



## 6AMLD PRACTICES: MAPPING RISK FACTORS AND OPPORTUNITIES

Learn about key risks and opportunities provided in the EU's Sixth AMLD and look ahead to further changes that will likely follow in the upcoming years and how businesses can respond to the changing environment.

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# INTRODUCTION

The European Union (EU) issued its first Anti-Money Laundering Directive (1AMLD) in 1990. Primarily, this directive consisted of Customer Due Diligence (CDD), transaction monitoring, and Suspicious Transaction Reporting (STR) policies. Financial Intelligence Units (FIUs) were also established under AMLD to streamline the financial reporting process. This directive aimed to verify customers and financial assets to eliminate terrorist financing and money laundering activities.

Keeping up with global, ever-evolving financial ecosystems, the EU has issued a total of six AMLDs, with each one building upon and replacing the previous one. This whitepaper takes an in-depth look at the most recent AMLD issued by the EU. 6AMLD is the most strengthened and effective version of the European Union's AMLDs issued until now, with the most recent follow-up released in March 2023.

Gain a complete understanding of EU directives, along with a brief overview of their history, significance for businesses, and a comprehensive distinction between the recent updates. Explore the potential risks and opportunities it brings for businesses from all industries, as well as learn how enterprises functioning in the EU can maintain compliance and secure business operations while avoiding sanction listings and penalties.

**“Firms with a positive consumer-focused culture should commit to investing and resourcing an effective framework from both a customer and compliance perspective.”**

*Derville Rowland, Director General of Financial Conduct, Central Bank of Ireland*





# A BRIEF HISTORY OF AMLD

The European Union released its first directives in 1990 and, so far, has released six directives. Each directive has stringent regulations for criminal activities such as terrorist financing, and money laundering. The directives aim to combat money laundering, cybercrime, and terrorist financing more efficiently. Nonetheless, the EU keeps further updating the directives to provide the best-in-class AML guidelines. The series of AMLDs goes as follows:

Directives	Year	Details
1AMLD	1990	The European Commission took a major move then, expanded its areas of political competence, and saw AML as an area where a multilateral approach might have an impact. <sup>[1]</sup>
2AMLD	2001	In 2AMLD <sup>[2]</sup> , The EU adopted the revised Financial Action Task Force (FATF) Recommendations. <sup>[3]</sup>
3AMLD	2005	The regulations had been adapted to respond to the financing of terrorism. <sup>[4]</sup>
4AMLD	2015	It was introduced 10 years after the prior directive to widen the scope of AML/CFT obligations to fit the growing requirements of the digital environment. <sup>[5]</sup>
5AMLD	2018	It came into force in January 2020 <sup>[6]</sup> and mainly focused on terrorist financing following a string of attacks throughout Europe. It extended the range of obligated entities, including crypto exchanges and wallet providers.
6AMLD	2020	The implementation of the final directive was decided in June 2021, which further enhanced the stringent AML measures and added 22 new predicate offenses along with other measures. <sup>[7]</sup>

<sup>1</sup> [EU - 1AMLD](#)

<sup>2</sup> [40 FATF Recommendations](#)

<sup>3</sup> [EU - 2AMLD](#)

<sup>4</sup> [EU - 3AMLD](#)

<sup>5</sup> [EU - 4AMLD](#)

<sup>6</sup> [EU - 5AMLD](#)

<sup>7</sup> [EU - 6AMLD](#)



# THE SIGNIFICANCE OF 6AMLD

- The Sixth Anti-Money Laundering Directive (6AMLD) was transposed into national laws on December 3rd, 2020 .<sup>[8]</sup>
- 6AMLD is a significant development for the EU after several major European financial scandals that have raised questions about the efficacy of the Union's Anti-Money Laundering (AML) approach.
- 6AMLD covers the primary questions, basic issues, and objectives discussed in the prior AMLDs, along with stringent measures and a better approach to combating terrorist financing issues.

## Why 6AMLD is Crucial for Businesses

6AMLD places more responsibility on the national governments of Member States. They must ensure that businesses comply with the AML standard domestic requirements. This places more responsibility on the shoulders of strictly regulated entities such as banks, insurance firms, digital platforms, Fintech, etc.

