



- [Home](#)
- [Free Resources](#)
 - [Forums](#)
 - [Articles](#)
 - [Videos](#)
 - [AML & Fraud News](#)
- [Free Tools](#)
 - [RiskScreen](#)
 - [Information](#)
 - [FAQ](#)
 - [Factbook Lite](#)
 - [Information](#)
 - [FAQ](#)
- [Premium tools](#)
 - [Factbook](#)
 - [Information](#)
 - [FAQ](#)
 - [EDD360°](#)
 - [Information](#)
 - [FAQ](#)
- [Hot Topics](#)
- [About KYC360°](#)
 - [Our Security](#)
 - [FAQ](#)
 - [Contact Us](#)

Supported By:



Ireland Introduces New AML/CFT Laws to Meet International Obligations

Posted on **06 August 2009** by **Peter Oakes**

Ireland has published a Bill (Thursday 28 July 2009) to lead the way for enacting both the 3rd EU Anti-Money Laundering Directive (No. 60/2005/EC) (3rd Directive) and the FATF 40 Recommendations and 9 Special Recommendations into Irish law. The Bill is not likely to become law until Quarter 4 2009, by which time Ireland will be almost two years late in implementing the 3rd Directive. In October 2008, Ireland and others were referred by the European Commission to the

European Court of Justice over non-implementation of the 3rd Directive by 17 December 2007.

What is the purpose of the proposed law?

Ireland already has a fairly extensive anti-financial crime regime in place. However its specific anti-money laundering/counter-financing terrorism (AML/CFT) laws are not as extensive as that required by the 3rd Directive and certain FATF recommendations. The recently published Bill aims to address these gaps by:

- repealing and re-enacting the current AML/CFT law (i.e. Criminal Justice Act 1994 (as amended) and other statutes) with necessary updates. This revised law will be known as the *Criminal Justice (Money Laundering & Terrorist Financing) Act*.
- transposing the 3rd Directive into Irish law.
 - for example, a number of professional persons and other bodies which might likely be able to identify instances of money laundering/terrorist financing are currently not required to perform customer due diligence, implement AML/CFT policies and procedures or report suspicions to the authorities. (See ‘*Who will be affected by the new law?*’ below); and
- ensuring that Ireland complies with the recommendations of the third mutual evaluation report on Ireland of the FATF.

Who shall be affected by the proposed law?

Those directly affected by the proposed law will be known as ‘designated persons’. These persons include the following:

- Credit Institutions*
- Financial Institutions*
- Insurance Companies*
- Reinsurance companies and SPVs (*these persons are required to comply by direction of the Irish Financial Regulator*)
- Intermediaries - investment, mortgage and insurance*
- Money Transmitters*
- Bureaux de Change*
- Credit Unions*
- Accountants* (*this definition is extended*)
- Solicitors*
- Estate Agents and Auctioneers*
- Payment Institutions
- Barristers
- Casinos (and Private Members' Clubs)
- Dealers in High Value Goods (*where payments are made in cash in excess of €15,000*)
- Trust and Company Service Providers (*this may capture Non-Executive Directors who act through service companies*)
- Other Designated Persons (*as may be specified from time to time by the Minister*)
- Other businesses which may become subject to oversight by the Irish Financial Regulator

*: a person already covered by current AML/CFT law

What will designated persons need to do?

Designated persons, amongst other things, will be required to:

- identify and verify the identity of their customers and the beneficial owner(s) of customers

where there:

- exists a business relationship;
 - is a one-off transaction, or series of linked transactions, totalling €15,000 or more;
 - exists a suspicion of money laundering/terrorist financing;
 - exists doubt about the veracity or adequacy of documents or information previously obtained relating to a customer's identity.
- report suspicions of money laundering and/or terrorist financing to the authorities. In the case of Ireland, the report must be filed with both the Financial Intelligence Unit (i.e. Garda Síochána (Irish Police Service)) and Revenue Commissioners; and
 - take supporting measures, such as ensuring proper training of personnel and the establishment of appropriate risk-based internal preventive policies and procedures.

What are some examples of new powers/requirements planned for Ireland?

In addition to new requirements relating to performing customer due diligence (including coverage of foreign PEPs etc), the ability to share information between certain third parties where a suspicious transaction report has been made and the adoption of risk-based AML/CFT policies and procedures, the following requirements should be noted:

- any offence through which the proceeds of crime are derived or obtained can trigger a money laundering offence;
- the Garda may direct a designated person not to carry out any specified service or transaction up to a period not exceeding 7 days. Thereafter the District Court, on application by the Garda, may make an order which effectively extends the direction for a separate period not exceeding 21 days. The District Court has power to make repetitive orders. These powers are designed to freeze proceeds suspected to have been derived/obtained through crime while investigations are on foot. It is expected that these powers will most likely follow receipt by the FIU of a suspicious transaction report but this may not necessarily be the case (i.e. the Garda may make a direction at anytime).
- casinos (and private members' clubs) and trust and company service providers will need to register with the government and will be subject to government oversight for AML/CFT purposes.
- at least in the case of designated persons regulated by the Irish Financial Regulator, these persons will be subject to penalties and other sanctions for failing to meet AML/CFT requirements (a power which is already available to a number of overseas financial regulators, e.g. UK FSA).
- certain guidance notes used by various designated persons are likely to be codified by the government. The current series of guidance notes will need to be re-written and published to conform with the proposed legislative requirements.

Further reading

A copy of the Bill and other relevant documents can be found on [Compliance Ireland's website](#).

Peter Oakes is founder and managing director of Compliance Ireland Regulatory Services Ltd and City Compliance Regulatory Services Ltd. In addition to advice and training on financial crime, Peter advises local and overseas firms on regulatory compliance issues (peter@complianceireland.com / www.complianceireland.com). Peter is admitted as a solicitor in Ireland, the UK and Australia. He has worked in the enforcement and legal departments of, respectively, the UK Financial Services Authority and the Australian Securities and Investments Commission. Peter is also a former registrar of a disciplinary board which sanctioned auditors and liquidators for regulatory failures.

Topics: [AML](#) [EU Regulation](#) [Third EU Directive](#)

[<< Previous](#)

- [Show All Hot Topics](#)

Next >>

[Join the community](#) for free to access more AML news, articles, videos, discussions and tools.

Member Comments

[Sign in](#) or [join the community](#) and be the first to leave a comment!

Sign In

Email:

Password:

Remember me

[Forgot your password?](#)

Join Us

Join other financial services professionals and access free tools and information.

Why join KYC360°?



[Take a quick tour and find out what KYC360° has to offer](#)

- [Contact Us](#)
- |
- [Terms & Conditions](#)
- |
- [Privacy Statement](#)