



The 4th EU Anti-Money Laundering Directive

Relevant legislative changes
for European professional
accountants and auditors

INFORMATION PAPER

The Revised AML Directive

On 20 May 2015, the European Parliament approved the [fourth Anti-Money Laundering \(AML\) Directive](#), which strengthens the existing EU framework to combat money laundering and terrorist financing. FEE has contributed throughout this legislative process and welcomes the revised Directive and the high standards it promotes.

The new Directive makes the rules in EU Member States more consistent with the relevant international framework. It incorporates the latest [Recommendations](#) of the Financial Action Task Force (FATF) from 2012. EU Member States will have to transpose the fourth AML Directive, which repeals the third AML Directive, into national legislation by 26 June 2017.

Professional accountants and auditors across Europe play an important role in the fight against money laundering and terrorist-financing with their day-to-day work.

To facilitate the transition to the revised requirements, this FEE Information Paper sets out the main legislative changes relevant for professional accountants and auditors. These relate to risk management, predicate offences (including tax crimes), client due diligence, beneficial ownership, politically exposed persons and administrative sanctions.

For an overview of the EU obligations on anti-money laundering and terrorist financing for accountants, tax advisors, and auditors, please see the relevant [FEE SMP Info Pack](#) (specifically for accountants whose main clients are SMEs).

Main changes relevant for professional accountants and auditors

Risk management

Accountants and auditors have to identify and assess the risks of money laundering and terrorist financing, to document and update these risk-assessments and to make them available to competent authorities. They need to have in place policies, controls and procedures to mitigate and manage the risks, which can - where appropriate - include the appointment of a compliance

officer and an independent audit function. Their senior management has to approve these policies, controls and procedures and to monitor and enhance the measures where appropriate.

Tax crimes

Money laundering requires a predicate offence – a criminal activity. Tax crimes are now specifically indicated as such criminal activity, although the definition of tax crimes remains a national matter.

Client due diligence

The rules for client due diligence measures are now slightly more specific. They comprise identification of the client's identity and the person acting on behalf of the client, identification of the beneficial owner, purpose and nature of the business relationship and ongoing monitoring. There is now also a list of risk variables that should be considered when determining to what extent to apply client due diligence measures.

Simplified client due diligence is still allowed if the business relationship presents a lower degree of risk. There is now a list of factors for potentially lower risk, which includes for example listed companies and public entities.

Enhanced client due diligence is required for certain situations, for example in the case of involvement with certain high-risk third countries or in the case of complex and unusually large transactions. There is now a list of factors for potentially higher risk factors which comprises, amongst others, unusual or excessively complex ownership structures or non-face-to-face business relationships.

Beneficial ownership

The identification of the beneficial owner will become easier. Member States are now required to ensure that the information is held in a central register, for example a commercial register or a public register.

Accountants and auditors will have access to these registers for the purpose of client due diligence measures. However, they may not rely exclusively on the register to fulfil the client due diligence measures. A similar process will be set up for certain trusts.

Politically-exposed Persons (PEPs)

In addition to the client due diligence measures, there are now more specific requirements when politically exposed persons (PEPs) are involved: senior management approval for establishing or continuing business relationships, measures to establish the source of wealth and of funds and enhanced ongoing monitoring.

PEPs are defined as persons who are or have been entrusted with prominent public functions. The new list of such functions comprises certain positions in governments, parliaments, courts, courts of auditors, central banks, state-owned enterprises and international organisations. The definition is not country-specific, i.e. it includes domestic PEPs. The additional measures also have to be applied when dealing with their family members and close associates.

Third parties and groups

Reliance on third parties for client due diligence (while keeping the ultimate responsibility for meeting those requirements) is generally still possible. The relevant documentation must be obtained from the third party. Reliance is prohibited if the third party is established in a high-risk third country.

Accountants and auditors that are part of a group have to implement group-wide policies and procedures.

Administrative sanctions

The administrative sanctions for non-compliance with the anti-money laundering obligations are now specifically prescribed, they include

- A public statement
- An order to cease the conduct
- Withdrawal or suspension of the authorisation to practice
- A temporary ban for responsible managers
- A penalty of up to 1.000.000 Euro

Additional types of administrative sanctions are still allowed. In addition to administrative sanctions, criminal prosecution based on national criminal law is possible.

Further information

- The [fourth Anti-Money Laundering Directive](#)
- [FEE SMP Info Pack](#) - EU obligations on anti-money laundering and terrorist financing for accountants, tax advisors, and auditors

FEE WHO WE ARE

FEE represents 47 professional institutes of accountants and auditors from 36 European countries, including all of the 28 EU member states.

In representing the European accountancy profession, FEE recognises the public interest. It has a combined membership of more than 800,000 professional accountants, working in different capacities in public practice, small and big firms, government and education, who all contribute to a more efficient, transparent and sustainable European economy.

FEE is in the EU Transparency Register (No 4713568401-18).



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