Many experts hailed that 6AMLD is the strictest financial regulation that has ever been introduced since it goes right back to the core of what AML is about and:

- Expands the horizon of the money laundering offense
- Expands the liability horizon for those who:
  - Commit money laundering offenses;
  - Are directly or indirectly involved in the offense;
  - Or fail to meet standard compliance requirements
- 22 predicate offenses for money laundering
- Harsher fines, penalties, and sanctions

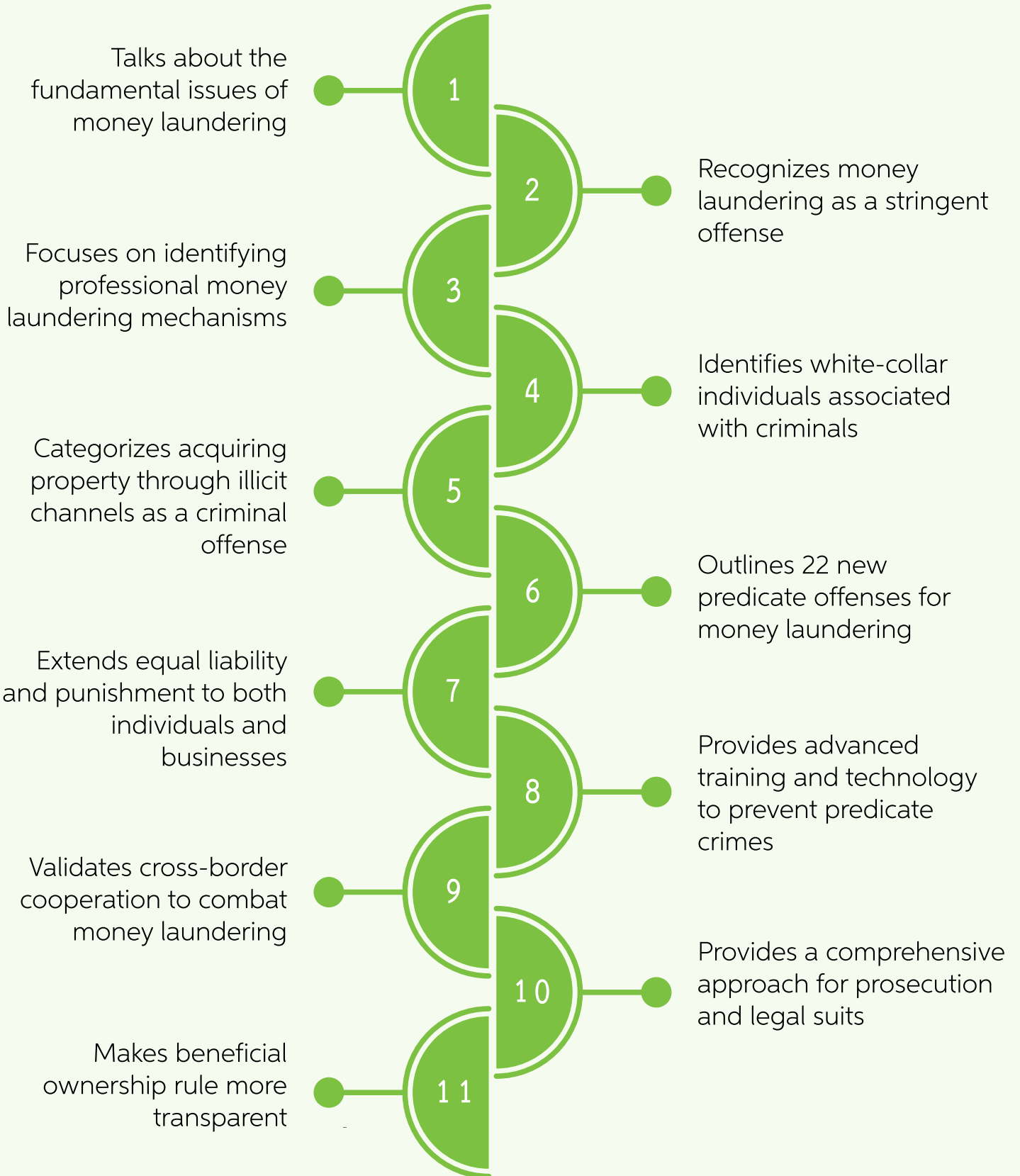
**“Given the rise of rigid policies and punishments in the AML regulatory frameworks, organizations in the European market need to be aware of 6AMLD and take a proactive approach to ensure that they are fully compliant”**

