European Parliament
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Committee on Economic and Monetary Affairs
Committee on Civil Liberties, Justice and Home Affairs

20.12.2017

PROVISIONAL AGREEMENT RESULTING FROM INTERINSTITUTIONAL NEGOTIATIONS

Subject: Proposal for a directive of the European Parliament and of the Councl amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (COM(2016)0450 – C8-0265/2016 – 2016/0208(COD))

The interinstitutional negotiations on the aforementioned proposal for a directive have led to a compromise. In accordance with Rule 69f(4) of the Rules of Procedure, the provisional agreement, reproduced below, is submitted as a whole to the Committee on Economic and Monetary Affairs
Committee on Civil Liberties, Justice and Home Affairs for decision by way of a single vote.

2016/0208 (COD)

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank[1],

Having regard to the opinion of the European Economic and Social Committee[2],

Acting in accordance with the ordinary legislative procedure,

[1] OJ C […], […], p. […].
[2] OJ C […], […], p. […].

Whereas:

(1) Directive (EU) 2015/849 of the European Parliament and the Council[1] constitutes the main legal instrument in the prevention of the use of the Union's financial system for the purposes of money laundering and terrorist financing. That Directive, which is to be transposed by 26 June 2017, sets out efficient and comprehensive legal framework to address the collection of money or property for terrorist purposes by requiring Member States to identify, understand and mitigate risks related to money laundering and terrorist financing.

(2) Recent terrorist attacks have brought to light emerging new trends, in particular regarding the way terrorist groups finance and conduct their operations. Certain modern technology services are becoming more and more popular as alternative financial systems and remain outside the scope of Union legislation or benefit from exemptions that may no longer be justified. In order to keep pace with evolving trends, further measures should be taken to ensure increased transparency of financial transactions, corporate and other legal entities as well as trusts and legal arrangements under the preventive legal framework in place in the Union, with a view to improving the existing preventive framework and countering the terrorist financing more effectively. It is important to note that the measures taken must be proportionate to the risks.

(2a) The United Nations (UN), Interpol and Europol have been reporting on the increasing convergence between organised crime and terrorism. The nexus between terrorism and organised crime and the links between criminal and terrorist groups constitute an increased security threat to the Union. Preventing the use of the financial system for purposes of money laundering or terrorist financing is an integral part of any strategy addressing this threat.

[1] Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

(2b) While there have been significant improvements in adopting and implementing FATF standards and endorsing the work of OECD on transparency by Member States in recent years, the need to further increase the overall transparency of the economic and financial environment of the Union is clear. Prevention of money laundering as well as terrorist financing cannot be effective unless the surroundings are hostile to criminals seeking shelter for their finances through non-transparent structures. The integrity of the financial system of the Union is dependent on the transparency of corporate vehicles and legal arrangements. The objectives of the Directive are not only to detect and investigate money laundering, but to prevent it from occurring. Enhancing transparency could be a powerful deterrent.

(3) While the aims of Directive (EU) 2015/849 should be pursued, any amendments to that Directive should be consistent with the Union's ongoing action in the field of countering terrorism and terrorism financing, with due regard for the fundamental right to the protection of personal data, as well as the observance and application of the proportionality principle. The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled "The European Agenda on Security" indicated the need for measures to address terrorist financing in a more effective and comprehensive manner, highlighting that infiltration of financial markets allows terrorism financing. The European Council conclusions of 17-18 December 2015 also stressed the need to take rapidly further action against terrorist finance in all domains.

(4) The Communication from the Commission to the European Parliament and the Council entitled "Action Plan for strengthening the fight against terrorist financing" underscores the need to adapt to new threats and to amend Directive (EU) 2015/849 to that effect.

(5) Union measures should also accurately reflect developments and commitments undertaken at international level. Therefore, UN Security Council Resolution 2195 (2014) on links between terrorism and transnational organised crime, Resolution 2199 (2015) on preventing terrorist groups from gaining access to international financial institutions and Resolution 2253 (2015) expanding Sanctions Framework to Include Islamic State in Iraq and Levant should be taken into account.

(6) Providers of exchange services between virtual currencies and fiat currencies (that is to say coins, banknotes and electronic money of a country that is designated as a legal tender and is accepted as a medium of exchange in the issuing country) as well as custodian wallet providers are under no obligation to identify suspicious activity. Terrorist groups may thus be able to transfer money into the Union's financial system or within virtual currency networks by concealing transfers or by benefiting from a certain degree of anonymity on those platforms. It is therefore essential to extend the scope of Directive (EU) 2015/849 so as to include providers engaged in exchange services between virtual currencies and fiat currencies as well as custodian wallet providers. For anti-money laundering and countering the financing of terrorism (AML/CFT) purposes, competent authorities should be able to monitor through obliged entities the use of virtual currencies. This would provide a balanced and proportional approach, safeguarding technical advances and the high degree of transparency attained in the field of alternative finance and social entrepreneurship.

(7) The anonymity of virtual currencies allows their potential misuse for criminal purposes. The inclusion of providers engaged in exchange services between virtual currencies and fiat currencies and custodian wallet providers will not entirely address the issue of anonymity attached to virtual currency transactions, as a large part of the virtual currency environment will remain anonymous because users can also transact without these providers. To combat the risks related to the anonymity, national Financial Intelligence Units (FIUs) should be able to obtain information allowing to associate virtual currency addresses to the identity of the owner of virtual currencies. In addition, the possibility to allow users to self-declare to designated authorities on a voluntary basis should be further assessed.

(7a) Virtual currencies should not to be confused with electronic money as defined by Article 2(2) of Directive 2009/110/EC nor with the larger concept of "funds" as defined in point (25) of Article 4 of Directive 2015/2366/EU nor with monetary value stored on instruments exempted as specified in Article 3(k) and 3(l) of the same Directive, nor with in-games currencies, that can be used exclusively within the specific game environment. Whilst they could frequently be used as a means of payment, they may also be used for other different purposes and find broader

applications such as means of exchange, investment purposes, store-of-value products or uses in online casinos. The objective of this Directive is to cover all the potential uses of virtual currencies.

(8) Local currencies (also known as complementary currencies) that are used in very limited networks such as a city or a region and among a small number of users should not be considered as virtual currencies.

(9) When dealing with cases of high-risk and with natural persons or legal entities established in high-risk third countries, Member States are to require obliged entities to apply enhanced customer due diligence measures to manage and mitigate these risks. Each Member State therefore determines at national level the type of enhanced due diligence measures to be taken towards high-risk third countries. Those different approaches between Member States create weak spots on the management of business relationships involving high risk third countries identified by the Commission. It is important to improve the effectiveness of the list of high-risk third countries established by the Commission by providing for a harmonised treatment of those countries at Union level. This harmonised approach should primarily focus on enhanced customer due diligence measures, when such measures are not already required by the previous customer due diligence measures foreseen in each of the national regimes. Furthermore, in accordance with international obligations, Member States and obliged entities should be allowed to apply additional mitigating measures ('where applicable') complementary to the enhanced customer due diligence measures, in accordance with a risk based approach and taking into account the specific circumstances of a business relationships or transactions. International organisations and standard setters with competence in the field of preventing money laundering and combating terrorist financing may call to apply appropriate counter measures to protect the international financial system from the on-going and substantial money laundering and terrorist financing risks emanating from certain countries. Member States should enact and apply additional mitigating measures regarding high risk third countries identified by the Commission by taking into account calls for countermeasures and recommendations such as those expressed by the Financial Action Task Force (FATF) and responsibilities resulting from international agreements. Access to the internal market should be limited when significant weaknesses in the AML/CFT regime are identified, unless adequate counter-measures are applied.

(10) Given the evolving nature of money laundering and terrorism financing threats and vulnerabilities, the Union should adopt an integrated approach on the compliance of national AML/CFT regimes with the requirements at Union level, by taking into consideration an effectiveness assessment of those national regimes. For the purpose of monitoring the correct transposition of the Union requirements in the national regimes, their effective implementation and their capacity to accomplish a strong preventive regime in the field, the Commission should base its assessment on the national risk regimes, which shall be without prejudice to those conducted by international organisations and standards setters with competence in the field of preventing money laundering and combating terrorist financing, such as the FATF or Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL).

(11) General purpose prepaid cards have legitimate uses and constitute an instrument contributing to financial inclusion. However, anonymous prepaid cards are easy to use in financing terrorist attacks and logistics. It is therefore essential to deny terrorists this means of financing their operations, by further reducing the limits and maximum amounts under which obliged entities are allowed not to apply certain customer due diligence measures provided by Directive (EU) 2015/849. Thus, while having due regard to consumers' needs in using general purpose prepaid instruments and not preventing the use of such instruments for promoting social and financial inclusion, it is essential to lower the existing thresholds for general purpose anonymous prepaid cards and to identify the customer in the case of remote payment transactions where the amount paid exceeds EUR 50.

(12) While the use of anonymous prepaid cards issued in the Union is essentially limited to the Union territory only, that is not always the case with similar cards issued in third countries. It is therefore important to ensure that anonymous prepaid cards issued outside the Union can be used in the Union only where they can be considered to comply with requirements equivalent to those set out in the Union legislation. The rule should be enacted in full compliance with Union obligations in respect of international trade, especially the provisions of the General Agreement on Trade in Services (GATS).

(13) FIUs play an important role in identifying the financial operations of terrorist networks, especially across borders, and in detecting their financial backers. Financial intelligence may be fundamental in uncovering the facilitation of terrorist offences and the networks and schemes of terrorist organisations. Due to a lack of prescriptive international standards, FIUs maintain significant differences as regards their functions, competences and powers. Member States should endeavour to ensure a more efficient and coordinated approach to deal with financial investigations, including those related to the misuse of virtual currencies, into terrorism. The current differences should however not affect an FIU's activity, particularly its capacity to develop preventive analyses in support of all the authorities in charge of intelligence, investigative and judicial activities, and international cooperation. In the exercise of their tasks, FIUs should have access to information and be able to exchange it without impediments, including through appropriate cooperation with law enforcement authorities. In all cases of suspected criminality and in particular, in cases involving terrorism financing, information should flow directly and quickly without undue delays. It is therefore essential to further enhance FIUs' effectiveness and efficiency, by clarifying the powers of and cooperation between FIUs.

