



Greece



Country Guides: Money Laundering

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Member of the Financial Action Task Force? Yes

On FAFT black list? No

Member of Egmont? Yes

Legislation

Law 3691/2008 came into force on August 5, 2008 and aimed to improve the legislative framework on the prevention and suppression of money laundering and terrorist financing, as well as to protect the financial system from the risks entailed by such offences. It transposed into legislation the provisions of Directive 2005/60/EC of the European Parliament and of the Council "on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing" and certain provisions of Directive 2006/70/EC of the European Commission and replaced relevant provisions of Law 2331/1995.

Actions that are regarded as money laundering

According to Law 3691/2008 the following actions are considered as money laundering:

- a. the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person involved in the commission of such activity to evade the legal consequences of his action;
- b. the concealment or disguise of the truth, with any manner or means, as it concerns the disposition, movement, use or the place where the property was acquired or is at present, or the ownership of the property or rights with respect to it, knowing that such property is derived from criminal activity or from an act of participation in such activity;
- c. the acquisition, possession, administration or use of property, knowing, at the time of receipt or administration, that such property was derived from criminal activity or from an act of participation in such activity;
- d. the utilization of the financial sector by placing therein or moving through it proceeds from criminal activities for the purpose of lending false legitimacy to such proceeds;
- e. the setting up of organisation or group comprising two persons at least, for committing one or more of the acts defined above under "a" to "d" and the participation in such organisation or group.

Moreover, money laundering is regarded as such, according to Greek Law, even in cases that the activities which generated the property to be laundered were carried out in the territory of another country, provided that they would be a predicate offence if committed in Greece and are punishable according to the law of such other country.

Persons that are obliged to take due diligence measures

According to Law 3691/2008 persons that have an obligation by Law to perform a due diligence on their customers are:

- credit institutions,

- financial institutions,

- venture capital companies, companies providing business capital,

- chartered accountants, audit firms, independent accountants and private auditors, tax consultants and tax consulting firms,

- real estate agents and related firms,

- casino enterprises as well as enterprises that organize and/or conduct gambling,

- auction houses,

- dealers in high-value goods, only to the extent that payments are made in cash in an amount of 15,000 euros or more,

- auctioneers,

- pawnbrokers,

- notaries and other independent legal professionals for certain financial or real estate transactions (the provision of legal advice continues to be subject to professional secrecy, unless the lawyer or notary participates in or gives legal advice for the purpose of committing money laundering or if he is aware that his client seeks legal advice in order to commit such offences).

- Other trust and company service providers, providing services such as forming companies or other legal persons, acting as a director or secretary of a company, as a trustee, as a nominee shareholder, providing a registered office etc.

Standard due diligence measures

According to Law 3691/2008 standard customer due diligence measures should be:

- a. identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source,
- b. in cases of legal entities, identifying, where applicable, the beneficial owner of the corporate customer, updating the information and taking risk-based and adequate measures to verify his identity so that it is known who the beneficial owner is. Beneficial owner means the natural person who ultimately owns or controls (a percentage of 25 percent plus one share shall be deemed sufficient to meet this criterion) the customer and/or the natural person of whose behalf a transaction or activity is being conducted,
- c. obtaining information on the purpose and intended nature of the business relationship or of important transactions or activities of the customer or the beneficial owner,
- d. examining with special attention any transaction or activity which, by nature or by virtue of the customer's personal circumstances or capacity, could be associated with money laundering or terrorist financing. Such transactions comprise especially complex or unusually large transactions and any unusual kind of transaction that is conducted with no apparent economic or lawful purpose,
- e. taking any other appropriate measure, including refraining from the transaction and refusing to provide services or carry out activities, if the customer identification requirements have not been met,
- f. ongoing monitoring of the business relationship and ensuring that the documents, data or information held are kept up-to-date.

