



# Is your organisation ready for the 6<sup>th</sup> Anti-Money Laundering Directive?

**If not, you have until June 2021 to get there!**

If you are a Financial Institution within the European Union, then you should be aware of the latest 6<sup>th</sup> Anti-Money Laundering Directive (6AMLD) which came into effect in December 2020 across all EU member states. Regulated entities have until June 2021 to implement changes to their AML regulatory policies, procedures and internal controls. If you aren't ready yet, then the good news is that this article contains everything you need to know to meet the deadline.



## HOW DO I KNOW IF THIS AFFECTS MY COMPANY?

The short answer is that all regulated businesses in the EU member states need to be compliant.

Additionally, as a Corporate entity, the latest AML directive will have an indirect impact on your business. The key questions to consider include;

- Are you reliant on regulated Financial Institutions carrying out AML screening on your payments to customers, partners, suppliers etc? If so, are you confident that their processes are adequate to meet the criteria of 6AMLD? Are they future-proofed against future regulatory upgrades?
- How comfortable is your business by not having control or transparency of your regulatory risk? Perhaps you would benefit from managing & monitoring this risk in-house?

It's important to highlight that failure to comply with the latest EU AML directive can result in regulatory actions, such as heavy fines, penalties and imprisonment. So, it's essential to understand how 6AMLD impacts you.

## WHAT IS THE IMPACT OF THE 6AMLD?

6AMLD removes the ambiguity for Financial Institutions combatting terrorist financing and money laundering. The directive allows authorities in Financial Institutions to expand the legislative scope, increase criminal liability and penalties and clarify specific regulatory details within AML frameworks.

## WHAT IS 6AMLD?

The directive can be broken-down into four component parts:

1. **The Expansion of Regulatory Scope**
2. **Improved Harmonisation**
3. **Cooperation among Member States**
4. **Stricter Criminal Penalties**

# 1

## The Expansion of Regulatory Scope

Unlike previous AML regulations, which only prosecuted those individuals and organisations that directly profited from money laundering, the 6AMLD provides greater clarity on the type of crimes defined as money laundering or terrorist financing. For instance, criminal penalties are now the same for convicted individuals and those persons who aided and abetted them in money laundering or terrorist financing activities.

**The onus is now on all regulated entities to take individual responsibility to ensure that their AML policies, procedures and internal controls are adequate enough to detect and prevent money laundering and terrorist financing.**

# 2

## Improved Harmonisation

Harmonisation across EU member states is imperative to close loopholes in domestic legislation, create standardised legal definitions and in carrying out implementation of AML frameworks so that it is aligned with increased criminal penalties and legislative focus.

The 6AMLD provides increased clarity with a definitive list of 22 predicate offences that are legally defined as money laundering. It's worth highlighting the addition of 'cybercrime' and 'environmental crime' in the context of anti-money laundering (AML):

- |   |   |  |
|---|---|--|
| 1. Participation in an organised crime group or racketeering    | 8. Corruption                             | 15. Robbery and Theft                                    |
| 2. Terrorism  | 9. Fraud                                  | 16. Smuggling  |
| 3. Human trafficking and migrant smuggling                      | 10. Counterfeiting currency               | 17. Tax crime relating to both direct and indirect taxes |
| 4. Sexual exploitation  | 11. Counterfeiting and piracy of products | 18. Extortion  |
| 5. Illicit trafficking in narcotics and psychotropic substances | 12. Environmental crime (New addition)    | 19. Forgery  |
| 6. Illegal arms trafficking                                     | 13. Murder and grievous bodily harm       | 20. Piracy   |
| 7. Trafficking in stolen goods                                  | 14. Kidnapping and hostage taking         | 21. Cybercrime (New addition)                            |
|   |   | 22. Insider trading and market manipulation              |

**By June 2021, the 6AMLD becomes effective and all EU member states will have to ensure that their domestic legislation is aligned with the new legislation and incorporates the 22 predicate offences related to financial crime.**

# 3

## Cooperation among Member States

The connection between money laundering and financial crimes across jurisdictions is essential to prevent offences being committed in one jurisdiction, whilst ill-gotten gains are being laundered in another. The directive provides alignment and cooperation across EU member states, specifically ensuring that certain offences are criminalised domestically to combat money laundering and terrorist financing.

Increased cross-border cooperation across member states will help centralise legal proceedings to identify and prosecute perpetrators for money laundering, terrorist financing and financial crimes. 6AMLD provides holistic parity across the EU to conduct investigations, ensuring authorities consider the victims country of origin, the residence of the perpetrators, and the jurisdiction of where crimes actually occurred.

# 4

## Stricter Criminal Penalties

6AMLD has broadened criminal liability and criminal penalties for the conviction of financial crimes. The new regulation extends criminal liability, as it states the 'legal persons' such as 'corporations' can now be prosecuted for involvement with money laundering or terrorist financing. This doesn't just stop at being found guilty of money laundering or terrorist financing, companies can now be held liable for failing to prevent an individual in their organisation from breaching AML rules and regulations.

Management teams across organisations now have an increased responsibility to ensure their business is compliant with 6AMLD, as well as implementing and managing adequate AML policies, procedures and internal controls.

A big game changer with 6AMLD is the introduction of a minimum prison term for money laundering increasing from one to four years. The minimum prison term provides parity across EU member states, loudly sending the message that the EU are fully committed to strictly enforcing money laundering regulations.

### What is Next?

6AMLD shows the commitment to changing the way both individuals and organisations are held responsible for money laundering, terrorist financing and financial crimes. Standardisation across EU member states and an expansion of regulatory scope to identify, investigate and prosecute money laundering across jurisdictions is very evident and compelling.

Now more than ever, regulated organisations need to ensure their AML policies and procedures are fit for purpose, including, applying risk-based internal controls to continually monitor and screen against official Sanctions and Politically Exposed Persons (PEPs) data lists, all whilst periodically reviewing and reporting on transactions associated with customers, partners, vendors, investors et al.

The everchanging regulatory landscape in combating money laundering and terrorist financing never stops, failure to comply with the 6AMLD can result in punitive actions such as heavy fines, suspensions and imprisonment. With the aggressive evolution of payments pointing towards even faster and innovative domestic and cross border payment solutions, new and stricter regulation is inevitable. Therefore, it is also vital to plan strategically for future-proofing your fraud and financial crime capabilities.

Speak to Bottomline today to find out what impact 6AMLD could have on your business and how we can help you be compliant now, and in the future.

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