# COUNTRY UPDATE-Greece: AML

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**Member of the Financial Action Task Force?** Yes.

**On FAFT black list?** No.

**Member of Egmont?** Yes.

**Legislation**

Law 4557/2018 came into force on July 30, 2018 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 2015/849/EC (AMLD IV) of the European Parliament and of the Council of May 20, 2015 "on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing" and the amendment of the Regulation (EU) 648/2012 of the European Parliament and Council.

The new legislation abolished the Directive 2015/60/EC of the European Parliament and Council and the Directive 2006/70EC of the European Commission and codified relevant provisions of national law. Namely, the articles 1-54 of former Law 3691/2008 have been abolished by the new Law 4557/2018.

Law 4557/2018 was recently amended by Law 816/2021, with effective date July 9, 2021, which transposed into legislation the provisions of Directive 2018/1673 (AMLD VI).

**Actions that are regarded as money laundering**

According to Law 4557/2018 (article 2) the following actions are considered as money laundering:

- 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;
- the concealment or disguise of the truth, with any manner or means, as it concerns the nature, origin, 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;
- the acquisition, possession or use of property, knowing, at the time of receipt or use, that such property was derived from criminal activity or from an act of participation in such activity;
- the use 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;

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. Exceptionally, such activities carried out outside Greece are not required to be punishable according to the foreign law, if, in the case they were carried out in Greece, they would constitute a subset of AML predicate offences, namely the ones provided by Art. 4 cases (#) through (#), as well as cases (#), (#), (##),

(##), (##) and Art. 323A of the Greek Criminal Code (e.g. criminal and terrorist organizations, terrorist acts, bribery in the public and private sector, child pornography etc).

**Persons that are obliged to take due diligence measures**

According to Law 4557/2018 (article 5) persons that have an obligation by Law to perform a due diligence on their customers are:

a. credit institutions and any creditor under Law No. 4438/2016;

b. financial institutions;

c. auditors, accountants, audit firms that are registered in Hellenic Accounting and Auditing Standards Oversight Board (HAASOB) and private auditors;

d. external tax consultants and any other person that undertakes to provide either directly or by means of other persons to which that other person is related, material aid, assistance or advice on tax matters, as principal business or professional activity;

e. notary public and lawyers when participating on behalf of their clients in financial transactions or transactions over properties and when they assist to the planning or operation of transactions for their clients relevant to:

- the purchase or sale of properties or enterprises,
- the money management, securities or other assets of their clients,
- the opening or the management of bank accounts, or savings accounts, or securities accounts as well as the establishment of money deposits and especially those related to guarantees ordered by the judicial authority in context of penal procedures,
- the necessary contributions relevant to the establishment, operation and management of the companies,
- the establishment operation or management of companies, trusts, trust management companies, enterprises, foundations or similar schemes or legal types of entities;

f. service providers to trust companies or enterprises that do not fall into the cases defined above, in cases c, d and e;

g. the persons that provide services to companies or trusts, except for the persons mentioned in cases c, d and e, that perform as business activity any of the following services to third parties:

- establish companies or other legal entities,
- act as directors or take care that other persons will act as director, manager, or partner of a company or a holder of any similar position in other legal persons or entities,
- provide statutory seat, business address, postal or administrative address and any other relevant services to a company or other legal person or entity,
- act as or take care that another person acts as trustee of express trust or similar legal form,
- act as or take care that another person acts as a proxy of a shareholder of a company, provided that this company is not listed in a regulated market that is subject to notification requirements according to EU Law or equivalent international standards;

h. real estate agents for transactions amounting at least at 10,000 euros, regardless of whether this amount relates to a purchase, sale or monthly rent for the rental of immovable property, and related credit intermediaries for credit agreements amounting to at 10,000 euros;

i. casino enterprises as well as enterprises that organize and/or conduct gambling;

j. dealers and auction dealers of high-value goods houses, only to the extent that the value of the transaction is at least 10,000 euros irrespectively of whether it is carried out in one single act or with several acts, which seem to be somehow connected;

Dealers in high-value goods are, in particular, considered as:

- the enterprises of mining, construction, processing and marketing of precious and semi-precious stones, precious metals and derived products, the trading companies for pearls and corals, as well as the companies for the manufacture and marketing of jewellery and watches,
- marketing companies for antiques, antiquities, medals, old stamps and coins and other collectors' items, as well as companies or professionals producing or manufacturing and marketing works of art and art objects in general, as well as musical instruments,
- persons trading or acting as intermediaries in the trade of works of art, including trade in art galleries and auction houses, enterprises of construction and marketing of carpets, furs, leather goods and clothing in general,
- enterprises of trading cars of private use, helicopters, aircraft and yachts in general;
- persons storing, trading or acting as intermediaries in the trade of works of art when this is carried out by free ports.

k. pawnbrokers and silversmiths.

l. the providers engaged in exchange services between virtual currencies and fiat currencies,

m. custodian wallet providers.

