

THE FOURTH ANTI MONEY LAUNDERING DIRECTIVE (“4AMLD”) VS. PROPOSED REVISIONS (“5AMLD”)

For further information see: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/607260/EPRS_BRI\(2017\)607260_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/607260/EPRS_BRI(2017)607260_EN.pdf)

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PROPOSED REVISIONS TO THE 4AMLD

REFERENCES:

4AMLD: Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015

July 2016: Reference to Draft report on the proposal for a directive of the European Parliament and of the Council 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 Directive 2009/101/EC, Strasbourg 5 July 2016.

EC 2016: Amendments forming the negotiating mandate of the European Council, 13 December 2016.

EP 2017: Text of proposed amendments agreed by the European Parliament Committees on Economic and Monetary Affairs and Civil Liberties, Justice and Home Affairs Report, 9 March 2017.

Trilogue negotiations currently underway involve the EC 2016 and EP 2017 proposals.

New or replacement text proposed is written in **bold text**.
 Deleted text is written in ~~strike-through~~ text.
 My (*Samantha Sheen, European Director of AML, ACAMS*) comments are in **blue**.

1. OBLIGED ENTITIES

Changes	Article 2(1)(3)
4AMLD	This Directive shall apply to the following obliged entities: (1) credit institutions; (2) financial institutions; (3) the following natural or legal persons acting in the exercise of their professional activities: (a) auditors, external accountants and tax advisors; (b) notaries and other independent legal professionals... (c) trust or company services providers not already covered under point (a) or (b); (d) estate agents; (e) other persons trading in goods to the extent that payments are made or received in cash in an amount of EUR 10 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked; (f) providers of gambling services;
July 2016	Proposed the addition of the following entities: (g) providers engaged primarily and professionally in exchange services between virtual currencies and fiat currencies;

Changes	Article 2(1)(3)
	(h) wallet providers offering custodial services of credentials necessary to access virtual currencies.
EC 2016	<p data-bbox="412 285 831 312">Proposal to add the following entities:</p> <p data-bbox="412 328 1384 355">(g) providers engaged in exchange services between virtual currencies and fiat currencies;</p> <p data-bbox="412 360 734 387">(h) custodian wallet providers</p>
EP 2017	<p data-bbox="412 397 1245 424">Proposal to incorporate additions in July 2016 along with additional changes:</p> <p data-bbox="412 440 1680 467">(a) auditors, external accountants and tax advisors, and any other persons offering tax-related services and advice;</p> <p data-bbox="412 483 1014 510">(b) notaries and other independent legal professionals</p> <p data-bbox="412 526 1312 553">(c) trust or company services providers not already covered under point (a) or (b);</p> <p data-bbox="412 569 869 596">(d) estate agents including letting agents;</p> <p data-bbox="412 612 2085 671">(e) other persons trading in goods or services to the extent that payments are made or received in cash in an amount of EUR 10 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;</p> <p data-bbox="412 687 790 715">(f) providers of gambling services;</p> <p data-bbox="412 730 1720 758">(g) providers engaged primarily and professionally in exchange services between virtual currencies and fiat currencies;</p> <p data-bbox="412 774 1505 801">(h) wallet providers offering custodial services of credentials necessary to access virtual currencies;</p> <p data-bbox="412 817 2051 876">(ha) persons trading in works of art, art gallerists, auction houses and platforms for storing, servicing and trading in works of art and other valuables (for example freeports);</p> <p data-bbox="412 892 922 919">(hb) electronic money issuers and distributors</p>

2. BENEFICIAL OWNERSHIP

Changes	Article 3(6)(a) - Corporate Entities
4AMLD	<p>‘beneficial owner’ means any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted and includes at least:</p> <p>(a) in the case of corporate entities:</p> <p>(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, or through control via other means, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Union law or subject to equivalent international standards which ensure adequate transparency of ownership information.</p> <p>A shareholding of 25 % plus one share or an ownership interest of more than 25 % in the customer held by a natural person shall be an indication of direct ownership. A shareholding of 25 % plus one share or an ownership interest of more than 25 % in the customer held by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership. This applies without prejudice to the right of Member States to decide that a lower percentage may be an indication of ownership or control. Control through other means may be determined, inter alia, in accordance with the criteria in Article 22(1) to (5) of Directive 2013/34/EU of the European Parliament and of the Council;</p> <p>(ii) if, after having exhausted all possible means and provided there are no grounds for suspicion, no person under point (i) is identified, or if there is any doubt that the person(s) identified are the beneficial owner(s), the natural person(s) who hold the position of senior managing official(s), the obliged entities shall keep records of the actions taken in order to identify the beneficial ownership under point (i) and this point;</p>
July 2016	<p>Proposed that an additional subparagraph be added to 3(6)(a)(i):</p> <p>For the purposes of Article 13(1)(b) and Article 30 of this Directive, the indication of ownership or control set out in the second paragraph is reduced to 10% whenever the legal entity is a Passive Non-Financial Entity as defined in Directive 2011/16/EU.</p>
EP 2017	<p>Proposal for additional amendments to the 4AMLD text; does not adopt amendment proposed in July 2016:</p> <p>‘beneficial owner’ means any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted and includes at least:</p> <p>(a) in the case of corporate entities:</p> <p>(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, or through control via other means, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Union law or subject to equivalent international standards which ensure adequate transparency of ownership information.</p> <p>A shareholding of 10 % plus one share or an ownership interest of more than 10 % in the customer held by a natural person shall be an indication of direct ownership. A shareholding of 10 % plus one share or an ownership interest of more than 10 % in the customer held by a corporate entity, which is under the</p>

	<p>control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership. This applies without prejudice to the right of Member States to decide that a lower percentage may be an indication of ownership or control. Control through other means may be determined, inter alia, in accordance with the criteria in Article 22(1) to (5) of Directive 2013/34/EU of the European Parliament and of the Council.</p> <p>Proposal to add the following paragraph to 3(6)(a):</p> <p>(ia) senior managers, nominee directors, administrators and other proxies or agents shall be identified as beneficial owners, unless they met the criteria of a beneficial owner.</p> <p>Proposed amendments to point (ii): (ii) if, after having exhausted all possible means, the entity fails to provide the identity of any natural person who meets the criteria set out in point (i), the obliged entities shall record that no beneficial owner exists and keep records of the actions taken in order to identify the beneficial ownership under point (i).</p> <p>Where there is any doubt that the person(s) identified are the beneficial owner(s), a record of that doubt shall be made. In addition, obliged entities shall identify and verify the identity of the relevant natural person who holds the position of senior managing official, who shall be identified as the "senior manager" (and not as "beneficial owner"), and record details of all legal owners of the entity;"</p>
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Changes	Article 3(6)(a)(ii) - Beneficial Ownership of Corporate Entities
4AMLD	(ii) if, after having exhausted all possible means and provided there are no grounds for suspicion, no person under point (i) is identified, or if there is any doubt that the person(s) identified are the beneficial owner(s), the natural person(s) who hold the position of senior managing official(s), the obliged entities shall keep records of the actions taken in order to identify the beneficial ownership under point (i) and this point;
July 2016	No amendments proposed to the above wording.
EP 2017	Proposal to make the following amendments: (ii) if, after having exhausted all possible means, the entity fails to provide the identity of any natural person who meets the criteria set out in point (i), the obliged entities shall record that no beneficial owner exists and keep records of the actions taken in order to identify the beneficial ownership under point (i). Where there is any doubt that the person(s) identified are the beneficial owner(s), a record of that doubt shall be made. In addition, obliged entities shall identify and verify the identity of the relevant natural person who holds the position of senior managing official, who shall be identified as the "senior manager" (and not as "beneficial owner"), and record details of all legal owners of the entity.

