



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Legal Affairs

2013/0025(COD)

09.10.2013

AMENDMENTS

22 - 77

Draft opinion
Antonio López-Istúriz White
(PE516.897v01-00)

Prevention of the use of the financial system for the purpose of money
laundering and terrorist financing

Proposal for a directive
(COM(2013)0045 – C7-0032/2013 – 2013/0025(COD))

AM_Com_LegOpinion

Amendment 22

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) Massive flows of *dirty* money *can* damage the stability and reputation of the financial sector and threaten the single market, and terrorism shakes the very foundations of our society. In addition to the criminal law approach, a preventive effort via the financial system can produce results.

Amendment

(1) Massive flows of *illicit* money damage the stability and reputation of the financial sector and threaten the single market *as well as international development*, and terrorism shakes the very foundations of our society. *Crucial facilitators of illicit money flows are often complex corporate structures operating in and through secrecy jurisdiction, often also referred to as tax havens*. In addition to the criminal law approach, a preventive effort via the financial system can produce results.

Or. en

Amendment 23

Rebecca Taylor, Sharon Bowles, Bill Newton Dunn

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) Legal professionals, as defined by the Member States, should be subject to the provisions of this Directive when participating in financial or corporate transactions, including providing tax advice, where there is the greatest risk of the services of those legal professionals being misused for the purpose of laundering the proceeds of criminal activity *or for the purpose of terrorist financing*. There should, however, be exemptions from any obligation to report information obtained either before, during or after

Amendment

(7) Legal professionals, as defined by the Member States, should be subject to the provisions of this Directive when participating in financial or corporate transactions, including providing tax advice, where there is the greatest risk of the services of those legal professionals being misused for the purpose of laundering the proceeds of criminal activity, *terrorist financing, criminal activity as defined in Article 3(4) or aggressive tax avoidance*. There should, however, be exemptions from any

judicial proceedings, or in the course of ascertaining the legal position of a client. Thus, legal advice should remain subject to the obligation of professional secrecy unless the legal counsellor is taking part in money laundering *or* terrorist financing, the legal advice is provided for money laundering *or* terrorist financing purposes or the lawyer knows that the client is seeking legal advice for money laundering *or* terrorist financing purposes.

obligation to report information obtained either before, during or after judicial proceedings, or in the course of ascertaining the legal position of a client. Thus, legal advice should remain subject to the obligation of professional secrecy unless the legal counsellor is taking part in money laundering, terrorist financing, ***criminal activity as defined in Article 3(4) or aggressive tax avoidance***, the legal advice is provided for money laundering, terrorist financing purposes, ***criminal activity as defined in Article 3(4) or aggressive tax avoidance***, or the lawyer knows that the client is seeking legal advice for money laundering, terrorist financing purposes ***or criminal activity as defined in Article 3 (4) or aggressive tax avoidance***.

Or. en

Justification

Legal professionals have a duty of care to ensure that the services they provide are not used for the purpose of tax evasion and aggressive tax avoidance - which can be part of an 'under the radar' strategy for money laundering and terrorist financing.

Amendment 24

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) There is a need to identify any natural person who exercises ownership or control over a legal person. While finding a percentage shareholding will not automatically result in finding the beneficial owner, it ***is an evidential factor to be taken into account***. Identification and verification of beneficial owners should,

Amendment

(10) There is a need to identify any natural person who exercises ownership or control over a legal person. While finding a percentage shareholding will not automatically result in finding the beneficial owner, it ***can be an aide to the identification of the beneficial owner***. Identification and verification of beneficial

where relevant, extend to legal entities that own other legal entities, and should follow the chain of ownership until the natural person who exercises ownership or control of the legal person that is the customer is found.

owners should, where relevant, extend to legal entities that own other legal entities, and should follow the chain of ownership until the natural person who exercises ownership or control of the legal person that is the customer is found.

Or. en

Amendment 25

Rebecca Taylor, Sharon Bowles, Bill Newton Dunn

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) The need for accurate and up-to-date information on the beneficial owner is a key factor in tracing criminals who might otherwise hide their identity behind a corporate structure. Member States should therefore ensure that companies retain information on their beneficial ownership and make this information available to competent authorities **and** obliged entities. In addition, trustees should declare their status to obliged entities.

Amendment

(11) The need for accurate and up-to-date information on the beneficial owner is a key factor in tracing criminals who might otherwise hide their identity behind a corporate structure. Member States should therefore ensure that companies retain information on their beneficial ownership, ***maintain central registers***, and make this information available to competent authorities, ***obliged entities, and, in the case of listed*** obliged entities, ***to the public***. In addition, trustees should declare their status to obliged entities.

Or. en

Justification

Wording should be strengthened to improve international and European cooperation for information of company's beneficial ownership - particularly in the light of recent European Council and G8 commitments. Investors have the right to know who the beneficial owner of listed companies are as well.