**Standard due diligence measures**

*According to Law 4557/2018 (article 13) standard customer due diligence measures should be:*

- Identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source, including, where available, electronic identification means, relevant trust services as set out in Regulation (EU) No 910/2014 of the European Parliament and the Council or any other secure, remote or electronic identification process regulated, recognised, approved or accepted by the relevant national authorities. When the customer acts through a representative, obliged entities shall identify and verify the identity of this person, as well as the legalisation documentation;
- In cases of legal entities, identifying the identity of 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, as well as identifying the structure of the ownership pf the legal entity or the trust Where the beneficial owner identified is the senior managing official, obliged entities shall take the necessary reasonable measures to verify the identity of the natural person who holds the position of senior managing official and shall keep records of the actions taken as well as any difficulties encountered during the verification process. Beneficial owner means the natural person who ultimately owns or controls (a percentage of 25% 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;
- Evaluating and, depending on the case, obtaining information regarding the object and the scope of the business relation;
- Constant supervision, with thorough examination of the transactions effected during the business relation, in order to secure that those transactions or activities are in line with the knowledge of the persons obliged towards the client, the professional activity of the client and his/her profile of risk, as well as if necessary, the origin of clients' funds according to the criteria set by the Competent Authorities. The obliged persons ensure that they keep up-to-date documents, data or information concerning the above.
- If the responsible person cannot comply with the above standard due diligence measures, he is obliged to refrain from executing the transaction, does not provide services or carry out activities, and examines the option of referring to the AML Authority.

*For credit–financial institutions:*

- estimating the total portfolio of the client, which is maintained by the client in the credit–financial institution and, where applicable, in other companies of the same group of companies, in order to verify the compatibility of the transactions of the client with his/her financial and transactional profile;
- identifying the annual incomes of their customers, based on recent notice of income tax assessment, except for those who are not obliged to submit income tax return. In the case of joint deposit accounts, securities or other financial products, the beneficiaries of these accounts are considered as customers and due diligence procedures apply to them;
- in the case of life insurance, the credit institutions and the financial institutions take additional measures on top of the measures of due diligence required for the client and the beneficial owner, for the persons entitled to collect the insurance premium.

In a case where in one transaction or a series of related transactions more than one obliged persons participate, each one of them is obliged to apply the measures of due diligence unless otherwise provided in law (article 19). The above provision applies to insurance contracts, transfer of shares, derivative contracts, bonds or other financial instruments as well as for transactions with cards of any kind.

By virtue of a decision of the Bank of Greece, the provisions of the Regulation EU 2015/847 relevant to the elements that refer to the transfer of money, may become more specific taking into account the relevant guidelines of EBA. Regulation EU 2015/847 does not apply to transfers of funds within Greece to a payment account of the beneficiary that allows payment exclusively for the provision of goods or services, when all the following conditions are met: a) the payment service provider of the beneficiary is subject to Law 4557/2018 , b) the payment service provider of the payee is able to detect, through the payee, with a unique transaction ID, the transfer of funds from the person who has entered into an agreement with the payee for the provision of goods or services; and c) the amount transferred does not exceed 1,000 euros.

Continuing 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 or when the relevant circumstances concerning the customer change or when they have any legal obligation arising from the Law 4547/2018, the Law 4172/2013 (Greek Income Tax Code) or the decisions of the respective competent supervisory authorities, to contact the customer during the calendar year in order to review any substantial information related to the actual beneficial owner or they have any legal obligation under Greek Income Tax Code.

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 4557/2018 (article 15 in combination with Annex I) provides a non-exhaustive list ofcustomer, product, service, transaction, delivery channel and geographical risk factors and types of evidence of potentially lower risk instances for which a simplified customer due diligence is sufficient, in the cases where the obliged entities have obtained sufficient information and made sure that a business relationship or transaction has a lower risk of money laundering or terrorist financing. Such cases are, inter alia, listed EEA 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%, public authorities that fulfil certain criteria etc (customer risk factors), life insurance policies for which the premium is low, financial products or services that provide appropriately defined and limited services to certain types of customers, so as to increase access for financial inclusion purposes, etc (product and service risk factors) and residence and/or registered office in member states and third countries having effective AML/CFT system.

**Enhanced customer due diligence (Law 4557/2018 articles 16, 16A, 17, 18)**

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

Such cases are indicatively (Annex II of Law 4557/2018):

- Transactions without the physical presence of the customer and transactions which might favour 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 respondent 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.

