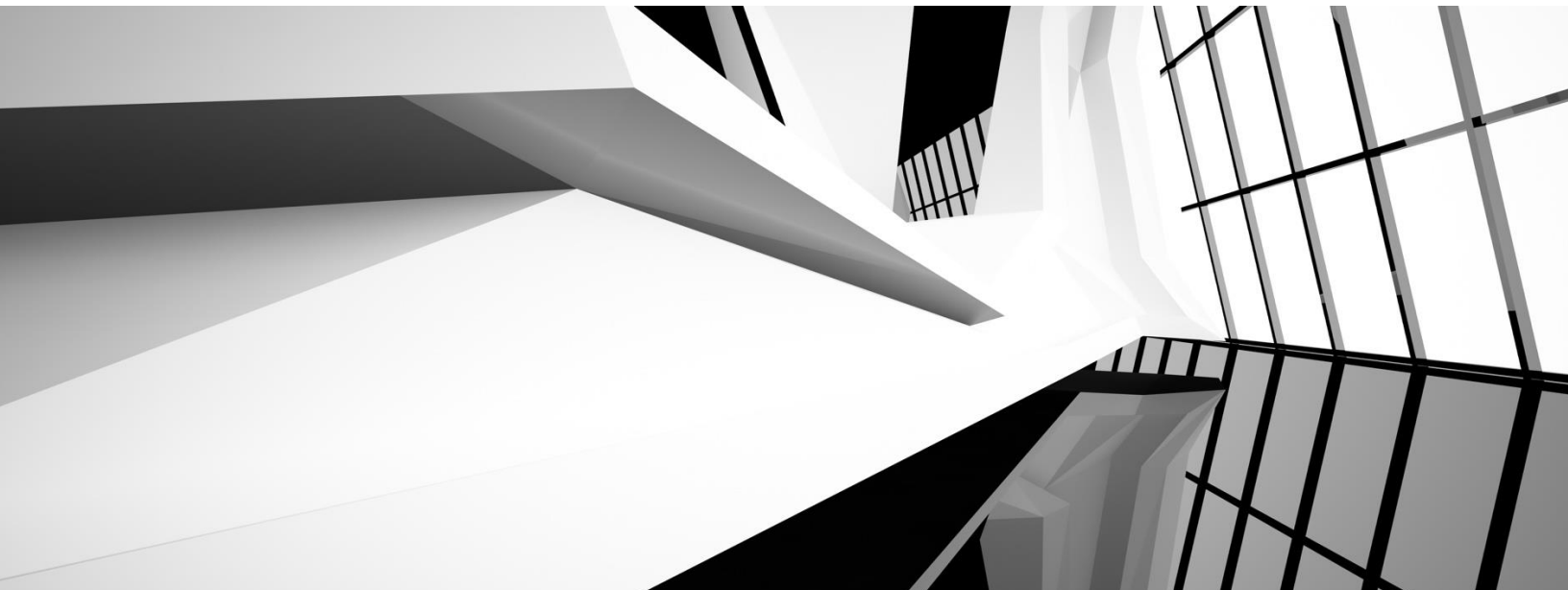


Praxio Legal Alert

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Bill 7467 and its implications on the Law of 12 November 2004 on the fight against money laundering and terrorism financing



Creativity

Efficiency

Sophistication

Knowledge

A new bill, numbered 7467 has recently been presented to the Luxembourg parliament. This bill aims at reinforcing the national legal framework of the fight against money laundering and terrorism financing by implementing new provisions and adjustments to the Law of 12 November 2014. The proposed legislation implements into domestic law EU Directive 2018/843 of 30 May 2018.

On 8 August 2019, Bill 7467 (the “**Bill**”) was presented to the Luxembourg Parliament. The object of this Bill consists of amending Law of 12 November 2004 on the fight against money laundering and terrorism financing (the “**AML Law**”) in line with the provisions of the EU Directive 2018/843 of 30 May 2018 (the “**5th AML Directive**”) (which amends Directive (EU) 2015/849 of 20 May 2015 (the “**4th AML Directive**”) on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and Directives 2009/138/EC and 2013/36/EU).

The Bill was approved on 26 July 2016 by the Luxembourg Government Council, which announced that the implementation of the 5th AML Directive into national legislation was one of the Government’s priorities. According to the press release of the government’s meeting, the implementation into domestic law of the 5th AML Directive will strengthen the measures already in force to fight against money laundering and terrorist financing.

In addition to the planned adaptations in the AML Law, other national laws relating to the organisation of regulated professions will be amended by the Bill, such as:

- the Law of 9 December 1976 on the organization of the notarial profession;
- the Law of 4 December 1990 on the organization of the bailiff service;
- the Law of 10 August 1991 on the profession of lawyers;
- the Law of 10 June 1999 on the organization of the profession of chartered accountants; and
- the Law of 23 July 2016 relating to the audit profession.

The main purpose of the Bill is to strengthen the measures for the combat against money laundering and terrorist financing within the national legal framework based on the precise recommendations of the Financial Action Task Force (FATF). FATF is the inter-governmental body setting the standards and promoting the effective implementation of legal, regulatory and operational measures to combat money laundering, terrorist financing and other related threats to the integrity of the international financial system.

The Bill focuses on several new provisions to be implemented. Firstly, it proposes to extend the scope of the AML Law in order to include service providers engaged in exchange services between virtual currencies as well as custodian wallet providers. Furthermore, it also intends to lower the thresholds to identify the purchasers of prepaid cards in order to limit their use. As such, the changes proposed in the Bill aim to prevent the risks associated to the use of virtual currencies and allow a more efficient monitoring of the use of such currencies.

Secondly, the Bill strengthens and harmonizes the treatment of third countries identified by the European Commission as “high-risk countries”. Indeed, the Bill proposes to improve the safeguards for business relationships and transactions to and from high-risk third countries. As such, when dealing with high-risk cases, the Bill requires relevant professionals to apply enhanced due diligence measures to manage and mitigate risks taking into account recommendations expressed by the FATF, especially in cases where such recommendations do not have equivalent provisions in the EU Directives.

This is essential in order to reduce legal uncertainty for professionals which may result from divergent interpretations regarding their obligations in terms of anti-money laundering and financing of terrorism.

Thirdly, the provisions proposed by the Bill also have an impact on the supervisory authorities and self-regulatory bodies whose powers are currently only partly harmonised. Indeed, the Bill introduces further harmonization of the role of these authorities and bodies which fulfil similar tasks required by law and international standards in the fight against money laundering and terrorist financing. Considering the importance of cross-border activities in Luxembourg, this Bill aims at strengthening the capacity of the supervisory authorities to cooperate on an

international basis with their foreign counterparts by proposing a legal framework in accordance with the principles established by Directive (EU) 2018/843 and the FATF recommendations in this regard.

This Bill is part of the continuous evolution of the preventive framework for the fight against money laundering and terrorist financing in the Grand Duchy of Luxembourg.

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