



**2021/0241(COD)**

7.2.2022

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## **DRAFT REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
on information accompanying transfers of funds and certain crypto-assets  
(recast)  
(COM(2021)0422 – C9-0341/2021 – 2021/0241(COD))

Committee on Economic and Monetary Affairs  
Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Ernest Urtasun, Assita Kanko

Joint committee procedure – Rule 58 of the Rules of Procedure

(Recast – Rule 110 of the Rules of Procedure)

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on information accompanying transfers of funds and certain crypto-assets (recast) (COM(2021)0422 – C9-0341/2021 – 2021/0241(COD))**

**(Ordinary legislative procedure – recast)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2021)0422))
- having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0341/2021)
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Central Bank of [ ..... 2022 ]<sup>1</sup>,
- having regard to the opinion of the European Economic and Social Committee of 8 December 2021<sup>2</sup>,
- having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts<sup>3</sup>,
- having regard to the letter of ... sent by the Committee on Legal Affairs to the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs in accordance with Rule 110(3) of its Rules of Procedure,
- having regard to the provisional agreement approved by the committees responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of [.....] to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rules 110 and 59 of its Rules of Procedure,
- having regard to the joint deliberations of the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs under Rule 58 of the Rules of Procedure,
- having regard to the report of the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2022),

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<sup>1</sup> OJ C 0, 0.0.0000, p. 0. / Not yet published in the Official Journal

<sup>2</sup> OJ C 0, 0.0.0000, p. 0. / Not yet published in the Official Journal

<sup>3</sup> OJ C 77, 28.3.2002, p. 1.

- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;
1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

## **Amendment 1**

### **Proposal for a regulation Recital 7 a (new)**

*Text proposed by the Commission*

*Amendment*

***(7a) The global reach, the speed at which transactions can be carried out and the possible anonymity offered by crypto-asset transactions make crypto-assets particularly suitable for criminals seeking to carry out illicit transfers across jurisdictions and operate beyond national borders. In order to effectively address the risks posed by the misuse of crypto-assets for money laundering and terrorist financing purposes, the Union should aim to advance the implementation at global level of the standards established under this Regulation and also to develop the international and cross-jurisdictional dimension of the regulation and supervision of transfers of crypto-assets in relation to money laundering and terrorist financing.***

Or. en

<TitreJust>Justification</TitreJust>

*Amendment relating to the internal logic of the text regarding risks posed by crypto-assets transactions. Recital is added to clarify that the new rules on crypto-assets transfers should be implemented with a view to the international dimension of crypto-assets transfers.*

## Amendment 2

### Proposal for a regulation

#### Recital 14

*Text proposed by the Commission*

(14) In order to prevent terrorist financing, measures with the purpose of freezing the funds and the economic resources of certain persons, groups and entities have been taken, including Council Regulations (EC) No 2580/2001<sup>42</sup>, (EC) No 881/2002<sup>43</sup> and (EU) No 356/2010<sup>44</sup>. To the same end, measures with the purpose of protecting the financial system against the channelling of funds and economic resources for terrorist purposes have also been taken. *[please insert reference – proposal for a directive on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849] and Regulation [please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849] contain a number of such measures. Those measures do not, however, fully prevent terrorists or other criminals from accessing payment systems for transferring their funds.<sup>45</sup>*

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<sup>42</sup> Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism (OJ L 344, 28.12.2001, p. 70).

<sup>43</sup> Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the ISIL (Da'esh) and Al-Qaida

*Amendment*

(14) In order to prevent terrorist financing, measures with the purpose of freezing the funds and the economic resources of certain persons, groups and entities have been taken, including Council Regulations (EC) No 2580/2001<sup>42</sup>, (EC) No 881/2002<sup>43</sup> and (EU) No 356/2010<sup>44</sup>. To the same end, measures with the purpose of protecting the financial system against the channelling of funds and economic resources for terrorist purposes have also been taken. Directive (EU) 2015/849 *of the European Parliament and of the Council<sup>44a</sup> contains* a number of such measures. Those measures do not, however, fully prevent terrorists or other criminals from accessing payment systems for transferring their funds.

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<sup>42</sup> Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism (OJ L 344, 28.12.2001, p. 70).

<sup>43</sup> Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the ISIL (Da'esh) and Al-Qaida



organisations (OJ L 139, 29.5.2002, p. 9).

<sup>44</sup> Council Regulation (EU) No 356/2010 of 26 April 2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia (OJ L 105, 27.4.2010, p. 1).

organisations (OJ L 139, 29.5.2002, p. 9).

<sup>44</sup> Council Regulation (EU) No 356/2010 of 26 April 2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia (OJ L 105, 27.4.2010, p. 1).

<sup>44a</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

<sup>45</sup> THIS FOOTNOTE IS MISSING.  
THANK YOU FOR USING ANOTHER  
LANGUAGE.

Or. en

### **Amendment 3**

#### **Proposal for a regulation**

##### **Recital 17**

###### *Text proposed by the Commission*

(17) This Regulation should also apply without prejudice to Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>46</sup>. Further processing of personal data for commercial purposes should be strictly prohibited. The fight against money laundering and terrorist financing is recognised as an important public interest ground by all Member States. In applying this Regulation, the transfer of personal data to a third country must be carried out in accordance with Chapter V of Regulation (EU) 2016/679. It is important that payment service

###### *Amendment*

(17) This Regulation should also apply without prejudice to Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>46</sup>. Further processing of personal data for commercial purposes should be strictly prohibited. The fight against money laundering and terrorist financing is recognised as an important public interest ground by all Member States. In applying this Regulation, the transfer of personal data to a third country must be carried out in accordance with Chapter V of Regulation (EU) 2016/679. It is important that payment service

providers and crypto-asset service providers operating in multiple jurisdictions with branches or subsidiaries located outside the Union should not be prevented from transferring data about suspicious transactions within the same organisation, provided that they apply adequate safeguards. In addition, the crypto-asset service providers of the originator and the beneficiary, the payment service providers of the payer and of the payee and the intermediary payment service providers should have in place appropriate technical and organisational measures to protect personal data against accidental loss, alteration, or unauthorised disclosure or access.

providers and crypto-asset service providers operating in multiple jurisdictions with branches or subsidiaries located outside the Union should not be prevented from transferring data about suspicious transactions within the same organisation, provided that they apply adequate safeguards. In addition, the crypto-asset service providers of the originator and the beneficiary, the payment service providers of the payer and of the payee and the intermediary payment service providers should have in place appropriate technical and organisational measures to protect personal data against accidental loss, alteration, or unauthorised disclosure or access, *as well as a procedure for the notification of personal data breaches.*

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<sup>46</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

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<sup>46</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

Or. en

### *Justification*

*Amendment relating to the internal logic of the text regarding risks posed by crypto-assets transfers. In EU law, notification is an obligation on controllers in case of a personal data breach.*

## **Amendment 4**

### **Proposal for a regulation Recital 18 a (new)**

*Text proposed by the Commission*

*Amendment*

***(18a) Natural or legal persons and entities that merely provide ancillary***

*infrastructure allowing another entity to provide services for the transfer of crypto-assets, such as persons that only provide internet services and cloud services or software developers, should not fall within the scope of this Regulation unless they provide services for the transfer of crypto-assets on behalf of another person.*

Or. en

*Justification*

*Amendment relating to the internal logic of the text regarding risks posed by crypto-assets transfers. Recital clarifies the scope of obliged entities for the purpose of this Regulation.*

**Amendment 5**

**Proposal for a regulation**  
**Recital 19 a (new)**

*Text proposed by the Commission*

*Amendment*

***(19a) Providers of kiosks or automated machines connected to a distributed ledger network, also known as crypto-asset automated teller machines ('crypto-ATMs') enable users to perform transfers of crypto-assets to a crypto-asset address, by depositing cash, often without any form of customer identification and verification. Crypto-ATMs are particularly exposed to money laundering risks because the anonymity provided and the possibility of operating with cash of unknown origin, makes them an ideal vehicle for illicit activities. Given their role in providing or actively facilitating transfers of crypto-assets, transfers of crypto-assets linked to crypto-ATMs should fall under the scope of this Regulation.***

Or. en

*Justification*

*This amendment is necessary for the internal logic of the text and is inextricably linked to other admissible amendments relating to risk posed by crypto-asset transfers.*

## Amendment 6

### Proposal for a regulation Recital 20

*Text proposed by the Commission*

(20) In order to reflect the special characteristics of national payment **and crypto-asset transfer systems**, and provided that it is always possible to trace the transfer of funds back to the payer **or the transfer of crypto-assets back to the beneficiary**, Member States should be able to exempt from the scope of this Regulation certain domestic low-value transfers of funds, including electronic giro payments, **or low-value transfers of crypto-assets**, used for the purchase of goods or services.

