



Anti- Money Laundering Presentation

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Speakers



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Agenda

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2	Directive & Regulation
3	Proposal for amendments (4 th AML directive bis and 5 th AML Directive)
4	AML and tax towards a transparent world
5	Local Developments
6	Conclusion
7	Q & A



Introduction

The Directive

The **Directive (EU) 2015/849** of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC has been **published on 5 June 2015**.



Member states were given two years to transpose it into national legislation -> In Luxembourg & Ireland this was to occur by **June 2017**



As of this date, **all obliged entities were required to comply** directly with the new framework



The 4th AMLD publication also comes with a **revamped Regulation (EU) 2015/847 on information accompanying transfers of funds**

Introduction

Objectives & Main Changes

Objectives:

- **Update and enhance** the EU's AML/CTF laws
- **Strengthen EU rules on AML/CTF** by taking into account the **40 FATF Recommendations** (dated 2012)
- Allow greater **consistency** of rules across the EU
- **Simplify** the cross border trade
- Ensure **soundness, integrity and stability** of credit and financial institutions
- Ensure **confidence** in the financial system as a whole

Main changes brought by the 4th AMLD:

- New **definitions**
- An **extended scope** of the persons and activities subject to the 4th AMLD
- The inclusion of "**tax crimes**" within the definition of predicate offenses
- **Risk based approach**
- Focus on **risk assessment**
- The extension of EDD measures to **domestic PEP**
- Enhanced **transparency** with regards to **Beneficial Owners**
- New provisions regarding the **sanctioning powers** of the competent authorities

Definitions

Some definitions and scope have been modified from AMLD3 to AMLD4 :

 **Gambling services** : Service which involves wagering a stake with monetary value in games of chance (casinos, online gambling, etc.)

 **Correspondent relationships** : The provision of banking services by one bank as the correspondent to another bank as the respondent **or** The relationships between and among credit institutions and financial institutions including where similar services are provided by a correspondent institution to a respondent institution

 **Politically Exposed Persons** : Natural person who is or who has been entrusted with prominent public functions
Planned definition of Domestic Politically Exposed Persons (DPEP) means a politically exposed person who is or who has been entrusted with prominent public functions by any Member State or by an institution of the European Union

 **Beneficial Owners** : Beneficial owner means any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted

Definitions

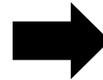
Beneficial Owners (BO)

Beneficial owners definition have changed under the 4th Directive :

In cases involving corporate entities:

The 3rd AMLD

A percentage of 25% plus one share is sufficient to prove ownership or control



The 4th AMLD

- Such a **threshold is merely an indication of direct or indirect ownership**, to be considered among other factors.
- Where there are **no natural person identifiable**: after having exhausted all other means of identification, and provided there are no grounds for suspicion, the **senior managing official(s)* may now be considered as to be the beneficial owner(s)** of the entity

***Senior management** : means an officer or employee with sufficient knowledge of the institution's money laundering and terrorist financing risk exposure and sufficient seniority to take decisions affecting its risk exposure, and need not, in all cases, be a member of the board of directors

Extended Scope Obligated Entities

The scope of the persons qualified as “obliged entities” have been extended :

	Qualified person	Description
Obligated entities	Persons trading in goods where payments made or received in cash (payments amounting to EUR 10000 or more)	<ul style="list-style-type: none">• The threshold was lowered from EUR 15,000 to EUR 10,000.• A lower thresholds may also be adopted by each member states.
	Estate agents	<ul style="list-style-type: none">• No longer limited to real estate agents (intermediaries which represent a buyer or seller in a real estate transaction)• Includes also letting agents of real estate property
	All providers of gambling services	<ul style="list-style-type: none">• Not only casinos in scope anymore• Obligated entities have to conduct a DD upon the collection of winnings, the wagering of a stake or both, when carrying out transactions of EUR 2,000 or more.• In proven low risk circumstances, except in relation to casinos, member states may authorize to exempt, in full or in part, providers of certain gambling services.• Introduction of the gambling by electronic means or any other technology (e.g. internet gambling)

Extended Scope Tax Crimes

Tax crimes” relating to direct or indirect taxes are now included within the list of predicate offenses to a money laundering, where:

- They are **punishable by a deprivation of liberty or a detention order** for a maximum of more than **1 year**
- Or as regards member States that have a minimum threshold for offences in their legal system, all offences punishable by a **deprivation of liberty or a detention order** for a minimum of more than **6 months**

Definition :

The 4th AMLD **does not provide for a harmonized definition** of “tax crimes” and each Member State will have to define under national law which tax offense should be a predicate offense.