(14) FIUs should be able to obtain from any obliged entity all the necessary information relating to their functions. Unfettered access to information is essential to ensure that flows of money can be properly traced and illicit networks and flows detected at an early stage. When FIUs need to obtain additional information from obliged entities based on a suspicion of money laundering or terrorism financing, such action may be triggered by a prior suspicious transaction report reported to the FIU, but also through other means such as FIU's own analysis, intelligence provided by competent authorities or information held by another FIU. FIUs should therefore in the context of their functions be able to obtain information from any obliged entity, even without a prior report being made. This does not include indiscriminate requests for information to the obliged entities in the context of the FIU´s analysis, but only information requests based on sufficiently defined conditions. A FIU should also be able to obtain such information on a request made by another Union FIU and to exchange the information with the requesting FIU.

(14a) The purpose of the FIU is to collect and analyse the information which they receive with the aim of establishing links between suspicious transactions and underlying criminal activity in order to prevent and combat money laundering and terrorist financing, and to disseminate the results of its analysis as well as additional information to the competent authorities where there are grounds to suspect money laundering, associated predicate offences or terrorism financing. A FIU should not refuse the exchange of information to another FIU, spontaneously or upon request, for reasons such as lack of identification of associated predicate offence, features of criminal national laws, and differences of associated predicate offence definitions or reference to particular associated predicate offences. Similarly, FIUs should grant their prior consent to forward the information to competent authorities regardless of the type of possible associated predicate offence in order to allow the dissemination function to be carried out effectively. In any case, differences between national law definitions of associated predicate offences should not limit the exchange, the dissemination to competent authorities and the use of this information as defined in this Directive. Such measure applies to all forms of associated predicate offences. Having regard to the fact that FIUs have reported difficulties in exchanging information based on differences in national definitions of some of the associated predicate offences which are not harmonised under the European law, such as tax crimes, such differences in national law should not hamper the exchange, dissemination and use of such information by and between FIUs. FIUs should rapidly, constructively and effectively provide the widest range of international cooperation to third countries' FIUs in relation to money laundering, associated predicate offences and terrorist financing in accordance with FATF recommendations and Egmont principles.

(14c) Information of a prudential nature relating to credit and financial institutions, such as information relating to fit and properness of directors and shareholders, the internal control mechanisms, the governance or the compliance and risk management, is often indispensable for an adequate AML/CFT supervision of such institutions. Vice-versa, AML/CFT information is also important for the prudential supervision of these institutions. Therefore, exchange of confidential information and collaboration between AML/CFT competent authorities of credit and financial institutions and prudential supervisors should not be hampered unintentionally by legal uncertainty which may stem from a lack of explicit provisions in this field. Such clarification of the legal framework is even more important since prudential supervision has, in a number of cases, been entrusted to non-AML/CFT supervisors, such as the European Central Bank.

(15) Delayed access to information by FIUs and other competent authorities on the identity of holders of bank and payment accounts and safe deposit boxes, especially anonymous ones hampers the detection of transfers of funds relating to terrorism. National data allowing the identification of bank and payments accounts and safe deposit boxes belonging to one person is fragmented and therefore not accessible to FIUs and other competent authorities in a timely manner. It is therefore essential to establish centralised automated mechanisms, such as a register or data retrieval system in all Member States as an efficient means to get timely access to information on the identity of holders of bank and payment accounts and safe deposit boxes, their proxy holders, and their beneficial owners. When applying the access provisions, it is appropriate for pre-existing mechanisms to be used so long as national FIUs can access the data they require in an immediate and unfiltered manner. Member States should consider to feed such mechanism with other information deemed to be necessary and proportionate for more effective mitigation of money laundering and terrorism financing risks. Full confidentiality should be ensured on the enquiries and related information by FIUs and competent authorities other than those authorities responsible for prosecution.

(16) In order to respect privacy and protect personal data, such registries should store the minimum data necessary to the performance of AML/CFT investigations. Member States may consider what data is useful and proportionate to gather, taken into account the systems and traditions in place to enable the meaningful identification of the beneficial owners. When transposing these provisions, Member States should set out retention periods equivalent to the period for retention of the documentation and information obtained within the application of customer due diligence measures. Member States should have the possibility to extend the retention period on a general basis by law, while not requiring case-by-case decisions. The additional retention period shall not exceed 5 additional years. That should not have prejudice to the national legislation setting out other data retention requirements allowing case-by-case decisions to facilitate the need for criminal or administrative proceedings. Access to the registries and databases should be limited on a need to know basis.

(17) Accurate identification and verification of data of natural and legal persons is essential for fighting money laundering or terrorist financing. Latest technical developments in the digitalisation of transactions and payments enable a secure remote or electronic identification, those means of identification as set out in Regulation (EU) No 910/2014 of the European Parliament and of the Council, should be taken into account, in particular with regard to notified electronic identification schemes and means that ensure cross-border legal recognition, offer high level secure tools and provide a benchmark against which assessing the identification methods set up at national level may be checked. In addition, other secure remote or electronic identification processes, recognised, approved or accepted at national level by the national competent authority may be taken into account. When appropriate, in the identification process, the recognition of electronic documents and trust services as set out in Regulation (EU) No 910/2014 should also be taken into account. The principle of technology neutrality should be taken into account in the application of this Directive.

(17a) In order to identify politically exposed persons in the Union, lists indicating the exact functions which, according to national laws, regulations and administrative provisions, qualify as prominent public functions, should be issued. Such lists should include also the functions carried out by persons fulfilling all the relevant positions in an international organisation in a Member State.

(18) ***deleted***

(19) The approach for the review of existing customers in the current framework relies on a risk-based approach. However, given the higher risk for money laundering, terrorist financing and associated predicate offenses associated with some intermediary structures, that approach may not allow the timely detection and assessment of risks. It is therefore important to ensure that certain clearly specified categories of already existing customers are also monitored on a regular basis.

(20) Member States are currently required to ensure that corporate and other legal entities incorporated within their territory obtain and hold adequate, accurate and current information on their beneficial ownership. The need for accurate and up-to-date information on the beneficial owner is a key factor in tracing criminals who might otherwise be able to hide their identity behind a corporate structure. The globally interconnected financial system makes it possible to hide and move funds around the world, and money launderers and terrorist financers as well as other criminals have increasingly made use of that possibility.

(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 in Member States, certain trusts and similar legal arrangements 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. The interconnection of Member States' registries of beneficial owners of trusts and similar legal arrangements should make this information accessible, but would also require that multiple registration within the Union of same entities should be avoided.

(21a) Criminals move illicit proceeds through numerous financial intermediaries to avoid detection, therefore it is important to allow financial and credit institutions to exchange information not only between group members, but also other financial and credit institutions, with due regard to data protection as set out in national legislation.

(22) Rules that apply to trust and similar legal arrangements in respect to access to their beneficial ownership information should be comparable to the corresponding rules that apply to corporate and other legal entities. Due to the wide range of types of trusts that exist currently in the Union as well as even more scattered picture of other similar legal arrangements, the decision on whether a trust or a similar legal arrangement is comparably similar to corporate and other legal entities or not, should be taken by Member States. The aim of the national law transposing these provisions should be to prevent that trusts or similar legal arrangements are used for the purposes of money laundering, terrorist financing or associated predicate offences..

(22a) With a view to the different characteristics of trusts and legal arrangements having a structure or functions similar to trusts, Member States should be able, under national law and in accordance with data protection rules, to determine the level of transparency with regard to trusts and legal arrangements that are not comparable to corporate and other legal entities. The risks of money laundering and terrorist financing involved can differ, based on the characteristics of the type of trust or similar legal arrangement and the understanding of these risks can evolve over time, for instance as a result of the (supra)national risk assessments. For this reason, Member States should be able to provide by law for wider access to information on beneficial ownership of trusts and legal arrangements, if this constitutes a necessary and proportionate measure to the legitimate aim of the prevention of the use of the financial system for purposes of money laundering or terrorist financing. When determining the level of transparency of the beneficial ownership information of these trusts or legal arrangements, Member States should have due regard to the protection of fundamental rights of individuals, in particular the right to privacy and protection of personal data. Access to beneficial ownership information on trusts and similar legal arrangements should be granted to any persons that can demonstrate legitimate interest and to any person that files a written request in relation to a trust or similar legal arrangement which holds or owns a controlling interest in any corporate or other legal entity incorporated outside the Union, through direct or indirect ownership, including through bearer shareholdings, or through control via other means.

The criteria and conditions granting access to requests for beneficial ownership information on trusts and similar legal arrangements should be sufficiently precise and in line with the aims of this Directive.

Member States may refuse a written request where there are reasonable grounds to suspect that the written request is not in line with the objectives of this Directive.

(22b) In order to ensure legal certainty and a level playing field, it is essential to clearly set out which legal arrangements established across the Union must be considered to be similar to trusts by effect of their functions or structure. Therefore, each Member State should be required to identify the trusts, if recognised by the national law, and similar legal arrangements that may be set up pursuant to its national legal framework or custom and which have structure or functions similar to trusts, such as enabling a separation or disconnection between the legal and the beneficial ownership of assets. Thereafter, Member States should notify to the Commission the categories, description of the characteristics, names and where applicable legal basis of those trusts and similar legal arrangements in view of their publication in the Official Journal of the European Union in order to enable their identification by other Member States. It should be taken into account that trusts and legal arrangements, may have different legal characteristics throughout the Union. Where the characteristics of the trust or similar legal arrangement are comparable in structure or functions to the characteristics of corporate and other legal entities, public access to beneficial ownership information would contribute to combating the misuse of trusts and legal arrangements, similar to the way public access can contribute to the prevention of the misuse of corporate and legal entities for purposes of money laundering and terrorist financing.

(23) Public access to beneficial ownership information allows greater scrutiny of information by civil society, including by the press or civil society organisations, and contributes to preserving trust in the integrity of business transactions and of the financial system. It can contribute to combating the misuse of corporate and legal entities and arrangements for purposes of money laundering or terrorist financing, both by helping investigations and through reputational effects, given that anyone who could enter into transactions is aware of the identity of the beneficial owners. It also facilitates the timely and efficient availability of information for financial institutions as well as authorities, including authorities of third countries, involved in combating these offences. The access to this information would also help investigations on money laundering, associated predicate offences and terrorist financing.