<sup>8</sup> [EU - 6AMLD significance](#)



# WHAT 6AMLD SAYS

## 6AMLD





# WHAT YOUR BUSINESS NEED TO KNOW ABOUT 6AMLD

The 6AMLD aims to strengthen money laundering regulations and clarify offenses. In particular, 6AMLD:

- Clarifies the definitions of offenses and perpetrators
- Implements stricter penalties for crimes
- Widens the regulatory scope of money laundering offenses
- Seeks to promote cross-border cooperation further
- Recognizes dual criminality within EU states

## Definition of Money Laundering

By stating precisely what the European Union considers to be "money laundering," 6AMLD establishes a new foundation for AML activities in the EU<sup>[9]</sup>. The definition is fairly detailed and supports the quotation in full:

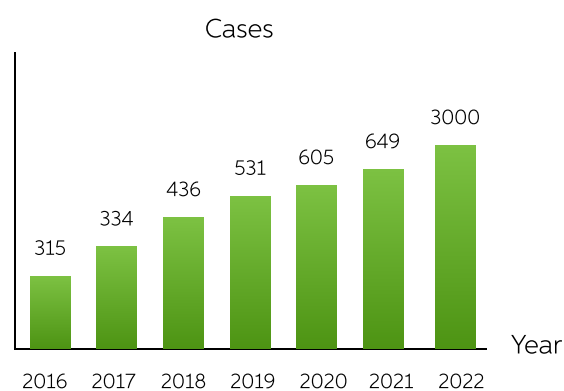
- Transferring or converting property, knowing that it is the result of criminal activity,
- To conceal or disguise asset's illicit origin or to help anyone involved avoid legal repercussions;
- concealing or covering the true nature, source, place, traits, movement, rights with regard to, or ownership of, property, recognizing that it is the result of criminal activity;
- Obtaining, possessing, or utilizing property knowing, at the time it is acquired, possessed, or used;
- Inciting, aiding, and abetting criminal offenses.

Through a standard definition of money laundering across the EU, the European Commission aims to eliminate the fragmented approach to money laundering that allows criminals to exploit legal loopholes specific to their jurisdictions.

For instance, prior to 6AMLD, several jurisdictions did not consider "self-laundering"— the laundering of money obtained by a criminal through illegal action rather than by another person — to be a crime.

### Unprecedented Surge in Money Laundering Cases

A steady increase in Eurojust's money laundering registrations has been observed since 2016, presenting a 12-14 % increase in registered cases.



<sup>9</sup> EU - Article 5

## Stricter Punitive Measures

6AMLD introduces stricter punitive measures for individuals and businesses that are caught falling foul of its requirements, including:

- 4 or more years in prison
- Greater fines and closure of business units
- Freezing and confiscation of assets
- Right to shut businesses down completely
- Drastic impact on the business reputation
- Impact on operational flexibility of the business

**Caught individuals and businesses (aiding, involving, abetting, inciting, & attempting) now face severe and harsher penalties than ever before.**

## The Introduction of Predicate Offenses

“A predicate offense is considered to be any crime as a result of which proceeds have been generated that may become the subject of a transgression, as defined in several international conventions “. All EU member states are required to criminalize 22 new predicate offenses under the 6AMLD unless they already do so. Primarily include the money-making crimes that launderers utilize. Predicate crimes are any offenses that result in monetary gains that are later used to commit larger offenses like terrorist financing and money laundering . These include:<sup>[11]</sup>



<sup>10</sup> UN - Convention against Transnational Organized Crime

<sup>11</sup> FATF - List of predicate crime





## Liability for Legal Persons

In the 5AMLD, only individuals were held accountable for money laundering. However, 6AMLD expands accountability from "natural persons," or people, to "legal persons," or the corporations and partnerships for whom those people operate . It also includes companies and people like solicitors, accountants, and consultants who commit crimes on behalf of the company. The 6AMLD official journal clearly states.

