

ROADMAP			
TITLE OF THE INITIATIVE	Revision of the third Anti Money Laundering Directive and the Fund Transfers Regulation		
LEAD DG – RESPONSIBLE UNIT	MARKT/F/2	DATE OF ROADMAP	12/2012
<b>This indicative roadmap is provided for information purposes only and is subject to change. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content and structure.</b>			

## A. Context and problem definition

(1) What is the political context of the initiative?
(2) How does it relate to past and possible future initiatives, and to other EU policies?
(3) What ex-post analysis of existing policy has been carried out? What results are relevant for this initiative?
<p>The 3rd Anti Money Laundering Directive (3AMLD) was adopted in 2005 and transposed into EU Member States' legislation in 2007. It implemented international standards set by the Financial Action Task Force (FATF) on anti-money laundering and terrorist financing. The Fund Transfers Regulation (FTR) was adopted in 2006, and transposed a specific FATF standard dealing with the traceability of wire transfers.</p> <p>The FATF closely monitors and thoroughly evaluates its standards around the world, and they are taken seriously by all countries who are keen to ensure they score good ratings.</p> <p>The FATF adopted a new set of international standards in February 2012. The EU needs now to rapidly implement the new standards into its legislation ahead of the new round of FATF evaluations.</p> <p>In parallel to the international process, the Commission has undertaken work to assess the application of the 3AMLD and the FTR. This process has entailed commissioning extensive studies by consultants Deloitte and Matrix, as well as multiple contacts with stakeholders and Member State representatives to identify areas of possible change in the future AML framework. The Commission published its own report on the application of the Directive in April 2012.</p> <p>The results of both studies do not suggest the need for a fundamental overhaul of the EU regime, but highlight a number of areas where practical improvements could be made (e.g. guidance on the risk based approach, ensure better access to information on beneficial ownership and politically exposed persons, etc.).</p> <p>The most important changes resulting from the new international standards revolve around the move towards less prescriptive and a more risk-based set of rules.</p>
What are the main problems which this initiative will address?
<p>The main issues are the threat to market integrity resulting from the abuse of the financial system by criminals to launder the proceeds of illegal activities, coupled with the threat that the financial system may be used for the financing of terrorist activities.</p> <p>The increasing ingenuity of criminals to adapt to new market developments requires that international standards and the EU legislative framework evolve to stand up to new threats.</p>
Who will be affected by it?
<p>Various stakeholders must comply with EU AML provisions:</p> <ul style="list-style-type: none"> <li>• Credit and financial institutions</li> <li>• Auditors, accountants and tax advisors</li> <li>• Lawyers and notaries</li> <li>• Trust and company service providers</li> <li>• Real estate agents</li> <li>• Providers of gambling services</li> <li>• AML supervisors and financial intelligence units.</li> </ul>

Is EU action justified on grounds of subsidiarity? Why can Member States not achieve the objectives of the proposed action sufficiently by themselves? Can the EU achieve the objectives better?

Yes – while the existing Directive is based on minimum harmonisation, which leaves room for Member States to adapt solutions to their specific market needs, it is still appropriate and necessary to aim for coordination of rules at EU level. Independent actions by Member States leading to widely diverging implementation of the international standards would not be optimal from an internal market perspective, and would likely have a detrimental impact on the cross-border provision of services. It is essential to safeguard market integrity in the context of a highly and increasingly integrated internal market. Certain market developments, such as the introduction of a single payments area (SEPA) call for a common EU approach in order to ensure consistent and coherent implementation of the international standards.

## B. Objectives of the initiative

What are the main policy objectives?

- To implement new international standards to fight money laundering and terrorist financing.
- To adjust EU rules in the light of our own assessment.
- To adapt EU rules to new threats and market developments.

Do the objectives imply developing EU policy in new areas?

While no major adjustments to the broader framework are envisaged, it is planned to broaden the scope in specific areas (tax crimes, gambling, traders in high value goods, e-money and mobile telephone payments).

## C. Options

- (1) What are the policy options (including exemptions/adapted regimes e.g. for SMEs) being considered?
- (2) What legislative or 'soft law' instruments could be considered?
- (3) How do the options respect the proportionality principle?

The changes agreed at international level do not represent a fundamental re-calibration of the anti-money laundering rules, but rather a refinement of the rules. Among the most important changes are:

- The reinforcement of the "Risk-Based Approach", applied both by obliged entities and supervisors, coupled with a need to assess AML/CFT risks facing jurisdictions.
- Designation of "Tax Crimes" as a new "predicate offence" (i.e. so that money laundering includes cases where the proceeds of tax evasion were involved). Introduction of a new requirement for all cross-border wire transfers to include beneficiary information and to expansion of the scope to certain e-money and mobile telephony payment products.
- Further clarification and guidance in areas such as customer due diligence, beneficial owner and Politically Exposed Persons (PEPs).

