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The new European AML package – a navigator

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Introduction

'Money laundering poses a clear and present threat to citizens, democratic institutions, and the financial system. The scale of the problem cannot be underestimated and the loopholes that criminals can exploit need to be closed. Today's package significantly ramps up our efforts to stop dirty money being washed through the financial system. We are increasing coordination and cooperation between authorities in member states, and creating a new EU AML authority. These measures will help us protect the integrity of the financial system and the single market.'

Mairead McGuinness, EU Commission

Few areas of regulatory law are evolving as rapidly as European money laundering law. Over the past few years these requirements have become increasingly complex and detailed. In July 2024, the long-awaited AML package came into force, introducing significant changes to the current anti-money laundering (***AML***) framework. The AML package underscores that combating money laundering and countering terrorist financing (***CTF***) remain top priorities for legislators, regulators and law enforcement agencies. Financial institutions, in particular, must stay abreast of new requirements, update internal processes and foster a culture that promotes AML compliance.

The AML package consists of:

- Regulation (EU) 2024/1624 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (AML Regulation, ***AMLR***)
- Directive (EU) 2024/1640 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (AML Directive 6, ***AMLD6***)
- Regulation (EU) 2024/1620 establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism (AMLA Regulation, ***AMLAR***)
- Regulation (EU) 2023/1113 on information accompanying transfers of funds and certain crypto-assets (Funds Transfer Regulation 2, ***FTR2***)

This Navigator is designed to guide you through the new comprehensive set of regulations and highlight the key points for future AML compliance. After providing an overview of the changes introduced by the new AML package and their effective dates, we offer in-depth analyses of particularly relevant topics.

01

Timeline and scope

01 Timeline and scope

Three years have passed since the European Commission (*Commission*) presented a draft of the AML package on 20 July 2021. Since then, the proposal has been slowly progressing through the legislative process, culminating in its entry into force in July 2024. This marks the beginning of the implementation timelines. The AML package consists of the following four components:

AMLR (Regulation (EU) 2024/1624):

This regulation contains directly applicable AML/CTF rules. Key revisions include:

(i) Extending the scope of application to new obliged entities;

(ii) Amending customer due diligence (*CDD*) rules, specifically regarding enhanced and simplified CDD measures;

(iii) Refining the identification of beneficial owners; and

(iv) Providing a detailed framework on outsourcing arrangements.

AMLD6 (Directive (EU) 2024/1640):

This directive must be transposed into the national laws of the EU Member States, replacing Directive 2015/849 as amended (*AMLD5*). It includes provisions on the competencies and information sharing requirements of national supervisors and Financial Intelligence Units (*FIUs*).

AMLAR (Regulation (EU) 2024/1620):

This regulation establishes a new anti-money laundering authority (*AMLA*), which will directly oversee a group of selected high-risk financial institutions and will function as a decentralised AML regulator. The goal is to ensure a harmonised application of AML rules across the EU.

FTR2 (Regulation (EU) 2023/1113):

This regulation includes revised rules on the information accompanying transfers of funds and certain crypto-assets to enable traceability in compliance with the so-called travel rule. The FTR2 will not be further described in this Navigator. For an overview on the Travel Rule, see our blogpost.

01 Timeline and scope

Given that the substantive AML/CTF rules are set out in directly applicable regulations, (AMLR and AMLAR), current national AML legislation will be replaced, incorporating only the provisions necessary to transpose AMLD6. This trend towards increased harmonisation is also observed in other areas of financial services regulation across Member States.

In addition to the directly applicable AMLR, the EU aims to harmonise AML/CTF rules through various means:

Regulatory Technical Standards (RTS)

RTS empower the Commission the to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act. Under the AML package, the Commission may adopt RTS concerning, for example:

- Necessary information for the performance of CDD;
- Minimum requirements for group-wide AML/CTF policies;
- Duties of and cooperation between home and host supervisors; and,
- AML/CTF supervisory colleges.

Implementing Technical Standards (ITS)

ITS establish uniform conditions for implementing legally binding EU acts. The power to adopt ITS can be conferred to the Commission or the Council. Under the AML Package, ITS can be adopted for example with respect to:

