

## Infobrief 11 – 6 February 2024

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## Germany – legal and regulatory updates

### **BaFin holds fifth conference on prevention of money laundering and terrorism financing**

German financial supervisor BaFin held its fifth conference on the prevention of money laundering and terrorism financing on 7 December 2023.

The online event involved sessions and presentations addressing specific issues, such as the challenges of filing suspicious activity reports (SAR) to the Financial Intelligence Unit (FIU), supervision of crypto service providers and current regulatory topics. The event also involved a panel discussion on risk management whereby the risk assessment approach formed a key aspect of the discussion.

In a commentary published in BaFin's "BaFinJournal" on 7 December 2023, BaFin's Chief Executive Director of Resolution and Prevention of Money Laundering Birgit Rodolphe explained why Germany had some way to go before it reached its anti-money laundering (AML) goals. She noted that, as one of the biggest economies in the world, Germany remained an attractive target for money laundering, making a more efficient AML policy one of BaFin's key midterm objectives (2022-2025).

Rodolphe went on to highlight three main areas that required improvement and should be a focus for German financial sector companies:

1. The need for efficient risk management that takes company-specific risks (e.g. client risk, product risk and transaction risk) into account, and results in the application of appropriate internal security measures. Companies need to know their risks.
2. Companies that are outsourcing tasks in the context of AML/CFT need to be aware of their responsibilities; they are required to ensure they have an understanding of the service provider's performance of these tasks, and they are responsible for ensuring that these are properly carried out.
3. The risks posed by modular business models need to be analysed and reduced, by setting minimum standards for cooperation partners and for the collection of additional data in context of technical onboardings.

**Links:**

[BaFin: Fachtagung zur Prävention von Geldwäsche und Terrorismusfinanzierung, 07/12/2023](#)

[BaFin: Geldwäschebekämpfung: „Noch nicht am Ziel“, 07/12/2023](#)

## Investment Funds filed more suspicious activity reports in 2022

Investment funds filed more SARs in 2022 than in both preceding years, according to the Financial Intelligence Unit's (FIU) recently published annual report.

A total of 25 investment funds filed 69 SARs in 2022, compared to 33 in both 2021 and 2020. Although this number reflects just a fraction of the 326,123 total SARs filed by the German financial sector in 2022, the modest increase reflects a trend and suggests rising awareness of the necessity of filing such reports.

The portion of SARs linked to suspected terrorism financing, state security or sanctions in 2022 remained just 1 percent of overall filings by obliged entities under the Germany's Money Laundering Act.

According to the report, the tracing of transactions has been made more challenging by the constant development of payment methods, including the acceleration of transactions by payment apps and smartphones. This is especially relevant for crypto assets, whose payment processing platforms frequently apply encryption technology and internet-based transmission channels. As a result, they are considered especially susceptible to money laundering and terrorism financing.

**Link:**

[FIU: Jahresberichte der FIU, Jahresbericht 2022, 10/2023](#) (see pages 16 and 18 for relevant sections on investment funds)

## Bundestag holds first reading of Act to Improve the Fight against Financial Crime

On 14 December 2023, the first reading of the Financial Crime Prevention Act (FKBG) took place in the German parliament (Bundestag). The draft law foresees, among other things, the establishment of a new Money Laundering Investigative Centre (Ermittlungszentrum

Geldwäsche - EZG). Following consultation, the draft was forwarded to the main parliamentary finance committee for further consultation.

During the parliamentary discussion, Finance Minister Christian Lindner pointed out that Germany had enjoyed a reputation as a kind of money laundering paradise. He also noted that Germany had received critical feedback from the FATF in August 2022. According to Lindner, the new law would address issues such as the lack of resources and insufficient prioritisation of AML by law enforcement.

Lindner also noted that under the new law, fragmented responsibilities would be clustered and connected under a new federal authority, the Federal Financial Crime Agency. Alongside the restructuring, an entirely new investigative approach will be implemented; instead of focusing on predicate offences to money laundering (namely drug trafficking, fraud, human trafficking, etc.), investigators will instead focus on “following the money”, with the intention of catching greater numbers of “big fish”.

