



The Fourth EU Anti Money Laundering Directive

LAW 4557/2018 (Government Gazette A'/139.30.07.2018)

Law 4557/2018, published on 30th July 2018, incorporated into Greek law Directive 2015/849 (the "Directive") of the European Parliament and the Council of 20.05.2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

Highlights of the law include:

- a number of modifications relating to the areas of risk based approach;
- ongoing monitoring;
- beneficial ownership;
- customer due diligence (CDD); and
- politically exposed persons (PEPs);

Introduction

Law 4557/2018 is divided into two parts. The first part (articles 1-46) incorporates the provisions of the directive (scope and definitions of the law, the basic offences, the obliged entities and the due diligence requirements, the beneficial ownership information, the responsibilities of the competent authorities, and the criminal and administrative sanctions). The second part (articles 47-55) includes the organizational provisions for the Anti-Money Laundering Authority, as well as several transitional provisions.

The law also incorporates Annexes II and III of the Directive regarding a list of factors and types of evidence of potentially lower and higher risk, respectively.

Main Features:

Customer Due Diligence (CDD) (Articles 11 - 19)

The law prescribes minimum factors to be taken into account before applying simplified CDD to a customer and obliged entities will need to be able to evidence why they have considered the risk to be low enough to apply simplified CDD. The new law also provides for a list of factors and types of evidence of potentially lower and higher risk respectively. Lastly, performance by third parties is further provided in article 19 (meaning the permission to obliged entities to rely on third parties to meet the CDD requirements).

Beneficial Ownership (Articles 20 - 21)

The law introduces an explicit requirement for legal entities having their registered offices in Greece, to hold adequate, accurate, and current information on their own ultimate beneficial ownership in a special register kept at the registered offices of the legal entities. This information will be required to be made readily available to both competent authorities and obliged entities on request. A registry will be created at the General Secretariat of Information Systems of the Greek State including all beneficial owners, following an interconnection with the Tax Registration Number of each legal entity and shall become effective until 31.01.2019. Access to this registry may be provided to the competent authorities or any other person or entity proving specific legal interest to said access. Noncompliance to the above will result to a suspension of issuance of tax clearance certificate, a monetary fine amounting to EUR 10.000, as well as a deadline for compliance.

Obliged entities must further refrain from carrying out transactions which they know or suspect to be related to proceeds of criminal activity until they have completed the necessary action (i.e. informing the AML Authority) and have complied with any further specific instructions (article 23).

Policies and Procedures – Data protection – Record Keeping (Articles 30 - 38)

The law provides that personal data shall be processed by obliged entities on the basis of the law only for purposes of the prevention of money laundering (article 30).

The law introduces a provision for obliged entities that are part of a group to implement group-wide policies and procedures, which include AML/CTF policies & procedures for sharing of customer information (article 36).

The processing of personal data on the basis of the law shall be considered to be a matter of public interest (article 31).

The documents and information for the purpose of preventing, detecting and investigating possible money laundering or terrorist financing shall be kept for 5 years after the end of a business relationship with the customer or after the date of an occasional transaction (article 30).

Senior Management (Article 3 par. 18)

Senior management means an officer or employee with specific knowledge of the institution's exposure to AML/CTF risk and sufficient seniority will make decisions affecting its risk exposure. This definition will therefore not be restricted to members of the Board of Directors.

Politically Exposed Persons (PEPs) (Article 3 par. 19, article 18)

The definition of PEPs is extended to include domestic PEPs i.e. those in prominent public functions or in positions with organizations in Greece. Obliged entities will therefore need to review their customer registers to ascertain if they need to reclassify and apply enhanced CDD to any existing customers as PEPs under the new definition, as well as applying these measures to new customers at take-onstage.

Anti-Money Laundering, Counter-Terrorist Financing and Source of Funds Investigation Authority – Extensive powers (Article 49)

The competent Greek authority will have numerous powers, such as:

Access to all archives belonging to public authorities;

Coop by natural persons, judicial, police public services legal entities and organizations;

Ad hoc inspections;

No bank, tax professional confidentiality and secrecy.



KYRIAKIDES GEORGOPOULOS
Law Firm

Contact

For any further comment or query, please contact the KG lawyer you are in contact with.



Panos Alexandris – Partner

p.alexandris@kglawfirm.gr



Harry Karampelis – Senior Associate

c.karampelis@kglawfirm.gr

Main (Athens) Offices

28, Dimitriou Soutsou str., 115 21, Athens, Greece, Tel: +30 210 8171500, Fax: +30 210 68 56 657/8

Thessaloniki Branch

17, Ethnikis Antistaseos str., 551 34, Thessaloniki, Greece, Tel: +30 2310 441552

www.kglawfirm.gr



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