

To whom it may concern

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## **Implementation of the 5<sup>th</sup> EU Anti Money Laundering Directive**

Directive (EU) 2015/849 (4th Anti Money Laundering Directive, 4AMLD)<sup>1</sup> created the most important instrument for preventing the use of the European Union's financial system for the purpose of money laundering and terrorist financing. The 4AMLD has already been implemented in Liechtenstein.

Directive (EU) 2018/843 (5th Anti Money Laundering Directive, 5AMLD)<sup>2</sup> amends the 4AMLD with the aim of preventing the financial system from financing criminal activities and it strengthens the transparency provisions in order to prevent money laundering.

The 5AMLD was published in the Official Journal of the European Union on 19 June 2018. The EU Member States were required to transpose this Directive by 10 January 2020.

The revised measures in Liechtenstein entered into force on 1. April 2021. The respective provisions can be found in the Law on Professional Due Diligence to Combat Money Laundering, Organised Crime and Terrorist Financing (Due Diligence Act; DDA), the related Due Diligence Ordinance (DDO) and the Act on the Register of Beneficial Owners of Legal Entities (VwbPG)<sup>3</sup>.

In summary, the revised provisions based on the 5AMLD include in particular the following:

### **Extension of the scope of the DDA**

The scope of the DDA has been extended and aligned with the scope defined by the 5AMLD. According to the revised law, the following persons and business transactions have been brought within the DDA's scope:

- Real estate agents, in addition when acting as intermediaries in the letting of real estate, in relation to transactions, with a monthly rent of 10'000 Swiss Francs or more;
- Persons trading or acting as intermediaries in connection with works of art in transactions of 10'000 Swiss Francs or more;
- Virtual Asset Service Providers (VASPs): The 5AMLD extends the scope to service providers who carry out exchanges between virtual currency and fiat and to providers of virtual currency wallets. The relevant provisions and also the provisions relating to the FATF Recommendation 15 have been implemented within the framework of the DDA and DDO as well as through registration requirement set out in the Token and TT Service Provider Act (TVTGG). In this context, it is important to mention that Liechtenstein DDA goes beyond the FATF requirements. In Liechtenstein token issuers as outlined in Art. 3 (1) (s) DDA also fall under the scope of the DDA. Furthermore, trading platforms

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<sup>1</sup> [4AMLD](#)

<sup>2</sup> [5AMLD](#)

<sup>3</sup> English translations are available at <http://www.regierung.li/law#finservices>

according to Art. 3 (1) (t) DDA (that do not meet the definition of an VASP exchange according to the definition of FATF) are also subject to due diligence.

In connection with the implementation of the 5AMLD, providers of safe custody services such as the renting of storage facilities and safe deposit boxes as well as the safe-keeping of valuables have also been brought within the DDA's scope.

### **High-risk third countries**

Persons subject to due diligence were already required to apply enhanced due diligence when dealing with high risk countries. Previously, each Member States determined the applicable enhanced due diligence measures with regard to high-risk countries at a national level. Those different approaches between Member States created vulnerabilities in the management of such business relationships. The 5AMLD therefore now harmonises the measures and specifies when and which measures have to be applied to business relationships and transactions involving high-risk third countries. Based on these requirements, the existing provisions of the DDA have been adapted.

### **Register of Beneficial Owners of Legal Entities**

In order to improve transparency of information on beneficial ownership, the requirements for operating the central register have been expanded by the 5AMLD. These are the most important extensions:

- new rules for the registration of trusts and similar legal agreements are provided; basically, the registration has to be executed in the country of the administration of the trust or similar legal arrangement;
- the access to the central registers is extended;
- persons subject to the DDA are obliged to consult the register when establishing a business relationship with a legal entity, a trust or similar legal arrangement;
- persons subject to the DDA are obliged to report to the Office of Justice any discrepancy between their own findings and the data contained in the Register of Beneficial Owners of Legal Entities. This also applies to certain authorities;
- an additional group of authorities with direct access to the register is introduced.

### **Centralised bank account register**

The 5AMLD introduces the obligation to set up a centralised bank account register or retrieval system to identify holders of bank accounts and safe deposit boxes. Consequently, the government has decided to implement a centralised bank account register in Liechtenstein. The relevant provisions are set out in the due diligence law and a specialised ordinance for the centralised bank account register. All accounts held with Liechtenstein banks, or investment firms identified with an IBAN, and all such safe deposit boxes will be included in said register. The SFIU and the FMA will be the only authorities to have access to the data in this centralised bank account register.

### **National and International Cooperation**

The 5AMLD also strengthens the cooperation between the authorities responsible for combating money laundering and countering terrorist financing. The provisions in relation to national and international cooperation have become more closely aligned with the wording of relevant provisions in the 5AMLD.

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