



Committee on Development

2016/0208(COD)

1.12.2016

OPINION

of the Committee on Development

for the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs

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
(COM(2016)0450 – C8-0265/2016 – 2016/0208(COD))

Rapporteur: Elly Schlein

PA_Legam

SHORT JUSTIFICATION

The Commission has presented to the European Parliament and the Council a proposal aimed at further reinforcing EU rules on anti-money laundering to counter terrorist financing and increase transparency about who really owns companies and trusts, in order to strengthen the fight against tax avoidance.

The Rapporteur welcomes the amendments proposed by the Commission, which represent some positive steps forward on the issue of tax evasion and money laundering. The Panama Papers once again have proven the urgent need for effective rules for the verification of the beneficial ownership of companies and other legal persons. In particular, a huge amount of resources are lost by developing countries due to shady deals and a web of corrupt activities involving the use of anonymous shell companies and trusts.

However, the proposal as it stands still fails to respond with the boldness and urgency that citizens expect. The Rapporteur believes that some serious loopholes remain: not all trusts would have to reveal their so-called beneficial owners (BO)s to the public, and some of them could keep them secret to all but those who can prove 'legitimate interest'. With respect to companies, the current Directive includes a clause which states that if the beneficial owner cannot be identified then a member of senior management can be named instead. Moreover, although the threshold for beneficial ownership has been reduced from a 25 % ownership stake down to a 10 % stake, such change is fragile since it concerns only 'passive non-financial entit[ies]'.

While the Rapporteur supports the efforts taken by the Commission, she believes that the European Parliament and the Council need to go further in addressing the shortcomings that risk weakening anti-money laundering and the fight against tax avoidance and tax evasion around the globe. If these loopholes are not closed, developing countries' authorities will continue to find it difficult to penetrate the corporate veil created by shell companies in Europe in order to recover stolen assets and counter illicit financial flows. The EU should not miss the opportunity to further reinforce EU rules on anti-money laundering and increasing transparency, by also taking into consideration the particular needs of developing countries, which are particularly affected by the plague of illicit financial flows. Policy Coherence for Development invites us to enable developing countries to mobilise their own domestic resources notably through taxation. Only full public disclosure will allow citizens from developing countries to ensure anonymous shell companies are not used to launder away essential resources for development.

AMENDMENTS

The Committee on Development calls on the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs, as the committees responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Both the Union and its Member States, on the one hand, and third countries, on the other hand, share a responsibility in the fight against money laundering and the financing of terrorism. Cooperation with third countries should also further focus on strengthening the financial systems and administrations of developing countries to allow them to better participate in the global process of tax reform, in order to deter financial crime and related illicit activities, and to implement anti-laundering mechanisms that would contribute to a better exchange of data and information with other countries in order to identify fraud and terrorists.

Amendment 2

Proposal for a directive Recital 21

Text proposed by the Commission

Amendment

(21) The specific factor determining the Member State responsible for the monitoring and registration of beneficial ownership information of trusts and similar legal arrangements should be clarified. In order to avoid that, due to differences in the legal systems of Member States, certain trusts are not monitored or registered

(21) The specific factor determining the Member State responsible for the monitoring and registration of beneficial ownership information of trusts and similar legal arrangements should be clarified. In order to avoid that, due to differences in the legal systems of Member States, certain trusts are not monitored or registered

anywhere in the Union, all trusts and similar legal arrangements should be registered where they are administered. In order to ensure the effective monitoring and registration of information on the beneficial ownership of trusts, cooperation among Member States is also necessary.

anywhere in the Union, all trusts and similar legal arrangements should be registered where they are ***created***, administered ***or operated***. In order to ensure the effective monitoring and registration of information on the beneficial ownership of trusts, cooperation among Member States is also necessary.

Amendment 3

Proposal for a directive Recital 35

Text proposed by the Commission

Amendment

(35) In order to ensure proportionality, the beneficial ownership information in respect of any other trusts than those which consist of any property held by, or on behalf of, a person carrying on a business which consists of or includes the management of trusts, and acting as trustee of a trust in the course of that business with a view to gain profit should only be available to parties holding a legitimate interest. The legitimate interest with respect to money laundering, terrorist financing and the associated predicate offences should be justified by readily available means, such as statutes or mission statement of non-governmental organisations, or on the basis of demonstrated previous activities relevant to the fight against money laundering and terrorist financing or associated predicate offences, or a proven track record of surveys or actions in that field.

deleted

Amendment 4

Proposal for a directive Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) While the fight against money laundering and terrorism is a legitimate aim, the measures set out in this Directive should in no way impede the financial inclusion, without discrimination, of all persons within the Union and in third countries.

