

Legal Alert

New obligations in the area of anti-money laundering and terrorist financing

July 2017

The implementation of the IV AML Directive into the domestic regulations on anti-money laundering and combating terrorist financing is currently underway. The new regulations will significantly modify AML obligations of financial sector institutions and certain other companies and introduce stricter penalties for violating these provisions. They will also force these entities to introduce serious modifications in their internal procedures, which may require time-consuming preparations.

A new draft act on anti-money laundering and combating terrorist financing was published on 12 July 2017. The proposed regulations will significantly change the manner of conducting anti-money laundering and terrorist financing activities. They will introduce an obligation to perform such activities based on an analysis of risks, whose identification and assessment will be mandatory for each institution. The list of institutions obliged to apply the provisions of the act will also be extended.

A change in the PEP definition

The definition of a politically exposed person (PEP) will be extended. According to the new regulations, not only foreigners, but also Polish citizens may be considered PEPs. Consequently, verifying if a client is a PEP will be obligatory also for those entrepreneurs that are now circumventing the problem by providing services solely to Polish citizens. Moreover, stricter conditions of performing transactions with the participation of PEPs will also apply for at least 12 further months after the given person stops being a politically exposed person.

New mandatory procedures

Apart from a standard internal anti-money laundering and terrorist financing procedure, each institution will be obliged to implement an additional whistleblowing procedure for anonymous reporting of AML violations. Apart from this procedure, entities being members of corporate groups will need to have a group AML procedure in place.

Beneficial owner

According to the new regulations, natural persons holding senior executive positions in the client's company may be considered beneficial owners if it is not possible to identify any other beneficial owner. Additionally, most types of commercial partnerships and companies will be obliged to report information on their beneficial owners to a central register of beneficial owners, which will be created following an 18-month *vacatio legis* period.



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Higher penalties

The financial penalties for breaching AML regulations will also be increased. Currently, the highest financial penalty amounts to PLN 750,000, and according to the new regulations it may amount to as much as 10% of the annual revenue in the case of a legal person or almost PLN 21 million in the case of a natural person. Additionally, new types of administrative penalties will be introduced, such as a ban on conducting regulated activity and a ban on performing certain functions by a natural person.

The act should come into force with a three-month *vacatio legis* period.