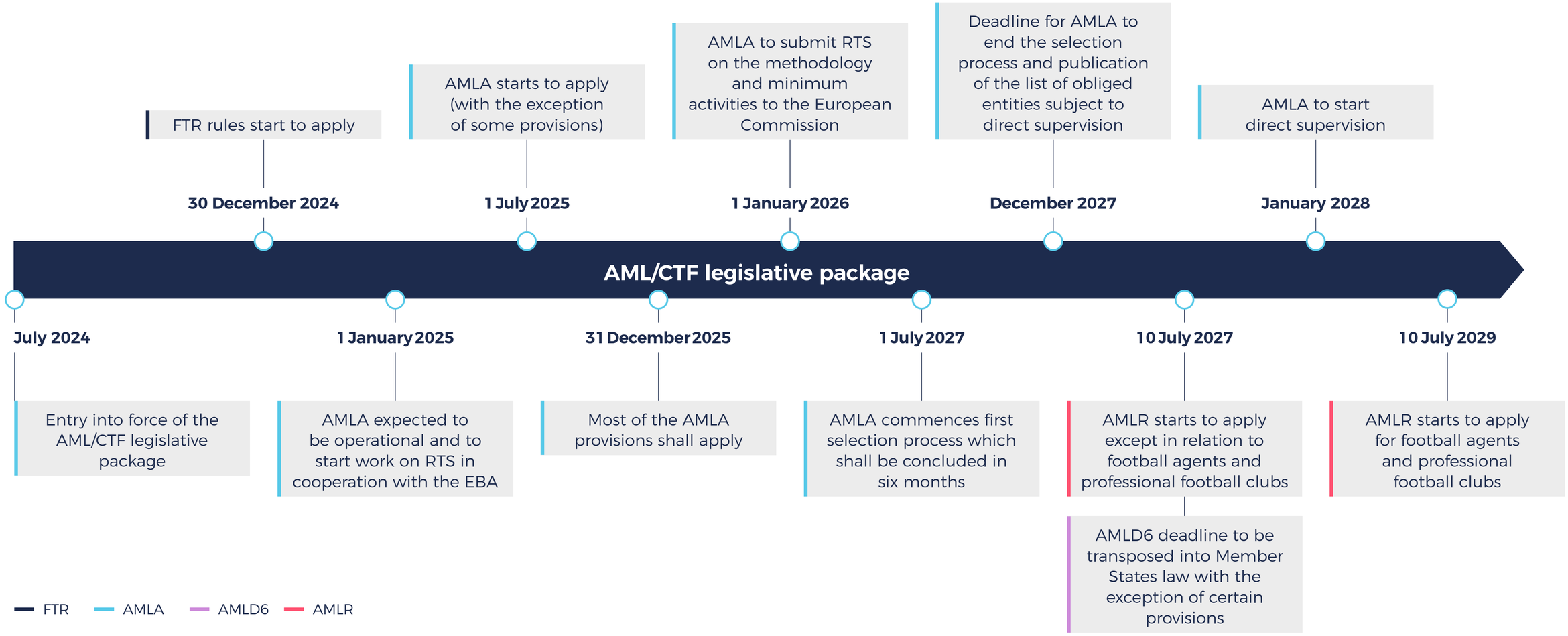
- The exchange of information between FIUs; and,
- Cooperation agreements with supervisors of third countries.

Guidelines and recommendations

The AMLA will issue guidelines and recommendations. Supervisory authorities, FIUs and obliged entities shall make every effort to comply with those guidelines and recommendations. Supervisory authorities and FIUs shall confirm their intent to comply with a specific guideline or recommendation and inform AMLA if they do not intend to comply, providing their reasons. Under the AML Package, the AMLA shall for example issue guidelines on:

- Good repute, honesty, integrity, knowledge and expertise of members of the senior management and beneficial owners of obliged entities;
- Risk-based supervision; and,
- Outsourcing arrangements.

01 Timeline and scope



02

The new AML framework – AMLR and AMLD6

02 The new AML framework – AMLR

Currently, AMLD5 serves as the primary legal framework for preventing the use of the EU's financial system for money laundering and terrorist financing. It sets out a comprehensive AML/CTF framework. Despite AMLD5's achievements, experience has shown that further improvements and harmonisation are necessary to adequately mitigate money laundering and terrorist financing risks. In response, the AMLR largely adopts the requirements already set out in the AMLD5, selectively amending existing obligations and introducing new ones.

1. Obliged entities

European AML requirements are generally binding only for so-called 'obliged entities.' Initially, the first European AML Directive only defined credit and financial institutions as 'obliged entities'. However, the list of 'obliged entities' has significantly expanded in recent years. The AMLR continues this trend by extending the scope of AML requirements to additional natural and legal persons in Article 3.

In addition to the entities already classified as 'obliged entities' under AMLD5, the AMLR will also include the following businesses as 'obliged entities':

(i) Financing intermediaries

For a long time, AML legislation focused primarily on financing providers, particularly banks. However, under the AMLR, several new types of intermediaries will also be classified as 'obliged entities':

- **Crowdfunding service providers (*CSPs*):** CSPs, regulated under the Regulation on European Crowdfunding Service Providers (*ECSP*), are now treated as 'obliged entities' due to their vulnerability to money laundering and terrorist financing risks. They will generally be subject to the same AML requirements as financial institutions.
- **Crowdfunding intermediaries:** These intermediaries facilitate the matching between project owners (natural or legal persons) and funders through an internet-based information system open to the public or to a limited number of funders.
- **Credit intermediaries for mortgage and consumer credits:** These intermediaries will be classified as 'obliged entities', except for those operating under the responsibility of one or more creditors or credit intermediaries. A credit intermediary in this context is a natural or legal person who is not acting as a creditor or notary and is not merely introducing a consumer to a creditor or credit intermediary. Instead, in the course of their trade, business or profession, they (a) present or offer credit agreements to consumers; (b) assist consumers by undertaking preparatory work or other pre-contractual administration in respect of credit agreements; or (c) conclude credit agreements with consumers on behalf of the creditor.

02 The new AML framework – AMLR

(ii) Crypto asset service providers

Crypto-assets are often associated with increased AML risks. It is therefore unsurprising that the European legislator has expanded the scope of AML requirements also to include crypto-asset service providers (*CASPs*). Under the AMLR, CASPs will generally be treated as financial institutions, unless the regulation expressly says otherwise.

