

## Newsletter on Law 4734/2020 transposing EU Directive 2018/843 on anti-money laundering and counter-terrorist financing (AML 5) / New provisions on UBO

On 6 October 2020, the Greek parliament passed law 4734/2020 (Government Gazette A' 196/08.10.2020, Law 4734) which amends law 4557/2018 (Law 4557) in order to transpose AML 5 provisions into Greek law.

AML 5 and Law 4734 seek, notably, to enhance transparency, expand the application of anti-money laundering and counter terrorism financing (AML-CTF) rules to additional categories of professionals, limit the anonymity in transactions, reinforce the powers of competent authorities in charge of the supervision of professionals subject to AML-CTF obligations, strengthen the cooperation and exchange of information among (national and international) competent authorities and clarify certain issues in relation to beneficial owners and the Central Ultimate Beneficial Owner Register established in Greece (Central UBO Register).

The present newsletter aims at setting out the key amendments introduced by Law 4734 which affect the professionals subject to AML-CTF obligations (such as credit institutions, insurance companies, investment funds, etc.) and focuses mainly on the revised UBO framework.

### What you need to know:

#### 1. Extension of the AML-CTF scope to other professionals

The scope of Law 4557 is extended to cover additional professionals subject to AML-CTF obligations, including providers engaged in exchange services between virtual currencies and fiat currencies and custodian wallet providers, as well as art dealers (where the trade is carried out by free ports) and tax advisory service providers.

Providers engaged in exchange services between virtual currencies and fiat currencies and custodian wallet providers should be registered in

a register held by the Hellenic Capital Market Commission (HCMC). The introduction of these categories will allow competent authorities to monitor, through these providers, the use of virtual currencies.

#### 2. Customer due diligence (CDD) measures

The articles setting out the CDD measures are modified in light of the AML 5 requirements. Such modifications include, inter alia, the following:

- the maximum threshold (i.e. maximum monthly payment transactions and maximum amount stored electronically) is reduced to EUR 150 in order for transactions in e-money to be exempted from CDD measures (other than the ongoing monitoring of the business relationship that should still be carried out);
- credit institutions and financial institutions acting as acquirers accept payments carried out with anonymous pre-paid cards only if they have been issued by professionals established in the EU;
- whenever entering into a new business relationship with a corporate or other legal entity, or a trust or a similar legal arrangement which is subject to the registration of beneficial ownership information, professionals should collect proof of registration;
- enhanced CDD measures are reinforced, including where dealing with cases involving high-risk third countries or dealing with clients who have business relationships or

enter into transactions with high-risk third countries; and

- new provisions are introduced in relation to Politically Exposed Persons (PEP) (including a list indicating the specific functions qualifying as prominent public functions) in accordance with the AML 5 requirements.

### 3. New provisions on Ultimate Beneficial Owners (UBO)

The framework on UBO is also enriched to amend the definitions of “beneficial owner” of legal entities and of trusts in line with AML 5, impose explicit obligations on UBO of legal entities and trusts (where relevant) and modify, among others, the access rules to the Central UBO Register. More specifically:

#### a. Obligations of UBO of legal entities

The UBO of legal entities (including, through shares, voting rights, property rights, bearer shares, or control via other means) are explicitly obliged to provide such legal entities with all necessary information for the latter to comply with their AML/CFT obligations. Under the previous regime only the legal entities had the obligation to collect the necessary information.

#### b. Access of the public to the Central UBO Register

Law 4734 differentiates on the level of access that the public may have to the information on UBO registered with the Central UBO Register depending on whether the person has a legitimate interest or not. In particular:

- the public may request, without having any legitimate interest, access to: the name, month and year of birth, country of residence, nationality of the UBO as well as the nature and extent of the beneficial interests the UBO holds; and
- the public must prove a legitimate interest in order to obtain a prosecutor’s order which will allow access to additional information on the UBO (including, the full date of birth or contact details).

However, the UBO has still the right, as it was the case under the previous framework, to justifiably request the restriction of access to all or part of the information held with the Central UBO Register, to the extent that such access would expose the UBO to a disproportionate risk of fraud, kidnapping, blackmail, violence or intimidation, or where the UBO is a minor or otherwise incapable.

#### c. UBO of trusts

Law 4734 provides that trustees or natural persons holding equivalent or similar positions who either manage a trust in Greece or reside in Greece and are subject to income tax declaration are obliged to collect and keep adequate, accurate and up-to-date information in relation to UBO of trusts (or similar arrangements) in a specific (internal) register. It is not clear though, how such provisions would apply, given that the concept of trusts is not recognized in Greece and, therefore, there are no trusts established or managed in Greece. Additionally, in practice, trustees are not subject to income tax declaration in Greece, since they do not bear any income tax liability for any Greek source income earned by the trust. Further guidelines are expected by the Ministry of Finance to this end.

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