Changes	Articles 3(6)(b), 31(1) & 31(8) - Trusts and Other Legal Arrangements
4AMLD	3(6)(b) Beneficial owner' means any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted and includes at least:

Changes	Articles 3(6)(b), 31(1) & 31(8) - Trusts and Other Legal Arrangements
	<p>In the case of trusts:</p> <ul style="list-style-type: none"> (i) the settlor; (ii) the trustee(s); (iii) the protector, if any; (iv) the beneficiaries, or where the individuals benefiting from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates; (v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means; <p>31(1). Member States shall require that trustees of any express trust governed under their law obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust. That information shall include the identity of:</p> <ul style="list-style-type: none"> (a) the settlor; (b) the trustee(s); (c) the protector (if any); (d) the beneficiaries or class of beneficiaries; and (e) any other natural person exercising effective control over the trust. <p>31(8). Member States shall ensure that the measures provided for in this Article apply to other types of legal arrangements having a structure or functions similar to trusts.</p>
July 2016	<p>3(6)(b) – No amendments proposed.</p> <p>31(1) - Proposed the addition of the following subparagraph:</p> <p>Member States shall ensure that this Article applies to trusts and other types of legal arrangements having a structure or functions similar to trusts, such as, inter alia, fiducie, Treuhand or fideicomiso.</p> <p>Proposed the deletion of subparagraph 31(8).</p>
EC 2016	<p>Proposal to amend the added wording in July 2016 above:</p> <p>31(1) Member States shall ensure that this Article applies to trusts and other types of legal arrangements, such as, inter alia, fiducie, Treuhand or fideicomiso when having a structure and functions similar to trusts. Member States shall identify the characteristics to determine where legal arrangements have a structure and functions similar to trusts with regard to such legal arrangements governed under their law.</p>
EP 2017	<p>Proposal to further revise 3(6)(b):</p> <p>(b) in the case of trusts:</p> <ul style="list-style-type: none"> (i)the settlor(s); (ii)the trustee(s); (iii)the protector(s) if any,

Changes	Articles 3(6)(b), 31(1) & 31(8) - Trusts and Other Legal Arrangements
	<p>(iv) the beneficiaries, or where the individuals benefiting from the legal arrangements or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;</p> <p>(v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means.</p> <p>If any of the above categories (i) – (v) involves, instead of or in addition to natural persons, one or several entities, the beneficial owners of that entity, as defined in the paragraph above, shall in turn be considered as part of the beneficial owners of the trust.</p> <p>Proposed further revisions to 31(1):</p> <p>31(1) Member States shall ensure that this Article applies to trusts and other types of legal arrangements having a structure or functions similar to trusts, such as, inter alia, fiducie, Treuhand, waqf or fideicomiso, Stiftung, Privatstiftung, Usufruct Fiducia and all other similar, in terms of structure or function, existing or future legal arrangements. Member States shall define the characteristics to determine where legal arrangements have a structure or functions similar to trusts and other arrangements referred to in this subparagraph.</p> <p>Each Member State shall require that trustees of any express trust, or persons holding equivalent or similar positions in other types of legal arrangements as referred to in the first subparagraph, created, administered or operated in that Member State obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust. That information shall include the identity of all beneficial owners as referred to in points (b) and (c) of Article 3(6).</p>

3. VIRTUAL CURRENCIES

Changes	Article 3(18)
4AMLD	'electronic money' means electronic money as defined in point (2) of Article 2 of Directive 2009/110/EC.
July 2016	<p data-bbox="394 330 672 357">New definition proposed:</p> <p data-bbox="394 378 2078 437">'virtual currencies' means a digital representation of value that is neither issued by a central bank or a public authority, nor necessarily attached to a fiat currency, but is accepted by natural or legal persons as a means of payment and can be transferred, stored or traded electronically;</p> <p data-bbox="394 458 994 485">Proposal to amend the definition of 'electronic money':</p> <p data-bbox="394 505 2040 564">'electronic money' means electronic money as defined in point (2) of Article 2 of Directive 2009/110/EC, but excluding monetary value as referred to in Article 1(4) and (5) of that Directive;</p>
EC 2016	<p data-bbox="394 592 1140 619">Proposal to adopt definition in July 2016 above for electronic money.</p> <p data-bbox="394 633 1462 660">Proposal to replace July 2016 definition of 'virtual currencies' in 13(18) with the following wording:</p> <p data-bbox="394 675 2085 770">'virtual currencies' means a digital representation of value that can be digitally transferred, stored or traded and is accepted by natural or legal persons as a medium of exchange, but does not have legal tender status and which is not funds as defined in point (25) of Article 4 of the Directive 2015/2366/EC nor monetary value stored on instruments exempted as specified in Article 3(k) and 3(l) of that Directive';</p> <p data-bbox="394 785 1263 812">Proposal to include a definition for "custodian wallet provider" as Article 13(19):</p> <p data-bbox="394 826 2085 885">'custodian wallet provider' means an entity that provides services to safeguard private cryptographic keys on behalf of their customers, to holding, store and transfer virtual currencies;</p>
EP 2017	<p data-bbox="394 908 1290 935">Proposal to adopt wording in July 2016 with the following additional amendments:</p> <p data-bbox="394 956 2074 1051">'virtual currencies' means a digital representation of value that is neither issued by a central bank or a public authority, nor necessarily attached to a fiat currency, nor attached to a legally established currency, which does not possess the legal status of currency or money, but is accepted by natural or legal persons as a means of exchange or for other purposes, and can be transferred, stored or traded electronically.</p> <p data-bbox="394 1072 1189 1099">Proposal to adopt the definition of 'electronic money' in July 2016 above.</p> <p data-bbox="394 1114 1263 1141">Proposal to include a definition of of "electronic money issuer" as Article 3(18a):</p> <p data-bbox="394 1161 1637 1189">(18a) 'electronic money issuer' means an institution as defined in point (3) of Article 2 of Directive 2009/110/EC;</p> <p data-bbox="394 1209 1279 1236">Proposal to include a definition for "custodian wallet provider" as Article 13(18b):</p> <p data-bbox="394 1257 2040 1316">(19) "custodian wallet provider" means an entity that provides services to safeguard private cryptographic keys on behalf of their customers, to holding, store and transfer virtual currencies;</p>

Changes	Article 47(1) – Registration of E-Wallet Providers, E-Currency Exchanges
4AMLD	47(1) Member States shall provide that currency exchange and cheque cashing offices and trust or company service providers be licensed or registered and providers of gambling services be regulated.
July 2016	<p data-bbox="383 298 996 330">Proposed that existing wording be amended as follows:</p> <p data-bbox="383 330 2083 426">47(1). Member States shall ensure that providers of exchanging services between virtual currencies and fiat currencies, custodian wallet providers, currency exchange and cheque cashing offices, and trust or company service providers are licensed or registered, and that providers of gambling services are regulated.</p>
EC 2016	Proposal to adopt the revised wording in July 2016 above.
EP 2017	Maintains amended wording proposed in July 2016 above.

4. CDD AND IMMIGRATION

Changes	Article 5A
4AMLD	Directive did not address this topic.
July 2016	Proposed amendments did not address this topic.
EP 2017	<p>Proposal to add the following new Article:</p> <p>5A. Member States shall ensure that, in addition to obliged entities as laid down in this Directive, national authorities perform customer due diligence measures as described in Articles 13, 18a, 19 and 20 with regards to third country nationals who apply for residence rights or citizenship in the Member State under national laws which grant residence rights and/or citizenship to third country nationals in exchange of capital transfers purchase of property or government bonds or investment in corporate entities in that Member State.</p>

5. RISK ASSESSMENTS

Changes	Article 6
4AMLD	<p>1. The Commission shall conduct an assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities. To that end, the Commission shall, by 26 June 2017, draw up a report identifying, analysing and evaluating those risks at Union level. Thereafter, the Commission shall update its report every two years, or more frequently if appropriate.</p> <p>2.The report referred to in paragraph 1 shall cover at least the following:</p> <ul style="list-style-type: none"> (a) the areas of the internal market that are at greatest risk (b) the risks associated with each relevant sector; (c) the most widespread means used by criminals by which to launder illicit proceeds. <p>3. The Commission shall make the report referred to in paragraph 1 available to the Member States and obliged entities in order to assist them to identify, understand, manage and mitigate the risk of money laundering and terrorist financing, and to allow other stakeholders, including national legislators, the European Parliament, the ESAs, and representatives from FIUs to better understand the risks.</p> <p>4. The Commission shall make recommendations to Member States on the measures suitable for addressing the identified risks. In the event that Member States decide not to apply any of the recommendations in their national AML/ CFT regimes, they shall notify the Commission thereof and provide a justification for such a decision</p>
July 2016	No changes were proposed.
EP 2017	<p>Proposal to make the following amendments to points 2-4:</p> <p>2.The report referred to in paragraph 1 shall cover at least the following:</p> <ul style="list-style-type: none"> (a) the areas of the internal market that are at greatest risk

	<p>(b) the risks associated with each relevant sector, including estimates of the monetary volumes of money-laundering for each of those sectors;</p> <p>(c) the most widespread means used by criminals by which to launder illicit proceeds, including those particularly used in transactions between Member States and third countries, independently of the latter’s classification as regards the list drawn up on the basis of Article 9(2).</p> <p>3.The Commission shall make the report referred to in paragraph 1 available to the Member States and obliged entities in order to assist them to identify, understand, manage and mitigate the risk of money laundering and terrorist financing, and to allow other stakeholders, including national legislators, the European Parliament, the ESAs, and representatives from FIUs to better understand the risks. Reports shall be made public six months after having [sic] made available to Member States.</p> <p>4.The Commission shall make recommendations to Member States on the measures suitable for addressing the identified risks. In the event that Member States decide not to apply any of the recommendations in their national AML/ CFT regimes, they shall notify the Commission thereof and provide a justification for such a decision. If either the justification provided by a Member State is not deemed satisfactory with the purpose of ensuring a strong AML regimes across the Union or a Member State continues failing to enforce measures to comply with those recommendations, the Commission might additionally recommend that Member States require obliged entities to apply enhanced customer due diligence measures when dealing with natural persons or legal entities operating in a sector or carrying out activities which are identified to be at high risk of money laundering and terrorist financing.</p>
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6. ANONYMOUS ACCOUNTS

