



Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) Regulation 2005/0138(COD)</p> <p>Combating money laundering and terrorist financing: information on the payer accompanying transfers of funds, transposition of the Special Recommendation VII on 'wire transfers' (SR VII) of the Financial Action Task Force (FATF) into Community legislation</p> <p>Repealed by 2013/0024(COD)</p> <p>Subject 2.50.04.02 Electronic money and payments, cross-border credit transfers 7.30.20 Action to combat terrorism 7.30.30.08 Capital outflow, money laundering</p>	Procedure completed

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	LIBE Civil Liberties, Justice and Home Affairs (Associated committee)	ALDE PICKART ALVARO Alexander Nuno	13/10/2005
European Parliament	Committee for opinion	Rapporteur for opinion	Appointed
	ECON Economic and Monetary Affairs (Associated committee)	PSE BULLMANN Udo	27/09/2005
Council of the European Union	Council configuration	Meeting	Date
	Economic and Financial Affairs ECOFIN	2759	07/11/2006
	Economic and Financial Affairs ECOFIN	2698	06/12/2005
European Commission	Commission DG	Commissioner	
	Financial Stability, Financial Services and Capital Markets Union	MCCREEVY Charlie	

Key events			
26/07/2005	Legislative proposal published	COM(2005)0343	Summary
08/09/2005	Committee referral announced in Parliament, 1st reading		
27/10/2005	Referral to associated committees announced in Parliament		
06/12/2005	Debate in Council	2698	Summary
15/05/2006	Vote in committee, 1st reading		Summary
23/05/2006	Committee report tabled for plenary, 1st reading	A6-0196/2006	
03/07/2006	Debate in Parliament		
06/07/2006	Results of vote in Parliament		
	Decision by Parliament, 1st reading		Summary

06/07/2006		T6-0311/2006	
07/11/2006	Act adopted by Council after Parliament's 1st reading		
15/11/2006	Final act signed		
15/11/2006	End of procedure in Parliament		
08/12/2006	Final act published in Official Journal		

Technical information

Procedure reference	2005/0138(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Repealed by 2013/0024(COD)
Legal basis	EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/29775

Documentation gateway

Legislative proposal		COM(2005)0343	26/07/2005	EC	Summary
European Central Bank: opinion, guideline, report		CON/2005/0056 OJ C 336 31.12.2005, p. 0109-0114	15/12/2005	ECB	Summary
Committee draft report		PE371.849	05/04/2006	EP	
Committee opinion	ECON	PE367.624	19/04/2006	EP	
Economic and Social Committee: opinion, report		CES0597/2006	21/04/2006	ESC	
Amendments tabled in committee		PE372.162	24/04/2006	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0196/2006	23/05/2006	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0311/2006	06/07/2006	EP	Summary
Commission response to text adopted in plenary		SP(2006)3801	28/08/2006	EC	
Draft final act		03630/2/2006	15/11/2006	CSL	
Follow-up document		C(2009)9254	27/11/2009	EC	

Additional information

European Commission	EUR-Lex
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Final act

[Regulation 2006/1781](#)
[OJ L 345 08.12.2006, p. 0001-0009](#) Summary

Combating money laundering and terrorist financing: information on the payer accompanying transfers of funds, transposition of the Special Recommendation VII on 'wire transfers' (SR VII) of the Financial Action Task Force (FATF) into Community legislation

PURPOSE : to lay down rules on information on the payer accompanying transfers of funds.

PROPOSED ACT : Regulation of the European Parliament and of the Council.

CONTENT : this proposal aims to transpose Special Recommendation VII on 'wire transfers' (SR VII) of the Financial Action Task Force (FATF) into Community legislation. FATF rules are generally accepted as the international standard in the fight against money laundering and terrorist financing. The proposal lays down rules on information on the payer accompanying transfers of funds, in order to ensure that basic information is immediately available to the authorities responsible for combating money laundering and terrorist financing, to assist them in their task.

