

5th Anti-Money Laundering Directive



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European Law Forum: Prevention • Investigation • Prosecution

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News

On 19 June 2018, “[Directive \(EU\) 2018/843](#) of the European Parliament and of the Council amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU” was published in the Official Journal of the EU (L 156, 43). This legislative act is also referred to as the 5th Anti-Money Laundering (AML) Directive.

It further develops the obligations as laid down in the 4th Anti-Money Laundering Directive of 2015. The latter entails a comprehensive legal framework addressing the collection of money or property for terrorist purposes by requiring Member States to identify, understand, and mitigate the risk related to money laundering and terrorist financing.

The amendments now agreed between the EP and the Council upon a proposal of the Commission (cf. [euclid 2/2016, p. 73](#)) were in response to the terrorist attacks in Paris and Brussels in 2015 and 2016 as well the Panama Paper leaks. [The aim of the new EU legislation](#) is to further deter money laundering and terrorist financing by means of enhanced transparency.

The main elements of Directive 2018/843 are as follows:

- Extension of the scope of the 4th AML Directive to include virtual currency exchange platforms and custodian wallet providers. Like banks, they will have to apply customer due diligence controls, including customer verification requirements;
- National Financial Intelligence Units (FIUs) will be able to obtain information allowing them to link virtual currency addresses to the identity of the owner of virtual currency;
- More harmonised treatment of high-risk third countries where the European Commission identified weaknesses in their AML/CFT regimes;
- Reduction of the threshold for identifying the holders of prepaid cards from currently €250 to €150;
- Use of anonymous prepaid cards issued outside the Union only if they comply with EU standards;
- Further enhancement of the effectiveness and efficiency of FIUs by clarifying the powers of and cooperation between them;
- FIUs will be able to obtain information from any obliged entity, even without a prior report needing to be made;
- Abolishment of further obstacles that may hinder the exchange of information between FIUs or the forwarding thereof;
- Establishment of centralised automated mechanisms, e.g. a register or data retrieval system, by means of which timely access to information on the identity of holders of bank or payment accounts and safe-deposit boxes, their proxy holders, and the beneficial owners is ensured;
- Regular monitoring of clearly specified categories of existing customers;

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- Further clarification of the determination of the Member State that is responsible for the monitoring and registration of beneficial ownership information of trusts and similar legal arrangements;
- Enhanced interconnection of beneficial ownership information;
- Citizens will have the right to access information on beneficial ownerships of trusts and similar legal arrangements if this is necessary and proportional with preventing AML/CFT;
- In addition, access must be granted to any person who can demonstrate a “legitimate interest,” e.g., investigative journalists or NGOs;
- Member States will also retain the right to provide broader access to information – in accordance with their national law;
- Establishment of the legal requirements so that competent authorities supervising obliged entities regarding compliance with the Directive can exchange confidential information and cooperate with AML/CFT supervisory authorities.

Member States are required to transpose the 5th Anti-Money Laundering Directive by 10 January 2020. For the registers and automated mechanisms, other deadlines apply.

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