

# Linklaters

## Travel light: Crypto and payments firms to see changes in UK AML rules

28 July 2021



HM Treasury is consulting on “time-sensitive” changes to the UK anti-money laundering regime.

The proposals include introducing the so-called “travel rule” under which crypto service providers would have to share more information about the parties to crypto asset transactions.

The consultation closes on 14 October 2021.



### Applying the travel rule to crypto-asset firms

Having delayed it for two years, the UK Government says that the “time is now right” to start implementing the travel rule.



### Shaping the UK’s future AML framework

The UK Government is looking at the effectiveness of the overall AML regime and will put forward changes in 2022.



### Changes to the scope of the MLRs

Providers of account information and payment initiation service providers may no longer have to apply AML requirements.



### The EU’s AML plans

The European Union has plans to reform its AML regime, with important consequences for crypto-asset service providers.



## Applying the travel rule to crypto-asset firms

### What is the travel rule?

The Financial Action Task Force sets anti-money laundering standards for its 39 FATF member jurisdictions to apply. One of these – the so-called “travel rule” – requires financial institutions to record information about parties to financial transactions.

In 2019 FATF revised its standards to cover crypto-assets. This included applying the travel rule to crypto-asset transactions. But, since then, most countries have not done so – see box.

### Why has the travel rule not been adopted more widely?

A significant hold-up has been the lack of available technology which would enable crypto-asset service providers to comply with the travel rule. For example, the UK originally deferred applying the travel rule because it wanted to allow more time for compliance solutions to be developed. More recently, FATF has expressed concern that the lack of national implementation reduces the incentive for technical progress, and the lack of technical progress justifies the lack of national implementation.

### What is the UK doing now?

HMT has launched a [consultation](#) suggesting targeted changes to the UK’s AML regime. This includes a plans to start applying the travel rule to crypto-asset firms.

The consultation paper suggests giving firms a grace period so they can integrate compliance solutions before the rule takes effect. HMT invites views on how long the grace period should be.

### Who would be impacted?

The new requirements would apply to UK crypto-asset exchange providers and custodian wallet providers. These crypto-asset firms are already in the scope of the UK money laundering regime but do not currently have to comply with the UK Funds Transfer Regulation, which implements the travel rule for bank transfers.

HMT does not plan on extending the UK FTR to apply to crypto-asset firms. Instead, it will replicate aspects of that regime in the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, known as the MLRs. This has the advantage of keeping all the AML rules for crypto-asset firms in one place.

In response to a recent FATF survey, 23 jurisdictions reported that they had introduced travel rule requirements, of which only 10 said that they were enforcing these requirements.

No jurisdiction could identify a crypto-asset service provider which complied fully with every element of the travel rule.



## Applying the travel rule to crypto-asset firms

### What information would crypto-asset firms need to collect?

Under the proposals, personal information about the originator and beneficiary must be sent and recorded with any crypto-asset transfer. Crypto-asset firms will need to have systems in place to do ensure this happens and that the information is formatted appropriately.

The minimum information required is shown in the table. The name and account number or unique transaction identifier would be needed for both the originator and beneficiary. The originator's address, personal document number and customer identification number (or date and place of birth) would also be required.

Less information would be needed for lower-value transfers and transfers only involving UK-based crypto-asset service providers. Intermediary crypto-asset firms would also need to ensure that the relevant information is retained with the transfer.

	Originator	Beneficiary
Name	Y	Y
Address	Y	-
Account number or unique transaction identifier	Y	Y
Personal document number	Y	-
Customer identification or date and place of birth	Y	-



## Applying the travel rule to crypto-asset firms

### What else would crypto-asset firms need to do?

Crypto-assets firms receiving transfers would need to:

- look out for, and take steps to fill in, missing information;
- check the consistency of the information on the beneficiary with their own customer information; and
- keep the beneficiary and originator information for five years and make it available to the authorities on request.

