

MONEY LAUNDERING THROUGH CRYPTOCURRENCIES

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Abstract. The article discusses the problem of cryptocurrency regulation in the aspect of money laundering. In order to counteract the laundering of criminally obtained funds and the financing of terrorism, it is necessary to amend the relevant laws regulating transactions involving cryptocurrencies.

Keywords. Blockchain, crypto-currencies, crypto-economics, regulation, FATF.

Digital currency or digital money is defined as means of payment or exchange that occurs in electronic form, with transactions recorded electronically. The features of digital currency are similar to traditional currencies in that they can be used for payments when buying or selling physical goods and services, transferred across locations and stored in wallets or accounts. According to the classification of the Financial Crimes Enforcement Network (FinCEN), digital currencies are divided into two broad categories – virtual currencies and cryptocurrencies.

Virtual currencies are defined as digital representations of unregulated money that are not issued by a central authority and are not associated with a “fixed currency” (currency set by government regulations) and which are used and accepted among members of specific groups. Examples of virtual currencies are loyalty points, Facebook credits, coins Amazon or frequent flyer program points. Cryptocurrencies are a class of digital money that uses cryptography as means of protecting money interactions and monitoring the generation of cryptocurrency units. Some of the widely used cryptocurrencies are Bitcoin, Ethereum and Litecoin.

Money laundering using cryptocurrencies follows the general scheme of placement-leaking-integration, but with some special features:

Cryptocurrencies have been anonymous since their creation, so there is often no placement stage in the money laundering process.

Creating an account ("address") takes only a few seconds, and it's free. You can use each account only twice: to receive money, and then transfer it somewhere else.

There is a possibility of creating large-scale money laundering schemes with thousands of transfers at a low price and its implementation using a computer script.

Due to the rapid growth of exchange rates, when some cryptocurrencies show an increase of 10,000%, it is very easy to explain the unexpected enrichment due to cryptocurrencies.

To eliminate these risks, UNODC is implementing a project on cryptocurrency and money laundering.

Many jurisdictions currently already allow the use of virtual assets as means of settlement, an investment attraction tool, as well as for other purposes. So, the state of California in the USA was the first to legalize the use of cryptocurrency back in 2015. In Washington state, cryptocurrency is recognized as an object of money transfers, which implies the possibility of a company to carry out activities to transfer units of cryptocurrency only after obtaining a license from a transfer operator money. Since 2014, cryptocurrency

exchanges in Canada have been subject to registration with the relevant financial supervisory authority. Other states are also currently forming legislation regulating the market for the circulation of digital financial assets.¹¹⁶

The largest case of money laundering using the Internet in history is the activity of Liberty Reserve, which provided illegal money transfer and legalization services. During the criminal investigation, it was found out that about \$6 billion of proceeds from crime had been legalized.

One example is an investigation conducted in coordination with the investigative authorities of 20 countries, through which the creators and participants of the Darkode forum were arrested, through which illegal goods and services were traded using cryptocurrency.

There is also evidence that some terrorist groups use popular cryptocurrencies to disguise transactions. Thus, the established international practice indicates the need to develop such legal regulation that can prevent the laundering of criminally obtained funds using digital assets both at the national and international levels.

Currently, legislation on the regulation of digital financial assets in the Russian Federation is in its infancy. At the same time, attempts to regulate or set the direction for a rapidly developing new financial market have been made by both executive authorities and judicial acts of interpretation.

February 26, 2019 The Plenum of the Supreme Court of the Russian Federation adopted Resolution No. 1, according to which amendments were made to the Resolution of the Plenum of the Supreme Court of the Russian Federation dated July 7, 2015 No. 32 "On judicial practice in cases of legalization (laundering) of funds or other property acquired by criminal means, and on the acquisition or sale of property knowingly obtained by criminal means." Now, the subject of a group of crimes related to the legalization (laundering) of criminally obtained funds will also be funds converted from virtual assets (cryptocurrencies) acquired as a result of the commission of a crime.

Since June 19, 2003, the Russian Federation has been a member of the Financial Action Task Force on Money Laundering (FATF). Since February 2012, 40 FATF Recommendations have come into effect,¹¹ which are being consistently implemented in Russia. In particular, according to the Recommendations, financial institutions are prohibited from maintaining anonymous accounts or accounts opened in fictitious names. Financial institutions should take measures to properly verify identity and business relations of clients. An important provision is also the obligation of financial institutions to store transaction data for at least five years in order to ensure the ability to respond promptly to requests from competent authorities. It is also worth noting that, in accordance with the Recommendations of the participating countries, it is necessary to take measures aimed at licensing individuals and legal entities providing services for the transfer of funds or valuables, ensuring effective monitoring of their activities for compliance with legislation on countering the legalization of funds obtained by criminal means. The Recommendations also contain provisions according to which participating countries should identify and assess the risks of money laundering or terrorist financing that may arise in connection with the development of new technologies and products, as well as norms according to which countries need to ensure that financial institutions record accurate information about the sender and the necessary information

¹¹⁶ Virtual Currency Regulation. Washington State Department of Financial Institutions, 2014. URL: <https://www.irs.gov/newsroom/irs-virtual-currency-guidance> (accessed: 21.08.2023).

about the recipient in an electronic transfer and accompanying messages throughout the payment chain.

At the same time, the Recommendations rightly contain provisions (F) on regulation and supervision of financial institutions. In particular, financial institutions should undergo licensing or registration procedures, and their activities should be properly regulated and supervised or controlled, taking into account the risk of money laundering or terrorist financing in this sector.

The legislator's desire to counteract the legalization of proceeds from crime by forming a layer of legal norms regulating the digital financial assets market, as well as the issuance by the highest judicial authorities of relevant acts of interpretation, should certainly be evaluated positively. At the same time, regulatory provisions should be implemented in practice, because only in this case can we talk about the effectiveness of legal regulation.

Thus, summing up, we can conclude that the emerging market for the circulation of digital financial assets undoubtedly requires thorough legal regulation, because the long-term lack of legal regulation results in an increase in violations of the rights and legitimate interests of both individuals and public interests as a whole. The Russian Federation, as a member of the Financial Action Task Force on Money Laundering (FATF), is actively implementing the norms of the 40 FATF Recommendations on Countering the legalization of Proceeds from Crime and the financing of terrorism in draft laws, which will reduce criminal risks in the digital asset market in the future.

At the same time, the anti-money laundering regulations included in the draft laws on the circulation of digital financial assets should be implemented in practice, which requires careful study of the technological aspects of their implementation.