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EU Countries Getting in Line with AML Regulations on Heels of Warning Letters

By [Brian Monroe](#)

Five of the 15 European Union countries chastised by the EU Commission for not adopting anti-money laundering directives quickly enough could have those issues resolved by the end of the year, according to published reports and analysts.

Three countries – Luxembourg, Malta and the Netherlands – passed the EU's Third Money Laundering Directive into law in the past month, a response to "warning letters" sent in July threatening legal action from the EU Commission or sanctions from the European Court of Justice.

France and Ireland are expected to follow suit by December with the remainder of countries likely to put the Third Directive into national law by the first quarter of 2009, said a European anti-money laundering (AML) consultant who talked to several of those countries' finance ministers and Peter Oakes, who owns a Dublin-based consultancy.

If any countries do struggle to implement the Third Directive for a year or more, they could run afoul of another piece of legislation that will take effect in November 2009: the Payment Services Directive (PSD).

"Money laundering and terrorist financing are a priority for the central bankers in those countries," said the consultant, who asked not to be named. "They feel exposed right now and urgently want to get the Third Directive into law."

The payment services directive, adopted by the European Parliament in April 2007, requires licensing for all businesses engaging in payment services, adds anti-money laundering program requirements and establishes a new class of service provider, payment institutions, which only process payments.

In order to adopt the PSD, the country must already have "mandatory compliance with the Third Directive," said Dominic Thorncroft, chairman of the U.K. Money Transmitters Association, a trade group. "That throws a wrench into the whole works."

Missing a deadline for one or even multiple directives "happens all the time in the EU," said Oakes, a principal at Compliance Ireland, adding that some countries are feeling "a bit of regulatory fatigue" with so many new directives directed at the financial sector.

When another EU initiative to set the framework for investment and securities firms, the Investment Services Directive (ISD), went into effect in the early 1990s, "only one country actually made the deadline," Oakes said.

In warning letters to Third Directive stragglers, EU Internal Market Commissioner Charlie McCreevy stated the countries in question face "expeditious...legal action" for not transposing the AML regulations, which he considers a priority to safeguard Europe's financial system. Under EU regulation, the countries—Austria, Belgium, Czech Republic, France, Germany, Greece, Ireland, Latvia, Poland, Slovakia, Spain and Sweden—face potential fines or other sanctions from the European Court of Justice for noncompliance.

EU member states, old and new – such as Romania and Bulgaria, which joined in January 2007 – are "now feeling what it's like to work in an EU society," Oakes said. "We no longer draft our own laws. The EU sets the agenda and we have to implement them."

The warning letters from the commission might actually help finance ministers convince their governments that passing the Third Directive is more of a priority than other pending national legislation, said Thae Sabri, chief executive of the United Kingdom-based Electronic Money Association.

"Some countries won't do it until they get the letters," he said.

Even so, EU countries and some industries are not actively challenging implementation of the Third Directive and, in some respects, welcome it, Oakes said.

Casinos, for example, have a legal reason to get detailed information and identification from gamblers, which could aid them in recovering gambling losses if the person tries to skip town, said Oakes.

Further, financial institutions embrace the new provision of "simplified due diligence," which would allow them to better allocate resources, he said.

Any of these lagging countries strengthening their AML laws, either to avoid more scrutiny from the EU or simply to raise themselves to international standards, is a "positive step," said John Carlson, principal administrator of the Paris-based Financial Action Task Force, an intergovernmental AML watchdog.

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Many of the same steps these countries take to put themselves in accordance with the Third Directive also line them up with FATF recommendations, which can "lead to increased financial stability and investment" for domestic and foreign sources, Carlson said.

The EU Commission adopted the Third Directive in 2005 to raise the AML and anti-terrorism financing standards of member countries to levels recommended by the FATF, which calls for countries to adopt nearly 50 recommendations to gird themselves against terrorist financiers and money launderers.

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