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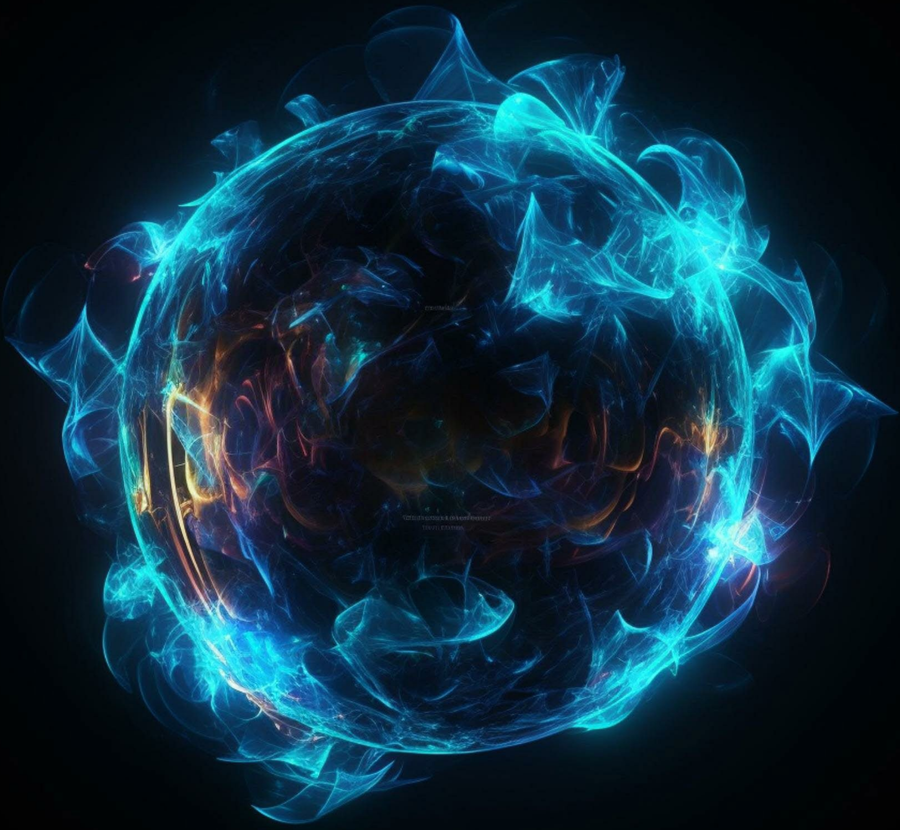

AML Package 2024

Impact on the EU's AML landscape

Forensic

New AML/CTF regulatory developments in the EU

In July 2021, the European Commission presented a new legislative package containing four proposals with the aim to further strengthen the EU's framework to combat money laundering and terrorist financing.

The EU has now reached an agreement to set out further regulations and operational tasks for the coming AML/CFT-package ("the AML package"), with the package adopted by the European Parliament on 24 April 2024. The AML package will have a significant impact to the AML regulatory landscape within the European and Nordic market in the coming years.

The new AML package agreement consists of the following four elements:

- Establishment of a new EU supervisory authority - the AMLA
- EU AMLR – AML "Single Rulebook" regulation
- The 6th EU AML/CTF Directive
- Revised Transfer of Funds regulation[1]

By bringing forth updated measures and proposals to help tackle financial crime within Europe, the EU hopes to close gaps and loopholes that have been present in the current AML/CTF framework. The package is long awaited as it will aid in the harmonization of the legal frameworks across the member states. In this article we will delve further into what the four key legislative proposals will bring and the impact they will have on the financial sector and other obliged entities.

Establishment of AMLA

AMLA, the new EU supervisory authority, is a central component of the AML package and is expected to be operational by mid-2025 with headquarters in Frankfurt, Germany. With the help of AMLA, the EU aims to bring forward a centralised oversight body that will coordinate national authorities to ensure a consistent implementation of EU rules across the member states.

The AMLA supervisory authority will be established to execute AML/CFT supervision of financial institutions[2] and have the mandate to impose decisions on monitored institutions. It is anticipated that up to 40 financial institutions – deemed to pose the highest risk of money laundering and terrorist financing - will be under AMLA's direct supervision. All other financial institutions will remain under supervision by national supervisory authorities. For the non-FSI sector, AMLA will have a more supporting role with conducting periodic reviews and investigate possible regulatory breaches within the sector.

Furthermore, AMLA will provide and deliver guidance through regulatory technical standards and recommendations, and frequently issue best practice guidelines and recommendations.