*Amendment*

(20) In order to reflect the special characteristics of national payment, and provided that it is always possible to trace the transfer of funds back to the payer, Member States should be able to exempt from the scope of this Regulation certain domestic low-value transfers of funds, including electronic giro payments, used for the purchase of goods or services. ***Due to the inherent borderless nature and global reach of crypto-asset transfers and the provision of services in crypto-assets, a distinction between, on the one hand, purely national transfers and, on the other, cross-border transfers is difficult to make. Furthermore, the speed at which transactions are carried out, and the virtual nature and technological characteristics of crypto-assets facilitate the use of techniques aimed at evading the scope of any rules based on thresholds. In order to reflect those specific features of crypto-assets, an exemption for low-value transfers is therefore not appropriate for transfers of crypto-assets.***

Or. en

*Justification*

*Amendment relating to the internal logic of the text regarding risks posed by crypto-assets transactions. The Commission proposal suggests that the exception available to Member States to exclude certain low value domestic wire transfers from the scope of the Regulation should apply also to crypto-assets transfers. However, such derogation would be inconsistent with the internal logic of the text which considers crypto-assets as 'cross-border.*

## Amendment 7

### Proposal for a regulation Recital 22

*Text proposed by the Commission*

(22) In order not to impair the efficiency of payment systems **and crypto-asset transfer services** , and in order to balance the risk of driving transactions underground as a result of overly strict identification requirements against the potential terrorist threat posed by small transfers of funds **or crypto-assets** , the obligation to check whether information on the payer or the payee , **or, for transfers of crypto-assets, the originator and the beneficiary**, is accurate should, in the case of transfers of funds where verification has not yet taken place, be imposed only in respect of individual transfers of funds **or crypto-assets** that exceed EUR 1000, unless the transfer appears to be linked to other transfers of funds **or transfers of crypto-assets** which together would exceed EUR 1000, the funds **or crypto-assets** have been received or paid out in cash or in anonymous electronic money, or where there are reasonable grounds for suspecting money laundering or terrorist financing.

*Amendment*

(22) In order not to impair the efficiency of payment systems, and in order to balance the risk of driving transactions underground as a result of overly strict identification requirements against the potential terrorist threat posed by small transfers of funds, the obligation to check whether information on the payer or the payee, is accurate should, in the case of transfers of funds where verification has not yet taken place, be imposed only in respect of individual transfers of funds that exceed EUR 1000, unless the transfer appears to be linked to other transfers of funds which together would exceed EUR 1000, the funds have been received or paid out in cash or in anonymous electronic money, or where there are reasonable grounds for suspecting money laundering or terrorist financing.

Or. en

**Amendment 8**

**Proposal for a regulation  
Recital 22 a (new)**

*Text proposed by the Commission*

*Amendment*

***(22a) Transfers of crypto-assets are different from transfers of funds in a number of ways. The combination of the inherent borderless nature, the global reach and the technological characteristics of crypto-assets enable users to transfer crypto-assets through thousands of wallets across multiple jurisdictions at a far larger scale and at greater speed than conventional wire***

*transfers. Criminals are able to carry out illicit transfers and avoid detection by structuring a large transaction into smaller amounts using multiple seemingly unrelated wallet addresses, including one time use wallet addresses. Associating those wallet addresses to the real identity of a natural or legal person, or detecting linked transfers for the purpose of applying a de minimis threshold, is more challenging as compared to conventional transfers of funds. Most crypto-assets are also highly volatile and their value can fluctuate significantly in a very short time frame. This volatility could complicate the implementation and enforcement of a de minimis threshold for authorities as well as for crypto-asset service providers. In order to facilitate the detection of linked transfers and prevent the misuse of crypto-assets to facilitate, fund and hide criminal activities and to launder proceeds, a de minimis threshold should not be set for crypto-asset transfers.*

Or. en

#### *Justification*

*This amendment is inextricably linked to other admissible amendments with regard to risks posed by crypto-assets transfers. Recital clarifies the rationale why the de minimis threshold applicable to low-value transfers of crypto-assets not exceeding EUR 1000 that do not appear to be linked to other transfers cannot be effective for transfers in crypto-assets, due to their specific features and risk profile..*

#### **Amendment 9**

##### **Proposal for a regulation**

##### **Recital 23**

###### *Text proposed by the Commission*

(23) For transfers of funds or for transfers of crypto-assets where verification is deemed to have taken place, payment service providers and crypto-asset service providers should not be required to verify information on the payer or the payee accompanying each transfer of

###### *Amendment*

(23) For transfers of funds or for transfers of crypto-assets where verification is deemed to have taken place, payment service providers and crypto-asset service providers should not be required to verify information on the payer or the payee accompanying each transfer of

funds, or on the originator and the beneficiary accompanying each transfer of crypto-assets, provided that the obligations laid down in *[please insert reference – proposal for a directive on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849] and Regulation [please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]* are met.

funds, or on the originator and the beneficiary accompanying each transfer of crypto-assets, provided that the obligations laid down in Directive (EU) 2015/849 are met.

Or. en

## Amendment 10

### Proposal for a regulation

#### Recital 25

##### *Text proposed by the Commission*

(25) In order to allow the authorities responsible for combating money laundering or terrorist financing in third countries to trace the source of funds **or crypto-assets** used for those purposes, transfers of funds **or transfer of crypto-assets** from the Union to outside the Union should carry complete information on the payer and the payee. Complete information on the payer and the payee should include the Legal Entity Identifier (LEI) when this information is provided by the payer to the payer's service provider, since that would allow for better identification of the parties involved in a transfer of funds and could easily be included in existing payment message formats such as the one developed by the International Organisation for Standardisation for electronic data interchange between financial institutions.

##### *Amendment*

(25) In order to allow the authorities responsible for combating money laundering or terrorist financing in third countries to trace the source of funds used for those purposes, transfers of funds from the Union to outside the Union should carry complete information on the payer and the payee. Complete information on the payer and the payee should include the Legal Entity Identifier (LEI) when this information is provided by the payer to the payer's service provider, since that would allow for better identification of the parties involved in a transfer of funds and could easily be included in existing payment message formats such as the one developed by the International Organisation for Standardisation for electronic data interchange between financial institutions. ***Similarly, the LEI information, or any***



The authorities responsible for combating money laundering or terrorist financing in third countries should be granted access to complete information on the payer and the payee only for the purposes of preventing, detecting and investigating money laundering and terrorist financing.

***other available equivalent official identifier, should be provided for transfers of crypto-assets.*** The authorities responsible for combating money laundering or terrorist financing in third countries should be granted access to complete information on the payer and the payee ***as well as on the originator and the beneficiary*** only for the purposes of preventing, detecting and investigating money laundering and terrorist financing.

Or. en

### *Justification*

*Amendment relating to the internal logic of the text regarding risks posed by crypto-assets transactions. The LEI information provides an essential information to ensure the correct identification of a legal entity at the other end of a transfer for AML/CFT purposes.*

## **Amendment 11**

### **Proposal for a regulation Recital 25 a (new)**

*Text proposed by the Commission*

*Amendment*

***(25a) Crypto-assets exist in a borderless virtual reality and can be transferred to any crypto-asset service provider in any jurisdiction, or even without a jurisdictional registration. Many non-Union jurisdictions have in place rules relating to data protection and enforcement that are of a different nature than those laid down in the Union. When transferring crypto-assets on behalf of a customer to a crypto-asset service provider that is not registered in the Union, the crypto-asset service provider of the originator should, in addition to the customer due diligence measures laid down in Article 13 of Directive (EU) 2015/849, assess the ability of the crypto-asset service provider of the beneficiary to receive and retain the information required under this Regulation and to protect the confidentiality of the originator's personal data. Where that***



***information cannot be transmitted with the transfer, a record of the information on the originator and the beneficiary should nevertheless be retained and made available to competent authorities upon request.***

Or. en

*Justification*

*This amendment is inextricably linked to other admissible amendments with regard to risks posed by crypto-assets transfers. This recital clarifies that the information should not be transmitted to the counterparty if there is a risk for data protection. In such cases, the required information should however be retained and made available to competent authorities.*

**Amendment 12**

**Proposal for a regulation  
Recital 25 b (new)**

*Text proposed by the Commission*

*Amendment*

***(25b) Given the high risk of money laundering and terrorist financing posed by non-compliant crypto-asset service providers, which offer full anonymity-based services and are not recognised by any jurisdictions or are based in high risk third countries for AML/CFT purposes, crypto-asset service providers and any other obliged entity should refrain from interacting with non-compliant crypto-asset service providers.***

Or. en

*Justification*

*This amendment is inextricably linked to other admissible amendments with regard to risks posed by crypto-assets transfers. Recital linked to proposal to establish a public registry of non-compliant crypto-asset service providers. Interaction with those providers would undermine the effectiveness of the overall framework.*

## Amendment 13

### Proposal for a regulation Recital 27

*Text proposed by the Commission*

(27) **Regarding transfers of crypto-assets**, the requirements of this Regulation should apply to crypto-asset service providers whenever their transactions, whether in fiat currency or a crypto-asset, involve a traditional wire transfer or a transfer of crypto-assets **involving** a crypto-asset service provider.

*Amendment*

(27) The requirements of this Regulation should apply to crypto-asset service providers whenever their transactions, whether in fiat currency or a crypto-asset, involve a traditional wire transfer or a transfer of crypto-assets **as long as there is at least** a crypto-asset service provider **or another obliged entity involved**.