Amendment 5

**Proposal for a directive
Recital 35 b (new)**

Text proposed by the Commission

Amendment

(35b) Remittances represent an important contribution to family and community development. While recognising the importance of preventing money laundering, measures taken pursuant to this Directive should not impede remittance transfers from international migrants.

Amendment 6

**Proposal for a directive
Recital 35 c (new)**

Text proposed by the Commission

Amendment

(35c) Humanitarian aid is designed to provide aid and assistance to people in need globally and is of the utmost importance. Measures aimed at tackling money laundering, terrorism financing and tax evasion should not prevent persons and organisations from financing such aid for the benefit of people in need.

Amendment 7

Proposal for a directive

Article 1 – point 2 – point -a (new)

Directive (EU) 2015/849

Article 3 – point 6 – point a

Present text

- (a) in the case of corporate entities:
- (i) the natural **person(s)** who ultimately **owns** or **controls** a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, or through control via other means, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Union law or subject to equivalent international standards which ensure adequate transparency of ownership information.

A shareholding of **25 %** plus one share or an ownership interest of more than **25 %** in the customer held by a natural person shall be an indication of direct ownership. A shareholding of **25 %** plus one share or an ownership interest of more than **25 %** in the customer held by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership. This applies without prejudice to the right of Member States to decide that a lower percentage may be an indication of ownership or control. Control through other means may be determined, inter alia, in accordance with the criteria in Article 22(1) to (5) of Directive 2013/34/EU of the European Parliament and of the Council ⁽³⁾;

- (ii) **if, after having exhausted all possible means and provided there are no grounds for suspicion, no person** under

Amendment

(-a) in point (6), point (a) is replaced by the following:

- ‘(a) in the case of corporate entities:
- (i) **all** the natural **persons (who cannot be nominees, agents, proxies or equivalent)** who ultimately **own** or **control** a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, or through control via other means, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Union law or subject to equivalent international standards which ensure adequate transparency of ownership information.

A shareholding of **5 %** plus one share or an ownership interest of more than **5 %** in the customer held by a natural person shall be an indication of direct ownership. A shareholding of **5 %** plus one share or an ownership interest of more than **5 %** in the customer held by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership. This applies without prejudice to the right of Member States to decide that a lower percentage may be an indication of ownership or control. Control through other means may be determined, inter alia, in accordance with the criteria in Article 22(1) to (5) of Directive 2013/34/EU of the European Parliament and of the Council ⁽³⁾;

- (ii) **if the entity fails to provide the identity of any natural person that meets the criteria** under point (i), or if there is

point (i) ***is identified***, or if there is any doubt that the person(s) identified are the beneficial owner(s), the ***natural person(s) who hold the position of senior managing official(s), the obliged entities shall*** keep records of the actions taken in order to identify the beneficial ownership under point (i) ***and this point;***"

any doubt that the person(s) identified are the beneficial owner(s), the ***obliged entities shall record that no beneficial owner exists and*** keep records of the actions taken in order to identify the beneficial ownership under point (i).

In addition, the obliged entities should identify and verify the identity of the relevant natural person who holds the position of senior managing official, who should be identified as 'senior manager' (and not as 'beneficial owner'), and record details of all legal owners of the entity;

(³) Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

(³) Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).'

(<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32015L0849&rid=1>)

Amendment 8

Proposal for a directive

Article 1 – point 2 – point a

Directive (EU) 2015/849

Article 3 – point 6 – point a – point i

Text proposed by the Commission

(a) in point (6)(a)(i), the following subparagraph is added:

"For the purposes of Article 13(1)(b) and Article 30 of this Directive, the indication of ownership or control set out in the second paragraph is reduced to 10% whenever the legal entity is a Passive Non-Financial Entity as defined in

Amendment

deleted

Amendment 9

Proposal for a directive

Article 1 – point 2 – point a (new)

Directive (EU) 2015/849

Article 3 – point 6 – point b

Present text

- (b) in the case of trusts:
- (i) the *settlor*;
- (ii) the trustee(s);
- (iii) the *protector*, if any;
- (iv) the beneficiaries, or where the individuals benefiting from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;
- (v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means;

Amendment

(aa) in point 6, point (b) is replaced by the following:

- ‘(b) in the case of trusts:
- (i) the *settlor(s)*;
- (ii) the trustee(s);
- (iii) the *protector(s)* if any;
- (iv) the beneficiaries, or where the individuals benefiting from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;
- (v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means.