(24) Confidence in financial markets from investors and the general public depends in large part on the existence of an accurate disclosure regime that provides transparency in the beneficial ownership and control structures of companies. This is particularly true for corporate governance systems that are characterized by concentrated ownership, such as the one in the Union. On the one hand, large investors with significant voting and cash-flow rights may encourage long-term growth and firm performance. On the other hand, however, controlling beneficial owners with large voting blocks may have incentives to divert corporate assets and opportunities for personal gain at the expense of minority investors. While important, these should be regarded as positive side-effects and not the purpose of increasing transparency, which is to create an environment less likely to be used for the schemes of money-launderers and terrorist-financers.

(24a) Confidence in financial markets from investors and the general public depends in large part on the existence of an accurate disclosure regime that provides transparency in the beneficial ownership and control structures of corporate and legal entities as well as certain types of trusts and other legal arrangements. Member States should therefore allow access to beneficial ownership information in a sufficiently coherent and coordinated way, by establishing clear rules of access by the public, so that third parties are able to ascertain, throughout the Union, who are the beneficial owners of corporate and legal entities as well as certain types of trusts and other legal arrangements.

(25) Member States should therefore allow access to beneficial ownership information on corporate and other legal entities in a sufficiently coherent and coordinated way, through the central registers in which beneficial ownership information is set out, by establishing a clear rule of public access, so that third parties are able to ascertain, throughout the Union, who are the beneficial owners of corporate and other legal entities. It is essential to also establish a coherent legal framework that ensures better access to information regarding the beneficial ownership of trusts and legal arrangements having a structure or functions similar to trusts, once they are registered across the Union. Rules that apply to trust and similar legal arrangements in respect to access to their beneficial ownership information should be comparable to the

corresponding rules that apply to corporate and other legal entities.

(26) In all cases, both with regard to corporate and other legal entities, as well as trusts and similar legal arrangements, a fair balance should be sought in particular between the general public interest in the prevention of money laundering and the data subjects' fundamental rights. The set of data to be made available to the public should be limited, clearly and exhaustively defined, and should be of a general nature, so as to minimize the potential prejudice to the beneficial owners. At the same time, information made accessible to the public should not significantly differ from the data currently collected. In order to limit the interference with the right to respect for their private life in general and to protection of their personal data in particular, that information should relate essentially to the status of beneficial owners of corporate and other legal entities and trusts and similar legal arrangements and should strictly concern the sphere of economic activity in which the beneficial owners operate. In those cases where the senior managing official has been identified as the beneficial owner only because holding the position of a senior managing official and not through ownership interest held or control exercised by other means, this should be clearly visible in the registers.

With regard to information on beneficial owners, Member States can provide for the criterion of nationality to be included in the central register particularly for non-native beneficial owners. In order to facilitate registry procedures and as the vast majority of beneficial owners will be nationals of the state maintaining the central register, Member States may presume a beneficial owner to be of their own nationality where no entry to the contrary is made.

(27) ***deleted***(28) The enhanced public scrutiny will contribute preventing the misuse of legal entities and legal arrangements, including tax avoidance. Therefore, it is essential that this information remains available through the national registers and through the system of interconnection of registers for a minimum period of 5 years after the company or the beneficial ownership information of trust or similar legal arrangement has been struck off from the register. However, Member States should be able to provide by law for the processing of the information on beneficial ownership, including personal data for other purposes if such processing meets an objective of public interest and constitutes a necessary and proportionate measure in a democratic society to the legitimate aim pursued.

(29) Moreover, with the same aim of ensuring a proportionate and balanced approach and to guarantee the rights to private life and personal data protection, Member States should provide for exemptions to the disclosure of and to the access to beneficial ownership information in the registers, in exceptional circumstances, where the information would expose the beneficial owner to disproportionate risk, of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation. Member States should also be allowed to require online registration in order to identify any person who requests information from the register, as well as the payment of a fee for access to the information in the register.

(29a) The interconnection of Member States' central registers holding beneficial ownership information via the European Central Platform established by Directive 2017/1132/EU necessitates the coordination of national systems having varying technical characteristics. This entails the adoption of technical measures and specifications which need to take account of differences between registers. In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission to tackle these technical and operational issues. Those powers should be exercised in accordance with the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011. In any case, the involvement of Member States in the functioning of the whole system should be ensured by means of a regular dialogue between the Commission and the representatives of Member States on the issues concerning the operation of the system and its future development.

(30) Directive 95/46/EC of the European Parliament and of the Council , which will be replaced by Regulation (EU) 2016/679 of the European Parliament and of the Council, applies to the processing of personal data under this Directive. As a consequence, natural persons whose personal data are held in the national registers as beneficial ownership information should be informed of this accordingly.. Furthermore, only the personal data that is up to date and corresponds to the actual beneficial owners should be made available and the beneficiaries should be informed about their rights under the current Union legal data protection framework, as set out in Regulation (EU) 2016/679 and Directive (EU) 2016/680, and the procedures applicable for exercising

these rights. In addition, to prevent the abuse of the information in registers and to balance out beneficial owners' rights, Member States may find it appropriate to consider making the information on the requesting person along with the legal basis of their request also available to the beneficial owner.

(31) The enhanced public scrutiny will contribute preventing the misuse of legal entities and legal arrangements. Therefore, it is essential that beneficial ownership information remains available at least during the period set out in this Directive through the national registers and through the system of interconnection of registers after the company has been struck off or the beneficial ownership information of the legal arrangement deleted from the register. However, Member States should be able to provide by law for the processing of the information on beneficial ownership, including personal data for other purposes if such processing meets an objective of public interest and constitutes a necessary and proportionate measure in a democratic society to the legitimate aim pursued.

(31a) Where the reporting of discrepancies by the FIUs and competent authorities would jeopardise an on-going investigation, the FIUs or competent authorities should delay the reporting of the discrepancy until the moment at which the reasons for not reporting cease to exist. Furthermore, FIUs and competent authorities should not report any discrepancy when this would be contrary to any confidentiality provision of national law or would constitute a tipping-off offence.

(32) This Directive is without prejudice to the protection of personal data processed by competent authorities in accordance with Council Framework Decision 2008/977/JHA[1], which will be replaced by Directive (EU) 2016/680 of the European Parliament and of the Council[2].

[1] Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters (OJ L 350, 30.12.2008, p. 60).

[2] Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

(33) The access to the information and the definition of the legitimate interest shall be governed by the law of the Member State where the trust or similar legal arrangement is administered. Where the trustee of the trust or similar legal arrangement is not established or does not reside in any Member State, the access to the information and the definition of the legitimate interest shall be governed by the law of the Member State where the beneficial ownership information of the trust or similar legal arrangement is registered in accordance with the provisions of this directive.

(34) ***deleted***(35) Member States shall define legitimate interest, both as a general concept and as a criterion for accessing beneficial ownership information in their national law. In particular, those definitions should not restrict the concept of legitimate interest to cases of pending administrative or legal proceedings, and should enable to take into account the preventive work in the field of anti-money laundering, terrorist financing and associate predicate offences undertaken by non-governmental organisations and investigative journalists, where appropriate. Once the interconnection of Member States' beneficial ownership registers is in place, both national and cross-border access to each Member State's register shall be granted based on the definition of legitimate interest of the Member State where the trust or similar legal arrangement is administered, by virtue of a decision taken by the relevant authorities of that Member State. In relation to Member States' beneficial ownership registers, Member States shall also have competence to establish appeal mechanisms against decisions which grant or deny access to beneficial ownership information. With a view to ensure a coherent and efficient registration and information exchange, Member States should ensure that their authority in charge of the register set up for the beneficial ownership information of trusts and other legal arrangements similar to trusts cooperates with its counterparts in other Member States, sharing information concerning trusts and other legal arrangements similar to trusts governed by the law of the first Member State and administered in another Member State.

(35a) The interconnection of Member States' central registers holding beneficial ownership information via the European Central Platform established by Directive 2017/1132/EU necessitates the coordination of national systems having varying technical characteristics. This entails the adoption of technical measures and specifications which need to take account of differences between registers. In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission to tackle these technical and operational issues. Those powers should be exercised in accordance with the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011. In any case, the involvement of Member States in the functioning of the whole system should be ensured by means of a regular dialogue between the Commission and the representatives of Member States on the issues concerning the operation of the system and its future development.

(35b) Regarding the requirements relating to cross-border correspondent relationships with a third-country's respondent institution, which are characterised by its on-going, repetitive nature. Accordingly, Member States, while requiring the adoption of enhanced due diligence measures in this particular context, should take into consideration that correspondent relationships do not include one-off transactions or the mere exchange of messaging capabilities. Moreover, recognising that all cross-border correspondent banking services do not present the same level of money laundering and terrorist financing risks, the intensity of the measures laid down in this Directive can be determined by application of the principles of the risk based approach and do not prejudge the level of money-laundering and terrorist financing risk presented by the respondent financial institution.

(36) ***deleted***

(37) It is important to ensure that anti-money laundering and terrorist financing rules are correctly implemented by obliged entities. In that context, Member States should strengthen the role of public authorities acting as competent authorities with designated responsibilities for combating money laundering or terrorist financing, including the FIUs, the authorities that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing, and seizing or freezing and confiscating criminal assets, authorities receiving reports on cross-border transportation of currency and bearer-negotiable instruments and authorities that have supervisory or monitoring responsibilities aimed at ensuring compliance by obliged entities. Member States should strengthen the role of other relevant authorities including anti-corruption authorities and tax authorities.

(37a-1) Member States should ensure effective and impartial supervision of all obliged entities, preferably by public authorities via a separate and independent national regulator or supervisor.

(37a) Competent authorities supervising obliged entities for compliance with this Directive should be able to cooperate and exchange confidential information, regardless of their respective nature or status. To this end, such competent authorities should have an adequate legal basis for exchange of confidential information, and collaboration between AML/CFT competent supervising authorities and prudential supervisors should not be hampered unintentionally by legal uncertainty which may stem from a lack of explicit provisions in this field. The supervision of the effective implementation of group policy on AML/CFT should be done in accordance with the principles and modalities of consolidated supervision as laid down in the relevant European sectoral legislation.

(37b) The exchange of information and the provision of assistance between competent authorities of the Members States is essential for the purposes of this Directive. Consequently, Member States should not prohibit or place unreasonable or unduly restrictive conditions on this exchange of information and provision of assistance.

