

FINNIUS

Implementation Act AMLD5

3 July 2019

 2 MINUTES

Introduction

On 2 July 2019, the Dutch Minister of Finance submitted the [Implementation Act amending the fourth anti-money laundering directive](#) to the House of Representative (link only available in Dutch). The legislative proposal transposes a large part of the provisions included in [Directive 2018/843](#) (AMLD5) into the Dutch Money Laundering and Terrorist Financing (Prevention) Act (Wwft). The legislative proposal, inter alia, regulates:

- a broader scope of the Wwft, which means that new service providers fall under the Wwft (in particular crypto service providers);
- an expansion of the customer due diligence (CDD) measures with respect to prepaid payment instruments (e-money);
- a compulsory set of enhanced CDD measures with respect to third countries with high risk on money laundering or terrorist financing;
- the introduction of a list of prominent public functions;
- a better exchange of information between the relevant supervisors.

A number of elements of the legislative proposal are conspicuous in contrast to the draft legislative proposal from December 2018 (see also our [news item](#) of 13 December 2018).

No license requirement for crypto service providers

The legislative proposal introduces, instead of a license requirement, an obligation to register for the providers of virtual currency exchange platforms and custodian wallet providers (hereinafter: crypto service providers). The obligation to register applies to every crypto service provider that focuses on the Dutch market, and therefore also to the crypto service provider that offers services from another Member State or third country in the Netherlands, regardless of whether the crypto service provider is already registered in that other Member State or third country.

Obligation to register with DNB

The crypto service providers cannot start (or continue) their service provision in or from the Netherlands without being registered with DNB. For registration is, in any case, required that the day-to-day policymakers and the holders of a qualifying holding (in brief: holders of 10% or more of the shares or votes in the crypto service providers) pass the fitness and propriety assessment of DNB. DNB may refuse registration if it is not convinced of the data supplied with the registration or if the day-to-day policymakers and/or the holders of the qualifying holding do not pass DNB's fitness and propriety assessment. In addition, DNB may cancel the registration if a crypto service provider does not meet the requirements set out in the Wwft or the Sanctions Act 1977.

Transitional regime

For existing crypto service providers, a transitional regime of six months is included, during which they do not have the obligation to register. They must have registered with DNB before the end of the period. During this transition period the crypto service providers must, however, adhere to the material obligations of the Wwft.