Luxembourg :

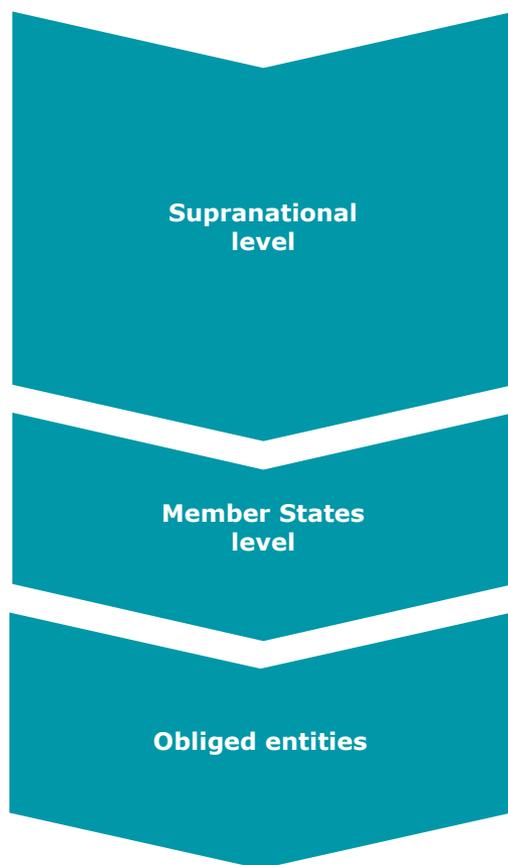
The Luxembourg has already defined the “taxes crimes” in his legislation (more details will be provided later in the presentation)

Ireland :

Whilst Ireland as not yet defined “tax crime” per se there was a general theme running through feedback from the FATF Evaluation with emphasis on the emphasis is on ensuring that Tax” evasion that is being investigated as a predicate offence is also investigated from a Money Laundering perspective i.e. joining the dots.” *Ireland should ensure that all units investigating predicate offences outside of the An Garda Siochana (‘AGS’) are referring cases of ML to AGS (particularly in relation to tax crime)”* . Further a specific recommendation was made in relation to Express Trusts with tax consequences *“Revenue maintains beneficial ownership information for certain legal persons and for legal arrangements which have tax consequences. Further beneficial ownership information is obtained and maintained individually by FIs and DNFBPs pursuant to CDD obligations provided for in Ireland’s AML/CFT law. Competent authorities have the necessary powers to access this information in a timely manner in the cases when the legal person or arrangement has a relationship with the financial institution or professional service provider. Notwithstanding the CDD and tax law requirements, there are limitations on the availability of information regarding beneficial ownership of express trusts”*

Extended Scope Risk Assessment

A risk assessment will be performed on a risk based approach between 3 levels of competence (Supranational, EU Member States and obliged entities levels)



The EU commission has to :

- Assess the risks of ML-TF affecting the **internal market and related to cross-border activities**
- **Provide a report** on these risks, **accessible to national authorities and obliged entities** in order to assist them in identifying, understanding, managing and mitigating their risks of ML-TF.
- **Make recommendations** to Member States on the measures which it considers suitable for assessing the identified risks
- **Identify high risk third countries** (non-EU countries that have deficient anti-money laundering and counter-terrorist financing regimes) and adopt delegated acts in relation to its findings
→ The qualification as a high risk third country triggers the obligation for the Member States to require to the obliged entities to apply EDD when dealing with natural or legal persons established in these countries.

Requirement for National Risk Assessments :

- Take measures to **identify, assess, understand and mitigate** the risks of ML/TF **within their state**
→ it will have a **direct impact on** the way obliged **entities** perform their risk assessment

Obligated entities :

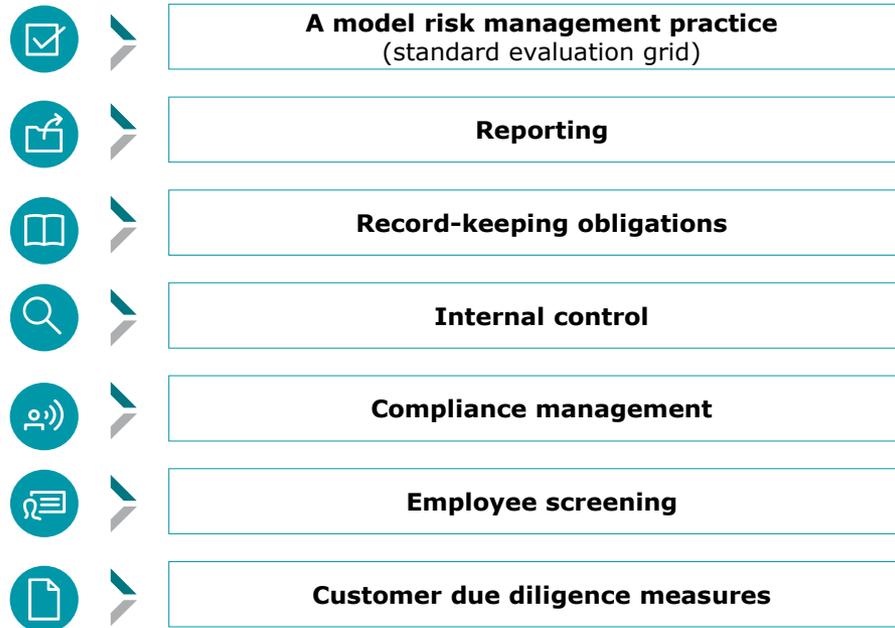
- Assess and take appropriate measures to **identify and assess the risk** of ML/TF **they are exposed to** by taking into account risk factors (**customers, products, transactions, delivery channels or relevant geographic areas or countries**)
- The risk assessment must be **documented**, kept **up to date** and made **available to** the relevant competent authorities

Extended Scope

General Rules

Member States have to **ensure** that **obliged entities have policies, procedures and controls in place** and up to date to mitigate and manage effectively the risks of ML/TF identified at the level of EU, the Member State and the obliged entity.