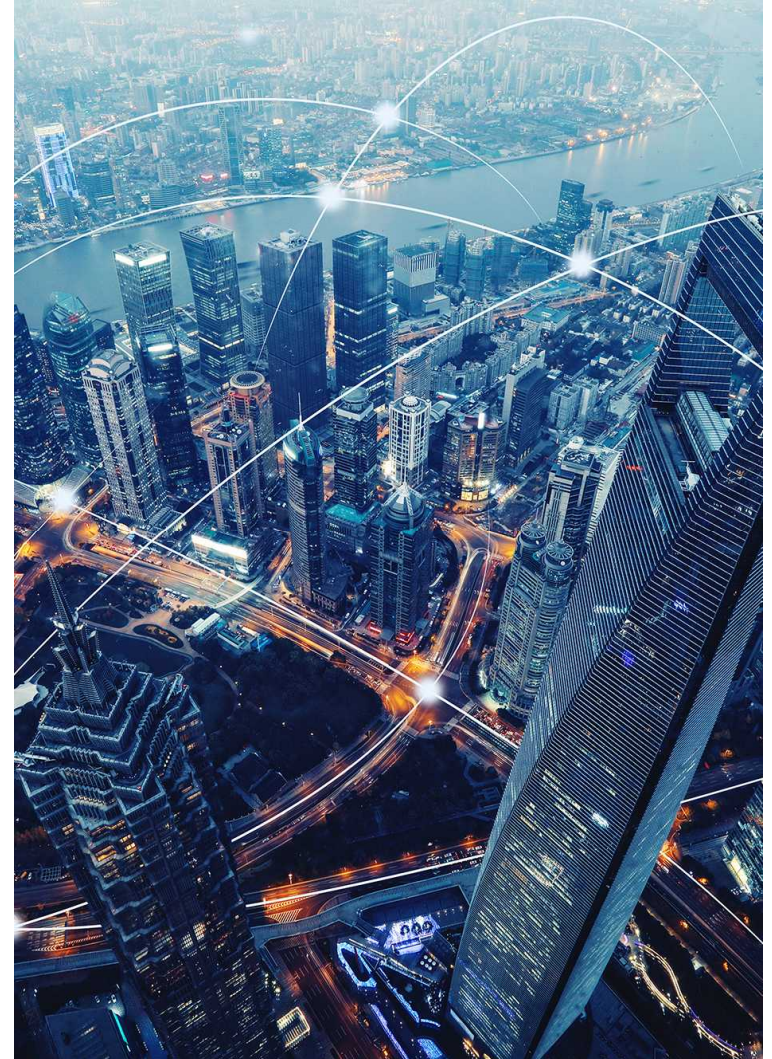
Special rules would apply where transfers are made to or from unhosted wallets. For example, where a crypto-asset firm receives a transfer from someone who hosts their own wallet, it would need to seek the required information about the originator from its customer (the beneficiary).

### Does the EU plan to implement the travel rule?

Yes. See below for more on the EU's plans.



**Read more:** FATF consults on changes to its international AML standards for cryptoassets







## Changes to the scope of the MLRs

HMT has suggested excluding a couple of payment service providers from AML requirements.

- Firstly, account information service providers. AISPs provide customers with a single view of their payment accounts. Because it is only an information service and they are not included in payment chains, AISPs are considered as low risk from a money laundering perspective.
- Secondly, payment initiations service providers. Unlike AISPs, PISPs are involved in payment chains by initiating payment transactions. However, they do not execute payments and do not hold customer funds and so are also considered to be relatively low risk.

The consultation asks about how the money laundering risks presented by AISPs and PISPs compare to other payment services. It also seeks views on the direct costs for these firms of complying with the MLRs and whether it dissuades customers from using these services.

HMT proposes excluding a couple of other types of entity currently in scope of the MLRs i.e. bill payment service providers and telecom, digital, and IT payment service providers. According to HMT, there are only a handful of these businesses in the UK and they deal with relatively low funds so they represent a low risk of money laundering.



## Shaping the UK's future AML framework

In parallel to the consultation, HMT has launched a [call for evidence](#) on a review of the UK's AML regime. Much wider in scope than the targeted consultation, the intention is for this review to shape the UK's direction in AML for the coming years. Feedback is invited by 14 October 2021.

The call for evidence looks at the MLRs and OPBAS i.e. the Oversight of Professional Body AML and CFT Supervision Regulations 2017. HMT is reviewing the effectiveness of the two regimes, whether key elements of the regulations are operating as intended, and the overall structure of the AML supervisory regime.

HMT will publish a final report setting out the findings of the review and, where relevant, possible options for reform by 26 June 2022.



The intention is for this review to shape the UK's direction in AML for the coming years.



**Explore:** Future Regulatory Framework webpage



## The EU's AML plans

The European Commission has recently published a package of draft legislation which aims to overhaul AML rules in the EU.

Among the proposals are a revision of the EU Funds Transfer Regulation to apply the FATF travel rule to crypto-asset transfers. The draft provisions are similar to the UK proposals discussed above eg they specify the information that must accompany crypto-asset transfers and the additional obligations on the beneficiary's crypto-asset service provider. An important difference is that the EU does not, at this stage, propose including a grace period to allow extra time to implement the travel rule. In any event, it is unlikely that the rules would take effect before 2024.

The EU's AML package includes another reform of relevance to the crypto sector. Currently, the only crypto-asset businesses caught by the scope of the EU AML rules are crypto-asset exchange providers and custodian wallet providers. Looking ahead, the Commission plans to apply the EU AML regime to the entire crypto sector.

The definitions for crypto-asset and crypto-asset service provider will be taken from the EU's Markets in Crypto-assets Regulation. MiCAR is currently draft legislation but is expected to be finalised in 2022.

The MiCAR definitions of crypto-asset service provider are broader in scope than the crypto firms currently caught by AML regulation. The EU wants its AML regime and Funds Transfer Regulation – which includes the travel rule requirements – to apply to this broader range of crypto-asset service providers. For example, crypto-asset brokers and advisers would be brought into scope alongside custodians and exchanges.

The EU also plans to ban crypto-asset service providers from keeping anonymous crypto-asset wallets, just as anonymous bank accounts are already prohibited under EU-wide AML legislation.

The other proposals in the Commission's AML package include:

- creating a new EU body known as AMLA to supervise money laundering; and
- harmonising standards across the EU in a single AML rulebook.



The Commission plans to apply the EU AML regime to the entire crypto sector.



**Read more:** New rules proposed to tackle financial crime in the EU: is the European game now over for money launderers?

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