



The 6th EU Anti-Money Laundering Directive (6MLD)

Publication date: the Directive 2018/1673 of 23 October 2018 (6MLD) was published on 12th November 2018.

Implementation timeline: Member States are required to transpose the 6MLD into national law by 3 December 2020. Then, relevant regulations must be implemented by firms within Member States by 3 June 2021.

The 6MLD complements and reinforces the Directive (EU) 2015/849 (4MLD) setting measures to enhance investigation and prosecution of money laundering offences by national authorities. Below are the key points for firms:

6th EU Money Laundering Directive

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1. Enhanced list of 22 predicate crimes

The term 'predicate offence' means a criminal activity that gives rise to, or underpins, a money laundering offence, cybercrime, environmental crime, tax crimes relating to direct and indirect taxes, insider trading and market manipulation are among the updated categories of criminal activity. This full list can be found in Article 2 (1). By explicitly defining all these predicate offences, 6MLD will necessarily impose greater obligations on firms in terms of risk identification and management.

Therefore firms should seek to identify the relevant risk factors and typologies, their staff will have to be trained to recognise possible indicators of all these predicate offences as well as enhancing monitoring systems and controls to detect proceeds possibly linked to these offences. Updates will also be required to Financial Crime Compliance ("FCC") policies, Risk Appetite Statements and the Enterprise Wide Risk Assessment.

2. Harmonisation of the definition of money laundering offences

The 6MLD provides a common definition of money laundering for the Member States therefore it is now punishable as a criminal offence throughout the EU when the offence is committed intentionally and the offender suspects or ought to have known that the property was derived from criminal activity.

For firms operating in EU countries that currently have a less rigorous definition of money laundering offences than the one set out by the 6MLD should be prepared to review and update their Financial Crime policies and controls in those jurisdictions.

3. "Self-laundering" offence

The 6MLD brings "self-laundering" into the scope of offence. Conversion or transfer of criminal property and concealment or disguise of the nature and sources of criminal property (the conducts described in the (a) and (b) of paragraph 1 of Article 3) are punishable as a criminal offence when committed by the persons who committed, or were involved in, the criminal activity from which the property was derived (i.e. individuals use the proceeds of their own criminal acts).

4. Criminalisation of "attempt"

Attempting to commit a money laundering offence will be punishable, as well as assisting and inciting these offences i.e. aiding and abetting. By including this group of people, often known as "enablers" it will be easier to go after the people who act as accomplices in the money laundering process.

5. Extension of Liability to legal persons

Firms can be held liable for offences committed by its leading representatives (e.g. senior management). There may be very serious consequences for a criminal corporate conviction of money laundering under the proposals.

Included in the possible sanctions are:

- a prohibition from public benefits or aid for four years,
- a temporary or permanent ban from conducting business,
- a compulsory winding-up of the organisation,
- a judicial supervision on the organisation, and
- a temporary or permanent closure of business units through which the offences were committed.

6. Extraterritoriality

Firms should observe that money laundering offences committed outside of their national jurisdiction can still be punished if committed for the benefit of a company based in the EU, or by an EU national, regardless of where they perform their activities. There are also other measures for a "more efficient and swifter cross-border cooperation between competent authorities", as well as requirements for Member States to have "effective investigative tools".

Plenitude Capability

Plenitude is actively working with its clients to advise them on Financial Crime related regulatory changes as part of our wider horizon scanning and obligations register services. We also offer a range of tailored solutions to enhance and update clients' Financial Crime Control Programme to ensure effective risk identification, assessment and management.

Our services include:

- Current state assessment of a client's financial crime control framework against regulatory requirements, with advice and recommendations on how to address any gaps;
- Definition of risk appetite statements with supporting metrics and Key Risk Indicators;
- Design and execution of AML and other financial crime risk assessments;
- Assessments of key financial crime systems and controls, including sanctions screening and transaction monitoring tools;
- Review and enhancement of policies and procedures;
- Provision of robust, objective consideration of geographical risk through Plenitude's **Compass subscription service**;
- Provision of financial crime regulatory obligations for banking clients with monthly 'Horizon Scanning' updates through Plenitude's **Obligations Register subscription service**; and

7. Penalties – imprisonment

Offenders can be prosecuted and sentenced with a minimum imprisonment of four years.

In summary, the 6MLD further builds on the requirements of the 5MLD and creates additional obligations on firms to ensure they have an effective group-wide FCC control framework in place to detect, deter and prevent not only financial crime incidents but predicate offences. The risk factors and typologies associated with the new predicate offences will require firms to update and implement new monitoring systems which in most global financial institutions can involve significant implementation timelines. Therefore firms need to plan ahead and consider an early impact assessment of the 6MLD requirements on their Group oversight arrangements and current FCC control framework to ensure they comply with the new regulations.