**“Member States shall take the necessary measures to ensure that ‘aiding and abetting, inciting and attempting’ an offense is punishable as a criminal offense.”**

Article 3(1) and (5)

The new regulations allow for simultaneous prosecution of both individuals and the companies they work for on charges of money laundering, and nothing stops an individual from being found guilty after an organization has been found guilty.

### Keep in Mind...

Businesses could be held liable under 6AMLD even if a rogue element is found to be responsible for the offense. The directive raises concerns about practical limits of liability similar to the issue of "aiding and abetting," because, even when senior management is not implicated, and the perpetrators are never found, a company can theoretically be held legally liable for a money laundering offense.

## Increased Cooperation Requirements

To investigate and prosecute cross-border cases, the EU Member States must increase their levels of international cooperation in accordance with 6AMLD . According to the new regulations, it is advised that one Member State serve as the primary "hub" for the administration of legal processes . The factors also include:

- Where the crimes were committed,
- Offender's nationality,
- Suspect's residence,
- The country of origin of the victim or victims,
- The jurisdiction where the offender was found.

### To Remember:

A Member State will have jurisdiction over citizens who commit acts on its territory when they are nationals of that Member State. This also applies to circumstances in which a person is a "habitual resident," which includes professionals who travel from one country to another for work purposes on behalf of a company or independently.

<sup>12</sup> [EU - Article 6](#)

<sup>13</sup> [EU - Article 3](#)

<sup>14</sup> [EU- Cross-border cooperation](#)

<sup>15</sup> [EU - Article 15](#)



# REGULATION VARIATION: WHERE 6AMLD IS IMPLEMENTED?

For those businesses based or operating in the UK, there is a certain question regarding 'Brexit,' whether it will be implemented in the whole EU states or specifically for certain states. As expected, the UK government implemented 5AMLD by the deadline given in January 2020, but it has clearly stated that it will not enact 6AMLD in law since the regulations there already match or exceed the 6AMLD's requirements.

For instance, the Proceeds of Crime Act (POCA) 2002, which currently sets 14 years of imprisonment for money laundering, does not restrict the root cause of offenses. In addition, although corporate accountability necessitates establishing a controlling mind to result in a conviction,<sup>[16]</sup> the UK government recently enacted "failure to prevent" offenses for bribery and aiding in tax evasion. The primary focus of the UK government is on combating economic crime. With that being said, it means that, both in the UK and the EU, there will be a continued increase in penalties and liabilities in the same dimension.

The alternative version of 6AMLD was also created for the national level, with Denmark and Ireland being able to choose not to participate in cross-border investigations. The measures are being pursued far further by other member states. An even more extended definition of money laundering than that of the EU is found in the German government's draught bill to adopt 6AMLD, including financial crimes of all kinds as precursor offenses to money laundering.

## **To Remember:**

It is essential to have a good, clear understanding of 6AMLD to implement it into practice, AML professionals must keep in mind that the formation of the national legislation under consideration may result in variations in tone or occasionally more extensive and severe measures that must be considered during a risk assessment, based on the jurisdictions in which their companies conduct business operations.



# DIFFERENCE BETWEEN 5AMLD AND 6AMLD

## 5AMLD

5AMLD came into force on July 9, 2018, and its implementation was due across all Member States by January 10, 2020.

It focuses on enhanced due diligence measures in relation to dealings with high-risk third countries.

It focuses on complex transactions conducted in unusual patterns or without any economic or lawful purpose.

It increases reporting transparency and inter-agency / inter-authority cooperation across Member States.

It focuses on the availability of accurate and timely information on the beneficial ownership of legal persons.

It aims at ensuring uniformity in the classification of Politically Exposed Persons (PEPs) by the Member States.

It includes technological innovation in digital identification solutions, such as cryptocurrency and distributed ledger technology.

The scope of the industries in 5AMLD expanded to art, estate agents, digital asset providers, arms, tobacco, oil, precious metals, and tax advisors.

It provides transparency on beneficial ownership for corporate entities, trusts, and similar bodies

It introduces a centralized automated mechanism.

It allows help from the FIU and other legal authorities for the identification of individuals

1-year jail or a fine of up to £5 million for non-compliance. The use of anonymous prepaid cards is also restricted. Card use is limited from £250 to £150, and online purchases are limited to £50.