Moreover, persons that are obliged to take due diligence measures should apply these, at the appropriate time, not only to new, but also to existing customers and may determine the extent of such measures on a risk-based basis depending on the type of customer, his economic status, business relationship, product or transaction etc. In such cases, persons that have an obligation to perform a due diligence should be able to demonstrate to the competent authorities that the extent of the measures is appropriate in view of the risks of offences, that they apply such measures consistently and effectively and that they comply with relevant registration and the decisions of the competent authorities.

Law 3691/2008 provides specific instances for which a simplified customer due diligence is sufficient. Such cases are where customers are credit or financial institution situated in the European Union or a third country which imposes requirements equivalent to those laid down in Directive 2005/60/EC, listed companies, Greek public authorities or public law legal persons or enterprises or organisations in which the Greek state has a participation of at least 51 percent, public authorities that fulfil certain criteria etc.

Enhanced customer due diligence

When the persons obliged to perform a due diligence ascertain that there are increased risks, they should apply, on a risk-based basis, enhanced customer due diligence measures.

Such cases are:

- Transactions without the physical presence of the customer and transactions which might favor anonymity and which, by nature or by virtue of information about the profile of the characteristic features of the customer, may be associated with money laundering;

- Cross-border correspondent banking, with correspondent institutions from third (non-European Union) countries;

- Politically exposed persons, meaning persons who are or have been entrusted with prominent public functions, or immediate family members or known close associates of such persons, not located in Greece.

Law 3691/2008 specifies what kind of additional or special measures should be undertaken in each case.

Due diligence by third parties

When the persons obliged to perform due diligence are credit or financial institutions, they can rely on third parties such as other credit institutions, investment firms, mutual funds and insurance companies for meeting the above mentioned requirements. They have to ensure that they can make available upon request any information in respect of the customer. But the ultimate responsibility for meeting the aforementioned requirements remains with the obliged person which relies on the third party.

Reporting obligations

"Anti-Money Laundering, Counter-Terrorist Financing and Source of Funds Investigation Authority" has been established by virtue of Article 7 of Law 3691/2008, as amended by Law 3932/2011 and its mission is collecting, investigating and analysing suspicious transactions reports (STR's) that are forwarded to it, as well as every other information that is related to the crimes of money laundering and terrorist financing.

The persons incurring due diligence obligations must inform the Authority or other competent authorities, when they know or suspect money laundering or terrorist financing is being or has been committed or attempted and provide all necessary information. In such cases, the obliged persons must not disclose to the customer concerned or to other third persons that the Authority has been informed about those actions.

Recordkeeping

Obliged persons are required to keep the following documents and information for use in any review or investigation by any competent authority:

- a. The information and data of certification and identification of the customer

- b. The documents on the basis of which the certification and verification of the customer's identity was effected and all documentation for any exchange.

- c. Any internal document related to investigation of possible money laundering or terrorism financing cases for a period of at least five years.

- d. Data on business, commercial and professional correspondence with the customer.

Sanctions

Persons who have committed money laundering are punished with imprisonment of up to 10 years and a pecuniary penalty of 20,000 euros to 1,000,000 euros. The above sanctions may differentiate depending on the circumstances such as if the perpetrator acted as an employee of a legal entity under obligation to perform due diligence or if he engages in these activities professionally or has acted as a member of a criminal or terrorist organisation or group etc.,

Assets derived from the above offences are confiscated and if they no longer exist, assets of a value equal to that are confiscated. During a regular investigation for the above crimes the competent judge may freeze any accounts, securities or financial products of the person investigated. In case any of the offences is committed by an amount equal to a legal entity an administrative fine of 30,000 euros to 3,000,000 euros increased by the benefit acquired is sanctioned along with additional sanctions depending on the circumstances, for instance suspension or prohibition for the legal entity to carry out its business.

Michael R. Tsibris is a partner at Souriadakis Tsibris, an Athens based law firm active in the areas of business and corporate law, including capital markets and banking, as well as commercial litigation, insurance, intellectual property and privatizations.

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