

Proposed amendments to AMLCTPF Act on UBO and PEP 2/27/24



Associate, PwC Legal
Tereza Vagentroca

Proposals for amending the Anti Money Laundering and Counter Terrorism and Proliferation Financing Act (AMLCTPFA) were laid before Parliament on 3 May 2024. These are being debated along with several other enactments governing crypto-asset service providers to harmonise the national law with the EU framework. In addition to several improvements related to crypto-asset service providers, the Finance Ministry has presented proposals for improving the general AMLCTPFA rules. This would help ease the administrative burden while staying true to AMLCTPFA's objective. However, the legislative process is not yet finished and the current wording of the proposals might not receive Parliament's approval in the last reading. This article explores some of the most significant improvements.

One proposal is to narrow down the definition of a family member of a politically exposed person (PEP) to cut out grandchildren and grandparents. Aligning with the common practice in other member states, these changes would help reduce the number of high-risk profiles in client work and ease the oversight burden, without raising the risk level unreasonably.

The administrative burden can also be eased by reducing the general requirements for information to be obtained on the ultimate beneficial owner (UBO). Proposed changes apply to the information on non-residents, i.e. the following details must be established for the UBO in all cases:

- First name and last name
- Birth date, month and year
- Nationality
- Country of permanent residence
- The percentage of the person's shareholding in a client that is controlled directly or indirectly, including direct or indirect participation, as well as the type of control exercised over the client directly or indirectly

Where a risk assessment indicates a high AMLCTPF risk, the following details can be requested from a non-resident UBO:

- The number and issue date of a personal identification document
- The country and institution that issued the document

Full details must currently be requested from a non-resident UBO regardless of the risk level. The proposed changes would accelerate the AMLCTPF procedures and cut costs.

The proposals make it clear that AMLCTPFA section 14, which provides for obtaining a copy of an identification document, is not applicable to a client being identified under AMLCTPFA section 23(1)(5), i.e. remote identification with particulars being obtained from a document the client has signed with a secure electronic signature. This practice is currently not prohibited and is included, for example, in paragraph 2.1.11 of the Financial and Capital Market Commission's Recommendation No. 15, Recommendations for Remote Client Identification. However, the proposals would help create uniform practices, simplify the

understanding of requirements for the identification process, and ease the administrative burden.

One of the more eagerly awaited proposals seeks to adjust the scope of external accounting services in AMLCTPFA. We wrote earlier this year that the Latvian Supreme Court has suspended litigation and asked the Court of Justice of the European Union (CJEU) whether an external accountant that provides services only to group companies is governed by EU AMLCTPF Directive 2015/849. The CJEU has yet to answer this question, and the Finance Ministry's proposals awaiting their second reading in Parliament include an adjustment that would resolve this issue.

The proposals want AMLCTPFA to clearly state that an external accountant providing services to group companies only is not governed by AMLCTPFA. This would help prevent the adoption of formal procedures aimed at conducting due diligence (DD) on the client or a group company, since in these situations the client is already known and closely linked with the service provider within the same group.

All the proposals are welcome, as they would ease the administrative burden and accelerate performance of the AMLCTPFA procedures or shed light on some controversial issues.

To cut out any unnecessary steps from the client DD procedures, such as requesting UBO passport details or copies and undertaking full client DD where accounting services are provided to group companies, it's important to make sure your risk assessments are adequate and efficient, so here's what you can do:

- Evaluate your risk assessment.
- Make sure it meets the latest standards.
- Check that your assessment is individualised in the light of risks facing the company and its business partners.

If necessary, organisations should update their risk assessments in good time so they can perform their functions adequately and be relied on in making safe and efficient decisions.

Please note that the proposals have yet to be passed and are awaiting their second reading, parliamentary committee meetings and the final vote in Parliament. You can follow the proposals [here](#) and find more information on their development [here](#).