Prevention of the use of the financial system for the purposes of money laundering or terrorist financing: mechanisms to be put in place by the Member States

2021/0250(COD) - 20/07/2021 - Legislative proposal

PURPOSE: to establish a coordinated and coherent mechanism on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: money laundering and terrorist financing pose a serious threat to the integrity of the EU economy and financial system and the security of its citizens. Europol estimated that around 1% of the EUs annual Gross Domestic Product is detected as being involved in suspect financial activity. The fight against money laundering and terrorist financing is vital for financial stability and security in Europe.

Legislative gaps in one Member State have an impact on the EU as a whole.

The proposed directive repeals Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

The EUs Security Union Strategy for 2020-2025 highlighted the importance of enhancing the EUs framework for anti-money laundering and countering terrorist financing in order to protect Europeans from terrorism and organised crime.

Furthermore, on 20 July 2021, the European Commission presented an ambitious package of legislative proposals to strengthen the EUs anti-money laundering and countering the financing of terrorism (AML/CFT) rules. It is part of the Commissions commitment to protect EU citizens and the EU's financial system from money laundering and terrorist financing. The aim is to improve the detection of suspicious transactions and activities, and close loopholes used by criminals to launder illicit proceeds or finance terrorist activities through the financial system.

CONTENT: the proposed directive will replace the existing Directive 2015/849/EU containing provisions that will be transposed into national law, such as rules on national supervisors and financial intelligence units in Member States.

The present proposal does not simply transfers provisions from the current Directive to a future one; a number of changes of substance are made in order to bring about a greater level of convergence in the practices of supervisors and FIUs and in relation to cooperation among competent authorities.

The proposed directive:

- enables Member States to extend the requirements of the accompanying draft Regulation to other sectors not covered in the scope of that Regulation. A consolidated list of the sectors to which Member States have extended the list of obliged entities will be published by the Commission in the Official Journal of the European Union on an annual basis;

- sets out specific regulatory requirements that Member States are to implement in national law for certain sectors. Specifically, currency exchange and cheque cashing offices, and trust or company service providers must be subject to either licensing or registration requirements; gambling service providers must be regulated;

- allows supervisors of the Member States where electronic money issuers, payment service providers and crypto-assets service providers are active via freedom to provide services to appoint contact points in those Member States;

- confirms the probity requirements for senior managers in certain obliged entities as in the current framework, complementing fit and proper requirements in other EU acts, and clarifies that certain requirements also apply to beneficial owners of those obliged entities. For other obliged entities, it confirms the prohibition for persons convicted of money laundering, its predicate offences or terrorist financing to operate them. This draft Directive grants certain powers to national supervisors over the senior management of certain obliged entities, especially in the case of conviction for money laundering or terrorist financing;

- obliges Member States to create and maintain mechanisms, such as a central register or a central electronic data retrieval system, to allow identification of holders of bank accounts and safe deposit boxes, contained in the current AML Directive;

- lays down the creation of a cross-border interconnection between such mechanisms;

- includes new provisions on the responsibilities and tasks of the Financial Intelligence Units (FIUs) such as clarifications on the financial analysis function of FIUs and on their operational independence, their resources and their security; provisions on information exchange between FIUs and other competent authorities.