Amendment 26

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) The need for accurate and up-to-date information on the beneficial owner is a key factor in tracing criminals who might otherwise hide their identity behind a corporate structure. Member States should therefore ensure that companies retain information on their beneficial ownership and **make** this information available **to competent authorities and obliged entities**. In addition, trustees should declare their status to obliged entities.

Amendment

(11) The need for accurate and up-to-date information on the beneficial owner **of legal persons, mutual societies, trusts, foundations, holdings and all other similar existing or future legal arrangements** is a key factor in tracing criminals who might otherwise hide their identity behind a corporate structure. Member States should therefore ensure that companies retain information on their beneficial ownership and **ensure that** this information **is made publicly available in form of a public registry**. In addition, trustees should declare their status to obliged entities.

Or. en

Amendment 27
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) Underpinning the risk-based approach is a need for Member States to identify, understand and mitigate the money laundering and terrorist financing risks it faces. The importance of a supra-national approach to risk identification has been recognised at international level, and the European Supervisory Authority (European Banking Authority) (hereinafter 'EBA'), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory

Amendment

(15) Underpinning the risk-based approach is a need for **the** Member States **and the European Union** to identify, understand and mitigate the money laundering and terrorist financing risks it faces. The importance of a supra-national approach to risk identification has been recognised at international level, and the European Supervisory Authority (European Banking Authority) (hereinafter 'EBA'), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a

Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC ; the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (hereinafter 'EIOPA'), established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC ; and the European Supervisory Authority (European Securities and Markets Authority) (hereinafter 'ESMA'), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC , should be tasked with issuing an opinion on the risks affecting the financial sector.

European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC ; the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (hereinafter 'EIOPA'), established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC ; and the European Supervisory Authority (European Securities and Markets Authority) (hereinafter 'ESMA'), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC , should be tasked with issuing an opinion on the risks affecting the financial sector.

Or. en

Amendment 28

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) In order to better understand and mitigate risks at European Union level, **Member States** should share the results of their risk assessments with **each other, the Commission and** EBA, EIOPA and

Amendment

(17) In order to better understand and mitigate risks at European Union level, **the Commission** should share the results of their risk assessments with EBA, EIOPA

ESMA, where appropriate.

and ESMA, where appropriate.

Or. en

Amendment 29

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) This is particularly true of business **relationships** with individuals holding, or having held, important public positions, particularly those from countries where corruption is widespread. Such relationships may expose the financial sector in particular to significant reputational and legal risks. The international effort to combat corruption also justifies the need to pay special attention to such cases and to apply appropriate enhanced customer due diligence measures in respect of persons who hold or have held prominent functions domestically or abroad and senior figures in international organisations.

Amendment

(21) This is particularly true of business **or beneficial relationships**, with individuals holding **positions within mutual societies, foundations and trusts** or having held, important public positions, particularly those from countries where corruption is widespread, **within the Union and internationally**. Such relationships may expose the financial sector in particular to significant reputational and legal risks. The international effort to combat corruption also justifies the need to pay special attention to such cases and to apply appropriate enhanced customer due diligence measures in respect of persons who hold or have held prominent functions domestically or abroad and senior figures in international organisations.

Or. en

Amendment 30

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 29

Text proposed by the Commission

(29) There have been a number of cases of

Amendment

(29) There have been a number of cases of

employees who report their suspicions of money laundering being subjected to threats or hostile action. Although this Directive cannot interfere with Member States' judicial procedures, this is a crucial issue for the effectiveness of the anti-money laundering and anti-terrorist financing system. Member States should be aware of this problem and should do whatever they can to protect employees from such threats or hostile action.

whistle-blowers, employees ***and representatives*** who report their suspicions of money laundering being subjected to threats or hostile action. Although this Directive cannot interfere with Member States' judicial procedures, this is a crucial issue for the effectiveness of the anti-money laundering and anti-terrorist financing system. Member States should be aware of this problem and should do whatever they can to protect ***whistle-blowers***, employees ***and representatives*** from such threats or hostile action.

Or. en

Amendment 31
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 31

Text proposed by the Commission

(31) Certain aspects of the implementation of this Directive involve the collection, analysis, storage and sharing of data. The processing of personal data should be permitted in order to comply with the obligations laid down in this Directive, including carrying out of customer due diligence, on-going monitoring, investigation and reporting of unusual and suspicious transactions, identification of the beneficial owner of a legal person or legal arrangement, sharing of information by competent authorities and sharing of information by financial institutions. The personal data collected should be limited to what is ***strictly*** necessary for the purpose of complying with the requirements of this Directive and not further processed in a way inconsistent with Directive 95/46/EC. In particular, further processing of personal data for commercial purposes should be

Amendment

(31) Certain aspects of the implementation of this Directive involve the collection, analysis, storage and sharing of data. The processing of personal data should be permitted in order to comply with the obligations laid down in this Directive, including carrying out of customer due diligence, on-going monitoring, investigation and reporting of unusual and suspicious transactions, identification of the beneficial owner of a legal person or legal arrangement, sharing of information by competent authorities and sharing of information by financial institutions. The personal data collected should be limited to what is necessary for the purpose of complying with the requirements of this Directive and not further processed in a way inconsistent with Directive 95/46/EC. In particular, further processing of personal data for commercial purposes should be

strictly prohibited.

strictly prohibited.

