

Law, Science and Technology
MSCA ITN EJD n. 814177



The open legal challenges of pursuing AML/CFT accountability within privacy-enhanced IoM ecosystems

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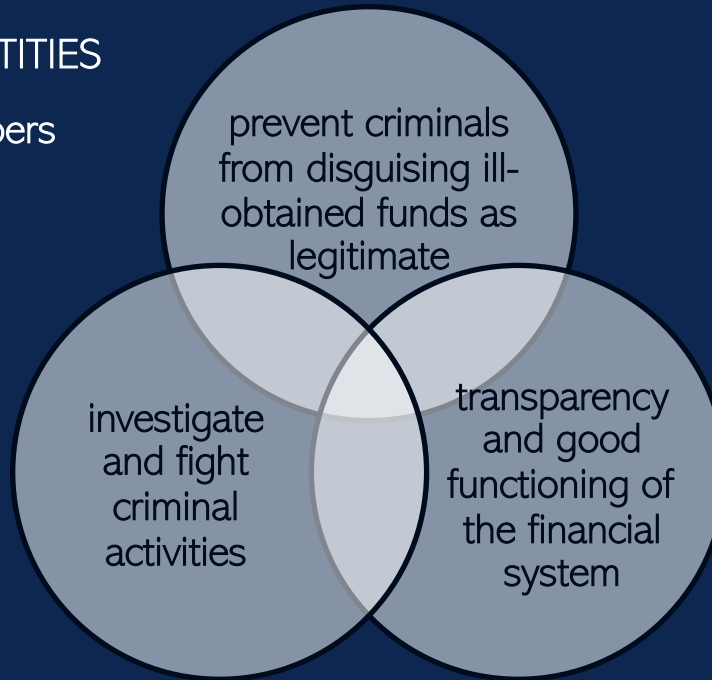
DLT Workshop 2020. Ancona, February 4th, 2020

Concepts and Principles

- OBLIGED / REPORTING ENTITIES
-> “chokepoints” / gatekeepers



- ACTIVE COOPERATION
- Financial Intelligence Units
- ACCOUNTABILITY
- Risk-Based Approach
- Proportionality
- Supervision
- Sanctions

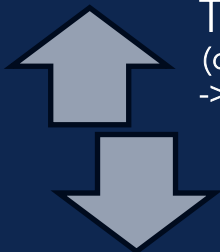
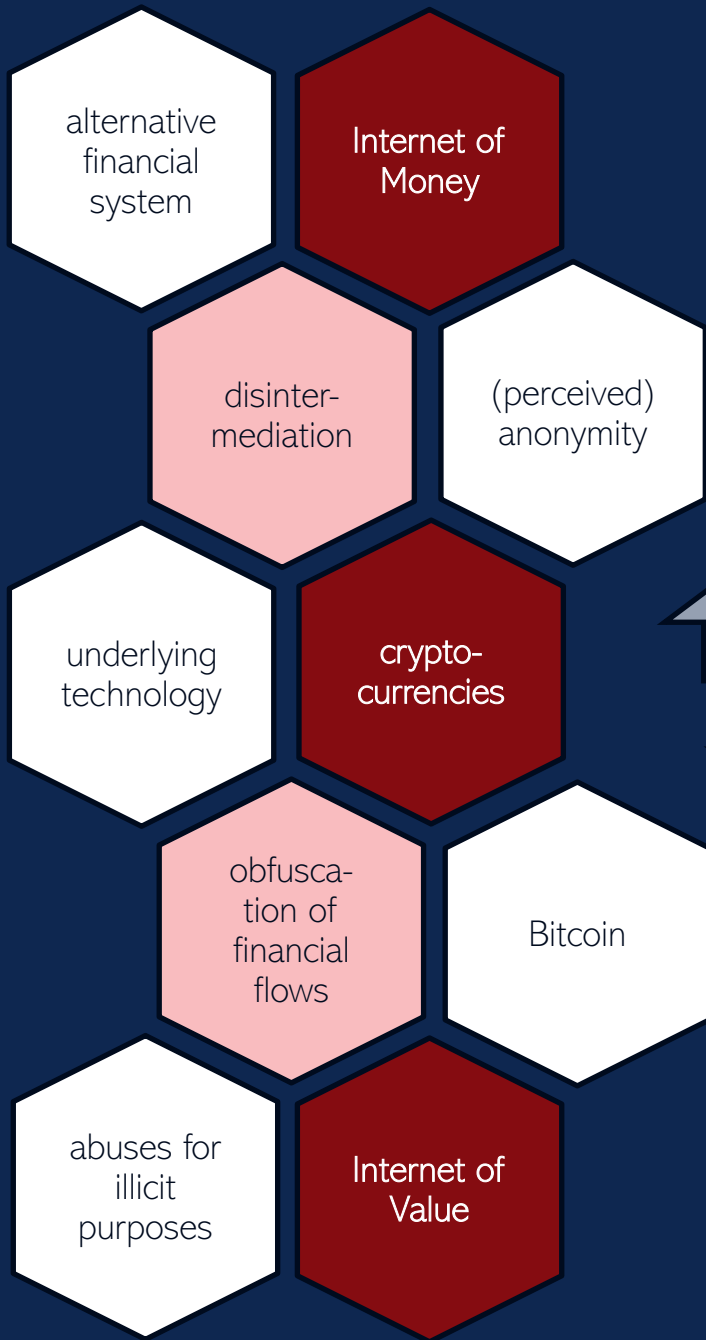