Opposition parties criticised the draft FKBG, claiming that it would not improve money laundering prevention efforts but would instead increase the administrative burden on investigators.

The coalition defended its approach, noting that the yearly cost to Germany of money laundering amounted to an estimated EUR 100 billion Euro, threatening democracy and the integrity of society and undermining the stability of the economy. The implementation of a new central authority and the focus on financial flows would - argued the government - induce a paradigm shift.

On 29 January 2024 in a hearing of the finance committee the opposition’s (CDU/CSU) proposal to strengthen existing structures instead of building a new agency was controversially discussed and various expert opinions were heard. Further details regarding the draft FKBG can be found in Newsletter No. 10 from October 2023.

**Links:**

[ALL AML Infobrief 10\\_03/10/2023](#)

[Deutscher Bundestag: Erste Lesung zum Finanzkriminalitätsbekämpfungsgesetz, 14/12/2023](#)

[Deutscher Bundestag: Anhörung, Erste Lesung zum Kampf gegen Geldwäsche und Finanzkriminalität, 29/01/2024](#)

## BaFin imposes fine on Credit Europe Bank's Germany branch

Branches of credit institutions located in the EU are required to establish adequate AML/CFT processes and procedures to ensure compliance with the respective money laundering legislation.

On 27 November 2023, BaFin announced that it had imposed a fine of EUR 40,000 on Dutch bank Credit Europe Bank NV's Germany branch. The penalty followed the supervisor's finding that the bank had not implemented sufficient internal procedures to ensure legally compliant periodic review of customer due diligence data.

### Link:

[BaFin: Geldwäscheprävention: BaFin setzt Geldbuße gegen Credit Europe Bank N.V. Niederlassung Deutschland fest, 27/11/2023](#)

## BaFin orders futurum bank AG to remedy shortcomings in money laundering prevention

On 23 October 2023, BaFin ordered futurum bank AG to remedy shortcomings in its AML/CFT policies. Significant deficits in meeting due diligence requirements and in suspicious transaction reporting were identified.

In its press release, BaFin highlighted the following:

1. The establishment of internal controls and safeguards is obligatory.
2. Companies that are subject to money laundering supervision need to implement adequate due diligence measures.
3. Obligated entities must report suspicious transactions in a timely fashion, i.e. "without delay".

### Link:

[BaFin: Anordnung der BaFin: futurum bank AG muss Mängel in der Geldwäscheprävention beseitigen, 28/11/2023](#)

## BaFin orders Leonteq Securities (Europe) GmbH to remedy shortcomings in money laundering prevention

On 8 November 2023, BaFin ordered Leonteq Securities (Europe) GmbH to remedy serious shortcomings in its AML/CTF compliance management system, referencing in particular the

outsourcing of internal controls and safeguards, performance of due diligence and compliance with record-keeping and retention requirements.

BaFin noted that the consideration of the following points is essential to meet AML/CFT requirements:

1. In case of outsourcing of internal controls and safeguards, the obliged entity must observe the relevant provisions of the German Money Laundering Act; this includes timely notification of the outsourcing, an outsourcing contract and the implementation of appropriate controls.
2. Companies that are subject to money laundering supervision need to implement adequate due diligence measures.
3. Obligated entities must record and retain information gathered with regard to the fulfilment of their due diligence requirements.

**Link:**

[BaFin: Anordnung der BaFin: Leonteq Securities \(Europe\) GmbH muss Mängel in der Geldwäscheprävention beseitigen, 8/11/2023](#)

## EU and international – regulatory developments

### New EU anti-money laundering regulation on its way

On 18 January 2024, the Council of the EU and European Parliament announced a provisional agreement on an anti-money laundering regulation aimed at harmonising AML/CFT regimes across the member states.

The provisional agreement will expand the list of obliged entities, including to crypto-asset service providers (CASP). In addition, the draft regulation requires that enhanced due diligence measures be generally applied for “very wealthy (high net-worth) individuals”. Until the new draft regulation is published, it remains unclear how these high net-worth individuals will be defined and how this, and other proposals in the draft regulation, will impact investment funds’ due diligence requirements.

