

# Track Changes

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August 2020

## AMENDMENT OF THE ROMANIAN ANTI-MONEY LAUNDERING LAW & ENVISAGED CHANGES REGARDING KNOW YOUR CLIENT MEASURES

### BACKGROUND ON THE AMENDMENT OF THE ROMANIAN AML LAW

The Romanian AML Law (Law No.129/2019) ensures national transposition of the Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing ("AMLD 4").

On 9 July 2018, the Directive (EU) 2018/843 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing ("AMLD 5") came into force. EU Member States were required to implement AMLD 5 into their national legislation by 10 January 2020.

Given the above requirement, the Romanian Government considered the implementation of the legislative measures necessary for Romania to align with the provisions of AMLD 5. In this respect, the Government Emergency Ordinance no. 111/2020, which amends the Romanian AML Law, was published in the Official Gazette of Romania and entered into force on 15 July 2020 ("GEO 111/2020").

The intended amendments to the Romanian AML brought by the GEO 111/2020 include, among other things, new provisions to increase transparency regarding the beneficial owner, stricter controls of transactions with customers located in high-risk third countries, the restriction of the anonymous use of virtual currencies, and enhanced cooperation and information sharing between financial supervisory authorities.

### ENVISAGED CHANGES CONCERNING KYC MEASURES

Some of the projected changes of the Romanian AML Law refer to KYC measures that must be applied by the reporting entities.

Thus, the standard KYC measures will apply in two new cases:

- i. When there is a suspicion of money laundering or terrorist financing, regardless of the incidence of the provisions derogating from the obligation to apply the KYC measures laid down in the law and the value of the transaction;
- ii. If there is doubt as to whether the identification information already held about the customer or the beneficial owner is genuine or sufficient.

Reporting entities will also be required to apply KYC measures with regard to e-money transactions.

Additionally, whenever reporting entities enter into a new business relationship with entities which are subject to the obligation to register information about the beneficial owner, they must obtain a proof of beneficial owners' registration or information from the central registries of beneficial owners.

When applying additional KYC measures, reporting entities will be required to analyse the context and purpose of all transactions that meet at least one of the following conditions:

- i. they are complex transactions;
- ii. they are transactions with unusually high values;
- iii. they do not fit the usual pattern;
- iv. they have no obvious economic, commercial or legal purpose.

In any of these cases, the degree and nature of monitoring the business relationship will be increased in order to determine whether the respective transactions or activities are suspicious.

GEO 111/2020 also adds other requirements for customers and transactions that entail the application of additional measures, respectively regulates additional obligations and prohibitions on business relationships or transactions involving high-risk third countries.

As an update, a bill for the approval of GEO 111/2020 was submitted by the Romanian Government, by address L444/2020, for analysis by the Romanian Senate commissions. Following their analysis, a bill on the rejection of GEO 111/2020 was adopted by the Romanian Senate, on 11 August 2020, and sent for debate to the Romanian Deputy Chamber. The Romanian Senate is the first legislative Chamber in the approval process.

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