Or. en

Amendment 32
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 37

Text proposed by the Commission

(37) Feedback should, where practicable, be made available to obliged entities on the usefulness and follow-up of the suspicious transactions reports they present. To make this possible, and to be able to review the effectiveness of their systems to combat money laundering and terrorist financing Member States should keep and improve the relevant statistics. To further enhance the quality and consistency of the statistical data collected at Union level, the Commission should keep track of the EU-wide situation with respect to the fight against money laundering and terrorist financing and publish regular overviews.

Amendment

(37) Feedback should, where practicable, be made available to obliged entities on the usefulness and follow-up of the suspicious transactions reports they present. To make this possible, and to be able to review the effectiveness of their systems to combat money laundering and terrorist financing Member States should keep and improve the relevant statistics. To further enhance the quality and consistency of the statistical data collected at Union level, the Commission should keep track of the EU-wide situation with respect to the fight against money laundering and terrorist financing and publish regular overviews. ***Particularly the Commission should keep track of the use and involvement of 200 and 500 EUR notes in money laundering and terrorist financing. The Commission should assess the relevance of these notes for on the one hand money supply of the real economy and for on the other hand illicit activities and if 200 and 500 EUR notes facilitate money laundering and terrorist financing. The assessment has to be carried out within 2 years from the date of entry into force of this directive.***

Or. en

Amendment 33
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 37 a (new)

Text proposed by the Commission

Amendment

(37a) To be able to review the effectiveness of their systems to combat money laundering and terrorist financing, Member States should keep and improve the relevant statistics. To further enhance the quality and consistency of the statistical data collected at Union level, the Commission should keep track of the EU-wide situation with respect to the fight against money laundering and terrorist financing and publish regular overviews.

Or. en

Amendment 34
Alexandra Thein

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point b – point i

Text proposed by the Commission

Amendment

(i) buying and selling of real property or business entities; *deleted*

Or. de

Amendment 35
Alexandra Thein

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point d

Text proposed by the Commission

Amendment

(d) real estate agents, including letting agents;

deleted

Or. de

Amendment 36
Alexandra Thein

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point e

Text proposed by the Commission

Amendment

(e) other natural or legal persons trading in goods, only to the extent that payments are made or received in cash in an amount of EUR **7 500** or more, whether the transaction is executed in a single operation or in several operations which appear to be linked;

(e) other natural or legal persons trading in goods, only to the extent that payments are made or received in cash in an amount of EUR **15 000** or more, whether the transaction is executed in a single operation or in several operations which appear to be linked;

Or. de

Amendment 37
Rebecca Taylor, Bill Newton Dunn

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point f

Text proposed by the Commission

Amendment

(f) **providers of gambling services.**

(f) **casinos;**

Or. en

Amendment 38
Rebecca Taylor, Bill Newton Dunn

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point f a (new)

Text proposed by the Commission

Amendment

(fa) on-line gambling;

Or. en

Amendment 39

Rebecca Taylor, Bill Newton Dunn

Proposal for a directive

Article 2 – paragraph 1 – point 3 – point f b (new)

Text proposed by the Commission

Amendment

***(fb) other providers of gambling services
which carry a high risk of being used for
money laundering;***

Or. en

Amendment 40

Rebecca Taylor, Bill Newton Dunn

Proposal for a directive

Article 3 – paragraph 1 – point 4 – point e a (new)

Text proposed by the Commission

Amendment

***(ea) tax crimes related to direct taxes and
indirect taxes;***

Or. en

Justification

It is important to define tax crimes separately due to the gravity of the offences related to it.

Amendment 41

Rebecca Taylor, Bill Newton Dunn

Proposal for a directive
Article 3 – paragraph 1 – point 4 – point f

Text proposed by the Commission

(f) all offences, ***including tax crimes related to direct taxes and indirect taxes***, which are punishable by deprivation of liberty or a detention order for a maximum of more than one year or, as regards those States which have a minimum threshold for offences in their legal system, all offences punishable by deprivation of liberty or a detention order for a minimum of more than six months;

Amendment

(f) all offences, which are punishable by deprivation of liberty or a detention order for a maximum of more than one year or, as regards those States which have a minimum threshold for offences in their legal system, all offences punishable by deprivation of liberty or a detention order for a minimum of more than six months;

Or. en

Amendment 42
Rebecca Taylor, Bill Newton Dunn

Proposal for a directive
Article 3 – paragraph 1 – point 7 – point d – point ii

Text proposed by the Commission

(ii) members of parliaments;

Amendment

(ii) members of parliaments ***or other legislative bodies***;

Or. en

Amendment 43
Giuseppe Gargani

Proposal for a directive
Article 3 – paragraph 1 – point 10

Text proposed by the Commission

(10) "gambling services" means any service which involves wagering a stake with monetary value in games of chance including those with an element of skill such as lotteries, casino games, poker