The AML Single Rulebook

With the AML Single Rulebook, the aim is to provide a complete single set of harmonised rules and a unified regulatory framework for the financial sector, which all institutions throughout the EU must adhere to. The rulebook will contribute to a detailed regulation to ensure that all jurisdictions have the guidance to do accurate interpretations of the rules and will replace and renew the existing legislation of the AML/CTF Directives. Implementing a single rulebook will create uniformity and much awaited standardization of AML rules across the EU jurisdictions which has been a challenge until now due to an uneven application of rules among the member states.

1. *Already adopted in May 2023 but will apply from 30 December 2024*
2. *Including crypto asset providers "CASPs"*

Some of the key changes and updates that the Single Rulebook will bring is the expansion of obliged entities in scope to also include CASPs[3], crowdfunding platforms, traders in luxury goods, real/virtual estate agents and high-ranked professional football clubs[4] and further provisions on customer due diligence.

"The new AML/CTF Directive aims to remove gaps and loopholes in the current legislation and will harmonise the overall definition of money laundering and terrorist financing…"

With regards to beneficial ownership ("BO"), the regulation brings clarification on ownership versus control and confirms that the beneficial threshold will remain at 25% for the time being. With the updates to the beneficial ownership, EU hopes to bring more transparency where the challenge before has been the varying degree of transparency which has resulted in different interpretations among the member states. The regulation will also bring more power to the FIUs[5] and make a consistent Union-wide limit on large cash payments of 10.000€ (excluding non-professional transactions between private individuals).

The 6th AMLD

The new AML/CTF Directive aims to remove gaps and loopholes in the current legislation and will harmonise the overall definition of money laundering and financing of terrorism across the EU member states. It also aims to strengthen the cooperation between the national FIUs and EU institutions, such as Europol and the upcoming EU Authority, AMLA by harmonisation of response to the obliged entities.

The new directive and regulation (AML single rulebook) will replace the already existing 5th AML/CFT Directive and will aim to harden the definitions of offences and penalties in certain areas of the law, for example the criminalization of money laundering activities not linked to a specific crime, such as self-laundering. Furthermore, the establishment of the rules in the 6th Directive will also provide easier access to national registers that have information of beneficial ownership structures and bank account data.

Recast of the Transfer of Funds Regulation

The new AML package includes a revision to the Recast Funds Transfer Regulation, created to complement the new regulatory requirements of crypto assets.

The legislation aims to extend the rule of transfers towards CASPs and to bring more traceability to crypto transactions by requiring that all parties involved in the transactions to be identified in order to minimize the risk of illegal use of crypto assets.

Going forward, all crypto assets providers are required to conduct due diligence on their customers in accordance with the new regulation, requiring CASPs to enhance their existing AML/CTF compliance measures. The new extension of the rules will apply in cases where at least one of the CASPs are established within the EU.

"The new supervision, change from directives to regulation and new requirements in the package will have a large impact on financial institutions and all other obliged entities"

3. *In line with the recent developments in FATF standards regarding crypto assets*
4. *Due diligence rules apply to football clubs from 2029*
5. *Financial Intelligence Units*

Implementation timeline

The last parts of the package still needs to be formally adopted by the European Council, whereafter the laws will be published in the EU's Official Journal during 2024. After publication the regulations and directive will enter into force. Hereafter, the Member States will have two years to transpose the AMLD6 and the regulations will apply after three years.

Impact on the financial institutions and other obliged entities

The new supervision, change from directives to regulation and new requirements in the package will have a large impact on financial institutions and all other obliged entities. The new AML package will bring many benefits to the AML regulatory landscape within the EU by streamlining rules ensuring a consistent implementation across the EU, bringing centralized recommendations and best practice guidance from AMLA, as well as, encouraging greater collaboration and coordination among the FIUs of the member states. Furthermore, large FIs having cross-border activities will welcome the new AMLR as it will bring harmonization of standards that they can apply across the different jurisdictions they operate in.

Although there is still some time before the package will enter into force, FIs can already start with preparing some activities that will aid them when the package enters into force, these include, among others:

- Gap assessment of AML/CTF policies, procedures and controls against the Single Rulebook to assess whether updates are needed to e.g. customer due diligence processes, BO identification, risk assessments, and ongoing monitoring of customers.
- Review reporting processes to identify if any systems and control enhancements are needed to ensure efficient identification, reporting and escalation of suspicious transactions.
- Prepare updates to policies, procedures and systems and assess impact on AML/CTF resources.
- Implement changes, conduct training and communicate.

By taking these proactive measures, FIs can better prepare for the implementation of the new AML package and ensure that potential gaps in their AML framework and policies and procedures are appropriately addressed and mitigated.

Contacts

Addressing new requirements can require a large effort from the obliged entities. If you need a partner to support you in preparing you organisation for the new regulation please get in touch.

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