

# Status Update on the EU AML Package

February 2024

On 18 January 2024 the EU Council and European Parliament announced provisional political agreement on two proposals forming part of the European Commission's EU AML Package. These comprise a Regulation on the prevention of the use of the financial system for the purposes of money laundering and terrorist financing (the "**EU Single Rulebook**") and the sixth (6th) Anti-Money Laundering Directive ("**AMLD6**").

This announcement follows a prior announcement issued in December 2023 indicating that the EU Council and European Parliament had reached provisional political agreement on the Regulation establishing the Anti-

Money Laundering Authority ("**AMLA**"), an EU regulatory authority for countering money laundering and financing of terrorism (the "**AMLA Regulation**").

The AML Regulation, AMLD6, the AMLA Regulation and a Regulation to trace transfers of crypto-assets ("**Recast Transfer of Funds Regulation**")<sup>1</sup> together comprise the four legislative proposals announced by the European Commission on 20 July 2021 with the aim of strengthening the EU's anti-money laundering and countering the financing of terrorism regime (the "**EU AML Package**").

The provisionally agreed texts of the EU Single Rulebook and AMLD6 are not yet available. However each of the European Council and the European Parliament have published a press release indicating the terms of the political agreements reached.



<sup>1</sup> Regulation (EU) 2023/1113



## EU AML Single Rulebook

The EU AML Single Rulebook (otherwise known as the “**AML Regulation**”) is the first EU anti-money laundering / counter terrorism financing (“**AML/CTF**”) regulation, aiming to ensure a consistent application of the new AML regime across the EU.

The EU AML Single Rulebook transfers the provisions of the Fourth Anti-Money Laundering Directive as amended<sup>2</sup> (“**AMLD4**”) to a Regulation, which will be directly applicable in all EU Member States and including additional unified provisions therein.

The provisional political agreement reached on the EU AML Single Rulebook includes:

- Expansion of the list of obliged entities under the EU AML Single Rulebook to new bodies including crypto-asset service providers (“**CASPs**”) (when carrying out transactions amounting to €1,000 or more), traders in luxury goods, operators involved on behalf of third country nationals in the context of investor residence schemes and professional football clubs;
- Introduction of specific enhanced due diligence measures for cross-border correspondent relationships for CASPs, and requires obliged entities to apply enhanced due diligence measures for relationships involving high net-worth individuals;
- Provision for an EU-wide maximum limit of €10,000 for cash payments;
- Clarification of the rules on access to beneficial ownership registers and retains the beneficial ownership threshold at 25%. Further rules to harmonise the approach to the identification of beneficial ownership are also laid down, including rules applicable to multi-layered ownership and control structures; and

- Requirements for obliged entities to apply enhanced due diligence measures to occasional transactions and business relationships involving high net worth individuals.

The threshold for mandatory disclosure of beneficial ownership information at 25% of shares, voting rights or other ownership interests reflects the current position under AMLD4. This is particularly significant as during the trilogues, the Parliament had proposed a lower beneficial ownership threshold of 15%, which received significant resistance from the Council, the Commission and the financial industry.

## AMLD6

The AMLD6 complements the EU AML Single Rulebook and contains provisions required to be transposed into national law, such as detailed rules on Member States’ national supervisors and Financial Intelligence Units (“**FIUs**”) and rules relating to the establishment and access to beneficial ownership and bank account registers.

The provisional political agreement reached on AMLD6 includes:

- Requirement for the information submitted to the central register to be verified. Entities or arrangements that are associated with persons or entities subject to targeted financial sanctions will need to be highlighted;
- Extension of the scope of those with access to beneficial ownership registers beyond supervisory and public authorities and obliged entities to also include persons of the public with legitimate interest (such as the press and civil society);
- Expansion of the powers and role of FIUs, with FIUs to have immediate and direct access to financial, administrative and law enforcement information; and

<sup>2</sup> Directive 2015/8489/EU as amended by the Directive (EU) 2018/843

- Both EU and national risk assessments will continue to be required, with Member States obliged to commit to mitigating risks identified at a national level.

