

Ireland adopts the 3rd EU Money Laundering Directive

Following a delay of more than two years, the 3rd EU Money Laundering Directive (“the Directive”) was finally enacted into Irish legislation under the Criminal Justice (Money Laundering and Terrorist Financing) Bill 2009 by President Mary McAleese on 7th May 2010.

For those involved in the Irish investment funds industry, it is a welcome end to a piece of legislation that has involved protracted discussion at government level.

The new act now provides for one consolidated piece of national anti-money laundering legislation. It also gives effect to the recommendations of the Financial Action Task Force (“FATF”), the foremost international body developing standards to fight against money laundering and terrorist financing.

The new act will be of particular relevance to service providers dealing with investors in investment funds. Furthermore, money laundering reporting officers, compliance officers and directors will need to get to grips with the legislation and its relevant guidance notes issued by the Irish Financial Services Regulatory Authority. The new act places a requirement on the investment funds industry to have relevant and robust risk assessment systems in place to

- a) prevent the misuse of the investment fund industry to cleanse and channel money derived from crime and terrorist financing;
- b) recognise and report money laundering and terrorist financing;
- c) protect the personal obligations borne by each individual under the legislation.

The risk preventative and transparency measures of the new act, such as Enhanced Due Diligence on Politically Exposed Persons (PEPs) and utilising a risk based approach for customer due diligence are new. Also new will be the requirement to identify and verify the beneficial ownership or controlling persons behind less transparent legal structures. These new obligations will involve some practical changes to current anti-money laundering (“AML”) procedures for the investment funds industry. All employees within the investment fund industry should also undergo new AML training to ensure that they are aware of their personal obligations.

The good news, however, is that Ireland is now finally on a level playing field with the majority of other EU jurisdictions that have already implemented the Directive.

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