

The 3rd EU Money Laundering Directive

Following recent initiatives to comply with requirements such as Basel II and the Consumer Protection Code, the scheme for the Criminal Justice (money laundering) Act 2008 has been published.

The scheme for the Bill was issued by the Department of Justice, Equality and Law Reform in February of this year. The primary objective of the proposed bill is to set out the new provisions that will give effect to the 3rd EU Money Laundering Directive (2005/60/EC).

The directive itself was approved in 2005 to strengthen the prevention mechanisms relating to money laundering and terrorist financing in the financial system. The window for comments on the draft scheme closed 15th April 2008.

What has changed?

There are a number of changes in the new scheme over and above the existing anti money laundering regime.

Some of the headline changes include

- The identification of the **beneficial ownership**:

The onus is on institutions to understand who the beneficial owner of a business relationship is. Simplistically, the beneficial owner in case of a corporate entity is the person(s) who ultimately own or control the entity. In the case of entities such as trusts the beneficial owner might be the future beneficiaries.

- **Continuous** customer **due diligence**:

Traditionally the bulk of due diligence was conducted during the establishment of the business relationship. Under the proposed changes continuous monitoring of the business relationship, including scrutiny of transactions is required.

- The introduction of a **risk based approach** (as appropriate):

The extent to which due diligence need be applied can be offset by implementing a risk based approach depending on knowledge of the customer, the business, and the risk profile of the transaction (for example: source of funds). Risk levels can also be assigned based on the type or nature of product.

- Identification of **politically exposed persons** (or PEPs) residing in another member state:

Politically Exposed Persons (PEP's), are persons who are or have been entrusted with prominent public functions (ministers, Dail members, ambassadors, management or supervisory bodies of State-owned enterprises, etc). PEP's include immediate family members and persons known to be close associates. The requirement under the proposed bill is to apply a risk based approach in the determination of PEP's and ensure senior management approval for the establishment of such business relationships with such individuals.

- Greater protection of employees in making reports:

Finally the bill offers increased protection to employees making suspicious transaction reports, so long as they have followed the internal reporting procedures of the organisation.

Curach Consulting - The Academy, 42 Pearse Street, Dublin 2.
Tel: + 353 1 2459000 Fax: + 353 1 2459001 Web: www.curach.com



What's needed to comply?

At a minimum a gap analysis of existing processes and procedures is necessary to determine the exact changes required.

This gap analysis will detail the extent to which internal processes and procedures will need to be updated or changed.

For Example: Existing due diligence practices will need to change to accommodate continuous monitoring. Using a combination of product/transaction profiling should reduce the volume of business relationship assessments that will need to be completed.

How can Curach Help?

Curach consultants have extensive financial services experience and knowledge. This is complimented through specific experience in implementing Basel II, Sarbanes Oxley and CPC requirements for financial institutions.

Without unnecessary disruption to the business, Curach will conduct a concise and targeted gap analysis to establish the gaps that must be filled to comply with the new provisions. The output of the assessment is a clear and actionable plan that can be implemented by the business directly.

A typical Analysis-to-Plan exercise takes just 4 weeks, specific deliverables include:

- Assessment of current processes
- Inventory of process gaps
- New process maps
- Implementation plan

For Further information on the full range of the services that Curach provide call us on: 01-2459000

The information contained herein is provided by Curach Consulting and is intended to provide general information and is not intended to constitute legal, investment, consulting or other professional advice or services.

Curach Consulting - The Academy, 42 Pearse Street, Dublin 2.
Tel: + 353 1 2459000 Fax: + 353 1 2459001 Web: www.curach.com

ENABLING HIGHER
BUSINESS PERFORMANCE