Or. en

## Amendment 14

### Proposal for a regulation Recital 27 a (new)

*Text proposed by the Commission*

*Amendment*

**(27a) This Regulation should not apply to person-to-person transfers of crypto-assets conducted without the use or involvement of a crypto-asset service provider or other obliged entity.**

Or. en

*Justification*

*This amendment is inextricably linked to other admissible amendments with regard to risks posed by crypto-assets transfers. This amendment clarifies that the new obligations only apply to transfers where at least one obliged entity is involved.*

## Amendment 15

### Proposal for a regulation Recital 27 b (new)

***(27b) In the case of a transfer of crypto-assets from or to a crypto-asset wallet not held by a third party, known as an 'unhosted wallet', the crypto-asset service provider or other obliged entity should obtain and retain the required originator and beneficiary information from their customer, whether originator or beneficiary. The crypto-asset service provider should verify the accuracy of the information only with respect to its customer and is not expected to verify the required information with respect to the originator or beneficiary behind the unhosted wallet. However, if the crypto-asset service provider is or becomes aware that the information on the originator or beneficiary that is an unhosted wallet is inaccurate, or where the information on the originator or beneficiary that is an unhosted wallet is missing or is incomplete, or where the transfer of crypto-assets is required to be considered suspicious based on the origin or destination of the involved crypto-assets, the crypto-asset service provider should, on a risk-sensitive basis, assess whether a transfer of crypto-assets should be rejected or suspended and whether it is to be reported to the Financial Intelligence Unit (FIU) in accordance with Directive (EU) 2015/849.***

Or. en

*Justification*

*This amendment is inextricably linked to other admissible amendments with regard to risks posed by crypto-assets transfers. This recital clarifies the obligations with respect to transfers involving a hosted wallet and special provisions regarding the transmission of information.*

## Amendment 16

### Proposal for a regulation Recital 28

#### *Text proposed by the Commission*

(28) Due to the **cross-border** nature and the risks associated with crypto-asset activities and crypto-asset service providers operations, all transfers of crypto-assets should be treated as cross-border wire transfers, with no simplified domestic wire transfers regime.

#### *Amendment*

(28) Due to the **borderless** nature and the risks associated with crypto-asset activities and crypto-asset service providers operations, all transfers of crypto-assets should be treated as cross-border wire transfers, with no simplified domestic wire transfers regime.

Or. en

## Amendment 17

### Proposal for a regulation Recital 33

#### *Text proposed by the Commission*

(33) As regards transfers of crypto-assets, the crypto-asset service provider of the beneficiary should implement effective procedures to detect whether the information on the originator is missing or incomplete. These procedures should include, where appropriate, monitoring after or during the transfers, in order to detect whether the required information on the originator or the beneficiary is missing. **It should not be required that the information is** attached directly to the transfer of crypto-assets itself, **as long as it** is submitted immediately and securely, and available upon request to appropriate authorities.

#### *Amendment*

(33) As regards transfers of crypto-assets, the crypto-asset service provider of the beneficiary should implement effective procedures to detect whether the information on the originator **or the beneficiary** is missing or incomplete. These procedures should include, where appropriate, monitoring after or during the transfers, in order to detect whether the required information on the originator or the beneficiary is missing **or incomplete**. **With a view to ensuring the respect of the right to privacy and the protection of personal data, personal information should not be recorded on the distributed ledger and should not be** attached directly to the transfer of crypto-assets itself. **It should however be required that the information** is submitted immediately and securely, and **made** available upon request to appropriate authorities.

Or. en

## Amendment 18

### Proposal for a regulation Recital 34

*Text proposed by the Commission*

(34) Given the potential threat of money laundering and terrorist financing presented by anonymous transfers, it is appropriate to require payment service providers to request information on the payer and the payee. In line with the risk-based approach developed by FATF, it is appropriate to identify areas of higher and lower risk, with a view to better targeting the risk of money laundering and terrorist financing. Accordingly, the crypto-asset service provider of the beneficiary, the payment service provider of the payee and the intermediary payment service provider should have effective risk-based procedures that apply where a transfer of funds lacks the required information on the payer or the payee, or where a transfer of crypto-assets lacks the required information on the originator or the beneficiary, in order to allow them to decide whether to execute, reject or suspend that transfer and to determine the appropriate follow-up action to take.

*Amendment*

(34) Given the potential threat of money laundering and terrorist financing presented by anonymous transfers, it is appropriate to require payment service providers to request information on the payer and the payee. In line with the risk-based approach developed by FATF, it is appropriate to identify areas of higher and lower risk, with a view to better targeting the risk of money laundering and terrorist financing. Accordingly, the crypto-asset service provider of the beneficiary, the payment service provider of the payee and the intermediary payment service provider should have effective risk-based procedures that apply where a transfer of funds lacks the required information on the payer or the payee, or where a transfer of crypto-assets lacks the required information on the originator or the beneficiary, ***as well as effective procedures to detect suspicious transfers based on the source or destination of the crypto-assets involved, in particular any link with criminal activities and darknet marketplaces, or any usage of mixers or tumblers or other anonymising services,*** in order to allow them to decide whether to execute, reject or suspend that transfer and to determine the appropriate follow-up action to take.

Or. en

## Amendment 19

### Proposal for a regulation Recital 35

*Text proposed by the Commission*

(35) The payment service provider of the payee, the intermediary payment service provider and the crypto-asset service provider of the beneficiary should exercise special vigilance, assessing the risks, when either becomes aware that information on the payer or the payee, or the originator or the beneficiary is missing or incomplete, and should report suspicious transactions to the competent authorities in accordance with the reporting obligations set out in **Regulation (EU) [...]**.

*Amendment*

(35) The payment service provider of the payee, the intermediary payment service provider and the crypto-asset service provider of the beneficiary should exercise special vigilance, assessing the risks, when either becomes aware that information on the payer or the payee, or the originator or the beneficiary is missing or incomplete, **or where a transfer of crypto-assets is required to be considered suspicious based on the origin or destination of the crypto-assets concerned**, and should report suspicious transactions to the competent authorities in accordance with the reporting obligations set out in **Directive (EU) 2015/849**.

Or. en

*Justification*

*This amendment is inextricably linked to other admissible amendments with regard to risks posed by crypto-assets transfers. This recital is linked with the proposal that crypto-asset service providers implement effective procedures to detect 'dirty' crypto-assets.*

**Amendment 20**

**Proposal for a regulation**

**Recital 36**

*Text proposed by the Commission*

(36) The provisions on transfers of funds and transfers of crypto-assets in relation to which information on the payer or the payee or the originator or the beneficiary is missing or incomplete apply without prejudice to any obligations on payment service providers, intermediary payment service providers and crypto-asset service providers, to suspend and/or reject transfers of funds which breach a provision of civil, administrative or criminal law.

*Amendment*

(36) The provisions on transfers of funds and transfers of crypto-assets in relation to which information on the payer or the payee or the originator or the beneficiary is missing or incomplete **and in relation to which transfers of crypto-assets are required to be considered suspicious based on the origin or destination of the involved crypto-assets**, apply without prejudice to any obligations on payment service providers, intermediary payment service providers and crypto-asset service

providers, to suspend and/or reject transfers of funds *or transfers of crypto-assets* which breach a provision of civil, administrative or criminal law.

Or. en

### *Justification*

*Amendment relating to the internal logic of the text regarding risks posed by crypto-assets transactions. This recital is linked with the proposal that crypto-asset service provider implement effective procedures to detect 'dirty' crypto-assets.*

## **Amendment 21**

### **Proposal for a regulation**

#### **Recital 37**

##### *Text proposed by the Commission*

(37) With the aim of assisting payment service providers to put effective procedures in place to detect cases in which they receive transfers of funds with missing or incomplete payer or payee information and to take follow-up actions, the European Banking Authority (EBA), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council<sup>50</sup>, the European Insurance and Occupational Pensions Authority (EIOPA), established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council<sup>51</sup>, and the European Securities and Markets Authority (ESMA), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council<sup>52</sup>, should issue guidelines.

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<sup>50</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision

##### *Amendment*

(37) With the aim of assisting payment **service providers and crypto-asset** service providers to put effective procedures in place to detect cases in which they receive transfers of funds with missing or incomplete payer or payee information **or transfers of crypto-assets with missing or incomplete originator or beneficiary information or that are suspicious in nature**, and to take **effective** follow-up actions, the European Banking Authority (EBA), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council<sup>50</sup>, the European Insurance and Occupational Pensions Authority (EIOPA), established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council<sup>51</sup>, and the European Securities and Markets Authority (ESMA), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council<sup>52</sup>, should issue guidelines.

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<sup>50</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision

No 716/2009/EC and repealing  
Commission Decision 2009/78/EC (OJ L  
331, 15.12.2010, p. 12).

<sup>51</sup> Regulation (EU) No 1094/2010 of the  
European Parliament and of the Council of  
24 November 2010 establishing a  
European Supervisory Authority (European  
Insurance and Occupational Pensions  
Authority), amending Decision No  
716/2009/EC and repealing Commission  
Decision 2009/79/EC (OJ L 331,  
15.12.2010, p. 48).

<sup>52</sup> Regulation (EU) No 1095/2010 of the  
European Parliament and of the Council of  
24 November 2010 establishing a  
European Supervisory Authority (European  
Securities and Markets Authority),  
amending Decision No 716/2009/EC and  
repealing Commission Decision  
2009/77/EC (OJ L 331, 15.12.2010, p. 84).