## 6AMLD

6AMLD was transposed into national laws on December 3rd, 2020, and the final deadline for implementation was June 3, 2021.

It empowers the institutions to enhance compliance measures, reduce legal issues, and reduce confusion regarding terrorist financing and money laundering.

It determines donations, incitement, and predisposition of assets as a potential criminal offense.

It focuses on enhancing cooperation between states for detecting financial crimes and cross-border aggression.

It focuses on the accurate and efficient analysis of AML data and checks, client onboarding, UBO screening, and real-time client risk analysis.

It focuses on 22 predicate offenses listed as criminal activities, from tax to digital crime.

It mandates having the necessary technological capacity in the processes (KYB, for example) to comply with the directive.

The 6AMLD must be implemented by UK companies that operate within the EU or trade with EU companies.

It mandates central registers for beneficial ownership while increasing transparency in UBO reporting.

It moves towards a single EU-wide AML rulebook that defines AML regulations as well as policies and ensures it addresses state-wide issues.

It increases international surveillance and cooperation with authorities like FIU and EU-level governing bodies to ensure compliance with the directive.

4-year jail sentence or fines up to the laundered amount. It also includes the freezing and confiscation of laundered assets. In severe cases, both fines and sentences may be implemented.



# RISKS AND OPPORTUNITIES OF 6AMLD

## Risk: Non-Compliance Punishments

Organizations must realize the importance of 6AMLD. Two years have passed since 6AMLD was implemented, although many organizations are still not compliant. They were unaware of the increased punitive measures and the broadening of predicate offenses under 6AMLD. This is a strong indication that the EU, which has long been criticized for taking a too permissive approach to AML, is starting to treat AML, CFT, CPF, and other financial crimes very seriously, along with the enactment of "aiding and abetting" as an offense.

If an organization fails to meet its compliance duties, penalties, and sanctions will be imposed by the EU and relevant authorities. For smaller businesses still in the beginning phases of growth, the possibility of facing larger fines, prosecution, and closure might be fatal.

**ACT NOW TO AVOID  
NON-COMPLIANCE PENALTIES**

## Risk: Reputational Harm

Customers in the EU are increasingly looking closely at businesses and conducting higher levels of due diligence, especially in the financial and professional services industries. Due to the unprecedented rise in criminal activity brought about by digitization, companies and individuals now choose to partner with those prioritizing due diligence procedures, client security, and compliance with the law.

A company's hard-earned reputation could be seriously harmed if it is discovered to have violated its compliance obligations and is ultimately penalized. Long-term repercussions can be disastrous, particularly for a new company still attempting to establish itself in the crowded and competitive consumer-centric market.

## Risk: Exit From the Corporate World

Without a doubt, noncompliance causes major damage to one's reputation. Many companies think that they can earn a reputation, but they don't realize that doing so costs them not only reputational harm but also a permanent exit from the corporate world. The 6AMLD stipulates that regulatory organizations have the authority to seize an asset if they discover that the company is involved in money laundering <sup>[17]</sup>

They can even shut down the company's operations permanently, penalize them, and imprison them. It would have to lay off operations immediately and would no longer be able to operate in the same industry. Hence, companies shouldn't disregard this since the consequences would be worse than the costs associated with compliance.

<sup>17</sup> [EU- Regulation on confiscation and freezing assets](#)



## Opportunity: Get Ahead of Future Potential Risks

With advancements in compliance and newly introduced policies, businesses can expect a secure future ahead. The EU has a whole set of policies to secure business operations and keep hackers and cybercriminals at bay. These policies only seem to be enhanced in the future. Increased fines and severe penalties are expected to prevent money laundering and terrorist financing.

Digitization has advanced the nature of threats; in the future, they will only advance and become more complex. Cybercriminals will adopt modern technology, including big data analytics, AI, and machine learning technology. When the means used to commit crimes are advanced, the way to combat them must also be enhanced. By adhering to 6AMLD compliance, businesses can get ahead in the future by developing a proactive approach. Businesses must employ KYB, AML, CFT, CPF, and other compliance solutions to mitigate them.

## Opportunity: New Technologies for AML & CFT

Innovation in regulatory technology, or RegTech, has surged due to the quickly changing technology landscape and the development of stronger as well as more comprehensive AML & CFT regulations.

