

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) - 30/05/2018 - Final act

PURPOSE: to enhance EU rules to prevent money laundering and terrorist financing.

LEGISLATIVE ACT: Directive (EU) 2018/843 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 Directives 2009/138/EC and 2013/36/EU.

CONTENT: this Directive amending [Directive \(EU\) 2015/849](#) is part of a Commission action plan to combat terrorist financing, drawn up in 2016 following a wave of terrorist attacks in Europe. It aims (i) to prevent the use of the financial system to finance criminal activities; (ii) to strengthen transparency rules to prevent the concealment of funds on a large scale.

The main amendments made to Directive (EU) 2015/849 concern in particular the following points:

Scope: the revised Directive 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.

Customer due diligence obligations: In particular, the revised Directive provides for customer due diligence obligations:

- prohibiting their credit institutions and financial institutions from keeping anonymous accounts, anonymous passbooks or anonymous safe-deposit boxes. Member States shall, in any event, require that the owners and beneficiaries of existing anonymous accounts, anonymous passbooks or anonymous safe-deposit boxes be subject to customer due diligence measures no later than 10 January 2019;
- reducing the identification threshold for prepaid cardholders from the current EUR 250 to EUR 150. Member States may decide not to accept payments made using anonymous prepaid cards on their territory;
- regarding virtual currency exchange platforms and storage portfolio providers. National financial intelligence units (FIUs) shall be able to obtain information allowing them to associate virtual currency addresses to the identity of the owner of virtual currency;
- enhancing due diligence obligations, for example in the case of transactions involving high-risk third countries as well as in other cases of higher risk: reporting entities will be required to examine, to the extent reasonable, the background and purpose of any transaction (i) if it is a complex transaction; (ii) if it is an unusually large transaction; (iii) it is carried out in an unusual pattern; (iv) it does not have an apparent economic or lawful purpose.

Information on beneficial owners: Member States shall ensure that corporate and other legal entities incorporated within their territory obtain and hold adequate, accurate and current information on their beneficial ownership.

The Directive provides for enhanced access to the registers of beneficial owners in order to increase transparency in the ownership of companies and trusts. The registers will also be interconnected to facilitate cooperation between Member States. Access to information on beneficial owners is provided as follows:

- public access to information on beneficial owners concerning enterprises;
- access on the basis of legitimate interest to information on beneficial owners concerning trusts and similar legal arrangements;
- to any person that files a written request in relation to a trust or similar legal arrangement which holds or owns a controlling interest in any corporate or other legal entity incorporated outside the Union.

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

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.

Cooperation between FIUs: the Directive aims to improve the effectiveness of national FIUs by clearly clarifying their powers and cooperation between them. FIUs should have access to information and be able to exchange it without impediment, in particular through appropriate cooperation with law enforcement authorities. In all cases of suspected criminality and, in particular, in cases of terrorist financing, information should flow directly and promptly without undue delay.

ENTRY INTO FORCE: 9.7.2018.

TRANSPOSITION: no later than 10.1.2020.