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New European Anti-Money Laundering Regulation

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Introduction

Combating money laundering and terrorist financing is a top priority for the European Union. Recent revelations about money laundering networks and the growing threat of financing terrorist organizations have shown that the issue remains particularly relevant. As a result, the need for a coordinated and stringent approach at EU level appears more imperative than ever. In that context, on 31 May 2024, the European Parliament and the Council adopted Regulation (EU) 2024/1624, on the prevention of the use of the financial system for objectives related to money laundering or terrorist financing (the “**AML Regulation**”).

The AML Regulation lays down uniform, harmonized rules, the so called “**EU Single AML/CFT Rulebook**” concerning (i) the measures to be applied by obliged entities for the prevention of money laundering and terrorist financing; (ii) beneficial ownership transparency requirements for legal entities, express trusts and similar legal arrangements; and (iii) measures to limit the misuse of anonymous instruments. In addition, the new regulatory framework aims to enhance transparency and cooperation between EU Member States, in order to promote a strong and coherent approach in the area of criminal law. The EU considers such harmonized compliance standards as a crucial measure to support the fight against money laundering (‘AML’) and terrorist financing (‘CFT’).

The AML Regulation

The AML Regulation builds upon the strengths of the existing AML framework, being the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use

of the financial system for the purposes of money laundering or terrorist financing (the “**AML Directive**”), as amended and in force, while also tackling its deficiencies through a series of innovative provisions. More particularly, under the provisions of the currently applicable AML regime, oversight responsibilities are fragmented across EU Member States national authorities. Each EU Member State applies the AML regime through transposing legal acts, which inevitably leads to inconsistencies in enforcement and compliance standards. For the first time, the AML Regulation, together with Directive (EU) 2024/1640 of the European Parliament and of the Council and Regulations (EU) 2023/1113 and (EU) 2024/1620 of the European Parliament and of the Council establish a central supervisory body, the European Anti-Money Laundering Authority (“**AMLA**”), which will be seated in Frankfurt and will start its operations in mid-2025, with the objective to ensure uniform application of AML/CFT rules and oversee high-risk entities at an EU level. In addition, AMLA will be entrusted with the power to issue guidelines on minimum requirements for the content of the business-wide risk assessment and impose proportionate non-compliance sanctions across the EU, including hefty fines.

Another issue that remains unresolved under the currently applicable AML regime is the challenge of tracing the true owners (being the natural persons) behind legal entities. The existing legal framework requires EU Member States to maintain central beneficial ownership registers, however, it has been reported that access to such registers is often restricted, and the accuracy of the data registered varies significantly. More specifically, very often, discrepancies are spotted between the information

held in central beneficial ownership registers and the information obtained through other reliable sources in the course of customer due diligence conducted by entities obliged to perform AML customer control (the so called 'obliged entities'). Hence, the AML Regulation attempts to resolve such issues by establishing enhanced obligations for obliged entities across the EU, where such obliged entities shall consult central beneficial ownership registers when conducting customer due diligence and report any discrepancies between the information provided by the customer (if the customer fails to correct such discrepancies by itself). Such obligation aims at building up correct, up to date and accurate information of customers at the stage of AML due diligence. Finally, the uniform standards for customer due diligence across all EU Member States also include more robust identity verification processes and mandatory screening of politically exposed persons (PEPs).

Additionally, it is worth mentioning that the new AML Regulation includes sectors like cryptocurrency service providers, luxury goods dealers, and crowdfunding platforms. Said entities were also included in the framework of Directive (EU) 2018/843 (which amends the AML Directive). Under the new AML framework, these entities are considered as highly evolving and rapidly advanced technology, thus the EU regulator decided that they should also be included in this harmonized approach regarding stringent AML/CFT requirements, aiming at addressing emerging risks in the digital sector of alternative sources of financing.

Last but not least, even though the EU's currently applicable AML framework occasionally struggles to align with global AML/CFT standards, limiting its effectiveness in addressing cross-border money laundering schemes, now the AML Regulation aligns closely with FATF (the 'Financial Action Task Force') recommendations and promotes collaboration with non-EU jurisdictions.

Overall, the AML Regulation is expected to deliver significant benefits. Nevertheless, its implementation faces several challenges moving forward. Businesses, particularly small and medium-sized enterprises, may face increased compliance costs, while sufficient time and resources will be required to develop the necessary technological infrastructure to support the forthcoming AML/CFT regulatory requirements.

Final Remarks and Key Takeaways

The AML Regulation was published on the Official Journal of the European Union on 19 June 2024 and will start applying from 10 July 2027. In the EU's efforts to combat money laundering and terrorist financing, the AML Regulation makes an important improvement strengthening the integrity of the EU financial system. In summary, the AML Regulation introduces:

- the granting of specific powers to AMLA;
- stricter requirements on tracking beneficial owners of legal entities, with the assistance of central beneficial ownership registers and obliged entities; and
- enhanced requirements in cryptocurrency service providers, luxury goods dealers, and crowdfunding platforms.

In that way, a stronger, unified and technology-driven framework is created. To guarantee that the AML Regulation reaches its full potential, EU Member States and private sector stakeholders must closely adjust their efforts as they progress in the implementation phase.

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