FINNIUS

Towards the AMLR

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4 MINUTES

On 10 July 2027, the Regulation on the prevention of the use of the financial system for money laundering or terrorist financing (AMLR) will – at long last – come into force. This marks the culmination of a European legislative process that began in July 2021, when the European Commission announced a comprehensive package of measures relating to the prevention of money laundering and terrorist financing. In addition to the AMLR, this package comprised two other regulations and the Sixth Anti-Money Laundering Directive (AMLD6).

The AMLR has a very broad scope and will have a significant impact on day-to-day operations. Although 10 July 2027 may still seem a relatively long way off, a business can never start early enough to assess the impact of the AMLR on its operations. Through this blog series, we aim to help businesses get started on this journey. Through a series of blogs to be published in the coming period on the Finnius website and LinkedIn, we will guide businesses through the key changes that are on the horizon.

Background

For the connoisseurs amongst us: the European legislator has now explicitly chosen to enshrine the anti-money laundering rules in a regulation. From 1991 to 2019, (European) anti-money laundering measures were set out in directives. These directives gave Member States the leeway to adopt their own more detailed or supplementary measures. This resulted in a patchwork of rules and interpretations that varied from country to country. With the introduction of the AMLR, the European Commission aims to put an end to this fragmentation, not least with a view to creating a single, integrated internal market and given that money laundering and terrorist financing occur across borders. That is why the legislative instrument of a regulation has been chosen, which has direct effect throughout the Union.

The Dutch context

For the time being, we in the Netherlands are familiar with the Act on the Prevention of Money Laundering and Terrorist Financing (the Wwft). The Wwft will cease to apply on 10 July 2027 and, if the Dutch government has its way, will be entirely replaced by the Implementation Act on the Prevention of Money Laundering and Terrorist Financing (the Iwt). The Iwt is, to put it bluntly, nothing more than a framework act. As regards the substantive obligations, from 10 July 2027, reference must be made to the AMLR and all rules and interpretations issued in connection with it.

The extensive Dutch interpretations under the Wwft, insofar as a new European alternative exists, will therefore no longer be relevant. The parliamentary history of the Wwft and its predecessors will also no longer be relevant, or at least only to a limited extent, for the interpretation of certain rules. There is also a role here for the new European supervisory authority (the AMLA). The AMLA will be the primary authority to which one looks for the interpretation of the open-ended standards under the AMLR. The AMLA’s view will be guiding from July 2027. National supervisory authorities such

as the AFM and DNB will have to realign themselves with the guidance provided by the AMLA. Their role as integrity supervisors is expected to diminish in importance as the AMLA assumes its supervisory role. The AMLA will ultimately exercise direct supervision over approximately 40 entities. All other entities will remain under direct local supervision, but under the indirect supervision of the AMLA. It remains to be seen what the AFM and DNB will do with their current Wwft guidance documents, which currently constitute a very important source of guidance for supervised institutions. This will become clear in the coming period.

Key changes

The AMLR determines which group of institutions will fall within its scope. It is noteworthy that the European legislator has chosen to extend the scope of the AMLR. A subsequent blog will examine this new and broader scope of the AMLR in more detail, but for now it is worth bearing in mind that certain holding entities, football agents and professional football clubs will, in certain circumstances, fall within the scope of the AMLR. In addition to its scope, the AMLR also addresses, for example, a number of governance obligations and the specific measures an institution must take to prevent money laundering and terrorist financing (primarily customer due diligence and transaction monitoring). Compared with the current framework, the AMLR also sets out new or more detailed rules on these topics. These developments will also be discussed in more detail in a future blog post.

Outlook

Over the coming months, blogs will be published periodically for interested readers. The blogs will, in any case, be published on the Finnius website and via LinkedIn. Those interested can also sign up to receive email notifications of new blog posts in future.

For now, it is advisable to check whether your organisation already falls within the scope of the Wwft, and whether the introduction of the AMLR will change this. Furthermore, the (draft) guidelines that the AMLA is currently publishing at a rapid pace on its website serve as a useful reference for how the AMLR will actually play out in practice. This will have an impact on internal policies and procedures.

We hope you enjoy reading this. Should you have any questions in the meantime about the AMLR, or this blog series in particular, please contact Pim Smith or Tim de Wit.

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