Amendment

(10) "gambling services" means any service which involves wagering a stake with monetary value, ***or which can be converted into money***, in games of chance including those with an element of skill

games and betting transactions that are provided at a physical location, or by any means at a distance, by electronic means or any other technology for facilitating communication, and at the individual request of a recipient of services;

such as lotteries, **bingo**, casino games, poker games and betting transactions that are provided at a physical location, or by any means at a distance, by electronic means or any other technology for facilitating communication, and at the individual request of a recipient of services;

Or. it

Justification

In order to mitigate the risks of mafia infiltration and money laundering and to ensure that gambling service providers have a level playing field, the directive should apply to all types of games, including games of chance that are marketed through social networks. The risks associated with the gambling industry mean that all games should be subject to the same control measures, so that there are no 'grey areas'. Equally, it should be specified that bingo is included among 'gambling services'.

Amendment 44

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraphs 1 a and 1 b (new)

Text proposed by the Commission

Amendment

Equivalence

1a. The Commission shall by means of delegated acts in accordance with Article 58a adopt decisions on the recognition of the legal and supervisory framework of jurisdictions outside the Union as compliant with minimum standards of good governance in tax matters as defined by Commission Recommendation C(2012) 8805 and equivalent to the minimum requirements of this Directive.

1b. As of January 2018, corporate or legal entities, including trusts, foundations, holdings and all other similar, in terms of structure or function, existing or future

legal arrangements, established, or governed under the law of, jurisdictions outside the Union not deemed compliant and equivalent, shall be prohibited from operating within the Union.

Or. en

Amendment 45

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive

Article 6 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The European Banking Authority (hereinafter ‘EBA’), European Insurance and Occupational Pensions Authority (hereinafter ‘EIOPA’) and European Securities and Markets Authority (hereinafter ‘ESMA’) shall provide a joint opinion on the money laundering and terrorist financing risks affecting the internal market.

Amendment

After a public consultation the Commission shall take the necessary steps to identify, assess and understand the money laundering and terrorist financing risks affecting the internal market, with specific reference to cross-border phenomena in cooperation with Europol, the Committee of European FIUs, EBA, EIOPA, ESMA and other relevant authorities.

Or. en

Amendment 46

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive

Article 6 – paragraph 1 – subparagraphs 1 a, 1 b and 1 c (new)

Text proposed by the Commission

The Commission shall ensure that national AML/CFT legislations of the Member States adopted on the basis of the present directive are effectively consistent with the European legal framework and

Amendment

implemented.

For the application of paragraph 1, the Commission will be assisted by a Committee on the Prevention of Money Laundering and Terrorism Financing and, where applicable, by the European Supervisory Authorities and other European competent authorities.

Evaluations of national AML/CTF legislations intended at paragraph 1 are made without prejudice of those conducted by the Financial Action Task Force or the FATF Style Regional Bodies.

Or. en

Amendment 47
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Article 6 – paragraphs 1 a, 1 b, 1 c, 1 d and 1 e (new)

Text proposed by the Commission

Amendment

1a. The Member States shall endorse in their national AML/TF regimes all the lists of countries published by FATF which are directly applicable in national law.

1b. The Member States shall be able to apply appropriate countermeasures when called upon to do so by the FATF. Such countermeasures have to be effective and proportionate to the risks and include at least one of the measures set out in Annex [IV].

1c. The Member States shall require from their financial institutions to apply enhanced due diligence measures with natural and legal persons, and financial institutions from the abovementioned countries in paragraph 1. The type of enhanced due diligence measures applied

should be effective and proportionate to the risks and include one of the measures set out in Annex [V]

1d. The Member States are free to implement the requirements stated in paragraph 2 and 3 of this article even in absence of any call by FATF to do so towards third countries. In such case, Member States concerned shall inform the ESAs and the Commission of the identity of that third country, and the nature of countermeasure(s) taken.

In those cases, the actions taken by Member States should be considered as of public order.

1e. The Committee on the Prevention of Money Laundering and Terrorist Financing shall ensure a minimum level of coordination of the actions taken by Member States on the enhanced due diligence measures and countermeasures they adopt towards countries mentioned at paragraph 1.

Or. en

Amendment 48
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

2. The Commission shall make the ***opinion*** available to ***assist*** Member States and obliged entities to identify, manage and mitigate the risk of money laundering and terrorist financing.

Amendment

2. The Commission shall:

- ***keep the assessment up to date,***
- make the ***results of its risk assessment publicly*** available to Member States and obliged entities to identify, manage and

mitigate the risk of money laundering and terrorist financing, *and to allow other stakeholders including legislators to better understand the financial risks,*

- make appropriate information available to obliged entities to carry out their own money laundering and terrorist financing risk assessments.

The Commission shall be assisted by the Committee on the Prevention of Money Laundering and Terrorist Financing, hereinafter referred to as 'the Committee'. The Committee shall be a committee within the meaning of Regulation EU 182/2011.

