

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

2013/0025(COD) - 11/03/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 643 votes to 30 with 12 abstentions, a legislative resolution on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

Parliaments position adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

Scope: the directive which is grounded in a risk-based approach, will apply to credit institutions, financial institutions, auditors, lawyers, external accountants and tax advisors, who will be expected to be more vigilant regarding suspect transactions made by clients. It will also apply to estate agents including letting agents, in so far as they are involved in financial transactions. It will apply to providers of gambling services. With the exception of casinos, Member States may decide to exempt in full or in part certain gambling services from national provisions on the basis of the low risk posed by the nature of the services on the basis of risk assessments.

Increased vigilance regarding politically exposed persons: the Commission proposal covers both domestic politically exposed persons and foreign politically exposed persons. Parliament proposed that the Commission, in cooperation with Member States and international organisations, shall draw a list of domestic politically exposed persons and persons who are residents of the Member States, who are or have been entrusted with a prominent function by an international organisation. The list shall be accessible by competent authorities and by obliged entities.

The Commission shall notify the persons concerned that they have been placed on or removed from the list.

Public registers: Parliament proposed that companies and other entities having legal personality established or incorporated within their territory, or governed under their law obtain, hold and transmit to a public central register, commercial register or companies register within their territory adequate, accurate, current and up-to-date information on them and on their beneficial ownership, at the moment of establishment as well as any changes thereof.

Parliament sets out the list of minimum information that must be kept in the register to clearly identify the company and its beneficial owner.

The information shall be available online to all persons in an open and secure data format, in line with data protection rules.

The company registers shall be interconnected by means of the European platform, the portal and optional access points established by Member States. The latter shall lay down the rules on penalties for natural or legal persons applicable to infringements of the national provisions adopted pursuant to the Directive.

The Commission shall seek cooperation with third countries to encourage that equivalent central registers containing beneficial ownership information are established and information on beneficial owners is made publically accessible in their countries.

Risk assessment: Members proposed that the Commission should produce an assessment on the money laundering and terrorist financing risks affecting the internal market, with particular reference to cross-border activities. In order to produce such an assessment, it should consult the Member States, the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), the European Securities and Markets Authority (ESMA), the EDPS, Article 29 Working Party, Europol and other relevant authorities.

The risk assessment should cover at least the following aspects: the overall extent of money laundering and the areas of the internal market that are at greater risk; the most widespread means used by criminals to launder illicit proceeds as well as the recommendations to the competent authorities on the effective deployment of resources.

The evaluation should be done every six months and more often if necessary.

Targeted and proportionate approach: Member States could adopt or retain in force stricter provisions in the field covered by this Directive to prevent money laundering and terrorist financing, provided that such provisions are in full compliance with Union law, especially as regards Union data protection rules and the protection of fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union. Such provisions should not unduly prevent consumers from accessing financial services and shall not constitute an obstacle to the functioning of the Single Market.

Non-cooperative jurisdictions: in order to develop a common approach and common policies against non-cooperative jurisdictions with deficiencies in the field of combating money laundering, Member States should periodically endorse and adopt the lists of countries published by the Financial Action Task Force (FATF).

The Commission should coordinate preparatory work at the European level on the identification of third countries with grave strategic deficiencies in their money laundering systems that pose significant risks to the financial system of the Union.

Parliament stated in the text that the Commission should increase the pressure that it brings to bear on the tax havens to improve their cooperation and exchange of information in order to combat money laundering and terrorist financing.