No 716/2009/EC and repealing  
Commission Decision 2009/78/EC (OJ L  
331, 15.12.2010, p. 12).

<sup>51</sup> Regulation (EU) No 1094/2010 of the  
European Parliament and of the Council of  
24 November 2010 establishing a  
European Supervisory Authority (European  
Insurance and Occupational Pensions  
Authority), amending Decision No  
716/2009/EC and repealing Commission  
Decision 2009/79/EC (OJ L 331,  
15.12.2010, p. 48).

<sup>52</sup> Regulation (EU) No 1095/2010 of the  
European Parliament and of the Council of  
24 November 2010 establishing a  
European Supervisory Authority (European  
Securities and Markets Authority),  
amending Decision No 716/2009/EC and  
repealing Commission Decision  
2009/77/EC (OJ L 331, 15.12.2010, p. 84).

Or. en

### *Justification*

*Amendment relating to the internal logic of the text regarding risks posed by crypto-assets transfers. Amendment relating to the proposal of issuing guidelines for crypto-assets service providers to comply with the new obligations*

## **Amendment 22**

### **Proposal for a regulation Recital 39**

#### *Text proposed by the Commission*

(39) The number of working days in the Member State of the payment service provider of the payer or crypto-asset service provider of the **beneficiary** determines the number of days to respond to requests for information on the payer or the originator .

#### *Amendment*

(39) The number of working days in the Member State of the payment service provider of the payer or crypto-asset service provider of the **originator** determines the number of days to respond to requests for information on the payer or the originator .

Or. en



## Amendment 23

### Proposal for a regulation

#### Article 2 – paragraph 2 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***This Regulation shall also apply to transfers of crypto-assets executed by means of kiosks connected to a distributed ledger network known as crypto-asset automated teller machines (“crypto-ATMs”).***

Or. en

*Justification*

*This amendment is inextricably linked to other admissible amendments relating to risk posed by crypto-asset transfers. Crypto-ATM should be included in the scope of this Regulation as long as they provide or actively facilitate transfers of crypto-assets.*

## Amendment 24

### Proposal for a regulation

#### Article 2 – paragraph 3 – introductory part

*Text proposed by the Commission*

*Amendment*

3. This Regulation shall not apply to transfers of funds carried out using a payment card, an electronic money instrument or a mobile phone, or any other digital or IT prepaid or postpaid device with similar characteristics, where the following conditions are met:

3. This Regulation shall not apply to transfers of funds ***or crypto-assets*** carried out using a payment card, an electronic money instrument or a mobile phone, or any other digital or IT prepaid or postpaid device with similar characteristics, where the following conditions are met:

Or. en

*Justification*

*This amendment is necessary for the internal logic of the text and is inextricably linked to other admissible amendments relating to risk posed by crypto-asset transfers.*

## Amendment 25

### Proposal for a regulation

#### Article 2 – paragraph 4 – subparagraph 2 – introductory part

##### *Text proposed by the Commission*

This Regulation shall not apply to transfers of funds **and crypto-assets** if any of the following conditions is fulfilled:

##### *Amendment*

This Regulation shall not apply to transfers of funds if any of the following conditions is fulfilled:

Or. en

## Amendment 26

### Proposal for a regulation

#### Article 2 – paragraph 4 – subparagraph 2 – point b

##### *Text proposed by the Commission*

(b) they constitute transfers of funds **or crypto-assets** to a public authority as payment for taxes, fines or other levies within a Member State;

##### *Amendment*

(b) they constitute transfers of funds to a public authority as payment for taxes, fines or other levies within a Member State;

Or. en

## Amendment 27

### Proposal for a regulation

#### Article 2 – paragraph 4 – subparagraph 2 – point c

##### *Text proposed by the Commission*

(c) both the payer and the payee are payment service providers **or both the originator and the beneficiary are crypto-asset service providers** acting on their own behalf;

##### *Amendment*

(c) both the payer and the payee are payment service providers acting on their own behalf;

Or. en

## Amendment 28

### Proposal for a regulation

#### Article 2 – paragraph 4 – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***This Regulation shall not apply to transfers of crypto-assets if any of the following conditions is fulfilled:***

***(a) both the originator and the beneficiary are crypto-asset service providers acting on their own behalf;***

***(b) the transfers constitute person-to-person transfers of crypto-assets carried out without the involvement of a crypto-asset service provider or obliged entity.***

Or. en

*Justification*

*This amendment is inextricably linked to other admissible amendments relating to risk posed by crypto-asset transfers. Clarification in relation to the negative scope of crypto-assets transfers.*

## Amendment 29

### Proposal for a regulation

#### Article 2 – paragraph 4 – subparagraph 4

*Text proposed by the Commission*

*Amendment*

***This Regulation shall not apply to person-to-person transfer of crypto-assets.***

***deleted***

Or. en

*Justification*

*Moved above.*

## Amendment 30

### Proposal for a regulation

#### Article 3 – paragraph 1 – point 10

*Text proposed by the Commission*

(10) ‘transfer of crypto-assets’ means any **transaction at least partially** carried out **by electronic means on behalf of an originator** through a crypto-asset service provider, **with a view to making crypto-assets available to a beneficiary through a crypto-asset service provider**, irrespective of whether the originator and the beneficiary are the same person and irrespective of whether the crypto-asset service provider of the originator and that of the beneficiary are one and the same.

*Amendment*

(10) ‘transfer of crypto-assets’ means any **transfer of crypto-assets from one wallet address or crypto-asset account to another wallet address or account**, carried out through **at least one** crypto-asset service provider **or other obliged entity acting on behalf of either the originator or the beneficiary**, irrespective of whether the originator and the beneficiary are the same person and irrespective of whether the crypto-asset service provider of the originator and that of the beneficiary are one and the same.

Or. en

## Amendment 31

### Proposal for a regulation

#### Article 3 – paragraph 1 – point 12

*Text proposed by the Commission*

(12) ‘unique transaction identifier’ means a combination of letters, numbers or symbols determined by the payment service provider, in accordance with the protocols of the payment and settlement systems or messaging systems used for the transfer of funds, which permits the traceability of the transaction back to the payer and the payee;

*Amendment*

(12) ‘unique transaction identifier’ means a combination of letters, numbers or symbols determined by the payment service provider, in accordance with the protocols of the payment and settlement systems or messaging systems used for the transfer of funds, **or determined by a crypto-asset service provider**, which permits the traceability of the transaction back to the payer and the payee **or the traceability of transfer of crypto-assets back to the originator and the beneficiary**;

Or. en

### *Justification*

*Amendment relating to the internal logic of the text regarding risks posed by crypto-assets transfers. Definition should be adapted to reflect the use of the unique transaction identifier also in the context of crypto-assets transfers.*

### **Amendment 32**

#### **Proposal for a regulation**

#### **Article 3 – paragraph 1 – point 17**

##### *Text proposed by the Commission*

(17) ‘wallet address’ means an **account number which custody is ensured by a crypto-asset service provider or a an** alphanumeric code **for a wallet** on a blockchain;

##### *Amendment*

(17) ‘wallet address’ means an alphanumeric code **that identifies an address that holds crypto-assets on a distributed ledger or on similar technology**;

Or. en

### **Amendment 33**

#### **Proposal for a regulation**

#### **Article 3 – paragraph 1 – point 17 a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

**(17a) ‘unhosted wallet’ means any crypto-asset wallet that is not held or managed by a crypto-asset service provider;**

Or. en

### *Justification*

*This amendment is inextricably linked to other admissible amendments relating to risk posed by crypto-asset transfers. Definition linked to the proposal to include transfers from/to unhosted wallets into the scope of this Regulation, as long as one obliged entity is involved.*

## Amendment 34

### Proposal for a regulation

#### Article 3 – paragraph 1 – point 18

*Text proposed by the Commission*

(18) ‘account *number*’ means *the number of an account to hold crypto-assets which custody is ensured by a crypto-asset service provider*;

*Amendment*

(18) ‘*crypto-asset* account means an account *held with* a crypto-asset service provider *for crypto-assets and which is used for the execution of transfers of crypto-assets*;

Or. en

## Amendment 35

### Proposal for a regulation

#### Article 4 – paragraph 5 – point a

*Text proposed by the Commission*

(a) a payer's identity has been verified in accordance with *Articles 16, 37 and 18(3) of [please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]* and the information obtained pursuant to that verification has been stored in accordance with Article *56* of that *Regulation*; or

*Amendment*

(a) a payer's identity has been verified in accordance with *Article 13 of* Directive (EU) 2015/849 and the information obtained pursuant to that verification has been stored in accordance with Article *40* of that *Directive*; or

Or. en

## Amendment 36

### Proposal for a regulation

#### Article 4 – paragraph 5 – point b

*Text proposed by the Commission*

(b) Article *21(2) and (3) of [please insert reference – proposal for a*

*Amendment*

(b) Article *14(5) of* Directive (EU) 2015/849 applies to the payer.

*regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]* applies to the payer.