RegTech platforms, resources, and other solutions give businesses faster, more accurate, and more affordable compliance tools that manage procedures. This helps businesses, especially smaller firms to improve the efficacy of their AML/CFT/CPF operations. These include Know Your Business (KYB) checks, enhanced due diligence process, adverse media screening, transaction monitoring, Politically Exposed Persons (PEPs) screening, Ultimate Beneficial Ownership (UBO) identification, risk assessment, and more.

[18]

Due to resource limitations, smaller businesses would not have been able to adopt comprehensive AML and CFT regimes without the help of these regtech solutions. Furthermore, these tech-driven platforms have a higher chance of adapting to changes in the ever-changing AML landscape.

## 6 AMLD: WHAT THE FUTURE HOLDS?

Two years have passed since the June 2021 deadline and the evaluation for businesses to implement 6AMLD. But still, many organizations haven't yet made the necessary changes to bring their firms into compliance with it. The organization had its recent follow-up on December 7, 2022, and will have a follow-up in December 2023, to see if the suggestions have been implemented.

To combat financial crimes effectively, during the last follow-up, the EU agreed to adopt a "single rulebook" across the jurisdiction. Other than that, the EU has set the cash transaction limit to £10,000 and given the state authority to lower it down, if necessary. The EU will also be making the same list of third countries as the Financial Action Task Force (FATF) and will have similar countries in it. Nonetheless, the council also revealed the criteria for the UBO verification and decided to make beneficial ownership rules more transparent and harmonizing. Considering all the updates presented in December's follow-up following things are expected: <sup>[19]</sup>

### Tougher Regulations

Over the coming years, the EU and government authorities will closely monitor 6AMLD, how Member States execute it, and how businesses adapt. The European Commission will submit a follow-up report to the European Parliament on the level of national adoption early in December 2023.

Without a doubt, the information in those documents will have a significant influence on future AML regulations implemented by the EU. In light of what we have witnessed in 6AMLD and the measures taken by certain Member States, including Germany, which has already imposed stricter domestic AML regulations, the need to audit KYB/AML procedures and report suspicious transactions. It is anticipated that the EU will merely expand the definition of money laundering, predicate offenses, liability, and penalties because Ireland and the UK have not accepted 6AMLD but have the same AML/CTF policies as stated in the directives.

### More Centralized Control

Meanwhile, the EU is still considering how it may strategically regulate and control AML, particularly emphasizing increased central control. A group of EU finance ministers requested suggestions from the European Commission on establishing a new, centralized EU-AML enforcement body in 2022 <sup>[20]</sup> and again in December this year.

The EU is preparing for the establishment of such a centralized body, given 6AMLD's focus on doing away with the fragmented application of prior AMLDs and coordinating the Member States closely to implement directives nationwide. After all, the EU's ability to exercise centralized oversight and enforcement is greatly facilitated if Member States implement AML legislation uniformly.

<sup>19</sup> [EU - December 2022 follow-up](#)

<sup>20</sup> [EU - AML enforcement body](#)



## Implementing the Crypto Travel Rule

Crypto businesses in the EU tend to adopt the Travel Rule in line with the global trend. Every crypto business operating in the EU would be directly required by the Market in Crypto Asset (MiCA) regulation to implement the crypto Travel Rule. As with wire transfers, each cryptocurrency company will, therefore, need to gather and share information on the source and beneficiary of the payment with one another.





## IS 7AMLD ON ITS WAY?

The EU is still considering possible tactical adjustments to its AML directives, particularly in relation to more centralized oversight. The Commission was asked by the EU finance ministers in 2020 to provide suggestions for establishing a new EU-AML enforcement body, which may include direct authority over financial institutions' compliance with AMLD.

The EU imposed rigid regulations against money laundering and terrorist financing in March 2023.<sup>[22]</sup> MEPs representing the Civil Liberties, Justice, Home Affairs, and Economic and Monetary Affairs committees took positions on three draught laws pertaining to the financing aspects of the EU's AML/CFT policy. This included:

- The EU “single rulebook” regulation that was adopted with 99 votes to 8 and 6 abstentions .<sup>[23]</sup>
- The 6th Anti-Money Laundering Directive that was adopted with 107 votes to 5 and 0 abstentions.<sup>[24]</sup>
- The regulation establishing the European Anti-Money Laundering Authority (AMLA)<sup>[25]</sup> that was adopted with 102 votes to 11 and 2 abstentions.