Where high risks are identified at European level by the Commission, the Member States AML/CFT regimes shall address these high risks. Without prejudice to any other measures taken at national level by Member States to manage and mitigate these risks, the Commission could prescribe to Member States to take enhanced due diligence to manage and mitigate risks. Member States shall ensure that financial institutions and Designated Non-Financial Businesses and Professions take into account these enhanced due diligence measures to carry out and manage their own money laundering and terrorist financing risk assessments.

For the application of the above sub paragraph, the Commission shall ensure that Member States have effectively taken into account its risk assessment in their national AML/FT legislation.

Or. en

Amendment 49
Rebecca Taylor, Bill Newton Dunn

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

2. The Commission shall make the opinion available to assist Member States and obliged entities to identify, manage and mitigate the risk of money laundering and terrorist financing.

Amendment

2. The Commission shall make the opinion **publicly** available to assist Member States and obliged entities to identify, manage and mitigate the risk of money laundering and terrorist financing.

Or. en

Justification

It is important to ensure transparency with regards to the risk assessment.

Amendment 50
Rebecca Taylor, Bill Newton Dunn

Proposal for a directive
Article 7 – paragraph 5

Text proposed by the Commission

5. Member States shall make the results of their risk assessments available to the other Member States, the Commission, and EBA, EIOPA and ESMA upon request.

Amendment

5. Member States shall make the results of their risk assessments **publicly** available to the other Member States, the Commission, and EBA, EIOPA and ESMA upon request.

Or. en

Justification

It is important to ensure transparency with regards to the risk assessment.

Amendment 51
Giuseppe Gargani

Proposal for a directive
Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9a

Member States shall ensure that gambling service providers use one or more current accounts dedicated exclusively to the activities related to the services provided.

Or. it

Justification

In order to ensure the traceability of financial flows, prevent criminal infiltration and money laundering of illicit origin, gambling service providers should have one or more current accounts dedicated exclusively to the receipts and expenditure connected to the services provided. More specifically, all expenses, disbursements and financial proceeds of any kind, relating to such gambling services, should pass through these accounts.

Amendment 52

Antonio Masip Hidalgo

Proposal for a directive

Article 10 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) for providers of ***gambling services***, when carrying out occasional transactions amounting to EUR 2 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;

(d) for providers of ***casinos***, when carrying out occasional transactions amounting to EUR 2 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;

for on-line gambling when establishing the business relationship;

for other providers of gambling services, regarding the payment of prizes amounting to EUR 2 000 or more.

Or. es

Justification

A distinction needs to be drawn between the various types of gambling depending on how likely it is that they might be used for money laundering. It would not be justified to require providers of gambling services to carry out checks on the payment of prizes amounting to less than EUR 2 000 which may be linked, since these present a low risk. It would be very difficult for providers to comply, and in any case it is not an attractive option for money launderers, firstly since they would have to pay a premium, and secondly because the need to carry out transactions with a large number of sellers increases the risk of being detected.

Amendment 53

Rebecca Taylor, Bill Newton Dunn

Proposal for a directive

Article 10 – paragraph 1 – point d

Text proposed by the Commission

(d) for ***providers of gambling services***, when carrying out occasional transactions amounting to EUR 2 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;

Amendment

(d) for ***casinos***, when carrying out occasional transactions amounting to EUR 2 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;

for on-line gambling when establishing the business relationship;

for other providers of gambling services which carry a high risk of being used for money laundering;

Or. en

Amendment 54

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive

Article 29 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that corporate or legal entities established within their territory obtain ***and hold*** adequate, accurate and current information

Amendment

1. Member States shall ensure that corporate or legal entities, ***including mutual societies, trusts, foundations, holdings and all other similar, in terms of***

on their beneficial ownership.

structure or function, existing or future legal arrangements established within their territory, or governed under their law obtain, hold and transmit to a public registry pursuant to paragraph 4 of this article, adequate, accurate and current information on their beneficial ownership, at the moment of establishment or any changes thereof. The public registry shall contain but not be limited to the following information:

a) name and legal form of the corporate or legal entity,

b) address

c) basic regulatory powers

d) list of directors

e) shareholder information including names, dates of birth and addresses, the number of shares per shareholder, and categories of shares

The requirements stipulated in this paragraph are without prejudice to the customer due diligence provisions of this directive

Or. en

Justification

Public registry in line with EP position expressed in several resolutions (for example Kleva report). And to counter one argument brought forward frequently, as the requirements stipulated in this paragraph are without prejudice to the customer due diligence provisions of this directive, there is no risk to let the banks off the hook

Amendment 55

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive

Article 29 – paragraph 2

Text proposed by the Commission

2. **Member** States shall ensure that the information referred to in paragraph 1 of this Article can be accessed in a timely manner by competent authorities and by obliged entities.

