



MAQIT

AML/CTF
REGULATORY
WATCH REPORT

MARCH 2022

During the month of March 2022, MAQIT noticed the following developments in the field of AML/CFT, which could be of interest to you

In March, the **Financial Action Task Force (FATF)** updated its list with **jurisdictions under increased monitoring**.¹ This list includes countries with serious deficiencies in their AML/CFT systems but have expressed their commitment to addressing them. These jurisdictions are the following:

- Albania
- Barbados
- Burkina Faso
- Cambodia
- Cayman Islands
- Haiti
- Jamaica
- Jordan
- Mali
- Malta
- Morocco
- Myanmar
- Nicaragua
- Pakistan
- Panama
- Philippines
- Senegal
- South Sudan
- Syria
- Turkey
- Uganda
- United Arab Emirates
- Yemen

The jurisdiction that is no longer on the list of the increased monitoring is:

- Zimbabwe

¹ <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-march-2022.html>

On March 7th, the **FATF** issued a public statement regarding **amendments** it had adopted to **Recommendation 24** and its Interpretative Notes on March 4th, 2022.² The Recommendation requires countries to prevent the misuse of legal persons for ML or TF and to ensure that there is adequate, accurate and up-to-date information on the beneficial ownership and control of legal persons.

On March 15th, the **European Parliament's Economic and Monetary Affairs (ECON)** and **Civil Liberties, Justice and Home Affairs (LIBE)** Committees published a draft joint report on the European Commission's proposal for a **Regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (AMLR)**.³ The proposed AMLR will replace the Fourth Money Laundering Directive ((EU) 2015/849) (MLD4) by turning MLD4 into a Regulation. The AMLR's covers the following topics:

- **Politically Exposed Persons:** the definition of PEP was broadened
- **CBI schemes⁴:** a new article is proposed to oblige Member States that have such schemes in place to ensure that public authorities processing applications carry out specific measures to prevent such transactions are misused for ML/TF purposes
- **Customer due diligence:** a new subparagraph was proposed to require obliged entities to apply customer due diligence (CDD) measures when they are involved in or carrying out an occasional transaction involving crypto-assets that amounts to EUR 1,000 or more
- **Third-country policy:** several amendments were proposed in order to add several criteria in the assessment of third countries, including the given regime's alignment with targeted sanctions and proliferation financing-related targeted financial sanctions and its requirements to mitigate and manage the risks of non-implementation and evasion of these sanctions (AM 67).

A final compromise between the European Parliament and the Council on the text of the AMLR is expected just before the end of 2022 or the beginning of 2023.

² <https://www.fatf-gafi.org/publications/fatfrecommendations/documents/r24-statement-march-2022.html>

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0420>

⁴ Citizen by Investment or CBI schemes: national schemes that grant citizenship or residence rights in exchange for a financial investment

On March 17th, **Anti-Money Laundering Europe (AME)** hosted a **Digital Currencies Roundtable**, focusing on digital currencies, including Central Bank Digital Currencies (CBDCs) and crypto-assets.⁵ The three main outcomes are the following:

- A comprehensive regulatory framework to address ML/FT risks for cryptocurrencies is already in place. Nevertheless, there are still implementation challenges and market developments that FATF is continuously monitoring and might call for future adjustments.
- Illicit activity continues to be a significant problem in crypto assets.
- Digital currencies and CBDCs are novel products that bring new challenges, and it is difficult to assess yet the full extent of potential risks that might unfold in this area.

On March 18th, the **Commission de Surveillance du Secteur Financier (CSSF)** published a FAQ on the “AML/CFT RC REPORT for CSSF supervised Luxembourg Investment Funds and Luxembourg Investment Fund Managers”.⁶ The purpose of the document is to provide a list of questions & answers (FAQ) in relation to the completion and transmission of the AML/CFT compliance officers’ summary report as defined in Articles 42 (6) and 42 (7) of the CSSF Regulation No 12-02 of December 14th 2012 on the fight against money laundering and terrorist financing.

On March 22nd, the **European Banking Authority (EBA)** published the findings from its **assessment of Member State competent authorities’ (NCAs)** approaches to AML/CFT supervision.⁷ The EBA has found that significant challenges remain in key areas, such as identifying and assessing ML/TF risks. The EBA highlights difficulties in:

- identifying ML/TF risks in the banking sector and in individual banks
- translating ML/TF risk assessments into risk-based supervisory strategies
- using available resources effectively, including by ensuring sufficiently intrusive onsite and offsite supervision
- taking proportionate and sufficiently dissuasive enforcement measures to correct AML/CFT compliance weaknesses.

The EBA highlighted that cooperation with Financial Intelligence Units (FIUs) was not always systematic and often ineffective.

These challenges have hampered the implementation of an effective risk-based approach to AML/CFT supervision.

⁵ <https://www.amleurope.com/post/event-highlights-digital-currencies-roundtable>

⁶ <https://www.cssf.lu/en/Document/faq-on-the-aml-cft-rc-report-for-cssf-supervised-luxembourg-investment-funds-and-luxembourg-investment-fund-managers/>

⁷ <https://www.eba.europa.eu/anti-money-laundering-and-countermeasures-financing-terrorism-supervision-improving-not-always-effective>

On March 22nd, the ECON and LIBE Committees held a public hearing on “The New Anti-Money Laundering Package”, which includes different legislative proposals.⁸ Invited to this public hearing are six external experts, including the President of the Financial Action Task Force, the Heads of the French and Latvian FIUs, and representatives from Refinitiv, the Council of Bars and Law Societies in Europe and Transparency International.

On March 24th, a letter from the **EBA** was published to John Berrigan regarding the **European Commission’s AML/CFT package** and issues related to supervisory cooperation and selection criteria for direct supervision.⁹ In this letter, the EBA explains that it is working closely with 57 AML/CFT supervisors from all Member States who serve on its AML/CFT standing committee.

On March 29th, the Wolfsberg Group published guidance on digital customer lifecycle risk management.¹⁰ This guidance explores how a non-face-to-face customer interaction could be considered of low risk for a financial institution by further developing the following core AML/CFT controls:

- More effective identification, verification, and authentication processes at the onboarding stage
- A multi-dimensional and continually reassessed customer risk profile
- A redesigned trigger-based approach for conducting ongoing due diligence

⁸ <https://www.europarl.europa.eu/thinktank/en/events/details/econ-libe-public-hearing-on-the-new-anti/20220317CHE10021>

⁹ https://www.eba.europa.eu/sites/default/documents/files/document_library/About%20Us/Missions%20and%20tasks/Correspondence%20with%20EU%20institutions/2022/1028656/2022%2003%2024%20Letter%20to%20EC%20and%20EP%20co-legislators%20re%20AML/CFT%20legislative%20package.pdf

¹⁰ <https://www.wolfsbergprinciples.com/sites/default/files/wb/Digital%20Customer%20Lifecycle%20Risk%20Management.pdf>

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