Obligations

- Registration and/or licensing
 - Know Your Customer
- Customer Due Diligence
 - Record retention
 - Risk assessment(s)
 - Internal procedures
- Ongoing monitoring (e.g. transaction scrutiny)
 - Suspicious Transaction

Reporting

The Internet of Money and crypto misuse risks

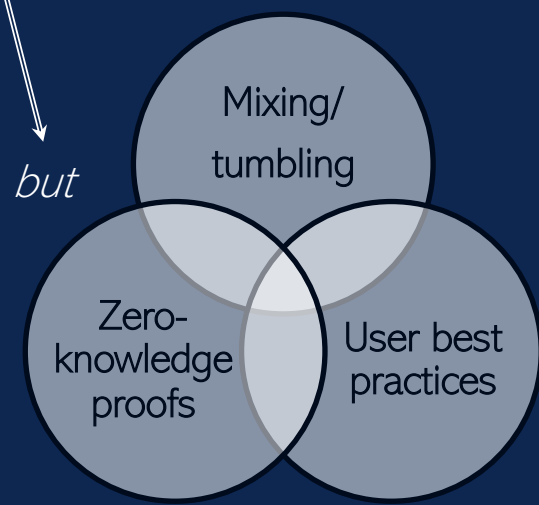


Transparency
 (data tech schemes
 -> public availability)

Privacy
 (pseudonymity ->
 hiding in plain sight)

following the money....

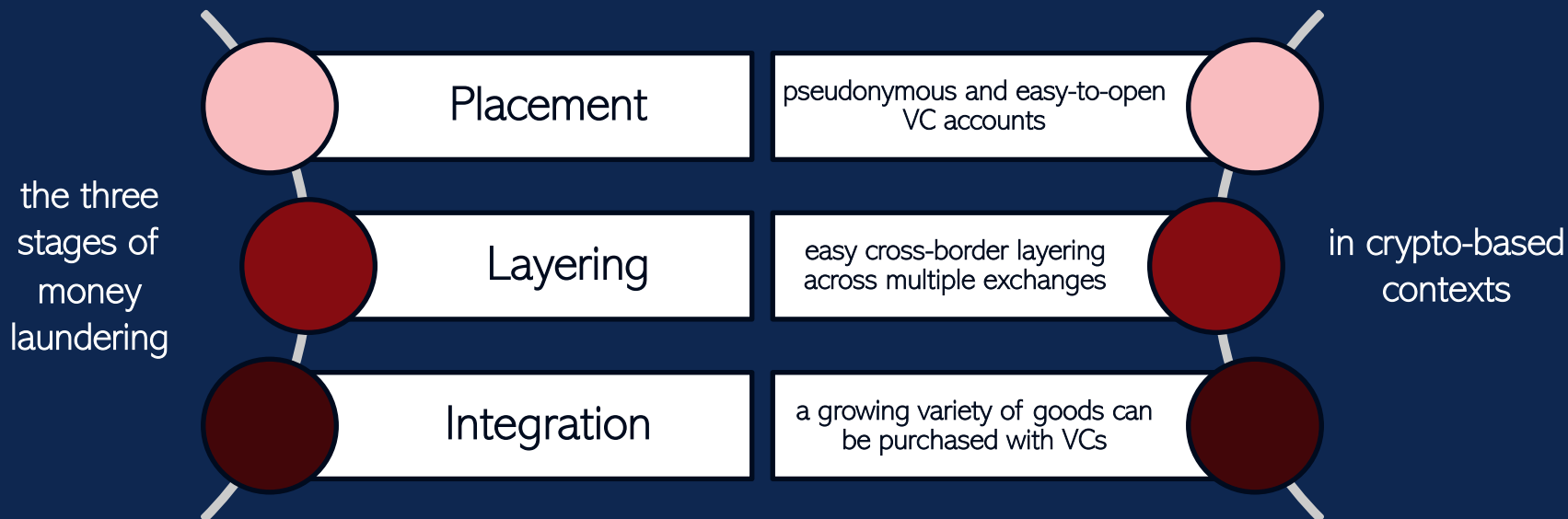
- pseudonymity
- blockchain analysis and forensic strategies
- transaction traceability