(38) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents[1], Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

(39) Since the objective of this Directive, namely the protection of the financial system by means of prevention, detection and investigation of money laundering and terrorist financing, cannot be sufficiently achieved by the Member States, as individual measures adopted by Member States to protect their financial systems could be inconsistent with the functioning of the internal market and with the prescriptions of the rule of law and Union public policy, but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

(40) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union (hereinafter "the Charter"), in particular the right to respect for private and family life (Article 7 of the Charter), the right to the protection of personal data (Article 8 of the Charter) and the freedom to conduct a business (Article 16 of the Charter).

(40a) When drawing up a report evaluating the implementation of this Directive, the Commission should give due consideration to the respect of the fundamental rights and principles recognised by the Charter of Fundamental Rights of the European Union.

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[1] OJ C 369, 17.12.2011, p. 14.

(41) Given the need to urgently implement measures adopted with a view to strengthen the Union's regime set in place for the prevention of money laundering and terrorism financing, and seeing the commitments undertaken by Member States to quickly proceed with the transposition of Directive (EU) 2015/849, the amendments to Directive (EU) 2015/849 should be transposed [at the latest 18 months] after the publication in the Official Journal of the European Union. Member States should set up beneficial ownership registers for corporate and other legal entities within 18 months after the entry into force of this Directive and for trusts and similar legal arrangements within 20 months after the entry into force of this Directive. Central registers should be interconnected via the European Central Platform within 32 months after the implementation date. Member States should set up bank account registers within 26 months after the entry into force of this Directive.

(41a) The European Central Bank delivered an opinion on 12 October 2016[1] and the European Economic and Social Committee on 19 October 2016,

(42) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council[2] and delivered an opinion on 2 February 2017[3],

(43) Directive (EU) 2015/849 should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

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1 ***Not yet published in the Official Journal.***

2 Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p.1).

3 OJ C …

Article 1

Amendments to Directive (EU) 2015/849

Directive (EU) 2015/849 is amended as follows:

(-1) in point (3) of Article 2(1), point (a) is replaced by the following:

"(a) auditors, external accountants and tax advisors, and any other person that undertakes to provide, directly or by means of other persons to which it is related, material aid, assistance or advice on tax matters as principal business or professional activity;";

(-1a) in point (3) of Article 2(1), point (d) is replaced by the following:

"(d) estate agents including when acting as intermediaries in the letting of immovable property, but only in relation to transactions for which the monthly rent is equivalent to or exceeds €10,000;";

(1) in point (3) of Article 2(1), the following points (g), (h) and (ha) are added:

"(g) providers engaged in exchange services between virtual currencies and fiat currencies;

(h) custodian wallet providers;

(ha) persons trading or acting as intermediaries in the trade of works of art, including when this is carried out by art galleries and auction houses, where the value of the transaction or a series of linked transactions amounts to €10,000 or more;

(hb) persons storing, trading or acting as intermediaries in the trade of works of art when this is carried out by freeports, where the value of the transaction or a series of linked transactions amounts to €10,000 or more.";

(1b) in Article 2, paragraph 4 is replaced by the following:

"4. For the purposes of point (a) of paragraph 3, Member States shall require that the total turnover of the financial activity does not exceed a threshold, which must be sufficiently low. That threshold shall be established at national level, depending on the type of financial activity.";

(2) Article 3 is amended as follows:

(a) in point (4), points (a) and (c) are replaced by the following:

"(a) terrorist offences and offences related to a terrorist group as set out in Titles II and III of Directive (EU) 2017/541*;";

"(c) activities of criminal organisations as defined in Article 1 of Council Framework Decision 2008/841/JHA;";

(aa) paragraph 6(b) shall be replaced by the following:

"(b) in the case of trusts - all following persons:

(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.";

(b) point (16) is replaced by the following:

"(16) 'electronic money' means electronic money as defined in point (2) of Article 2 of Directive 2009/110/EC, but excluding monetary value as referred to in Article 1(4) and (5) of that Directive;";

(c) the following points (18) and (18a) are added:

"(18) "virtual currencies" means a digital representation of value that is not issued or guaranteed by a central bank or a public authority, is not necessarily attached to a legally established currency, and does not possess a legal status of currency or money, but is accepted by natural or legal persons, as a means of exchange, and which can be transferred, stored and traded electronically.

(18a) "custodian wallet provider" means an entity that provides services to safeguard private cryptographic keys on behalf of their customers, to hold, store and transfer virtual currencies.";

(2a) Article 6 is amended as follows:

(a) in paragraph (2), points (b) and (c) are replaced by the following:

"(b) the risks associated with each relevant sector including, where available, estimates of the monetary volumes of money laundering provided by Eurostat for each of those sectors;

(c) the most widespread means used by criminals to launder illicit proceeds, including, where available those particularly used in transactions between Member States and third countries, independently of the latter's classification as regards the list drawn up on the basis of Article 9 (2)."

(b) paragraph (3) is replaced by the following:

"3. The Commission shall make the report referred to in paragraph 1 available to the Member States and obliged entities in order to assist them to identify, understand, manage and mitigate the risk of money laundering and terrorist financing, and to allow other stakeholders, including national legislators, the European Parliament, the ESAs, and representatives from FIUs to better understand the risks. Reports shall be made public at the latest six months after having been made available to Member State, except for the elements of the reports which contain classified information."

(2b) Article 7 is amended as follows:

(b) in paragraph (4), the following points are added:

"(ea) report the institutional structure and broad procedures of their AML/CFT regime, including inter alia the FIU, tax agencies and prosecutors, as well as the allocated human and financial resources to the extent that this information is available;

(eb) report on national efforts and resources (labour forces and budget) allocated to combat money-laundering and terrorist financing.";

(c) paragraph 5 is replaced by the following:

“5. Member States shall make the results of their risk assessments, including their updates, available to the Commission, the ESAs and the other Member States. Other Member States may provide relevant additional information, where appropriate, to the Member State carrying out the risk assessment. A summary of the assessment shall be made publicly available. That summary shall not contain classified information.”

(2c) Article 9 is amended as follows:

(a) paragraph 2 is replaced by the following:

“2. The Commission is empowered to adopt delegated acts in accordance with Article 64 in order to identify high-risk third countries, taking into account strategic deficiencies in particular in the following areas:

(a) the legal and institutional AML/CFT framework of the third country, in particular:

(i) the criminalisation of money laundering and terrorist financing;

(ii) measures relating to customer due diligence;

(iii) requirements relating to record-keeping;

(iv) requirements to report suspicious transactions;

(v) the availability of accurate and timely information of the beneficial ownership of legal persons and arrangements to competent authorities;

(b) the powers and, procedures of the third country's competent authorities for the purposes of combating money laundering and terrorist financing including appropriately dissuasive, proportionate and effective sanctions, as well as the third country's practice in cooperation and exchange of information with Member States' competent authorities;

(c) the effectiveness of the AML/CFT system in addressing money laundering or terrorist financing risks of the third country.";

(b) paragraph 4 is replaced by the following:

"4. The Commission, when drawing up the delegated acts referred to in paragraph 2, shall take into account relevant evaluations, assessments or reports drawn up by international organisations and standard setters with competence in the field of preventing money laundering and combating terrorist financing.";

(2e) in Article 10, paragraph 1 is replaced by the following:

"1. Member States shall prohibit their credit institutions and financial institutions from keeping anonymous accounts, anonymous passbooks or anonymous safe deposit boxes. Member States shall, in any event, require that the owners and beneficiaries of existing anonymous accounts, anonymous passbooks or anonymous safe deposit boxes be subject to customer due diligence measures no later than six months after the entry into force of this Directive and in any event before such accounts, passbooks or deposit boxes are used in any way."

(3) Article 12 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) in the first subparagraph, points (a) and (b) are replaced by the following:

"(a) the payment instrument is not reloadable, or has a maximum monthly payment transactions limit of EUR 150 which can be used only in that Member State;

(b) the maximum amount stored electronically does not exceed EUR 150;";

(ii) the second subparagraph is deleted;

(b) paragraph 2 is replaced by the following:

"2. Member States shall ensure that the derogation provided for in paragraph 1 is not applicable in the case of redemption in cash or cash withdrawal of the monetary value of the electronic money where the amount redeemed exceeds EUR 50, or in case of remote payment transactions as defined in point (6) of Article 4 of the Directive 2015/2366/EC where the amount paid exceeds EUR 50 per transaction.";

(c) the following paragraphs 3 and 3a are added:

"3. Member States shall ensure that credit institutions and financial institutions acting as acquirers only accept payments carried out with anonymous prepaid cards issued in third countries where such cards meet requirements equivalent to those set out in paragraphs 1 and 2 of this Article. Member States shall apply this provision as of 6 months after the expiry of the deadline for transposition of this Directive.

3a. Member States may decide not to accept on their territory payments carried out by the anonymous prepaid cards.";

(4) in Article 13(1) following changes are made:

(a) point (a) is replaced by the following:

"(a) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source, including, where available, electronic identification means, relevant trust services as set out in Regulation (EU) No 910/2014 or any other secure, remote or electronic, identification process regulated, recognised, approved or accepted by the relevant national authorities;

(b) at the end of point (b), the following sentence is added:

"Where the beneficial owner identified is the senior manager as referred to in Article 3(6) (a) (ii), obliged entities shall take the necessary reasonable measures to verify the identity of the natural person who holds the position of

senior managing official and shall keep records of the actions taken as well as any difficulties encountered.”

(5) in Article 14 following changes are made:

a) in paragraph 1, the following sentence is added:

"Whenever entering into a new business relationship with a corporate or other legal entity, or a trust or a similar legal arrangement which are subject to the registration of beneficial ownership information pursuant to Articles 30 or 31, the obliged entities shall collect proof of registration or an excerpt of the register.;"

b) paragraph 5 is replaced by the following:

"5. Member States shall require that obliged entities apply the customer due diligence measures not only to all new customers but also at appropriate times to existing customers on a risk-sensitive basis, or when the relevant circumstances of a customer change, or when the obliged entity has any legal duty in the course of the relevant calendar year, to contact the customer for the purpose of reviewing any relevant information related to the beneficial owner(s), or if they have had this duty under Directive 2011/16/EU.;"

(6) in Article 18 (1), the first subparagraph is replaced by the following:

"In the cases referred to in Articles 18a to 24, as well as in other cases of higher risk that are identified by Member States or obliged entities, Member States shall require obliged entities to apply enhanced customer due diligence measures to manage and mitigate those risks appropriately.";

(6a) in Article 18, paragraph 2 is replaced by the following:

"2. Member States shall require obliged entities to examine, as far as reasonably possible, the background and purpose of all transactions that fulfil at least one of the following conditions:

(i) they are complex transactions;

(ii) they are unusually large transactions;

(iii) they are conducted in an unusual pattern;

(iv) they do not have an apparent economic or lawful purpose.