Changes	Article 10
4AMLD	Member States shall prohibit their credit institutions and financial institutions from keeping anonymous accounts or anonymous passbooks. Member States shall, in any event, require that the owners and beneficiaries of existing anonymous accounts or anonymous passbooks be subject to customer due diligence measures as soon as possible and in any event before such accounts or passbooks are used in any way.
July 2016	No changes were proposed.
EP 2017	Proposal to making the following amendments: Member States shall prohibit their credit institutions and financial institutions from keeping anonymous accounts, or anonymous passbooks, anonymous safe deposit boxes . Member States shall, in any event, require that the owners and beneficiaries of existing anonymous accounts, or anonymous passbooks, anonymous safe deposit boxes , be subject to customer due diligence measures as soon as possible and in any event before such accounts, passbooks or deposit boxes are used in any way

7. WHEN CDD MUST BE UNDERTAKEN

Changes	Article 11
4AMLD	<p>Member States shall ensure that obliged entities apply customer due diligence measures in the following circumstances:</p> <p>...</p> <p>(c) in the case of persons trading in goods, when carrying out occasional transactions in cash amounting to EUR 10 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;</p> <p>(e) when there is a suspicion of money laundering or terrorist financing, regardless of any derogation, exemption or threshold</p>
July 2016	<p>No changes were proposed.</p>
EP 2017	<p>Proposal to make the following amendments:</p> <p>Member States shall ensure that obliged entities apply customer due diligence measures in the following circumstances:</p> <p>...</p> <p>(c) in the case of persons trading in goods and services, when carrying out occasional transactions in cash amounting to EUR 10 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;</p> <p>(e) when there is a suspicion of money laundering or terrorist financing, regardless of any derogation, exemption or threshold; the following goods are considered sensitive in the context of money laundering or terrorist financing; oil, arms, precious metals, tobacco products, cultural artefacts and other items of archaeological, historical, cultural and religious importance, or rare scientific value, as well as ivory and protected species.</p>

8. PREPAID CARDS

Changes	Article 12
4AMLD	<p>1. By way of derogation from points (a), (b) and (c) of the first subparagraph of Article 13(1) and Article 14, and based on an appropriate risk assessment which demonstrates a low risk, a Member State may allow obliged entities not to apply certain customer due diligence measures with respect to electronic money, where all of the following risk-mitigating conditions are met:</p> <ul style="list-style-type: none"> (a) the payment instrument is not reloadable, or has a maximum monthly payment transactions limit of EUR 250 which can be used only in that Member State; (b) the maximum amount stored electronically does not exceed EUR 250; (c) the payment instrument is used exclusively to purchase goods or services; (d) the payment instrument cannot be funded with anonymous electronic money; (e) the issuer carries out sufficient monitoring of the transactions or business relationship to enable the detection of unusual or suspicious transactions.

Changes	Article 12
	<p>For the purposes of point (b) of the first subparagraph, a Member State may increase the maximum amount to EUR 500 for payment instruments that can be used only in that Member State.</p> <p>2. Member States shall ensure that the derogation provided for in paragraph 1 is not applicable in the case of redemption in cash or cash withdrawal of the monetary value of the electronic money where the amount redeemed exceeds EUR 100.</p>
July 2016	<p>Proposed the following amendments: In subparagraph 1, points (a) and (b) to be replaced by the following: (a) the payment instrument is not reloadable, or has a maximum monthly payment transactions limit of EUR 150 which can be used only in that Member State; (b) the maximum amount stored electronically does not exceed EUR 150; (ii) Delete the second paragraph in 1. Proposed to replace the wording in paragraph 2 with the following: Member States shall ensure that the derogation provided for in paragraph 1 is not applicable in the case either of online payment or of redemption in cash or cash withdrawal of the monetary value of the electronic money where the amount redeemed exceeds EUR 50. Proposed to add a new paragraph 3: Member States shall ensure that Union credit institutions and financial institutions acting as acquirers only accept payments carried out with prepaid cards issued in third countries where such cards meet requirements equivalent to those set out in points (a), (b), (c) of the first subparagraph of Article 13(1) and Article 14, or can be considered to meet the requirements in paragraphs 1 and 2 of this Article.</p>
EC 2016	<p>Proposal maintain the wording of Article 12 proposed in July the following changes: Add the following as paragraph 2a: 2a. Member States shall ensure that in case of remote payment transactions as defined in point (6) of Article 4 of the Directive 2015/2366/EC where the amount paid exceeds EUR 50 the customer has to be identified. After 36 months from entry into force of this directive identification shall be applied to all remote payment transactions. Proposal that paragraph 3 proposed in July 2016 above be rewritten as follows: Member States shall ensure that payment card schemes as defined in point 16 of the Article 2 of the Regulation No 2015/751 allow only the use of anonymous prepaid cards issued in third country where the issuer has proven to the card scheme that it meets requirements equivalent to those set out in points (a), (b), (c) of the first subparagraph of Article 13(1) and Article 14, or the requirements in paragraphs 1 and 2 of this Article. Member States may decide not to accept on their territory payments carried out by the anonymous prepaid cards.</p>
EP 2017	<p>Proposal to adopt the amended wording in July 2016 with the following additional changes: (a) the payment instrument is not reloadable, or has a maximum monthly payment transactions limit of EUR 150 which can be used only in that Member State (b) the maximum amount stored electronically does not exceed EUR 150; (c) the payment instrument is used exclusively to purchase goods or services; (d) the payment instrument cannot be funded with anonymous electronic money;</p>

Changes	Article 12
	<p>(e) the issuer carries out sufficient monitoring and ensures the traceability of the transactions or business relationship to enable the detection of unusual or suspicious transactions</p> <p>2. Member States shall ensure that the derogation provided for in paragraph 1 is not applicable in the case either of online payment or of redemption in cash or cash withdrawal of the monetary value of the electronic money where the amount redeemed exceeds EUR 50.</p> <p>3. Member States shall ensure that Union credit institutions and financial institutions acting as acquirers only accept payments carried out with prepaid cards issued in third countries where such cards meet requirements equivalent to those set out in points (a), (b), (c) of the first subparagraph of Article 13(1) and Article 14, or can be considered to meet the requirements in paragraphs 1 and 2 of this Article. The information shall be monitored regularly and financial institutions shall allocate appropriate resources to carry out this task.</p>

9. CUSTOMER DUE DILIGENCE

Changes	Article 13
4AMLD	<p>(1) Customer due diligence measures shall comprise:</p> <ul style="list-style-type: none"> (a) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source; (b) identifying the beneficial owner and taking reasonable measures to verify that person's identity so that the obliged entity is satisfied that it knows who the beneficial owner is, including, as regards legal persons, trusts, companies, foundations and similar legal arrangements, taking reasonable measures to understand the ownership and control structure of the customer; (c) assessing and, as appropriate, obtaining information on the purpose and intended nature of the business relationship; (d) conducting ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the obliged entity's knowledge of the customer, the business and risk profile, including where necessary the source of funds and ensuring that the documents, data or information held are kept up-to-date. <p>When performing the measures referred to in points (a) and (b) of the first subparagraph, obliged entities shall also verify that any person purporting to act on behalf of the customer is so authorised and identify and verify the identity of that person.</p>
July 2016	<p>Proposed that point (a) be amended:</p> <p>(a) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source, including, where available, electronic identification means as set out in Regulation (EU) No 910/2014.</p>
EC 2017	<p>Proposed that point (a) be amended:</p> <p>(a) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source, including, where available, electronic identification means electronic identification means and relevant trust services as set out in Regulation (EU) No 910/2014* or national law.</p>
EP 2017	<p>Proposal to incorporate revision in July 2016 along with additional changes:</p>

Changes	Article 13
	<p>(1) Customer due diligence measures shall comprise:</p> <ul style="list-style-type: none"> (a) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source including, where available, electronic identification means as set out in Regulation (EU) No 910/2014 or any other remote identification processes recognised and approved by the competent authority; (aa) screening the customer's and beneficial owner's names against the Union sanction list; (b) identifying the beneficial owner and taking reasonable measures to verify that person's identity so that the obliged entity is satisfied that it knows who the beneficial owner is, including, as regards legal persons, trusts, companies, foundations and similar legal arrangements, taking reasonable measures to understand the ownership and control structure of the customer; (c) assessing and, as appropriate, obtaining information on the purpose and intended nature of the business relationship; (d) conducting ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the obliged entity's knowledge of the customer, the business and risk profile, including where necessary the source of funds and ensuring that the documents, data or information held are kept up-to-date. <p>When performing the measures referred to in points (a) and (b) of the first subparagraph, obliged entities shall also verify that any person purporting to act on behalf of the customer is so authorised and identify and verify the identity of that person.</p>