The European Parliament is expected to vote on the legislation before the parliamentary elections in June. If approved, the legislation will be published in the EU's Official Journal and likely enter into force in 2026.

**Link:**

[Council of the EU: Anti-money laundering: Council and Parliament strike deal on stricter rule, 18/01/2024](#)

## Cayman Islands and Jordan removed from FATF and EU high-risk jurisdictions lists

Investors that are based in the Cayman Islands or Jordan are no longer automatically subject to enhanced due diligence requirements, after these countries were removed from two key lists of high-risk jurisdictions for money laundering and terrorist financing at the end of 2023.

Both countries were removed from the Financial Action Task Force (FATF)'s list of high-risk jurisdictions at the end of October 2023. The EU followed suit on 12 December 2023 and published the amendment of its list of high-risk third countries in the Official Journal of the EU on 18 January. The EU amendment is effective as of 1 February.

**Link:**

[EU Commission: Commission Delegated Regulation \(EU\) 2024/163, 18/01/2024](#)

[FATF: Jurisdictions under increased monitoring, 27/10/2023](#)

## EU publishes long-awaited consolidated list of PEPs by country

Investment funds in the EU are required to conduct enhanced due diligence on business partners that are considered to be politically exposed persons (PEPs), who are defined as individuals entrusted with a prominent public function. Due to their position of influence, PEPs are considered to be more susceptible to involvement in bribery or corruption. Enhanced due diligence requirements also apply to their relatives and close associates.

On 10 November 2023, the European Commission published its long-awaited "List of Prominent Public Functions", intended to help identify and define individuals that are considered PEPs in each EU country. The list includes the most important public functions at national level, at the level of international organisations and at the level of EU institutions and bodies. However, while the new list provides a comprehensive overview of positions

considered to be prominent public functions in each EU country, the definitions differ widely across member states - with some countries also including local level politicians and bureaucrats; this highlights the ongoing ambiguities involved in defining PEPs conducting business across European countries.

**Links:**

[Amtsblatt der Europäischen Union: Wichtige öffentliche Ämpter auf nationaler Ebene, auf Ebene internationaler Organisationen und auf Ebene der Organe und Einrichtungen der Europäischen Union, 10/11/2023](#)

[LexusNexis: Political corruption and the assessment of politically exposed persons](#)

## Access to new US transparency register will not be accessible for foreign financial institution

The US Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) in December 2023 finalised rules around access to its corporate ownership database launched in January 2024. The database has been a key provision of the Corporate Transparency Act and started accepting beneficial ownership information reports on 1 January. Existing US businesses are now required to file their beneficial ownership information to the register by 1 January 2025. New businesses will have 90 days to file information after registration.

Information in the register will be accessible to US law enforcement agents, financial institutions and regulatory agencies. The rules state that foreign requests for beneficial ownership information can only be made on behalf of a law enforcement agency, prosecutor or foreign competent authority etc. The register will therefore not be accessible for the due diligence needs of foreign financial institutions.

**Links:**

[ACAMS: FinCEN finalizes financial access rule, making ownership database more broadly available, 21.12.2023](#)

[FinCEN: US Beneficial ownership information registry now accepting reports, 01/01/2024](#)

[FubCEB: Fact sheet: Beneficial ownership information access and safeguards final rule, 21/12/2023](#)

## EBA issues guidance to crypto-asset service providers on effective ML/TF risk management

The European Banking Authority (EBA) has amended its guidelines on money laundering and terrorist financing for crypto-asset service providers (CASPs), with the new



recommendations set to apply from 30 December 2024. The guidelines include measures to mitigate the risks to CASPs from features that enable fast cross-border transactions, as well as those that obscure users' identities. The guidelines recommend the use of blockchain analytics tools to mitigate risks and the specialised training of employees on crypto-assets and ML/TF risks.

The EBA also reported on a three-month public consultation it conducted in 2023 on amendments to the guidelines. Among other things, respondents argued that the guidelines with regard to the risks around self-hosted wallets and decentralised exchanges should be more nuanced. However, the EBA did not change its assessment in this regard.