These policies, procedures and controls have to include :



Due-Diligence

Customer Due-Diligence Measures

Pursuant to a risk based approach, the obliged entities have to take into account, at least, the variable set out in Annex I of the Directive :

-  **Purpose of an account or relationship**
-  **The level of assets deposited by a customer or the size of the transactions undertaken**
-  **The regularity or duration of the business relationships**

In addition, they have to establish rules to determine which SDD or EDD measures are to be taken to reduce, mitigate or prevent the identified risks

Due-Diligence

Simplified Due Diligence (SDD) & Enhanced Due Diligence (EDD)

The 4th AMLD does not specify the measures but they will be detailed in guidelines of the ESA.

	Simplified Due Diligence	Enhanced Due Diligence
When	<p>In situations presenting a lower risk of ML/TF, Member States may allow obliged entities to apply SDD</p> <ul style="list-style-type: none">➤ SDD does not mean anymore exempting from CDD measures but only reduce the CDD measures applied <p>Obliged entities have to take into consideration the Annex II of the Directive</p>	<p>Obliged entities have to take into account the non-exhaustive list of factors and types of evidences of potentially higher risk</p> <p>Obliged entities have to take into consideration the Annex III of the Directive</p>
Difference AMLD3/AMLD4	<p>To the contrary of the 3rd AMLD and the Luxembourg legislation, the 4th AMLD has removed the list of categories triggering an automatic SDD => each obliged entity has to assess and determine, on a risk based approach, whether the relevant relationship or transaction may trigger a SDD</p>	<ul style="list-style-type: none">• Obliged entities are accountable in the entire risk process (from limited recourse to automatic categorization of clients)• Stronger focus on the risk based approach• Obliged entities are required to justify their risk classification and CDD measures

Examples :

The fact to have a relationship, etc. with, for instance, a financial institution established in another Member State, will no longer automatically trigger a SDD

Examples :

Non-face-to-face relationships are no longer considered as systematically requiring EDD.

Information relating to Beneficial Owners (“BO”) Central Register



BO information on corporate and other legal entities established within their territory have **to be held in a central register in each Member State.**



The information regarding the beneficial owner of a trust has also to be contained in a central register and should **include the identity of the settlor, trustee, protector, beneficiaries or class of beneficiaries and any other natural person exercising effective control** over the trust



Obligated entities have to **continue to perform**, on a risk based approach, their **own risk assessment**, CDD and are not allowed to only rely on information contained in the central register to fulfil their CDD requirements and obligations

Accessibility of the central register :

- Competent authorities and financial intelligence units (FIU) without restrictions
- Obligated entities within the framework of their CDD
- Any person or organization which is able to demonstrate a legitimate interest to access certain information regarding the beneficial owner

Cooperation between the FIU and the EU Commission



Possibility of exchange of information **spontaneously** or **upon request** from another FIU



EU Commission may provide **assistance to facilitate coordination and exchange of information between the different FIU's** (organization of meetings on the EU FIU's platform);



Creation of a **mandatory framework for cooperation** instead of an informal framework for cooperation.

Sanctioning powers of the competent authorities

Sanctions

The 4th AMLD provides a list of administrative sanctions and measures which must at least be applied in certain circumstances (i.e.: serious, repeated and/or systematic breaches of CDD measures).

Sanctions :

-  **Maximum administrative pecuniary fine of at least twice the amount of the benefit derived** from the breach, where that benefit may be determined, or at least EUR 1,000,000;
-  Specific sanctions for breaches **involving credit or financial institutions**: maximum administrative fine must amount **not less than EUR 5,000,000 or 10% of the total annual turnover** (source: latest available accounts approved by the management body) of the institution responsible for the breach;
-  **All decisions must be published by the competent authorities on their website and the identity of the person responsible for the breach as well** as the nature of the breach must be mentioned in the publication (except overriding reasons requiring otherwise).

**Regulation (EU) 2015/847
on information
accompanying transfers of
funds**

Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006

Key dates :



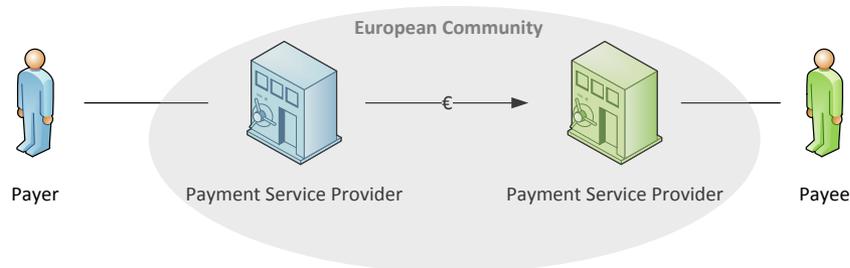
Purpose :

- Sets out the minimum requirements essential to ensure the **traceability of transfers of funds** and will **ensure a sufficient level of consistency between national rules**;
- Will apply to **transfers of funds**, in any currency, sent or received by a payment service provider or an intermediary payment service provider established in the EU;
- Will not apply, *inter alia*, to **transfers of funds carried out using a payment card, an electronic money instrument or a mobile phone, or any other digital or IT prepaid or post-paid device with similar characteristics** if certain conditions are met. However, it applies to person-to-person transfers of funds performed through such devices;
- Defines, *inter alia*, the **information** which shall accompany **transfers of funds** depending on the circumstances, the obligations incumbent upon the payment service provider of the payee in case of missing or incomplete information, record-retention and data protection requirements;
- An EU Member State may decide **not to apply** this Regulation to transfers of funds **within its territory** to a payee's payment account permitting payment exclusively for the provision of goods or services if certain conditions are met (among others, if the amount of the transfer of funds does not exceed EUR 1,000).