Moreover, the European Union appears intent on accelerating transformation while reducing room for national exceptions. Future AML regulations or 7AMLD, as opposed to directives, have been the subject of discussion. These regulations would set explicit guidelines for national governments and require entities to take effect without requiring national transposition . This might significantly<sup>[26]</sup> accelerate the EU's process of changing its AML regulations

Although there was an agreement that reform is necessary, national governments have different ideas about what an AML agency should look like. This is especially true regarding whether the agency should operate independently or as an arm of an already-existing organization like Europol, the European Police Agency, or the European Banking Authority (EBA).

However, considering the urgency in the air, the AMLA has been formed, a regulatory body that will establish indirect supervision of entities, which will be operational in 2024 and ensure all firms are regulated with the 6AMLD<sup>[27]</sup>. With the authority to mandate prompt action to address impending risks, the AMLA will directly supervise some of the high-risk financial institutions operating across numerous Member States. Nonetheless, the compliance experts in the EU must be ready for the forthcoming changes.

### Keep in Mind...

Vigilance, responsiveness, and KYB, AML, CFT, CPF policies, and tools that are easily adaptable to future changes are keys to AMLD's success.

<sup>22</sup> [EU - 2022 6AMLD follow up](#)

<sup>23</sup> [EU - single rulebook](#)

<sup>24</sup> [EU - 6AMLD follow up 2023](#)

<sup>25</sup> [EU - AMLA](#)

<sup>26</sup> [EU - Article 17](#)

<sup>27</sup> [EU - AMLA operation](#)





# STAY COMPLIANT WITH THE AML REGULATION WITH THE KYB

The KYB has provided businesses in fast-growing sectors like Fintech, Medtech, Blockchain technology, and Real Estate with unmatched AML compliance software. Our top priority is to deploy a complete business verification solution that is affordable and works well with our client's existing computing infrastructure.

Even where AML is necessary, it shouldn't present any complications. At "The KYB," our mission is to revolutionize business verification processes while enabling organizations to simplify their anti-money laundering procedures by providing them with seamless, compliant solutions.

## Money Laundering Prevention

For KYB services, companies must provide a detailed breakdown of all of their out-of-pocket expenses that are directly tied to the business. The KYB can help organizations stop financial activities that are flagged as potentially money-laundering attempts and have a high-risk score. This helps organizations comply with AML regulations and are reported to the appropriate legal authorities.

## Avoiding Sanctions

Businesses can get tangled around undetectable sanctions. Hackers attempt to evade penalties by hiding their money in an indiscernible place to participate in illicit activities without being discovered. By automatically prohibiting and reporting such acts, The KYB business screening saves the time and effort required for human reporting.

## Terrorist Financing

With The KYB, advanced technology tools stop terrorist financing while easily tracking the source of financial activity. Any money-making businesses are on the hit list of terrorist groups as a means of funding their operations, especially digital businesses, since they may operate through blockchain technology and usually have no physical presence. KYB and AML services from The KYB can identify these financial activities, which can then react appropriately.

**IS YOUR FIRM COMPLIANT?**



Verifying Businesses Globally The Fast  
& Efficient Way


# READY TO OVERCOME AML CHALLENGES TO ACCELERATE TRUST AND SECURE BUSINESS OPERATIONS?

Contact our experts and see how they integrate AML-KYB solutions into your existing processes and secure business operations.

## ABOUT KYB

The KYB is recognized for its in-depth financial services, RegTech expertise, and out-of-the-box rules engine, which ensures businesses are secured, advanced, and future proofed against evolving Anti Money-Laundering (AML), Know Your Business (KYB) across 250+ countries and states in 170+ languages. Through a user-friendly API or cloud integration, The KYB helps organizations ranging from start-ups to enterprises make informed decisions, meet compliance requirements, and mitigate risks.

 16192 Coastal Highway, Lewes, Delaware  
19958, County of Sussex

 [sales@thekeyb.com](mailto:sales@thekeyb.com)  
[marketing@thekeyb.com](mailto:marketing@thekeyb.com)

[CONTACT US](#)



GDPR



CCPA