23/02/2024

PayPal se registra ante la UIF bajo la ley contra el lavado de dinero

PayPal has also appointed a principal officer, as stipulated under the law



American online payments gateway service provider PayPal has registered its operations with the Financial Intelligence Unit of India, about six years after a protracted legal battle

Official sources told PTI that the company has completed the formal procedure of being designated as a reporting entity under the Prevention of Money Laundering Act (PMLA) recently and has submitted the requisite documents to the Financial Intelligence Unit (FIU).

PayPal has also appointed a principal officer, as stipulated under the anti-money laundering law, for conducting official communication with the FIU while the appointment of a director, as envisaged under the same law, is in process, they said.

"PayPal has registered as a reporting entity with the Financial Intelligence Unit-India, in compliance with the Reserve Bank of India's recent regulatory framework governing cross-border payment aggregators (PA-CB), which is applicable to the PA-CB industry," a PayPal spokesperson said in response to a PTI query.

The FIU is a national agency responsible for receiving, processing, analysing and disseminating information relating to suspect financial transactions in Indian economic channels to various enforcement agencies and foreign FIUs.

The federal anti-money laundering agency had slapped a Rs 96 lakh penalty against the global online payments giant in December 2020, alleging that the company was "frustrating" the tents of the PMLA by not registering with it as a reporting entity under the PMLA.

This penalty imposed by the FIU against PayPal was quashed by a single judge bench of Delhi High Court in July 2023.

The court, however, ruled in the same order that the company was liable to be viewed as a payments system operator under the PMLA and so has to comply with reporting obligations under this law.

PayPal filed an appeal in August 2023 before a two-member bench of Delhi High Court seeking to quash the high court judgment and asserted that it employed an "arbitrary and impractical" interpretation of "payment system" under the PMLA to arrive at its conclusion, that of calling it a payments system operator.

Even as this case is listed for further hearing on March 7, PayPal informed the Delhi High Court bench on December 15 that it was "in the process of registering itself with FIU-IND (Financial Intelligence Unit - India) under the PA-CB Circular No.RBI/2023-24/80 dated 31st October, 2023."

This circular, brought out by the Reserve Bank of India (RBI) after FIU slapped the Rs 96 lakh penalty against PayPal, is meant to regulate payment aggregators who facilitate cross-border transactions for import and export of permissible goods and services in

online mode.

The legal tussle between PayPal and the FIU began in March 2018 when the latter asked the company to register as a reporting entity for keeping "record" of all transactions, reporting suspicious transactions and cross-border wire transfers to the FIU and for identifying beneficiaries of these funds. The California-headquartered company began its India operations in November 2017.

In its December 2020 order, the FIU had said that PayPal, by refusing its directive, was "defeating" the very purpose of the anti-money laundering law and also "frustrating the tenets of public interest in India."

"This non-cooperation, coupled with clear understanding of the vulnerability and risks involved in its operations, clearly proves PayPal's repeated violations of the PMLA obligations," it had said.

Sharing of suspicious transaction reports by PayPal was "crucial" in enabling the FIU to share such information with Indian law enforcement agencies and, by refusing to register, it was "not only concealing suspect financial transactions but is also abetting in the disintegration of India's financial system" and posing "enhanced risk to the financial system of India", the order had said.

PayPal had then defended its position of not registering as a reporting entity with the FIU, citing RBI guidelines prevalent at that time and stating that it only operates as an Online Payment Gateway Service Provider (OPGSP) or a payment intermediary in India and is "not covered within the definition of a payment system operator or financial institution and in turn, not covered under the definition of a reporting entity under the PMLA".

The FIU, in the 2020 order, had said that while the company "defies" the process in India, its parent company in the US -- PayPal Inc -- reports suspicious transactions to the Financial Crimes Enforcement Network, the FIU's American equivalent, and also to similar agencies in Australia and the UK.

Fuente

Link de la Noticia