Anti-money laundering and know your customer

Transactions Monitoring - EU 1781/2006 vs EU 2015/847

Payments within the EU :



Transactions Monitoring - EU 1781/2006

« the transfer of funds received from a customer without any information on the payer as required by Regulation (EC) No 1781/2006 »

Mandatory information:

- Account number of payer OR Unique Identifier

BUT

If the Payment Service Provider of the payee requests complete information on the payer, it must be provided within three working days of receiving that request.

Transactions Monitoring - EU 2015/847 applicable as of 26/06/2017

Mandatory information:

- Name
- Address OR DoB and PoB OR ID number
- Account number OR Unique Identifier

Mandatory information (≤ 1000 €):

- Name of the payer
- Name of the payee
- A/C number of both payer and payee OR Unique Identifier

Mandatory information (>1000 €):

- Name of the payer
- Address OR DoB and PoB OR ID number of payer
- Account number OR Unique Identifier of payer
- Name of the payee
- Account number OR Unique Identifier of payee

Record keeping : Complete information must be kept for 5 years
by both Payment Service Providers

Proposals for amendments: 4th AML EU bis and 5th AML EU directive

Introduction

Objectives & Main Changes of the 4th AML EU Directive

Objectives:

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- **Strengthen EU rules on AML/CTF** by taking into account the **40 FATF Recommendations** (dated 2012)
- Allow greater **consistency** of rules across the EU
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- New provisions regarding the **sanctioning powers** of the competent authorities

Proposals for amending Directive

Key proposed amendments

Measure #1

Designate virtual currency exchange platforms (and wallet providers) as obliged entities



Virtual currency exchange platforms and **custodian wallet providers** will fall into the **scope of activities** subjected to AML/CTF laws when they **exchange virtual for real currencies** ("fiat currencies").

> **Obligation to implement preventive measures** such as verifying customers' identity, monitoring financial transactions and reporting suspicious transactions.

Difference



Virtual currency exchange platforms

Virtual currency exchange platforms can be considered as 'electronic' currency exchange offices that trade virtual currencies for real currencies (*such as the euro*).

Virtual wallet providers

Virtual currency custodian wallet providers hold virtual currency accounts on behalf of their customers (*by providing virtual wallets from which payments in virtual currencies can be done or received*).
In the 'virtual currency' world, they are the equivalent of a bank or payment institution offering a payment account.

Proposals for amending Directive

Key proposed amendments

Measure #2



Tackle the use of anonymous pre-paid instruments

Provide a clear disincentive for use for terrorist and criminal purposes.

- **Identify customer for remote client transaction over 50 euros and ban remote anonymous prepaid card.**
- **Lower the thresholds (from 250 to 150 EUR) for non-reloadable pre-paid payment instruments** to which CDD apply
 - > minimise the anonymous use of these cards;
- **Suppress the CDD exemption for online use of prepaid cards**
 - > anonymous use will not be possible online;
- **The use of anonymous prepaid cards issued outside the EU will only be accepted within the EU where they can be shown to comply with requirements equivalent to the ones in the 4th AMLD**
 - > banks will carry out their checks and will have to refuse payments made with cards from countries that do not have sufficiently high AML standards.

Proposals for amending Directive

Key proposed amendments

Measure #3



Give new powers to FIUs to request information from an obliged entity

Reinforce the rules relative to **the facilitation of cooperation between FIUs**, aligning them with the most recent international standards on access to information.

> The EU FIU's will have the power to request any information in the context of its functions from any obliged entity (e.g. without preliminary suspicious activity report as currently required in some Member States)

Measure #4



Enable FIUs and competent authorities to identify holders of bank and payment accounts

Require Member States to set up **automated centralised mechanisms** to enable the swift **identification of the holders of bank and payment accounts, and proxies holders** to allow a faster detection of suspicious ML/TF transactions.

> Member States will decide whether to establish a **centralised bank and payment account register** or make use of other **centralised mechanisms such as data retrieval systems**.

Proposals for amending Directive

Key proposed amendments



Measure #5

Harmonize the EU approach towards high-risk third countries

Setting-up a common and **harmonized list** of EDD measures towards high-risk countries (through a MEMO/16/2381 revision of the Fourth Anti-Money Laundering Directive).

The list of high-risk countries **has been adopted on 14th July 2016** (delegated regulation (EU) 2016/1675 of 14 July 2016 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies).

