



4th EU Anti-Money Laundering Directive (4AMLD)

Introduction

This update to 2007's 3rd AML directive brings Europe's anti-money laundering and counter-terrorist financing laws in line with the 2012 recommendations outlined Financial Action Task Force ("FATF").

The directive takes a more risk-based approach to the due diligence requirements on financial institutions, and makes amendments regarding record-keeping, politically exposed persons, and sanctions.

The new directive will also create greater transparency of beneficial ownership, through new nationally-maintained registers.

Overview

4AMLD ((EU) 2015/849) extends and replaces the previous 2007 EU directive. The purpose of the 4AMLD 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 4AMLD also takes into account recommendations of the Financial Action Task Force (FATF) from 2012.

Like its predecessor, the aim of 4AMLD is to make it harder for criminals to use the financial system through greater scrutiny and transparency of financial transactions and relationships.

Having come into force in June 2015, EU Member States must transpose the directive into local law by June 2017, after which date affected entities must be fully compliant. The European Commission has asked Member States to consider early adoption by 1 Jan 2017 but we understand this will not happen for the United Kingdom or Ireland.

The scope of 4AMLD covers financial institutions ('obliged entities', previously known as 'designated persons') and their clients, including corporates, trusts and other beneficial owners. Areas of focus in 4AMLD include risk-based due diligence, national registers of beneficial owners, record-keeping, politically exposed persons and sanctions.

What are the changes being introduced?

Risk assessments

Member states must draw up written risk assessments and share them with other member states and obliged entities to help identify, understand, manage and mitigate risks. The European Commission will conduct its own assessment of money laundering and terrorist financing risks every two years to assist in identification of cross-border threats.



Risk-based due diligence

Obligated entities (e.g. banks, asset managers and other financial institutions) must document the risk assessment before using simplified customer due diligence (CDD) processes. This assessment should be documented and on hand should it be requested. Obligated entities must also engage in adequate monitoring to enable the detection of suspicious transactions.

Article 16

Central registers of beneficial ownership

EU member states must keep central registers on the ultimate beneficial owners of corporate and other legal entities, as well as trusts, which can be accessed by competent authorities, EU Financial Intelligence Units and obliged entities. **Article 30(5)**

Politically Exposed Persons (PEPs)

Definition clarified and expanded to include prominent political persons in domestic jurisdictions. Also clarifies that enhanced due diligence is required for all transactions involving PEPs. **Article 3 (9)**

Record-keeping

Personal data shall be deleted five years after end of a business relationship, but this can be extended to a maximum period of 10 years, if provided for by national legislation. **Article 40 (1)(a)**

Sanctions

Not defined in previous directive, 4AMLD increases the range of sanctions that may be imposed for breaches of AML/CTF obligations by designated persons. Administrative penalties for natural / legal persons include: public reprimand; cease and desist orders; suspension of authorisation; temporary ban from managerial function; and a maximum sanction of x2 the benefit derived from the breach, or at least EUR 1 million. For breaches involving a credit / financial institution, the maximum penalty for a legal person is at least 10% of turnover or EUR 5 million. **Article 59**

Financial Intelligence Units (FIUs)

To improve cross-border cooperation, national FIUs are being given greater access to financial, administrative and law enforcement information and will have greater powers to respond to requests from law enforcement authorities with member states. **Article 53**

Role of third parties in AML compliance

Obligated entities will still be able to rely on the services of third parties for CDD requirements if arrangements are updated in line with new requirements contained in 4AMLD. **Article 25**

How does this impact TA Products & Services?

- In the UK, the TA Forum is considering the impact of 4AMLD across the TA industry.
- The focus of the TA Forum working group is to assess the key impact areas for TA's.