The proposal establishes rules aimed at establishing the traceability of transfers of funds, which are applicable to all the Payment Service Providers (PSP) involved in the payment chain. The PSP of the payer must ensure that transfers of funds contain complete, accurate and meaningful information on the payer. Any intermediary PSP must ensure that all information on the payer that accompanies a transfer is retained with the transfer or that appropriate records are kept. The PSP of the payee must be able to detect a lack of presence of information on the payer when receiving transfers and take appropriate steps in order to correct this situation, so that received transfers of funds do not remain anonymous. While doing so, it must exert a special vigilance regarding such transfers and, on a risk sensitive basis, taking into account other pertinent factors, report suspicious transactions to the authorities responsible for combating money laundering and terrorist financing. PSPs should also keep appropriate records and respond fully and rapidly to enquiries by the authorities responsible for combating money laundering and terrorist financing of the Member State where they are situated.

The following points should be noted:

- the proposal establishes that simplified information (the account number of the payer or a unique identifier) has to be applied to transfers of funds within the EU, whereas complete information on the payer has to be applied to transfers of funds between the EU and other jurisdictions;
- complete information on the payer consists of his name, address and account number. The address may be substituted with the date and place of birth of the payer, his customer identification number or national identity number. Where the account number of the payer does not exist, the payment service provider of the payer may substitute it by a unique identifier, which allows the transaction to be traced back to the payer;
- there is provision for derogation from the principle of complete information on the payer as regards batch transfers between jurisdictions. The banking community and the majority of Member States recognise the need for this derogation as regards individual transfers from a single payer that are contained in a batch file for transmission to payees outside the Community. This process specifically refers to bundling together groupings of individual transfers from a single payer to several payees (typically certain type of routine transfers, like social security payments), which does not permit, for cost/efficiency reasons, the inclusion of complete information on the payer with each individual transfer, but only on the batch file which contains them. The proposal therefore contains a specific provision allowing for transfers of funds from a single payer which are contained in a batch file for transmission to payees outside the Community, to only carry the account number of the payer, provided the batch file contains complete information on the payer;
- with regard to exemption or thresholds, the proposal does not contain any threshold either for outgoing transfers from the EU or incoming transfers in the EU, as regards the collection and transmittal of information on the payer. It provides for incoming anonymous transfers in the EU to be subject to special vigilance and to appropriate measures destined to get missing information on the payer. It also establishes that outgoing transfers of funds from the EU shall be accompanied by complete information on the payer, but in order to take into account the risk of driving transactions underground, flexibility is allowed as regards the extent of verification of information on the payer, on a risk-sensitive basis.

FINANCIAL IMPLICATIONS:

- Budget lines and heading: 12.010211.01.03 ? Committee meetings.
- Period of application: 2005?2010.
- Overall financial impact of human resources and other administrative expenditure: EUR 0.224 million per year.
- Total staff: 1.5.
- Staff costs: EUR 162 000 per year.
- Other administrative expenditure: EUR 62 400 per year (Regulatory Committee on the prevention of money laundering and terrorist financing).
- Total cost of action over five years: EUR 1 122 000.

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The European Central Bank gives its opinion on the Commission's proposal as follows:

Obligations of intermediary payment service providers: With reference to the definition of 'intermediary payment service provider', it appears that both operators of payment, clearing and settlement systems and providers of messaging services seem to be covered by the scope of application of the proposed regulation, since they take part in the execution of transfers of funds. The ECB strongly recommends inserting an explicit exemption from the scope of application of the proposed regulation for both operators of payment, clearing and settlement systems and providers of messaging services, plus an explanatory recital. This is due to the fact that such operators and service providers do not have a direct customer relationship with payers or payees and do not, therefore, hold all the information required under the proposed regulation. Therefore, obligations should only be imposed on credit institutions that are directly involved in customer contacts or on financial entities that are part of the payment chain for the execution of funds, since such entities would possess the necessary information.

Furthermore, the ECB advises against the proposal to make the intermediary PSP responsible for informing the PSP of the payee that the information is incomplete. It would be more appropriate for this obligation to fall upon the parties who are directly involved, namely the PSP of the payer and the PSP of the payee, since they would in any event possess the required information. The only obligations of an intermediary PSP should be those under Article 12 and Article 13(1) of the proposed regulation, which require that all information on the payer received as part of the transfer is retained with the transfer and that such information is kept on record for five years.