Changes	Article 14(5) - Existing Customers
4AMLD	Member States shall require that obliged entities apply the customer due diligence measures not only to all new customers but also at appropriate times to existing customers on a risk-sensitive basis, including at times when the relevant circumstances of a customer change.
July 2016	<p>Proposed the following addition:</p> <p>(5). Member States shall require that obliged entities apply the customer due diligence measures not only to all new customers but also at appropriate times to existing customers on a risk-sensitive basis, or when the relevant circumstances of a customer change, or when the obliged entity has a duty in the course of the relevant calendar year, to contact the customer for the purpose of reviewing any information related to the beneficial owner(s), in particular under Directive 2011/16/EU.</p>
EP 2017	<p>Proposal to adopt addition in July 2016 above with the following additional changes:</p> <p>(5). Member States shall require that obliged entities apply the customer due diligence measures not only to all new customers but also at appropriate times to existing customers on a risk-sensitive basis, or when the relevant circumstances of a customer change, or when the obliged entity has a duty in the course of the relevant calendar year, to contact the customer for the purpose of reviewing any information related to the beneficial owner(s), in particular under Directive 2011/16/EU. Member States shall require that obliged entities contact the customer for the purpose of reviewing any information related to the beneficial owner(s) not later than ... [one year after the date of the entry into force of this amending Directive].</p>

Changes	Article 15 - Simplified Due Diligence
4AMLD	<p>1. Where a Member State or an obliged entity identifies areas of lower risk, that Member State may allow obliged entities to apply simplified customer due diligence measures.</p> <p>2. Before applying simplified customer due diligence measures obliged entities shall ascertain that the customer relationship or transaction presents a lower degree of risk.</p> <p>3. Member States shall ensure that obliged entities carry out sufficient monitoring of the transactions or business relationships to enable the detection of unusual or suspicious transactions</p>
July 2016	No changes proposed.
EP 2017	No changes proposed.

10. HIGH RISK JURISDICTIONS

Changes	Article 9(1)(2)
4AMLD	<p>1. Third-country jurisdictions which have strategic deficiencies in their national AML/CFT regimes that pose significant threats to the financial system of the Union ('high-risk third countries') shall be identified in order to protect the proper functioning of the internal market.</p> <p>2. The Commission shall be empowered to adopt delegated acts in accordance with Article 64 in order to identify high-risk third countries, taking into account strategic deficiencies, in particular in relation to: (a) the legal and institutional AML/CFT framework of the third country, in particular: (i) criminalisation of money laundering and terrorist financing; (ii) measures relating to customer due diligence; (iii) requirements relating to record-keeping; and (iv) requirements to report suspicious transactions; (b) the powers and procedures of the third country's competent authorities for the purposes of combating money laundering and terrorist financing; (c) the effectiveness of the AML/CFT system in addressing money laundering or terrorist financing risks of the third country.</p> <p>3. The delegated acts referred to in paragraph 2 shall be adopted within one month after the identification of the strategic deficiencies referred to in that paragraph.</p> <p>4. The Commission shall take into account, as appropriate, when drawing up the delegated acts referred to in paragraph 2, relevant evaluations, assessments or reports drawn up by international organisations and standard setters with competence in the field of preventing money laundering and combating terrorist financing, in relation to the risks posed by individual third countries.</p>
July 2016	No amendments proposed.
EP 2017	<p>Proposal to make the following changes:</p> <p>2. The Commission shall be empowered to adopt delegated acts in accordance with Article 64 in order to identify high-risk third countries, taking into account strategic deficiencies both in law and actual administrative and commercial practice, in particular in relation to:</p> <p>(a) the legal and institutional AML/CFT framework of the third country,</p> <p>(i) criminalisation of money laundering and terrorist financing;</p>

Changes	Article 9(1)(2)
	<p>(ia) the existence of robust systems to ensure that information on beneficial ownership of corporations and other entities or arrangements is available to competent authorities and the transparency of beneficial ownership information</p> <p>(ii) measures relating to customer due diligence;</p> <p>(iii) requirements relating to record-keeping; and</p> <p>(iv) requirements to report suspicious transactions;</p> <p>b) the powers and procedures and political independence of the third country's competent authorities for the purposes of combating money laundering and terrorist financing including appropriately dissuasive and effective penalties and sanctions, as well as its practices in cooperation with competent authorities in members states or the Union.</p> <p>(c) the effectiveness of the AML/CFT system in addressing money laundering or terrorist financing risks of the third country including an analysis of governance indicators, such as control of corruption, government effectiveness, political stability and absence of violence/terrorism regulatory quality the rule of law and accountability;</p> <p>(ca) the exchange of information between competent authorities and EU Member States;</p> <p>(cb) measures in place to protect whistleblowers who uncover information related to money laundering activities;</p> <p>NEW – Paragraph 2a:</p> <p>Points (a), (b) and (c) of Article 9(2) shall be taken into account during the negotiation of any trade, association and partnership agreements by the Commission of any Member State with a third party. The final agreement shall provide provisions for minimum standards and good governance clauses as provided in Annex II of the Commission from the Commission to the European Parliament and the Council on an External Strategy for Effective Taxation in the field of AML/CTF, improved cooperation and effective retaliatory measures if the third country fails to enforce these provisions.</p> <p>Paragraph 4 is amended as follows:</p> <p>4. The Commission shall take into account, as appropriate, when drawing up the delegated acts referred to in paragraph 2, relevant evaluations, assessments or reports drawn up by international organisations and standard setters with competence in the field of preventing money laundering and combating terrorist financing, in relation to the risks posed by individual third countries shall conduct its assessment in relation to the risks posed by individual third countries by taking into account, but not solely relying on, evaluations, assessments or reports drawn up by international organisations and standard setters with competence in the field of preventing money laundering and combatting terrorist financing.</p>

11. ENHANCED DUE DILIGENCE

Changes	Article 18 – Enhanced Due Diligence
4AMLD	<p>1.The third countries identified by the Commission as high-risk third countries, as well as in other cases of higher risk that are identified by Member States or obliged entities, Member States shall require obliged entities to apply enhanced customer due diligence measures to manage and mitigate those risks appropriately.</p> <p>Enhanced customer due diligence measures need not be invoked automatically with respect to branches or majority- owned subsidiaries of obliged entities established in the Union which are located in high-risk third countries, where those branches or majority-owned subsidiaries fully comply with the group-wide policies and procedures in accordance with Article 45. Member States shall ensure that those cases are handled by obliged entities by using a risk-based approach.</p> <p>2.In the cases referred to in Articles 19 to 24, as well as in other cases of higher risk that are identified by Member States or obliged entities, Member States shall require obliged entities to apply enhanced customer due diligence measures to manage and mitigate those risks appropriately.</p> <p>3.When assessing the risks of money laundering and terrorist financing, Member States and obliged entities shall take into account at least the factors of potentially higher-risk situations set out in Annex III.</p> <p>4.By 26 June 2017, the ESAs shall issue guidelines addressed to competent authorities and the credit institutions and financial institutions, in accordance with Article 16 of Regulations (EU) No 1093/2010, (EU) No 1094/2010, and (EU) No 1095/2010 on the risk factors to be taken into consideration and the measures to be taken in situations where enhanced customer due diligence measures are appropriate. Specific account shall be taken of the nature and size of the business, and, where appropriate and proportionate, specific measures shall be laid down</p>
July 2016	<p>Proposed to replace Point 1 in full the text from Point 2:</p> <p>(1)In the cases referred to in Articles 19 to 24, as well as in other cases of higher risk that are identified by Member States or obliged entities, Member States shall require obliged entities to apply enhanced customer due diligence measures to manage and mitigate those risks appropriately.</p> <p>Proposed to add new Article 18a:</p> <p>18a. With respect to transactions involving high risk third countries, Member States shall require that, when dealing with natural persons or legal entities established in the third countries identified as high-risk third countries pursuant to Article 9 (2), obliged entities shall apply at least all the following enhanced customer due diligence measures:</p> <ul style="list-style-type: none"> (a) obtaining additional information on the customer; (b) obtaining addition information on the intended nature of the business relationship; (c) obtaining information on the source of funds or source of wealth of the customer; (d) obtaining information on the reasons for the intended or performed transactions; (e) obtaining the approval of senior management for establishing or continuing the business relationship; (f) conducting enhanced monitoring of the business relationship by increasing the number and timing of controls applied, and selecting patterns of transactions that need further examination;

