Digital Currencies
Governance Group

Proposal for establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations

DCGG Position Paper

The Digital Currencies Governance Group (DCGG) welcomes the thought and effort put in the European Commission's proposed AML Package. Our members represent some of the largest crypto-asset exchanges, e-money token issuers and cold wallet providers at a global scale. For us, having a clear, proportionate and harmonised AML regulation and supervision in the EU is pivotal. 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, and we support a harmonised supervision by the proposed AML Authority (AMLA).

To this end, we would welcome a discussion on the following in order to ensure AMLA is the most effective and future-proof it can be:

Issue 1: The determination of whether a crypto-asset issuer or service provider is in scope to be directly supervised by the proposed European AML Authority should not imply that crypto-asset businesses inherently carry higher AML risks.

- According to the proposed Regulation establishing the European Authority for Countering Money Laundering and Financing of Terrorism, the riskiest European banks and non-bank financial institutions will be supervised for AML risk by a newly established authority.

- The business in scope will be determined based on the AML risk inherent in their clients, products and services and geographical scope.

○ DCGG members welcome a harmonised approach to supervision, a single AML rulebook and a risk assessment based on clients, products, and geographies.

○ The crypto-asset community is increasingly diverse. Like in traditional finance, some products may be more susceptible to AML risks, but others have put AML risk-management at their core.

○ DCGG members would like to ensure that any crypto asset product or service is not by definition considered risky due to its crypto nature (centralised or decentralised), but that a differentiation is made between crypto products and services[1] based on an established criterion

[1] In terms of products and services, the following will be assessed: the significance and the trading volume of products and services identified as the most potentially vulnerable to money laundering and terrorist financing risks at the level of the internal market in the supra-national risk assessment or at the level of the country in the national risk assessment; the volume of the deposit and payment account services provided under the freedom to provide services; for money remittance service providers, the significance of aggregate annual emission and reception activity of each remitter in a jurisdiction

- The underlying blockchain technology itself can be used to improve transparency of asset ownership and transfers, along with other innovative technologies being developed in the industry.

Solution:

While we wouldn't recommend direct changes to the European Commission's proposal, delegated acts should be designed in a way that acknowledges and accounts for the diversity in the crypto industry and reflects this in the technical standards for the relevant products and services and their AML risk assessment. We would, however, recommend that the implication of the risk assessment and supervision by the AML authority is that the obliged entities are not inherently risky due to the nature of their business, rather the lack of AML controls it has in place.