The Fourth EU Anti-Money Laundering Directive
European Commission Update
April 2016

The purpose of the Fourth EU AML Directive is to remove any ambiguities in the previous Directive and associated legislation and improve consistency of AML and counter-terrorist financing ("CTF") rules across all EU Member States. The Fourth EU AML Directive takes into account recommendations of the Financial Action Task Force ("FATF") from 2012. The Directive was initially due to be transposed into National Law by June 2017, although as outlined below, the European Commission has proposed that this deadline be brought forward to the end of 2016.

The Directive outlines a number of amendments to the Third EU AML Directive, with the primary modifications relating to the areas of:

- risk based approach
- ongoing monitoring
- beneficial ownership
- customer due diligence ("CDD")
- politically exposed persons ("PEPs")
- third party equivalence
- coverage of the gambling sector and tax crimes

In December 2015, the European Commission proposed a Directive on combatting terrorism which criminalises terrorist financing and the funding of recruitment, training and travel for terrorism purposes. The European Commission is now proposing further ways to tackle the abuse of the financial system for terrorist financing purposes. The European Commission is calling on Member States to commit to a further enhanced Action Plan in regards the Fourth AML Directive by the end of 2016.
European Commission’s Action Plan

In February 2016 the European Commission published an Action Plan to further strengthen the fight against the financing of terrorism in light of recent terror attacks in Europe.

The Action Plan focuses on two main strands of action:

- Tracing terrorists through financial movements and preventing them from moving funds or other assets
- Disrupting the sources of revenue used by terrorist organisations, by targeting their capacity to raise funds

The European Commission proposed a number of targeted amendments to the Fourth EU AML Directive, being:

**Ensuring a high level of safeguards for financial flows from high risk third countries**

The Commission will amend the Directive to include a list of all compulsory checks (due diligence measures) that financial institutions should carry out on financial flows from countries having strategic deficiencies in their national anti-money laundering and terrorist financing regimes. Applying the same measures in all Member States will avoid having loopholes in Europe, where terrorists could run operations through countries with lower levels of protection.

**Enhancing the powers of EU Financial Intelligence Units and facilitating their co-operation**

The scope of information accessible by the Financial Intelligence Units will be widened, in line with the latest international standards.

**Centralised national bank and payment account registers or central data retrieval systems in all Member States**

The Directive will be amended to give Financial Intelligence Units easier and faster access to information on the holders of bank and payment accounts.

**Tackling terrorist financing risks linked to virtual currencies**

To prevent their abuse for money laundering and terrorist financing purposes, the Commission proposes to bring virtual currency exchange platforms under the scope of the Anti-Money Laundering Directive, so that these platforms have to apply customer due diligence controls when exchanging virtual for real currencies, ending the anonymity associated with such exchanges.

**Tackling risks linked to anonymous pre-paid instruments (e.g. pre-paid cards):**

The Commission proposes to lower thresholds for identification and widen customer verification requirements. Due account will be taken of proportionality, in particular with regard to the use of these cards by financially vulnerable citizens. Firms will need to consider the impact of this statement in the context of what is currently outlined in the Third and Fourth EU AML Directives.

**Other measures will include:**

- Improving the efficiency of the EU’s transposition of UN asset freezing measures and improving the accessibility of UN listings to EU financial institutions and economic operators by the end of 2016. The Commission will also assess the need for a specific EU regime for the freezing of terrorist assets.
- Alignment of definitions: a comprehensive common definition of money laundering offences and sanctions across the EU will avoid obstacles to cross-border judicial and police cooperation to tackle money laundering.
- Limiting risks linked to cash payments: through a legislative proposal on illicit cash movements, the Commission will extend the scope of the existing regulation to include cash shipped by freight or post and to allow authorities to act upon lower amounts of cash where there are suspicions of illicit activity.
- Assessing additional measures to track terrorism financing: the Commission will explore the need for a complementary EU system for tracking terrorist financing, for example to cover intra-EU payments which are not captured by the EU-US Terrorism Financing Tracking Programme (“TFTP”).
Conclusion

In February 2016 the European Council issued a statement backing the Commissions fight against terrorism, commenting that the actions and initiatives to strengthen the fight against the financing of terrorism in light of recent error attacks across the EU and the ever increasing sophistication of terrorist financing were well placed. Although the proposed changes have not yet been finalised, the Council reiterated that the Directive "needs to be legally implemented on national level by the end of 2016 at the latest", six months earlier than the June 2017 date originally prescribed.

The Council urges Member States to swiftly implement the Fourth AML Directive before the end of 2016 and the Council stated that the targeted amendments "should not interfere with its current transposition".

The changes proposed are likely to increase the level of due diligence required to be carried out by fund entities on transfers from high risk countries, and increasing the level of safeguards and required controls to be applied in performing due diligence with respect to virtual currencies and anonymous pre-paid cards and instruments. Consequently, with potentially less than a year remaining before the implementation of further Irish legislation, firms should now be actively preparing for the additional compliance measures and policy or procedural amendments that will be required across their business.

A timeline of the European Commission’s Action plan can be found here.

Contacts

For further information, please contact a member of our team below.

Sean Smith
Partner
T: +353 1 417 2306
E: seansmith1@deloitte.ie

Niall O’Farrell
Senior Manager
T: +353 1 407 4740
E: nofarrell@deloitte.ie

Niamh Cunningham
Senior Consultant
T: +353 1 417 2241
E: nicunningham@deloitte.ie

Dublin
Deloitte & Touche
Deloitte & Touche House
Earlsfort Terrace
Dublin 2
T: +353 1 417 2200
F: +353 1 417 2300

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