Changes	Article 18 – Enhanced Due Diligence
	<p>(g) requiring the first payment to be carried out through an account in the customer's name with a bank subject to similar CDD standards.</p> <p>2. In addition to the measures provided in paragraph 1 and in compliance with international obligations of the Union, Member States may require obliged entities, when dealing with natural persons or legal entities established in the third countries identified as high-risk third countries pursuant to Article 9(2) to apply one or several additional mitigating measures:</p> <ul style="list-style-type: none"> (a) requiring financial institutions to apply additional elements of enhanced due diligence; (b) introducing enhanced relevant reporting mechanisms or systematic reporting of financial transactions; (c) limiting business relationships or financial transactions with natural persons or legal entities from the identified country. <p>In addition to the measures provided in paragraph 1 and in compliance with international obligations of the Union, Member States may require obliged entities, when dealing with natural persons or legal entities established in the third countries identified as high-risk third countries pursuant to Article 9(2) to apply one or several additional mitigating measures:</p> <ul style="list-style-type: none"> (a) requiring financial institutions to apply additional elements of enhanced due diligence; (b) introducing enhanced relevant reporting mechanisms or systematic reporting of financial transactions; (c) limiting business relationships or financial transactions with natural persons or legal entities from the identified country <p>3. In addition to the measures provided in paragraph 1, Member States may apply one of the following measures to third countries identified as high-risk third countries pursuant to Article 9(2) in compliance with international obligations of the Union:</p> <ul style="list-style-type: none"> (a) refusing the establishment of subsidiaries or branches or representative offices of financial institutions from the country concerned, or otherwise taking into account the fact that the relevant financial institution is from a country that does not have adequate AML/CFT systems; (b) prohibiting financial institutions from establishing branches or representative offices in the country concerned, or otherwise taking into account the fact that the relevant branch or representative office would be in a country that does not have adequate AML/CFT systems; (c) prohibiting financial institutions from relying on third parties located in the country concerned to conduct elements of the customer due diligence process; (d) requiring financial institutions to review and amend, or if necessary terminate, correspondent relationships with financial institutions in the country concerned; (e) requiring increased supervisory examination or external audit requirements for branches and subsidiaries of financial institutions based in the country concerned; (f) requiring increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in the country concerned. <p>4. When enacting or applying the measures set out in paragraphs 2 and 3, Member States shall take into account, as appropriate relevant evaluations, assessments or reports drawn up by international organisations and standard setters with competence in the field of preventing money laundering and combatting terrorist financing, in relation to the risks posed by individual third countries.</p>

Changes	Article 18 – Enhanced Due Diligence
	<p>5. Member States shall notify the Commission before enacting or applying the measures set out in paragraphs 2 and 3.</p>
EP 2017	<p>Proposal to adopt wording for 18(1) in July 2016 above.</p> <p>Proposal to maintain 18(2) of the 4AMLD and replace the text as follows:</p> <p>Member States shall require obliged entities to examine, as far as reasonably possible, the background and purpose of all complex and unusually large transactions,</p> <p>(i) they are complex transactions</p> <p>(ii) they are unusually large transactions</p> <p>(iii) they are conducted in an unusual pattern of transactions,</p> <p>(iv) they do not seem to have an entirely lawful purpose.</p> <p>In particular, obliged entities shall increase the degree and nature of monitoring of the business relationship, in order to determine whether those transactions or activities appear suspicious.</p> <p>Proposal to amend Point 3 by deleting the following requirements:</p> <p>(e) requiring increased supervisory examination or external audit requirements for branches and subsidiaries of financial institutions based in the country concerned;</p> <p>(f) requiring increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in the country concerned</p> <p>Proposal to adopt 18a in July 2016 with the following additional changes:</p> <p>1. With respect to business relationships or transactions involving high risk third countries, Member States shall require that, when dealing with natural persons or legal entities established in the third countries identified as high-risk third countries pursuant to Article 9 (2), obliged entities shall apply at least all the following enhanced customer due diligence measures:</p> <p>(a) obtaining additional information on the customer, including beneficial owner(s);</p> <p>(b) obtaining addition information on the intended nature of the business relationship;</p> <p>(c) obtaining information on the source of funds or source of wealth of the customer, including beneficial owner(s);</p> <p>(d) obtaining information on the reasons for the intended or performed transactions;</p> <p>(e) obtaining the approval of senior management for establishing or continuing the business relationship</p> <p>(f) conducting enhanced monitoring of the business relationship by increasing the number and timing of controls applied, and selecting patterns of transactions that need further examination;</p> <p>(g) requiring the first payment to be carried out through an account in the customer's name with a bank subject to similar CDD standards.</p>

Changes	Article 18 – Enhanced Due Diligence
	<p data-bbox="412 276 1348 301">Proposal to adopt the wording of Point 2 of 18A with the following additional changes:</p> <p data-bbox="412 317 2040 408">In addition to the measures provided in paragraph 1 and 1a and in compliance with international obligations of the Union, Member States may require obliged entities, when dealing with natural persons or legal entities established in the third countries identified as high-risk third countries pursuant to Article 9(2) to apply one or several additional mitigating measures:</p> <ul style="list-style-type: none"> <li data-bbox="412 424 1384 450">(a) requiring financial institutions to apply additional elements of enhanced due diligence; <li data-bbox="412 466 1559 491">(b) introducing enhanced relevant reporting mechanisms or systematic reporting of financial transactions; <li data-bbox="412 507 1742 533">(c) limiting business relationships or financial transactions with natural persons or legal entities from the identified country; <li data-bbox="412 549 2056 606">(ca) the existence of robust systems to ensure that the relevant authorities have the minimum amount of information required on final beneficiaries, with no barriers linked to the national system or management that are used as pretexts to refuse the provision of information. <p data-bbox="412 622 1048 647">Proposal to delete the following items from Point 3 of 18A:</p> <ul style="list-style-type: none"> <li data-bbox="412 663 2063 721">e) requiring increased supervisory examination or external audit requirements for branches and subsidiaries of financial institutions based in the country concerned; <li data-bbox="412 737 2007 794">(f) requiring increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in the country concerned.

12. POLITICALLY EXPOSED PERSONS (“PEPs”)

Changes	Article 3(9) – Definition
4AML	<p data-bbox="412 951 2063 1174">(9) ‘politically exposed person’ means a natural person who is or who has been entrusted with prominent public functions and includes the following: (a) heads of State, heads of government, ministers and deputy or assistant ministers; (b) members of parliament or of similar legislative bodies; (c) members of the governing bodies of political parties; (d) members of supreme courts, of constitutional courts or of other high-level judicial bodies, the decisions of which are not subject to further appeal, except in exceptional circumstances; (e) members of courts of auditors or of the boards of central banks; (f) ambassadors, chargés d'affaires and high-ranking officers in the armed forces; (g) members of the administrative, management or supervisory bodies of State-owned enterprises; (h) directors, deputy directors and members of the board or equivalent function of an international organisation. No public function referred to in points (a) to (h) shall be understood as covering middle-ranking or more junior officials;</p>
July 2016	<p data-bbox="412 1198 707 1224">No amendments proposed.</p>
EC 2016	<p data-bbox="412 1246 987 1272">Proposal to add the following definition as Article 9a:</p> <p data-bbox="412 1287 2040 1345">(9a) ‘domestic politically exposed persons’ means a politically exposed person as referred to in point 9 who is or who has been entrusted with prominent public functions by any Member State or by an institution of the European Union;</p>

Changes	Article 3(9) – Definition
EP 2017	<p>Proposal to make the following addition:</p> <p>"(ha) members of public administration, who are in charge of awarding public procurement contracts exceeding the thresholds referred to in Article 4 of Directive 2014/24/EU.</p>