Law 4557/2018 specifies what kind of additional or special measures should be undertaken in each case.

**Due diligence by third parties (Law 4557/2018 article 19)**

Obliged entities when performing, mainly, the simplified customer due diligence can rely on third parties, i.e. credit institutions, financial leasing companies, factoring companies, portfolio investment companies, investment firms, mutual funds companies, investment brokerage firms, insurance companies and e-money institutions, located in a Member State of the European Union or in a third country that is a member of the FATF and which has not been identified by the European Commission as a third country at high risk of money laundering or terrorist financing, 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**

By virtue of article 47 of Law 4557/2018, the competent Authority is named "Anti-Money Laundering Authority" in replacement of the former "Anti-Money Laundering, Counter-Terrorist Financing and Source of Funds Investigation Authority" that was 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, in accordance with Art. 22 and 38 of Law 4557/2018. As the Authority’s Chairperson shall be designated the supreme incumbent or honorary prosecutor, who shall additionally be fluent in English language.

**Central Register of Ultimate Beneficial Owner (article 20 Law 4547/2018)**

All corporate and legal entities with registered offices in Greece, with the exception of companies listed on a regulated market that is subject to disclosure requirements consistent with EU law, or corporate and legal entities which have permanent establishment in Greece and are income tax-payers in Greece, are required to obtain and hold adequate, accurate and current information on their Ultimate Beneficial Owner particularly including at least their name and surname, their date of birth, nationality, country of residence and the nature and extent of beneficial interest held therein.

The aforementioned information should be recorded in a special register kept at the registered offices of such legal entity and shall be registered through a Greek platform, Taxis Net with a central Ultimate Beneficial Owner Register. Following a number of extensions to the time limit for the submission to the Greek UBO’s Register, the final time limit expired on 01.02.2021.

In case legal entities do not comply with the information obligation, they face the following administrative sanctions:

- Suspension of issuance of tax clearance certificate,
- Imposition of a 10,000.00 euros administrative fine and of a deadline for compliance with the above obligations. In case of non-compliance or repeated infringement, the fine shall be doubled.

The information is linked among other authorities with the Anti-Money Laundering Authority.

In addition, the Law provides the possibility of credit and financial institutions to establish common information systems which allow the registration of information for the legal and beneficial owners of their clients which are legal entities including foreign legal entities.

With regards to the companies listed on a regulated market or a multilateral trading facility, according to Article 20 par. 2 Law 4557/2018, the above registration in the Central Ultimate Beneficial Owner Register is not applicable to them. They are obliged instead to keep a constantly updated record of the notifications of the acquisition or disposal of major holdings made before the Hellenic Capital Market Commission, in accordance with the requirement set out by the Greek Transparency legal framework.

**Recordkeeping (Law 4557/2018 article 30)**

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

- In the case of customer due diligence, a copy of the documents and information which are necessary to comply with the customer due diligence requirements, including, where available, information obtained through electronic identification means, relevant trust services as set out in Regulation (EU) No 910/2014 or any other secure, remote or electronic, identification process regulated, recognised, approved or accepted by the relevant national authority (EETT),
- The original documents or copies that are necessary for the certification and verification of the customer's transactions.
- Any internal document related to investigation of possible money laundering or terrorism financing cases.
- Data on business, commercial and professional correspondence with the customer.

The above obligations of recordkeeping exist for a period of five years following the end of the business relation with the client or the date of the transaction. Upon expiry of the above five-year retention period the obliged entity shall delete all personal data, unless the further retention of personal data, for a period not longest than ten years, is provided for or required by Greek law.

Particular recordkeeping obligations are required for gambling related companies such as gambling companies and casinos.

**Sanctions**

Persons who have committed money laundering are punished with imprisonment of up to 8 years and with a pecuniary penalty of 30,000 euros to 1,000,000 euros. The above framework of sanctions differentiates 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, directly or indirectly, from the AML above offences, as laid down in Art. 2 of Law 4557/2018, and / or were intended to be used for committing such offences, are confiscated and if they such assets no longer exist, or they cannot be found or they cannot for whatever reason be confiscated, assets of a value equal to that the above assets, are alternatively confiscated. During a regular investigation for the above crimes the competent judge may freeze any accounts, securities or financial products, or assets kept in lockers, even if they are jointly owned with other persons, of the person investigated, if there are serious grounds that the above assets are directly or indirectly, from the AML offences, as laid down in Art. 2 of Law 4557/2018. In case any of the offences is committed by a legal entity an administrative fine of 50,000 euros to 10,000,000 euros is sanctioned, if the profit can be determined, or if it can not be determined in one million (1,000,000) euros, along with additional sanctions depending on the circumstances, for instance suspension or prohibition for the legal entity to carry out its business.

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Complaints Procedure

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