Definitions: The ECB suggests that:

- the definition of 'payment service user' should be consistent with the same term in the proposed directive on payment services in the internal market; (COM(2005)0603)
- the definition of 'payment service provider' should cover money remitters, to ensure consistency with Special Recommendation VII on wire transfers;
- a definition for 'unique identifier' should be added, which should reflect the various possible combinations of data required for identifying the payer.

Commercial transactions: a recital to the proposed regulation concerns the exemption of transfers of funds that flow from 'commercial transactions'. There is no definition of the term 'commercial transaction'. In addition, article 2(2) specifies that the proposed regulation does 'not apply to transfers of funds which flow from a commercial transaction carried out using a credit or debit card or any other similar payment instrument'.

The ECB suggests that these clauses should be redrafted to ensure consistency with the Interpretative Note SR VII on wire transfers. In addition, with reference to Article 2(2), the ECB understands the desire to exempt transactions carried out using a credit or debit card to pay for goods and services from the requirement to include full information on the payer. However, the proposal seems impracticable as the entities subject to the proposed regulation have no means which would in all circumstances allow them to identify the underlying reason for a payment. The intention behind Article 2(2) may be that the settlement (via the PSP of the payer) of the bill relating to the underlying credit card transactions made by the payer is not part of any credit transfer that could have been initiated using the credit card, but a completely separate credit transfer from the payer to the credit card company. If this is the case, the ECB agrees with the content of Article 2(2) but, in the interests of legal certainty, would suggest making this intention clearer in the proposed regulation.

Batch file transfers: Such transfers concern individual transfers from one payer to different payees, which have been bundled and are then usually 'unbundled' by the first PSP in the process or a payment system operator and subsequently sorted according to the PSP of the payee. Therefore, neither the payee nor its PSP will be able to identify that the funds received have originally been transferred via a batch file. If the payee is situated in a country which is a member of the FATF, the country in question must also apply SR VII. Consequently, the PSP of the payee would need to contact the PSP of the payer within the Community or the first intermediary PSP to obtain the relevant information. Therefore, it is noted that the use of batch file transfers at a cross border level will generate a large number of requests for provision of information on the payer.

Agreements with territories or countries outside the Community: the proposal states that the European Commission may authorise agreements between Member States and countries or territories outside the Community which contain derogations from the proposed regulation. Such authorisation requires fulfilment of a number of conditions. In view of the consolidation of financial markets in the EU and the development of the Single Euro Payments Area, the first and third conditions seem to be sufficient to achieve the aims of the authorisation requirement. Therefore, the second condition (that the country or territory is a member of the payment and clearing systems of the Member State concerned) could be deleted.

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The committee adopted the report by Alexander Nuno ALVARO (ADLE, DE) amending the proposed regulation on information on the payer accompanying transfers of funds. While broadly approving the approach pursued in the proposal, MEPs tabled a number of amendments under the 1st reading of the codecision procedure. In particular, they clarified certain exemptions, stipulating that the regulation should not apply to:

- electronic transfers covered by the derogation allowed in Article 11(5) of the Money Laundering Directive ("simplified customer due diligence"), unless the amount transferred is higher than EUR 1000;
- pre-paid transfers not exceeding EUR 150, carried out by means of a mobile phone or any other digital or IT device;
- post-paid transfers made by mobile phone or any other digital or IT device, as long as traceability is guaranteed;

- electronic giro payments, provided the payment service provider of the payee is able to trace the paying client and the transaction does not exceed EUR 1000;
- personal cash withdrawals;
- transfers of funds where there is a debit transfer authorisation between two parties;
- truncated cheques;
- the payment of taxes, fines or other levies within a Member State ; and
- transfers of funds where both the payer and the payee are payment service providers acting on their own behalf.

Other amendments made clarifications and additions to the definitions set out in the proposal. The committee also wanted a distinction to be drawn between account-based and non-account-based transfers as far as verifications were concerned, and said that the special nature of batch transfers should also be taken into account. Moreover, the sanctions envisaged for failure on the part of payment service providers to supply information on the payer should only be considered in the case of transfers exceeding EUR 1000. Lastly, MEPs said that the regulation's legal provisions should be renewed by means of the codecision procedure rather than the comitology procedure, and added a review clause under which the proposal could be amended, following a Commission report by 2010 at the latest, with regard to electronic money "and other newly developed means of payment".