➤ The list of high risk third parties is as follows:

1. High-risk third countries which have provided a **written high-level political commitment to address the identified deficiencies and have developed an action plan** with FATF: *Afghanistan, Bosnia and Herzegovina, Guyana, Iraq, Lao PDR, Syria, Uganda, Vanuatu, Yemen*
2. High-risk third countries which have provided a **high-level political commitment to address the identified deficiencies, and have decided to seek technical assistance in the implementation of the FATF Action Plan**, which are identified by FATF Public Statement: *Iran*
3. High-risk third countries **which present ongoing and substantial money-laundering and terrorist-financing risks, having repeatedly failed to address the identified deficiencies and which are identified by FATF Public Statement**: *Democratic People's Republic of Korea (DPRK)*

Proposals for amending Directive

Key proposed amendments

Measure #6



Improve transparency: new rules on access to beneficial ownership information

Regarding information on the ultimate BO of companies, trusts and other types of legal arrangements:

- Competent authorities and FIUS have unlimited access
- Obligated entities within the framework of customer due diligence
- Any person or organisation that can demonstrate a legitimate interest (to be defined by the Member states which raise the risk of application discrepancies at EU level)

Data requirements:

- Information must be accessible and up-to-date
- Personal data included but registries should store at least the data necessary to the performance of AML/CFT investigations
- Retention period will be the same as DD measures or more (only by law)
- Exception for disclosure of info regarding beneficial owners in the registers : in case of risk of fraud, blackmail, violence, intimidation and kidnapping

Measure #7



Interconnection of national central registers

Increase transparency requirements on companies and other legal entities, trusts and other legal arrangements, and allow competent authorities, FIUs and obliged entities to identify the beneficial owners in an easy and efficient way.

> **Implementation procedure of the interconnection of the national central registers is still in discussion**

Proposals for amending Directive

Key proposed amendments

Measure #8

Additional technical clarifications



This includes the types of entities monitored, clarification of the concept of “competent authority”, and accurate references to electronic identification means.



Use of digitalization for transaction and payment

Proposals for amending Directive

Key proposed amendments (5th AML EU Directive)

New amendments are still in discussion.

Proposed amendments :

- 1 **Beneficial Ownership Registers**
- 2 **Virtual currencies**
- 3 **Prepaid cards**
- 4 **Information sharing**
- 5 **Enhanced due diligence**

Proposals for amending Directive

Key proposed amendments (5th AML EU Directive)

Measure #1

Beneficial Ownership Registers



Beneficial Ownership Registers

Under 4AMLD: obligation to hold beneficial ownership records : hold accurate and current information on corporate and other legal entities.

Proposition of amendments:

- EU citizens will be granted access to these beneficial ownership records, without having to demonstrate a 'legitimate interest'.
- Trusts : be required to meet the full transparency obligations which incorporate the beneficial ownership requirements.
- Legal entities : if significant money laundering and/or tax evasion risk, the ownership threshold is reduced from 25% to 10%.

Measure #2

Virtual currencies



Amended definition of virtual currencies as: 'A digital representation of value that can be digitally transferred, stored or traded and is accepted by natural or legal persons as a medium of exchange, but does not have legal tender status and which is not funds as defined in points (25) of Article 4 of the Directive 2015/2366/EC nor monetary value stored on instruments exempted as specified in Article 3(k) and 3(l) of that Directive.'

All Member States should include this definition into their AML legislation.

virtual currency platforms and wallet providers are in scope of the directive and are considered as 'obliged entities'.

Proposals for amending Directive

Key proposed amendments

Measure #3



Prepaid cards

- The thresholds for identifying the customer in remote payment transactions for general purpose anonymous prepaid cards are lowered to €50.
- Suggestion to lower it to zero after a 'transitional period' allowing adaptation to the new regulatory framework.
- The threshold of maximum monthly payment transactions has been reduced to €150.
- Suggestion that the use of anonymous prepaid cards which have been issued outside of the EU is prohibited unless they have been issued in jurisdictions that can be considered to comply with regulations equivalent to EU legislation.

Measure #4



Information sharing

- Proposition that Member States will have to put centralised automated mechanisms in place, for example, central registries of holders of bank and payment accounts , to allow FIUs access to the information
- Proposition of increase of the powers of FIUs in that they will be able to acquire any information they need from any obliged entity, even without a previous report being made

