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Bitcoin ATMs Likely To Be Next Crypto Regulatory Hotspot

By **Philip Rosenstein**

Law360 (June 2, 2020, 10:15 PM EDT) -- The total amount of stolen cryptocurrency in 2020 is gearing up to be the second-highest on record, according to a report by crypto anti-money-laundering intelligence firm CipherTrace that predicted Bitcoin ATMs will likely be the next target for regulators.

From January through May, criminals stole $1.36 billion of cryptocurrency, largely through a massive $1 billion Ponzi scheme perpetrated by Chinese-based Wotoken, according to the report published Tuesday. A total $4.5 billion of cryptocurrency was stolen in 2019.

CipherTrace measured a marked decrease in the volume of direct criminal funds hitting cryptocurrency exchanges, with a 47% fall in such activity, highlighting additional reporting requirements in light of the implementation of the anti-money-laundering regulation known as the travel rule. But the report also found that Bitcoin ATMs were being increasingly used to send funds to questionable exchanges, and CipherTrace sees Bitcoin ATMs as "likely to be the next major regulatory target."

"Despite the overall reduction in criminal funds sent to exchanges, the percentage of funds sent to high-risk exchanges from US Bitcoin ATMs (BATMs) has seen exponential growth, doubling every year since 2017," John Jefferies, chief financial analyst at CipherTrace, told Law360. "We expect BATMs to become a greater point of regulatory focus and enforcement because of this, as demonstrated by the case made against Kunal Kalra for using his BATM operation to launder more than $25 million in cash and cryptocurrencies."

According to the report, 88% of funds sent through Bitcoin ATMs in the U.S. in 2019 were sent abroad, and more cryptocurrency was sent to high-risk exchanges instead of low-risk ones. The volume of funds sent from Bitcoin ATMs to high-risk exchanges has increased two-fold every year from 2017 on, it said.

Jefferies attributed a large portion of the 47% reduction in direct illicit funds being funneled through cryptocurrency exchanges to the implementation of more robust anti-money-laundering controls.

Compliance in the cryptocurrency space is particularly relevant in light of the new Financial Action Task Force regulation known as the travel rule. The travel rule aims to combat money laundering and requires extensive identifying information about individuals involved in cryptocurrency transactions made between virtual asset service providers, or VASPs, including cryptocurrency exchanges.

Financial Crimes Enforcement Network Director Kenneth Blanco recently touched on the implementation of the FATF travel rule at a conference in May, saying his agency is "optimistic about the growth of various cross-sector organizations and working groups focusing on developing international standards and solutions addressing the travel rule," adding that FinCEN believes the virtual asset industry will adhere to the new rules.

Jefferies pointed to Blanco's comments, noting that the director urged the cryptocurrency community to comply with the travel rule, saying compliance is already expected in the U.S.

"As enforcement of the Travel Rule expands to include more jurisdictions around the globe, we are likely to see further reductions in stolen funds siphoned directly through exchanges," Jefferies said. "With 74% of the bitcoin moved in exchange-to-exchange transactions found to be cross-border, the need for more uniform regulatory enforcement and compliance will be important for 2020 and beyond."

But he cautioned that criminals will continue to find new ways to avoid anti-money-laundering checks in jurisdictions with poor enforcement until there is stronger cross-border regulatory cohesion.

E.K. McWilliams, an attorney at Jenner & Block LLP, echoed Jefferies in noting that there is a clear expectation that virtual currency exchanges must comply with the travel rule, adding that we may see an uptick in enforcement actions against exchanges who don't comply with the rule, "especially when there are other indicia that the exchange is facilitating transactions on the darknet or other money laundering activities."

"It is also important to note that the funds travel rule only applies to transactions from one exchange to another," McWilliams said. "As such, one unintended consequence of the rule may be to drive people who wish to maintain privacy, for legitimate or illegitimate reasons, to peer to peer exchanges and away from regulated exchanges. Peer-to-peer exchanges are decentralized and often lack the accountability, security and transparency measures used by the larger crypto firms."

--Editing by Amy Rowe.

Update: This story has been updated with McWilliams' comments.