Combating money laundering and terrorist financing: information on the payer accompanying transfers of funds, transposition of the Special Recommendation VII on wire transfers? (SR VII) of the Financial Action Task Force (FATF) into Community legislation

The European Parliament adopted a resolution based on the draft by Alexander Nuno ALVARO (ADLE, DE). The resolution was adopted by 442 votes to 16 with 130 abstentions. Parliament made some amendments to the Commission's proposal:

1) the Regulation will not apply to:

- electronic transfers covered by the derogation allowed in Article 11(5) of the Money Laundering Directive ("simplified customer due diligence"), unless the amount transferred is higher than EUR 1000;
- pre-paid transfers not exceeding EUR 150, carried out by means of a mobile phone or any other digital or IT device;
- post-paid transfers made by mobile phone or any other digital or IT device, as long as traceability is guaranteed;
- electronic giro payments, provided the payment service provider of the payee is able to trace the paying client and the transaction does not exceed EUR 1000;
- personal cash withdrawals;
- transfers of funds where there is a debit transfer authorisation between two parties;
- truncated cheques;
- the payment of taxes, fines or other levies within a Member State ; and
- transfers of funds where both the payer and the payee are payment service providers acting on their own behalf.

2) Parliament clarified certain definitions, including payer?, payment service provider?, transfer of funds? and unique identifier?.

3) Amendments were made to take into account the special nature of batch transfers.

4) A new recital states that where guidance is given by national competent authorities as regards the obligations either to reject all transfers from a payment service provider which regularly fails to supply the required information on the payer, or decide whether to restrict or terminate its business relationship with the payment service provider, it should be based on convergence of best practices, and it should also take into account that the Interpretative Note to SR VII of the FATF allows third countries to set a threshold of EUR 1 000 or USD 1 000 for the obligation to send information on the payer, without prejudice to the objective of efficiently combating money laundering and terrorist financing.

5) Where a payment service provider regularly fails to supply the required information on the payer, the payment service provider of the payee shall take steps which may initially include the issuing of warnings and setting of deadlines, prior to either rejecting any future transfers of funds from that payment service provider or deciding, whether or not to restrict or terminate its business relationship with these payment service providers.

6) Parliament amended the relevant Article (Article 13) which applies in cases where the payment service provider of the payer is situated outside the Community and the intermediary payment service provider is situated within the Community, clarifying when the use of a payment system with technical limitations is permitted.

7) Penalties will apply from 15 December 2007, and Member States must notify the relevant rules by 14 December 2007.

8) 5 years after the entry into force of the Regulation, the Commission shall present a report giving a full economic and legal assessment of the regulation, accompanied, if appropriate, by a proposal for its modification or repeal. This report shall in particular review:

- the application of Article 2 with regard to further experience of the possible misuse of electronic money, as defined in Article 1 (3) of Directive 2000/46/EC, and other newly developed means of payment for the purposes of money laundering and terrorist financing. Should there be a risk of a misuse regarding money laundering or terrorist financing, the Commission shall submit a proposal to amend the Regulation.
- the application of Article 13 with regard to the technical limitations which may prevent the complete information on the payer from being

transmitted to the payment service provider of the payee. Should there be a possibility to overcome such technical limitations in the light of new developments in the payments area, and taking into account related costs for payment service providers, the Commission shall submit a proposal to amend the Regulation.

9) A series of amendments aimed at boosting Parliament's role in overseeing implementation of the Regulation were deleted as this ?comitology? issue has been dealt within a new inter-institutional agreement. (Please see ACI/2006/2152).

10) The Regulation will enter into force not earlier than 1 January 2007.

Combating money laundering and terrorist financing: information on the payer accompanying transfers of funds, transposition of the Special Recommendation VII on ?wire transfers? (SR VII) of the Financial Action Task Force (FATF) into Community legislation

PURPOSE: the setting out of rules on payer information to Payment Service Providers (PSPs).

