



DIGITAL CURRENCIES
Governance Group

TRANSFER OF FUNDS REGULATION (RECAST)

DCGG POSITION PAPER

The Digital Currencies Governance Group (DCGG) welcomes the thought and effort put in the AML Package the European Commission recently proposed.

Our members represent some of the largest crypto-asset exchanges and e-money token issuers, globally. For us, having a **clear, proportionate, and harmonized AML regulatory and supervisory framework in the EU is a game-changer**. It is a considerable factor in the choice of re-locating our operations and directly contributing to Europe's economy. **We welcome the ability to protect our customers without regulatory ambiguity or divergence across Member States.**

To this end, **we would welcome a discussion on three issues across the proposed Directive and Regulations:**

ISSUE I: THE DE MINIMIS EXEMPTION TO TRANSACTIONS OF EUR 1000 OR LESS FOR TRANSFERS OF FUNDS IS CONSISTENT WITH EXISTING LEGISLATION, AND PROPORTIONATE

- The Financial Action Task Force (FATF) proposed threshold creates proportionality in relation to the risk of smaller transfers as well as being consistent with the treatment of other types of transfers of funds.
- Implementation of this threshold ensures alignment with international standards laid down by the and prevent discrimination against the crypto asset industry.
- This threshold is consistent with risk management of other forms of funds transfers, notably wire transfers, because the method of funds transfer (i.e., crypto vs e-money) does not, in itself, change the risk profile of the transfer. Specifically, in both cases the limit is applied on an aggregate basis for all transactions sent by a single user in a defined period of time – regardless of how frequent or small. The comparative ease of transferring crypto-assets over some other fund transfers does not affect the ability of service providers to monitor and apply the exemption on an aggregate basis – on the contrary blockchains make such analytics easier.
- Removal of the threshold creates undue burden for the industry, in light of having to accommodate both inconsistency in EU and non-EU standards, as well as having to accommodate for the divergence in data standards in the emerging crypto-asset space.

Solution:

The EUR 1,000 exemption threshold should be maintained as proposed, while transactions of all sizes are further subject to risk-based AML monitoring, as required under AMLD.

ISSUE II: TRANSFERS FROM UNHOSTED WALLETS TO WALLETS HOSTED BY CENTRALISED EXCHANGES SHOULD BE IN SCOPE OF THE TRAVEL RULE. HOWEVER, THE LIABILITY OF THE RECEIVING WALLET SHOULD BE PROPORTIONATE.

- We agree that by requiring transfers from unhosted to hosted wallets to report beneficiary data, more transactions will become transparent.
- A CASP is capable of checking if the transaction information has been received, however the receiving hosted wallets are not completely capable of verifying the accuracy of transactions from unhosted wallets without both it and the consumer being severely encumbered by its implementation.
- Without applying the requirements in a proportionate manner, it runs the risk of incentivising circumvention of broader regulatory requirements by going through non-EU compliant CASPs for transactions. This creates extra enforcement challenges for the EU, while disadvantaging EU CASPs competitively.
- The receiving hosted wallet provider should be required to only act with regard to assessing the completeness of the information sent.

Solution:

CASPs should not be required to assess the accuracy of information accompanying transfers from unhosted wallets.

ISSUE III: DATA ACCOMPANYING CRYPTO-ASSET TRANSFERS VARIES WIDELY IN QUALITY AND STANDARDS.

- Messaging and reporting data standards in the crypto asset industry are not yet set, although industry initiatives have aspired to address this gap.
- To this end, a fast transposition of the travel rule will hinder the ability of a crypto-asset service provider (CASP) to seamlessly integrate information accompanying transfers coming from multiple other service providers.
- Lack of standardisation raises cost of compliance and increases time needed to comply as well.

Solution:

Sufficient transitions periods should allow industry to develop effective Travel Rule solutions based on standardized data – similar to the developments in payments messaging in the banking sector.