

Anti Money Laundering and Counter Terrorism and Proliferation Financing Act to be amended 1/37/23



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The Cabinet of Ministers is expected to approve a bill amending the Anti Money Laundering and Counter Terrorism and Proliferation Financing (AML/CTPF) Act. Although the bill has yet to undergo parliamentary review and may therefore be modified, we suggest you familiarise yourselves with the proposed changes, as they will significantly affect persons governed by the AML/CTPF Act that make foreign exchange cash purchases or sales, and legal arrangements, including trusts.

The bill aims to pass certain clauses of Directive (EU) 2018/843, discussed in this article, and to align the AML/CTPF Act with proposed amendments to the Enterprise Registry Act. Since many forex cash trades are made anonymously, the bill amends clauses relating to the customer due diligence threshold in such occasional transactions to reduce the number of anonymous trades, which would eliminate the risk of money laundering and terrorism and proliferation financing and ensure the adoption of a risk-based approach.

According to an annotation to the bill, the following changes are being proposed:

- 1) Amend the definition of the ultimate beneficial owner (UBO) in the AML/CTPF Act relating to legal arrangements (trusts)
- 2) Reduce the threshold of EUR 1,500 to EUR 500, which requires a customer due diligence check to be undertaken by persons governed by the AML/CTPF Act that make forex cash purchases or sales

It's important to note that the amendments state that if a single forex cash purchase or sale or multiple apparently linked trades with an individual total up to EUR 1,500 and the risk of money laundering and terrorism and proliferation financing is low, the person governed by the AML/CTPF Act is permitted to avoid running a full customer due diligence check and do its first stage only – identifying the customer and making copies of documents serving as a basis for this identification.

- 3) Require the trustee of a legal arrangement to retain and update information on its UBOs.

The trustee is required to retain and update information on the following persons, all being considered UBOs of the legal arrangement:

- The settlor
- The trustee
- The protector (if there is one)
- The beneficiary
- Any other individual that controls the legal arrangement

- 4) Require the trustee of a legal arrangement to disclose information on its UBOs to the Enterprise Registry in the following cases:

- The trustee is an individual residing in Latvia.

- The trustee is an entity registered in Latvia.
- The trustee is not linked with any of the EU member states but he enters into a business relationship or buys property in Latvia on behalf of the legal arrangement.

In these cases the trustee is required to file an application with the Enterprise Registry and disclose information on the legal arrangement's UBOs. The annotation explains that if such UBOs have been entered on a register maintained by another member state, then no application needs to be made to the Enterprise Registry. While the annotation doesn't explain in detail how persons governed by the AML/CTPF Act will be able to identify a legal arrangement's UBO in these cases, the member states are expected to continue improving their Beneficial Ownership Registers Interconnection System (BORIS).

5) Assign a function to the Enterprise Registry that provides for maintaining a register of UBOs of legal arrangements, and determine the scope of a legal arrangement's particulars to be entered on the Enterprise Registry

6) Require the trustee of a legal arrangement to begin disclosing information on its UBOs to the Enterprise Registry on the following day after the amendments to the AML/CTPF Act have taken effect

The amendments are expected to come into force on 6 January 2025.