

Bosnia and Herzegovina Adopts Sweeping Reforms with New Anti-Money Laundering and Counter Terrorism Financing Law

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In a decisive move, the Parliament of Bosnia and Herzegovina (BiH), convened in a 2nd emergency session of the House Peoples on 16th February 2024 and passed a new Law on Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF Law). The urgency of its adoption was underscored by the imminent fifth round of evaluation by MONEYVALL, scheduled to take place from 13th to 28th February 2024, with the aim of averting a potential Grey-Listing of BiH and mitigating associated economic, financial, and political ramifications. Furthermore, this legislative milestone holds substantial significance for BiH's aspirations towards EU integration, fulfilling one of three crucial preconditions for initiating negotiations in March.

The law seeks to harmonize BiH's legal and regulatory landscape with key EU standards, in particular the regulation (EU) 2018/1672 and directives (EU) 2015/849, and (EU) 2018/843.

However, the AML/CTF Law not only marks progress in the country's path to EU integration, but also brings about crucial changes, creating platform for emerging businesses. It introduces a comprehensive legal framework that recognizes and regulates previously unregulated financial services and products, such as crypto assets and e-money. This forward-looking approach positions BiH at the forefront of regulatory readiness for further digitalization and emerging technologies in the financial sector.

Furthermore, the law significantly broadens the scope of entities covered, subjecting a wider array of financial institutions and businesses to anti-money laundering regulations, including the previously unregulated entities, such as entities and platforms dealing with crypto assets, e-money institutions, etc. This inclusivity aims to eliminate potential loopholes that may be exploited, reinforcing the financial system against illicit activities. Conversely, the new law provides more detailed regulation for activities related to anti-money laundering and counter terrorism financing in certain professions, such as notaries and attorneys, addressing ambiguities and practical issues stemming from the previous regulation.

A notable feature of the legislation is its detailed provisions regarding the procedures and measures obligated entities must implement when dealing with anti-money laundering and counterterrorism financing susceptible transactions and businesses. The law clarifies situations requiring enhanced due diligence and those where simplified checks are permissible, outlining specific criteria for different types of obligated entities.

Introducing innovative measures, the AML/CTF Law enables KYC checks through video identification, electronic signatures and electronic stamps. This groundbreaking step not only facilitates client onboarding for financial institutions but also establishes a regulatory foundation for the broader use of fintech and increased digitalization within the financial sector. Furthermore, the law empowers certain obligors to conduct KYC checks indirectly through third parties, provided these entities adhere to anti-money laundering and counter-terrorism financing standards equal or superior to those stipulated in the law. Compared to the previous regulations, the new law defines more clearly obligors' rights and obligations to end relationships with clients if unable to consistently monitor their activities or to effectively manage the risk of money laundering and terrorist financing.

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The new law also incorporates mechanisms to guarantee the implementation of the statutory limitations for cash transactions and transport of physical currencies. This ensures that no one is exempted from these obligations and thereby mitigates risk of money laundering and terrorist financing in transactions prone to suspicious, such as real estate purchases.

Importantly, the law encourages and puts a strong emphasis on collaboration between different authorities within BiH dealing with fight against involved in money laundering and terrorism financing, as well as international cooperation with the relevant institutions and authorities promoting the exchange of information to strengthen the fight against transnational money laundering activities. Furthermore, the role and the scope of authorities of the local Financial Intelligence Unit (FOU) has been broadened, granting it the power to make more immediate and far-reaching actions and to exert more control over obligors and transactions. It also outlines detailed regulations for record-keeping and information and data exchange between the obligors, the FOU and other relevant domestic and international authorities.

A significant addition is the establishment of a permanent coordination body, comprising representatives appointed by the BiH Council of Ministers from competent bodies of the entities – the Federation of Bosnia and Herzegovina and Republika Srpska – and the Brčko District. This body aims to promote, coordinate, and cooperate in areas related to the law's scope and the fulfillment of BiH's international obligations in preventing money laundering and terrorist financing, in consultation with the entities' and Brčko District's governments.

In conclusion, the AML/CTF Law represents a multifaceted and forward-thinking legislative initiative. Beyond meeting immediate needs, it positions BiH as a proactive player in the global fight against financial crimes, fosters EU integration, and embraces the opportunities presented by technological advancements in the financial sector.

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