

## AML package

### Detailed overview of main achievements in Parliament's position

This document outlines for AMLR, AMLA, and AMLD6 where the Parliament takes a different, more ambitious, position compared to the Commission's proposal. This document has been written by GreensEFA advisers, we therefore focus mostly on what we consider important achievements for the GreensEFA.

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#### AML REGULATION - Greens co-rapporteurship with S&D group

MEPs for GreenseEFA: Damien Carême (Rapporteur - LIBE) and Kira Peter-Hansen (ECON)

#### 1. Closing loopholes by expanding the application of AML framework to additional sectors highly exposed to money laundering:

- Dealers in jewellery, luxury watches as well as fashion and clothing for any transaction above 5 000 euros, in addition to dealers in precious metals and stones and art galleries;
- Dealers in aircrafts, watercrafts and motor vehicles above 50 000 euros;
- All investment-based crowdfunding platforms;
- Professional football clubs in first or second league and sports agents in the football sector;
- NTFs platforms, in addition to crypto-asset service providers regulated under MiCA;

All these categories are required to have in place appropriate AML/CTF systems to prevent money laundering risks and crack down on oligarchs and corrupt elites. This means these new categories will be obliged to conduct due diligence checks on all their customers and report any suspicious transactions to the authorities, as much as banks, financial institutions, real estate agents, notaries and legal professionals.

The Parliament suggests to recognise heads of regional and local authorities of at least 30,000 inhabitants as politically exposed persons - thus requiring extra diligence when providing services to them.

#### 2. Robust rules for the crypto sector

- Crypto-asset service providers are required to carry out enhanced due diligence checks on transactions involving **self-hosted wallets** and perform verification wherever possible, as well as on transactions with **non-EU exchanges or decentralised protocols**;
- business relationship with unlicensed entities are prohibited;
- the use of mixers and tumblers should be treated as a factor of higher money laundering risk.

### **3. Close safe havens for dirty money**

- **Beneficial ownership transparency:** stricter rules to prevent the use of complex ownership chains and control structures or the use of nominee directors or shareholders to hide the identity of the ultimate beneficial owner of a company. Any person holding directly or indirectly 5% of shares of a company in the extractive industry sector or any company structure designated as exposed to risk of money laundering by the Commission will be registered as BO. The threshold will be lowered from 25% to 15% for all the other companies. The same transparency rules applying to trusts will apply to companies that are party to a trust, to avoid circumvention. Nominees will be subject to licensing requirements but outright ban of nominees arrangements is to be assessed in the context of a future review;
- **Companies located in offshore financial centers would be subject to enhanced due diligence;**
- **It will be more difficult to use real estate and luxury goods in the EU to launder money via foreign companies.** The requirement to disclose and register the beneficial ownership information of foreign entities is extended retroactively to existing owners of land and property in the EU as well as to foreign entities that purchase or already own motor vehicles, aircrafts or watercrafts of a value above 200 000 euros;
- **Enhanced due diligence checks would also apply to high net worth individuals whose wealth derives from the extractive industry;**
- **Law firms and other legal professionals are obliged to apply due diligence checks and report AM/TF suspicion. The Parliament text clarifies that legal privilege should not be used to cover illegal practices and help clients to launder money;**
- The Parliament text finally introduces in the legislation a **prohibition for Member States to give citizenship for money (so-called golden visas)**. If adopted, it will not be longer possible for corrupt elites and oligarchs to buy the EU nationality for money. Residence by investment schemes would be subject to strict due diligence checks and made conditional on physical presence and added value of the investment for the country concerned. Nationals of blacklisted countries will not be able to use residence by investment schemes;
- **Stricter rules should not harm civil society.** The Parliament suggests to make sure that non-profit organisations and their representatives and associates are not prevented from access to financial services exclusively on the basis of geographical risk (such as sending aid to blacklisted countries). Obligated entities shall not rely exclusively on information provided by public authorities from the blacklisted countries or countries covered by EU sanctions, so that authoritarian regimes cannot limit access of their opponents to financial services in the EU.

