



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

SACRAMENTO LEGISLATIVE OFFICE

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The Honorable Laurie Davies
California State Assembly
1021 O Street, Suite 4720
Sacramento, CA 95814

ASSEMBLY BILL 76 (DAVIES) SUPPORT

Dear Assembly Member Davies:

The Los Angeles County District Attorney's Office is pleased to support Assembly Bill 76.

California's anti-money laundering laws prohibit more than just trying to conceal the nature of ill-begotten assets. State law prohibits certain transactions simply if a person knew the assets were derived from criminal activity or if they conducted the transaction with the intent to facilitate a criminal activity. Currently, state law specifies that US and foreign currency, checks, money orders, gold, emeralds, stocks, investment security, and other types of financial assets are "monetary instruments" and prohibits a person from laundering those items.

In recent years, virtual assets such as bitcoin and non-fungible tokens (NFTs) have risen in use for both legitimate and illegitimate purposes. The rise of virtual assets in general has left governments playing catch-up to try and regulate this new technology. Although the use of virtual assets for money laundering remains far below traditional methods in volume, law enforcement agencies in the U.S. have recently detected an increase in virtual assets being used to pay for online drugs or to launder proceeds of drug trafficking, fraud, and cybercrime, among other offenses.

Most cryptocurrencies rely on a "blockchain" to conduct their transactions. A blockchain is essentially a network of computers that store and update permanent digital records of every transaction on the network. Blockchain uses cryptography, a mathematical technique that turns information into unbreakable codes, to ensure tokens are not spent more than once and allow for the computers on the network to keep identical and immutable records.

Although cryptocurrencies are the most prominent of virtual assets, a virtual asset can also, although not always, include an "NFT." An NFT is generally defined as a virtual asset that is unique, rather than interchangeable, and in practice is used as a collectible, however, its classification can vary depending on the circumstances of its use.

One of the increasingly prevalent methods of transferring virtual assets is through Peer-to-Peer (P2P) transactions. P2P transactions in the money laundering context have generally been defined as virtual asset transfers conducted without the involvement of a virtual asset provider

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(VASP) or other obliged entity. In the United States, VASPs have been determined to be “money transmitters,” and so they have to comply with numerous registration and reporting requirements designed to prevent money laundering. In essence, a P2P transaction means one individual can electronically transfer a virtual asset from their “wallet” directly to another individual’s “wallet” without going through a financial institution like a VASP. Money launderers are increasingly using P2P transactions in order to avoid the registration and reporting requirements that apply to VASPs.

Apart from certain transactions involving controlled substances, California’s money laundering statutes require that the transaction go through a financial institution.

AB 76 would modernize California’s money laundering statutes to cover instances where criminals conduct transactions using virtual assets based on blockchain technology, if they knew that the virtual assets are derived from the proceeds of criminal activity or if they intended to facilitate a criminal activity. AB 76 would also update California’s money laundering statute to cover a transaction that uses virtual assets to go through a financial institution, and so would cover P2P transactions.

Given the rise of illegal cryptocurrency transactions that can bypass the traditional scrutiny of more traditional financial institutions, it is important that California’s money laundering statutes be updated to take this new technology into account. It is estimated that last year there was over \$20 billion in criminal cryptocurrency transactions. Given this rise there is no legal or policy reason not to close the loophole in existing law that allows criminal activity to take place. Why should California’s money laundering statute cover government-backed currencies, checks, money order, and certain kinds of transferable assets, such as precious metals, gems, and securities but not include digital assets, like cryptocurrencies and NFTs?

Because AB 76 closes loopholes in our money laundering statutes our Office is pleased to support AB 76.

If you have any questions or need additional information, please feel free to contact Daniel Felizzatto in my Sacramento Legislative Office at (916) 442-0668.

Very truly yours,



GEORGE GASCÓN
District Attorney