

New amendments to AML/CTPF legislation 3/30/21

On 15 June 2021, Parliament adopted amendments to [the Anti Money Laundering and Counter Terrorism and Proliferation Financing \("AML/CTPF"\) Act](#), which, among other things, makes it easier for persons that are subject to the Act to report suspicious transactions taxwise and creates a common customer due diligence tool. The amendments relating to reporting procedures are coming into force on 1 October 2021, and the tool is to be used from 1 January 2022.

Key amendments

On 22 January 2020 the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism ("Moneyval") published an eagerly awaited report on Latvia's AML/CTPF progress. The amendments were drafted to eliminate the irregularities Moneyval's progress report had found. Although the amendments cover various aspects of AML/CTPF, this article takes a look at what we perceive as key amendments.

From 1 October 2021 it will be possible to submit information on suspicious transactions and threshold declarations on tax matters through the website maintained by the Financial Intelligence Unit ("FIU"), and subjects of the Act will no longer be required to notify the State Revenue Service ("SRS"). Where any information is intended also for the SRS, it will be sufficient if the person subject to the Act makes an appropriate note on the FIU site, which will certainly facilitate the reporting procedure.

The amendments also put rules in place for creating and using a common customer due diligence ("CDD") tool. Such a tool is needed to encourage sharing data obtained from CDD, which will make it possible to prevent AML/CTPF crimes more effectively and ease the administrative burden on government agencies that are now separately serving each person subject to the Act. The amendments provide for using two types of CDD tools: closed and open.

As the name suggests, the closed CDD tool will be private and mainly intended for use by companies operating in a group. The amendments provide that subjects of the Act and other EU legislation will have the right to use this tool supplied by a common external service provider, who will have to obtain a licence and insure their civil liability to provide these services to companies that are not in a group. On the other hand, any information included in an open CDD tool will be publicly available, so it will contain only specified types of data, which subjects of the Act can either amend or use for their own needs to carry out CDD reviews, monitor transactions, or verify the accuracy of data submitted by customers. The open-tool service provider will have to obtain a personal data processing licence. The National Data Office will issue it for five years, and stamp duty will be payable when it is issued and reregistered.

The amendments also provide that the individual or entity of the person subject to the Act that is responsible for an AML/CTPF breach faces not only a fixed penalty of up to EUR 1 million but also a penalty equal to twice the profit resulting from the breach where this can be calculated, something that was not stated by the old rules. The amendments are based on [article 59\(2\)\(e\) of Directive 2015/849](#), which, among other things, permits an alternative method for calculating penalties and gives more flexibility to the sanctions enforcer.

Interestingly, along with these amendments some MPs presented a number of proposals aimed at narrowing the range of persons subject to the Act. However, those proposals failed to win support, for instance:

1. External accountants serving customers whose revenue for the financial year does not exceed EUR 100,000 a year per customer are not treated as subject to the Act;
2. Persons whose financial services do not exceed 50% of their revenue for the previous tax year are not treated as subject to the Act.