LEGISLATIVE ACT: Regulation 1781/2006 of the European Parliament and of the Council on information on the payer accompanying transfers of funds.

BACKGROUND: dirty money threatens the credibility of the EU's internal market. Criminals who launder dirty money, and terrorists in particular, shake the very foundations of the EU's basic principles. Those laundering money for criminal purposes could exploit the EU's freedom of capital movements. Payment Service Providers or PSPs play an important role in stemming the flow of laundered money.

CONTENT: the purpose of this Regulation is to lay down rules on payer information which must accompany funds when they are transferred. These rules will help prevent and detect money laundering and terrorist financing by creating a system of full traceability. The rules are a transposition of ?Special Recommendation VII on wire transfers? (SR VIII) of the 1989 G7 Financial Action Task Force. One of the main objectives of the Regulation to ensure that there is no discrimination between national payments within a Member State and cross-border payments between Member States.

The provisions impose obligations on:

- payer PSPs;
- payee PSPs; and
- intermediary PSPs.

The system allows for funds to be transferred on condition that any such transfer is accompanied with accurate and meaningful information on the payer. The full traceability of transferred funds is an important and valuable tool in the prevention, investigation and detection of money laundering and/or terrorist financing.

Obligations on the payer PSP are as follows:

The information required to accompany money transfers are his or her:

- name,
- address and
- account number.

The address may be substituted with the date and place of birth of the payer, his/her customer identification number or national identity number. Information provided to the service provider will be verified from a reliable and independent source.

For the transfer of funds within the Community transfers need only be accompanied by the account number of the payer or a unique identifier allowing the transaction to be traced back to the payer. However, information to the payee can be made available to the payee PSP, upon request, within three working days of a request.

For the transfer of funds outside of the Community transfers need to be accompanied by full payer information. In the case of batch files (where a number of individual transfers are bundled together) and which are being transferred from a single payer from within the Community to a third country then information need only be attached to the batch file and not to each individual file.

The obligations on the payee PSP are as follows:

The payee PSP is obliged to detect whether, in either the messaging or payment and settlement system used to effect a transfer of funds, information on the payer has been properly completed. If the payee PSP becomes aware that information on the payer is missing or incomplete it is obliged to either reject the transfer or ask for complete payer information. If information is not forthcoming the payee PSP will need to report that fact to the authorities. Information from a payer must be kept on file by the payee PSP for five years.

The obligations on the intermediary PSP are as follows:

Intermediary PSPs that are situated within the Community but that are receiving payments from outside of the Community must ensure that all information on the payer is kept with the transfer. In cases where the intermediary PSP becomes aware that information on the payer is either missing or incomplete it may use a payment system with technical limitations:

- which prevents information on the payer from accompanying the transfer of funds to send transfers of funds to the payee PSP; and
- if it is able to inform the payee PSP provider thereof.

At the same time, however, intermediary PSPs are expected to remove technical limitations as soon as payment systems have been upgraded.

In cases where an intermediary uses a payment system with technical limitations it must make information on the payer (irrespective of

whether this information in complete or not) available to the payee PSP within three working days.

A number of situations do not fall under the scope of the Regulation including, for example, persons who convert paper documents into electronic data and who are acting under contract with a payment service provider. Also excluded are fund transfers that represent a low risk of money laundering or terrorist financing ? including credit or debit cards, ATM withdrawals, direct debits, truncated cheques, the payment of taxes and the payment of fines.

The Member States may exempt PSPs from the Regulation?s provisions in the case of transferring funds to organisations carrying out non-profit charitable, religious, cultural, educational, social, scientific or fraternal activities. These organisations must, however, be subject to reporting and external audit requirements; they must be limited to a maximum amount of EUR 150 per transfer and they must take place exclusively within the territory of the Member State.

In addition, the Regulation makes a distinction between the transfer of funds from an account and the transfer of funds not made from an account. This distinction dictates that the transfer of funds below EUR 1000 ? and which does not stem from an account, will not fall under the scope of this Regulation.

The Regulation sets out provisions on penalties which the Member States are expected to apply from 15 December 2007. The Commission will prepare a report on the Regulation by 28 December 2011.

ENTRY INTO FORCE: 28 December 2006.