Information accompanying transfers of funds and certain crypto-assets

2021/0241(COD) - 20/07/2021 - Legislative proposal

PURPOSE: to extend the scope of Regulation 2015/847 on information accompanying transfers of funds to include transfers of crypto-assets made by Crypto-Asset Service Providers (CASPs).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: until now, transfers of virtual assets, such as Bitcoins, have remained outside of the scope of EU legislation on financial services, exposing holders of crypto-assets to money laundering and financing of terrorism risks, as flows of illicit money can be done through transfers of crypto-assets and damage the integrity, stability and reputation of the financial sector. Money laundering, terrorist financing and organised crime remain significant problems which should be addressed at Union level.

Given that virtual assets transfers are subject to similar money laundering and terrorist financing risks as wire funds transfers, it is logical to use the same legislative instrument to address these common issues. Regulation (EU) 2015/847 on information accompanying transfers of funds

must therefore now be complemented to also cover virtual assets transfers adequately. Since further significative amendments are to be made to reach this goal, Regulation (EU) 2015/847 should now be recasted in the interests of maintaining its clarity.

The EU's Security Union Strategy for 2020-2025 highlighted the importance of enhancing the EU's framework for anti-money laundering and countering terrorist financing in order to protect Europeans from terrorism and organised crime.

Furthermore, on 20 July 2021, the European Commission presented an ambitious package of legislative proposals to strengthen the EU's anti-money laundering and countering the financing of terrorism (AML /CFT) rules. It is part of the Commission's commitment to protect EU citizens and the EU's financial system from money laundering and terrorist financing. The aim is to improve the detection of suspicious transactions and activities, and close loopholes used by criminals to launder illicit proceeds or finance terrorist activities through the financial system.

CONTENT: the proposed Regulation aims to **extend the scope of Regulation 2015/847** on information accompanying transfers of fund to include **full transparency and traceability of transfers of crypto-assets** made by Crypto-Asset Service Providers (CASPs) in addition to the current provisions on transfer of funds. It lays down rules on the information on payers and payees, accompanying transfers of funds, in any currency, and the information on originators and beneficiaries, accompanying transfers of crypto-assets, for the purposes of preventing, detecting and investigating money laundering and terrorist financing, where at least one of the payment or crypto-asset service providers involved in the transfer of funds or crypto-assets is established in the EU.

The requirements of this regulation apply to CASPs whenever their transactions, whether in fiat currency or a crypto-asset, involve:

- a traditional wire transfer, or;

- a crypto-asset transfer between a CASP and another obliged entity (e.g, between two CASPs or between a CASP and another obliged entity, such as a bank or other financial institution).

New obligations on crypto-asset service providers

The proposal provides for new obligations concerning the origin of transfers. Service provider exchanging crypto on behalf of a customer would have to record their **name, address, date of birth and account number**, as well as the name of the intended recipient of the transfer. The crypto-asset service provider of the beneficiary must implement effective procedures to detect whether the information on the originator is included in, or follows, the transfer of crypto-assets. The crypto-asset service provider of the beneficiary must also implement effective procedures, including, where appropriate, ex-post monitoring or real-time monitoring, in order to detect whether the required information on the originator or the beneficiary is missing.