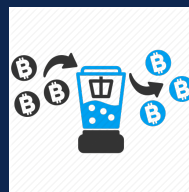


Anonymity-Enhanced Currencies / Privacy Coins

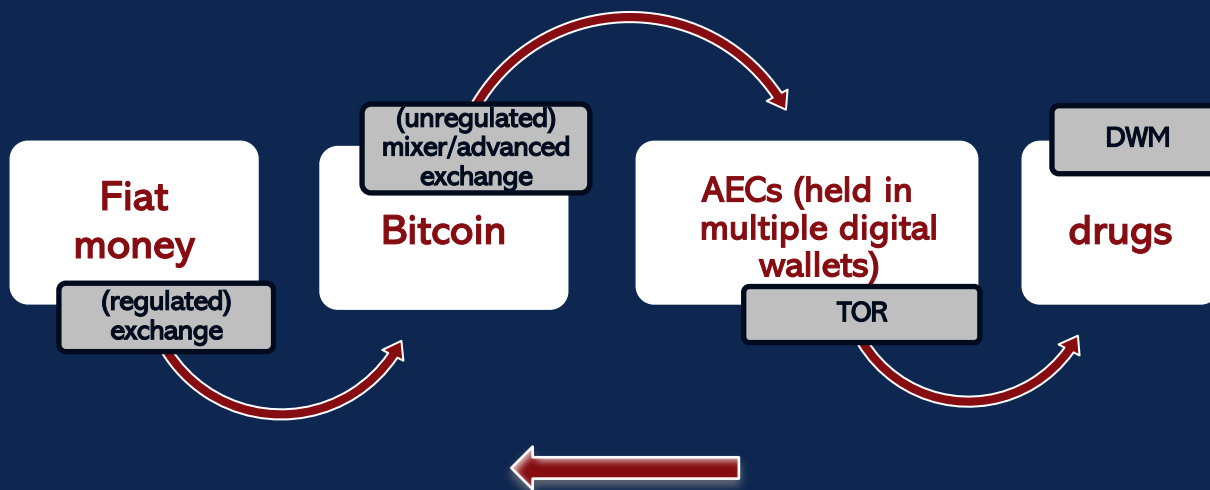


Cryptocurrencies can be used to launder money...





...to pseudo/anonymously engage in illegal transactions...



multiple AECs, exchanges and addresses



virtual to virtual layering schemes

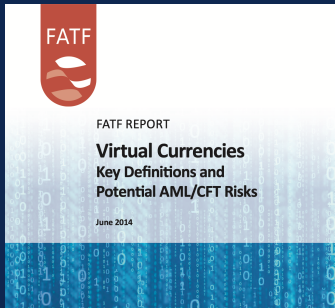
AECs



AML/KYC

...and can be laundered themselves -> crypto-cleansing

Financial Action Task Force (FATF/GAFI)



Guidance for a RBA to Virtual Currencies (2015)



Specific guidelines since 2014



Guidance for a RBA to VAs and VASPs (2019)



FATF Recommendations (VAs included since 2018)
Recommendation 15
(Interpretative note June 2019)

A **virtual asset** is a digital representation of value that can be digitally traded, or transferred, and can be used for payment or investment purposes. Virtual assets do not include digital representations of fiat currencies, securities and other financial assets that are already covered elsewhere in the FATF Recommendations.