[Link to the Directive \(EU\) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law:](#)

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2018.284.01.0022.01.ENG

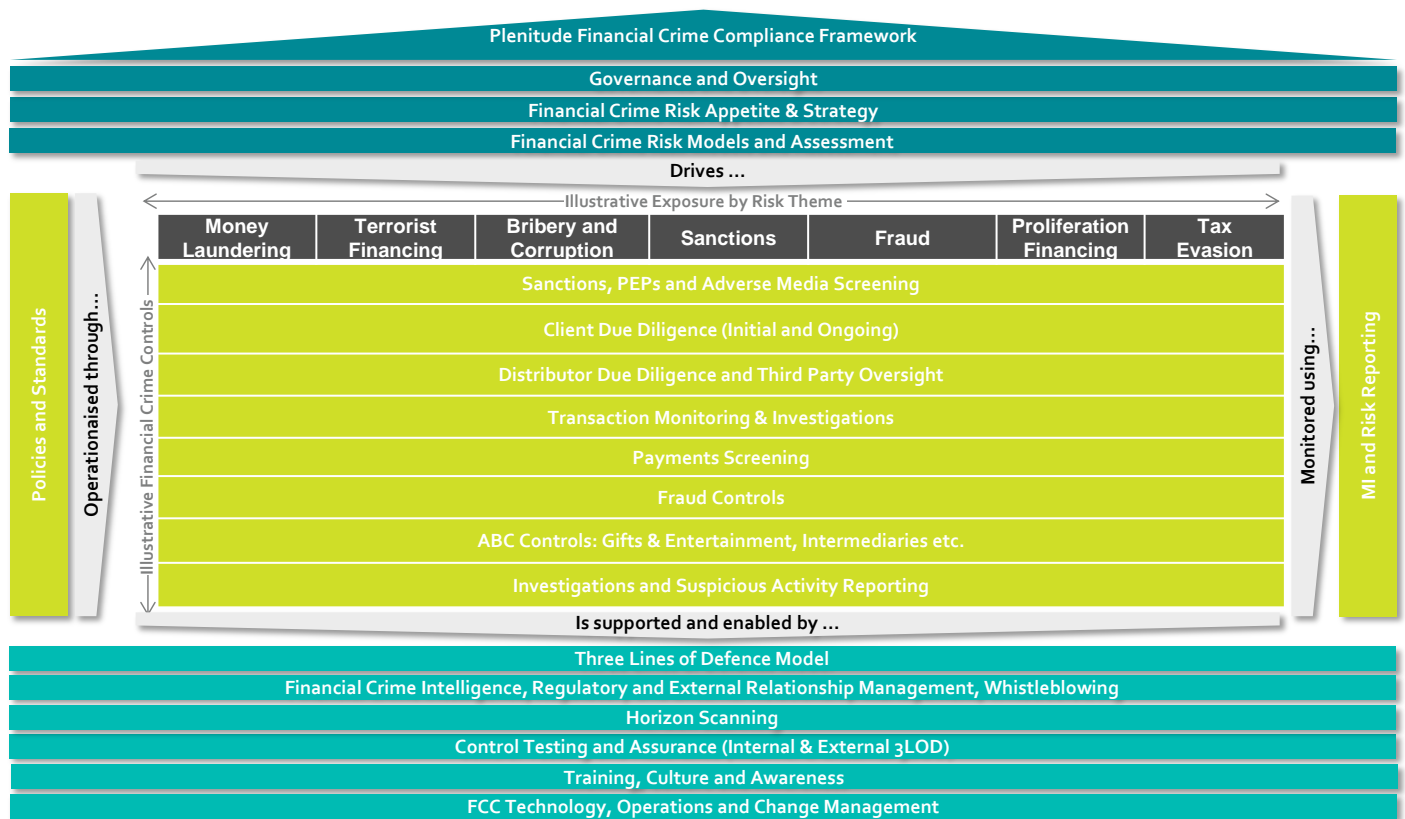
About Plenitude

Plenitude is a niche consultancy, specialising in Financial Crime Risk and Compliance. Our focus is firmly on addressing the legal, regulatory, reputational and social imperative for financial institutions and DNFBPs to take diligent and rigorous steps to mitigate financial crime risks.

We help our clients meet their regulatory obligations and reduce their financial crime risk exposure by providing deep subject matter expertise, advisory and transformation services. Our services are augmented with subscription products that gives our clients enhanced insight into the vast array of Financial Crime Compliance ("FCC") laws, regulations, guidance and risk indicators, to more effectively manage financial crime risk while reducing overall costs.

Our consultants come from a variety of backgrounds and disciplines across consulting, in-house financial crime compliance, regulators and law enforcement. This blend of skills and perspectives guarantees a practical and proven approach based on deep industry expertise.

Our capabilities address the full spectrum of financial crime risks. We have extensive experience our assisting our clients assess the effectiveness of their financial crime framework and implement strategic changes to ensure more effective financial crime risk management.



Plenitude Financial Crime Framework and Capabilities

Please contact us for more information about our services to arrange an introductory meeting.

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