The AMLR imposes several specific requirements on CASPs, including: (i) a lower threshold (€1,000 as opposed to €10,000) for the application of CDD requirements in the case of occasional transactions; (ii) enhanced CDD requirements for cross-border correspondent relationships; and (iii) a prohibition on anonymous crypto accounts. For an overview on the AML requirements applicable to CASPs, see our separate blogpost.

The tightened AML regulation of CASPs coincides with the adoption of the Markets in Crypto-Assets Regulation (*MiCAR*), which governs authorisation and conduct requirements for CASPs since June 2024, with certain obligations applying from December 2024. For an overview on MiCAR, see our separate client briefing.

(iii) Investment migration operators

Following the Russian invasion of Ukraine, there have been reports of wealthy – and sometimes sanctioned – Russians buying EU passports. While programmes that citizenship or residency in exchange for investment can spur economic growth, they are often exploited by criminals and the corrupt to launder money and hide their identity and assets, as noted in a 2023 FATF report. To combat this, the EU now aims to classify private companies, bodies or persons offering intermediation services to third-country nationals seeking residence rights in a Member State in exchange for any kind of investment, as 'obliged entities'.

(iv) Holding companies

In light of the Wirecard scandal in Germany, public scrutiny focused on why Wirecard AG – a holding company for Wirecard Bank – was not supervised as an 'obliged entity' under applicable law. In response to this controversy, the EU has tightened regulations on financial holding companies in the Capital Requirements Regulation (*CRR*), and has now expressly included non-financial mixed activity companies as 'obliged entities'.

Under the AMLR, the following types of holding companies are considered 'obliged entities':

- **Financial holding companies, mixed financial holding companies and financial mixed activity holding companies:** These are regarded as financial institutions for purposes of the AMLR; and
- **Non-financial mixed activity holding companies:** Although these companies are treated like financial institutions, they are specifically listed as 'obliged entities'. A non-financial mixed activity holding company is defined as a company that is not a subsidiary of another undertaking but whose subsidiaries include at least one obliged entity.

(v) Football

For the first time, the AMLR will expand the definition of 'obliged entities' to the realm of professional sports and include professional football clubs as well as football agents. Notably, professional football clubs will be classified as 'obliged entities' only with respect to transactions involving: (i) an investor; (ii) a sponsor; (iii) football agents or other intermediaries; and (iv) the transfer of football players. For an overview on the requirements applicable to football, see our separate blog post.

02 The new AML framework – AMLR

2. Key substantive changes

(i) Cash payments and high-value goods

The rules established under AMLD5 regarding cash payments and trading in goods have proven ineffective due to poor understanding and application of AML/CTF requirements, insufficient supervision and limited number of suspicious transactions reported to the FIU. To better mitigate risks associated with large cash transactions, the EU has now set a limit for large cash payments ay €10,000. Consequently, traders in goods are no longer subject to AML/CTF obligations, with exceptions for cultural goods and high value items.

For high-value goods, the AMLR will impose AML/CTF measures on traders when conducting sales transactions. High-value goods include:

- Jewellery, gold, clocks, and watches valued over €10,000;
- Cars priced over €250,000; and
- Planes and boats priced over €7,500,000.

These new rules apply regardless of the payment method used, in contrast to the previous framework, which only covered cash transactions exceeding €10,000. Traders and financial institutions must report transactions involving the sale of high-value goods to FIUs when these goods are acquired by customers for private, non-commercial use.

Additionally, foreign entities must register their beneficial ownership information in the EU when purchasing high-value goods in the EU.

(ii) Targeted financial sanctions

Targeted financial sanctions are a major legal tool of EU foreign policy. This central focus on EU sanctions has become even stronger following the Russian invasion of Ukraine. While there is EU guidance that EU operators are expected to implement adequate measures to deal with EU sanctions risks, and having sanctions compliance management systems has been a standard market practice for quite some time, the implementation of a sanctions compliance management system has not yet been a hard-coded legal obligation.

Under the AMLR, compliance with targeted financial sanctions will now be a formal objective of the European AML/CTF regime. The new requirements will include:

- **Implementing internal policies, procedures and controls:** to mitigate and manage the risks of non-implementation and evasion of targeted financial sanctions.
- **Risk assessment:** Incorporating the assessment of risks related to non-compliance and evasion of targeted financial sanctions in the business-wide risk assessment.
- **Expanded duties for compliance officers:** Enhancing the responsibilities of compliance officers regarding the implementation of targeted financial sanctions.
- **Customer and beneficial owner verification:** Ensuring that customers and beneficial owners are checked against the lists of individuals subject to targeted financial sanctions.

(iii) New rules on customer due diligence measures

Effective CDD measures are crucial in combating money laundering, terrorism financing and the evasion of targeted financial sanctions. Consequently, the European legislator has broadened the scope of CDD requirements. For a detailed overview on these changes, please refer to our in-depth analysis in section 4 below.

02 The new AML framework – AMLR

(iv) Harmonised approach to identification of beneficial ownership

The provisions on beneficial ownership transparency now include more detailed rules for identifying beneficial owners and specify the type of information needed to ensure consistent application across the EU. The revised framework clarifies the obligations for legal entities and trustees to identify, verify and report their beneficial owners to national beneficial ownership registers. Additionally, to mitigate risks associated with non-EU legal entities, the new rules mandate that such entities register their beneficial ownership in central registers if they have a connection with the EU. For a comprehensive overview of these changes, please see our detailed analysis in section 3 below.