Amendment

2. **Regarding trusts or other types of legal entity and arrangements with a similar structure and function of trusts, the information shall also include the identity of the settlor, of the trustee(s), of the protector (if relevant), of the beneficiaries or class of beneficiaries, and of any other natural person exercising effective control over the trust.** **Member** States shall ensure that the information referred to in paragraph 1 of this Article can be accessed in a timely manner by competent authorities and by obliged entities.

Or. en

Amendment 56
Rebecca Taylor, Sharon Bowles, Bill Newton Dunn

Proposal for a directive
Article 29 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the information referred to in paragraph 1 of this Article can be accessed in a timely manner by competent authorities and by obliged entities.

Amendment

2. Member States shall ensure that the information referred to in paragraph 1 of this Article can be accessed in a timely **and efficient** manner by **Union and international** competent authorities and by obliged entities. **Member States shall seek to constructively cooperate whenever possible and should maintain central registries of company beneficial ownership. Information of beneficial ownership of listed companies shall be made public.**

Or. en

Justification

Wording should be strengthened to improve international and European cooperation for

information of company's beneficial ownership - particularly in the light of recent European Council and G8 commitments. Investors have the right to know who the beneficial owner of listed companies are as well.

Amendment 57

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive

Article 29 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that trustees disclose their status to obliged entities when, as a trustee, the trustee forms a business relationship or carries out an occasional transaction above the threshold set out in points (b), (c) and (d) of Article 10.

Or. en

Amendment 58

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive

Article 29 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Member States shall ensure that the information referred to paragraphs 1,2,3, of this article is displayed in a public beneficial ownership registry in a timely, comprehensive and comprehensible manner before end of 2014. Any changes to the information required shall be clearly indicated in the registry without delay and at latest within 30 days.

Or. en

Amendment 59
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Article 29 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. For the purposes of this article, Member States shall establish effective anti-abuse measures with view to preventing misuse based on bearer shares and bearer share warrants.

Or. en

Justification

Prone to abuse, according to Investopedia a bearer share is "an equity security that is wholly owned by whoever holds the physical stock certificate. The issuing firm neither registers the owner of the stock, nor does it track transfers of ownership. Because the share is not registered to any authority, transferring the ownership of the stock involves only delivering the physical document. Bearer shares lack the regulation and control of common shares because ownership is never recorded."

Amendment 60
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Article 29 – paragraph 2 d (new)

Text proposed by the Commission

Amendment

2d. Sanctions for non-compliance with this article shall be applied in accordance with article 55 of this directive.

Or. en

Amendment 61
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Article 30

Text proposed by the Commission

Amendment

Article 30

deleted

1. Member States shall ensure that trustees of any express trust governed under their law obtain and hold adequate, accurate and current information on beneficial ownership regarding the trust. This information shall include the identity of the settlor, of the trustee(s), of the protector (if relevant), of the beneficiaries or class of beneficiaries, and of any other natural person exercising effective control over the trust.

2. Member States shall ensure that trustees disclose their status to obliged entities when, as a trustee, the trustee forms a business relationship or carries out an occasional transaction above the threshold set out in points (b), (c) and (d) of Article 10.

3. Member States shall ensure that the information referred to in paragraph 1 of this Article can be accessed in a timely manner by competent authorities and by obliged entities.

4. Member States shall ensure that measures corresponding to those in paragraphs 1, 2 and 3 apply to other types of legal entity and arrangement with a similar structure and function to trusts.

Or. en

Justification

No longer needed as obligations concerning trusts are incorporated in article 29 as amended by Lichtenberger

Amendment 62
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Article 31 – paragraph 3

Text proposed by the Commission

3. The FIU shall be established as a central national unit. It shall be responsible for receiving (and to the extent permitted, requesting), analysing and disseminating to the competent authorities, disclosures of information which concern potential money laundering or associated predicate offences, potential terrorist financing or are required by national legislation or regulation. The FIU shall be provided with adequate resources in order to fulfil its tasks.

Amendment

3. The FIU shall be established as a central national unit. It shall be responsible for receiving (and to the extent permitted, requesting), analysing and disseminating to the competent authorities, disclosures of information which concern potential money laundering or associated predicate offences, potential terrorist financing or are required by national legislation or regulation. The FIU shall be provided with adequate ***financial, technical and human*** resources in order to fulfil its tasks.
Member states shall ensure that the FIU is free from undue interference.

Or. en

Amendment 63
Giuseppe Gargani

Proposal for a directive
Article 32 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) by reporting any transactions ‘from’ and ‘to’ gambling service providers who do not have any permit, authorisation or licence;

Or. it

Justification

In order to combat the spread of illegal gambling and money laundering in the gaming industry, credit and financial institutions are required to report to the competent authorities any identifying elements relating to transactions ‘from’ and ‘to’ gambling service providers who do not have the required permits, authorisations, licences or any other form of authorisation or entitlement.

Amendment 64

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive

Article 37 – paragraph 1

Text proposed by the Commission

Member States shall take all appropriate measures in order to protect employees of the obliged entity who report suspicions of money laundering or terrorist financing either internally or to the FIU from being exposed to threats or hostile **action**.