Virtual asset service provider means any natural or legal person who is not covered elsewhere under the Recommendations, and as a business conducts one or more of the following activities or operations for or on behalf of another natural or legal person:

- i) exchange between virtual assets and fiat currencies;
- ii) exchange between one or more forms of virtual assets;
- iii) transfer¹ of virtual assets;
- iv) safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets; and
- v) participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset.

NEWS: January 9, 2020: Supervisors' Forum on how to supervise virtual assets

- AECs
- mixing/tumbling service providers
- decentralized platforms and exchanges

↓

reduction in transparency and increase in the obfuscation of financial flows

↓

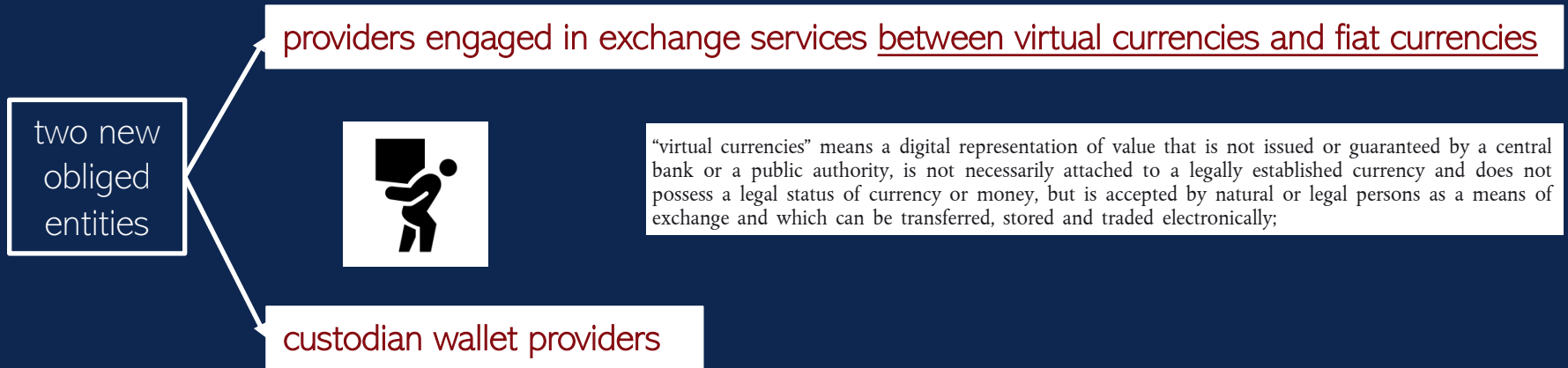
FATF: no activities involving AETs if unable to manage and mitigate relevant risks

5th EU AML Directive

Deadline for MS transposition:
January 10, 2020

DIRECTIVE (EU) 2018/843 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 30 May 2018