#### **4. New powers to respond to ML/TF threats from third countries and foreign financial institutions**

- The EU would have an autonomous black-list of high risk third countries, depoliticised due to the prominent role to be played by AMLA in the risk assessment and definition of mitigating measures to be applied against the countries blacklisted;
- AMLA as the new AML Authority competent for monitoring ML/TF risks within and outside the Union will be empowered to identify foreign banks, financial institutions or crypto-asset service providers that pose a threat to the Union and require obliged entities to adopt countermeasures; a power that US has used in the past against EU banks, but so far is not provided in the Union;
- The FATF blacklists and greylists will need to be reflected in the Union within 1 month since the publication by the global watchdog to prevent undue delays such as in the recent case of UAE due to foreign interference in the EU process.

#### **5. Clear and harmonised rules on targeted financial sanctions**

Policies and procedures to ensure compliance with targeted financial sanctions, including specific sanctions screening obligations, will finally be harmonised to close the gaps and inconsistencies across the EU which have undermined the effectiveness of our sanctions regime - in particular, against Russians supporting aggression against Ukraine.

#### **6. Limits to payments in cash and untraceable crypto transactions**

- Transactions in cash above 7 000 euros for purchasing goods and services from professional merchants will become illegal;
- same limit will apply to private transactions related to land and real estate, precious metals and stones and other luxury goods;
- merchants won't be able to accept payments above 1 000 euros in crypto-assets unless they can identify the customer or beneficial owner of the wallet.

### **AML Authority Regulation - EPP and Renew co-rapporteurship**

**MEPs for Greens/EFA (shadows): Ernest Urtasun (ECON) and Gwendoline Delbos-Corfield (LIBE)**

#### **1. Expansion of AMLA direct supervisory responsibilities**

- AMLA will be responsible for the **direct supervision of the 40 riskiest financial obliged entities**. It more than doubles the scope foreseen in the Commission's proposal.
- **Crypto-asset services providers** can be in the scope of AMLA direct supervisory powers.
- AMLA will be able to **take over the supervision of other financial entities** under exceptional circumstances and in case of national authorities failure. This power may be extended in the future to non-financial obliged entities.

## **2. A well-equipped Authority to fight money-laundering**

- The EP position makes it clear that the level of fees shall be calculated in a way to ensure **sufficient and stable resources to AMLA**
- AMLA will be granted a **comprehensive set of supervisory powers** and will be able to adopt dissuasive sanctions against entities that would not comply with AML/CFT rules
- AMLA will be able to **request information directly from obliged entities**, even entities that are not under its direct supervisory remit.
- AMLA will hold and manage a **central database** that will gather all relevant AML/CFT information and ensure that AMLA has a comprehensive overview of the AML/CFT risks in the EU.

## **3. Strong oversight responsibilities towards national authorities to ensure an homogeneous and high level of supervision across the EU**

- **National authorities cannot get away from their responsibilities anymore:** AMLA will be entrusted with oversight responsibilities towards the national competent authorities and be able to take measures in case they don't act according to AML/CFT rules, including launching a procedure for breach of EU law.
- AMLA will act as a **mediator** in case of disagreement between financial supervisors, within and outside the supervisory colleges. No more blockage in case of cross-border disagreement.
- AMLA will also be the responsible authority for the **coordination of competent authorities relating to the implementation of targeted financial sanctions**. AMLA will ensure proper information exchange between competent authorities and gather statistics on the effectiveness of the framework. This will ensure that there is no gap in chasing Russian oligarchs' wealth.
- AMLA will be entrusted with **regulatory powers** as it will have to draft a number of Regulatory Technical Standards and Guidelines to specify some AML/CFT rules.

## **4. The non-financial sector is not the blind spot of AML supervisory activities anymore**

- AMLA will establish and participate in **supervisory colleges** for the biggest cross-border obliged entities from the non-financial sector.
- AMLA will conduct **peer reviews** of the non-financial supervisors to improve the consistency and effectiveness of the supervision in the non financial sector. National supervisors will have to step up the intensity of their supervisory activities.
- **In the coming years, AMLA might be granted additional powers** towards the non-financial sector.