Or. en

### **Amendment 37**

#### **Proposal for a regulation Article 7 – paragraph 5 – point a**

*Text proposed by the Commission*

(a) a payee's identity has been verified in accordance with **Articles 16, 37 and 18(3) of [please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]** and the information obtained pursuant to that verification has been stored in accordance with Article **56** of that **Regulation**; or

*Amendment*

(a) a payee's identity has been verified in accordance with **Article 13 of** Directive (EU) 2015/849 and the information obtained pursuant to that verification has been stored in accordance with Article **40** of that **Directive**; or

Or. en

### **Amendment 38**

#### **Proposal for a regulation Article 7 – paragraph 5 – point b**

*Text proposed by the Commission*

(b) Article **21(2) and (3) of [please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]** applies to the payee.

*Amendment*

(b) Article **14(5) of** Directive (EU) 2015/849 applies to the payee.

Or. en

## Amendment 39

### Proposal for a regulation Article 8 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

The payment service provider of the payee shall implement effective risk-based procedures, including procedures based on the risk-sensitive basis referred to in Article 16 of *[please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]*, for determining whether to execute, reject or suspend a transfer of funds lacking the required complete payer and payee information and for taking the appropriate follow-up action.

*Amendment*

The payment service provider of the payee shall implement effective risk-based procedures, including procedures based on the risk-sensitive basis referred to in Article 13 of Directive (EU) 2015/849, for determining whether to execute, reject or suspend a transfer of funds lacking the required complete payer and payee information and for taking the appropriate follow-up action.

Or. en

## Amendment 40

### Proposal for a regulation Article 9 – paragraph 1

*Text proposed by the Commission*

The payment service provider of the payee shall take into account missing or incomplete information on the payer or the payee as a factor when assessing whether a transfer of funds, or any related transaction, is suspicious and whether it is to be reported to the Financial Intelligence Unit (FIU) in accordance with *[please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]*.

*Amendment*

The payment service provider of the payee shall take into account missing or incomplete information on the payer or the payee as a factor when assessing whether a transfer of funds, or any related transaction, is suspicious and whether it is to be reported to the Financial Intelligence Unit (FIU) in accordance with Directive (EU) 2015/849.



## Amendment 41

### Proposal for a regulation Article 13 – paragraph 1

#### *Text proposed by the Commission*

The intermediary payment service provider shall take into account missing information on the payer or the payee as a factor when assessing whether a transfer of funds, or any related transaction, is suspicious, and whether it is to be reported to the FIU in accordance with *[please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]*.

#### *Amendment*

The intermediary payment service provider shall take into account missing information on the payer or the payee as a factor when assessing whether a transfer of funds, or any related transaction, is suspicious, and whether it is to be reported to the FIU in accordance with Directive (EU) 2015/849.

## Amendment 42

### Proposal for a regulation Article 14 – paragraph 1 – introductory part

#### *Text proposed by the Commission*

1. The crypto-asset service provider of the originator shall ensure that transfers of crypto-assets are accompanied by the following information on the originator:

#### *Amendment*

1. The crypto-asset service provider **or other obliged entity** of the originator shall ensure that transfers of crypto-assets are accompanied by the following information on the originator:

## Amendment 43

### Proposal for a regulation Article 14 – paragraph 1 – point b

*Text proposed by the Commission*

(b) the account number of the originator, where an account is used to process the transaction;

*Amendment*

(b) the ***originator's wallet address, where available, and the crypto-asset*** account number of the originator where an account is used to process the transaction;

Or. en

#### **Amendment 44**

##### **Proposal for a regulation**

##### **Article 14 – paragraph 1 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) where no account is used to process the transfer, the unique transaction identifier;***

Or. en

#### **Amendment 45**

##### **Proposal for a regulation**

##### **Article 14 – paragraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) subject to the existence of the necessary field in the relevant payments message format, and where provided by the originator to the originator's crypto-asset service provider or other obliged entity, the current LEI of the originator or any other available equivalent official identifier.***

Or. en

## Amendment 46

### Proposal for a regulation

#### Article 14 – paragraph 2 – introductory part

*Text proposed by the Commission*

2. The crypto-asset service provider of the originator shall ensure that transfers of crypto-assets are accompanied by the following information on the beneficiary:

*Amendment*

2. The crypto-asset service provider ***or other obliged entity*** of the originator shall ensure that transfers of crypto-assets are accompanied by the following information on the beneficiary:

Or. en

## Amendment 47

### Proposal for a regulation

#### Article 14 – paragraph 2 – point b

*Text proposed by the Commission*

(b) the beneficiary's account number, where such an account exists and is used to process the transaction.

*Amendment*

(b) the beneficiary's ***wallet address, where available, and the crypto-asset account number of the beneficiary***, where such an account exists and is used to process the transaction;

Or. en

## Amendment 48

### Proposal for a regulation

#### Article 14 – paragraph 2 – point b a (new)

*Text proposed by the Commission*

*Amendment*

***(ba) where no account is used to process the transfer, the unique transaction identifier;***

Or. en

## Amendment 49

### Proposal for a regulation

#### Article 14 – paragraph 2 – point b b (new)

*Text proposed by the Commission*

*Amendment*

***(bb) subject to the existence of the necessary field in the relevant message format, and where provided by the beneficiary to the crypto- asset service provider of the beneficiary or other obliged entity, the current LEI of the beneficiary or any other available equivalent official identifier.***

Or. en

## Amendment 50

### Proposal for a regulation

#### Article 14 – paragraph 3

*Text proposed by the Commission*

*Amendment*

***3. By way of derogation from paragraph 1, point (b), and paragraph 2, point (b), in the case of a transfer not made from or to an account, the crypto-asset service provider of the originator shall ensure that the transfer of crypto-assets can be individually identified and record the originator and beneficiary address identifiers on the distributed ledger.***

*deleted*

Or. en

## Amendment 51

### Proposal for a regulation

#### Article 14 – paragraph 4

*Text proposed by the Commission*

4. The information referred to in paragraphs 1 and 2 does not **have to** be attached directly to, or **be** included in, the transfer of crypto-assets.

*Amendment*

4. The information referred to in paragraphs 1 and 2 **shall be submitted in a secure manner and immediately with the transfer of crypto-assets provided that either of the following applies:**

**(a) the crypto-asset service provider of the beneficiary is a regulated entity established within the Union;**

**(b) the crypto-asset service provider of the beneficiary is established in a third country and is able to receive and retain the information required under this Regulation and applies adequate safeguards for ensuring data protection.**

**However, where the crypto-asset service provider of the originator knows, suspects or has reasonable grounds to suspect that the crypto-asset service provider of the beneficiary does not apply adequate safeguards for ensuring data protection, the crypto-asset service provider of the originator shall proceed with the execution of the transfer without transmitting the information referred to in paragraph 1 and 2.**

**Such information shall however be retained and made available to competent authorities upon request.**

**The information referred to in paragraph 1, points (a) and (c), and paragraph 2, point (a), shall not be attached directly to, or included in, the transfer of crypto-assets.**

Or. en

**Amendment 52**

**Proposal for a regulation  
Article 14 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**5a.** *In the case of a transfer of crypto-assets to an unhosted wallet, the crypto-asset service provider of the originator or other obliged entity shall obtain and retain the information referred to in paragraphs 1 and 2 from its customer, where available, and make such information available to competent authorities upon request.*

Or. en

### **Amendment 53**

#### **Proposal for a regulation**

#### **Article 14 – paragraph 6 – point a**

*Text proposed by the Commission*

*Amendment*

(a) the identity of the originator has been verified in accordance with Article **16, 18(3) and 37 of Regulation [please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]** [and the information obtained pursuant to that verification has been stored in accordance with Article **56 of Regulation [please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]** or

(a) the identity of the originator has been verified in accordance with Article **13 of Directive (EU) 2015/849** and the information obtained pursuant to that verification has been stored in accordance with Article **40 of that Directive** or

Or. en

### **Amendment 54**

#### **Proposal for a regulation**

#### **Article 14 – paragraph 6 – point b**

*Text proposed by the Commission*

(b) Article **21(2) and (3) of Regulation [please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]** applies to the originator.

*Amendment*

(b) Article **14(5) of Directive (EU) 2015/849** applies to the originator.

Or. en

## **Amendment 55**

### **Proposal for a regulation Article 14 – paragraph 7**

*Text proposed by the Commission*

7. ***Without prejudice to the derogation provided for in Article 15(2)***, the crypto-asset service provider of the originator shall not execute any transfer of crypto-assets before ensuring full compliance with this Article.

*Amendment*

7. The crypto-asset service provider of the originator shall not execute any transfer of crypto-assets before ensuring full compliance with this Article.