Changes	Article 20 and 22
4AMLD	<p>20. With respect to transactions or business relationships with politically exposed persons, Member States shall, in addition to the customer due diligence measures laid down in Article 13, require obliged entities to:</p> <p>(a) have in place appropriate risk management systems, including risk-based procedures, to determine whether the customer or the beneficial owner of the customer is a politically exposed person;</p> <p>(b) apply the following measures in cases of business relationships with politically exposed persons:</p> <ul style="list-style-type: none"> (i) obtain senior management approval for establishing or continuing business relationships with such persons; (ii) take adequate measures to establish the source of wealth and source of funds that are involved in business relationships or transactions with such persons; (iii) conduct enhanced, ongoing monitoring of those business relationships. <p>22. Where a politically exposed person is no longer entrusted with a prominent public function by a Member State or a third country, or with a prominent public function by an international organisation, obliged entities shall, for at least 12 months, be required to take into account the continuing risk posed by that person and to apply appropriate and risk-sensitive measures until such time as that person is deemed to pose no further risk specific to politically exposed persons.</p>
July 2016	No amendments were proposed.
EC 2016	<p>Proposal to add new paragraph 2:</p> <p>2. With respect to domestic politically exposed persons, Member States may allow, by way of derogation from paragraph 1(b) of this Article, the application of the customer due diligence measures laid down in Article 13, provided that there are no risk variables indicating an overall higher risk</p>
EP 2017	<p>Proposal to make the following revisions:</p> <p>(b) apply the following measures in cases of business relationships with politically exposed persons:</p> <p>(ii) take adequate measures to establish the source of wealth and source of funds that are involved in business relationships or transactions with such persons, including the corporate structure used for business relations or transactions.</p> <p>Proposal to add new Article 20a:</p> <p>1. Member States shall enact national legislation providing for the elaboration of lists of Politically Exposed Persons resident in their territory.</p>

Changes	Article 20 and 22
	<p>2. The Commission, in cooperation and gathering data submitted by Member States and international organisations, shall assemble a list of politically exposed persons resident in the EU. The list shall be accessible by competent authorities and by obliged entities.</p> <p>3. The above paragraphs shall not exempt obliged entities from their customer due diligence obligations, and obliged entities shall not rely exclusively on that information as sufficient to fulfil those obligations.</p> <p>4. Member States shall take all appropriate measures to prevent the trade of information for commercial purposes on politically exposed persons, or persons who are or who have been entrusted with a prominent function by an international organisation</p> <p>Proposal to amend Article 22:</p> <p>Where a politically exposed person is no longer entrusted with a prominent function by a Member State or a third country or with a prominent function by an international organisation, obliged entities shall for at least 36 months, be required to take into account the continuing risk posed by that person and to apply appropriate and risk-sensitive measures until such time as that person is deemed to pose no further risk specific to politically exposed persons.</p>

13. RELIANCE ON / PERFORMANCE BY THIRD PARTIES

Changes	Article 26(2)
4AMLD	2. Member States shall prohibit obliged entities from relying on third parties established in high-risk third countries. Member States may exempt branches and majority-owned subsidiaries of obliged entities established in the Union from that prohibition where those branches and majority-owned subsidiaries fully comply with the group-wide policies and procedures in accordance with Article 45.
July 2016	No proposed amendments.
EC 2016	<p>Proposal to replace paragraph 2 with the following:</p> <p>Member States shall ensure that obliged entities to which the customer is referred take adequate steps to ensure that the third party provides immediately, upon request, relevant copies of identification and verification data, including, where available, data obtained through electronic identification means and relevant trust services as set out in Regulation (EU) No 910/2014 or national law, and other relevant documentation on the identity of the customer or the beneficial owner.</p>
EP 2017	<p>Proposed the following changes to Point 2:</p> <p>Member States shall prohibit obliged entities from relying on third parties established in high-risk third countries. Member States may exempt branches and majority-owned subsidiaries of obliged entities established in the Union from that prohibition where those branches and majority-owned subsidiaries fully comply with the group-wide policies and procedures in accordance with Article 45.</p>

Changes	Article 27
4AMLD	<p>1. Member States shall ensure that obliged entities obtain from the third party relied upon the necessary information concerning the customer due diligence requirements laid down in points (a), (b) and (c) of the first subparagraph of Article 13(1).</p> <p>2. Member States shall ensure that obliged entities to which the customer is referred take adequate steps to ensure that the third party provides, immediately, upon request, relevant copies of identification and verification data and other relevant documentation on the identity of the customer or the beneficial owner.</p>
July 2016	<p>Proposed that Point 2 wording be amended as follows:</p> <p>2. Member States shall ensure that obliged entities to which the customer is referred take adequate steps to ensure that the third party provides immediately, upon request, relevant copies of identification and verification data, including, where available, data obtained through electronic identification means as set out in Regulation (EU) No 910/2014, and other relevant documentation on the identity of the customer or the beneficial owner.</p>
EP 2017	<p>Proposal to adopt wording in July 2016 with the following additional changes:</p> <p>2. Member States shall ensure that obliged entities to which the customer is referred take adequate steps to ensure that the third party provides immediately, upon request, relevant copies of identification and verification data, including, where available, data obtained through electronic identification means as set out in Regulation (EU) No 910/2014, or any other remote identification processes recognised and approved by the competent authority and other relevant documentation on the identity of the customer or the beneficial owner.</p>

14. REGISTERS

Changes	Article 30 – CDD on Legal Entities and Register Information
4AMLD	<p>1. Member States shall ensure that corporate and other legal entities incorporated within their territory are required to obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held. Member States shall ensure that those entities are required to provide, in addition to information about their legal owner, information on the beneficial owner to obliged entities when the obliged entities are taking customer due diligence measures in accordance with Chapter II.</p> <p>2. Member States shall require that the information referred to in paragraph 1 can be accessed in a timely manner by competent authorities and FIUs.</p> <p>3. Member States shall ensure that the information referred to in paragraph 1 is held in a central register in each Member State, for example a commercial register, companies register as referred to in Article 3 of Directive 2009/101/EC of the European Parliament and of the Council (1), or a public register. Member States shall notify to the Commission the characteristics of those national mechanisms. The information on beneficial ownership contained in that database may be collected in accordance with national systems.</p> <p>4. Member States shall require that the information held in the central register referred to in paragraph 3 is adequate, accurate and current.</p> <p>...</p> <p>8. Member States shall require that obliged entities do not rely exclusively on the central register referred to in paragraph 3 to fulfil their customer due diligence requirements in accordance with Chapter II. Those requirements shall be fulfilled by using a risk-based approach.</p>
July 2016	<p>No changes to the above subparagraphs were proposed.</p>
EP 2017	<p>Proposal to add a new subparagraph to point 1:</p> <p>Member States shall ensure that owners of shares or voting rights or ownership interest in corporate and other legal entities, including through bearer shareholdings, or through control via other means, disclose to those entities whether they are holding the interest in their own name and on their own account or on behalf of another natural person. In case they act on behalf of someone else, they shall disclose to the register the identity of the natural person on behalf of whom they are acting. Member States shall ensure that the natural person(s) who hold the position of senior managing official(s) in corporate and other legal entities, disclose to those entities whether they are holding the position in their own name or on behalf of another person. In case they act on behalf of someone else, they shall disclose to the register the identity of the person on behalf of whom they are acting.</p> <p>No changes proposed to points 2 and 3 above.</p> <p>Proposal to make the following additions to point 4:</p> <p>4. Member States shall require that the information held in the central register referred to in paragraph 3 is adequate, accurate and current. Member States shall put in place mechanisms to ensure the information in the register is verified on a regular basis. Obligated entities, FIUs and competent authorities shall report any discrepancy they find between the beneficial ownership information held in the central registers and the beneficial ownership information collected as part of their customer due diligence procedures or investigations.</p>

Changes	Article 30 – CDD on Legal Entities and Register Information
	<p>Proposed the following additions to point 8:</p> <p>8. Member States shall require that obliged entities do not rely exclusively on the central register referred to in paragraph 3 to fulfil their customer due diligence requirements in accordance with Chapter II. Those requirements shall be fulfilled by using a risk-based approach. Whenever entering into a new customer relationship with a corporate or other legal entity subject to registration of beneficial ownership information pursuant to paragraph 3, the obliged entities shall collect proof of registration,</p>

Changes	Article 30(1) –Owners Holding Bearer Shares
4AMLD	Article 10 - Member States shall take measures to prevent misuse of bearer shares and bearer share warrants.
July 2016	No amendments proposed.
EP 2017	<p>Proposal to add additional wording to Article 30(1):</p> <p>Member States shall ensure that owners of shares or voting rights or ownership interest in corporate and other legal entities, including through bearer shareholdings, or through control via other means disclose to those entities whether they are holding the interest in their own name and on their own account or on behalf of another natural person. In case they act on behalf of someone else, they shall disclose to the register the identity of the natural person on behalf of whom they are acting. Member States shall ensure that the natural person(s) who hold the position of senior management official(s) in corporate and other legal entities, disclose to those entities whether they are holding the position in their own name or on behalf of another person. In case they act on behalf of someone else, they shall disclose to the register the identity of the person on behalf of whom they are acting.</p>

