

# VinciWorks

## Fourth Money Laundering Directive

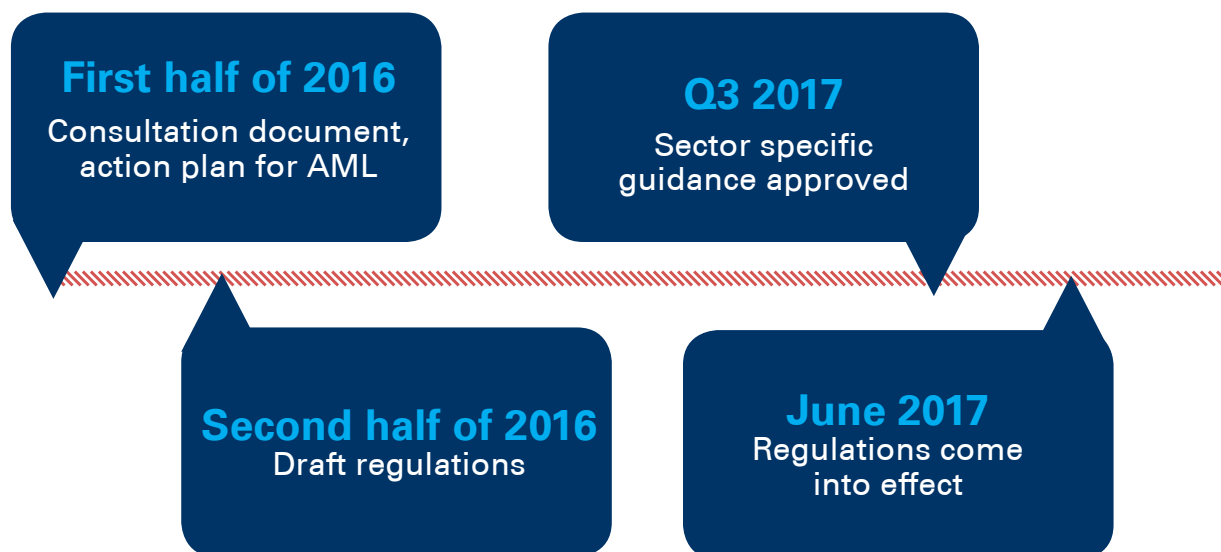
What you need to know

The European Union's Fourth Anti-Money Laundering Directive came into force on 26 June 2015. It requires European member states to update their respective money laundering laws and incorporate the EU requirements by 26 June 2017.

On 26 June 2017 the Money Laundering Regulations 2017 came into affect, replacing the previous regulations and amending the Proceeds of Crime Act 2002. The 2017 Regulations brought the UK's money laundering laws into line with the Fourth Directive.

The Directive also has some fundamental changes to the anti-money laundering procedures, including changes to Customer Due Diligence (CDD), a central register for beneficial owners and a focus on risk assessments. However, with proper preparation and training, following the new regulations should not be a significant burden.

# Timeline



## What has changed?

### Changes to CDD

- CDD is required by anyone trading goods in cash with a value over €10,000 (previous level was €15,000)
- CDD by casinos where customers wish to place a stake or collect winnings of at least €2,000

### Enhanced measures for local PEPs

The rules for politically-exposed persons (“PEPs”) are no longer limited to those outside the UK. British-based PEPs will now be subject to the same scrutiny as foreign PEPs. The Directive notes that these rules are preventative and PEPs should not be stigmatised as being high risk.

The requirements relating to politically exposed persons are of a preventive and not criminal nature, and should not be interpreted as stigmatising politically exposed persons as being involved in criminal activity. Refusing a business relationship with a person simply on the basis of the determination that he or she is a politically exposed person is contrary to the letter and spirit of this Directive and of the revised FATF Recommendations.

## Central register of beneficial ownership

Under the new rules, organisations will have to maintain a register of their beneficial ownership which must be made available to the government. Banks, law firms, anyone that can demonstrate a “legitimate interest” will be able to access this register which will be maintained in each EU country.

## No automatic exemption from enhanced CDD

Under the Third Directive, firms were able to automatically apply simplified CDD in the following circumstances:

- Credit or financial institutions who already follow approved money laundering rules
- Companies whose securities are listed on a regulated market UK
- UK public authorities
- UK pension schemes

Under the new rules, the exemption from enhanced CDD is not automatic. Firms can only use these circumstances as one part of a justification for simplified CDD, and that decision must be backed up by evidence.

## Emphasis on a risk-based approach

The new rules place a much stronger emphasis on risk-based approaches to money laundering. It encourages countries to undertake national risk assessments, firms to develop risk-based policies, and for everyone to conduct CDD in a risk-based manner. Firms will have to:

- Conduct up-to-date risk assessments that include high-risk factors such as country of origin, transaction history, or delivery channel
- Comprehensive risk-based money laundering policies
- Internal testing and auditing of procedures
- Train on money laundering and keep training records

## Expands beyond the EU borders

Law firms based in the EU who operate in other countries where the minimum money laundering requirements are less strict than those of their home country must ensure their non-EU operations follow their home country rules.

# What does this mean practically?

- Potentially easier CDD process with access to register of beneficial owners, although firms will not be allowed to rely solely on the register for CDD.
- Firms and banks will no longer be able to apply simplified due diligence to pooled client accounts. The Law Society believes that this has severe implications for the profession and it is lobbying the government to change that provision.
- The new rules strongly encourage national risk assessment. The recent UK national risk assessment found that law firms are high-risk targets for money laundering and that CDD processes and policies were weak. This new rules will likely bring even more scrutiny to processes at law firms.

# What should firms do to prepare?

Start to roll out your new AML training now. The training should include:

- Changes incorporated in the Fourth Directive
- How to perform and document a risk-based assessment of money laundering
- How to access the beneficial ownership registry
- MLRO's should perform and document an internal risk assessment
- MLRO's should update policies to reflect changes to the directive and incorporate a risk-based approach
- MLRO's should consider adding an audit function to test procedures
- All new policies should be reviewed and approved by senior management

# Other money laundering news on the horizon

The Home Office is reviewing its Suspicious Activity Reports (SARs) regime and an action plan is expected soon. Over 350,000 reports were submitted last year, with only 1% submitted by lawyers.

FATF mutual evaluation expected in Mar/Apr 2018

Yehuda Solomont is the Director of Marketing at VinciWorks. VinciWorks provides money laundering training to over 40,000 solicitors. A new money laundering course will be available soon that covers these key changes.

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