

Prevention of the use of the financial system for the purposes of money laundering or terrorist financing

2013/0025(COD) - 27/04/2015 - Commission communication on Council's position

The Commission approved the **results of the inter-institutional negotiations** and can therefore accept the Council's position at first reading on the adoption of a Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

The Commission recognised that the text reflects the political agreement that was reached between the European Parliament and the Council, which represents a delicate but acceptable balance, as part of the overall compromise, as regards:

- **the provisions related to beneficial ownership information:** this information will be held in a central register in each Member State, which constitutes an enhancement of transparency which is in line with the broader Commission's policies. However, as regards the specific provisions on the access to this information, the Commission considers that the **notion of "legitimate interest"** must be construed and understood in the light of the requirements flowing from Articles 7 and 8 of the Charter of Fundamental Rights, in full respect of the rules on protection of personal data and the right to privacy. When transposing the Directive, the Member States will need to pay particular attention to such requirements in order to ensure that the access of third parties pursues an objective of general interest and that the necessity and proportionality which would justify the restriction of protection of personal data and right to privacy are fully established;
- **the provisions related to the level of administrative pecuniary sanctions** applicable to financial institutions and to non-financial institutions;
- **the use of delegated acts**, and not implementing acts, to identify third-country jurisdictions which have strategic deficiencies in their anti-money laundering (AML) and counter terrorist financing (CTF) regimes.

The Commission can accept the **additional elements** introduced in the position of the Council, in particular that:

- **all gambling service providers**, not only casinos, are required to apply customer due diligence measures for single transactions of EUR 2000 or more. In strictly limited and justified circumstances and on the basis of a proven low risk of money laundering or terrorist financing, Member States will be allowed to provide for some exemptions;
- the provision on the **definition of beneficial ownership** constitutes a well-balanced result which will allow an overall understanding of what beneficial ownership means;
- considering the need for consistency of the EU framework applicable to **cash**, the Commission supports that the threshold applying to natural or legal persons trading in goods or services is raised from EUR 7 500 to EUR 10 000;
- the removal of the distinction between “foreign” and “domestic” politically exposed persons (PEPs), resulting in automatic enhanced due diligence measures to be required in the case of any PEP, regardless of where they originate from, represents a fair balance between the Council's concerns, the European Parliament's reservations and existing recommendations by FATF; and
- **the role given to the Commission to conduct a supranational risk assessment** of the money laundering and terrorist financing risks that could affect the internal market and relating to cross-

border phenomena will bring about a coherent approach towards anti-money laundering (AML) and counter terrorist financing (CTF) requirements at European level.