Amendment

Member States shall take all appropriate measures in order to protect employees of the obliged entity who report suspicions of money laundering or terrorist financing either internally or to the FIU from being exposed to threats or hostile **action**. **EBA, EIOPA, ESMA and the FIU shall provide one or more secure communication channel for persons to report suspicions of laundering or terrorist financing. Such channels shall ensure that the identity of persons providing information is known only to EBA; EIOPA, ESMA or the FIU**

Or. en

Amendment 65

Rebecca Taylor, Bill Newton Dunn

Proposal for a directive

Article 37 – paragraph 1

Text proposed by the Commission

Member States shall **take all appropriate measures in order to protect** employees of **the obliged entity** who report suspicions of money laundering or terrorist financing

Amendment

Member States shall **ensure that the obliged entities prevent their own** employees who report suspicions of money laundering or terrorist financing either

either internally or to the FIU from being exposed to threats or hostile action.

internally or to the FIU from being exposed to threats or hostile action, ***including termination of employment, and that these should be provided with adequate legal protection if required.***

Or. en

Justification

Employees who report suspicions of money laundering activities should be adequately protected, be provided legal protection and should not fear that their employment might be terminated.

Amendment 66

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive

Article 40 – paragraph 1

Text proposed by the Commission

Member States shall require ***that their obliged entities have systems in place that enable them to respond fully and rapidly to enquiries from the FIU, or from other authorities, in accordance with their national law, as to whether they maintain or have maintained during the previous five years a business relationship with specified natural or legal persons and on the nature of that relationship.***

Amendment

Member States shall require ***where the legislation of the third country does not permit customer due diligence obligations and the application of the measures required under the first subparagraph of paragraph 1, that obliged entities must ensure that branches, subsidiaries and majority-owned companies in this third country do not establish or continue business relationships and do not undertake transactions. Insofar as a business relationship already exists, the obliged entity must ensure that such relationship is terminated by cancelling the business contract or any other effective measure.***

Or. en

Amendment 67
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Article 42 – paragraph 4

Text proposed by the Commission

4. Member States shall require that, where the legislation of the third country does not permit application of the measures required under the first subparagraph of paragraph 1, obliged entities ***take additional measures to effectively handle the risk of money laundering or terrorist financing, and inform their home supervisors. If the additional measures are not sufficient, competent authorities in the home country shall consider additional supervisory actions, including, as appropriate, requesting the financial group to close down its operations in the host country.***

Amendment

4. Member States shall require that, where the legislation of the third country does not permit ***customer due diligence obligations and the*** application of the measures required under the first subparagraph of paragraph 1, obliged entities ***must ensure that branches, subsidiaries, outsourced activities and majority-owned companies in this third country do not establish or continue business relationships and do not undertake transactions. Insofar as a business relationship already exists, the obliged entity must ensure that such relationship is terminated by cancelling the business contract or any other effective measure.***

Or. en

Amendment 68
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Article 43 – paragraph 1 a (new)

Text proposed by the Commission

1a. Member States shall require that obliged entities appoint the member(s) of the management body who are responsible for the implementation of the laws, regulations and administrative provisions necessary to comply with this Directive.

Amendment

Or. en

Amendment 69
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Article 47 – paragraph 1

Text proposed by the Commission

The competent authorities shall provide EBA, EIOPA and ESMA with *all* the information necessary to carry out their duties under this Directive.

Amendment

*Without prejudice to data protection rules, EBA, EIOPA or ESMA may request, and the competent authorities shall provide EBA, EIOPA and ESMA with the **relevant** information necessary to carry out their duties under this Directive.*

Or. en

Amendment 70
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Article 48 – paragraph 1

Text proposed by the Commission

The Commission may lend such assistance as may be needed to facilitate coordination, including the exchange of information between FIUs within the Union. It *may* regularly convene meetings with representatives from Member States' FIUs to facilitate co-operation and to exchange views on co-operation related issues.

Amendment

The Commission may lend such assistance as may be needed to facilitate coordination, including the exchange of information between FIUs within the Union. It *shall* regularly convene meetings with representatives from Member States' FIUs, **EBA, EIOPA and ESMA** to facilitate co-operation and to exchange views on co-operation related issues.

Or. en

Amendment 71
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Article 55 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that obliged entities can be held liable for breaches of the national provisions adopted pursuant to this Directive.

Amendment

1. Member States shall ensure that obliged entities **and any legal entity pursuant to Article 29**, can be held liable for breaches of the national provisions adopted pursuant to this Directive.

Or. en

Amendment 72
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Article 55 – paragraph 2

Text proposed by the Commission

2. Without prejudice to the right of Member States to impose criminal penalties, Member States shall ensure that competent authorities may take appropriate administrative measures and impose administrative sanctions where obliged entities breach the national provisions, adopted in the implementation of this Directive, and shall ensure that they are applied. Those measures and sanctions shall be effective, proportionate and dissuasive.