Or. en

## **Amendment 56**

### **Proposal for a regulation Article 15 – paragraph 1**

*Text proposed by the Commission*

1. In the case of a batch file transfer from a single originator, Article 14(1) shall not apply to the individual transfers bundled together therein, provided that the batch file contains the information referred to in Article 14(1), **(2) and (3)**, that that information has been verified in accordance with Article 14(5) and (6), and that the individual transfers **carry the**

*Amendment*

1. In the case of a batch file transfer from a single originator, Article 14(1) shall not apply to the individual transfers bundled together therein, provided that the batch file contains the information referred to in Article 14(1) **and (2)** that that information has been verified in accordance with Article 14(5) and (6), and that the individual transfers **are**

*payment account number of the originator or, where Article 14(3) applies the individual identification of the transfer.*

*accompanied by the wallet address, where available and the crypto-asset account number, where an account is used to process the transaction, or the unique transaction identifier of the originator.*

Or. en

## Amendment 57

### Proposal for a regulation Article 15 – paragraph 2

*Text proposed by the Commission*

*Amendment*

**2.** *By way of derogation from Article 14(1), transfers of crypto-assets not exceeding EUR 1 000 that do not appear to be linked to other transfers of crypto-assets which, together with the transfer in question, exceed EUR 1 000, shall be accompanied by at least the following information:*

*deleted*

*(a) the names of the originator and of the beneficiary;*

*(b) the account number of the originator and of the beneficiary or, where Article 14(3) applies, the insurance that the crypto-asset transaction can be individually identified;*

*By way of derogation from Article 14(5), the crypto-assets service provider of the originator shall only verify the information on the originator referred to in this paragraph, first subparagraph, points (a) and (b), in the following cases:*

*(a) the crypto-assets service provider of the originator has received the crypto-assets to be transferred in exchange of cash or anonymous electronic money;*

*(b) the crypto-assets service provider of the originator has reasonable grounds for suspecting money laundering or terrorist financing.*



## Amendment 58

### Proposal for a regulation Article 16 – paragraph 1

*Text proposed by the Commission*

1. The crypto-asset service provider of the beneficiary shall implement effective procedures, including, where appropriate, monitoring after or during the transfers, in order to detect whether the information referred to in Article 14(1) and (2), on the originator or the beneficiary is ***included in, or follows,*** the transfer of crypto-assets or batch file transfer.

*Amendment*

1. The crypto-asset service provider of the beneficiary shall implement effective procedures, including, where appropriate, monitoring after or during the transfers, in order to detect whether the information referred to in Article 14(1) and (2), on the originator or the beneficiary is ***submitted with*** the transfer of crypto-assets or batch file transfer.

## Amendment 59

### Proposal for a regulation Article 16 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. In the case of a transfer of crypto-assets from an unhosted wallet, the crypto-asset service provider or other obliged entity of the beneficiary shall obtain and retain the information referred to in Article 14(1) and (2) from its customer, , where available, and make such information available to competent authorities upon request.***

## Amendment 60

### Proposal for a regulation Article 16 – paragraph 2

*Text proposed by the Commission*

2. ***In the case of transfers of crypto-assets exceeding EUR 1 000, whether those transfers are carried out in a single transaction or in several transactions which appear to be linked,*** before making the crypto-assets available to the beneficiary, the crypto-asset service provider of the beneficiary shall verify the accuracy of the information on the beneficiary referred to in paragraph 1 on the basis of documents, data or information obtained from a reliable and independent source, without prejudice to the requirements laid down in Articles 83 and 84 of Directive (EU) 2015/2366.

*Amendment*

2. Before making the crypto-assets available to the beneficiary, the crypto-asset service provider of the beneficiary shall verify the accuracy of the information on the beneficiary referred to in paragraph 1 on the basis of documents, data or information obtained from a reliable and independent source, without prejudice to the requirements laid down in Articles 83 and 84 of Directive (EU) 2015/2366.

Or. en

## **Amendment 61**

### **Proposal for a regulation Article 16 – paragraph 3**

*Text proposed by the Commission*

3. ***In the case of transfers of crypto-assets not exceeding EUR 1 000 that do not appear to be linked to other transfers of crypto-asset which, together with the transfer in question, exceed EUR 1 000, the crypto-asset service provider of the beneficiary shall only verify the accuracy of the information on the beneficiary in the following cases:***

***(a) where the crypto-asset service provider of the beneficiary effects the pay-out of the crypto-assets in cash or anonymous electronic money;***

***(b) where the crypto-asset service provider of the beneficiary has reasonable grounds for suspecting money laundering or terrorist financing.***

*Amendment*

***deleted***

**Amendment 62****Proposal for a regulation****Article 16 – paragraph 4 – point a***Text proposed by the Commission*

(a) the identity of the crypto-assets transfer beneficiary has been verified in accordance with *[replace with right reference in AMLR to replace Articles 16, 18(3) and 37 of Regulation [please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]* and the information obtained pursuant to that verification has been stored in accordance with *Article 56 of Regulation [please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]*;

*Amendment*

(a) the identity of the crypto-assets transfer beneficiary has been verified in accordance with **Article 13 of** Directive (EU) 2015/849 and the information obtained pursuant to that verification has been stored in accordance with **Article 40 of that** Directive;

**Amendment 63****Proposal for a regulation****Article 16 – paragraph 4 – point b***Text proposed by the Commission*

(b) **Article 21(2) and (3) of Regulation [please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]** applies to the crypto-assets transfer beneficiary.

*Amendment*

(b) **Article 14(5) of** Directive (EU) 2015/849 applies to the crypto-assets transfer beneficiary.

**Amendment 64****Proposal for a regulation****Article 17 – paragraph 1 – subparagraph 1***Text proposed by the Commission*

The crypto-asset service provider of the beneficiary shall implement effective risk-based procedures, including procedures based on the risk-sensitive basis referred to in **Articles 16, 18(3) and 37 of Regulation [please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]**, for determining whether to execute **or** reject a transfer of crypto-assets lacking the required complete originator and beneficiary information and for taking the appropriate follow-up action.

*Amendment*

The crypto-asset service provider **or other obliged entity** of the beneficiary shall implement effective risk-based procedures, including procedures based on the risk-sensitive basis referred to in **Article 13 of Directive (EU) 2015/849, as well as effective procedures to detect the origin or destination of the transferred crypto-assets**, for determining whether to execute, reject **or suspend** a transfer of crypto-assets lacking the required complete originator and beneficiary information, **or for considering them as suspicious based on the origin or destination of those crypto-assets**, and for taking the appropriate follow-up action.

**Amendment 65****Proposal for a regulation****Article 17 – paragraph 1 – subparagraph 2***Text proposed by the Commission*

Where the crypto-asset service provider of the beneficiary becomes aware, when receiving transfers of crypto-assets, that the information referred to in Article 14(1) or (2) or Article 15 is missing or incomplete, the crypto-asset service provider shall reject the transfer or ask for the required information on the originator and the beneficiary before or after making the crypto-assets available to the beneficiary,

*Amendment*

Where the crypto-asset service provider of the beneficiary **or other obliged entity** becomes aware, when receiving transfers of crypto-assets, that the information referred to in Article 14(1) or (2) or Article 15 is missing or incomplete, the crypto-asset service provider shall reject the transfer or ask for the required information on the originator and the beneficiary before or after making the crypto-assets available

on a risk-sensitive basis.

to the beneficiary, on a risk-sensitive basis.  
*Alternatively, the crypto-asset service provider or obliged entity of the beneficiary may hold the transferred crypto-assets without making them available to the beneficiary, until such information has been obtained.*

Or. en

## Amendment 66

### Proposal for a regulation

#### Article 17 – paragraph 2 – subparagraph 1

##### *Text proposed by the Commission*

Where a crypto-asset service provider repeatedly fails to provide the required information on the originator or the beneficiary, the crypto-asset service provider of the beneficiary shall take steps, which may initially include the issuing of warnings and setting of deadlines, and return the transferred crypto-assets to the originator's account or address.

*Alternatively, the crypto-asset service provider of the beneficiary may hold the transferred crypto-assets without making them available to the beneficiary, pending review by the competent authority responsible for monitoring compliance with anti-money laundering and counter terrorist financing provisions.*

##### *Amendment*

Where a crypto-asset service provider **or other obliged entity** repeatedly fails to provide the required information on the originator or the beneficiary, the crypto-asset service provider of the beneficiary **or other obliged entity** shall take steps, which may initially include the issuing of warnings and setting of deadlines, and return the transferred crypto-assets to the originator's **crypto-asset** account or **wallet** address. The crypto-asset service provider **or obliged entity** of the beneficiary **shall also determine whether to reject any future transfers of crypto-assets from, or restrict or terminate its business relationship with, that crypto-asset service provider or obliged entity.**

Or. en

## Amendment 67

### Proposal for a regulation

#### Article 18 – paragraph 1

##### *Text proposed by the Commission*

The crypto-asset service provider of the

##### *Amendment*

The crypto-asset service provider of the

beneficiary shall take into account missing or incomplete information on the originator or the beneficiary when assessing whether a transfer of crypto-assets, or any related transaction, is suspicious and whether it is to be reported to the FIU in accordance with ***Regulation [please insert reference – proposal for a regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]***.

beneficiary shall take into account missing or incomplete information on the originator or the beneficiary when assessing whether a transfer of crypto-assets, or any related transaction, is suspicious and whether it is to be reported to the FIU in accordance with Directive (EU) 2015/849.

