



## Gateway Bulletin GB-2014-05

### Advisory for Gateways: European Banking Authority Opinion on Virtual Currency

September 24, 2014

The European Banking Authority (EBA) issued an [Opinion](#) on Virtual Currency on July 4, 2014 addressing European Union (EU) legislators as well as national supervisory authorities in the 28 Member States. The EBA states in their opinion that while there are some potential benefits of virtual currencies, the risks “are manifold”; the Opinion lists 70 separate risks posed by virtual currency.

The purpose of this bulletin is to provide information that may help you address some of the areas of concern raised in the Opinion. We recommend that if you operate a gateway in Europe you consult with legal counsel to determine how this opinion applies and whether you need to modify your terms of use, your website or the products you offer. This is the first opinion released by the EBA relating to virtual currency. The EBA states in the Opinion that it is still at the preliminary stages of considering what a comprehensive regulatory approach around virtual currencies would look like. In the meantime, gateways are encouraged to review the EBA Opinion for the full set of risks raised by the EBA, future changes to EU legislation resulting from this Opinion, in addition to Anti-Money Laundering (AML) requirements in the country in which you operate.

Gateways should be aware that regulatory standards on virtual currency in Europe are evolving. While Ripple Labs makes every effort to provide regulatory resources regularly, gateways should seek legal advice and understand changes to regulation as it may vary based on geography, the nature of your business and the products that you offer.

### Anonymity

**The EBA outlines a number of concerns and risks that could arise when exchanges, market participants, and users operate anonymously. Among these risks, the EBA is concerned that:**

- *First*, “Criminals are able to launder proceeds of a crime because they can deposit and transfer VCs anonymously.”
- *Second*, “[S]enders and recipients can carry out VC transactions on a peer-to-peer basis that do not require personal identification as there are no names attached to wallet addresses.”

- **Third, “[T]here is no intermediary that could notify authorities of suspicious transactions.”**

To address concerns around anonymity, the EBA recommends that virtual currency businesses that operate in the EU comply with customer due diligence (CDD) requirements. Gateways that operate customer-interfacing businesses in Europe should be aware of the EU CDD requirements. We recommend that you familiarize yourself with these requirements and implement them as they apply to your business. These requirements include (1) collecting and verifying basic identity information, (2) matching names against lists (such as “politically exposed persons”), (3) evaluating the customer’s risk in terms of likeliness to commit money laundering, terrorist finance or identity theft, and (4) monitoring a customer’s transactions. You can read more about CDD, [here](#).

The EBA also recommends that EU member states require virtual currency businesses or gateways to comply with Anti-Money Laundering (AML) and counter terrorist financing (CTF) requirements set out in the EU Anti-Money Laundering Directive. Some countries may go beyond the minimum standards set out in the Directive and implement stricter rules. Gateways are encouraged to consult with legal counsel to determine if and how these and country-specific laws apply to their business. Gateways can learn more about the current [EU AML Directive](#) and [proposals](#) for the new directive.

## **Account Security**

**The EBA is concerned about losses to “virtual currency through e-wallet theft or hacking.”**

The risk of account security is parallel to concerns raised by the US Consumer Financial Protection Bureau. Gateways are highly encouraged to establish best practices for securing logins and passwords that their users can follow. See some of the suggestions we provided in the [Gateway Bulletin](#).

## **Gateway Policies**

**The EBA is concerned about the risks associated with virtual currency businesses that do not provide disclosures to customers. Among these risks, the EBA is concerned that:**

- **“The features of a product can be misrepresented because of a lack of definitions and standards.”**
- **Virtual currency companies offer “no effective channel for users to complain.”**
- **Users do not have “access to redress”,** including access to a dispute resolution process or be able to receive compensation if their account is compromised or if the gateway goes out of business.
- **“No refunds or payment guarantee: virtual currency transactions are not reversible, so no refunds are issued for erroneous transactions.”** The EBA is concerned that in the case of an unauthorized virtual currency transaction, the “market

participant” or gateway would not refund to the payer the amount of the unauthorized transaction.

Gateways are encouraged to define and follow best practices that build consumer confidence. These can include full disclosures about the terms of the agreement, risks, fees, and costs associated with the services, and any changes to your business. This is a reminder for gateways that operate consumer-interfacing businesses to be transparent about their terms of use and the products that they offer. Suggested terms of use may include, as appropriate: (1) any fees charged to consumers, (2) gateway contact information and address, (3) gateway’s dispute resolution process, (4) description of protection against unauthorized transactions, (5) efforts around privacy and security, (6) customer services, (7) gateway’s business practice, and (8) chargeback policy.

## **Regulatory Accountability**

**The EBA Opinion raises concerns about the potential risks that result from virtual currency entities run by “market participants [that] are not incorporated as entities that could be subject to standards.”**

Virtual currency businesses in the EU are not currently regulated by the EU. Gateways that operate in Europe are encouraged to gain legal standing by incorporating themselves in a EU Member State. The EBA also raised concerns that entities that operate virtual currency businesses but are not registered with the appropriate authorities would not be subject to reporting requirements (such as filing suspicious transactions). Gateways should review EU reporting requirements with legal counsel to determine if and how these apply to your gateway.

## **Price Volatility**

**The EBA is concerned that users are “exposed to significant price volatility within very short time frames.”**

Gateways that provide the service to purchase or sell virtual currencies are strongly encouraged to post information about potential price fluctuations. Virtual currencies can be subject to wide price fluctuations which means that short term losses as well as short term gains are likely to occur at times. Gateways and consumers are encouraged to understand the current market price of XRP which is available on [ripplecharts.com](http://ripplecharts.com).

### **Additional Resources:**

[EBA Opinion on Virtual Currencies](#), July 4, 2014

[European Union Anti-Money Laundering Directive](#) and [Proposal](#) for an Amended Directive

[Gateway Bulletin GB-2014-04](#) Advisory for Gateways: CFPB Opinion on Virtual Currency

[Gateway Bulletins](#) on the Ripple Wiki

[Compliance Resources](#) for Gateways on the Ripple Wiki