Amendment

2. Without prejudice to the right of Member States to impose criminal penalties, Member States shall ensure that competent authorities may take appropriate administrative measures and impose administrative sanctions where obliged entities, **or any legal entity pursuant to Article 29**, breach the national provisions, adopted in the implementation of this Directive, and shall ensure that they are applied. Those measures and sanctions shall be effective, proportionate and dissuasive.

Or. en

Amendment 73
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Article 56 – paragraph 1 – introductory part

Text proposed by the Commission

1. This Article shall at least apply to situations where obliged entities demonstrate systematic failings in relation to the requirements of the following Articles:

Amendment

1. This Article shall at least apply to situations where obliged entities, **or any legal entity defined pursuant to Article 29**, demonstrate systematic failings in relation to the requirements of the following Articles.

Or. en

Amendment 74
Rebecca Taylor, Bill Newton Dunn

Proposal for a directive
Article 57 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that competent authorities publish any sanction or measure imposed for breach of the national provisions adopted in the implementation of this Directive without undue delay including information on the type and nature of the breach and the identity of persons responsible for it, **unless such publication would seriously jeopardise the stability of financial markets. Where publication would cause a disproportionate damage to the parties involved, competent authorities shall publish the sanctions on an anonymous basis.**

Amendment

1. Member States shall ensure that competent authorities publish any sanction or measure imposed for breach of the national provisions adopted in the implementation of this Directive without undue delay including information on the type and nature of the breach and the identity of persons responsible for it. **Where the publication of this information could cause serious jeopardy to the stability of the financial market, or could cause a disproportionate damage to the parties involved, Member States may decide to publish the information on an anonymous basis, and if so, shall request for approval of the Commission.**

Member States shall apply to the Commission for approval of anonymous publication. The application must include detailed economic analysis supporting the Member State's request.

The Commission will have 15 working days to refuse the approval request for the

information to be published anonymously. If the Commission has not responded within the 15 working days, the request will have be deemed to be accepted, and the Member States shall then publish the sanctions or measures imposed for breach of the national provisions on an anonymous basis.

Or. en

Justification

Transparency is key when dealing with anti-money laundering measures, in particular with regards to the publication of any sanctions. It is therefore important to have a Commission oversight with regards to the publication of sanctions on an anonymous basis.

Amendment 75

Eva Lichtenberger

on behalf of the Verts/ALE Group

Proposal for a directive

Article 58 a (new)

Text proposed by the Commission

Amendment

Article 58a

Delegated Powers

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*
- 2. The power to adopt delegated acts referred to in Article 5a(1) shall be conferred on the Commission for an indeterminate period of time from the date referred to in Article 62.*
- 3. The delegation of power referred to in Article 5a(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of that decision in the Official Journal of the*

European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 5a(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Or. en

Amendment 76
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Annex III a (new)

Text proposed by the Commission

Amendment

Annex IIIa

The following are examples of the types of countermeasures that Member States can, at least, impose in accordance with [article x para 2]

Requiring obliged entities covered by this directive to apply appropriate EDD

Introducing enhanced relevant reporting mechanisms or systematic reporting of transactions

Refusing the establishment on the territory of a Member State of subsidiaries or branches or representative offices of institutions from the country concerned, or otherwise taking into account the fact that the relevant financial institution is from a country that does not have adequate anti-money laundering/combating terrorist financing systems

Prohibiting financial institutions from establishing branches or representative offices in the country concerned, or otherwise taking into account the fact that the relevant financial institution is from a country that does not have adequate anti-money laundering/combating terrorist financing systems

Limiting business relationships or financial transactions with the identified country or institutions or persons located in that country

Prohibiting institutions and persons covered by this directive from relying on third parties located in the country concerned to conduct elements of the CDD process

Requiring institutions covered by this Directive to review and amend, or if necessary terminate, correspondent relationships with financial institutions in the country concerned

Requiring increased supervisory examination and/or external audit requirements for branches and subsidiaries of institutions based in the country concerned

Requiring increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in the country concerned

Or. en

Amendment 77
Eva Lichtenberger
on behalf of the Verts/ALE Group

Proposal for a directive
Annex III b (new)

Text proposed by the Commission

Amendment

Annex IIIb

The following are type of enhanced due diligence measures that Member States should at least apply for the application of [article x para 3]

Obtaining additional information on the customer (e.g. occupation, volume of assets, information available through public databases, internet, etc.), and updating more regularly the identification data of customer and beneficial owner.

Obtaining additional information on the intended nature of the business relationship.

Obtaining information on the source of funds or source of wealth of the customer.

Obtaining information on the reasons for intended or performed transactions.

Obtaining the approval of senior management to commence or continue the business relationship.

Conducting enhanced monitoring of the business relationship, by increasing the number and timing of controls applied, and selecting patterns of transactions that need further examination.

Requiring the first payment to be carried out through an account in the customer's name with a bank subject to similar CDD standards.

Or. en