In particular, obliged entities shall increase the degree and nature of monitoring of the business relationship, in order to determine whether those transactions or activities appear suspicious.";

(7) The following Article 18a is inserted:

"*Article 18a*

1. With respect to business relationships or transactions involving high risk third countries identified pursuant to Article 9 (2), Member States shall require obliged entities to apply the following enhanced customer due diligence measures:

(a) obtaining additional information on the customer and on the beneficial owner(s);

(b) obtaining additional information on the intended nature of the business relationship;

(c) obtaining information on the source of funds and source of wealth of the customer and of the beneficial owner(s);

(d) obtaining information on the reasons for the intended or performed transactions;

(e) obtaining the approval of senior management for establishing or continuing the business relationship;

(f) 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;

(g) ***deleted***

Member States may require obliged entities to ensure, where applicable, that the first payment be carried out through an account in the customer's name with a credit institution subject to CDD standards that are not less robust than those laid down in this Directive.

2. In addition to the measures provided in paragraph 1 and in compliance with international obligations of the Union, Member States shall require obliged entities to apply where applicable one or several additional mitigating measures to persons and legal entities from high risk third countries identified pursuant to Article 9(2):

(a) applying additional elements of enhanced due diligence;

(b) introducing enhanced relevant reporting mechanisms or systematic reporting of transactions;

(c) limiting business relationships or transactions with natural persons or legal entities from the third countries identified as high risk countries pursuant to Article 9(2).

3. In addition to the measures provided in paragraph 1, Member States shall apply where applicable one or several of the following measures with regard to high risk third countries identified pursuant to Article 9(2) in compliance with international obligations of the Union:

(a) refusing the establishment of subsidiaries or branches or representative offices of obliged entities from the country concerned, or otherwise taking into account the fact that the relevant obliged entity is from a country that does not have adequate AML/CFT systems;

(b) prohibiting obliged entities from establishing branches or representative offices in the country concerned, or otherwise taking into account the fact that the relevant branch or representative office would be in a country that does not have adequate AML/CFT systems;

(c) ***deleted***

(d) requiring credit and financial institutions to review and amend, or if necessary terminate, correspondent relationships with respondent institutions in the country concerned;

(e) requiring increased supervisory examination or external audit requirements for branches and subsidiaries of obliged entities based in the country concerned;

(f) requiring increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in the country concerned.

4. When enacting or applying the measures set out in paragraphs 2 and 3, Member States shall take into account, as appropriate relevant evaluations, assessments or reports drawn up by international organisations and standard setters with competence in the field of preventing money laundering and combatting terrorist financing, in relation to the risks posed by individual third countries.

5. Member States shall notify the Commission before enacting or applying the measures set out in paragraphs 2 and 3.";

(7-a) in Article 19, the first subparagraph of paragraph 1 is replaced by the following:

"With respect to cross-border correspondent relationships involving the execution of payments with a third-country respondent institution, Member States shall, in addition to the customer due diligence measures laid down in Article 13, require their credit institutions and financial institutions when entering into a business relationship to:";

(7b) the following Article 20a is inserted

"Article 20a

1. Each Member State shall issue and keep up to date a list indicating the exact functions which, according to national laws, regulations and administrative provisions, qualify as prominent public functions in the sense of Article 3(9). International organisations accredited to Member States shall be requested by the those Member States to issue and keep up to date a list of prominent public functions at that international organisation in the sense of Article 3 (9).That list shall be sent to the Commission and may be made public.

2. The Commission shall compile and keep up to date the list of the exact functions which qualify as prominent public functions at the level of Union institutions and

bodies. That list shall also include any function which may be entrusted to representatives of third countries and international bodies accredited at Union level.

3. The Commission shall assemble, based on the lists provided for in paragraphs 1 and 2 of this Article, a single list of all prominent public functions in the sense of Article 3(9). That single list shall be made public.

4. Functions included in the list referred to in paragraph 3 shall benefit from the conditions laid down in Article 41(2) of this Directive."

(8) in Article 27, paragraph 2 is replaced by the following:

"2. Member States shall ensure that obliged entities to which the customer is referred take adequate steps to ensure that the third party provides immediately, upon request, relevant copies of identification and verification data, including, where available, electronic identification means, relevant trust services as set out in Regulation (EU) No 910/2014 or any other secure, remote or electronic, identification process regulated, recognised, approved or accepted by the relevant national authorities.";

(9) Article 30 is amended as follows:

(-1a) In paragraph 1 the first subparagraph is amended as follows:
"Member States shall ensure that corporate and other legal entities incorporated within their territory are required to obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held. Member States shall ensure that breaches of this Article are subject to effective, proportionate and dissuasive measures or sanctions.";

(-a) in paragraph 1, the following subparagraph is added*:*
"Member States shall require that the beneficial owners of corporate or other legal entities, including through shares, voting rights, ownership interest, through bearer shareholdings, or though control via other means, provide those entities with all the information necessary for the corporate or legal entity to comply with the requirements in the first subparagraph."

(-aa) 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, and shall put in place mechanisms to this effect. These mechanisms shall include requiring obliged entities and, if appropriate and to the extent that this requirement does not interfere unnecessarily with their functions, competent authorities to report any discrepancies they find between the beneficial ownership information available in the central registers and the beneficial ownership information available to them. In case of reported discrepancies Member States shall ensure that appropriate actions will be taken to resolve the discrepancies in a timely manner and, if appropriate, that in the meantime a specific mention is included in the central register."

(a) 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) any member of general public.

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

Member States may, under conditions to be determined in national law, provide for access of additional information enabling the identification of the beneficial owner at least the date of birth or contact details in accordance with data protection rules.";

(aa) The following paragraph 5a is inserted:

"5a. Member States may choose to make the information held in their national registers referred to in paragraph 3 available on the condition of online registration and the payment of a fee, which shall not exceed the administrative costs of making the information available, including costs to ensure the maintenance and developments of the register."

(b) paragraph 6 is replaced by the following:

"6. The central register referred to in paragraph 3 shall ensure timely and unrestricted access by competent authorities and FIUs to all information held in the central register without any restriction and without alerting the entity concerned. It shall also allow timely access by obliged entities when taking customer due diligence measures in accordance with Chapter II.

Competent authorities granted access to the central register referred to in paragraph 3 shall be those public authorities with designated responsibilities for combating money laundering or terrorist financing, as well as tax authorities, supervisors of obliged entities and authorities that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing, tracing and seizing or freezing and confiscating criminal assets.";

(ba-1) Paragraph 7 is replaced by the following:

"7. Member States shall ensure that competent authorities and FIUs are able to provide the information referred to in paragraphs 1 and 3 to the competent authorities and to the FIUs of other Member States in a timely manner and free of charge.";

(ba) paragraph 8 is replaced by the following:

"8. Member States shall require that obliged entities do not rely exclusively on the central register referred to in paragraph 3 to fulfil their customer due diligence requirements in accordance with Chapter II. Those requirements shall be fulfilled by using a risk-based approach.";

(c) paragraphs 9 and 10 are replaced by the following:

"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 disproportionate risk, risk of fraud, kidnapping, blackmail, extortion, harassment, 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. Member States shall ensure that these exemptions are granted upon a detailed evaluation of the exceptional nature of the circumstances. The rights to an administrative review of the exemption decision and to an effective judicial remedy shall be guaranteed. A Member State that has granted exemptions shall publish annual statistical data on the amount of exemptions granted and reasons stated and report the data to the Commission.

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.

10. Member States shall ensure that the central registers referred to in paragraph 3 of this Article are interconnected via the European Central Platform established by Article 22(1) of Directive 2017/1132/EU. The connection of the Member States' central registers to the platform shall be set up in accordance with the technical specifications and procedures established by implementing acts adopted by the Commission in accordance with Article 24 of Directive 2017/1132/EU and with Article 31a of this Directive.

Member States shall ensure that the information referred to in paragraph 1 of this Article is available through the system of interconnection of registers established by Article 22(1) of Directive 2017/1132/EU, in accordance with Member States' national laws implementing paragraph 5, 5a and 6 of this Article.

The information referred to in paragraph 1 of this Article shall be available through the national registers and through the system of interconnection of registers for at least 5 years and no more than 10 years after the corporate or other legal entity has been struck off from the register. Member States shall cooperate among themselves and

with the Commission in order to implement the different types of access in accordance with this Article.";

(10) Article 31 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. Member States shall ensure that this Article applies to trusts and other types of legal arrangements, such as, inter alia, fiducie, certain types of Treuhand or fideicomiso when having a structure or functions similar to trusts. Member States shall identify the characteristics to determine where legal arrangements have a structure or functions similar to trusts with regard to such legal arrangements governed under their law.

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(s);
(b) the trustee(s);
(c) the protector(s) (if any);
(d) the beneficiaries or class of beneficiaries;
(e) any other natural person exercising ultimate control of the trust.";

Member States shall ensure that breaches of this Article are subject to effective, proportionate and dissuasive measures or sanctions.";

(aa) paragraph 2 is replaced by the following:

"2. Member States shall ensure that trustees or persons holding equivalent or similar positions in other types of legal arrangements as referred to in the first subparagraph of Article 31(1), disclose their status and provide the information referred to in paragraph 1 to obliged entities in a timely manner, where, as a trustee, the trustee forms a business relationship or carries out an occasional transaction above the thresholds set out in points (b), (c) and (d) of Article 11.";

(b) the following paragraph 3a is inserted:

"3a. Member States shall require, that the beneficial ownership information of express trust and other types of legal arrangements when having a structure or functions similar to trusts shall be held in a central beneficial ownership register set up by the Member State where the trustee of the trust or similar legal arrangement is established or resides.

Where the place of establishment or residence of the trustee of the trust or similar legal arrangement is outside the Union, the information referred to in paragraph 1 shall be held in a central register set up by the Member State where the trustee enters into a business relationship or acquires real estate in the name of the trust or similar legal arrangement.

