



# REGULATORY MONITORING

FAQ for Acquirers

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# FREQUENTLY ASKED QUESTIONS

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## 1. **What is Regulatory Monitoring?**

It's a product which helps to comply with Mastercard regulations regarding cryptocurrency merchants described in the AN 1695 (Addition of Cryptocurrency Merchants to the BRAM Program and Revised Standards). Regulatory Monitoring is based on a legal opinions database managed by Wołoszański & Partners Law Firm, which is also responsible for cooperation with partner law firms from all over the world. Legal opinions have been prepared by reputable law firms located in each country where cryptocurrency activity will occur or be offered to cardholders. Most of our partner law firms have been awarded by the Legal 500 as well as Chambers and Partners as the most outstanding law firms. Apart from the legal opinions, Regulatory Monitoring allows to be compliant with AN 1695 also with regard to evidence of legal authority and effective controls (including effective age and location verification).

## 2. **Why do I need this product?**

All merchants classified as cryptocurrency merchants must be fully compliant with AN 1695 (Addition of Cryptocurrency Merchants to the BRAM Program and Revised Standards), otherwise they do not fulfil Mastercard's BRAM requirements.

## 3. **Is the solution compliant with Mastercard regulation?**

Mastercard in general does not provide any legal feedback on legal opinions, but has agreed that the structure of the opinions fully complies with the requirements outlined in the AN 1695 (Addition of Cryptocurrency Merchants to the BRAM Program and Revised Standards).

**4. How do I find out if a merchant meets the requirements?**

As a part of the Regulatory Monitoring service, Web Shield conducts Merchant Classification, which in particular consists of: Monthly reputation monitoring, monthly blacklist monitoring and quarterly KYC check. As a result, if all criteria are met, Web Shield issues a Certificate of Compliance for each merchant that is valid for one year.

**5. Do you plan to update legal opinions from time to time?**

**What's the cost?**

Yes, exactly. All legal opinions are updated at least once a quarter, so we are aware of changes in applicable law. Updates do not generate additional costs for clients and are included in the offered price.

**6. What countries are supported in Europe?**

29 countries – all EU 28 Member States as well as Liechtenstein: Austria · Belgium · Bulgaria · Croatia · Cyprus · Czech Republic · Denmark · Estonia · Finland · France · Germany · Greece · Hungary · Ireland · Italy · Latvia · Lithuania · Luxembourg · Malta · Netherlands · Poland · Portugal · Romania · Slovakia · Slovenia · Spain · Sweden · United Kingdom · Liechtenstein

**7. What countries are supported outside Europe?**

Currently 4 countries: Canada · Mexico · USA · South Africa

**8. Do I have to buy the product for all available countries?**

Regulatory Monitoring is currently offered in three different configurations:

1) Regulatory Monitoring only for chosen countries

2) Packages

a) European package (EU28 + Liechtenstein)

b) North America package (USA, Canada, Mexico)

3) ALL

**9. Is it possible to buy a product in a customised configuration e.g. only for five selected countries?**

Yes, it is possible.

**10. Are you going to offer Regulatory Monitoring for other high-risk activities?**

We are currently monitoring the demand for Regulatory Monitoring for trading activities outlined in the AN 1683.

**11. Will the solution cover only European and North American countries or will the scope be extended to other jurisdictions?**

Yes, the scope of the countries covered by Regulatory Monitoring is constantly expanding and depends on the needs of our customers. We are currently monitoring the demand for Asia and will announce as soon as we extend the legal opinion areas. Each license area (e.g. Europe, North America, etc.) will then be charged at the respective monthly flat rate. If specific jurisdictions are needed, we can also set these up individually. The one-time costs in this context usually vary from 5.000 to 10.000 EUR per Legal Opinion and Jurisdiction (always depending on the framework of the jurisdiction in question).

**12. What is the process for setting the Regulatory Monitoring?**

After receiving the contract, your Web Shield account will be updated with the "Regulatory Monitoring" Dashboard. This usually takes about one week. The system will then generate the necessary legal opinions in the name of the account holder and you will have access to the library per country. From our side, the current situation per jurisdiction is monitored and if relevant changes occur, the opinion will be updated and a notification made available (via email and dashboard). If no changes occur during a 12-month period, the legal opinion will automatically be updated and newly generated.

### 13. What are the “effective controls”?

The “effective controls” relate to the age and location verification of end-users. Here the acquirer needs to verify IF and WHEN an age verification or KYC process is conducted (which can be achieved by either requesting the confirmation of the KYC provider such as Isignthis, IDNow or Web ID or using the InvestiGate On-Boarding Solution, where this check is conducted in the context of our full case service).

In case of a regulated entity, this is also part of the license approval process. Here acquirers usually rely on the license as a sufficient confirmation. The requirement that the effective controls “are reasonably designed to ensure that the merchant’s high-risk securities / cryptocurrency business will remain within legal limits (including in connection with cross-border transactions)” is applicable if the acquirer is NOT in charge of the transaction risk management (which would be the case if a Payment Service Provider or Facilitator was engaged as an intermediary). The acquirer would need to receive a confirmation that transactions from all countries where the service would be illegal or where NO legal opinions have been obtained from are blocked.

In all other cases, the acquirer has this kind of obligation and would produce the proof through their transaction monitoring policies and the legal opinions they have obtained.



#### 14. What is the “Evidence of Legal Authority”?

The “Proof of Legal Authority” is the first part of Mastercard’s AN 1695 Regulation. It states:

1. *Evidence of legal authority.* The acquirer must obtain from the merchant: a copy of the merchant’s license (or similar document), if any, issued by the appropriate governmental (for example, state or tribal) authority in each country where the merchant’s cryptocurrency activity will occur or be offered to cardholders, that expressly authorises the merchant to engage in such trading activity;

*The acquirer must provide an updated license(s) to Mastercard prior to expiration. If an acquirer is unable to obtain an updated license, then the acquirer must cease processing applicable cryptocurrency transactions from such merchant until the acquirer is able to provide an updated license to Mastercard.*

For merchants registered in a jurisdiction where the provided service is regulated (e.g. by the financial supervisory authority) the “Evidence of legal authority” would be the license (in general it would already be sufficient to verify if the merchant is listed on the white list of the regulators’ website).

For merchants registered in a jurisdiction where the provided service is NOT regulated, a “similar document” needs to be obtained. This is usually the legal expertise or legal opinion that the merchant has obtained from their lawyer (explaining in detail what services are offered and how these relate to the local laws in that jurisdiction). On the basis of either of these documents our legal team is able to make the conclusion that the offered business types apply to those outlined in each legal opinion of the 28 countries (and in the end enables us to include the merchant name into each legal opinion).

#### 15. Is there a trial or test period available?

Unfortunately, no trial or test period is available, as the legal opinions are valid for one year. That’s also why the contract period has a minimum of 12 months.