

FIFTH MONEY LAUNDERING DIRECTIVE

The Fifth Money Laundering Directive (EU) 2018/843 ("MLD5") which amends MLD4 entered into force on 9 July 2018. EU Member States have to transpose it into national law by 10 January 2020. The full text is contained in the [Directive \(EU\) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive \(EU\) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and amending Directives 2009/138/EC and 2013/36/EU](#).

MLD5 was drafted partly as a response to the terrorist attacks that shook Europe in 2015 and 2016 in Paris and Brussels, along with the Panama Papers leak which revealed the chink in the armour of the European Union's fight against terrorist financing.

As a result, MLD5 main goals are to (i) counteract terrorist financing; and (ii) increase transparency of financial transactions.

What is the purpose of the MLD5?

- It improves co-operation between EU FIUs (financial intelligence units) and their access to information including centralised bank account registers;
- Enhances due diligence requirements for financial transactions to and from high-risk third countries;
- Addresses risks associated with the use of pre-paid cards and virtual currencies; and
- Widens access to the central beneficial ownership registers (introduced by MLD4) for companies and other legal entities to the general public (but not for trusts, which will still require demonstration of a legitimate interest).

How will MLD5 facilitate the increase of transparency in financial transactions?

MLD5 will introduce the following radical reforms to improve transparency:

1. Centralised Beneficial Ownership Register to be extended to certain trusts and similar arrangements and Member States to allow access to information on corporate and other legal entities through centralised registers with a clear rule of public access, in order to allow identification of who the beneficial owners are of such entities
2. Closer scrutiny and enhanced due diligence involving nationals from risky countries

3. Open access to beneficial ownership register of all companies operating in the EU should assist in the prevention of the use of letterbox companies to launder money
4. Extension of the scope of industries subject to MLD5 such as art dealers, tax advisors, crypto currency exchanges
5. Reduction in the transaction threshold for customer identification verification for anonymous prepaid cards from €250 to €150 – note that the rental cars used in the terrorist attacks in France in 2016 were paid for with anonymous prepaid cards.
6. When a crypto currency holder seeks to convert their currency to Euro, the European banks will be required to exercise due diligence and verify the customer's identification
7. Enhancement of EU Financial Intelligence Units powers and their access to financial information, requiring the establishment of centralised national bank and payments account registers or central data retrieval systems
8. Greater protection for whistleblowers of money laundering, including anonymity

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