Where the trustees of a trust or similar legal arrangement are established or reside in different Member States, or where the trustee of the trust or similar legal arrangement enters into multiple business relationships in the name of the trust or similar legal arrangement in different Member States, a certificate of proof of registration or an excerpt of the beneficial ownership information in a register held by one Member State may be considered as sufficient to consider the registration obligation fulfilled.";

(c) paragraph 4 is replaced by the following:

"4. Member States shall ensure that the information on the beneficial ownership of a trust or a similar legal arrangement 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;

(d) any person that files a written request in relation to a trust or similar legal arrangement which holds or owns a controlling interest in any corporate or other legal entity other than those referred to in Article 30(1), through direct or indirect

ownership, including through bearer shareholdings, or through control via other means.

The information accessible to persons and organisations referred to in points (c) and (d) of this paragraph shall consist of the name, the month and year of birth and the country of residence and nationality of the beneficial owner as defined in points (b) or (c) of Article 3(6), as well as nature and extent of beneficial interest held.

Member States may, under conditions to be determined in national law, provide for access of additional information enabling the identification of the beneficial owner, at least the date of birth or contact details, in accordance with data protection rules. Member States may allow for a wider access to the information held in the register in accordance with their national law.

Competent authorities granted access to the central register referred to in paragraph 3a shall be those public authorities with designated responsibilities for combating money laundering or terrorist financing, as well as tax authorities, supervisors of obliged entities and authorities that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing and seizing or freezing and confiscating criminal assets.";

(d) the following paragraph 4a is inserted:

"Member States may choose to make the information held in their national registers referred to in paragraph 3a available on the condition of online registration and the payment of a fee, which shall not exceed the administrative costs of making the information available, including costs to ensure the maintenance and developments of the register.";

(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 3a is adequate, accurate and current, and shall put in place mechanisms to this effect. These mechanisms shall include requiring obliged entities and, if appropriate and to the extent that this requirement does not interfere unnecessarily with their functions, competent authorities to report any discrepancies they find between the beneficial ownership information available in the central registers and the beneficial ownership information available to them. In case of reported discrepancies Member States shall ensure that appropriate actions will be taken to resolve the discrepancies in a timely manner and, if appropriate, that in the meantime a specific mention is included in the central register.";

(db) paragraph 7 is replaced by the following:

"7. Member States shall ensure that competent authorities and FIUs are able to provide the information referred to in paragraphs 1 and 3 to the competent authorities and to the FIUs of other Member States in a timely manner and free of charge.";

(e) the following paragraph 7a is inserted:

"7a. In exceptional circumstances to be laid down in national law, where the access referred to in points (b) (c) and (d) of paragraph 4 would expose the beneficial owner to disproportionate risk, risk of fraud, kidnapping, blackmail, extortion, harassment, 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. Member States shall ensure that these exemptions are granted upon a detailed evaluation of the exceptional nature of the circumstances. The rights to an administrative review of the exemption decision and to an effective judicial remedy shall be guaranteed. A Member State that has granted exemptions shall publish annual statistical data on the amount of exemptions granted and reasons stated and report the data to the Commission.

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

Where a Member State decides to establish an exemption in accordance with the first subparagraph, it shall not restrict access to information by competent authorities and FIUs.";

(f) paragraph 8 is deleted;

(g) paragraph 9 is replaced by the following:

"9. Member States shall ensure that the central registers referred to in paragraph 3a of this Article are interconnected via the European Central Platform established by Article 22(1) of Directive 2017/1132/EU. The connection of the Member States' central registers to the platform shall be set up in accordance with the technical specifications and procedures established by implementing acts adopted by the Commission in accordance with Article 24 of Directive 2017/1132/EU.

Member States shall ensure that the information referred to in paragraph 1 of this Article is available through the system of interconnection of registers established by Article 22(2) of Directive 2017/1132/EU, in accordance with Member States' national laws implementing paragraphs 4 and 5 of this Article.

Member States shall take adequate measures to ensure that only the information referred to in paragraph 1 that is up to date and corresponds to the actual beneficial ownership is made available through their national registers and through the system of interconnection of registers, and the access to that information shall be in accordance with data protection rules.

The information referred to in paragraph 1 of this Article shall be available through the national registers and through the system of interconnection of registers for at least 5 years and no more than 10 years after the beneficial ownership information of the legal arrangement referred to in paragraph 1 has been struck off from the register. Member States shall cooperate with the Commission in order to implement the different types of access in accordance with paragraphs 4 and 4a of this Article.";

(h) the following paragraph 10 is added:

10. Member States shall notify to the Commission the categories, description of the characteristics, names and where applicable legal basis of the trusts and legal arrangements referred to in paragraph 1 within 12 months from the entry into force of this Directive and upon expiry of that period the Commission should publish within 2 months in the Official Journal of the European Union the consolidated list of such trusts and legal arrangements having a structure or functions similar to trusts.

By 26 June 2020, the Commission shall submit a report to the European Parliament and to the Council assessing whether all trusts and legal arrangements which have a structure or functions similar to trusts governed under the law of Member States were duly identified and made subject to the obligations as set out in this Directive. Where appropriate, the Commission shall take the necessary steps to act upon the findings of that report. ";

(10a) the following Article 31a is inserted:

"*Article 31a*

Implementing acts

Where necessary in addition to the implementing acts adopted by the Commission in accordance with Article 24 of Directive 20017/1132/EU and in conformity with the scope of Article 30 and 31 of this Directive, the Commission shall adopt by means of implementing acts technical specifications and procedures necessary to provide for the interconnection of Member States' central registers as referred to in Article 30(10) and Article 31(9), with regard to:

(a) the technical specification defining the set of the technical data necessary for the platform to perform its functions as well as the method of storage, use and protection of such data ;

(b) the common criteria according to which beneficial ownership information is available through the system of interconnection of registers, depending on the level of access granted by Member States;

(c) the technical details on how the information on beneficial owners is to be made available;

(d) the technical conditions of availability of services provided by the system of interconnection of registers;

(e) the technical modalities how to implement the different types of access to information on beneficial ownership based on Article 30, paragraph 5, and Article 31, paragraph 4;

(f) the payment modalities where access to information on beneficial ownership is subject to the payment of a fee according to Article 30(5a) and 31(4a) taking into account available payment facilities such as remote payment transactions.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64a(2).

The Commission should in its implementing acts strive to reuse already proven technology and routines. The Commission should ensure that the systems to be developed should not incur costs above what is absolutely necessary in order to implement the provisions of this Directive. The Commission's implementing acts should be characterized by transparency and the exchange of experiences and information between the Commission and the Member States.";

(11) Article 32 is amended as follows:

(a) ***deleted***

(b) the following paragraph 9 is added:

"9. Without prejudice to Articles 34(2), in the context of its functions, each FIU shall be able to request, obtain and use information from any obliged entity for the purpose set in paragraph 1 of this Article, even if no prior report is filed pursuant to Article 33(1)(a) or Article 34(1).";

(12) the following Article 32a is inserted:

"*Article 32a*

1. Member States shall put in place centralised automated mechanisms, such as central registries or central electronic data retrieval systems, which allow the identification, in a timely manner, of any natural or legal persons holding or controlling payment accounts and bank accounts identified by IBAN, and safe deposit boxes held by a credit institution[1] within their territory. Member States shall notify the Commission of the characteristics of those national mechanisms.

2. Member States shall ensure that the information held in the centralised mechanisms referred to in paragraph 1 is directly accessible in an immediate and unfiltered way to national FIUs, The information shall also be accessible to national competent authorities for fulfilling their obligations under this Directive. Member States shall ensure that any FIU is able to provide information held in the centralised mechanisms referred to in paragraph 1 to any other FIUs in a timely manner in accordance with Article 53.

3. The following information shall be accessible and searchable through the centralised mechanisms referred to in paragraph 1:

– for the customer-account holder and any person purporting to act on behalf of the customer: the name, complemented by either the other identification data required under the national provisions transposing Article 13(1) (a) or a unique identification number;

– for the beneficial owner of the customer-account holder: the name, complemented by either the other identification data required under the national provisions transposing Article 13(1)(b) or a unique identification number;

– for the bank or payment account: the IBAN number and the date of account opening and closing;

[1] Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L94, 30.03.2012, p. 28)

– for the safe deposit box: name of the lessee complemented by the other identification data required under the national provisions transposing Article 13 (1) or a unique identification number and the duration of the lease period.

3a. Member States may consider requiring other information deemed essential for FIUs and competent authorities for fulfilling their obligations under this Directive to be accessible and searchable through the centralised mechanisms.

3b. By [26 June 2020], the Commission shall submit a report to the European Parliament and to the Council assessing the conditions and the technical specifications and procedures for ensuring secure and efficient interconnection of the central automated mechanisms. Where appropriate, that report shall be accompanied by a legislative proposal. ";

(12a) the following Article 32b is inserted:

"*Article 32b*

1. Member States shall provide FIUs and competent authorities with access to information which allows the identification in a timely manner of any natural or legal persons owning real estate, including through registers or electronic data retrieval systems where such registers or systems are available.

2. By 31 December 2020, the Commission shall submit a report to the European Parliament and to the Council assessing the necessity and proportionality of harmonising the information included in the registers and assessing the need for the interconnection of those registers. Where appropriate, that report shall be accompanied by a legislative proposal.";

(13) in Article 33(1), point (b) is replaced by the following:

"(b) providing the FIU directly, at its request, with all necessary information.";

(13a) Article 34 is amended as follows:

(aa) the following paragraph 2a is added:

"2a. Self-regulatory bodies designated by Member States shall publish an annual report containing information about:

(a) measures taken under Articles 58, 59 and 60;

(b) number of reports of breaches received as referred to in Article 61, where applicable;

(c) number of reports received by the self-regulatory body as referred to in paragraph 1 and the number of reports forwarded by the self-regulatory body to the FIU where applicable;

(d) where applicable number and description of measures carried out under Article 47 and 48 to monitor compliance by obliged entities with their obligations under:

i. Articles 10 to 24 (customer due diligence);

ii. Articles 33, 34 and 35 (suspicious transaction reporting);

iii. Article 40 (record-keeping); and

iv. Articles 45 and 46 (internal controls)."

