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Newsflash – AML / Corporate
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WHAT?

Article 30 of the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (the **4th AML Directive**) creates transparency obligations for corporate and other legal entities to create and maintain an up-to-date register of beneficial owners with a determined set of information. It also triggers the obligation to create a register of beneficial owners which information will be made available to competent authorities as well as to the public under certain conditions.

Article 31 of the 4th AML Directive provides for the same duties regarding trusts as well as the creation of a central register of trusts at national level to be made accessible to the public under certain conditions.

Both articles 30 and 31 of the 4th AML Directive will be implemented in Luxembourg law by the two bills of law approved by the government council (the **Council**) on November 22th 2017 (the **Bills**).

WHEN?

Implementation of the provisions of the 4th AML Directive, including the above mentioned articles, was due on June 26th 2017. It is on November 22nd 2017 that the Council approved the Bills intending to implement respectively articles 30 and 31 of the 4th AML Directive. The text of the Bills should soon be made available to the public and consequently the legislative process will start.

HOW?

The recitals of the 4th AML Directive emphasise the need for accurate and up-to-date information on the beneficial owners and consider such information as a key asset in the fight against criminals who could otherwise keep their identity secret through a corporate structure.

Although the exact provisions of the Bills have not been disclosed yet, the main obligations for companies and trusts may be inferred from articles 30 and 31 of the 4th AML Directive and the communication of the Council dated November 22nd 2017.

Indeed, the Council specified that the Article 30 Bill will establish and frame the central register of beneficial owners which will allow for the information on legal person's beneficial owners to be maintained and made available. Furthermore, this will trigger duties for legal persons to create and maintain an up-to-date internal register on their beneficial owners.

Considering the provisions the 4th AML Directive, it is very likely that all commercial companies (but not only) will be subject to these new obligations. Corporate organs of companies (i.e. board of directors/managers) will become responsible for setting up the beneficial owner register as well as for the accuracy of the information contained therein as well as the disclosure of the said information to the national central register of beneficial owners.

The required information on beneficial owners will certainly include, at the very least, for a natural person, his/her name, address and ID, and for a natural person, its name, country of incorporation and address of its registered

office as well as an extract from the company register of the country of incorporation, and, for both legal and natural persons, details on the beneficial interests held.

All information contained in the internal beneficial owners' registers of Luxembourg companies will be communicated to the national central register of beneficial owners. Such central register will be accessible by competent authorities and persons demonstrating a "legitimate interest"; notion which still need to be clarified presumably in the Bills.

Article 31 is expected to create similar obligations for trusts.

SANCTION?

The Bills will provide for criminal penalties in the event of breach implying thus that corporate organ of Luxembourg commercial companies and trustees may face supplementary criminal liability.

Should you need any further information, please contact [Pierre-Alexandre Degehet](#).