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Ireland Extends PEP Test to Include Cohabitants of Family Members

Posted on **02 November 2009** by **Peter Oakes**

Ireland proposes to extend the customer due diligence requirements contained in Article 13.4 of the 3rd EU Anti-Money Laundering Directive (2005/60/EC) and Article 2 of the Implementing Directive (2006/70/EC) relating to 'immediate family members' of foreign politically exposed persons (Foreign PEP).

The Directive 2006/70/EC defines the term 'immediate family members' to include:

- (a) the spouse;
 - (b) the partner of the spouse;
 - (c) the children;
 - (d) the spouse of the child;
 - (e) the partner of the child;
 - (d) the parents,
- of the Foreign PEP.

The proposed new Irish law, currently in Bill form (Criminal Justice (Money Laundering & Terrorist Financing) Bill 2009), extends this definition to include the any cohabitant of the Foreign PEP and any cohabitant of a child of a Foreign PEP (section 37(9) of the Bill).

No definition of 'cohabitant' is provided in the Bill, however section 37 provides that it includes a person of either sex. The same subsection also allows the Minister to prescribe further persons to be 'immediate family members' of a Foreign PEP.

Many regulated institutions are finding it difficult enough to demonstrate reasonable steps will be / are being taken to identify Foreign PEPs, their immediate family members and close business associates. The extension to include relevant cohabitants will make this task more difficult. Regulated firms in Ireland using software to assist in the possible identification of such persons should check with their vendors to determine if their databases extend to known cohabitants. The likely the answer is that vendors cannot and will not represent the capturing of 'cohabitants'.

Accordingly, it looks like it will be difficult for firms to ignore the simple yet perhaps 'customer unfriendly' method of asking a customer if he/she is a Foreign PEP etc to discharge their regulatory obligation.

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