



## Professional Indemnity Insurance

# UK Law Firms facing stricter controls under European 5MLD regulations

Whilst many of you will still be recovering from the implementation of 4MLD<sup>1</sup>, a new EU Directive, the fifth money laundering directive (5MLD)<sup>2</sup> came into force on Monday 9 July 2018. Member States have until 10 January 2020 to transpose the directive, yet the UK government has confirmed it intends to adopt 5MLD<sup>3</sup> despite the outcome of the Brexit negotiations.

### Why the need for a further Directive on preventing money laundering and terrorist financing?

Given the increased number of terror attacks across Europe, and the release of the Panama Papers, this revealed that criminals were misusing trusts and off shore accounts to launder money generated from illegal sources. The legislation was created to strengthen the fight against terrorist financing and money laundering.

### What are the changes from 4MLD?

- **Cryptocurrencies:** Virtual currencies and custodian wallet providers now fall within the scope of anti money laundering legislation and customer due diligence controls now apply.
- **Electronic CDD:** 5MLD permits the use of electronic identification checks for customer due diligence.

- **New registers:** New bank account registers will be introduced to allow law enforcement (financial intelligence unit) access to bank account information held in that Member State, enabling them to identify account holders.
- **Politically Exposed Persons (PEPs):** Member states will have to issue and keep up to date a list of "prominent public functions".
- **Beneficial Ownership:** Enhanced access (cross-border) to the beneficial ownership register to improve transparency relating to the ownership of companies and trusts.
- **High-risk third countries- enhanced controls:** 5MLD introduces enhanced due diligence checks for business relationships or transactions involving high-risk third countries<sup>9</sup>. The EU Commission has created and maintains a list of non-EU countries with deficient money laundering regimes. 5MLD goes further and can prevent the opening of branches in high-risk third countries.

- **Anonymous Accounts:** 5MLD now prohibits the use of anonymous accounts, safe-deposit boxes and passbooks, with all now being subject to customer due diligence measures<sup>10</sup>.
- **Prepaid instruments:** The scope of such instruments has increased under 5MLD to include gift cards/travel cards). The threshold for identifying the holders has been reduced from €250 to €150 and customer verification is required<sup>11</sup>.

5MLD will also extend the definition of "estate agents" to include letting agents, but only where the transaction for rent amounts to €10,000 or more<sup>12</sup>.

The Directive has been published in the Official Journal and can be accessed here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018L0843>

1. [http://www.legislation.gov.uk/ukxi/2017/692/pdfs/ukxi\\_20170692\\_en.pdf](http://www.legislation.gov.uk/ukxi/2017/692/pdfs/ukxi_20170692_en.pdf)
2. DIRECTIVE (EU) 2018/843 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU
3. The Guardian - <https://www.theguardian.com/world/2018/jul/23/uk-eu-laws-terrorism-money-laundering-margaret-hodge>
4. DIRECTIVE (EU) 2018/843 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU point (16) Article 3 page 54
5. DIRECTIVE (EU) 2018/843 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU point (16) Article 3 page 54
6. DIRECTIVE (EU) 2018/843 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU point (a) Article 13(1) page 56
7. DIRECTIVE (EU) 2018/843 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU point (9) of Article 3 page 58.
8. DIRECTIVE (EU) 2018/843 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU point (4) Article 31 page 61.
9. DIRECTIVE (EU) 2018/843 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU Article 18a page 57
10. DIRECTIVE (EU) 2018/843 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU Article 10 page 55
11. DIRECTIVE (EU) 2018/843 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU Article 12 page 55
12. DIRECTIVE (EU) 2018/843 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU point (d) Article 2(f) page 53

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