

Subsidiary Legislation made under ss.184 and 184ZA.

**Proceeds of Crime Act 2015 (Transfer of Virtual Assets)  
Regulations 2021**

**LN.2021/194**

*Commencement*                      **22.3.2021**

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**ARRANGEMENT OF REGULATIONS.**

Regulation

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**2015-22**

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*In exercise of the powers conferred on it by sections 184 and 184ZA of the Proceeds of Crime Act 2015, and in order to comply with the Recommendation 15 of the Financial Action Task Force Recommendations on the International Standards on combatting money laundering and the financing of terrorism and proliferation, adopted by the Financial Action Task Force plenary in February 2012, as amended, the Government has made these Regulations*

**Title.**

1. These Regulations may be cited as the Proceeds of Crime Act 2015 (Transfer of Virtual Assets) Regulations 2021.

**Commencement.**

2. These Regulations come into operation on the day of publication.

**Definitions.**

3.(1) In these Regulations—

“Act” means the Proceeds of Crime Act 2015;

“material transaction” means a transaction with a value equal to or in excess of one thousand euros, or such other amount as may for the time being be prescribed by order made by the Government and published in the Gazette;

“payee” means the intended recipient of a virtual asset in a virtual asset transfer;

“payer” means a person who holds a virtual asset account and allows a virtual asset transfer from that account or, where there is no virtual asset account, who provides instructions to a virtual asset service provider to carry out a virtual asset transfer;

“unique transaction identifier” means a combination of letters, numbers or symbols, which is unique to the virtual asset transfer;

“virtual asset” has the meaning given to it in section 7 of the Act;

“virtual asset account” means an account held in the name of one or more customers which is or may be used for storing, sending or receiving virtual assets;

“virtual asset transfer” means any material transaction, on behalf of a payer, with a view to making a virtual asset available to a payee, irrespective of whether the payer and the payee are the same person; and

“virtual asset service provider” means any person who, by way of business, conducts one or more of the following activities or operations for or on behalf of another person—

- (a) exchange between virtual assets and fiat currencies;
- (b) exchange between one or more forms of virtual assets;
- (c) transfer of virtual assets;
- (d) safekeeping or administration of virtual assets or instruments enabling control over virtual assets; or
- (e) participation in and provision of financial services related to an issuer’s offer or sale of a virtual asset.

(2) Without limiting section 21 of the Interpretation and General Clauses Act, other expressions used in these Regulations which are used in Part III of the Act have the same meaning as in that Part.

**Originator obligations.**

4.(1) Where a relevant financial business sends a virtual asset transfer to a virtual asset service provider, the relevant financial business must obtain the information specified in sub-regulation (2), and submit it to the virtual asset service provider—

- (a) immediately; and
- (b) by secure means.

(2) For the purposes of sub-regulation (1), the specified information is—

- (a) the payee’s name;
- (b) the payee’s virtual asset account number;
- (c) the payer’s name;
- (d) the payer’s virtual asset account number;

- (e) where the payee or the payer does not have a virtual asset account number, a unique transaction identifier; and
- (f) one of the following—
  - (i) the payer’s address;
  - (ii) the payer’s national identity number;
  - (iii) the payer’s customer identification number; or
  - (iv) the payer’s date and place of birth.

(3) Sub-regulation (1) shall apply to a relevant financial business irrespective of whether the relevant financial business and the payer are the same person.

**Beneficiary obligations.**

5.(1) Where a relevant financial business receives a virtual asset transfer from a virtual asset service provider, the relevant financial business must ensure that—

- (a) it has received the information specified in regulation 4(2); and
- (b) the information is consistent with its own records in respect of the payee’s name and, where applicable, the payee’s account number.

(2) Where a relevant financial business receives a virtual asset transfer from a person other than a virtual asset service provider, the relevant financial business must ensure that it obtains, from the payee—

- (a) the information specified in regulation 4(2)(c); and
- (b) the information specified in regulation 4(2)(f).

(3) Before a relevant financial business executes a virtual asset transfer received from any person, it must ensure that it has effective risk-based policies and procedures in place for the purposes of—

- (a) determining whether any of the information referred to in sub-regulation (1) or sub-regulation (2), as the case may be, is missing, incomplete or, where applicable, inconsistent with the relevant financial business’s own records; and

- (b) where a default is identified pursuant to paragraph (a)–
  - (i) determining whether to execute, reject or suspend the virtual asset transfer; and
  - (ii) determining the appropriate follow-up action.

(4) Sub-regulations (1) and (2) shall apply to a relevant financial business irrespective of whether the relevant financial business and the payee are the same person.

**Customer due diligence and record-keeping.**

6.(1) Any requirement, under these regulations, for a relevant financial business to obtain the information specified in regulation 4(2), or any part of it, shall constitute a customer due diligence measure as if the requirement to obtain that information was listed in section 10 of the Act.

- (2) Section 25 of the Act shall apply to a relevant financial business that–
  - (a) sends a virtual asset transfer under regulation 4(1);
  - (b) receives a virtual asset transfer under regulation 5(1); or
  - (c) receives a virtual asset transfer under regulation 5(2),

as if the information obtained pursuant to those regulations was listed in section 25(2)(a) of the Act, and for the avoidance of doubt any person who fails to comply with the requirements of section 25(1) of the Act in respect of that information shall be guilty of an offence under section 33(1) of the Act.

**Offences and penalties etc.**

7.(1) A person failing to comply with any requirement in regulation 4(1), 5(1), 5(2) or 5(3) is guilty of an offence, and liable–

- (a) on summary conviction to a term of imprisonment not exceeding 1 year, to a fine up to level 5 on the standard scale, or to both;
- (b) on conviction on indictment to a term of imprisonment not exceeding 2 years, to a fine or to both.

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(2) Sub-sections (2), (3) and (4) of section 33 of the Act and section 34 of the Act shall apply to an offence under sub-regulation (1) as if the offence had been listed in section 33(1) of the Act.