

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

2013/0025(COD) - 20/05/2015 - Final act

PURPOSE: to protect the financial system against money laundering and terrorist financing through measures on prevention, investigation, and detection.

LEGISLATIVE ACT: Directive (EU) 2015/849 of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

CONTENT: this Directive updates and revises the existing 3rd anti-money laundering Directive with the aim of further strengthening the EUs defences against money laundering and terrorist financing and of ensuring the soundness, integrity and stability of the financial system. It aims to ensure consistency between the EU approach and the international one - in particular, alignment with the most recent (February 2012) Recommendations of the Financial Action Task Force (FATF).

The [anti-money laundering Regulation](#), adopted at the same time as the Directive, concerns in particular the information accompanying transfers of funds.

Scope: this Directive shall apply to:

- credit institutions;
- financial institutions;
- auditors, external accountants and tax advisors;
- notaries and other independent legal professionals, where they participate, whether by acting on behalf of and for their client in any financial or real estate transaction,
- other persons trading in goods to the extent that payments are made or received in cash in an amount of EUR 10 000 or more;
- providers of gambling services.

Gambling: with the exception of casinos, and following an appropriate risk assessment, Member States may decide to exempt, in full or in part, providers of certain gambling services from national provisions transposing this Directive on the basis of the proven low risk posed by the nature and, where appropriate, the scale of operations of such services. Such exemptions should be subject to a specific risk assessment which also considers the degree of vulnerability of the applicable transactions.

Tighter rules on customer due diligence: Member States shall ensure that obliged entities apply customer due diligence measures in the following circumstances:

- when establishing a business relationship;
- when carrying out an occasional transaction that amounts to EUR 15 000 or more;
- in the case of persons trading in goods, when carrying out occasional transactions in cash amounting to EUR 10 000 or more;
- for providers of gambling services, upon the collection of winnings, the wagering of a stake, or both, when carrying out transactions amounting to EUR 2 000 or more;
- when there is a suspicion of money laundering or terrorist financing, regardless of any derogation, exemption or threshold;
- when there are doubts about the veracity or adequacy of previously obtained customer identification data.

Where a Member State or an obliged entity identifies areas of lower risk, that Member State may allow obliged entities to apply simplified customer due diligence measures. Before applying simplified customer due diligence measures, obliged entities shall ascertain that the business relationship or the transaction presents a lower degree of risk.

The use of electronic money products is increasingly considered to be a substitute for bank accounts, which, justifies subjecting those products to anti-money laundering and countering the financing of terrorism obligations. However, in certain proven low-risk circumstances and under strict risk-mitigating conditions, Member States should be allowed to exempt electronic money products from certain customer due diligence measures.

Risk-based approach: the importance of a supranational approach to risk identification has been recognised at international level. The Commission shall conduct an assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities. To that end, the Commission shall, by 26 June 2017, draw up a report identifying, analysing and evaluating those risks at Union level.

Beneficial ownership information: Member States shall ensure that the information is held in a central register in each Member State or a public register. It shall be accessible to competent authorities, financial intelligence units and obliged entities such as banks. The Directive also enables persons who can demonstrate a legitimate interest to access the following stored information: (i) name; (ii) month and year of birth; (iii) nationality; (iv) country of residence; (v) nature and approximate extent of the beneficial interest held.

As for trusts, the central registration of beneficial ownership information will be used where the trust generates consequences as regards taxation.

Sanctions: the Directive provides for a maximum pecuniary fine of at least twice the amount of the benefit derived from the breach or at least EUR 1 million. For breaches involving credit or financial institutions, it provides for:

- a maximum pecuniary sanction of at least EUR 5 million or 10% of the total annual turnover in the case of a legal person;
- a maximum pecuniary sanction of at least EUR 5 million in the case of a natural person.

By 26 June 2019, the Commission shall draw up a report on the implementation of this Directive and submit it to the European Parliament and to the Council.

ENTRY INTO FORCE: 25.6.2015.

TRANSPOSITION: 26.6.2017.

DELEGATED ACTS: the Commission may adopt delegated acts in order to identify high-risk third countries, taking into account strategic deficiencies. The power to adopt delegated acts referred to in Article 9 shall be conferred on the Commission for an indeterminate period of time from 25 June 2015. The European Parliament or the Council may object to a delegated act within a period of one month from the date of notification (this period may be extended by one month). If the European Parliament or the Council objects to the delegated act, it shall not enter into force.