

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) - 19/04/2018 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 574 votes to 13, with 60 abstentions, a legislative resolution 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.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

Scope: Directive (EU) 2015/849 shall also apply to: (i) all forms of tax consultancy services, (ii) estate agents including when acting as intermediaries in the letting of immovable property, but only in relation to transactions for which the monthly rent amounts to EUR 10 000 or more; (iii) dealers of art where the value of the transaction amounts to EUR 10,000 or more.

For criminal activities within the meaning of the Directive, any type of criminal involvement in the commission of terrorist or terrorist offences, as well as the activities of criminal organisations, shall be considered to be criminal activities within the meaning of the Council Framework Decision 2008/841/JHA.

Risk assessment: the risk assessment report prepared by the Commission shall cover the risks associated with each relevant sector, including estimates of the money laundering volumes provided by Eurostat for each of these sectors, as well as the most widespread means used by criminals to launder illicit products.

Each Member State shall report the institutional structure and broad procedures of their anti-money laundering and anti-terrorist financing framework regime, including inter alia the Financial Intelligence Unit (FIU), tax authorities and prosecutors, as well as the allocated human and financial resources to the extent that this information is available.

Member States shall make the results of their risk assessments, including their updates, available to the Commission, the ESAs and the other Member States. A summary of the assessment shall be made publicly available.

Policy towards third countries: the Commission may adopt delegated acts to identify high-risk third countries, taking into account their strategic deficiencies, in particular as regards the legal and institutional framework of the third country in the fight against money laundering and terrorist financing.

Customer due diligence obligations: Member States shall prohibit their banks from keeping anonymous accounts, anonymous passbooks or anonymous safe-deposit boxes. Holders and beneficiaries of existing anonymous accounts shall be subject to customer due diligence measures at the latest six months after the date of entry into force of the amending Directive.

The amending Directive provides for a reduction of the identification threshold for prepaid cardholders from the current EUR 250 to EUR 150. In addition, national FIUs would be able to obtain information enabling them to associate the addresses corresponding to the virtual currency with the identity of the owner of the virtual currency.

Whenever entering into a new business relationship with a corporate or other legal entity, or a trust or a legal arrangement having a structure or functions similar to trusts (?similar legal arrangement?) which are subject to the registration of beneficial ownership information, the obliged entities shall collect proof of registration or an excerpt of the register.

Enhanced due diligence obligations: Member States shall require obliged entities to examine, as far as reasonably possible, the background and purpose of all transactions that fulfil at least one of the following conditions: (i) they are complex transactions; (ii) they are unusually large transactions; (iii) they are conducted in an unusual pattern; (iv) they do not have an apparent economic or lawful purpose.

Information on beneficial owners: this information should be accessible in all cases to: (i) competent authorities and FIUs, without any restriction; (ii) obliged entities, in the context of customer due diligence; and (iii) any member of the general public.

The information accessible to natural or legal persons shall consist of the name, the month and year of birth and the country of residence and nationality of the beneficial owner, as well as nature and extent of beneficial interest held.

Access to beneficial ownership information of trusts and similar legal arrangements should be granted to any person that can demonstrate a legitimate interest.

Whistleblowers: individuals, including employees and representatives of the obliged entity who report suspicions of money laundering or terrorist financing internally or to the FIU, are legally protected from being exposed to threats, retaliatory or hostile action, and in particular from adverse or discriminatory employment actions.