

21 July 2021

Anti-Money Laundering and Countering Financial Terrorism

Commission puts forward an ambitious package of legislative proposals which overhauls anti-money laundering and countering the financing of terrorism rules

Introduction

This MFSA circular intends to inform Financial Market Participants and Financial Advisors that on 20 July 2021, the European Commission adopted a number of measures on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

1. The [new AML Rule Book](#) will define the customer due diligence requirements to be applied by obliged entities throughout the internal market. This should end the fragmentation of AML rules within the internal market. It will provide for a single benchmark to ensure more consistent and integrated supervision;
2. The [Legislative proposal for the creation of an AML EU Agency](#) proposes the establishment of a supervisor at the EU level competent for direct supervision of certain financial institutions (FIs), indirect supervision/coordination of the other FIs, and a coordination role for supervising the non-financial sector as a first step;
3. A [sixth Directive on AML/CFT \("AMLD6"\)](#), replacing the existing Directive 2015/849/EU (the fourth AML directive as amended by the fifth AML directive), containing provisions that will be transposed into national law, such as rules on national supervisors and Financial Intelligence Units in Member States;
4. The [Proposal for a Regulation on information accompanying transfers of funds and certain crypto-assets](#) introduces obligation for Virtual Asset Service Providers to collect and make accessible data concerning the originators and beneficiaries of the transfers of virtual or crypto assets they operate (thus applying the so-called "travel rule" contained in FATF Recommendation 15 on VASPs).

Background

1. AML Rule Book

The Single EU Rulebook for AML/CFT will harmonise AML/CFT rules across the EU, including, for example, more detailed rules on Customer Due Diligence, Beneficial Ownership and the powers and task of supervisors and Financial Intelligence Units (FIUs). Existing national registers of bank accounts will be connected, providing faster access for FIUs to information on bank accounts and safe deposit boxes. The Commission will also provide law enforcement authorities with access to this system, speeding up financial investigations and the recovery of criminal assets in cross-border cases. Access to financial information will be subject to robust safeguards in Directive (EU) 2019/1153 on exchange of financial information.

2. EU-level Anti-Money Laundering Authority (AMLA)

The Agency will transform AML/CFT supervision in the EU and enhance cooperation among Financial Intelligence Units (FIUs). The new AMLA will be the central authority coordinating national authorities to ensure the private sector correctly and consistently applies EU rules. AMLA will also support FIUs to improve their analytical capacity around illicit flows and make financial intelligence a key source for law enforcement agencies.

In particular, AMLA will:

- establish a single integrated system of AML/CFT supervision across the EU, based on common supervisory methods and convergence of high supervisory standards;
- directly supervise some of the riskiest financial institutions that operate in a large number of Member States or require immediate action to address imminent risks;
- monitor and coordinate national supervisors responsible for other financial entities, as well as coordinate supervisors of non-financial entities;
- support cooperation among national Financial Intelligence Units and facilitate coordination and joint analyses between them, to better detect illicit financial flows of a cross-border nature.

3. The sixth directive on AML/CFT (AMLD 6)

The existing EU AML legislation requires Member States to establish registers or mechanisms to retrieve information about bank accounts and their owners. Now the Commission is proposing the establishment of a cross-border system between these national registers or mechanisms to enable FIUs to also access information from other Member States. This follows an extensive consultation carried out in the July 2019 AML package. A proposed amendment to the Directive on Access to Financial Information will ensure that law enforcement authorities can also access and search the system connecting the bank account registries. This will allow law enforcement authorities to swiftly identify whether a suspect holds bank accounts in other Member States, and therefore facilitates financial investigations and asset recovery in cross-border cases. All the robust safeguards of the Directive on access to financial information will also apply to law enforcement access to bank account information.

4. Proposal to amend Regulation on information accompanying transfers of funds and certain crypto-assets

An amendment is being proposed to the 2015 EU Regulation on transfers of funds (Regulation 2015/847) to extend its scope to transfers of crypto-assets. This means that full information about the sender and beneficiary of such transfers will have to be included by crypto-asset service providers with all transfers of virtual assets, just as payment service providers currently do for wire transfers. The rationale is the same as for the original Regulation on funds: to identify those who send and receive crypto-assets for AML/CFT purposes, identify possible suspicious transactions and if necessary block them. Crypto-assets are increasingly used for money laundering and other criminal purposes, making this amendment urgent. It also aligns EU legislation with key standards of the Financial Action Task Force.

Conclusion

The MFSA will be assessing all documents and proposal published. It will also be actively participating in discussions at EU level which commence this week, and will be issuing other informative circulars or request information as necessary and warranted to keep all stakeholders up to date. Notwithstanding, market participants should not hesitate to send any comments or questions they may have.