Or. en

## **Amendment 68**

### **Proposal for a regulation Article 18 a (new)**

*Text proposed by the Commission*

*Amendment*

#### ***Article 18a***

##### ***Prohibition of transfers involving non-compliant crypto-asset service providers***

- 1. Crypto-asset service providers or other obliged entities shall not facilitate any transfer of crypto-assets to or from a non-compliant crypto-asset service provider.***
- 2. For the purpose of paragraph 1, the EBA shall set up and maintain a non-exhaustive public register of non-compliant crypto-assets providers operating within and outside the Union, which do not apply any measures to mitigate money laundering and terrorist financing risks and pose a significant threat to the integrity of the Union's financial system.***
- 3. In order to identify non-compliant providers of crypto-assets services to be included in the register, the EBA shall take into account:***

*(a) whether the crypto-asset service provider is registered or has a contact point in any recognised jurisdiction, or is registered or domiciled in a country included in the EU AML/CFT list of high risk third country or in a sanctioned jurisdiction, or in the EU list of non-cooperative jurisdictions for tax purposes;*

*b) whether the crypto-asset service provider conducts any form of customer identification and verification;*

*c) whether the crypto-asset service provider offers mixing or tumbling services, privacy wallets, or other anonymising services for transfers of crypto-assets;*

*d) whether the crypto-asset service provider offers services of transfers of crypto-assets in the Union without the required authorisation under Regulation [Regulation on Markets in Crypto-assets];*

*e) whether the crypto-asset service provider has proven links to illegal activities.*

*4. When drawing up the register referred to in paragraph 2, the EBA shall take into account all available information from reliable sources, relevant evaluations, assessments or reports drawn up by international organisations with competence in the field of preventing money laundering and combating terrorist financing, law enforcement authorities and intelligence agencies and any information provided by crypto-assets service providers.*

Or. en

#### *Justification*

*This amendment is inextricably linked to other admissible amendments relating to risk posed by crypto-asset transfers. Suggestion to establish a register of non-compliant crypto-asset service providers as a tool to support CASPs counterparty due diligence for the purpose of complying with the travel rule in the context of crypto-assets transfers.*

## **Amendment 69**

### **Proposal for a regulation Article 19 – paragraph 1**

#### *Text proposed by the Commission*

Payment service providers and crypto-asset service providers shall respond fully and without delay, including by means of a central contact point in accordance with *Article 5(1) of [please insert reference – proposal for a directive on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]*, where such a contact point has been appointed, and in accordance with the procedural requirements laid down in the national law of the Member State in which they are established, to enquiries exclusively from the authorities responsible for preventing and combating money laundering or terrorist financing of that Member State concerning the information required under this Regulation.

#### *Amendment*

Payment service providers and crypto-asset service providers shall respond fully and without delay, including by means of a central contact point in accordance with Directive (EU) 2015/849, where such a contact point has been appointed, and in accordance with the procedural requirements laid down in the national law of the Member State in which they are established, to enquiries exclusively from the authorities responsible for preventing and combating money laundering or terrorist financing of that Member State concerning the information required under this Regulation.

Or. en

## **Amendment 70**

### **Proposal for a regulation Article 22 – paragraph 1 – subparagraph 1**

#### *Text proposed by the Commission*

Without prejudice to the right to provide for and impose criminal sanctions, Member States shall lay down the rules on administrative sanctions and measures applicable to breaches of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The sanctions and measures provided for shall be effective,

#### *Amendment*

Without prejudice to the right to provide for and impose criminal sanctions, Member States shall lay down the rules on administrative sanctions and measures applicable to breaches of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The sanctions and measures provided for shall be effective,



proportionate and dissuasive and shall be consistent with those laid down in accordance with Chapter IV, Section 4, of *[please insert reference – proposal for a directive on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]*.

proportionate and dissuasive and shall be consistent with those laid down in accordance with Chapter IV, Section 4, of Directive (EU) 2015/849.

Or. en

## Amendment 71

### Proposal for a regulation Article 22 – paragraph 4

#### *Text proposed by the Commission*

4. In accordance with Article **39 of [please insert reference – proposal for a directive on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]**, competent authorities shall have all the supervisory and investigatory powers that are necessary for the exercise of their functions. In the exercise of their powers to impose administrative sanctions and measures, competent authorities shall cooperate closely to ensure that those administrative sanctions or measures produce the desired results and coordinate their action when dealing with cross-border cases.

#### *Amendment*

4. In accordance with Article **58(4) of Directive (EU) 2015/849**, competent authorities shall have all the supervisory and investigatory powers that are necessary for the exercise of their functions. In the exercise of their powers to impose administrative sanctions and measures, competent authorities shall cooperate closely to ensure that those administrative sanctions or measures produce the desired results and coordinate their action when dealing with cross-border cases.

Or. en

## Amendment 72

### Proposal for a regulation

#### Article 23 – paragraph 1 – introductory part

*Text proposed by the Commission*

Member States shall ensure that their administrative sanctions and measures include at least those laid down by Articles 40(2), 40(3) and 41(1) of *[please insert reference – proposal for a directive on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]* in the event of the following breaches of this Regulation:

*Amendment*

Member States shall ensure that their administrative sanctions and measures include at least those laid down by Articles 40(2), 40(3) and 41(1) of **59(2) and (3) of** Directive (EU) 2015/849 in the event of the following breaches of this Regulation:

Or. en

## Amendment 73

### Proposal for a regulation

#### Article 24 – paragraph 1

*Text proposed by the Commission*

In accordance with Article **42 of [please insert reference – proposal for a directive on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]**, the competent authorities shall publish administrative sanctions and measures imposed in the cases referred to in Articles 22 and 23 of this Regulation without undue delay, including information on the type and nature of the breach and the identity of the persons responsible for it, if necessary and proportionate after a case-by-case evaluation.

*Amendment*

In accordance with Article **60(1), (2) and (3) of** Directive (EU) 2015/849, the competent authorities shall publish administrative sanctions and measures imposed in the cases referred to in Articles 22 and 23 of this Regulation without undue delay, including information on the type and nature of the breach and the identity of the persons responsible for it, if necessary and proportionate after a case-by-case evaluation.

Or. en

## Amendment 74

### Proposal for a regulation Article 25 – paragraph 1

*Text proposed by the Commission*

1. When determining the type of administrative sanctions or measures and the level of administrative pecuniary sanctions, the competent authorities shall take into account all relevant circumstances, including those listed in Article 39(5) of [...].

*Amendment*

1. When determining the type of administrative sanctions or measures and the level of administrative pecuniary sanctions, the competent authorities shall take into account all relevant circumstances, including those listed in Article 60(4) of *Directive (EU) 2015/849*.

Or. en

## Amendment 75

### Proposal for a regulation Article 25 – paragraph 2

*Text proposed by the Commission*

2. As regards administrative sanctions and measures imposed in accordance with this Regulation, *Articles 6(6) and 44 [...] of [...]Directive (EU) [please insert reference – proposal for a directive on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]* shall apply.

*Amendment*

2. As regards administrative sanctions and measures imposed in accordance with this Regulation, *Article 62 of Directive (EU) 2015/849* shall apply.

Or. en

## Amendment 76

### Proposal for a regulation Article 26 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

Those mechanisms shall include at least those referred to in Article **43 of [please insert reference – proposal for a directive on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849]**.

*Amendment*

Those mechanisms shall include at least those referred to in Article **61(2) of Directive (EU) 2015/849**.

Or. en

**Amendment 77**

**Proposal for a regulation  
Article 30 – paragraph 1**

*Text proposed by the Commission*

The ESAs shall issue guidelines addressed to the competent authorities and the payment service providers in accordance with Article 16 of Regulation (EU) No 1093/2010 on measures to be taken in accordance with this Regulation, in particular as regards the implementation of Articles 7, 8, 11 and 12 thereof. From 1 January 2020, EBA shall, where appropriate, issue such guidelines.

*Amendment*

The ESAs shall issue guidelines addressed to the competent authorities and the payment **service providers and the crypto-asset** service providers in accordance with Article 16 of Regulation (EU) No 1093/2010 on measures to be taken in accordance with this Regulation, in particular as regards the implementation of Articles 7, 8, 11 and 12 **as well as Article 14, 16 and 17** thereof. From 1 January 2020, EBA shall, where appropriate, issue such guidelines.

Or. en

*Justification*

*This amendment is necessary for the internal logic of the text and is inextricably linked to other admissible amendments relating to risk posed by crypto-asset transfers. New guidelines are needed to support competent authorities and crypto-asset service providers with the implementation of the new provisions concerning transfers of crypto-assets*

## Amendment 78

### Proposal for a regulation Article 30 a (new)

*Text proposed by the Commission*

*Amendment*

*Article 30a*

*Review clause*

***By ... [two years from the date of application of this Regulation], the Commission shall submit to the European Parliament and to the Council a report on the application and enforcement of this Regulation accompanied, if appropriate, by a legislative proposal.***

***That report shall include the following elements:***

- (a) an assessment of the effectiveness of existing measures and technical solutions for their application and compliance obligations on crypto-asset service providers;***
- (b) an analysis of the need, feasibility and proportionality of specific measures to mitigate the risks posed by transfers from or to unhosted wallets, including possible requirements for the identification and verification of their beneficial owner;***
- (c) an analysis of the trends in the use of unhosted wallets to perform transfers without any involvement of a third party, together with an assessment of the related money laundering and terrorist financing risks and mitigating measures, including possible obligations for providers of hardware and software wallets and transaction limits;***
- (d) an assessment of the application of sanctions, in particular whether they are effective, proportionate and dissuasive, and the need to further harmonise the administrative sanctions laid down for infringements of the requirements***

*established in this Regulation;*

*g) an assessment of the effectiveness of international cooperation and information exchange between competent authorities and FIUs.*

*The Report shall take into account the developments as well as relevant evaluations, assessments or reports drawn up by international organisations and standard setters in the field of preventing money laundering and combating terrorist financing, law enforcement authorities and intelligence agencies and any information provided by crypto-assets service providers or reliable sources.*

