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Consistent with our commitment to keep you updated on significant legal developments, we outline below the most important provisions of the new Law on the Prevention of Money Laundering and Terrorist Financing.

Greek Law 4557/2018 incorporated the 4th European Directive on the Prevention of Money Laundering and Terrorist Financing (AMLD4) as well as some provisions of the 5th Directive (AMLD5). The new Law repeals L.3691/2008 and introduces significant changes to the pre-existing legislative framework, while mechanisms such as "Strategic Committee" and "Private Sector Consultation Body" are maintained and improved. In addition, the role of the Anti-money Laundering Authority ("Authority") is significantly strengthened.

Money Laundering

Money Laundering is considered to be, inter alia, *the use of the Financial System* in order to give alleged legitimacy to revenue, or *the acquisition, possession, use, conversion or transfer of property*, or *the concealment or disguise of the true nature* with respect to the property, under the condition that the offender knows that such property derives from criminal activity or from an act of participation in such an activity.

Criminal activity

For money laundering purposes, criminal activity is defined as the commission of a multitude of crimes, named as “basic offenses” (article 4), including, among others, activities of criminal organizations, terrorism, active and passive bribery, drug trafficking, tax evasion, non-payment of public debts, smuggling etc., as well as any other offence by which a material or asset benefit derives and which is punishable by imprisonment of more than six months.

It is highlighted that according to the new law, the offenses of selling/purchase influencer-intermediary services (“trading in influence–intermediaries”), as well as “active and passive bribery in the private sector” are now included as “basic offenses”. The above additions aim to fully cover the notion of "*corruption*", as well as to explicitly include in domestic anti-money laundering (AML) legislation all the offenses under the UN Convention against Corruption (UNCAC).

Sanctions

— ***Criminal sanctions***, including sentences and fines up to EUR 2 000 000, are imposed on offenders who commit money laundering.

— Additionally and in certain cases, the law provides the possibility to ***freeze property*** of the accused and prohibit its sale, as well as to ***seize*** and ***confiscate*** the assets which derive from money laundering. Moreover, the State has the right to claim ***compensation*** from the offender who has been sentenced by an irrevocable judgment.

— Furthermore, ***administrative sanctions*** may be imposed on the legal entities for whose benefit or on behalf of which, the money laundering or one of the basic offenses is committed. These sanctions include fines up to EUR 10 000 000, withdrawal of operating licenses, cessation of business activities, public announcement etc.

Obliged entities

The law defines the *obliged entities*, (which include both individuals and legal entities), which are required to fulfill certain obligations in order to prevent money laundering, while severe administrative sanctions are provided in case of non-compliance. Particularly, obliged entities must:

— (i) Apply **Customer Due Diligence measures**, and

— (ii) **Report** suspicious transactions to the "Authority".

Obliged entities (article 5) are considered to be, among others, credit and financial institutions, auditors, accountants, tax advisors, notaries and lawyers (under specific cases), real estate agents, traders and auctioneers of goods (where the value of transactions exceeds EUR 10 000), casinos etc..

The obliged entities are supervised by specific competent supervising Authorities (article 6), such as, the Bank of Greece, the Hellenic Capital Markets Commission, the Independent Authority for Public Revenue etc.

Customer Due Diligence

Credit and financial institutions are not allowed to keep secret, anonymous accounts, anonymous passbooks, anonymous safe-deposit boxes, accounts with fictitious names or accounts for which the full name of their beneficiary cannot be identified.

The obliged entities must apply Customer Due Diligence measures in the following cases:

— When *establishing a business relationship*;

— When *carrying out an occasional transaction* that amounts to EUR 15 000 or more, or a *transfer of funds* exceeding EUR 1 000;

— In case of trading in goods, when *carrying out an occasional transaction in cash* that amounts to EUR 10 000 or more;

— In case of *providing gambling services*, when carrying out a transaction that amounts to EUR 2 000 or more;

— In case of *electronic money transactions* or specific *prepaid instruments* which are reloadable, with a monthly payment limit of more than EUR 250.These transactions are subject to special derogations;

— In case of *suspicions* about money laundering or *doubts* about the accuracy and adequacy of the information identifying and verifying the customer's or the beneficial owner's identity.

In performing the due diligence process, the obliged entities must **identify and verify** the *customer's identity* or any other person's identity purporting to act on behalf of the customer, as well as the identity of the *beneficial owner(s).* They must also assess the business relationship and continue to monitor on an **ongoing basis**, including to scrutinize transactions. Moreover, specific obligations are provided for **Credit and Financial Institutions**, while additional obligations are provided for *life insurance*. It is highlighted that, beyond the AMLD4's provisions, Law 4557/2018 provides that the Credit Institutions also have the obligation to verify the customer's annual income according to his *tax assessment note*.

The Customer Due Diligence measures must be conducted before the establishment of the business relationship or before the transaction is carried out. Derogations are provided only in specific cases (article 14).

Should the obliged entities be unable to comply with the Customer Due Diligence requirements, they **must refuse to carry out** the transaction, while they must necessarily abstain from transactions for which they consider or suspect are related to revenue derived from criminal activities.

In order to satisfy the due diligence obligations, the obliged entities must act on the basis of a risk assessment. To this end, Annexes I and II of the new Law provide an indicative list of potentially lower or higher risk factors, according to which the obliged entities should apply simplified or enhanced Customer Due Diligence respectively. Enhanced due diligence measures also apply to cross-border correspondent relationships, as well as to transactions or business relationships with Politically Exposed Persons.

In order to meet the due diligence requirements, obliged entities are also permitted to rely on third parties, such as credit institutions, electronic money institutions, life insurance companies, leasing companies etc. The liability still remains with the obliged entities.