(v) Risk based approach towards third countries

The AMLR aims to effectively mitigate external threats to the EU's financial system by implementing a harmonised approach across the EU and ensuring that the consequences of listing are defined with greater granularity and proportionality, based on risk sensitivity. The EU's policy towards third countries involves identifying, through the EU Commission and international standard setters like FATF or, in exceptional circumstances, through autonomous assessment, those third countries with strategic deficiencies in their AML/CTF frameworks. Enhanced due diligence (*EDD*) measures and country-specific countermeasures will be applied to mitigate these threats proportionately. For details on EDD measures, see section 4 below.

(vi) Partnerships for information sharing

New rules have been introduced allowing obliged entities to establish partnerships for sharing of information necessary for compliance with AML/CTF regulations, including reporting suspicious transactions. These partnerships must adhere to strict rules designed to protect fundamental rights, including privacy and data protection, as well as maintain confidentiality. Supervisors are responsible for ensuring compliance with these safeguards and should consult with data protection authorities when appropriate. FIUs and other authorities tasked with investigating or prosecuting money laundering, its predicate offences or terrorist financing, may also be invited by obliged entities to participate in information exchanges within these partnerships.

(vii) Intra-group exemption

While other financial regulatory acts provide for exemptions or facilitations for intra-group services, AMLD5 does not offer any such privileges for transactions within a group.

Recital 11 of the AMLR now suggests that this might change, proposing that financial activities or services provided by members of a group to other members should be excluded from the scope of the AMLR.

However, this intra-group exemption is not reflected in the main text of the AMLR. Specifically, Section 2 of the AMLR, which outlines its scope of application, does not address this issue. According to long-standing CJEU jurisprudence, a recital in a Community act does not have binding legal force and cannot be used as a basis for deviating from or interpreting the provisions of the act in a manner that contradicts its actual wording.

Given these limitations set by European courts, one possible approach to fully implement the exemption set out in Recital 11 is to interpret the term 'customer' narrowly, excluding other group companies from this definition.

02 The new AML framework – AMLD6

AMLD6 contains requirements not suitable for a regulation, particularly those requiring national transposition. It introduces several changes that could impact businesses and individuals. Below, we summarise select key novelties:

(i) Exposed sectors

AMLD6 enables Member States to identify sectors vulnerable to money laundering and terrorist financing risks and extends the application of AMLR to entities within these sectors, beyond those designated as obliged entities. Member States must notify the Commission before taking such action. If the Commission proposes measures at EU level, Member States must refrain from adopting their own national measures, except in cases where there is a serious and immediate threat of money laundering or terrorist financing.

Member States that have already applied AMLD5 to additional sectors may continue to apply all or part of AMLR to those sectors. The extent to which Member States will make use of this 'gold-plating' option remains to be seen.

(ii) Residence rights in exchange for investments

Where Member States allow the granting of residence rights in exchange for investments – such as in property, corporate entities, government bonds or through capital transfers, donations or contributions to the state budget or public good – AMLD6 requires them to implement risk management processes and risk mitigation measures. These measures must include checks of the applicant's profile including source of funds and wealth, verification of the information on the applicant, and periodic reviews of medium and high-risk applicants.

(iii) Beneficial ownership registers

In light of a European Court of Justice judgment invalidating general public access to beneficial ownership registers (see our blogpost), AMLD6 introduces revised access rules. Certain authorities and obliged entities performing CDD must have immediate or timely access to the register. Persons with a legitimate interest must be granted access upon request. AMLD6 establishes a clear procedure for the verification and mutual recognition of a legitimate interest, specifying a catalogue of persons deemed to have such interest. This catalogue includes journalists, civil society organisations, persons likely enter into transactions with legal entities, third-country authorities and, for CDD purposes, third-country entities or providers of AML/CTF products, subject to further conditions. Other individuals must demonstrate a legitimate interest on a case-by-case basis.

Additionally, non-EU legal entities and arrangements are now required to disclose beneficial ownership information in their registers if they have certain links to the EU. This includes acquiring real estate, purchasing high-value motor vehicles/watercraft/aircraft for non-commercial purposes, being awarded a public contract for goods or services, or entering into business relationships with EU obliged entities.

Entities managing beneficial ownership registers are also granted more powers to verify submitted information, such as conducting on-site inspections at business premises or registered offices of legal entities. They must also verify whether register information pertains to sanctioned persons or entities, particularly when an entity, its controllers, or beneficial owners are subject to targeted financial sanctions, which must be flagged in the register until the sanctions are lifted.

02 The new AML framework – AMLD6

(iv) Bank account registers

AMLD6 mandates that Member States expand the information in centralised bank account registers or electronic data retrieval systems to include virtual IBANs, securities accounts, crypto-asset accounts and safe-deposit boxes. Additionally, all national registers must be interconnected through a new bank account registers' interconnection system (*BARIS*), granting direct access to FIUs, national supervisors and the AMLA.