Changes	Article 30(5) - Access to Information on Corporate Registers
4AMLD	<p>(5).Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:</p> <ul style="list-style-type: none"> (a) competent authorities and FIUs, without any restriction; (b) obliged entities, within the framework of customer due diligence in accordance with Chapter II; (c) any person or organisation that can demonstrate a legitimate interest. <p>The persons or organisations referred to in point (c) shall access at least the name, the month and year of birth, the nationality and the country of residence of the beneficial owner as well as the nature and extent of the beneficial interest held.</p> <p>For the purposes of this paragraph, access to the information on beneficial ownership shall be in accordance with data protection rules and may be subject to online registration and to the payment of a fee. The fees charged for obtaining the information shall not exceed the administrative costs thereof.</p>
July 2016	<p>Proposed the following changes:</p> <p>(5).Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:</p> <ul style="list-style-type: none"> (a) competent authorities and FIUs, without any restriction;

Changes	Article 30(5) - Access to Information on Corporate Registers
	<p>(b) obliged entities, within the framework of customer due diligence in accordance with Chapter II; (c) any person or organisation that can demonstrate a legitimate interest.</p> <p>The persons or organisations referred to in point (c) shall access at least the name, the month and year of birth, the nationality and the country of residence of the beneficial owner as well as the nature and extent of the beneficial interest held.</p> <p>For the purposes of this paragraph, access to the information on beneficial ownership shall be in accordance with data protection rules and may be subject to online registration and to the payment of a fee. The fees charged for obtaining the information shall not exceed the administrative costs thereof.</p>
EC 2016	<p>Proposal to make the following amendments to the 4AMLD text above:</p> <p>The persons or organisations referred to in point (c) shall access at least the name, the month and year of birth and the country of residence of the beneficial owner as well as the nature and extent of the beneficial interest held. In conformity with paragraph 3, Member States may allow for a wider access to the information held in the register in accordance with their national law.</p>
EP 2017	<p>Proposal to make the following amendments to the 4AMLD text above:</p> <p>Member States shall ensure that the information on the beneficial ownership is accessible free of charge in all cases to:</p> <ul style="list-style-type: none"> (a) competent authorities and FIUs, without any restriction; (b) obliged entities, within the framework of customer due diligence in accordance with Chapter II; (c) any person or organisation that can demonstrate a legitimate interest <p>The persons or organisations referred to in point (c) shall access at least the name, the month and year of birth, the nationality and the country of residence of the beneficial owner as well as the nature and extent of the beneficial interest held.</p> <p>Proposal to add new paragraph (5a) incorporating some of original wording in the 4AMLD text above:</p> <p>(5a). The information held in the register referred to in paragraph 3 of this Article on any corporate and legal entities other than those referred to in Article 1a(a) of Directive (EC) 2009/101 shall be publicly accessible. The information publicly accessible shall consist of at least the name, the date of birth, the nationality, the country of residence, contact details (without disclosure of a home address), the nature and extent of the beneficial interest held of the beneficial owner as defined in Article 3(6)(b).</p> <p>For the purposes of this paragraph, access to the information on beneficial ownership shall be in accordance with data protection rules and may be subject to online registration and to the payment of a fee. The fees charged for obtaining the information shall not exceed the administrative costs thereof. Member States may introduce a fee to cover the direct administrative costs.</p>

Changes	Article 30(9) / Article 31(7a) - Access to Register Information - Exemptions
4AMLD	<p>30(9) Member States may provide for an exemption to the access referred to in points (b) and (c) of paragraph 5 to all or part of the information on the beneficial ownership on a case-by-case basis in exceptional circumstances, where such access would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable.</p>

Changes	Article 30(9) / Article 31(7a) - Access to Register Information - Exemptions
	<p>Exemptions granted pursuant to this paragraph shall not apply to the credit institutions and financial institutions, and to obliged entities referred to in point (3)(b) of Article 2(1) that are public officials.</p> <p>31(7) Member States shall ensure that competent authorities and FIUs are able to provide the information referred to in paragraphs 1 and 4 to the competent authorities and to the FIUs of other Member States in a timely manner.</p>
July 2016	<p>30(9) - Proposed the following additional changes:</p> <p>30(9) In exceptional circumstances to be laid down in national law, where the access referred to in point (b) of paragraph 5 would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis.</p> <p>Exemptions granted pursuant to this paragraph shall not apply to credit institutions and financial institutions, and to the obliged entities as referred to in point (3)(b) of Article 2(1) that are public officials.</p> <p>31(7) - Maintained the wording proposed in the 4AMLD and proposed the addition of new paragraph 31(7a):</p> <p>31(7) Member States shall ensure that competent authorities and FIUs are able to provide the information referred to in paragraphs 1 and 4 to the competent authorities and to the FIUs of other Member States in a timely manner.</p> <p>31(7a) In exceptional circumstances laid down in national law, where the access referred to in paragraphs 4 and 4a would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis.</p> <p>Exemptions granted pursuant to the first subparagraph shall not apply to the credit institutions and financial institutions, and to obliged entities referred to in point (3)(b) of Article 2(1) that are public officials.</p> <p>Where a Member State decides to establish an exemption in accordance with the first subparagraph, it shall not restrict access to information by competent authorities and FIUs.</p>
EC 2016	<p>30(9) Proposal adopts most of changes in July 2016 with the following additional amendments:</p> <p>In exceptional circumstances to be laid down in national law, where the access referred to in point (b) and (c) of paragraph 5 would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis. Member States shall ensure that these exemptions are granted upon an evaluation of the exceptional nature of the circumstances.</p> <p>Exemptions granted pursuant to this paragraph shall not apply to credit institutions and financial institutions, and to the obliged entities as referred to in point (3)(b) of Article 2(1) that are public officials.</p> <p>30(9) Proposal adopts most of changes in July 2016 with the following additional amendments:</p>

Changes	Article 30(9) / Article 31(7a) - Access to Register Information - Exemptions
	<p>7a. In exceptional circumstances laid down in national law, where the access referred to in paragraphs 4 and 4a would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis. Member States shall ensure that these exemptions are granted upon an evaluation of the exceptional nature of the circumstances.</p> <p>Exemptions granted pursuant to the first subparagraph shall not apply to the credit institutions and financial institutions, and to obliged entities referred to in point (3)(b) of Article 2(1) that are public officials.</p> <p>Where a Member State decides to establish an exemption in accordance with the first subparagraph, it shall not restrict access to information by competent authorities and FIUs.</p>
EP 2017	<p>30(9) - Proposal adopts some of changes in July 2016 with the following additional amendments:</p> <p>In exceptional circumstances laid down in national law, where the access referred to in paragraphs 5 and 5a would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis. Member States shall ensure that these exemptions are granted upon a detailed evaluation of the exceptional nature of the circumstances, with the evaluation accessible to the Commission upon request. Exemptions shall be reassessed at regular intervals to avoid abuse. When an exemption is granted, this has to be clearly indicated in the register. The rights to an administrative review of the exemption decision and to an effective judicial remedy shall be guaranteed. Member States shall publish annual statistical data on the amount of exemptions granted and reasons stated and report the data to the Commission.</p> <p>31(7a) - Proposal adopts some of changes in July 2016 with the following additional amendments:</p> <p>In exceptional circumstances laid down in national law, where the access referred to in paragraphs 5 and 5a would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis. Member States shall ensure that these exemptions are granted upon a detailed evaluation of the exceptional nature of the circumstances, with the evaluation accessible to the Commission upon request. Exemptions shall be reassessed at regular intervals to avoid abuse. When an exemption is granted, this has to be clearly indicated in the register. The rights to an administrative review of the exemption decision and to an effective judicial remedy shall be guaranteed. Member States shall publish annual statistical data on the amount of exemptions granted and reasons stated and report the data to the Commission.</p>

Change	Article 31(10) – Treatment of Trusts Based on Jurisdiction
4AMLD	Original text did not include 31(10).
July 2016	Proposed the addition of the following paragraph (10). For the purposes of this Article, a trust is considered to be administered in each Member State where the trustees are established.
EC 2016	Proposal to make the following changes and additions:

