

## 5<sup>th</sup> EU Anti Money Laundering Directive for Cryptoasset Businesses(5AMLD)

From 10<sup>th</sup> January 2020, any business carrying out crypto activities will need to be registered under the new Money Laundering Regulations (“MLRs”), supervised by the Financial Conduct Authority (“FCA”).

### What are the key dates?

Existing Cryptoasset Firms		New Cryptoasset Firms	
10 <sup>th</sup> January 2020	<p><b>Applications for registration open; FCA supervision begins.</b></p> <p>Permitted to continue Cryptoasset business through application assessment.</p>	10 <sup>th</sup> January 2020	<p><b>Applications for registration open; FCA supervision begins.</b></p> <p>No Cryptoasset business can be conducted till application is approved.</p>
30 <sup>th</sup> June 2020	<p>Deadline for applications for priority review, to check that they are complete and ready to be determined by the FCA.</p>		
10 <sup>th</sup> January 2021	<p>Deadline <b>to be registered.</b></p>		

### Q1 What is this all about?

The FCA is the regulator of the financial sector in the UK and has been granted the powers by the Government to be the national registrar for all active crypto firms in the UK. The register is a requirement coming out from the EU (it’s the EU 5<sup>th</sup> Anti Money Laundering Directive (“5MLD”) – that is, it’s law) and as the title suggests, it ensures that crypto firms conduct Anti-Money Laundering (“AML”) checks where required under the law (and the guidelines).

### Q2 What does “register” mean?

The FCA requires firms to submit applications to be registered and that application will provide evidence as to the policies and procedures that the applicant applies to its business to prevent financial crime from occurring. Each of the EU countries is obliged to do the same for crypto firms operating in their country.

### Q3 What counts as ‘cryptoasset activity’? Is my firm included?

HMT has published a list of activities that if conducted in the UK, or offered into the UK, requires that firm to be suitably registered with the FCA. It includes:

- Cryptoasset Exchange Providers – businesses that exchange fiat currency for a cryptoasset or vice versa, and/or exchanges one cryptoasset for another.
- Cryptoasset Automated Teller Machines (ATM) – physical kiosks that exchange cryptoassets and fiat currencies
- Custodian Wallet Providers – businesses that look after customer tokens in an IT system or server
- Peer to Peer Providers – businesses that provide an online marketplace to allow the exchange of cryptoassets and fiat currencies
- Issuers of New cryptoassets, such as Initial Coin Offerings (ICO) or Initial Exchange Offerings (IEO) – businesses that sells a new cryptoasset in exchange for fiat currency



- Custodian Wallet Providers – businesses who provide services to safeguard, or safeguard and administer cryptoassets or private cryptographic keys for customers

There are certain interpretations of these broad headings so you need to be very careful as to whether you are in or out – it is not restricted to a firm offering financial services, it's every firm operating within these definitions.

#### **Q4 My firm is already authorised by the FCA. Do I need still need to apply to be registered?**

Yes, you do. If your firm carries out any of the activities in Q3, being authorised by the FCA will not be enough. Instead, you will need to apply to be registered under the new MLRs.

#### **Q5 What do you mean “cease my business”?**

If your business is **currently** providing crypto activities in or into the UK, then you must apply for registration from the 10<sup>th</sup> January 2020. You can continue providing your crypto services, but you must be compliant with the new Money Laundering regulations – 5MLD; you must also have registered with the FCA for the new MLRs by 10<sup>th</sup> January 2021.

If your business is not yet providing crypto activities, you can apply from 10<sup>th</sup> January 2020, but you cannot start that crypto business until the FCA has assessed and approved your application to register.

It's as simple as that. Get it in quickly or you join the back of the queue while the FCA reviews your application (which may take up to 3 months for them to approve).

#### **Q6 How long does it take to produce the pack and how long will the FCA take to process it?**

Working with you to ensure we get your application across the line in time, we estimate (all firms are different!) that it could take circa 3 weeks to complete the application pack but that of course dependent on what infrastructure you already have.

Once it has been submitted, the FCA will allocate a case officer to review the application and request further information from us, should they need it. We will, of course, assist you throughout the whole process. We know the FCA have said that any applications received by the 30<sup>th</sup> June 2020 will be processed in time for the 10<sup>th</sup> January 2021 so that gives you an idea that they may take around 6 months to approve an application. Do note that applications being submitted after the 30<sup>th</sup> June are not guaranteed to be approved by the 10<sup>th</sup> Jan 2021.

#### **Q7 What do I need to do to apply?**

There is an application form and with that you need to provide supporting documents. These documents need to show that you have:

- assessed money laundering and terrorist financing risks facing the business;
- deployed and maintained appropriate Customer Due Diligence policies and procedures and;
- ensured that staff are aware of money laundering, terrorist financing risks and the Nominated Officer to whom any suspicions should be reported.

It doesn't end there. There is a lot more the FCA is requesting to enable the registration of a firm, that demonstrates the governance structures around the business activities, the shareholders, staff and so on. We know each firm will have slightly different requirements; this is why we will tailor all our documents to suit your business specifically.

#### **Q8 Seems like a lot to do in a short period of time; can you help?**

It is a lot and it's the same type of work that FCA financial institutions currently do. Fortunately, we are active with firms in the cryptoasset space, and have developed regulatory expertise to suit them. To help you, we have produced a ready-made pack of all the above documents that is ready to be completed, albeit we will have to work together to produce a tailored document suite for your business. We offer to you either a full service where we work with you to complete the whole pack or, we offer the templates plus advisory guidance for you to do the majority of the work.



**Q9 My competitors aren't doing this/getting registered, why do I have to?**

The FCA have plenty of powers to cease your business from operating and they aren't afraid to use those powers. The risks are plentiful, expensive and can be restrictive on any individuals' future activities in the UK (i.e. banned). Even if you get away for with it for a while, your banking partners, brokers, accountants, investors, HMRC etc will all require evidence that you are properly registered, if not they will close accounts, and cease working with you. That alone can kill your business.

**Ok, help please.**

Please call us at [020 2056 0956](tel:02020560956) or email [info@mpacgroup.co.uk](mailto:info@mpacgroup.co.uk) for clarification on whether you are in or out – we will help you. If you know you need to be registered, please contact us and we can provide you your needs to get through this application process.