## **5. AMLA will materially improve the coordination with and between Financial Intelligence Units (FIUs)**

AMLA responsibilities towards FIUs have been strengthened on several fronts compared to the initial Commission's proposal:

- a. A **coordination and support mechanism** between FIUs will be set up by AMLA to enhance cooperation and foster information exchange in order to prevent, detect and effectively combat money laundering.
- b. AMLA will host **FIU.net**, the dedicated IT system allowing FIUs to cooperate and exchange information amongst each other
- c. AMLA will be able to **launch joint analysis** with national FIUs, including on its own initiative. Joint analysis will allow to establish cross-border links between suspicious transactions and criminal activities.
- d. AMLA will conduct **peer review** exercises of FIUs. These exercises will ensure that all national FIUs are sufficiently well-equipped to tackle money laundering activities and enable sharing of best practices.

#### **6. AMLA will ensure a continuous monitoring of threats and vulnerabilities stemming from third countries**

- AMLA will continuously monitor and assess the risks stemming from third-countries
- AMLA will contribute to the **independent and objective identification of high-risk third countries** and third-country entities (see above the link with AMLR)

#### **7. AMLA will be an accountable and well-governed Authority**

- The EP will play a key role in the **appointment process** of the executive directors and the Chair of the Authority
- The ECON and LIBE Committee will hold **annual hearing** with the Chair of the Authority
- AMLA will have to abide by **transparency rules**, including the publication of its General Board meetings
- **Supervisory decision will be taken by a fully europeanised body**, the Executive Board, averting national interference. No more Danske Bank-like scandal with AMLA.
- The decision on the **location of the seat** of the Authority will be taken according to the co-legislative procedure and based on objective criteria. The EP will decide with the Council on an equal footing where the authority will be located.

### **AML Directive - co-rapporteurship S&D and EPP**

**MEPs for GreenseFA (shadows): Kira Peter-Hansen (ECON) and Damien Carême (LIBE)**

#### **1. Securing access for journalists, civil society and other stakeholders to beneficial ownership registries after Court ruling invalidating public access [articles 12 and 12a]**

The main achievement here is that the Parliament has taken on the challenge to both respect the Court ruling while not going back to the regime in AMLD4 which left too much discretionary power for Member States. The legitimate interest regime proposed by the European Parliament should strengthen the position of CSOs, journalists and others in having proper access to the registers.

- CSO, journalists and academia working on money laundering, its predicate offenses or terrorist financing are considered to have a legitimate interest.
- Also persons entering in transactions with a corporate entity, persons engaging in a business relationship, financial institutions, or (foreign) authorities are also considered to have a legitimate interest.
- A request for access needs to be responded within 10 days otherwise access is automatically granted. Access is granted for a period of 2,5 years. Access in one Member State automatically applies to all Member States.
- Entities in charge of registers are not allowed to track or trace the search activity of those with a legitimate interest. Nor are the beneficial owners informed that their information has been consulted.
- Online or electronic access to the register should be for free.
- Search criteria are also harmonized in order to facilitate the usage of the central registries.
- Emphasis that the legitimate interest provision should be without prejudice of any EU or national laws providing for broader access to specific beneficial information on the basis of different objectives of general interest or rights to information.

## **2. Strengthening real estate and land registries [article 16]**

The Pandora Papers have demonstrated how real estate was increasingly being used to launder money, moreover the financial sanctions against Russians supporting aggression against Ukraine have further demonstrated how important real estate is owned by oligarchs through obscure legal arrangements. Well functioning registers, and interconnected at EU-level should put an end to this.

- There should be a single access point in each Member States with the BO information for all land or real estate owned by natural and legal persons. This is also the case if land or real estate is owned through foreign legal entities.
- These national registries should be interconnected at EU level via the European real estate data (E-RED) single access point

## **3. Setting up beneficial ownership registries for high value goods [articles 16b-16c; articles 56b-56c]**

Along with the real estate and bank account registry, important steps have been taken towards a European asset registry. We have also witnessed how important it is for competent authorities to access accurate ultimate beneficial ownership information of high value assets in the framework of the financial sanctions.

