

FINNIUS

Impact of EU AML package on Action Plan on Money Laundering

30 April 2024

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The Minister of Finance [informed](#) the House of Representatives on 16 April 2024 of the impact of the EU AML package on the bill that implements parts of the Action Plan on Money Laundering (the “**Bill**”). The Bill was introduced in October 2022, and contains, *inter alia*, the following measures:

1. a prohibition for traders in goods to enter into cash transactions above EUR 3 000. This group of traders would, after the enactment of the Bill, no longer fall within the scope of the Wwft;
2. allowing data sharing between institutions belonging to the same category in the context of customer due diligence in the event of a higher risk of money laundering or terrorist financing; and
3. enabling joint monitoring of transactions by banks (in addition to the existing legal duty for banks to monitor transactions individually).

The EU AML package adopted by the European Parliament on 24 April 2024 (see [link](#)) has implications for the Bill. We discuss these – briefly – below:

1. **ban on cash payments for goods above EUR 3 000:** the new AML Regulation introduces a ban on cash payments above EUR 10 000 for natural or legal persons trading in goods or providing services. In addition, the obligation to conduct customer due diligence remains intact. EU Member States may apply a lower limit nationally. It should be noted that the European prohibition has a broader scope than the intended Dutch prohibition because (i) the European prohibition also applies to service providers, and (ii) the obligation to conduct customer due diligence continues to exist under the EU AML package. The Minister has indicated that he does not want to incorporate this upcoming change in the Bill (see also below).
2. **data sharing between institutions in the context of customer due diligence:** the new AML Regulation does not contain a similar obligation. Since the regulation provides for maximum harmonization, it is unlikely that this particular proposal could proceed. The minister is investigating whether this data sharing might be possible via an alternate route (see below); and
3. **joint transaction monitoring by banks:** the AML Regulation introduces a basis for data sharing. All gatekeepers are empowered to set up a joint data sharing facility. In these joint facilities, however, not all transaction data can be shared, but only the data of clients associated with higher risk or clients about whom additional information needs to be collected to determine whether they may be associated with higher risk. EU Member States may impose additional safeguards under the GDPR. However, these safeguards must not go so far as to make these provisions effectively impossible.

Furthermore, the minister stated in response to Parliamentary questions that he sees room under the EU AML package to continue the Dutch practice of reporting unusual transactions to the FIU instead of reporting suspicious transactions. The implementation period will be used to see what is possible and/or necessary in addition to the – comprehensive – package.

Follow-up Bill

Bearing in mind the upcoming implementation of the EU AML package, the minister has proposed to proceed with the proposal to ban cash payments above EUR 3 000. This will not anticipate the upcoming prohibition of cash payments when providing services. The remaining provisions will be deleted, and taken into account when implementing the EU AML package. The Finance Committee of the House of Representatives has accepted this proposal.

As mentioned, the minister will use the implementation period to map out the precise consequences of the EU AML package on Dutch anti-money laundering regulations and implementation practice. The minister has, however, already given a first indication. Since most of the obligations for Wwft institutions will be covered by the AML Regulation, a large part of the current Wwft will have to be scrapped. It is anticipated that most of the EU AML package will enter into force in the spring of 2027, together with the national transpositions. It is important that market participants continue to monitor developments and start preparing for the implementation of this extensive package.

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