pdf>

² La UIF y el Central ponen la lupa sobre las operaciones con bitcoins, Paola Quain, Perfil.com, 20 Abril 2014, disponible en <http://www.perfil.com/economia/La-UIF-y-el-Central-ponen-la-lupa-sobre-las-operaciones-con-bitcoins-20140420-0047.html>.



This is the second official pronouncement about virtual currencies issued by a governmental agency in Argentina, after a Central Bank (BCRA) communication published on its website on 27 May 2014.

1. “Special attention” and “reinforced monitoring”

The new rule focuses on transactions performed with virtual currencies and compels certain bound parties to pay “special attention” to the risk they imply and to carry out a “reinforced monitoring”.

Specifically, they have to evaluate whether the transactions with virtual currencies are consistent with the profile of the customer involved according to the 'know your client' policies implemented by these bound parties.

This obligation applies since 1 August 2014 and is enforceable for transactions that are made as from the next day.

2. Transactions covered

The UIF regulation says that the transactions covered are only those entered with “virtual currencies” and defines them as “the digital representation of value that can be used for digital commerce and whose functions are to provide a medium of exchange, and/or a unit of account, and/or a store of value, but they are not legal tender, nor issued or backed by any country or jurisdiction”.

Transactions with “electronic money” are ruled out, defined as “a mechanism to digitally transfer fiat currencies, that is, currencies that are legal tender in any country or jurisdiction”.

It was already implicit in the BCRA communication the official approach that “virtual currencies” do not qualify as currency because of not being legal tender nor have official value.

With this regulation, the UIF keeps the denomination of “virtual currencies” already used by the BCRA and confirms the criteria of distinctive characterization from “electronic money” for not being legal tender in any country or jurisdiction.

3. Report

The new regulation introduces Section 15 Ter to the UIF Resolution 70/2011 implementing the Report of Operations entered into with Virtual Currencies.

It is a specific new reporting system for all the transactions performed with virtual currencies that must be submitted by certain bound parties (see Annex) with data of each calendar month since September 2014.

The deadline for submitting the Report is the 15th of the following month through the web site www.uif.gob.ar.

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4. Bound parties

The requirements imposed by the new regulation are applicable to certain subjects specifically mentioned that conduct transactions with virtual currencies, that is not the total list of bound parties set forth by Act 25.246, Section 20, but rather only those listed in Subsections 1, 2, 3, 4, 5, 7, 8, 9, 11, 12, 13, 18, 19, 20, 21, 22 y 23 (see Annex with the list of bound parties and their relationship with the obligations arising from UIF Regulation 300/2014).

5. Conclusions

The turn of the UIF came after their officials have been keeping meetings with members of the local Bitcoin community³ and the BCRA issued its communication last May.

Both the BCRA communication and UIF Regulation 300/14 confirm a trend of “mind your own business” where each entity takes care of its legal functions, so the statutory developments may be regarded as not adding specially harmful elements.

The UIF Regulation imposes compliance burdens on transactions performed with virtual currencies (they are: paying special attention, conducting a reinforced monitoring and filing a monthly report) to specially appointed bound parties but not all those listed by Act 25,246.

This is in some way a relief and an opportunity for businesses based in Bitcoin for entering into the financial system and formal markets, because by complying with the rules the bound parties will be able to avoid the associated risks.

The UIF trusts that if transactions with virtual currencies involve a bound party the gates will open up in order to lift the veil of the pseudonym behind a Bitcoin account or other instruments, and thus, the anonymity and non nominative traceability threats will be diluted.

Compliance costs for those operating in the formal markets continue to increase and also the advantages and incentives for operating in the so called “System D” that is out of control of the State.

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³ La UIF y el Central ponen la lupa sobre las operaciones con bitcoins, Paola Quain, Perfil.com, 20 Abril 2014, available in <http://www.perfil.com/economia/La-UIF-y-el-Central-ponen-la-lupa-sobre-las-operaciones-con-bitcoins-20140420-0047.html>.

Annex. Bound parties legal obligations established by UIF Regulation 300/14

Bound parties under Act 25,246, section 20	Legally bound by UIF Reg. 300/14?
1. Financial entities governed by Law 21526, as amended.	Yes
2. Entities governed by Law 18924, as amended, and natural or juridical persons authorized by the BCRA to operate in the purchase and sale of foreign currency in the form of cash money or cheques drawn in foreign currency, or by means of credit or debit cards or in the transfer of funds within the national territory and abroad.	Yes
3. Natural or juridical persons habitually running gambling activities.	Yes
4. Stock Agents and Stock Brokerage firms, companies managing mutual funds, electronic open market agents, and all those intermediaries engaged in the purchase, lease or borrowing of securities traded in stock exchanges with or without adhered markets.	Yes
5. Intermediaries registered with futures and options exchanges whichever their purpose may be.	Yes
6. Public registries of commerce, agencies devoted to the supervision and control of legal persons, real estate registries, registries of motor vehicles and registries of chattel mortgages, registries of vessels of any kind and registries of aircrafts.	No
7. Natural or juridical persons devoted to the purchase and sale of works of art, antiques or other sumptuous goods, philatelic or numismatic investments, or to the export, import, manufacturing or industrialization of jewels or goods made with precious metals or stones.	Yes
8. Insurance companies.	Yes
9. Companies issuing traveler's cheques or operating credit or purchasing cards.	Yes
10. Armored transportation services companies.	No
11. Companies or concessionaires providing postal services that carry out money order transactions or remittances of different types of currencies or notes.	Yes
12. Notaries Public.	Yes
13. Entities included under Act 22315, section 9.	Yes
14. Customs agents defined under Customs Code (Act 22415 as amended), section 36 and related sections.	No
15. Agencies from the Public Administration and decentralized and/or autarchic entities exercising regulatory, control, supervision and/or superintendence functions over economic activities and/or legal acts and/or over any juridical or natural person capable of holding legal rights or obligations, whether individual or collective: the BCRA, the Federal Administration of Public Revenue, the Office of the Superintendent of Insurance of the Nation, the National Securities Exchange Commission, the Legal Persons Control Bureau, the National Institute of Associativism and Social Economy and the National Tribunal for the Defense of the Competition.	No
16. Insurance brokers, agents, intermediaries, experts and adjusters whose activities are governed by Acts 20091 and 22400, as amended, and their related and supplementary rules;	No
17. Licensed professionals whose activities are regulated by the Professional Councils of Economic Sciences.	No
18. Any legal person who receive donations or contributions from third parties have the duty to inform.	Yes
19. Registered real estate agents or brokers and companies of any kind whose purpose be real estate activities, composed of and/or managed exclusively by registered real estate agents or brokers;	Yes
20. Mutualities and cooperative associations governed by Acts 20321 and 20337 respectively;	Yes
21. Natural or juridical persons whose habitual activity be the purchase/sale of automobiles, trucks, motorcycles, buses and minibuses, tractors, farm and road machinery, vessels, yachts and similar ones, aircrafts and aerodynes.	Yes
22. Natural or juridical persons acting as a trustee, in any kind of trust and natural or juridical persons holders of or linked to, directly or indirectly, trust, trustors and trustees accounts in virtue of trust contracts.	Yes
23. Legal persons performing organizational and regulatory functions of professional sports.	Yes



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