- Member States will need to allow competent authorities to access the BO information of cars, yachts and private jets if estimated at a value above 200.000 EUR. More detailed information needs to be available for those estimated at a higher than 2 million EUR value.
- The BO information of all goods stored, traded or transiting in free zones will need to be accessible through a single access point for competent authorities. These registers will also be interconnected at EU level.

- A review clause is added to ensure the Commission assesses the feasibility of an enlarged high value assets registry outside of free zones, not only covering cars, yachts and private jets.

#### **4. Strengthening beneficial ownership registries for companies and trusts [article 10]**

The OpenLux revelations have demonstrated how deficient central beneficial ownership registries still are in the EU. We have therefore taken important steps to add significantly more safeguards to guarantee complete, accurate and well managed registers.

- Member States shall ensure that BO information of legal entities incorporated outside the Union, including trusts and similar arrangements are held in the central register.
- More powers to entities in charge of the central register to verify correctness of the information, including allowing for on-site investigations at the premises of obliged entities.
- Entities in charge shall be operationally independent and autonomous, and should be free of political, government or industry influence. AMLA shall conduct peer reviews periodically.
- Entities in charge are empowered to check whether persons or entities sanctioned are in the register.
- Agents or external service providers can have access to the central registry if certain safeguards are respected.

#### **5. Expand beneficial ownership registries for bank accounts [article 14]**

- Custodial crypto-asset wallets are added to the bank account registries.
- Those registries should also include virtual IBAN accounts and securities accounts.

#### **6. Strengthening requirements on obliged entities [articles 4 and 6]**

- Member States shall ensure that regulated professions, real estate agents, and licensing currency exchange, cheque cashing offices and trusts or company service providers have in place training programmes.
- Member States shall require supervisors to make sure that senior management in obliged entities are of good repute and have proven knowledge. These senior managers should also be removed by supervisors when necessary. AMLA shall issue guidelines in this regard.

#### **7. Strengthening requirements on national risk assessments & statistics [articles 8 and 9]**

- National risk assessments will need to ensure participation of competent authorities and relevant stakeholders.
- The assessments will need to cover international cooperation, the performance of supervisors of obliged entities, the performance of entities in charge of registers, and identify patterns of money laundering.
- The Commission can request Member States to review their risk assessment earlier.

- AMLA and the Commission can issue recommendations based on national risk assessment which the Member State needs to implement or justify why it didn't take action.
- More availability of statistics linked to the functioning of the registers and how legitimate interest works in practice.

### **8. Strengthening of Financial Intelligence Units [articles 17 - 28]**

- AMLA is empowered to do peer reviews and issue recommendations. AMLA may suspend access to FIU.net for a specific FIU where the report of the peer review concludes there are significant deficiencies.
- Every FIU shall designate a fundamental rights officer.
- Ensure access for FIUs to land and real estate registries, high value goods registries and information on public procurement or contracts.
- Make sure FIUs disseminate better information to other competent authorities in order to fight money laundering, its predicate offenses or terrorist financing.
- Strengthen the framework of suspension of suspicious transactions by FIUs in cross-border situations.
- Ensure that FIUs share strategic feedback with obliged entities in order to strengthen their role in fighting money laundering.
- FIUs shall participate and contribute to the activities of AMLA.
- Member States shall ensure that their FIUs are able to use FIU.net for the purpose of matching the data with data of other FIUs in an anonymous manner. Member States shall ensure that their FIUs are able to use FIU.net for the purposes of matching subject-matter data with Europol databases.
- AMLA shall ensure that FIU.net enables obliged entities to submit suspicious transaction and activity reports to FIUs concerned.
- FIUs should also transmit information to the European Public Prosecutor's Office (EPPO).

### **9. Strengthening supervision [articles 29 - 38; article 48-52]**

- All obliged entities should be subject to effective and independent supervision. Also supervisors should participate and contribute to the activities of AMLA. This also applies to the public authority overseeing self-regulatory bodies.
- Credit or financial institutions can be put on a list for enhanced supervision.
- AMLA can issue binding instructions to supervisors that disagree on measures to be taken in relation to an obliged entity.
- Strengthen the collaboration between FIUs, supervisors and non-AML/CFT authorities. This means that for example also the European Central Bank shall play a more prominent role in the fight against money laundering.