

Prevention of the use of the financial system for the purposes of money laundering or terrorist financing: transparency of financial transactions and of corporate entities

2016/0208(COD) - 09/03/2017 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs adopted the report by Krijstina KARI (EPP, LV) and Judith SARGENTINI (Greens/ EFA, NL) on the proposal for a directive of the European Parliament and of the Council amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and amending Directive 2009/101/EC.

Scope: Directive (EU) 2015/849 shall also apply to: (i) auditors, external accountants and tax advisors, or any other persons offering tax-related services and advice; (ii) estate agents including letting agents; (iii) persons trading in works of art; (iv) electronic money issuers and distributors.

Offences relating to direct taxes and indirect taxes as defined in the national law of the Member States shall also apply.

A shareholding of 10 % plus one share or an ownership interest of more than 10 % in the customer held by a natural person shall be an indication of direct ownership.

Third country policy: key transparency standards should be binding and guide the negotiation and renegotiation of Union trade agreements and partnerships. When negotiating any trade, association and partnership agreement between the Commission or any Member State and a high-risk third country, the following points should be taken into consideration:

- the existence of robust systems to ensure that information on beneficial ownership of corporations and other entities or arrangements is available to competent authorities and the transparency of beneficial ownership information;
- the powers, procedures and political independence of the third country's competent authorities for the purposes of combating money laundering and terrorist financing;
- the effectiveness of the AML/CFT system in addressing money laundering or terrorist financing risks of the third country, including an analysis of governance indicators, such as control of corruption, government effectiveness, political stability and absence of violence/terrorism, regulatory quality, the rule of law and accountability;
- the exchange of information between competent authorities and EU Member States;
- measures in place to protect whistleblowers.

Trade partners should lose the benefits granted by trade agreements with the Union where they fail to respect relevant international standards, such as the Common Reporting Standard of the OECD, the Action Plan on Base Erosion and Profit Shifting of the OECD and the central register of beneficial ownership.

Customer due diligence requirements: obliged entities shall apply customer due diligence requirements in the case of persons trading in goods or services, when carrying out occasional transactions in cash amounting to EUR 10 000.

Sensitive goods in the context of money laundering or terrorist financing comprise: oil, arms, precious metals, tobacco products, cultural artefacts and other items of archaeological, historical, cultural and religious importance, or rare scientific value, as well as ivory and protected species.

Member States shall require obliged entities to examine the background and purpose of all transactions that fulfil one of the following conditions: (i) they are complex transactions; (ii) they are unusually large transactions; (iii) they do not seem to have an entirely lawful purpose.

As regards anonymous prepaid cards, Members stated that they were in favour of reducing from EUR 250 to EUR 150 the threshold for payments.

Information on beneficial ownership: the information held in the central register of beneficial ownership shall be publicly accessible. The information shall consist of at least the name, the date of birth, the nationality, the country of residence, contact details (without disclosure of a home address), the nature and extent of the beneficial interest held of the beneficial owner.

All trusts and similar legal arrangements, including inter alia Treuhand, Stiftung, Privatstiftung, Usufruct Fiducia should be registered in the Member State(s) where they are created, administered or operated.

Access to the information on beneficial ownership shall be in accordance with data protection rules.

By 26 June 2019, the Commission shall assess the conditions and the technical specifications and procedures for ensuring safe and efficient interconnection of the central registries.

Automated centralised mechanisms: the amended text obliges Member States to put in place automated mechanisms such as central registers, which allow the identification of any natural or legal person holding or controlling: (i) land and buildings within their territory; (ii) life insurance contracts or investment related services such as insurance contracts with premium refund held within their territory.

Surveillance: Member States shall ensure that one competent authority operates as supervising AML/CFT authority, which shall be structurally independent. It shall ensure supervision and coordination of anti-money laundering activities. This authority shall serve as a contact point for the supervising AML/CFT authorities of the other Member States, the Commission and the ESAs.

Moreover, Commission experts shall carry out general and specific audits in the competent authorities of the Member States.

Cooperation between competent authorities: Member States shall ensure that competent authorities supervising credit and financial institutions, cooperate with each other to the greatest extent possible, regardless of their respective nature or status. Such competent authorities should have an adequate legal basis for exchanging confidential information and cooperate to the widest extent possible, consistent

with the applicable international standards in this field.

In order to overcome the current cooperation difficulties which exist between national FIUs, the Commission shall present, by June 2017, a legislative proposal to create a European FIU that would coordinate, assist and support Member States FIUs.