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21 October 2022

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## Call for Input

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### On the 2017 Joint Guidelines to prevent the abuse of fund transfers for ML/TF purposes

#### Background

On 26 June 2015, Regulation (EU) 2015/847<sup>1</sup> on information accompanying transfers of funds (hereby TFR) entered into force. In line with the Financial Action Task Force (FATF)'s Recommendation 16 on wire transfers<sup>2</sup>, it sets out what Payment Service Providers (PSPs) must do to enable relevant authorities to trace fund transfers where this is necessary to prevent, detect or investigate instances of Money Laundering and the Terrorism Financing (ML/TF). As part of this, the Regulation requires financial institutions to ensure that information on the payer and the payee is transmitted throughout the payment chain.

In July 2021, the European Commission published an AML/CFT package consisting of 4 legislative proposals that, once implemented, will transform the Union's legal and institutional AML/CFT framework. One of these proposals was the recast of the 2015 TFR. This recast intends to bring the EU's legal framework in line with the FATF's standards by extending the obligation to include information about the originator and beneficiary to Crypto Assets Service Providers (CASPs) – the so-called "travel rule".

The co-legislators reached a provisional agreement on the TFR on 29th June 2022<sup>3</sup>. According to this agreement, the European Supervisory Authorities (ESAs) "*shall issue guidelines addressed to the competent authorities, payment service providers (PSPs) and providers of crypto-asset transfers 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, 12, 14, 16 and 17 thereof*" (Article 30).

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<sup>1</sup> Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1–18).

<sup>2</sup> Recommendation 16: Wire transfers. <https://cfatf-gafic.org/index.php/documents/fatf-40r/382-fatf-recommendation-16-wire-transfers>.

<sup>3</sup> See, for instance, <https://www.consilium.europa.eu/en/press/press-releases/2022/06/29/anti-money-laundering-provisional-agreement-reached-on-transparency-of-crypto-asset-transfers/> and <https://www.europarl.europa.eu/news/en/press-room/20220627IPR33919/crypto-assets-deal-on-new-rules-to-stop-illicit-flows-in-the-eu>.

The EBA will deliver this mandate by amending and extending the Guidelines it issued under Article 25 of Regulation (EU) 2015/847 – the ESAs’ 2017 “*Joint Guidelines to prevent the abuse of fund transfers for ML/TF purposes*”<sup>4</sup> (‘FTR Guidelines’) on the measures PSPs and Intermediary PSPs (IPSPs) should take to comply with Regulation (EU) 2015/847.

## Call for Input

The EBA is issuing a Call for Input to identify practical issues that financial institutions experience when complying with the existing FTR Guidelines.

Comments will be useful if they are submitted using the template below and:

- indicate the specific Guideline reference to which a comment relates;
- contain a clear rationale;
- provide evidence to support the view expressed to support the EBA’s cost/benefit analysis, such as the impact of specific provisions in terms of cost or consumer detriment; and
- describe alternatives that the EBA should consider.

This Call for Input is open for 3 weeks. We are keen to hear from participants by 15 November 2022.

The EBA will use information from this Call to inform its review of the existing FTR Guidelines. It may also inform other policy outputs.

## Submission of responses

To submit your answers, click on the ‘send your comments’ button and submit your responses by 15 November 2022. Comments submitted after this deadline, or submitted via other means, may not be considered.

## Publication of responses

Please clearly indicate in the electronic form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA’s rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA’s Board of Appeal and the European Ombudsman.

## Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EU) 1725/2018 of the European Parliament and of the Council of 23 October 2018. Further information on data protection can be found under the Legal notice section of the EBA website.

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<sup>4</sup> See EBA (2017), *Joint Guidelines to prevent the abuse of fund transfers for ML/TF purposes*, available at <https://www.eba.europa.eu/regulation-and-policy/anti-money-laundering-and-e-money/guidelines-to-prevent-transfers-of-funds-can-be-abused-for-ml-and-tf>.

## Disclaimer

The responses received via this call for input are preliminary and will not bind in any way the EBA in the future development of its legal instruments. They are aimed at eliciting discussion and gathering the stakeholders' opinions at an early stage of the process.

## Questions

Respondents should provide their comments by sending a Microsoft Word file using the [online form](#).