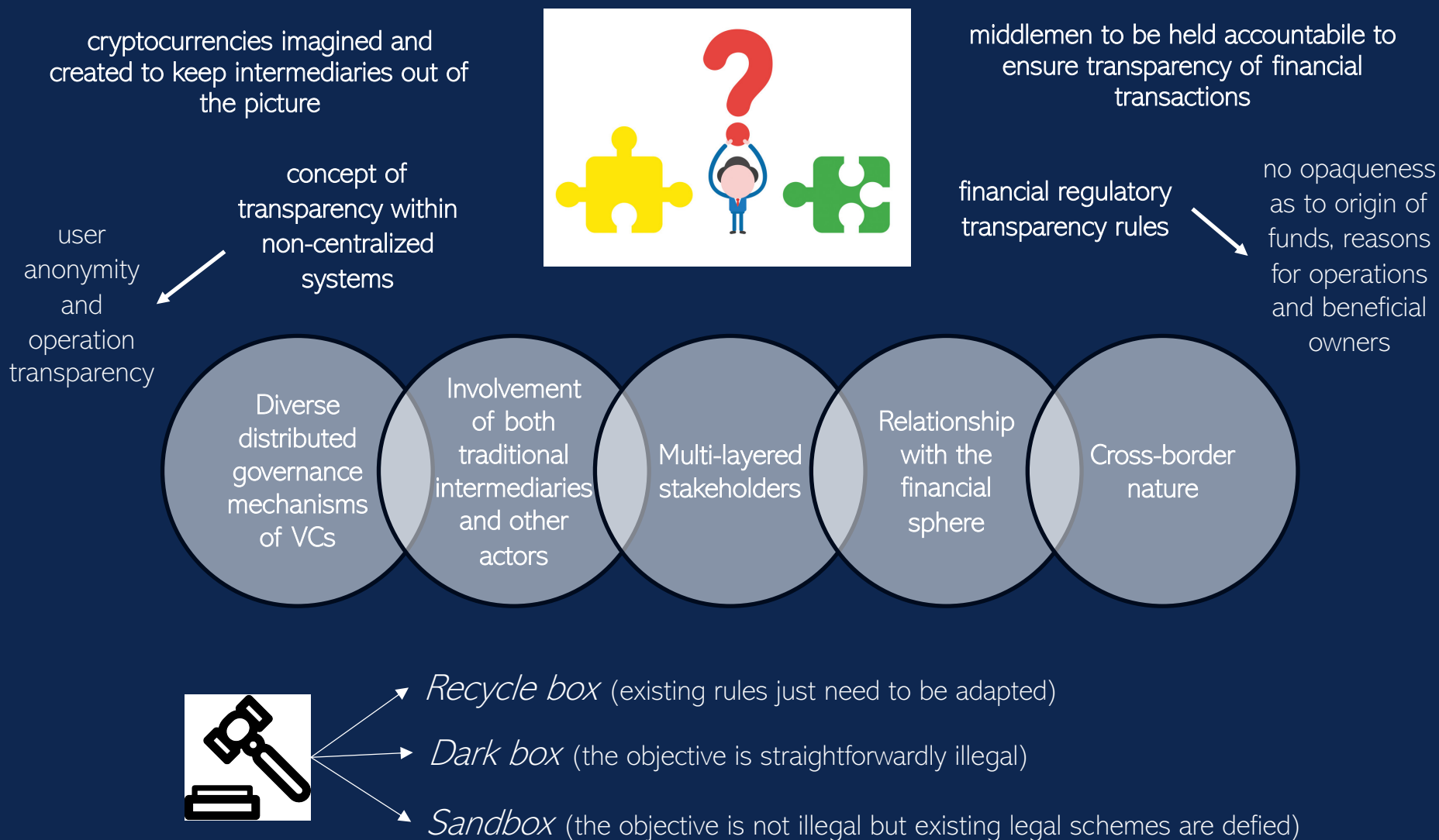
amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU

