



AB COMPLIANCE

AML & REGULATORY CONSULTING

5th Anti-Money Laundering Directive: What is changing?

In June 2018, the 5th Anti-Money Laundering Directive (AMLD) became law. The new AML Directive brings major changes and developments to the existing Directive (4th Directive), and the EU member states must transpose those changes and developments into their national law until 10 January 2020.

What is changing about the 5th Anti-Money Laundering Directive?

Professional service providers

The 5th Anti-Money Laundering Directive clarifies that all professional service providers, including tax advisors either certified or uncertified, are under the scope of the legislation.

Beneficial Owners Information

Under the 5th Anti-Money Laundering Directive, every EU member state must establish a beneficial ownership register, which will provide information about entities, group entities and trusts and disclosing the names of the beneficial owners and the senior management personnel, responsible for the management of the group and/or entity.

The beneficial owners and accountants of the entities and trusts are responsible to provide such information in order for the register information to be adequate, accurate and current.

The beneficial ownership registers must be established by the member states, following the enforcement of the 5th Anti-Money Laundering Directive into national law. The timeframe for establishment is as follows:

- Corporate and other legal entities: 18 months from the enforcement of the 5th AML Directive (10 January 2020)
- Trusts and similar structure legal arrangements: 20 months from the enforcement of the 5th AML Directive (10 March 2020)

The 5th Anti-Money Laundering Directive, requires the European Union to interconnect all member states beneficial ownership registers, 32 months after the 5th AML Directive became into law (10 March 2021).

Electronic verification

The 5th Anti-Money Laundering Directive recognizes the need for technological usage of the clients' identification/verification process, through electronic means. The electronic means must be secured, independent, reliable and regulated by the national authorities.

The electronic clients' verification means will facilitate and speed up the clients' acceptance procedures, clients' maintenance/ongoing procedures and service.

Senior Managing Officials

The 5th Anti-Money Laundering Directive states that whenever a senior managing official or an official authorized representative is considered to be the responsible person under the law for representing an entity or a group of entities, then the same principles and procedures as for a beneficial owner apply for that official (i.e. identification procedures, record keeping, etc.).

Enhanced Due Diligence

The 5th Anti-Money Laundering Directive requires that whenever a professional accountant of a member state is dealing with a high risk 3rd country client, then specific measures to mitigate these risks need to be taken, such as, additional information for limiting the business relationship with clients from 3rd countries and the prohibition of the professional accountants from establishing representing firms in such countries.

Political Exposed Persons (PEPs)

The 5th Anti-Money Laundering Directive requires that each EU member state must establish a list with the national PEPs.

In addition, the EU will establish a list of PEPs which will include persons that represent bodies, functions, institutions and organizations of the EU.

Virtual Currencies

The extensive usage of virtual currencies forced the need for additional measures that need to be taken by the exchange service providers in order to mitigate the risk for any potential financial crime. Such measures are the enhanced due diligence procedures for the potential clients that receive exchange virtual currencies services through an exchange service provider platform.

Member States must ensure that the exchange service providers are licensed, registered and regulated.

Bank and Real Estate Register

In the view of terrorism financing fight, Member States are required to set up a register which will allow the competent authorities to retrieve information such as natural and legal persons' bank accounts, safe deposit boxes ownership and natural and legal persons' ownership of real estate, that are situated in their territory.

Prepaid Cards

Anonymous prepaid cards are included in the scope of the 5th Anti-Money Laundering Directive, by introducing stricter measures for payment transactions above the amount of €50. In cases where the payment amount exceeds the €50, customer identification procedures must apply.

The changes of the 5th Anti-Money Laundering Directive require measures and actions that need to be taken by the professional accountants, advisors and regulatory bodies, in order to stay compliant and in line with the Directive requirements.