(v) Single access point to real estate information

AMLD6 also addresses the attractiveness of real estate for criminals. Due to the wide variety of real estate registers across the EU, no uniform solution is introduced. However, each Member State must provide a single digital gateway. This gateway will enable national supervisors and the AMLA to quickly access information on real estate properties, including ownership details and key financial information such as the acquisition prices and encumbrances.

(vi) FIUs and supervisors

A key focus of AMLD6 is to clarify tasks and enhance the powers of FIUs and supervisors. The directive aims to strengthen collaboration and information exchange between these entities and other authorities, such as investigative authorities, sanctions enforcement authorities, financial market authorities, or authorities supervising auditors or self-regulatory bodies. It also reinforces the international dimension of the AML/CTF framework. AMLD6 includes comprehensive provisions for cross-border supervisory cooperation, addressing both group supervision – through the introduction of dedicated AML/CTF supervisory colleges – and the cross-border activities of obliged entities that are not part of a group.

FIUs will gain access to a wide range of financial, administrative and law enforcement information and will be enabled to carry out joint analyses of suspicious transactions and activities. They will also gain new competences in cases of suspected money laundering or terrorist financing, such as suspending business relationships, instructing obliged entities to monitor transactions or activities and report on the results, or alerting them to information relevant for the performance of CDD. Additionally, FIUs are required to provide feedback to obliged entities on their reporting of suspicions and to publish annual reports on their activities for increased transparency.

(vii) Financial sanctions, administrative measures and periodic penalty payments

In line with recent regulatory trends, AMLD6 clarifies and strengthens the powers of supervisors to impose financial sanctions and administrative measures. For example, the directive mandates that the maximum fines for credit or financial institutions that intentionally or negligently commit serious, repeated or systematic breaches of the AML/CTF requirements – such as those related to internal policies, procedures and controls, CDD, reporting or record retention – must be increased from at least €5m to at least €10m, or 10% of the (group) total annual turnover, whichever is higher

Additionally, AMLD6 introduces periodic penalty payments (*PPPs*). If obliged entities fail to comply with administrative measures imposed by supervisors, these supervisors can impose PPPs for up to 12 months. The financial impact of PPPs can be substantial: for legal persons, up to 3% of their average daily turnover in the preceding business year, or for natural persons, up to 2% of their average daily income in the preceding calendar year.

03

Deep dive: UBO determination and disclosures under the AMLR

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The AMLD currently defines who qualifies as the ultimate beneficial owner (*UBO*) of an entity, but the implementation and interpretation of these rules varies widely across jurisdictions. This inconsistency can lead to different UBO determinations for the same entity in different jurisdictions. To address this issue at its core, the AMLR aims to establish a consistent approach to identifying beneficial owners, ensuring uniform application across the EU.

Under the AMLR, UBOs of legal entities are defined as natural persons who:

- have, directly or indirectly, an ownership interest in the corporate entity; or
- control, directly or indirectly, the corporate or other legal entity, either through ownership interest or by other means.

1. Ownership interest

The AMLR clarifies the concept of ownership interest in several key ways:

- **Ownership threshold:** The threshold for ownership is set at 25% or more of shares, voting rights or other ownership interests.
- **Indirect ownership:** Indirect ownership is calculated using a weighted percentage. This involves multiplying the shares, voting rights or other ownership interests at each level of the ownership chain.

2. Ownership through control

The AMLR provides a more precise definition of 'ownership through control.' Alongside the existing criteria for control set out under the AMLD, based on consolidated financial statements, the AMLR introduces additional criteria to identify control exercised through other means. These include relevant veto rights, the right to determine how profits of an entity are distributed, and, depending on the situation, formal or informal agreements with other shareholders or relationships between family members.

3. Multi-layered structures

In the case of multi-layered structures, the UBO is identified based on several criteria:

- **Direct or indirect ownership:** The UBO is the natural person who indirectly owns at least 25% of the relevant entity by multiplying the shares, voting rights or other ownership interests through the ownership chain.
- **Control through entities:** The UBO is also the person who controls, directly or indirectly, a legal entity that has direct ownership of at least 25% in the relevant entity. This control can be exercised through ownership interests (eg, 50% plus one share, voting rights or other ownership interest) or through other means.
- **Control via ownership interests:** Alternatively, the UBO is the person who, directly or indirectly, holds an ownership interest of at least 25% in a legal entity that, in turn, directly or indirectly, controls the relevant entity through ownership interests (eg, 50% plus one share) or other means.

4. Obligations of all legal entities

All legal entities established within the EU are required to obtain and hold beneficial ownership information that is adequate, accurate and up to date.

Compared to existing regulations, the new rules impose stricter and more detailed reporting requirements, particularly concerning multi-layered shareholding structures.

If, despite exhaustive efforts, a legal entity is unable to identify any beneficial owner or faces substantial and justified uncertainty about the persons identified, it shall maintain records of its actions to identify beneficial owners. In such cases, legal entities must provide the central register with the following:

- A statement that there is no beneficial owner or that the beneficial owners could not be determined, including an explanation of why identification was not possible.
- Details of senior managing officials in the legal entity equivalent to the information on UBOs, such as full name and date of birth.