Proposals for amending Directive

Key proposed amendments

Measure #3



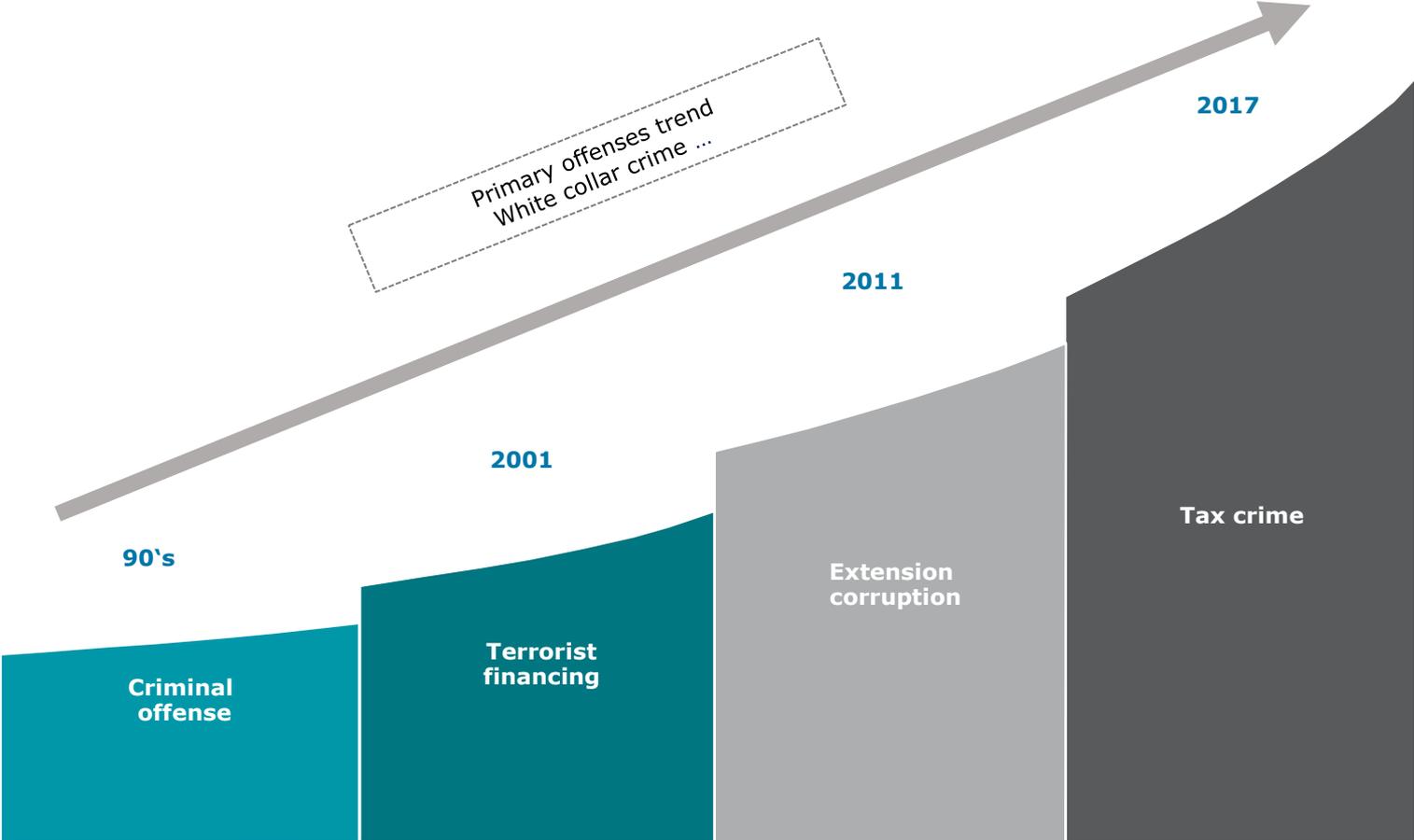
Enhanced due diligence

- High-risk third countries: obliged entities will be required to apply specific enhanced due diligence (EDD) measures