(13c) Article 38 is amended as follows:

(a) paragraph 1 is replaced by the following:

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

(aa) the following paragraph 1a is added:

"1a. Member States shall ensure that individuals who are exposed to threats, hostile actions, or adverse or discriminatory employment actions for reporting suspicions of money laundering or terrorist financing internally or to the FIU are able to present a complaint in a safe manner to the respective competent authorities. Member States shall ensure that competent authorities, without any prejudice to the confidentiality of

the FIU, and shall have the right to an effective remedy to safeguard their rights under this paragraph."

(14) in Article 39, paragraph 3 is replaced by the following:

"3. The prohibition laid down in paragraph 1 shall not prevent disclosure between the credit institutions and financial institutions from the Member States provided that they belong to the same group, or between these entities and their branches and majority owned subsidiaries established in third countries, provided that these branches and majority-owned subsidiaries fully comply with the group-wide policies and procedures, including procedures for sharing information within the group, in accordance with Article 45 and that the group-wide policies and procedures comply with the requirements set out in this Directive.";

(15) in Article 40, paragraph 1 is amended as follows:

(a) points (a) and (b) are replaced by the following:

"(a) in the case of customer due diligence, a copy of the documents and information which are necessary to comply with the customer due diligence requirements laid down in Chapter II, including, where available, information obtained through electronic identification means, relevant trust services as set out in Regulation (EU) No 910/2014 or any other secure, remote or electronic, identification process regulated, recognised, approved or accepted by the relevant national authorities, for a period of five years after the end of the business relationship with their customer or after the date of an occasional transaction;

(b) the supporting evidence and records of transactions, consisting of the original documents or copies admissible in judicial proceedings under the applicable national law, which are necessary to identify transactions, for a period of five years after the end of a business relationship with their customer or after the date of an occasional transaction.";

(b) the following subparagraph is added:

"The retention period referred to in this paragraph, including the further retention period that shall not exceed five additional years, shall also apply in respect of the data accessible through the centralised mechanisms referred to in Article 32a.";

(15a) Article 43 is replaced by the following:

"The processing of personal data on the basis of this Directive for the purposes of the prevention of money laundering and terrorist financing as referred to in Article 1 shall be considered to be a matter of public interest under Regulation (EU) 2016/679."

(15b) Article 44 is amended as follows:

(a) paragraph 1 is replaced by the following:

“1. Member States shall, for the purposes of contributing to the preparation of risk assessment pursuant to Article 7, ensure that they are able to review the effectiveness of their systems to combat money laundering or terrorist financing by maintaining comprehensive statistics on matters relevant to the effectiveness of such systems.”

(b) in paragraph 2 , point (d) is replaced and points (e) and (f) are added:

"(d) data regarding the number of cross-border requests for information that were made, received, refused and partially or fully answered by the FIU, broken down by counterpart country.

(e) human resources allocated to competent authorities responsible for AML/CFT supervision as well as human resources allocated to the FIU to fulfil the tasks specified in Article 32.

(f) the number of on-site and off-site supervisory actions, the number of breaches identified on the basis of supervisory actions and sanctions/ administrative measures applied by supervisory authorities.”;

(c) paragraph 3 is replaced by the following:

“3. Member States shall ensure that a consolidated review of their statistics is published on an annual basis.”;

(d) paragraph 4 is replaced by the following:

"4. Member States shall transmit annually to the Commission the statistics referred to in paragraph 2. The Commission shall publish an annual report summarising and explaining the statistics referred to in paragraph 2, which has to be made available on its website."

(15c) Article 45 paragraph 4 is replaced by the following:

"4. The Member States and the ESAs shall inform each other of instances in which a third country´s law does not permit the implementation of the policies and procedures required under paragraph 1. In such cases, coordinated actions may be taken to pursue a solution. In the assessing which third countries do not permit the implementation of the policies and procedures required under paragraph 1, Member States and the ESAs shall take into account any legal constraints that may hinder proper implementation of those policies and procedures, including secrecy, data protection and other constraints limiting the exchange of information that may be relevant for that purpose.";

(16) in Article 47, paragraph 1 is replaced by the following:

"1. Member States shall ensure that providers of exchange services between virtual currencies and fiat currencies, and custodian wallet providers, are registered, that currency exchange and cheque cashing offices, and trust or company service providers are licensed or registered, and that providers of gambling services are regulated.";

(16a) Article 48 is amended as follows

(a) the following paragraph 1a is inserted:

"1a. In order to facilitate and promote effective cooperation, and in particular the exchange of information, Member States shall communicate to the Commission the list of competent authorities of the obliged entities mentioned in Article 2(1), including their contact details. Member States shall ensure that the information provided to the Commission remains updated.

The Commission shall publish a register of those authorities and their contact details on its website. The authorities in the register shall, within the scope of their powers, serve as a contact point for the counterpart competent authorities of the other Member States. Financial supervisory authorities of the Member States shall also serve as contact point for the European Supervisory Authorities.

In order to ensure adequate enforcement of this Directive, Member States shall require that all obliged entities are subject to adequate supervision, including the powers to conduct on-site and off-site supervision, and to take appropriate and proportionate administrative measures to remedy the situation in case of breaches.";

(b) paragraph 2 is replaced by the following:

"2. 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, data protection and standards addressing conflicts of interest, and ensure that they are of high integrity and are appropriately skilled."

(c) paragraph (4) is replaced by the following:

"4. Member States shall ensure that competent authorities of the Member State in which the obliged entity operates establishments supervise that those establishments respect the national provisions of that Member State transposing this Directive.

In the case of credit and financial institutions that are part of a group, Member States shall ensure that, for the purposes laid down in the previous subparagraph, the competent authorities of the Member State where a parent undertaking is established cooperate with the competent authorities of the Member States where the establishments that are part of group are established.

In the case of the establishments referred to in Article 45(9), supervision may include the taking of appropriate and proportionate measures to address serious failings that require immediate remedies. Those measures shall be temporary and be terminated when the failings identified are addressed, including with the assistance of or in cooperation with the competent authorities of the home Member State of the obliged entity, in accordance with Article 45(2).";

(d) in paragraph 5, the following sub-paragraph is inserted:

"In the case of credit and financial institutions that are part of a group, Member States shall ensure that the competent authorities of the Member State where a parent undertaking is established supervise the effective implementation of the group-wide policies and procedures referred to in Article 45 (1). For that purpose, Member States shall ensure that the competent authorities of the Member State where credit and financial institutions part of the group are established cooperate with the competent authorities of the Member State where the parent undertaking is established.";

(17) Article 49 is replaced by the following:

"*Article 49*

Member States shall ensure that policy makers, the FIUs, supervisors and other competent authorities involved in AML/CFT, as well as tax authorities and law enforcement authorities when acting within the scope of this Directive, have effective mechanisms to enable them to cooperate and coordinate domestically concerning the development and implementation of policies and activities to combat money laundering and terrorist financing, including with a view to fulfilling their obligation under Article 7.";

(18) in Section 3 of Chapter VI, the following subsection IIa is added:

"Subsection IIa

Cooperation between competent authorities of the Member States

Article 50a

Member States shall not prohibit or place unreasonable or unduly restrictive conditions on the exchange of information or assistance between competent authorities for the purposes of this Directive. In particular Member States shall ensure that competent authorities do not refuse a request for assistance on the grounds that:

(a) the request is also considered to involve tax matters;

(b) national legislation requires obliged entities to maintain secrecy or confidentiality, except those cases where the relevant information that is sought is held in circumstances where protected by legal privilege or legal professional secrecy applies as described in Article 34(2);

(c) there is an inquiry, investigation or proceeding underway in the requested Member State, unless the assistance would impede that inquiry, investigation or proceeding;

(d) the nature or status of the requesting counterpart competent authority is different from that of the requested competent authority.";

(19) in Article 53, the first subparagraph of paragraph 1 is replaced by the following:

"1. Member States shall ensure that FIUs exchange, spontaneously or upon request, any information that may be relevant for the processing or analysis of information by the FIU related to money laundering or terrorist financing and the natural or legal person involved, regardless of the type of associated predicate offences and even if the type of associated predicate offences is not identified at the time of the exchange.";

(b) in the second subparagraph of paragraph 2, the second sentence is replaced by the following:

" That FIU shall obtain information in accordance with Article 33(1) and transfer the answers promptly.";

(19a) in Article 54, the following paragraph is added:

"1a. Member States shall ensure that FIUs designate at least one contact person or point to be responsible for receiving requests for information from FIUs in other Member States."

(20) In Article 55, paragraph 2 is replaced by the following:

"2. Member States shall ensure that the requested FIU's prior consent to disseminate the information to competent authorities is granted promptly and to the largest extent possible, regardless of the type of associated predicate offences. The requested FIU shall not refuse its consent to such dissemination unless this would fall beyond the scope of application of its AML/CFT provisions or could lead to impairment of an investigation, or would otherwise not be in accordance with fundamental principles of national law of that Member State. Any such refusal to grant consent shall be appropriately explained. Those exceptions shall be specified in a way which prevents misuse of, and undue limitations to, the dissemination to competent authorities.";

(21) Article 57 is replaced by the following:

"Article 57

Differences between national law definitions of predicate offences as referred in Article 3(4) shall not impede the ability of FIUs to provide assistance to another FIU and shall not limit the exchange, dissemination and the use of information pursuant to Articles 53, 54 and 55.";

(21a) In Section 3 of Chapter VI, the following subsection IIIa is added:

"Subsection IIIa

Cooperation between competent authorities supervising credit and financial institutions and other authorities bound by professional secrecy

Article 57a

1. Member States shall provide that all persons working for or who have worked for competent authorities supervising credit and financial institutions for compliance with this Directive and auditors or experts acting on behalf of such competent authorities shall be bound by the obligation of professional secrecy.

Confidential information which they receive in the course of their duties under this Directive may be disclosed only in summary or aggregate form, such that individual credit and financial institutions cannot be identified, without prejudice to cases covered by criminal law.

2.Paragraph 1 shall not prevent the exchange of information between:

- competent authorities supervising credit and financial institutions within a Member State in accordance with this Directive or other directives or regulations relating to the supervision of credit and financial institutions;

- competent authorities supervising credit and financial institutions in different Member States in accordance with this Directive or other directives or regulations relating to the supervision of credit and financial institutions, including the European Central Bank acting in accordance with Regulation 1024/2013. That exchange of information shall be subject to the conditions of professional secrecy indicated in paragraph 1.

