

Deloitte regulatory news alert

AML/CTF – Proposal for amending Directive (EU) 2015/849

Background

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The threats associated with money laundering and terrorist financing are constantly evolving. And the recent terrorist attacks in the European Union and beyond demonstrate the urgent need for a strong coordinated European response and also the need to swiftly adapt current rules on a regular basis.

In May 2015, the Anti-Money Laundering Package, also known as 4th Anti-Money Laundering Directive, has been adopted by the Union and the EU Member States committed to implement the actions swiftly and as much as possible in advance of the agreed deadline.

In connection with the Action Plan against terrorist financing, the European Commission adopted on 5th July 2016 to amend the current framework of the Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and amending Directive 2009/101/EC.

Source: AML factsheet communication from European Commission

What are the proposed amendments?

Measure 1 – Designate virtual currency exchange platforms (and wallet providers) as obliged entities

The aim of this measure is to give to competent authorities the ability the better monitor currency transfers by providing a regulatory framework for the functioning of exchanges, virtual currency exchange platforms (and wallet providers) being consequently subject to the obligation to implement preventive measures and report suspicious transactions.

Measure 2 – Tackle the use of anonymous pre-paid instruments

The proposal includes to (i) lower the thresholds (from 250 to 150 EUR) for non-reloadable pre-paid payment instruments to which Customer Due Diligence measures (CDD) apply and (ii) to suppress the CDD exemption for online use of prepaid cards.

The goal is to provide a clear disincentive for use for terrorist and criminal purposes. In addition, the use of anonymous prepaid cards issued outside the Union will only be accepted within the Union where they can be shown to comply with requirements equivalent to the ones in the 4th AML Directive.

Measure 3 – Give new powers to FIUs to request information from an obliged entity

The Commission proposes to reinforce the rules relative to the facilitation of cooperation between Financial Intelligence Units (FIUs), aligning them with the most recent international standards on access to information.

Measure 4 – Enable FIUs and competent authorities to identify holders of bank and payment accounts.

The Commission proposes to require Member States to set up automated centralised mechanisms to enable the swift identification of the holders of bank and payment accounts and to allow a faster detection of suspicious ML/TF transactions.

Measure 5 – Harmonise the EU approach towards high-risk third countries

This measure aims at setting-up a common and harmonized list of Enhanced Customer Due Diligence measures towards high-risk countries. This should refrain actors to select its implementation based on arbitration between member states.

Measure 6 – Improve transparency: new rules on access to beneficial ownership information

Regarding information on the ultimate beneficial owners of companies, trusts and other types of legal arrangements, the Commission proposes:

- public access to such information for companies (by amending the 1st Company Law Directive);
- public access to such information for trusts engaged in commercial or business-like activities (by amending the 1st Company Law Directive);
- access to such information on a legitimate interest basis for family or charitable trusts.

Measure 7 – Interconnection of national central registers

The aim is to increase transparency requirements on companies and trusts and allow competent authorities, FIUs and obliged entities to identify the beneficial owners in an easy and efficient way.

Measure 8 – Additional technical clarifications

This includes the types of entities monitored, exclusion of closed-loop cards from the 4th AML Directive, clarification of the concept of “competent authority”, and accurate references to electronic identification means.

Measure 9 – Earlier transposition

The Commission calls Member States to bring transposition of the entire anti-money laundering framework into national law forward to **1 January 2017**, 6 months before the initial deadline set-up in the Directive – 26 June 2017. The proposal needs nevertheless to follow its standard process for validation and approval.

What to retain ?

European Commission encourages Member States to take into account the proposed amendments and to enforce the transposition of the 4th AML Directive by **January 1st, 2017**. The proposed update of the legal rules will be adopted by the European Parliament and the Council of Ministers under the ordinary legislative procedure.

How Deloitte can help?

Deloitte can support you in:

- Developing or enhancing your AML framework based on regulatory requirements and leading industry experiences;
- AML training for employees/management to facilitate knowledge and capability building;
- AML Due Diligence;

- Assist in transaction look back exercise;
- Implementation or enhancement of your transaction monitoring and name screening system;
- Client on-boarding and remediation programs;
- AML Investigation

We trust this information is of assistance and remain at your disposal for any question