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Preventing the financial system from being used for the purposes of money laundering or terrorist financing: a new European Directive published

Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing was published in the Official Journal of the European Union on 5 June 2015. The directive, which is based on recommendations made by the Financial Action Task Force (FATF), must be transposed in France by 26 June 2017. Read on to learn about the goals and action areas of the Fourth Anti-Money Laundering Directive.

Goals of the Fourth Anti-Money Laundering Directive

The directive is intended to strengthen certain rules in order to more effectively combat tax evasion and terrorist financing, notably through:

- **Greater transparency**: improve identification and cooperate more effectively to reduce anonymity in the global economy; do a better job of tracking suspicious transactions and monitoring financial movements (country risk).
- **Greater effectiveness**: enhance surveillance and enforcement to make full use of this transparency.

What is the Financial Action Task Force (FATF)?
The FATF is an intergovernmental body created in July 1989 at the G7 summit meeting in Paris. Its goals are to set standards and promote the effective application of legislative, regulatory and operational measures to prevent money laundering, terrorist financing and other related threats to the integrity of the international financial system.

Six identified action areas

To reach the objectives, six action areas concerning the AMF have been identified. Stricter and clearer rules have been established for each area:

1 • **Approach based on risks actually incurred**: the due diligence system must make it possible to identify and assess the risks of money laundering and terrorist financing taking into account risk factors. Steps taken must be proportionate to the nature and size of obliged entities.

2 • **Politically exposed persons** (PEPs), with a clear definition provided for PEPs. Senior management approval must be obtained before pursuing business relationships with such customers. These requirements extend to domestic PEPs and no longer apply only to foreign PEPs.

3 • **Beneficial owners**, with the establishment of a national registry to hold information about the ultimate owners of companies. The registry, which is to be kept current, may be accessed by competent authorities and obliged entities so that chains of ownership/control can be followed more easily. A comparable regime is set up for fiduciaries and trustees. This action area is accompanied by enhanced protection of personal data.

4 • **The “group” dimension**: a group may apply a basic set of shared principles and arrangements for exchanging information (although each individual entity must still comply with local legislation, including data privacy legislation). Information on suspicious transactions is in principle shared within the group.

5 • **Mandatory reporting to Tracfin of** all suspicious or attempted transactions, supported by an operational reporting mechanism that now includes the notion of confidentiality and arrangements to protect whistleblowers.

6 • **Heavy sanctions** in the event of serious, repeated or systematic breaches of certain provisions of the directive.

What is Tracfin?
Tracfin is France’s Financial Intelligence Unit. Created in 1990, Tracfin helps to promote a sound economy by taking action against clandestine financial networks, money laundering and terrorist financing.

Transposition into French law by June 2017

The Fourth Anti-Money Laundering Directive will be transposed into France's Monetary and Financial Code by 26 June 2017. A new national legal framework on anti-money laundering and counter-terrorist financing (AML/CTF) will therefore apply. The AMF is keenly aware of the threats and of the reputational, economic and political stakes involved in the AML/CTF effort, and is determined to play its part in keeping France at the highest international standards in the area. With this in mind, the AMF will support professionals in this rule change, using its special inspection responsibilities and enhanced enforcement powers to monitor the quality of implementation of the new AML/CTF system by obliged entities.

Recap: entities subject to AMF oversight

Entities subject to AMF oversight in the area of AML/CTF include:

- asset management companies in respect of investment services provided, as well as asset management and management companies in respect of the marketing of shares or units of collective investment undertakings, regardless of whether they manage these undertakings,
- financial investment advisors,
- crowdfunding advisors,
- central securities depositaries and operators of securities settlement systems.

Read more

- ↘ Directive (EU) 2015/849 of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing
- ↘ Prevention of money laundering and the financing of terrorism

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