04

Deep dive: Customer due diligence under the AMLR

04 Deep dive: Customer due diligence under the AMLR

CDD is arguably the cornerstone of the AML/CTF framework. The previous discretion granted to Member States under AMLD5 to implement CDD rules led to notable inconsistencies across the EU. By incorporating these rules into the directly applicable AMLR, the EU aims to minimise these discrepancies and achieve greater uniformity in their application.

1. Application of CDD measures

Under the AMLR, the core scenarios that trigger CDD measures remain consistent with those outlined in AMLD5. Obliged entities are still required to apply CDD measures in the following cases:

- When establishing a business relationship.
- When there is a suspicion of money laundering or terrorist financing, regardless of any derogation, exemption or threshold.
- When there are doubts about the veracity or adequacy of previously obtained customer identification data.
- For providers of gambling services, when collecting winnings, wagering a stake, or both, or conducting transactions amounting to €2,000 or more.

The AMLR introduces new situations that also require CDD measures, including:

- When there are doubts about whether the person interacting with the obliged entity is the customer or an authorised representative.
- When participating in the creation of a legal entity, setting up a legal arrangement, or for certain obliged entities, eg, auditors, tax advisors, notaries, lawyers, transferring ownership of a legal entity, regardless of the transaction's value.

For occasional transactions – those that do not form part of an established business relationship – CDD measures continue to apply if the value of the transaction exceeds €10,000. This threshold has been lowered from the €15,000 set by AMLD5. Obliged entities may also need to apply CDD measures for lower value transactions in specific cases, such as (i) transfers of funds (within the meaning of the FTR) exceeding €1,000; (ii) transactions carried out by a crypto-asset service provider; or (iii) cash transactions exceeding €3,000.

2. Nature of the CDD measures that must be applied

In general, the list of CDD measures that obliged entities must apply under the AMLR is consistent with those established in AMLD5. Therefore, entities should be familiar with these requirements as they transition to the new regulation. Specifically, the AMLR retains the following core CDD measures: (i) identifying and verifying the identity of customers and their beneficial owners; (ii) assessing and obtaining information to understand the purpose and intended nature of the business relationship (this obligation now also applies to occasional transactions); (iii) conducting ongoing monitoring of the business relationship.

04 Deep dive: Customer due diligence under the AMLR

However, AMLR introduces a significant change in that it provides a more detailed outline of these obligations. The regulation includes comprehensive lists of information and documents that must be collected. This level of detail is designed to help obliged entities conduct thorough checks, ensuring greater uniformity and clarity in the application of CDD measures.

3. Simplified and enhanced due diligence measures

Obliged entities are still permitted to apply simplified due diligence (*SDD*) measures if they determine that a business relationship or transaction presents a low degree of risk, considering various risk factors listed in AMLR. While AMLD5 largely allowed Member States and obliged entities to implement these simplified measures at their discretion, AMLR now provides an exhaustive list of simplified measures that obliged entities may apply. For example, these entities may:

- Verify the identity of the customer and beneficial owner after establishing the business relationship, provided that the specific lower risk identified justifies such postponement and, in any case, no later than 60 days after the establishment of the business relationship.
- Reduce the frequency of customer identification updates.
- Reduce the frequency or degree of scrutiny of transactions carried out by the customer.

Conversely, obliged entities are required to apply enhanced due diligence (*EDD*) measures in scenarios where a higher risk of money laundering or terrorist financing is identified. In their assessment, obliged entities must consider:

- The factors of potential higher risk set out in Annex III of the AMLR.
- The guidelines on risk factors adopted by AMLA (see the current EBA guidelines on risk factors).
- Any other indicators of higher risk, such as notifications issued by the FIU and findings of the business-wide risk assessment.

4. Specific CDD requirements

In addition to the above-mentioned CDD requirements, the AMLR introduces several specific requirements that apply to particular types of customers or activities. These include:

- **Cross-border correspondent relationships:** These are relationships between two credit or financial institutions where banking or similar services are provided. The AMLR mandates specific EDD measures for such relationships. For example, credit and financial institutions must (a) gather information on the respondent institution and its AML/CTF controls; and (b) for payable-through accounts, ensure that the respondent institution has verified the identity of, and performed ongoing due diligence on, customers with direct access to accounts of the correspondent institution.
- **Shell institutions:** These are institutions created in a jurisdiction where they have no physical presence or meaningful management, and which are unaffiliated with a regulated financial group. Due to the high money laundering risk associated with shell institutions, credit and financial institutions are prohibited from entering into or continuing correspondent relationships with them.
- **Ultra-high-net worth individuals:** When a higher-risk business relationship involves handling assets valued at least €5m through personalised services for a customer holding total assets valued at least €50m, credit institutions, financial institutions and trust or company service providers shall apply specific CDD measures.

05

Deep dive: Outsourcing under the AMLR

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Financial institutions occasionally choose not to conduct CDD themselves, often finding third parties more efficient. Recognising this, European legislators allow financial institutions to outsource certain AML activities.

The AMLD5 does not explicitly address the outsourcing of CDD activities. While it permits financial institutions to rely on CDD conducted by other financial institutions, it clarifies that this reliance does not constitute outsourcing. Under AMLD5, Member States have the discretion to determine the extent to which CDD outsourcing is permissible. This has resulted in a lack of uniformity, creating challenges for pan-European institutions that must navigate various outsourcing regimes across Member States.