With regard to trusts that are designated by characteristics or by class, the trust deed or related document should provide sufficient information concerning the beneficiary so that any person would be able to establish the identity of the beneficiary at the time of the distribution or when the beneficiary intends to exercise vested rights.’

<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1479387654876&uri=CELEX:32015L0849>

Justification

Since a trust may have more than one settlor or protector, beneficial ownership definitions should refer to “settlor(s)” and “protector(s)”, just as it (already) refers to “trustee(s)” and “beneficiary(ies)”. Otherwise, this ambiguity could be exploited to register only one of possibly many settlors or protectors. Plurals for all related parties of a trust are already

prescribed by the OECD's Commentaries to the CRS for automatic exchange of information.

Amendment 10

Proposal for a directive

Article 1 – point 8 a (new)

Directive (EU) 2015/849

Article 28 – point c

Present text

(c) the effective implementation of the requirements referred to in point (b) is supervised at group level by a competent authority of the home Member State ***or of the third country.***

Amendment

(8a) in Article 28, point c is replaced by the following:

"(c) the effective implementation of the requirements referred to in point (b) is supervised at group level by a competent authority of the home Member State."

(<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32015L0849&qid=1479377482666&from=EN>)

Amendment 11

Proposal for a directive

Article 1 – point 9 – point -a (new)

Directive (EU) 2015/849

Article 30 – paragraph 4

Present text

4. Member States shall require that the information held in the central register referred to in paragraph 3 is adequate, accurate and current.

Amendment

(-a) paragraph 4 is replaced by the following:

‘4. Member States shall require that the information held in the central register referred to in paragraph 3 is adequate, accurate and current. ***Member States shall require that the obliged entities report cases of missing or inaccurate disclosures.***’

(<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32015L0849&qid=1479377482666&from=EN>)

Amendment 12

Proposal for a directive

Article 1 – point 9 – point a

Text proposed by the Commission

(a) in paragraph 5, point (c) of the first subparagraph and the second subparagraph are deleted;

Amendment

deleted

Amendment 13

Proposal for a directive

Article 1 – point 9 – point a a (new)

Directive (EU) 2015/849

Article 30 – paragraph 5

Present text

5. Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:

- (a) competent authorities and FIUs, without any restriction;
- (b) obliged entities, within the framework of customer due diligence in accordance with Chapter II;
- (c) **any person or organisation that can demonstrate a legitimate interest;**

The persons or organisations referred to in point (c) shall access at least the name, the ***month and year*** of birth, the nationality and the country of residence of the beneficial owner as well as the nature and extent of the beneficial interest held.

For the purposes of this paragraph, access to the information on beneficial ownership shall be in accordance with data protection rules and ***may be subject to online registration and to the payment of a fee. The fees charged for obtaining the***

Amendment

(aa) paragraph 5 is replaced by the following:

‘5. Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:

- (a) competent authorities and FIUs, without any restriction;
- (b) obliged entities, within the framework of customer due diligence in accordance with Chapter II;
- (c) ***the public***

The information accessible to the public shall consist of at least the name, the ***date*** of birth, the nationality, ***a business or service address*** and the country of residence of the beneficial owner as well as the nature and extent of the beneficial interest held.

For the purposes of this paragraph, access to the information on beneficial ownership shall be in accordance with ***both*** data protection rules and ***open data standards***.’;

information shall not exceed the administrative costs thereof.

<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1479387654876&uri=CELEX:32015L0849>

Justification

The information in the BO registers should be publicly accessible in an open data format. Requiring member states to create the registers according to open data standards also prevents registers where you can search using only one parameter, such as the company name. Moreover, it immensely facilitates the interconnection of the Member States registers which is due in coming years.