AML and tax towards a transparent world

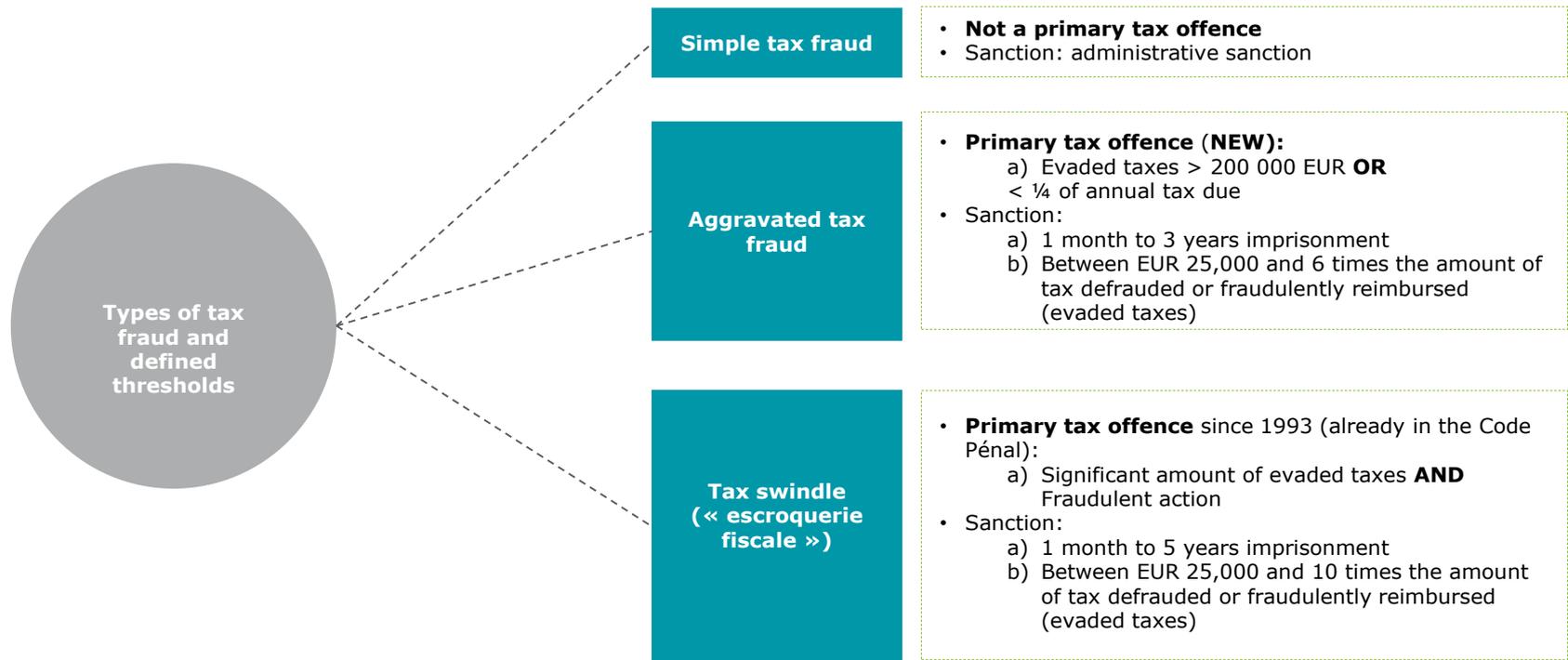
Introduction

Mind-set Evolution: an extended scope



Tax Fraud

Types of tax fraud and defined thresholds



Art 506.1 CP: 3 points added for aggravated fiscal fraud and for tax swindle : direct taxes (LGI), VAT (L.12/02/1999), registration and inheritance duties (L.28/01/1948)

Customer due Diligence

Application in time

New business relationship established after 01/01/2017	CDD compulsory on the onboarding Information on the business relationship: <ul style="list-style-type: none">• Purpose and object of the relationship• Nature of the business• Origin of funds → assess and document the client's financial situation
Existing business Relationship	CDD at appropriate time based on the risk assessment (particularly for substantial amount of the transaction or high risk situation)
Ended business relationship before 31/12/2016	No retrospective CDD
Ongoing due diligence	Ongoing re-assessment of the risk (checking the consistency of the transaction with his knowledge of his customer situation and his risk profile)
Dormant accounts	= existing business relationship → CDD at appropriate moment when: <ul style="list-style-type: none">• Account is reactivated• Assets are claimed by successors or assignees

Internal organization, reporting and cooperation with authorities

Adequate internal organization

Main impacts

Amendments of policy, procedures and trainings and creation of new ones

AML policy and procedures, Tax compliance policy, KYT procedures, Risk assessment (CSSF circular 11/519 and 11/529) including tax compliance risks, tax questionnaires, etc.

Reporting and cooperation with authorities

Reporting and cooperation with authorities

STR on the own initiative of the professionals

Suspicion can be based on the person, the nature or purpose of the relevant transaction and on indicators (Annex I of the Circular).

Suspicious transaction report threshold:

< 10.000 EUR of annual tax amount eluded => no obligation to report to the CRF.

Report: if the professional is not able to qualify the reported tax offence as soon as :

Evaded taxes > 200000 EUR or >1/4 of the tax due, or significant amount of evaded taxes and fraudulent action

=> assess if the threshold of the substantial amount is in absolute amount or in relation with the annual tax owed.



OWN INITIATIVE - SELF DECLARATION

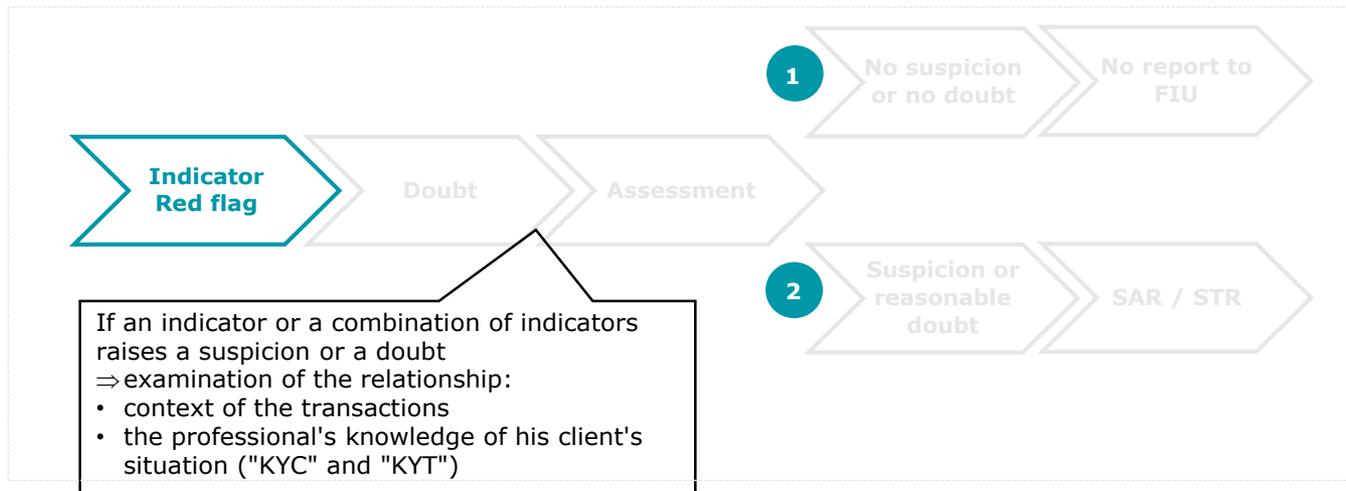
REQUEST



The offences does not have to be qualified by the professional

Red flags

List of 21 indicators



List of 21 indicators

Suggested fiscally relevant indicators

Assessment of indicators

E.g. Use of shell companies, back to back loans, reluctance to provide information, etc.

