

The background of the entire page is a photograph of three European Union flags waving on flagpoles. In the background, a large, curved building with many windows is visible, likely a European Union institution. The image is slightly blurred and has a dark, moody tone.

# EU ANTI-MONEY LAUNDERING AND COUNTERING TERRORIST FINANCING PACKAGE

July 2021

## Overview

The European Commission has this week published its long-awaited anti-money laundering and countering terrorist financing (AML/CTF) package. Fragmented and differentiated implementation of EU-wide rules have led to significant obstacles to cross-border service provision and effective enforcement of EU AML/CTF rules. National competent authorities currently apply the rules differently, creating different standards for companies to follow depending on the regions they operate in. This fragmentation is the main issue the AML/CTF package adopted this week has tried to resolve.

## Key changes

The package consists of the following four legislative proposals:

### European Anti-Money Laundering Authority (AMLA):

The Commission has proposed a [Regulation establishing a new EU AML/CFT Authority](#) – the AMLA. With the AMLA, the Commission aims to deliver a single supervisory framework for anti-money laundering and counter-terrorist financing, which will avoid inconsistent application of the rules by different national regulators in different Member States by introducing more centralised EU supervision and coordination amongst national regulatory authorities.

The AMLA will:

- be established and operational by early 2024;
- be targeted towards an as yet unpublished list of financial firms operating across the bloc deemed as ‘particularly risky’;
- be funded by an “annual supervisory fee” which these “particularly risky” firms will have to pay;
- serve as a coordination hub to assist the analysis of Suspicious Transaction Reports and Suspicious Activity Reports with a significant cross-border nature by Financial Intelligence Units (FIUs);
- facilitate the creation of common reporting templates and standards to be used by FIUs; and
- support the EU’s policy on third countries as regards ML/TF threats from outside the EU.

### AML Regulation:

The Commission has decided to transfer all AML/CFT rules applicable to the private sector to a [Regulation](#) (including customer due diligence requirements, beneficial ownership transparency rules, reporting and record-keeping requirements and measures to limit the misuse of bearer instruments) so as to overcome issues around incoherent transposition, and therefore further harmonise the EU-level regime.

Crucially with regards to scope, the Regulation sets out that:

- crowdfunding service providers, mortgage credit intermediaries and consumer credit providers that are not financial institutions, and operators involved on behalf of third country nationals in the context of investor residence schemes are now within scope of AML/CFT rules;
- financial activities as well as gambling services can be exempted from AML/CFT rules by national competent authorities provided that the former are not the main activities provided by a legal entity, and the latter are of proven low risk; and
- traders in goods – who until now had an obligation to report cash transactions of a value over €10,000 – are excluded, except for dealers in precious metals and stones, due to their high ML/TF risk exposure;

## AMLD6:

The Commission has drafted a [sixth AML Directive](#), which will be transposed into national rules by Member States and contains rules pertaining to national supervisors and Financial Intelligence Units.

The Directive sets out:

- that the Commission will be adopting a Commission Implementing Act on the format for the submission of beneficial ownership information to the Registers, as well as other provisions regarding information sharing;
- new specificities on the financial analysis function of FIUs and on their operational independence and their funding;
- that the AMLA will draft Regulatory Technical Standards on the framework under which FIUs will exchange information and know-how; and
- clarifications on the responsibilities and powers of national supervisors and the rules for information-sharing between supervisors and obliged entities.

## Rule-changes affecting crypto-assets:

While some crypto-asset service providers are already covered by AML/CTF rules, this [proposal](#) extends these rules to the entire crypto-asset sector and aims to make crypto-assets more traceable, whilst prohibiting the provision of anonymous crypto-asset wallets. This is because the Commission argues that crypto-asset transfers should be subject to the same anti-money laundering requirements as wire transfers, since both face similar money-laundering risks.

The proposed revision of rules sets out:

- an obligation on service providers of crypto-asset transfers to provide and verify the name, address, and account number of the originator and beneficiary, as well as verifying the information provided by the beneficiary is accurate; and
- an extension to the current ruleset on information accompanying transfers of funds to also cover virtual assets. Previously, the EU framework on information accompanying transfers of funds only applied to funds (i.e. banknotes, coins, scriptural money and electronic money). Thus, for transactions involving crypto-assets transfers, these are treated with the same requirements as for cross-border wire transfers, in accordance with the Financial Action Task Force (FATF) Interpretive Note to Recommendation 16, rather than domestic wire transfers.

## Lookahead

With the proposals published over the Summer, co-legislator discussions on the first reading of the texts are expected to begin in September. The Slovenian Presidency will take the reins in the Council, with internal discussions already foreseeing the topic as a 'politically sensitive dossier'.



## Get in touch...

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