Amendment 14

Proposal for a directive

Article 1 – point 9 – point c

Directive (EU) 2015/849

Article 30 – paragraph 9

Text proposed by the Commission

“9. In exceptional circumstances to be laid down in national law, where the access referred to in point (b) of paragraph 5 would expose the beneficial owner to the risk of ***fraud***, kidnapping, blackmail, violence or intimidation, ***or where*** the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis.

Exemptions granted pursuant to this paragraph shall not apply to credit institutions and financial institutions, and to the obliged entities as referred to in point (3)(b) of Article 2(1) that are public officials.

Amendment

“9. In exceptional circumstances to be laid down in national law, where the access referred to in point (b) ***and (c)*** of paragraph 5 would expose the beneficial owner to the risk of kidnapping, blackmail, violence or intimidation, ***in particular when*** the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis.
Exemptions shall never be indefinite and shall be reassessed at regular intervals to avoid abuse.

Where an exemption is granted, it must be clearly noted in the register accessible to entities referred to in point (b) and (c) of paragraph 5.

Exemptions granted pursuant to this paragraph shall not apply to credit institutions and financial institutions, and to the obliged entities as referred to in point (3)(b) of Article 2(1) that are public officials.

Justification

The wording could be interpreted in a way that creates an automatic blanket exemption for all companies that have at least one person under a certain age listed as their beneficial owner. The current reference to the risk of fraud could be used to apply for an exemption based entirely on an economic loss. When an exemption is made, it has to be clearly visible in the register available to the public. Moreover, these exemptions should not be granted without any time constraints.

Amendment 15

Proposal for a directive

Article 1 – point 10 – point a

Directive (EU) 2015/849

Article 31 – paragraph 1

Text proposed by the Commission

“1. Member States shall ensure that this Article applies to trusts and other types of legal arrangements having a structure or functions similar to trusts, such as, *inter alia*, fiducie, Treuhand or fideicomiso.

Each Member State shall require that trustees of any express trust administered in that Member State obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust. That information shall include the identity of:

- (a) the *settlor*;
- (b) the *trustee*;
- (c) the *protector* (if any);
- (d) the beneficiaries or class of beneficiaries;
- (e) any other natural person exercising effective control of the trust.”;

Amendment 16

Proposal for a directive

Article 1 – point 10 – point b

Directive (EU) 2015/849

Article 31 – paragraph 3a

Amendment

“1. Member States shall ensure that this Article applies to trusts and other types of legal arrangements having a structure or functions similar to trusts, such as, *inter alia*, fiducie, Treuhand, *waqf* or fideicomiso, **and all other similar, in terms of structure or function, existing or future legal arrangements.**

Member States shall require that trustees of any express trust **created**, administered **and/or operating** in that Member state obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust. That information shall include the identity of:

- (a) the *settlor(s)*;
- (b) the *trustee(s)*;
- (c) the *protector(s)* (if any);
- (d) the beneficiaries or class of beneficiaries; **and**
- (e) any other natural person exercising effective control over the trust.”;

Text proposed by the Commission

Amendment

“3a. The information referred to in paragraph 1 shall be held in a central register set up by the Member State where the trust is administered.”;

“3a. The information referred to in paragraph 1 shall be held in a central register set up by the Member State where the trust is ***created***, administered ***or operates***. ***Member States shall notify to the Commission the characteristics of the national central register.***”;

Justification

All current and future legal arrangements that are similar to trusts should be covered. Member States should require registration of all trusts governed under their law or that are administered by an EU resident even if all the other parties of the trust and its assets are not in the EU. This way Member States can ensure that their law or residents are not facilitating money laundering or tax evasion elsewhere in the world, which is particularly important for developing countries.

Amendment 17

Proposal for a directive

Article 1 – point 10 – point d

Directive (EU) 2015/849

Article 31 – paragraph 4 a

Text proposed by the Commission

Amendment

“4a. The information held in the register referred to in paragraph 3a of this Article ***with respect to any other trusts than those referred to in Article 7b (b) of Directive (EC) 2009/101 shall be accessible to any person or organisation that can demonstrate a legitimate interest.***

The information accessible to ***persons and organisations that can demonstrate a legitimate interest*** shall consist of the name, the ***month and year*** of birth, the nationality and the country of residence of the beneficial owner as defined in Article 3(6)(b).