Or. en

#### *Justification*

*This amendment is inextricably linked to other admissible amendments relating to risk posed by crypto-asset transfers. Given the specific regulatory challenges posed by crypto-assets and the fast-paced developments in the crypto-asset landscape, it is appropriate to review the application of this Regulation and assess any evolving risks and trends which may warrant the consideration of additional appropriate mitigating measures.*

#### **Amendment 79**

##### **Proposal for a regulation Article 31 a (new)**

*Text proposed by the Commission*

*Amendment*

##### *Article 31a*

*Amendments to Directive (EU) 2015/849*

*1. Directive (EU) 2015/849 is amended as follows :*

*(1) Article 2(1), point 3, is amended as follows:*

*(a) point (g) is replaced by the following:*

*‘(g) crypto-asset service providers;’;*

*(b) point (h) is deleted;*

**(2) Article 3 is amended as follows:**

**(a) point 18 is replaced by the following:**

**“(18) ‘crypto-asset’ means a crypto-asset as defined in Article 3(1), point (2), of Regulation [please insert reference – proposal for a Regulation on Markets in Crypto-assets, and amending Directive(EU) 2019/1937 - COM/2020/593 final] except when falling under the categories listed in Article 2(2) and (2a) of that Regulation or otherwise qualifying as funds;”;**

**(b) point 19 is replaced by the following:**

**“(19) ‘crypto-asset service provider’ means a crypto-assets service provider as defined in Article 3(1), point (8), of Regulation [Regulation on Markets in Crypto-assets] where performing one or more crypto-asset services as defined in Article 3(1), point (9), of that Regulation, with the exception of providing advice on crypto-assets as defined in point (9)(h) of that Article.**

**2. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the previous paragraph by... [please insert reference to the date of application of proposal for a Regulation on Markets in Crypto-assets, and amending Directive (EU) 2019/1937-COM/2020/593 final]. They shall immediately communicate the text of those provisions to the Commission.**

Or. en

#### *Justification*

*Amendment relating to the internal logic of the text since the provisions do not refer anymore to the proposals for a new AML Regulation/Directive, but to the current Directive 2015/849.*

## **Amendment 80**

### **Proposal for a regulation**

#### **Article 32 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***It shall apply from... [please insert reference to the date of application of proposal for a Regulation on Markets in Crypto-assets, and amending Directive (EU) 2019/1937-COM/2020/593 final].***

Or. en

*Justification*

*Amendment relating to the internal logic of the text. Date of application should coincide with the date of application of the MiCA Regulation.*



## EXPLANATORY STATEMENT

The Transfer of Funds Regulation (EU) 2015/847 was adopted to enhance the traceability of transfers of funds by requiring payment service providers to ensure the transmission of information on the payer and the payee throughout the payment chain (the so called ‘travel rule’), with the view to prevent, detect and investigate possible misuse of funds for money laundering and terrorist financing. Until today, crypto-assets have remained outside the scope of this Regulation, which only applies to conventional funds, defined as “*banknotes and coins, scriptural money and electronic money*”, but not to transfers of crypto assets.

This loophole enables the use of crypto-assets to facilitate, fund and hide criminal activities and launder proceeds, since illicit flows can move easily, anonymously, with less friction, higher speed and without any geographical limitations across jurisdictions, with a better chance of remaining unhindered and undetected.

This results in a serious security threat to European citizens, damages the integrity of our financial system and undermines the reputation of the legitimate crypto-asset ecosystem as a whole, exposing both users and providers of services of crypto-assets to significant money laundering and terrorist financing risks.

In October 2018 the Financial Action Task Force (FATF) revised its 2012 recommendations to ensure that they apply to virtual assets and crypto-asset service providers (CASPs). The amended FATF Recommendation 15 on new technologies requires that CASPs should be regulated for anti-money laundering and countering the financing of terrorism (AML/CFT), licensed or registered and subject to supervision.

In June 2019, FATF adopted an Interpretive Note to Recommendation 15 (INR. 15) to further clarify how its requirements should apply in relation to crypto-assets. INR 15 makes it clear that the preventive measures set out in Recommendations 10 to 21 apply to CASPs. INR 15 also provides a qualification for the application of Recommendation 16 (the ‘travel rule’) for the transfers of crypto-assets. In particular, obliged entities should obtain and hold required originator and beneficiary information on crypto-asset transfers, verify such information in relation to their own customer, transmit it to the counterparty, while making it available on request to competent authorities.

In July 2021, the European Commission presented a package of proposals to further improve the Union’s AML/CFT rules.

The Co-Rapporteurs welcome the Commission proposal to recast the Funds Transfer Regulation as part of the package. The proposal intends to close an important loophole in the fight against money laundering and terrorist financing by extending the current regime applied to wire transfers to transfers of crypto-assets. Nevertheless, the co-rapporteurs believe that the proposal can be further strengthened and should better reflect the specific characteristics of crypto-assets. The co-rapporteurs are convinced that a strengthened Transfer of Funds Regulation will help protect EU citizens from crime and terrorism.

The draft report puts forward the following key proposals.

### **1. No exemptions based on the value of the transfer**

With respect to wire transfers, the Transfer of Funds Regulation requires a payment service provider to ensure that transfers of funds are accompanied by complete information on the originator and the beneficiary and to verify the information on their customer only if the transfers of funds exceeds EUR 1000, individually or as part of small linked transfers which together would exceed EUR 1000, except where the funds to be transferred are received in cash or anonymous electronic money or there are reasonable grounds for suspecting money laundering or terrorist financing.

Due to the specific characteristics and risk profile of crypto-assets, the information obligation should apply to crypto-assets transfers, regardless of the value of the transfer. There are clear indications that crypto-asset activities associated with criminal activities and terrorism financing are often transfers of small value. Furthermore, crypto-assets and related technologies enable criminals to split high value transfers into small amounts across multiple wallet addresses in order to avoid detection of AML/CFT monitoring systems and to carry out illicit activities via structured transactions to a scale and global reach not available to wire transfers. In the view of the co-rapporteurs, the removal of a de minimis threshold for crypto-asset transfers would facilitate, rather than complicate, compliance and risk management by crypto-asset service providers. This is particularly relevant in light of the difficulty to identify linked transfers executed via multiple apparently unrelated wallet addresses as well as the high volatility of the valuation of most crypto-assets.

## **2. Transfers from/to un-hosted wallets**

Secondly, it should be clarified that this Regulation applies also to transfers from or to crypto-asset wallets based on a software or hardware not hosted by a third party, known as ‘unhosted wallets’, provided that a crypto-asset service provider or another obliged entity is involved. In such circumstances, however, there should be no transmission of information to the unhosted wallet. Information should be obtained by the crypto-asset service provider directly from its customer and should be held and made available to competent authorities.

## **3. Know your transaction**

In addition to obtaining accurate information on the originator and the beneficiary, crypto-asset service providers should also be expected to obtain information on the source and destination of crypto-assets involved in a transfer. In particular crypto-asset service providers should establish effective procedures to detect suspicious crypto-assets, in particular any link with illegal activities, including fraud, extortion, ransomware or darknet marketplaces, or whether the crypto-asset has passed through mixers or tumblers or other anonymizing services. This is especially important when dealing with transfers involving unhosted wallets or non-EU crypto-asset service providers not complying with the same travel rule obligations.

## **4. Counterparty due diligence and protection of personal information**

Crypto-asset service providers are expected to transmit required information also to crypto-asset service providers established outside the Union. However, before transmitting such information, crypto-asset service providers should identify their counterparty and assess whether they can reasonably be expected to comply with the travel rule and protect the confidentiality of personal information. Crypto-asset service providers should avoid interacting with illicit or untrustworthy actors.

## **5. Public register of noncompliant crypto-asset service providers**

In order to facilitate the identification of illicit actors that pose a great risk from a AML/CFT perspective, the European Banking Authority (EBA) should maintain a public register of noncompliant crypto-asset service providers, consisting of entities which cannot be linked to any recognised jurisdictions, do not apply any identification measures on their customer and offer anonymising services, given their role in undermining the effectiveness of AML/CFT systems and controls.

## **6. Fast track**

Finally, in order to speed up its adoption and ensure that crypto-asset service providers and other obliged entities put in place effective mechanisms to comply with the travel rule for combatting money laundering and terrorism financing, the current recast proposal should be decoupled from the rest of the new AML package and should be linked to the existing AMLD framework until the entry into force of the new regime, while preserving the alignment with the upcoming Regulation on Markets in Crypto-assets [MiCA].

The co-rapporteurs are convinced that an effective and strengthened framework to prevent the misuse of crypto-assets for money laundering and terrorist financing purposes is necessary to protect EU citizens from terrorism and organised crime, while contributing to the development of a safe, lawful and well-functioning space for users of crypto assets and crypto asset service providers across the Union. The co-rapporteurs call on Member States and EU competent authorities to ensure proper implementation and enforcement also in a view of avoiding unfair and unregulated competition, including from non-EU players.

Finally, the co-rapporteurs emphasize the role the Union should play in promoting the implementation of the travel rule for crypto-asset transfers at global level as well as effective international cooperation to combat money laundering and terrorist financing

