U.S. DEPARTMENT OF THE TREASURY

The Financial Crimes Enforcement Network Proposes Rule Aimed at Closing Anti-Money Laundering Regulatory Gaps for Certain Convertible Virtual Currency and Digital Asset Transactions

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The Financial Crimes Enforcement Network (FinCEN), a bureau within the U.S. Department of the Treasury, is requesting comments on proposed requirements for certain transactions involving convertible virtual currency (CVC) or digital assets with legal tender status (LTDA). Under the Notice of Proposed Rulemaking (NPRM) submitted to the Federal Register today, banks and money services businesses (MSBs) would be required to submit reports, keep records, and verify the identity of customers in relation to transactions above certain thresholds involving CVC/LTDA wallets not hosted by a financial institution (also known as "unhosted wallets") or CVC/LTDA wallets hosted by a financial institution in certain jurisdictions identified by FinCEN.

The United States welcomes responsible innovation, including new technologies that may improve the efficiency of the financial system and expand access to financial services. Today's action seeks to protect national security and aid law enforcement by increasing transparency in digital currencies and closing loopholes that malign actors may exploit.

"This rule addresses substantial national security concerns in the CVC market, and aims to close the gaps that malign actors seek to exploit in the recordkeeping and reporting regime," said Secretary Steven T. Mnuchin. "The rule, which applies to financial institutions and is consistent with existing requirements, is intended to protect national security, assist law enforcement, and increase transparency while minimizing impact on responsible innovation."

The proposed rule complements existing BSA requirements applicable to banks and MSBs by proposing to add reporting requirements for CVC and LTDA transactions exceeding $10,000 in value. Pursuant to the proposed rule, banks and MSBs will have 15 days from the date on which a reportable transaction occurs to file a report with FinCEN. Further, this proposed rule would require banks and MSBs to keep records of a customer's CVC or LTDA transactions and counterparties, including verifying the identity of their customers, if a counterparty uses an unhosted or otherwise covered wallet and the transaction is greater than $3,000.

This includes collecting the following:

1. The name and address of the financial institution's customer;
2. The type of CVC or LTDA used in the transaction;
3. The amount of CVC or LTDA in the transaction;
4. The time of the transaction;
5. The assessed value of the transaction, in U.S. Dollars, based on the prevailing exchange rate at the time of the transaction;
6. Any payment instructions received from the financial institution's customer;
7. The name and physical address of each counterparty to the transaction of the financial institution's customer;
8. Other counterparty information the Secretary may prescribe as mandatory on the reporting form for transactions subject to reporting pursuant to § 1010.316(b);
9. Any other information that uniquely identifies the transaction, the accounts, and, to the extent reasonably available, the parties involved; and,
10. Any form relating to the transaction that is completed or signed by the financial institution's customer.

Comments from all interested parties will help inform the scope of any future regulatory actions and should be submitted within 15 days of the NPRM's publicly display by the Federal Register.

View the NPRM in the Federal Register.

View Frequently Asked Questions