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The European Council and Parliament reach an agreement on stricter AML rules

Of particular interest to: UK firms that have a nexus with the EU

In brief

The European Council ("EC") and European Parliament ("EP") reached a provisional agreement on their approach to anti-money laundering rules ("AML"), which makes up an essential part of the EU's financial system against money laundering and terrorist financing ("AML/CTF"). The agreements reached harmonise the anti-money laundering regulation throughout the European Union ("EU") and agreements on the directive seek to improve the organisation.

Summary

The Commission initially presented a package of legislative proposals to strengthen the EU's rules on AML and CTF on 20 July 2021. These proposals comprised of:

- A regulation establishing a new EU anti-laundering authority (AMLA) which will have powers to impose sanctions and penalties.
- A regulation recasting the regulation on transfers of funds which aims to make transfers of crypto-assets more transparent and fully traceable.
- A regulation on anti-money laundering requirements for the private sector.
- A directive on anti-money laundering mechanisms.

On 18 January 2024, the EC published a press release, detailing the agreements reached. This includes:

- AML rules relating to the private sector to be incorporated into a Regulation, binding on all Members to ensure that there will be EU-wide harmonisation on the application of AML measures.
- Rules relating to the organisation of institutions' AML/CTF systems will be transferred into the Directive and dealt with by Member States.
- The scope of firms that are subject to AML rules & regulations (obliged entities) will be expanded to "cover most of the crypto sector" by requiring 'crypto-asset service providers' to undertake COD in respect of transactions of €1,000 or more.

- Obliged entities will be required to apply enhanced due diligence measures to occasional business transactions and business relationships involving high-risk third countries.
- Credit and financial institutions will be required to undertake enhanced due diligence measures, when businesses with very wealthy high net-worth individuals involve the handling of large amount of assets.
- Harmonised rules on beneficial ownership. The agreement sets the beneficial ownership threshold at 25%, clarifies this is based on ownership and control, and provides for the registration of beneficial ownership of all foreign entities that own real estate, backward looking until 1 January 2014.
- An EU-wide limit of a maximum of €10,000 for cash payments.

A provisional agreement reached, relating to the money laundering directive included:

- Granting entities in charge of beneficial ownership registers the power to carry out inspections, at the premises of legal entities registered (where there are doubts concerning the accuracy of information they posses).

The next steps following the agreement, are for the texts to be finalised and presented to Member States' representatives, and EP for approval. Upon approval, this will be published in the EU's Official Journal and these rules will enter into force.

Useful Links

Anti-money laundering and countering the financing of terrorism legislative package - European Commission (europa.eu)

Anti-money laundering: Council and Parliament strike deal on stricter rules - Consilium (europa.eu)

EU context of anti-money laundering and countering the financing of terrorism - European Commission (europa.eu)

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