Change	Article 31(10) – Treatment of Trusts Based on Jurisdiction
	<p>10. For the purposes of this Article, a trust or similar legal arrangement is considered to be administered in each Member State where the trustees are established.</p> <p>10a. Member States shall notify to the Commission the categories, description of the characteristics, names and where applicable legal basis of the trusts and legal arrangements referred to in paragraph 1 within 12 months from the entry into force of this Directive and upon expiry of that period the Commission should publish within 2 months in the Official Journal of the European Union the consolidated list of such trusts and legal arrangements having a structure and functions similar to trusts.</p> <p>By 26 June 2020, the Commission shall submit a report to the European Parliament and to the Council assessing whether all trusts and legal arrangements which have a structure and function similar to trusts governed under the law of Member States were duly identified and made subject to the obligations as set out in this Directive. Where appropriate, the Commission shall take the necessary steps to act upon the findings of that report.</p>
EP 2017	<p>Proposal to make the following additional changes:</p> <p>(10). For the purposes of this Article, a legal arrangement referred to in paragraph 1, similar to trust, is considered to be created, administered or operated in each Member State where:</p> <p>(a) it is created according to or governed by the Member State’s law or has its ultimate court of appeal in the Member State’s jurisdiction; or</p> <p>(b) it is connected to the Member State by:</p> <p>(i) having one or more of the beneficial owners resident in that Member State;</p> <p>(ii) holding real estate in that Member State;</p> <p>(iii) holding shares or voting rights or ownership interest in a legal entity incorporated in that Member State; or</p> <p>(iv) holding a bank or payment account in a credit institution situated in that Member State.</p> <p>Proposal to add the following paragraph:</p> <p>(10a). Member States shall notify to the Commission the categories and characteristics of the legal arrangements that have been identified pursuant to the paragraph 1 within 12 months from the entry into the force of this Directive and upon expiry of that period the Commission should publish within 2 months in the Official Journal of the European Union the consolidated list of such legal arrangements. By 26 June 2020, the Commission shall submit a report to the European Parliament and to the Council assessing whether all legal arrangements which have a structure or function similar to trusts governed under the law of Member States were duly identified and made subject to the obligations as set out in this Directive. Where appropriate, the Commission shall take the necessary steps to act upon the findings of that report.</p>

15. REAL ESTATE SECTOR

Changes	Article 32(b)
4AMLD	No specific provisions concerning this sector.
July 2016	No specific provisions concerning this sector.
EP 2017	<p data-bbox="409 376 824 403">Proposal to add new paragraph 32(b):</p> <p data-bbox="409 424 2103 515">1. Member States shall put in place automated centralised mechanisms, such as central registries or central electronic data retrieval systems, which allow the identification, in a timely manner, of any natural or legal person holding or controlling land and buildings within their territory. Member States shall notify the Commission of the characteristics of those national mechanisms.</p> <p data-bbox="409 536 2103 627">2. Member States shall ensure that the information held in the centralised mechanisms referred to in paragraph 1 is directly accessible, at national level, to FIUs and competent authorities. Member States shall ensure that any FIU is able to provide information held in the centralised mechanisms referred to in paragraph 1 to any other FIUs in a timely manner in accordance with Article 53.</p> <p data-bbox="409 647 1818 675">3. The following information shall be accessible and searchable through the centralised mechanisms referred to in paragraph 1:</p> <ul data-bbox="409 695 2047 986" style="list-style-type: none"> <li data-bbox="409 695 2047 754">- regarding real property owner and any person purporting to act on behalf of the owner: the name, complemented by the other identification data required under the national provisions transposing Article 13(1)(a) or a unique identification number; <li data-bbox="409 775 2047 834">- regarding beneficial owner of the real property: the name, complemented by the other identification data required under the national provisions transposing Article 13(1)(b) or a unique identification number; <li data-bbox="409 855 1637 882">- regarding real property: date and cause of ownership acquisition, mortgage and rights other than ownership; <li data-bbox="409 903 1576 930">- regarding land: location, parcel number, land category (current state of land), parcel area (area of land); <li data-bbox="409 951 1386 978">- regarding building: location, parcel number, building number, type, structure, floor area.

16. INSURANCE SECTOR

Changes	Article 32(c)
4AMLD	No specific provisions concerning this sector.
July 2016	No specific provisions concerning this sector.
EP 2017	<p>Proposal to add new paragraph 32(c):</p> <p>1. Member States shall put in place automated centralised mechanisms, such as central registries or central electronic data retrieval systems, which allow the identification, in a timely manner, of any natural or legal persons holding or controlling life insurance contracts or investment related services such as insurance contracts with premium refund held within their territory. Member States shall notify the Commission of the characteristics of those national mechanisms.</p> <p>2. Member States shall ensure that the information held in the centralised mechanisms referred to in paragraph 1 is directly accessible, at national level, to FIUs and competent authorities. Member States shall ensure that any FIU is able to provide information held in the centralised mechanisms referred to in paragraph 1 to any other FIUs in a timely manner in accordance with Article 53.</p> <p>3. The following information shall be accessible and searchable through the centralised mechanisms referred to in paragraph 1:</p> <ul style="list-style-type: none"> - for the contracting partner and any person purporting to act on behalf of the contracting partner: the name, complemented by the other identification data required under the national provisions transposing Article 13(1) (a) or a unique identification number; - for the beneficial owner of the life insurance contract: the name, complemented by the other identification data required under the national provisions transposing Article 13(1)(b) or a unique identification number; - for the life insurance contract: date of conclusion of contract and insured amount.

17. GROUP-WIDE INFORMATION SHARING

Changes	Article 39(3)
4AMLD	(3).The prohibition laid down in paragraph 1 shall not prevent disclosure between the credit institutions and financial institutions or between those institutions and their branches and majority-owned subsidiaries located in third countries, provided that those branches and majority-owned subsidiaries fully comply with the group-wide policies and procedures, including procedures for sharing information within the group, in accordance with Article 45, and that the group-wide policies and procedures comply with the requirements laid down in this Directive.
July 2016	Proposed amending subparagraph (3) as follows: (3). The prohibition laid down in paragraph 1 shall not prevent disclosure between the credit institutions and financial institutions or between those institutions from the Member States provided that they belong to the same group, or between these entities and their branches and majority owned subsidiaries established in third countries, provided that those branches and majority-owned subsidiaries fully comply with the group-wide policies and procedures, including procedures for sharing information within the group, in accordance with Article 42 and that the group-wide policies and procedures comply with the requirements set out in this Directive.
EC 2016	Proposal to adopt amended wording in July 2016 above.
EP 2017	Proposal to adopt the revised version of (3) in July 2016 above.

18. DATA PROTECTION, RECORD-RETENTION AND STATISTICAL DATA

Changes	Article 40(1)
4AMLD	Member States shall require obliged entities to retain the following documents and information in accordance with national law for the purpose of preventing, detecting and investigating, by the FIU or by other competent authorities, possible money laundering or terrorist financing: (a) in the case of customer due diligence, a copy of the documents and information which are necessary to comply with the customer due diligence requirements laid down in Chapter II, for a period of five years after the end of the business relationship with their customer or after the date of an occasional transaction; (b) the supporting evidence and records of transactions, consisting of the original documents or copies admissible in judicial proceedings under the applicable national law, which are necessary to identify transactions, for a period of five years after the end of a business relationship with their customer or after the date of an occasional transaction. Upon expiry of the retention periods referred to in the first subparagraph, Member States shall ensure that obliged entities delete personal data, unless otherwise provided for by national law, which shall determine under which circumstances obliged entities may or shall further retain data. Member States may allow or require further retention after they have carried out a thorough assessment of the necessity and proportionality of such further retention and consider it to be justified as necessary for the prevention, detection or investigation of money laundering or terrorist financing. That further retention period shall not exceed five additional years.

Changes	Article 40(1)
July 2016	<p data-bbox="394 236 801 260">Proposed the following amendments:</p> <p data-bbox="394 284 2105 371">(a) in the case of customer due diligence, a copy of the documents and information which are necessary to comply with the customer due diligence requirements laid down in Chapter II, including, where available, information obtained through electronic identification means as set out in Regulation (EU) No 910/2014, for a period of five years after the end of the business relationship with their customer or after the date of an occasional transaction;</p> <p data-bbox="394 395 2105 515">(b) the supporting evidence and records of transactions, consisting of the original documents or copies admissible in judicial proceedings under the applicable national law, including, where available, information obtained through electronic identification means as set out in Regulation (EU) No 910/2014, which are necessary to identify transactions, for a period of five years after the end of a business relationship with their customer or after the date of an occasional transaction.</p> <p data-bbox="394 539 918 563">Proposed the following subparagraph be added:</p> <p data-bbox="394 587 1877 611">The second subparagraph shall also apply in respect of the data accessible through the centralised mechanisms referred to in Article 32a.</p>
EC 2016	<p data-bbox="394 643 1384 667">Proposal to largely adopt amended wording in July 2016 above with the following addition:</p> <p data-bbox="394 691 2056 738">The retention period referred to in this paragraph, including the further retention period that shall not exceed five additional years, shall also apply in respect of the data accessible through the centralised mechanisms referred to in Article 32a.</p>
EP 2017	<p data-bbox="394 762 1171 786">Proposal to adopt the amended wording in July 2016 above for 40(1)(a).</p> <p data-bbox="394 810 1081 834">Proposal to amend the wording in July 2016 above for 40(1)(b):</p> <p data-bbox="394 858 2105 978">b) the supporting evidence and records of transactions, consisting of the original documents or copies admissible in judicial proceedings under the applicable national law, including, where available, information obtained through electronic identification means as set out in Regulation (EU) No 910/2014, or alternative remote identification techniques subject to the approval of the competent authorities, which are necessary to identify transactions, for a period of five years after the end of a business relationship with their customer or after the date of an occasional transaction.</p>