“4a. The information held in the register referred to in paragraph 3a of this Article ***shall be accessible to the public in an open data format.***

The information accessible to ***the public*** shall consist of the name, the ***date*** of birth, the nationality and the country of residence of the beneficial owner as defined in Article 3(6)(b), ***as well as the nature and extent of the beneficial interest held.***

Member States shall ensure that, in exceptional circumstances and under specific terms to be laid down in national law, a settlor and/or a trustee may request

national authorities not to make that information about the trust or legal arrangement in question publicly accessible, for the purpose of protecting the privacy of vulnerable beneficiaries. Where the national authority agrees to that request, a statement shall be inserted in the public register stating that the available information on the trust or legal arrangement is incomplete. It shall always be possible to challenge such decisions.

Justification

Open data format is crucial in order to prevent hiding of beneficial ownership of trusts: it enables the compilation and analysis of large amounts of data in order to better detect anomalies, patterns, errors, red flags, etc., as well as combine BO data with information from other relevant data sources important for detecting corruption across the value chain, i.e. contracts & procurement processes.

Amendment 18

Proposal for a directive

Article 1 – point 10 – point d

Directive (EU) 2015/849

Article 31 – paragraph 4 b

Text proposed by the Commission

4b. Whenever entering into a new customer relationship with a trust or other legal arrangement subject to registration of beneficial ownership information pursuant to paragraph 3a, the obliged entities shall collect proof of registration whenever applicable.”;

Amendment

4b. Whenever entering into a new customer relationship with a trust or other legal arrangement subject to registration of beneficial ownership information pursuant to paragraph 3a, the obliged entities shall collect proof of registration whenever applicable ***and report any discrepancy they find between the beneficial ownership information held in the central register and the beneficial ownership information collected as part of their customer due diligence procedures.***”;

Justification

Requiring obliged entities to report on discrepancies between their own CDD and the public BO registers would strengthen the data on the public BO registers. It should also be stressed that obliged entities are not to rely on the information on the BO registers but continue performing their independent customer due diligence in order to know who their customers are.

Amendment 19

Proposal for a directive

Article 1 – point 10 – point d a (new)

Directive (EU) 2015/849

Article 31 – paragraph 5

Present text

5. Member States shall require that the information held in the central register referred to in paragraph 4 is adequate, accurate and up-to-date.

Amendment

(da) paragraph 5 is replaced by the following:

"5. Member States shall require that the information held in the central register referred to in paragraph 4 is adequate, accurate and up-to-date. **Member States shall require that the obliged entities report cases of missing or inaccurate disclosures.**"

(<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32015L0849&qid=1479377482666&from=EN>)

Amendment 20

Proposal for a directive

Article 1 – point 10 – point e

Directive (EU) 2015/849

Article 31 – paragraph 7a – subparagraph 1

Text proposed by the Commission

"In exceptional circumstances laid down in national law, where the access referred to in paragraphs 4 and 4a would expose the beneficial owner to the risk of **fraud**, kidnapping, blackmail, violence or intimidation, **or where** the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis.

Amendment

"In exceptional circumstances laid down in national law, where the access referred to in paragraphs 4 and 4a would expose the beneficial owner to the risk of kidnapping, blackmail, violence or intimidation, **in particular when** the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis. **Exemptions shall never be indefinite and shall be reassessed at regular intervals.**

Justification

See Article 1 paragraph 1 – point 9 – point c

Amendment 21

Proposal for a directive

Article 1 – point 10 – point h

Directive (EU) 2015/849

Article 31 – paragraph 10

Text proposed by the Commission

“10. For the purposes of this Article, a trust is considered to be administered in each Member State *where the trustees are established*”;

Amendment

“10. For the purposes of this Article, a trust is considered to be *created*, administered *or to operate* in a Member State *when it*:

(a) *is created according to, or governed by, the law of that Member State or has its ultimate court of appeal in the jurisdiction of that Member State; or*

(b) *is connected to that Member State by:*

(i) *having one or more of the beneficial owners of the trust, as defined in Article 3(6)(b), resident in that Member State;*

(ii) *holding real estate in that Member State;*

(iii) *holding shares or voting rights or ownership interest in a legal entity incorporated in that Member State; or*

(iv) *holding a bank or payment account in a credit institution operating in that Member State.”;*

Justification

A trust should be registered in all the Member States where it has a connection point.