The EBA listed several factors contributing to increased risks for CASPs, including peer-to-peer cryptocurrency exchanges and decentralised or distributed crypto-asset platforms (deFi) that facilitate anonymity, such as mixer or tumblers and crypto ATMs (hardware to exchange FIAT currency and crypto).

**Links:**

[EBA: EBA issues guidance to crypto-asset service providers to effectively manage their exposure to ML/TF risks.](#)

[16/01/2024](#)

## US imposes additional sanctions on North Korea and Russia

The US has condemned an arms transfer between the Democratic People's Republic of Korea (DPRK, North Korea) and Russia, as well as Moscow's use of North Korean weapons in its war against Ukraine. On 11 January 2024, the US State Department imposed sanctions on three Russian entities and one individual for their involvement in the arms transfer and testing of ballistic missiles from the DPRK.

This move came shortly after the US Department of State had imposed another package of sanctions on entities supplying Russia's military-industrial base and 150 additional individuals in December 2023. Those targeted included third country suppliers and entities considered part of procurement networks, e.g in Turkey, the UAE and China.

**Links:**

[US Department of State: The United States takes action in response to DPRK-Russia Ballistic missile transfers and testing.](#)

[11/01/2024](#)

[US Department of Treasury: Treasury imposes sanctions on more than 150 individuals and entities supplying Russia's military-industrial base, 12/12/2024](#)

[Reuters: US imposes sanctions over transfer of North Korean ballistic missiles to Russia, 11/01/2024](#)

## EU imposes further import and export bans on Russia in 12th sanctions package

The 12th package of EU restrictive measures (sanctions) against Russia was finally agreed on by member states in December 2023. The announcement followed a delay caused by a holdout from Austria in response to Ukraine's decision to blacklist Austria's Raiffeisen Bank International as an "international sponsor of war".

The new set of EU sanctions includes asset freezes on 140 additional persons and companies, as well as import and export bans. The import bans targeted Russian diamonds as well as raw materials for steel and aluminium production and other metal goods. Export restrictions were widened to include additional dual-use and advanced technological and industrial goods. The package also included a tightening of enforcement measures on the oil price cap at USD 60 a barrel and a ban on liquified petroleum gas.

### Links:

[European Commission: EU adopts 12th package of sanctions against Russia for its continued illegal war against Ukraine, 19/12/2024](#)

[Financial Times: Why the EU's 12th Russia sanctions package is almost ready for action, 18/12/2023](#)

## Terrorist financing – the Hamas case

### Hamis suspected of terrorist financing through investment schemes in Turkey and the Middle East and North Africa region (MENA)

Even though investment funds and private equity have historically been considered to be at low risk of use in terrorist financing, a recent case involving Palestinian terrorist group Hamas shows that this view might have to be revised. In the aftermath of Hamas' terrorist attack in Israel on 7 October 2023, media reports suggested that Hamas had been partly

financing itself through investments in portfolio companies across various sectors and countries in the Middle East.

The New York Times in December 2023 reported that leaked documents from 2018 showed that Hamas' investment portfolio was worth hundreds of millions of dollars and included companies located in countries such as Turkey, Saudi Arabia and Sudan, through which Hamas controlled “a multinational network of real businesses churning out real profits”. The article claimed that, alongside other streams of financing such as NGOs and international aid, the disbursement of profits and sale of portfolio companies had been a critical source of income for the group.

The German FIU in November 2023 released an information letter for obliged entities, advising them on how to identify any suspicious activities in connection with the attack by Hamas. It called on companies to take note of the potential for misuse of non-profit organisations (associations, charities, etc.) and to pay special attention to individuals associated with Hamas or connected to the conflict area.

Countries historically considered to be most crucial to the financing of Hamas are Iran and Qatar. However, the reports about Hamas' investment portfolio have demonstrated that strategic investments by the group in other countries in the region, such as Turkey, which does not consider Hamas a terrorist organisation, have also been key to its financing.