Additionally, from an EU perspective, our own review process has indicated a need to address a number of areas in the EU Directive, for example:

- How to share AML supervisory responsibility between home and host competent authorities. In the wake of the transposition of the Payment Services Directive, concerns have been raised by a number of Member States, about potential gaps in the AML framework caused by payment institutions operating across borders via networks of retail agents.
- A tightening of the EU's Simplified Due Diligence regime, given that it has been criticised by the FATF as representing too broad a waiver from applying the Customer Due Diligence for certain bodies and products.
- Clarification with respect to EU data protection rules, in particular regarding the ability to transfer information to different parts of an international group (including operating in third countries) for anti-money laundering purposes.
- Enhancing transparency of beneficial ownership information and clarification of the existing 25% ownership threshold
- Enhancement of cooperation and information sharing between EU FIUs – entailing integration of Council Decision 2000/642/JHA into the EU Directive.

The current legislative approach is based on a minimum harmonisation Directive. This approach respects a careful balance between the need for EU coordination and the principles of subsidiarity.

#### D. Initial assessment of impacts

What are the benefits and costs of each of the policy options?

The benefits and costs of each of the policy options have been assessed in the Commission's impact assessment. The adaptation of the framework to stricter international standards, coupled with the additional changes which are proposed as a result of the Commission's own review process are expected to represent a substantial strengthening of the overall framework. The envisaged changes should mean that:

- a broader scope will address additional areas of risk,
- cross-border compliance should be strengthened
- greater coherence between national rules achieved,
- greater effectiveness should result from more targeted and risk-sensitive rules.

Giving greater prominence to the risk-based approach will have implications for governments (who will have to organise risk assessments), competent authorities and obliged persons and entities. However, these costs should be balanced by more targeted and effective measures aimed at dealing with the risks of money laundering and terrorist financing, which will mean that time and resources are not spent on technical compliance which might not be targeting actual risks.

Could any or all of the options have significant impacts on (i) simplification, (ii) administrative burden and (iii) on relations with other countries, (iv) implementation arrangements? And (v) could any be difficult to transpose for certain Member States?

Given the context of reinforcing the framework to counter money laundering and terrorist financing, it is unlikely that any of the announced actions will lead to further simplification. However the Commission will assess whether possibilities exist to facilitate compliance with new or existing requirements, for example by ensuring that access to certain information (e.g. on beneficial ownership) by obliged entities is facilitated.

- (1) Will an IA be carried out for this initiative and/or possible follow-up initiatives?
- (2) When will the IA work start?
- (3) When will you set up the IA Steering Group and how often will it meet?
- (4) What DGs will be invited?

Yes. Secretariat General, Legal Service, DG HOME, DG JUST, DG TAXUD, DG ENTR, and the Service for Foreign Policy Instruments (FPI) participated in the IA steering group.

- (1) Is any option likely to have impacts on the EU budget above € 5m?
- (2) If so, will this IA serve also as an ex-ante evaluation, as required by the Financial Regulation? If not, provide information about the timing of the ex-ante evaluation.

No.

#### E. Evidence base, planning of further work and consultation

- (1) What information and data are already available? Will existing IA and evaluation work be used?
- (2) What further information needs to be gathered, how will this be done (e.g. internally or by an external contractor), and by when?
- (3) What is the timing for the procurement process & the contract for any external contracts that you are planning (e.g. for analytical studies, information gathering, etc.)?
- (4) Is any particular communication or information activity foreseen? If so, what, and by when?

A [study](#) by consultants Deloitte on the application of the 3 AMLD has been published and is publicly available. An additional study by consultants Matrix, completed in November 2012, has also provided information about the application of the FTR. The Commission services have had extensive contacts with various stakeholders concerned by changes to the AML framework.

Which stakeholders & experts have been or will be consulted, how, and at what stage?

Representatives from:

- Credit and financial institutions
- Auditors, accountants and tax advisors
- Lawyers and notaries
- Trust and company service providers
- Real estate agents
- the gambling sector
- Civil society organisations (e.g. Global Witness)

Also consulted were members of the Commission's Committee for the Prevention of Money Laundering and Terrorist Financing (CPMLTF) as well as the members of the AMLC (EU AML supervisors).

A consultation period, open to the general public, followed the publication of the Commission's report on the application of the third Anti-Money Laundering Directive.