Amendment 22

Proposal for a directive

Article 2 – point 1 a (new)

Directive 2009/101/EC

Article 7 – point b a (new)

Text proposed by the Commission

Amendment

(1a) *in Article 7, the following point ba*

is added:

‘(ba) failure to disclose beneficial ownership information as required by Article 7b.’;

(<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32009L0101&rid=1>)

Amendment 23

Proposal for a directive

Article 2 – point 1 b (new)

Directive 2009/101/EC

Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1b) in Article 7, the following second paragraph is added:

‘Member States shall ensure that where obligations apply to legal persons, penalties can be applied to individuals who under national law are responsible for the breach, including within the management body.’;

(<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32009L0101&rid=1>)

Amendment 24

Proposal for a directive

Article 2 – point 2

Directive 2009/101/EC

Article 7 b – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The information shall consist of the name, **the month and year** of birth, the nationality **and** the country of residence of the beneficial owner as well as the nature and extent of the beneficial interest held.

The information shall consist of the name, **date** of birth, the nationality, the country of residence **and contact details (without disclosure of a home address)** of the beneficial owner as well as the nature and extent of the beneficial interest held.

Amendment 25

Proposal for a directive

Article 2 – point 2

Directive 2009/101/EC

Article 7 b – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that the beneficial ownership information referred to in paragraph 1 of this Article shall also be made publicly available through the system of interconnection of registers referred to in Article 4a(2).

Amendment

3. Member States shall ensure that the beneficial ownership information referred to in paragraph 1 of this Article shall also be made publicly available through the system of interconnection of registers referred to in Article 4a(2), ***in accordance with both data protection rules and open data standards, and subject to online registration.***

Amendment 26

Proposal for a directive

Article 2 – point 2

Directive 2009/101/EC

Article 7 b – paragraph 4

Text proposed by the Commission

4. In exceptional circumstances laid down in national law, where the access to the information set out in paragraph 1 would expose the beneficial owner to the risk of ***fraud***, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from the compulsory disclosure of to all or part of the information on the beneficial ownership on a case-by-case basis.

Amendment

4. In exceptional circumstances laid down in national law, where the access to the information set out in paragraph 1 would expose the beneficial owner to the risk of kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from the compulsory disclosure of to all or part of the information on the beneficial ownership on a case-by-case basis. ***Exemptions shall never be indefinite and shall be reassessed at regular intervals to avoid abuse. When an exemption is granted, this shall be clearly noted in the register accessible to entities referred to in points (b) and (c) of Article 30(5) of Directive (EU) 2015/849.***

Amendment 27

Proposal for a directive

Article 2 – point 2

Directive 2009/101/EC

Article 7 b – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall require the competent authorities to effectively monitor and to take the necessary measures with a view to ensuring compliance with the requirements of this Article. Member States shall ensure that the competent authorities have adequate powers, including the power to compel the production of any information that is relevant to monitoring compliance and perform checks, and have adequate financial, human and technical resources to perform their functions. Member States shall ensure that staff of those authorities maintain high professional standards, including standards of confidentiality and data protection, and that they be of high integrity and be appropriately skilled.”

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Prevention of the use of the financial system for the purposes of money laundering or terrorist financing
References	COM(2016)0450 – C8-0265/2016 – 2016/0208(COD)
Committees responsible Date announced in plenary	ECON 12.9.2016 LIBE 12.9.2016
Opinion by Date announced in plenary	DEVE 12.9.2016
Rapporteur Date appointed	Elly Schlein 21.10.2016
Rule 55 – joint committee meetings Date announced in plenary	6.10.2016
Discussed in committee	7.11.2016
Date adopted	29.11.2016
Result of final vote	+: 19 –: 1 0: 2
Members present for the final vote	Ignazio Corrao, Nirj Deva, Raymond Finch, Doru-Claudian Frunzuliță, Charles Goerens, Enrique Guerrero Salom, Maria Heubuch, Teresa Jiménez-Becerril Barrio, Linda McAvan, Norbert Neuser, Eleni Theocharous, Paavo Väyrynen, Bogdan Brunon Wenta, Rainer Wieland
Substitutes present for the final vote	Marina Albiol Guzmán, Seb Dance, Ádám Kósa, Adam Szejnfeld, Patrizia Toia
Substitutes under Rule 200(2) present for the final vote	Xabier Benito Ziluaga, Dariusz Rosati, Jarosław Wałęsa