

Newsletter



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The Rise of the “Permanent Due Diligence” Environment

Traditionally, **due diligence** has been understood as a “defined phase” within a transaction. Whether in acquisitions, financings or investments, due diligence operated as a structured process conducted prior to closing, with a clear “beginning” and “end”. Its purpose was to identify risks, validate assumptions, and support decision-making at a specific point in time.



Today, however, this concept is gradually being redefined. Across multiple sectors of the economy, regulatory expectations are expanding beyond transactional checkpoints and moving towards continuous oversight. Frameworks relating to Anti-Money Laundering (AML), ESG disclosures, data protection, and financial supervision increasingly require organisations to **monitor, reassess, and document their positions on an ongoing basis**.

Recent regulatory developments illustrate this shift. Under the EU Anti-Money Laundering framework, obliged entities are required to apply ongoing customer due diligence, ensuring that client information and risk profiles remain up to date throughout the business relationship. Similarly, the introduction of the **Sustainable Finance Disclosure Regulation (SFDR)** and the **Corporate Sustainability Reporting Directive (CSRD)** has created continuous obligations for firms to assess and disclose sustainability-related risks, rather than relying on point-in-time evaluations. In parallel, the **Digital Operational Resilience Act (DORA)** introduces ongoing monitoring requirements in relation to ICT risk and third-party service providers, reinforcing the expectation of continuous oversight.



In this context, due diligence is no longer limited to entry into a transaction. It extends throughout the lifecycle of an asset, a client relationship, or a corporate structure. This development is particularly evident in industries where regulatory scrutiny is intense. Financial institutions, servicers, and real estate investors for instance are now expected to maintain up-to-date knowledge of their exposures, counterparties, and underlying assets at all times. Periodic reviews are evolving into continuous processes, supported by internal systems, external advisors, and regulatory reporting obligations. **As a result, due diligence is transitioning from a discrete legal exercise into a permanent operational function.**

For organisations, this shift carries significant implications. It requires not only legal expertise, but also the ability to integrate compliance into day-to-day business activities. Information must be consistently updated, risks must be reassessed dynamically, and decision-making must take place within a framework of ongoing regulatory awareness. The distinction between “pre-transaction” and “post-transaction” phases becomes less relevant, as regulatory accountability **spans the entire duration of an investment or activity.**

For professional advisors, including law firms, this transformation changes the nature of engagement. The focus is no longer limited to supporting a transaction at a specific moment in time. Instead, advisors are increasingly involved in establishing processes, interpreting evolving regulatory expectations, and assisting clients in maintaining continuous compliance over time.

As regulatory frameworks continue to expand, treating due diligence as a one-off exercise increases exposure to risks that may arise well after completion, whereas a continuous approach enables organisations to **anticipate issues, adapt to regulatory developments, and safeguard long-term value.** In this context, the shift towards “permanent due diligence” reflects a broader move from episodic compliance to continuous accountability.



Miltos Apostolidis
Head of Business Efficiency
mapostolidis@saranti-partners.com
T: +302120216569

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