By [OP please insert date: 6 months from entry into force of this amending Directive], the competent authorities supervising credit and financial institutions in accordance with this Directive and the European Central Bank, acting pursuant to Article 27(2) of Regulation 1024/2013 and Article 56 (1) (g) of Directive 2013/36, shall conclude, with the support of the European Supervisory Authorities, an agreement on the practical modalities for exchange of information.

3. Competent authorities supervising credit and financial institutions receiving confidential information as referred to in paragraph 1, shall only use this information:

- in the discharge of their duties under this Directive or under other directives or regulations in the field of AML/CFT, prudential regulation and supervising credit and financial institutions, including sanctioning;

- in an appeal against a decision of the competent authority supervising credit and financial institutions, including court proceedings;

- in court proceeding initiated pursuant to special provisions provided for in Union law adopted in the field of this Directive or in the field of prudential regulations and supervision of credit and financial institutions.

4. Member States shall ensure that competent authorities supervising credit and financial institutions cooperate with each other for the purposes of this Directive to the greatest extent possible, regardless of their respective nature or status. Such cooperation also includes the ability to conduct, within the powers of the requested competent authority, inquiries on behalf of a requesting competent authority, and the subsequent exchange of the information obtained through such inquiries.

5. Member States may authorize their national competent authorities supervising credit and financial institutions to conclude cooperation agreements providing for collaboration and exchanges of confidential information with the competent authorities of third countries that constitute counterparts of the national competent authorities supervising credit and financial institutions mentioned in paragraph 1. Such cooperation agreements shall be concluded on the basis of reciprocity and only if the information disclosed is subject to guarantees of professional secrecy at least equivalent to those referred to in paragraph 1. Confidential information exchanged according to these cooperation agreements shall be used for the purpose of performing the supervisory task of those authorities.

Where the exchanged information originates in another Member State, it shall only be disclosed with the explicit agreement of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their agreement.

Article 57b

1. Notwithstanding Article 57a (1) and (3) and without prejudice to Article 34(2), Member States may authorise exchange of information between competent authorities, in the same Member State or in a different Member State, between the competent authorities and authorities entrusted with the public duty of supervising financial sector entities and natural or legal persons acting in the exercise of their professional activities as referred to in Article 2(1)(3) of this Directive and the authorities responsible for the supervision of financial markets in the discharge of their respective supervisory functions.

The information received shall in any event be subject to professional secrecy requirements at least equivalent to those referred to in Article 57a (1).

2. Notwithstanding Article 57a (1) and (3), Member States may, by virtue of provisions laid down in national law, authorise the disclosure of certain information to other national authorities responsible for law on the supervision of the financial markets, or with designated responsibilities in the field of combating or investigation of money laundering, the associated predicate offences or terrorist financing.

However, confidential information exchanged according to paragraph 2 shall only be used for the purpose of performing the legal tasks of the authorities mentioned. Persons having access to such information shall be subject to professional secrecy requirements at least equivalent to those referred to in Article 57a (1).

3. Member States may authorise the disclosure of certain information relating to the supervision of credit institutions for compliance with this Directive to Parliamentary enquiry committees in their Member State, courts of auditors in their Member State and other entities in charge of enquiries in their Member State, under the following conditions:

(a) that the entities have a precise mandate under national law to investigate or scrutinise the actions of authorities responsible for the supervision of these institutions or for laws on such supervision;

(b) that the information is strictly necessary for fulfilling the mandate referred to in point (a);

(c) the persons with access to the information are subject to professional secrecy requirements under national law at least equivalent to those referred to in Article 57a (1);

(d) where the information originates in another Member State, that it is not disclosed without the express agreement of the competent authorities which have disclosed it and, solely for the purposes for which those authorities gave their agreement."

(21c) Article 58 is amended as follows:

(a) in paragraph (2), the following subparagraph is added:

“Member States shall further ensure that where their Competent Authorities identify breaches which are subject to criminal sanctions, they inform the law enforcement authorities in a timely manner.”

(21e) Article 61 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. Member States shall ensure that competent authorities, as well as, where applicable self-regulatory bodies, establish effective and reliable mechanisms to encourage the reporting to competent authorities, as well as, where applicable self-regulatory bodies, of potential or actual breaches of the national provisions transposing this Directive.

For this purpose they shall provide one or more secure communication channel for persons for the reporting referred to in the first subparagraph. Such channels shall ensure that the identity of persons providing information is known only to the competent authorities, as well as, where applicable, self-regulatory bodies.";

(b) in paragraph 3, the following subparagraph is added:

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

Member States shall ensure that individuals who are exposed to threats, hostile actions, or adverse or discriminatory employment actions for reporting suspicions of money laundering or terrorist financing internally or to the FIU are able to present a complaint in a safe manner to the respective competent authorities, without any prejudice to the confidentiality of the FIU, and shall have the right to effective remedy to safeguard their rights under this paragraph."

(21f) the following Article 64a is inserted:

"*Article 64a*

Committee procedure

1. The Commission shall be assisted by the Committee on the Prevention of Money Laundering and Terrorist Financing (the 'Committee') as referred to in Article 23 of Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006."

(21g) Article 65 is replaced by the following:

"*Article 65*

1. By [OJ please insert date: 2 years after the date of transposition of this amending Directive], and every three years thereafter, the Commission shall draw up a report on the implementation of this Directive and submit it to the European Parliament and to the Council.

That report shall include in particular:

(a) ***deleted***

(b) an account of specific measures adopted and mechanisms set up at Union and Member State level to prevent and address emerging and new developments presenting a threat to the Union financial system;

(c) follow-up actions undertaken at Union and Member State level on the basis of concerns brought to their attention, including complaints relating to national laws hampering the supervisory and investigative powers of competent authorities and self-regulatory bodies;

(d) an account of the availability of relevant information for the competent authorities and FIUs of the Member States, for the prevention of the use of the financial system for the purposes of money laundering and terrorist financing;

(e) an account of the international cooperation and information exchange between competent authorities and FIUs;

(f) an account of necessary Commission actions to verify that Member States take action in compliance with this Directive and to assess emerging problems or new developments in the Member States;

(g) an analysis of feasibility of specific measures and mechanisms at Union and Member State level on the possibilities to collect and access the beneficial ownership information of corporate and other legal entities incorporated outside of the Union and of the proportionality of the measures referred to in Article 20 paragraph 1 lit. b.

The report shall also include an evaluation of how fundamental rights and principles recognised by the Charter of Fundamental Rights of the European Union have been respected.

2. The report shall be accompanied, if necessary, by appropriate proposals, including, where appropriate, with respect to virtual currencies, empowerments to set-up and maintain a central database registering users' identities and wallet addresses accessible to FIUs, as well as self-declaration forms for the use of virtual currency users, and to improve cooperation between Asset Recovery Offices of the Member States and a risk-based application of the measures in Article 20 paragraph 1 lit. b.

3. By [date tbc – Dec 2018] the Commission shall assess the framework for FIUs' cooperation with third countries and obstacles and opportunities to enhance cooperation between FIUs in the Union including the possibility of establishing a coordination and support mechanism.

4. The Commission should issue a report to the European Parliament and Council to assess the need and proportionality of lowering the percentage for the identification of beneficial ownership of legal entities in light of any recommendation issued in this sense by international organisations and standard setters with competence in the field of preventing money laundering and terrorist financing as a result of a new assessment, and present a legislative proposal, if appropriate."

(22) ***deleted***

(23) ***deleted***

(24) Article 67(1) shall be replaced with the following:

"(1) Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 26 June 2017.

Member States shall set up the central beneficial ownership registers referred to in Articles 30 by 18 months after the date of entry into force of this amending Directive and Article 31 by 20 months after the date of entry into force of this amending Directive and the registries referred to in Article 32a by 26 months after the date of entry into force of Amending Directive

The Commission shall ensure the interconnection of registers referred to in Articles 30 and 31 in cooperation with the Member States by [32 months after the entry into force of this amending Directive]."

Member States shall immediately communicate the text of the measures referred to in this paragraph to the Commission.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.“;

(24a) in Annex II, the introductory part of point (3) is replaced by the following:

"(3) Geographical risk factors - registration, establishment, residence in: ";

(24b) in point (1) of Annex III, point (g) is added:

"(g) customer is a third country national who applies for residence rights or citizenship in the Member State in exchange of capital transfers, purchase of property or government bonds, or investment in corporate entities in that Member State.";

(25) in point (2) of Annex III, point (c) is replaced by the following and a point (f) is added:

"(c) non-face-to-face business relationships or transactions, without certain safeguards, such as electronic identification means, relevant trust services as defined in Regulation (EU) 910/2014 or any other secure, remote or electronic, identification process regulated, recognised, approved or accepted by the relevant national authorities;

(f) transactions related to oil, arms, precious metals, tobacco products, cultural artefacts and other items of archaeological, historical, cultural and religious importance, or rare scientific value, as well as ivory and protected species."

Article 2

Amendments to Directive 2009/101/EC

deleted

Article 2a

Amendments to Directive 2013/36/EC

In Article 56 in paragraph 1 the following point is added:

"(g) authorities responsible for supervising the obliged entities mentioned in Article 2, paragraph 1, (1) and (2) of Directive 2015/849 for compliance with that Directive."

Article 2b

Amendments to Directive 2009/138/EC

In Article 68 in paragraph 1 (b) the following point is added:

"(iv) authorities responsible for supervising the obliged entities mentioned in Article 2, paragraph 1, (1) and (2) of Directive 2015/849 for compliance with that Directive."

Article 3

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by X (18 months after entry into force)]. They shall immediately communicate the text of those measures to the Commission.

   Member States shall set up the central beneficial ownership registers referred to in Articles 30 by 18 months after the date of entry into force of this amending Directive and Article 31 by 20 months after the date of entry into force of this amending Directive and the registries referred to in Article 32a by 26 months after the date of entry into force of Amending Directive

   The Commission shall ensure the interconnection of registers referred to in Articles 30 and 31 in cooperation with the Member States by [32 months after the entry into force of this amending Directive].

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive(s) repealed by this Directive shall be construed as references to this Directive in case they are not updated. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 4

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 5

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg,

For the European Parliament	*For the Council*
The President	*The President*