The AMLR aims to address this inconsistency by clearly defining the obligations that institutions must fulfil to combat money laundering into two primary categories: conducting customer due diligence, which includes initial CDD before establishing a new business relationship and ongoing CDD, involving continuous monitoring of the customer relationship and transactions.

The AMLR permits the outsourcing of ongoing monitoring to third parties but prohibits the outsourcing of identifying criteria for detecting suspicious or unusual transactions and activities. This means a service provider may only monitor and analyse transactions, regularly reporting findings, including any suspicious activities, to the financial institution.

Furthermore, institutions are obligated to report unusual transactions to the FIUs in the relevant Member State without delay. The AMLR stipulates that this reporting obligation cannot be outsourced. However, a third party responsible for ongoing monitoring may prepare the Suspicious Activity Report (*SAR*) for the institution to file.

Furthermore, the AMLR imposes additional restrictions on outsourcing certain core compliance functions, including:

- Deciding the customer risk profile;
- Determining the initiation of a business relationship;
- Approving the financial institution's risk assessment; and
- Formulating and approving the entity's AML policies, controls, and procedures.

The AMLR also explicitly prohibits outsourcing to service providers located in high-risk third countries, countries with compliance deficiencies, or those posing a threat to the EU's financial system. Outsourcing to service providers in third countries is permissible only if it does not impair the ability of supervisory authorities to monitor AML compliance.

Additionally, the AMLR mandates the AMLA to publish guidelines on outsourcing, which are expected to provide greater clarity than current national guidelines. These guidelines aim to establish a uniform outsourcing framework for pan-European institutions, which currently face varying regimes across Member States. There is a significant demand for such clear guidance. While banks may adhere to existing European Banking Authority (EBA) guidelines, other institutions lack comprehensive pan-European directives. AMLA's forthcoming guidelines, to be issued three years after the AMLR's enactment, are expected to fulfil this need.

06

AMLA – the new European AML regulator

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In a significant move to strengthen financial security across the EU, the European Parliament and the Council finally introduced Regulation (EU) 2024/1620 on 31 May 2024. This regulation, in force since 19 June 2024, established the Authority for Anti-Money Laundering and Countering the Financing of Terrorism (*AMLA*). As part of the comprehensive EU AML Package, this initiative marks a milestone in harmonising AML and CTF rules throughout the European Union.

1. Governance

The AMLA will be headquartered in Frankfurt am Main, Germany. It will be governed by a General Board, composed of representatives from all Member States, and an Executive Board, which includes the Chair of AMLA and five independent full-time members appointed by the General Board, from a shortlist provided by the European Commission. The AMLA is expected to commence operations by mid-2025 with a team of over 400 employees.

2. Tasks

The AMLA will be the first European regulator with competences in the area of AML/CTF. Its tasks will include:

- Facilitating the cooperation and exchange of information between obliged entities, supervisors, supervisory authorities and non-AML/CTF authorities.
- Ensuring compliance of selected obliged entities with the requirements under the AMLR and the FTR2, including obligations related to the implementation of targeted financial sanctions.
- Conducting periodic assessments to ensure that all financial and non-financial supervisors have adequate resources, powers and strategies necessary for their AML/CTF tasks.
- Contributing to the convergence of supervisory practices and promoting high supervisory standards in AML/CTF, particularly regarding compliance verification with targeted financial sanctions.
- Investigating potential breaches or non-application of EU law by non-financial supervisors.

3. Direct supervision of financial high-risk entities

One of AMLA's most important responsibilities is the direct supervision of Selected Obliged Entities (*SOEs*).

Previously, obliged entities were only supervised by national authorities, which resulted in inconsistent enforcement of AML/CTF law within the EU. Now, AMLA will directly supervise a certain number (initially 40) of entities or groups within the financial sector, including crypto-asset service providers.

To be categorised as an SOE an entity must operate in a significant number (at least six) of Member States and be classified in the highest ML/TF risk category by national supervisors in several of those Member States. The methodology for categorising entities' inherent risk will be harmonised by AMLA to ensure equal and fair assessment by national supervisors. The selection of SOEs will be reviewed every three years based on objective criteria outlined in the AMLAR.

Within its supervisory scope, the AMLA will conduct regular inspections, assessments, investigations, and audits on the SOEs to evaluate compliance levels and risk management practices.

Besides SOEs, AMLA can take over the direct supervision of financial sector entities if the relevant national supervisory authority does not address compliance issues adequately. Such a takeover requires a procedure concluding with a Commission Decision confirming the transfer of supervisory responsibilities.

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4. Enforcement actions

In addition to its supervisory role, AMLA is empowered to enforce compliance against financial institutions through various measures, including administrative actions, financial sanctions, and periodic penalty payments.

Administrative measures aim to enforce compliance with AML/CTF regulations in a dissuasive manner, prompt immediate corrective actions, and elevate compliance levels. Such measures may include restricting or limiting the business, operations or network of SOEs; issuing recommendations for corrective action; making public statements identifying the natural or legal person and the nature of the breach; and mandating changes in governance structures.

In cases where SOEs intentionally or negligently fail to follow AML/CTF regulations, AMLA has the authority to impose financial penalties up to €10m or 10% of the total annual turnover in the preceding business year, whichever is higher. Based on the severity and duration of the breach, these fines aim to deter non-compliance and can be imposed in addition to, or instead of, administrative measures.