## Links

[Euronews: Die Finanzierung der Hamas: Woher stammt das Geld der Terrororganisation? 02/11/2023](#)

[FIU: Informationsschreiben an die Verpflichteten zur Identifizierung auffälliger Sachverhalte im Zusammenhang mit dem Angriff der Hamas und dem sog. Palästinensischen Islamischen Jihad auf Israel, 13/11/2023](#)

[Israel found the Hamas money machine years ago. nobody turned it off. 16/12/2023](#)

## Crypto-currency continues to be misused for terrorism financing

Media reports from October-November 2023 indicated that Hamas' recent terrorist attacks on Israel were partially financed through cryptocurrency, causing Israeli law enforcement to crack down on dozens of accounts and seize millions of dollars worth of crypto coins.

The reports indicated that Hamas had been involved in numerous crypto currency fundraising efforts prior to its 7 October attack on Israel, and that this activity had increased

after that date. More than 100 accounts were reported to have been closed on the Binance crypto exchange since the attacks, and information on another 200 crypto accounts have been requested by the authorities.

Tether, the world's biggest stable coin, has frozen 32 addresses worth almost USD 900,000 that have been linked to terrorism and wars in Israel and Ukraine. Reports also suggested that the crypto-currency Tron was also being increasingly used for terrorist financing purposes. Israel has seized a number of wallets over the past year, including some owned by Lebanese group Hezbollah, the Palestinian Islamic Jihad group and Hamas.

**Links:**

[Financial Times: Israel orders freeze on crypto accounts in bid to block funding for Hamas, 17/10/2023](#)

[Reuters: Focus: New crypto front emerges in Israel's militant financing fight, 30/11/2023](#)

[The Wall Street Journal: Hamas militants behind Israel attack raised millions in crypto, 10/10/2023](#)

## Multiple countries impose sanctions on Hamas operatives

On 19 January, the European Council published a dedicated sanctions framework for Palestinian terrorist groups Hamas and Palestinian Islamic Jihad. It also listed six individuals who were known Hamas financiers and operatives. The sanctions include asset freezes and travel bans.

The US, UK and Australia also announced their third round of sanctions targeting key figures in the financial networks of Hamas in the aftermath of the 7 October 2023 attacks. Sanctions were imposed on Hamas operatives such as Zuheir Samlakh, who is, according to the UK government, a “key figure in the group's shift towards cryptocurrencies” and Ahmed Sharif Abdallah Odeah, a key operator of Hamas international investment portfolio.

**Links:**

[EU Council: Hamas and Palestinian Islamic Jihad: Council establishes dedicated sancitons framework and lists six individuals, 19/01/2024](#)

[UK Government: UK, US and Australia sanction key figures in Hama's financial network, 22/01/2024](#)

## Audio Recommendations



Integrity Insights is a podcast from Berlin Risk, a Berlin-based corporate intelligence and compliance advisory firm. In the podcast, we cover the latest developments in the fields of financial crime, political risk, sanctions, open source investigations and much more. The podcast is hosted by Filip Brokes, analyst at Berlin Risk.

**Episode 1: Corporate ownership transparency in the EU** ([Spotify](#) / [Apple Podcasts](#))

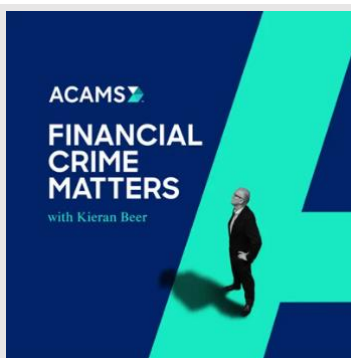
**Episode 3: Conducting sanctions due diligence** ([Spotify](#) / [Apple Podcasts](#))



The Laundry Podcast by Strise "Dive deep into the intricacies of financial crime, AML (anti-money laundering), compliance, sanctions, and the ever-evolving landscape of financial regulation.

**Episode 66: How Russian money still flows through Europe**  
([Spotify](#) / [Apple Podcasts](#))

**Episode 63: De-Banking: What is a PEP anyway?**  
([Spotify](#) / [Apple Podcasts](#))



ACAMS Financial Crime Matters: In this podcast series, Kieran Beer (Chief Analyst at ACAMS) interviews the movers and shakers of the anti-financial crime world.

**Stemming crypto-related crime with coinbase's Grant Rabenn, 30/01/2024** ([Spotify](#) / [Apple Podcasts](#))

## Imprint

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