Prevenção à lavagem de dinheiro e travel rule em Hong Kong

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O regime de prevenção à lavagem de dinheiro (AML) de Hong Kong para ativos virtuais está na mesma ordinance que o regime de licenciamento. Uma VATP licenciada é instituição financeira para os fins do Schedule 2 da AMLO e deve aplicar due diligence de clientes, conservação de registros e monitoramento contínuo segundo a AML Guideline da SFC para sociedades licenciadas e VATPs. A travel rule (a regra que exige o envio de dados do remetente e do beneficiário junto com a transferência) aplica-se às transferências de ativos virtuais desde 1º de junho de 2023, exigindo informações completas do remetente e do beneficiário para transferências de HK$ 8.000 ou mais e informações reduzidas abaixo desse valor. Para transferências a carteiras não custodiadas (unhosted wallets), a plataforma deve adotar uma abordagem baseada em risco e, quando o risco o justificar, só pode transferir a carteiras cuja titularidade tenha verificado. Os bancos que lidam com clientes de ativos virtuais seguem as circulares da HKMA, que desde 2023 incentivam os bancos a atender VATPs licenciadas e desestimulam o de-risking generalizado.[1]

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O limite é o ponto prático para um grupo suíço ou de Singapura. A Suíça aplica a travel rule a toda transferência, Singapura exige informações completas acima de S$ 1.500, Hong Kong acima de HK$ 8.000 e o MiCA desde o primeiro euro, nos termos do Transfer of Funds Regulation. Uma política de grupo redigida no padrão suíço atende aos quatro. Uma política de grupo redigida no padrão de Hong Kong falha em Zug. As comunicações de operações suspeitas são dirigidas à Joint Financial Intelligence Unit, nos termos da Organized and Serious Crimes Ordinance (Cap. 455) e da Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405), com um crime de tipping-off (alertar o investigado sobre a comunicação) que espelha o do CDSA de Singapura.[2]

Notas

1. AMLO Cap. 615, Schedule 2, seção 13A e segs. (transferências de ativos virtuais). SFC, Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (For Licensed Corporations and SFC-licensed Virtual Asset Service Providers), junho de 2023, Capítulo 12. HKMA, Circular on banking services to virtual asset-related entities, 27 de abril de 2023. ↩
2. Organized and Serious Crimes Ordinance (Cap. 455), seções 25 e 25A. Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405), seções 25 e 25A. A Joint Financial Intelligence Unit é operada conjuntamente pela Hong Kong Police Force e pelo Customs and Excise Department. ↩

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