## AMLA Regulation

AMLA is seen as the “centrepiece” of the EU’s AML reform package first proposed by the Commission in 2021.

The AMLA Regulation will establish a central authority coordinating all national AML and CTF supervisors. It is expected to be operational in 2024 and its establishment will likely result in increased AML and CTF supervision for all firms as national supervisory authorities will be under increased scrutiny by AMLA.

Key features of the provisional political agreement include:

- AMLA will directly supervise up to 40 financial institutions deemed to pose the highest risk of money laundering or terrorist financing (“**Selected Entities**”), which will include entities active in at least six EU Member States and will also include CASPs;
- The Selected Entities will be assigned in accordance with criteria to be developed by AMLA and will include at least one institution from each EU Member State;
- Joint supervisory teams led by AMLA will directly supervise the Selected Entities, with national authorities continuing to conduct AML/CTF supervision of non-selected obliged entities;
- AMLA will indirectly supervise non-selected obliged entities, overseeing and assisting national authorities to promote supervisory convergence;
- AMLA will be required to maintain and establish a central database of information relevant for the AML and CTF supervisory system; and
- AMLA will monitor the internal policies and procedures of Selected Entities which implement targeted financial sanctions, asset freezes and confiscations.

The location of AMLA’s seat (the host Member State of AMLA) has not yet been determined. The final decision of the location of AMLA’s seat will then be made by the co-legislators as part of the trilogues and the result will be reflected in the final text

of the AMLA Regulation.

## Recast Funds Transfer Regulation

The Recast Funds Transfer Regulation was introduced to complement the new regulatory regime for crypto-assets introduced by the Markets in Crypto-Assets Regulation (otherwise known as “**MiCA**” or “**MiCAR**”)<sup>3</sup>. The Recast Funds Transfer Regulation entered into force from 29 June 2023 and will apply from 30 December 2024, the application date of MiCA.

The Recast Funds Transfer Regulation extends the “travel rule” to the transfer of crypto-assets. The travel rule requires financial institutions (now including crypto-asset service providers, “**CASPs**”) to ensure that transfers of funds (and now crypto-assets) are accompanied by originator and beneficiary data. The rules apply where at least one of the CASPs involved in these transfers will be established in the EU.

The Recast Funds Transfer Regulation is understood to have progressed ahead of the other elements of the EU AML Package due to the pressing need to ensure the traceability of crypto-asset transfers.

## Next Steps

The next step is for the texts of the provisional political agreements to be finalised and presented to Member States’ representatives in the Committee of Permanent Representatives (“**COREPER**”) and the Parliament for approval. If approved, the Council and the Parliament will be required to formally adopt the texts before they are published in the EU’s Official Journal and enter into force.

It is anticipated that the final texts of the AMLA Regulation, the EU AML Single Rulebook and the AMLD6 will be formally adopted by the co-legislators in early 2024.

## Implementation Timeline

Based on the Commission’s proposals, AMLD6 will be required to be transposed by Member States within two years of its entry into force and the EU AML Single Rulebook will apply after three years from its entry into force. It is expected however that AMLA will become fully operational in the meantime, commencing its direct supervision of Selected Entities and issuing technical standards and guidance.

<sup>3</sup> Regulation (EU) 2023/1114 on markets in crypto assets

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## Conclusion

The EU AML Package will undoubtedly result in increased AML and CTF supervision of obliged entities at both a national and EU level. The direct applicability of the EU AML Single Rulebook to all Member States coupled with the detailed provisions contained in the AMLD6 will result in a more robust EU AML and CTF regime.

Furthermore, AMLA's presence will not only result in increased AML and CTF supervision for Selected Entities, but for all firms as national supervisory authorities will be under increased scrutiny by AMLA and AMLA's implementing and/or regulatory technical standards will be binding on all obliged entities, not just those directly supervised entities.

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