Obliged entities should maintain records for the due diligence measures applied, either in paper or electronic form, for a period of five (5) years after the end of the business relationship with the customer or five (5) years after the date of the occasional transaction.

Reporting obligations and appropriate measures

Obliged entities are required to inform the ‘’Authority’’ without delay in case they know or have reasonable indications that the money constitute revenue from criminal activity. Moreover, upon request of the ‘’Authority’’ or any other competent authorities, obliged entities are required to provide them with all the necessary information without delay.

In this respect, obliged entities should adopt appropriate measures in order to detect and assess the risks of money laundering from criminal activities and comply with the provisions of the law.

Administrative sanctions imposed on obliged entities

Administrative sanctions are imposed on obliged entities in case they breach their obligations. These sanctions include fines, cessation of business activities, suspension or withdrawal of operating licenses, public announcement etc.

The fine imposed may be up to EUR 5 000 000, while an additional fine of up to EUR 5 000 000 may be imposed on members of the Board of Directors, Managing Directors, managers or other employees of the legal entity.

Beneficial Owners’ Registers

The establishment of Beneficial Owners’ Registers is provided as an additional measure for the prevention of Money Laundering, aiming to detect the individuals who disguise their identity behind opaque corporate structures, which eventually lead to money laundering.

A **Beneficial Owner** is considered to be any **individual** who, directly or indirectly, *ultimately owns or controls* the legal entity, as well as any individual *on behalf of whom a transaction or activity is being conducted*. A shareholding in a company or ownership of **more than 25%** is an *indication of ownership*. In case no individual is identified, while having exhausted all possible means and provided that there are no grounds for suspicion or in case there are doubts, the individual who holds the position of senior managing officer in the company is considered to be the beneficial owner. The above provisions *do not apply to* companies listed in a regulated market.

A **Beneficial Owners’ Central Register** is established and will be held in the General Secretariat of Information Systems and be electronically linked with the Tax Identification Number (TIN) of each legal entity. The Central Register obtains information collected by Public and other Authorities and can be linked to any other entity which acquires information regarding beneficial owners. Particular matters can be regulated by Ministerial Decision, regarding the operation and the interconnection of the Register with the General Commercial Register (GEMI) and the Securities Depositories.

Special Beneficial Owners’ Registers must be maintained at the headquarters of legal entities based in Greece and should be supported by evidence and kept up to date under the responsibility of the legal representative or a specially authorized person. Such special Registers and relevant information should also be reported to the Beneficial Owners’ Central Register within 60 days from their creation. The same deadline applies for updating initially reported information.

Moreover, it is provided that **Special Registers of Beneficial Owners of Trusts** must be established and maintained by the trustees of any express trusts. The aforementioned Registers should be recorded in a special section of the Beneficial Owners’ Central Register within 60 days from their establishment. The same deadline applies for updating initially registered information.

Non-compliance and non-recording in any of the above Special Registers entails the suspension of the issuance and the provision of a tax clearance certificate and results in a fine of EUR 10 000, imposed by the "Authority", and an obligation to comply within a specified deadline (mandatory compliance). In case of non-compliance or recurrence, the fine will be doubled.

Direct and unrestricted access to the above Registers is provided to the "Authority" and, in specific cases, to judicial and other competent audit authorities. Obliged entities and their supervisory authorities may have access only to the extent that they apply the due diligence measures. Any other person or organization may have access to the minimum elements of the central Beneficial Owners’ Register upon proof of specific legitimate interest. Under certain conditions, the Registers’ data may be transmitted to the competent authorities of another EU Member State.

CPA Law comments

- The disclosure of the **Ultimate Beneficial Owners (UBOs)** of various corporate structures used for opaque and non-transparent purposes such as "*money laundering*", *tax evasion*, *tax avoidance*, has been set as a top priority globally. The recent provision in Greek legislation for the Sociétés Anonymes regarding the **abolition of anonymous shares,** as well as **the new provisions for anti-money laundering** and **the automatic exchange of information** regime between tax authorities, altogether form a wider regulatory framework, which clearly aims to disclose the individuals who take advantage of capital or assets of corporate structures and to detect criminal activity (e.g. tax evasion) and tax avoidance.
- Exchange of information and access to the Registers by other domestic or foreign competent authorities are provided by the new law. According to a special provision, tax authorities, tax auditors and customs offices are obliged to report any offense committed as of 5 August 2008 onwards which violates tax and customs legal framework to the "Authority", under the condition that the related amounts exceed EUR 50 000. It is also highlighted that, according to a relevant provision of Directive 2016/2258/EU (which is expected to be incorporated soon into Greek legislation since a bill has already been submitted to the Greek Parliament), **direct access** to the Beneficial Owners' Registers and to information gathered throughout customer due diligence, will also be provided to the **Tax Authorities**, for the purposes of *exchanging the information among tax authorities in the context of administrative cooperation among States*.
- Together with the incorporation of the AMLD4, a special provision for the processing of personal data in order to resolve any conflicts with the General Data Protection Regulation (GDPR) is introduced. Data processing is permitted only for the purposes of the law and not for any other purposes (e.g. commercial etc.) and must be based on both the law and the public interest.
- It is noted that the adoption of AMLD4 into Greek law was significantly delayed. The transposition deadline had expired as of June 2017, while the EU Commission has already referred Greece to the Court of Justice of the EU for failing to implement the Directive.
- Finally, it is also noted that AMLD4 has already been amended by the 5th Anti-Money Laundering Directive (AMLD5) at EU level. AML5 should be incorporated into Greek legislation as of January 2020. However, some of the AMLD5's amendments (e.g. regarding obliged entities) have already been incorporated into the newly introduced Greek AML legislation.

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