



MC BORRELLI
ADVISORS
LIMITED

MONEY LAUNDERING AND FINANCIAL CRIME UK LEGISLATION

Scope

Outlines the applicable legislation governing the way in which investment firms hold assets (including cash) belonging to clients.

Informs cryptoasset firms how legislation could apply with respect to the holding client assets and their own assets and to ensure that in the event of their insolvency, clients are in the best possible position as against any other creditors.

Wire Transfer Regulation (WTR)

Financial Action Taskforce (FATF) Special Recommendation 7 provides that:

“Countries should take measures to require financial institutions, including money remitters, to include accurate and meaningful originator information (name, address and account number) on funds transfers and related messages that are sent, and the information should remain with the transfer or related message through the payment chain. Countries should take measures to ensure that financial institutions, including money remitters, conduct enhanced scrutiny of, and monitor for suspicious activity funds transfers, which do not contain complete originator information (name, address and account number).”

FATF countries agreed to implement special recommendation 7 by December 2006.

Implemented in Europe by Regulation EC 1781/2006 on 15th November 2006, which specified the rules on payer information accompanying transfers of funds.

Applies to transfers of funds in any currency, which are sent or received by a payment service provider (PSP) in a European Union (EU) Member State.



Certain exclusions apply:

- payments made by credit or debit card (for instance, where the transaction has a unique identifier card and can be traced back to the payer);
- payments made by a mobile phone or any other information technology (IT) or mobile device where funds are withdrawn from the payer's own account; and/or
- payments made to public authorities for taxes, fines, or other levies.

Information on the payer is required, consisting of their name, address and account number, where the payer does not have an account number, the PSP must substitute a unique payment identifier to allow to payment to be traced back to the payer.

Information must be retained for a minimum period of five years.

Directly applicable, but the supervisory and enforcement aspects were implemented by the Transfer of Funds.

Revised Wire Transfer Regulation (RWTR)

FATF Special Recommendation 16 (formerly Special Recommendation 7) provides that:

“Countries should ensure that financial institutions include required and accurate originator information, and required beneficiary information on wire transfers and related messages, and that the information remains with the wire transfer or related message through the payment chain. Countries should ensure that financial institutions monitor wire transfers for the purpose of detecting those which lack required originator and/or beneficiary information, and take appropriate measures. Countries should ensure that, in the context of processing wire transfers, financial institutions take freezing action and should prohibit conducting transactions with designated persons and entities, as per the obligations set out in the relevant United Nations Security Council resolutions, such as resolution 1267 (1999) and its successor resolutions, and resolution 1373 (2001), relating to the prevention and suppression of terrorism and terrorism financing”.

An amended version of Special Recommendation 7 can be located at Recommendation 16 in the FATF's Forty Recommendations as a result of the 2012 update. Regulation EU (2015/847) came into force on 25th June 2015, as a replacement to the WTR, to ensure that EU legislation kept up to date with the FATF Recommendations and in conjunction with the changes brought about by the fourth money laundering directive.

Its purpose was to enhance the traceability of funds across the EU. It sought to bring a more targeted and focused risk-based approach, whereby EU Member States have greater flexibility in adopting measures and taking action. It also extended to the three European Economic Area (EEA) states: (a) Norway; (b) Liechtenstein; and (c) Iceland.

Designed to address identified gaps in the WTR. It requires PSP of the payer to ensure that the information on the payee accompanies each transfer of funds, including their name and payment account number or unique transfer number. Other changes include the requirement for the PSP of the payee to verify the accuracy of the information on the payee (only to fund transfers >EUR 1,000).

Clarifies the scope of the regime, to bring in more electronic payment methods that are used for natural person to natural person transfers of funds. Requires both payee's and any intermediary's PSPs to establish risk-based procedures for determining whether to process transfers that lack the necessary payer/payee information.

PSPs must establish appropriate internal whistleblowing procedures.



How can we help?

Our services are provided to all cryptoasset ecosystem actors undertaking regulated activities across all of the industry segments, such as Exchange.

Our clients benefit from comprehensive compliance coverage of the United Kingdom's regulatory perimeter, particularly to virtual asset service providers engaged in crypto transfers that are subject to the FATF Travel Rule.

