



Conférence ALCO-ALJB- PWC

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LE GOUVERNEMENT
DU GRAND-DUCHÉ DE LUXEMBOURG
Ministère de la Justice



- July 2019: banking system hit by a massive money-laundering scandal
- A growing consensus for improvements of the framework:
 - diverse implementation and interpretation
 - insufficient enforcement instruments
 - significant differences in the AML/CFT supervision
 - difficulties in the cooperation between FIUs



- Regulation means standardisation
- Requirements cannot be reduced but can still be increased:

“Member States should be able to impose additional requirements in limited cases where they are confronted with specific risks” – (Whereas(26))

- Art. 34.6 - Higher risk situations
- Art. 52.2 - Categories of corporate entities that are exposed to higher AML/FT risks

3. Legislative impact: next steps



- Recast of the law of 12 November 2004
- Potential new law on the FIU, or amendments to the law on judicial organisation
- Amendments to the law of 13 January 2019 on the Beneficial Owner Register
- Amendments to the Criminal Code - new primary offence: the violation and circumvention of EU restrictive measures



- Art. 52 - 6th AML directive:
 - “Where Member States decide to allow self-regulatory bodies to perform supervision of the obliged entities referred to in Article 3, points (3)(a) and (b), they shall ensure that the activities of such self-regulatory bodies in the performance of such functions are subject to oversight by a public authority.”



- Due diligence to be performed: what's new ?
 - occasional transaction of a value of at least EUR 10 000
 - when participating in the creation of a legal entity, the setting up of a legal arrangement or in the transfer of ownership of a legal entity, irrespective of the value of the transaction
 - when the professional has doubts as to whether the person he faces is really the customer or person authorised to act on behalf of the customer.



- Due diligence: Requirements related to targeted financial sanctions
 - verifying whether the customer or the beneficial owners are subject to targeted financial sanctions
 - verifying whether natural or legal persons subject to targeted financial sanctions control the legal entity (client or BO) or have more than 50 % of the proprietary rights of that legal entity or majority interest in it, whether individually or collectively;



- New EDD requirements:
 - Cross-border correspondent relationships for crypto-asset service providers with a correspondent entity not established in the Union
 - High-net worth individuals
 - clients whose wealth is exceeding €50 million, **and** whose assets under management are exceeding €5 million **and** where business relationship is identified as high risk



- New EDD: High-net worth individuals
 - To whom? credit institutions, financial institutions and trust or company service providers
 - What ? Financial, investable and real estate assets
 - New obligations :
 - procedures to mitigate specific risks
 - obtaining additional information on the source of funds
 - preventing and managing conflicts of interest

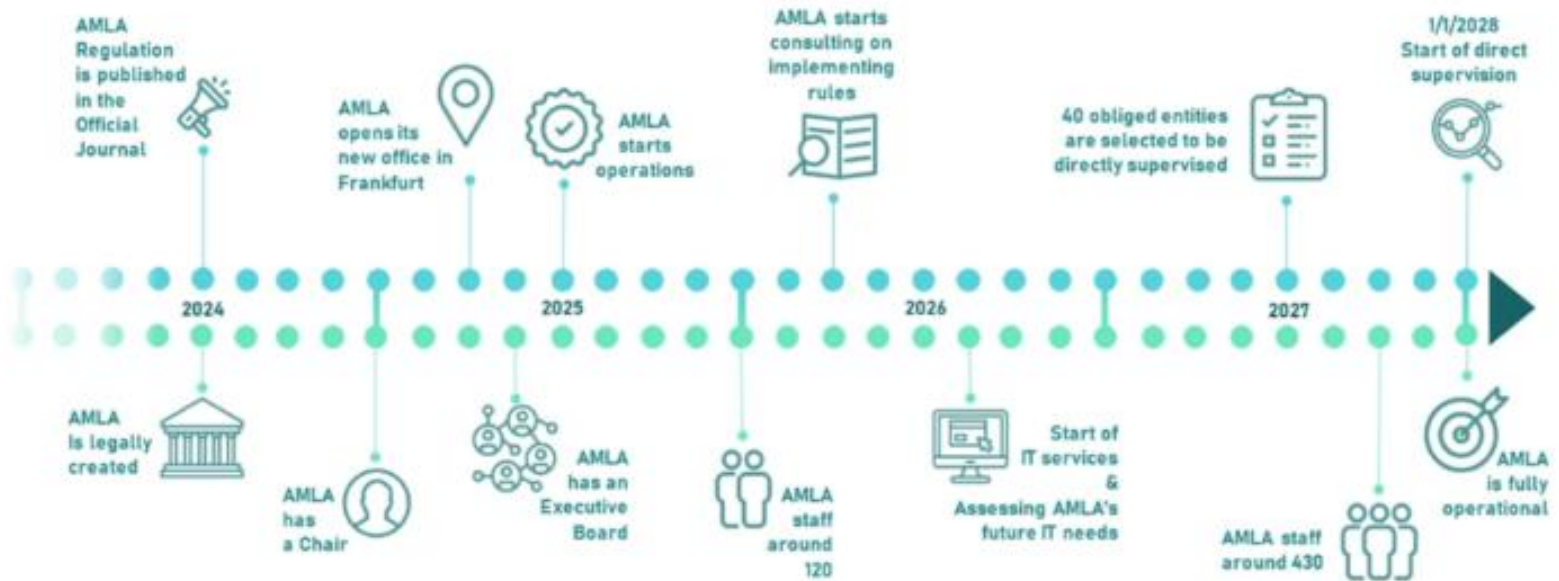


- Beneficial ownership:
 - two components - **ownership interest** and **control**, assessed independently and in parallel
 - threshold remains 25%
 - all shareholdings at every level of ownership shall be considered
 - Legal entities established outside the EU are required to register their beneficial ownership when they have a link with the EU
 - reporting of discrepancies with information contained in beneficial ownership register



The new AML/CFT Regulation, the sixth AML/CFT Directive and the future EU AML/CFT supervisor

TIMELINE





Thank you for your attention