- Should rise awareness
- Have to be assessed in the context in which transactions occurs and with factors such as:
 - a) Client's occupation
 - b) Normal business practices
 - c) Financial history and past investment pattern

Fiscal criminal offenses

How to get prepared?

01 Establish a distinction between new subscriptions and existing investors

02 Distinguish direct clients vs. clients holding their assets via a vehicle

03 Assess the tax risk level of each client depending on different risk factors (risk-based approach)

04 For specific cases, consider gathering additional information from clients (depending on the risk rating) to give sufficient comfort to the Fund as to the fact that the clients are tax compliant

05 Go through the different steps of enhanced due diligence to document comfort over opening a position in shareholders register

06 Have relevant policies to reflect tax crime risks

Irish Developments

National Risk Assessment & Findings

What is the National Risk Assessment?

This is Ireland's first Money Laundering and Terrorist Financing (ML/TF) National Risk Assessment. It is based around the core FATF obligations and decisions regarding risk assessments.

Who are FATF and what are the FATF Guidance in relation to National Risk Assessments?

The Financial Action Task Force (FATF) is an inter-governmental body whose objectives are to set global standards, to promote and to review the effective implementation of legal, regulatory and operational AML measures. FATF Guidelines are intended to provide guidance on the conduct of risk assessment at the country or national level. For the purposes of assessing ML/TF risk at a National level, FATF guidance has broken the key concepts of conducting a risk assessment into the following areas.

- 1 Risk
- 2 Threat
- 3 Vulnerabilities
- 4 Consequence

National Risk Assessment

What is the aim of the National Risk Assessment?

The aim of the NRA is to identify understand and assess the money laundering and terrorist financing risks faced in Ireland.

The NRA is intended to form the basis for an Action Plan which, together with the FATF Mutual Evaluation Report (MER) and the transposition of the 4th AML Directive (4AMLD) to further strengthen the Irish anti-money laundering and countering the financing of terrorism regime. (AML/CTF).

AML/CTF Co-ordination and Development

In order to develop and maintain a risk-sensitive AML/CTF policy and to ensure further enhancement of the collaboration between domestic agencies Ireland has been influenced by the FATF recommendations- (recommendation 1 and 2- please refer to the FATF Guidelines) The FATF Recommendations require that countries fully understand their risks and collaborate in the development of implementation of AML/CTF is aligned with the FATF's framework

Various committees have been set up in order to facilitate the collaboration and communication between national competent authorities.

- 1 AML/CFT Steering Committee (AMLSC)**
- 2 Private Sector Consultative Forum (PSCFO)**
- 3 Cross Departmental International Sanctions Committee (CDISC)**

FATF Mutual Evaluation Findings

Positive Feedback:

- Register of Beneficial Owners
- Cooperation between FI's and their Supervisors

Some improvements needed:

- More convictions – ML & TF
- More Quantitative Data
- Focus on NPOs and TF

More focus needed on international risk:

- Beneficial Ownership should be a priority.
- PEPs, Correspondent Banking, High Risk Jurisdiction and Higher Risk Customer controls should be enhanced.
- Funds Sector seen as 'vulnerable' due to complex ownership structures and reliance on third parties.

A range of technical (legislative) recommendations have been made in relation to legislative gaps e.g. the role and powers of the FIU, performing CDD on existing clients, inclusion of domestic PEPs, risk based approach to reliance on third parties, director accountability for providing beneficial ownership information.

Conclusion- What is next?

Transposition of 4 and 5MLD- Where we are today.

Across Europe the introduction of a 4th EU AML Directive in 2015 brings the biggest change to the area of AML since 2005. This is now followed by a number of proposed changes to this Directive in the form of a 5th EU AML Directive which is currently being negotiated at a political level. Member states are at various stages of implementation

Ireland

Ireland has implemented certain aspects of Article 30 of 4 AMLD by virtue of the European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2016 which came into operation on 15 November 2016

In line with Article 31 of 4 AMLD, regulations imposing obligations on trusts to obtain and hold beneficial ownership information are expected later this year, the precise timing of these regulations is unclear.

Regulations relating to the maintenance and operation of central registers for information on beneficial ownership for corporates and trusts are also expected later this year.

National Risk Assessment completed and published. FATF Mutual Evaluation published September 2017.

Transposition of 4 and 5MLD- Where we are today

Luxembourg

On 26 April 2017, the Bill of Law n.7128 was introduced to the Chamber of Deputies in Luxembourg. The “Chambre de commerce” (“trade register”) has provided comments on this Bill of Law on 25 July 2017.

The Bill transposes the provisions of the 4th AML Directive relating to the obligations applicable to professionals in the AML/CTF framework.

The provisions of the 4th AML Directive regarding the central register (obligation of all legal entities incorporated in Luxembourg to obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held as well as the storage of such information in a central register) are not mentioned in this Bill.

Some changes may occur in both jurisdictions by virtue of 5MLD

Questions?



Next Link'n'Learn

Date: October 5th 2017

Topic: Derivative Financial Instruments
- Part 1



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