Additionally, AMLA can impose periodic penalty payments, which are recurring fines levied at regular intervals until the non-compliant entity addresses the identified deficiencies. These payments apply continuous pressure on non-compliant entities, ensuring the timely correction of their AML/CTF controls and practices.

5. Indirect supervision and harmonising supervisory practices

Most financial sector entities will not be categorised as SOEs, so AML/CFT supervision will largely remain at a national level. Therefore, national authorities will continue to hold full responsibility and accountability for these entities. However, AMLA will play a critical role in oversseing national supervisors to ensure consistent and effective supervision across Member States.

To achieve this, AMLA will periodically review the performance and effectiveness in managing AML/CTF supervision. This oversight aims to identify areas for improvement and ensure adherence to high standards of scrutiny and enforcement. Through its oversight of national authorities, AMLA indirectly supervises Non-Selected Obliged Entities, ensuring that national authorities uphold proper AML/CTF practices.

One of AMLA's primary objectives is to harmonise supervisory practices across the EU by developing common guidelines, standards, and methodologies. This ensures a consistent and high level of scrutiny and enforcement throughout the EU.

Furthermore, AMLA will function as a central hub for coordination and support among national authorities. It will facilitate information sharing, provide technical assistance and disseminate best practices. AMLA will strengthen the EU's AML/CTF framework by coordinating national supervisors, supporting enforcement efforts, conducting thematic reviews, investigating potential breaches, and organising training programmes. These initiatives will promote cross-border cooperation between national supervisors and FIUs.

6. Outlook

Although the AMLAR has officially come into force, AMLA's full operational start will involve a phased implementation:

- **2025:** AMLA is expected to open its office in Frankfurt am Main in the first quarter.
- **2026:** AMLA will begin consulting on implementing rules.
- **2027:** The selection of 40 SOEs for direct supervision is anticipated.
- **2028:** AMLA is expected to commence direct supervision and be fully operation on 1 January.

In addition to these organisational milestones, the AMLR outlines specific tasks for AMLA in the coming year. For instance, AMLA is tasked with drafting RTS for submission to the European Commission. The Commission has a four-year period, starting from 26 June 2024, to adopt these standards.

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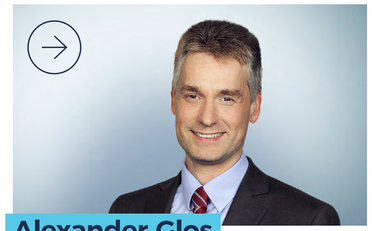
Further insights

07 Further insights

Please find our AML-related blogs linked below.

- The European AML package – what's in it for the crypto industry?
- A chance for AI? Germany greenlights fully automated customer identification
- Federal Agencies Propose Customer Identification Program Requirements for Investment Advisers: Another Step Toward Comprehensive AML/CFT Regulation
- FinCEN Proposes Highly Anticipated Investment Adviser AML/CFT Rule
- AMLA update – partial deal reached on the new European AML authority
- Fund transfers, crypto-assets and AML/CTF – the European Banking Authority's take on the 'Travel Rule'
- A Speedboat for AML enforcement
- One step closer towards a new EU AML/CFT regime
- DOJ and Foreign Regulators Target the Bitzlato Cryptocurrency Exchange: Lessons on AML, KYC Obligations, and Cryptocrime
- Updated with CJEU clarification: public access to UBO registers across the EU ruled invalid
- AML update: Germany needs to pick up speed
- Global enforcement trends to tackle money laundering
- AML Update: Recent Arrests Demonstrate Continued Focus on Crypto
- European AML legislative package – An overview

08 Contacts



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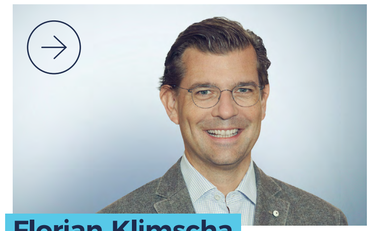

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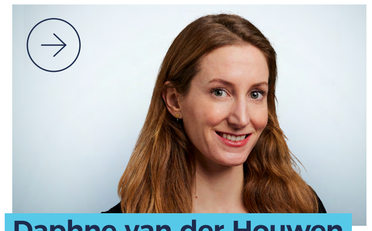

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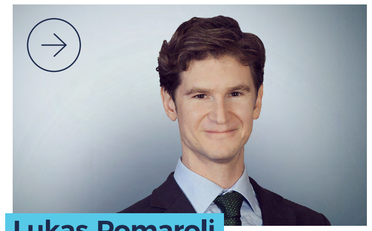

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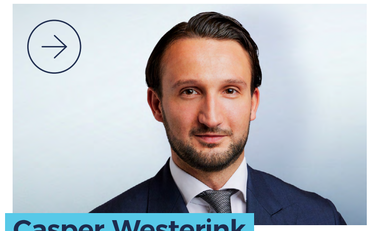

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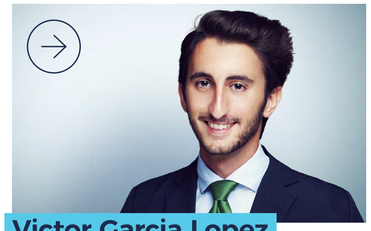

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