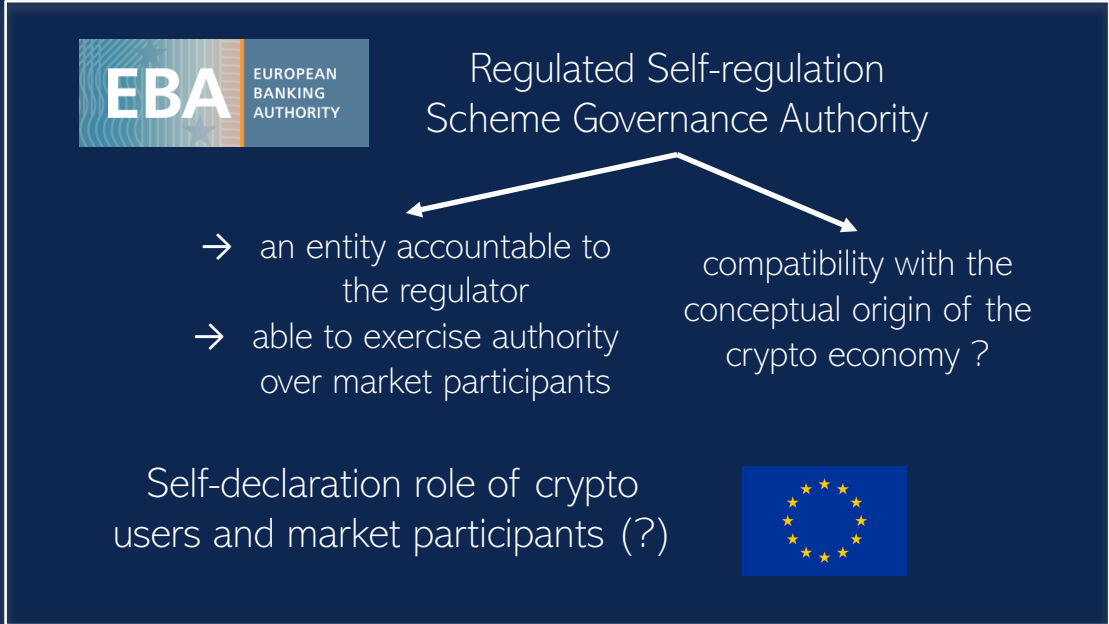


The Commission shall draw up a report on the Directive's implementation and include, if deemed necessary and appropriate, legislative proposals such as

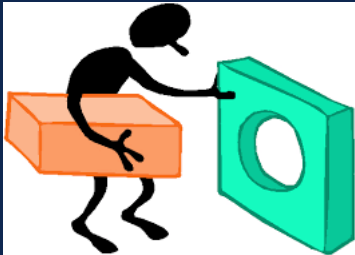
- central database registering users' identities and wallet addresses accessible to FIUs
- self-declaration forms for the use of virtual currency users

Possible limits of the current AML approach in the crypto sphere

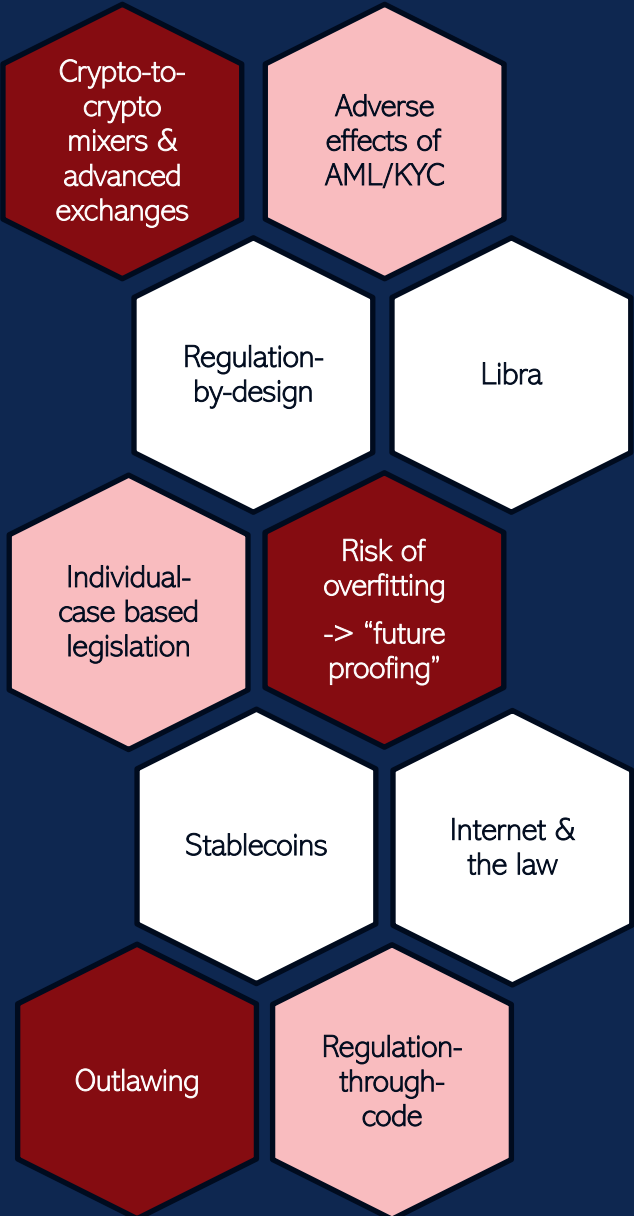




crypto-world
(and its conceptual origin)



AML system of approved parties and active cooperation





Thank you very much for your attention!

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