Regulatory Alert - UBO in Focus

A bi-weekly publication from the Accordo Team

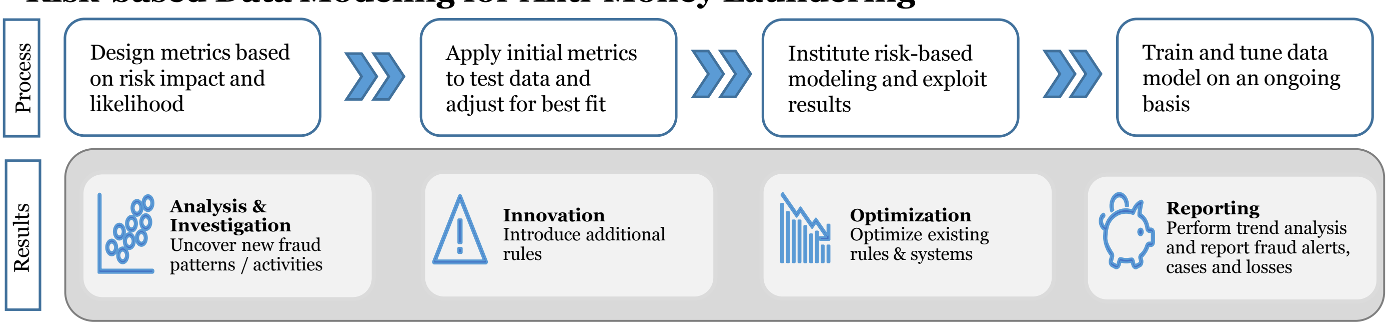
May 11, 2018

Fourth Money Laundering (AML) Directive – New CDD Requirements

The revised Fourth Money Laundering Directive (4MLD) , the basis for AML requirements in the EU and standard for best practices compliance, went into effect on June 25, 2015; all firms were required to be compliant by June 26, 2017. US financial institutions subject to FinCEN's new Customer Due Diligence (CDD) Rule must comply with revised risk-based procedures and beneficial ownership obligations starting today (May 11th, 2018). The revisions are focused largely on beneficial ownership and enhanced due diligence (EDD), and include:

- Expanding the definition of politically exposed person, or PEP, to include local persons;
- Extending the requirements to any firm with majority-owned subsidiaries outside the EU, where the minimum AML requirements are less strict than those outlined by the directive;
- Increasing emphasis on a risk-based approach to AML that includes commissioning national risk assessments, requiring firms to implement risk-based policies and conducting CDD with such guidelines;
- Exempting CDD only after thorough risk analysis and documentation of the decision;
- Requiring firms to maintain clear records of beneficial ownership, provide that information to their nation state's government, and maintain a central registry that is accessible for legitimate reasons;
- Lowering the threshold for cash payments to €10,000 to trigger AML procedures.

Risk-based Data Modeling for Anti-Money Laundering



Key Considerations for EU and FinCEN member Firms:

- FinCEN issued a new CDD Rule regarding risk-based procedures and beneficial ownership obligations, in effect May 11th, 2018, for all member firms.
- The definitions of Ultimate Beneficial Ownership (UBO) and PEP were both expanded under the Directive; firms should train on the new classification to ensure compliance.
- Review Know Your Customer (KYC), and Know Your Customer's Customer (KYCC) standards, that include gaming and wagering services, and certain new Fintech firms with new parameters for limits.
- Leverage risk-based methodologies to develop standard customer risk profiles, leveraging automated tools and algorithmic training, and implement a system for ongoing monitoring.
- Identify and verify beneficiaries receiving wire transfers that both originate outside the EU and exceeding an amount of €1,000. Financial institutions must:
    - Reject any wire transfer that does not meet the requirements of the regulation, and report the suspicious wire transfer to local regulators.
    - Implement processes or systems to detect errors in compliance (suspicious activity), i.e. when a wire transfer is incorrect or incomplete, and establish whistleblowing processes.
- Implement AML group policies at branches and majority-owned subsidiaries
- Since rules will differ between nation states, the 4MLD being just the basis for AML, compliance with EU requirements will require in-depth local knowledge.

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