



EUROPEAN PARLIAMENT

2009 - 2014

*Committee on Economic and Monetary Affairs
Committee on Civil Liberties, Justice and Home Affairs*

2013/0025(COD)

11.11.2013

*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council
on the prevention of the use of the financial system for the purpose of money
laundering and terrorist financing
(COM(2013)0045) – C7-0032/2013 – 2013/0025(COD))

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

Rapporteur: Krišjānis Kariņš, Judith Sargentini

(Joint committee meetings - Rule 51 of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing

(COM(2013)0045) – C7-0032/2013 – 2013/0025(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013/0045)),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0032/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Central Bank of 17 May 2013¹
 - having regard to the opinion of the European Economic and Social Committee²,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the joint deliberations of the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs under Rule 51 of the Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Development and the Committee on Legal Affairs and the (A7-0000/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the National Parliaments.

¹ OJ C 166, 12.6.2013, p. 2

² OJ C 271, 19.09.2013, p. 31

Amendment 1

Proposal for a directive Recital 1

Text proposed by the Commission

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

Amendment

(1) Massive flows of **illicit** money can damage the stability and reputation of the financial sector and threaten the single market, **as well as international development**, and terrorism shakes the very foundations of our society. **Crucial facilitators of illicit money flows are secretive corporate structures operating in and through secrecy jurisdiction, often also referred to as tax havens.** In addition to the criminal law approach, a preventive effort via the financial system can produce results. **However, the preventive approach should be targeted and proportional, and should not amount to an overall controlling system of the whole population.**

Or. en

Amendment 2

Proposal for a directive Recital 4

Text proposed by the Commission

(4) Money laundering and terrorist financing are frequently carried out in an international context. Measures adopted solely at national or even European Union level, without taking account of international coordination and cooperation, would have very limited effects. The measures adopted by the European Union in this field should therefore be consistent with other action undertaken in other

Amendment

(4) Money laundering and terrorist financing are frequently carried out in an international context. Measures adopted solely at national or even European Union level, without taking account of international coordination and cooperation, would have very limited effects. The measures adopted by the European Union in this field should therefore be consistent with other action undertaken in other

international fora. The European Union action should continue to take particular account of the Recommendations of the FATF, which constitutes the foremost international body active in the fight against money laundering and terrorist financing. With the view to reinforce the efficacy of the fight against money laundering and terrorist financing, Directives 2005/60/EC and 2006/70/EC should be aligned with the new FATF Recommendations adopted and expanded in February 2012.

international fora. The European Union action should continue to take particular account of the Recommendations of the FATF, which constitutes the foremost international body active in the fight against money laundering and terrorist financing. With the view to reinforce the efficacy of the fight against money laundering and terrorist financing, Directives 2005/60/EC and 2006/70/EC should be aligned with the new FATF Recommendations adopted and expanded in February 2012. ***However, such an alignment with the non-binding FATF Recommendations has to be carried out in full respect with the Union legal order, especially as regards Union data protection law and the protection of fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union.***

Or. en

Amendment 3

Proposal for a directive Recital 5

Text proposed by the Commission

(5) Furthermore, the misuse of the financial system to channel criminal or even clean money to terrorist purposes poses a clear risk to the integrity, proper functioning, reputation and stability of the financial system. Accordingly, the preventive measures of this Directive should cover ***not only*** the manipulation of money derived from ***crime but also*** the collection of money or property for terrorist purposes.

Amendment

(5) Furthermore, the misuse of the financial system to channel criminal or even clean money to terrorist purposes poses a clear risk to the integrity, proper functioning, reputation and stability of the financial system. Accordingly, the preventive measures of this Directive should cover the manipulation of money derived from ***serious crime and*** the collection of money or property for terrorist purposes.

Or. en

Amendment 4

Proposal for a directive Recital 9

Text proposed by the Commission

(9) It is important to expressly highlight that ‘tax crimes’ related to direct and indirect taxes are included in the **broad** definition of ‘criminal activity’ under this Directive in line with the revised FATF Recommendations.

Amendment

(9) It is important to expressly highlight that ‘tax crimes’ related to direct and indirect taxes are included in the definition of ‘criminal activity’ under this Directive in line with the revised FATF Recommendations.

Or. en

Amendment 5

Proposal for a directive Recital 10

Text proposed by the Commission

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

Amendment

(10) There is a need to identify any natural person who exercises ownership or control over a legal person. While finding a percentage shareholding will not automatically result in finding the beneficial owner, it **can be an aid to the identification of the beneficial owner**. Identification and verification of beneficial owners should, where relevant, extend to legal entities that own other legal entities, and should follow the chain of ownership until the natural person who exercises ownership or control of the legal person that is the customer is found.

Or. en

Amendment 6

Proposal for a directive Recital 11

Text proposed by the Commission

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

Amendment

(11) The need for accurate and up-to-date information on the beneficial owner ***of any legal entity and all other similar existing or future legal arrangements*** is a key factor in tracing criminals who might otherwise hide their identity behind a corporate structure. Member States should therefore ensure that companies retain information on their beneficial ownership and make this information available to competent authorities and obliged entities ***through registers in line with Union data protection rules. Member States may decide to grant access to the information to other parties besides competent authorities and obliged entities.*** In addition, trustees should declare their status to obliged entities.

Or. en

Amendment 7

**Proposal for a directive
Recital 11 a (new)**

Text proposed by the Commission

Amendment

(11a) The establishment of beneficial ownership registers by Member States would seriously boost the fight against money laundering, terrorist financing, corruption, tax crimes, fraud and other financial crimes. This could be achieved by improving the operations of the existing business registers in the Member States. The interconnectivity of registers is vital to make use of the information contained therein, due to the cross-border nature of business transactions. The interconnection of business registers across the Union is already set out in Directive 2012/17/EU of the European

Parliament and of the Council^{28a}.

^{28a} Directive 2012/17/EU of the European Parliament and of the Council of 13 June 2012 amending Council Directive 89/666/EEC and Directives 2005/56/EC and 2009/101/EC of the European Parliament and of the Council as regards the interconnection of central, commercial and companies register (OJ L 156, 16.6.2012, p. 1).

Or. en

Amendment 8

**Proposal for a directive
Recital 11 b (new)**

Text proposed by the Commission

Amendment

(11b) Technological progress has provided tools by which obliged entities can verify the identity of their customers when certain transactions occur. Such technological improvements provide time and cost-effective solutions to businesses and to customers and therefore should be taken into account when evaluating risk. Competent authorities of Member States and obliged entities should be proactive in combating new and innovative ways of money laundering, while respecting fundamental rights, including the right to privacy and data protection.

Or. en

Amendment 9

**Proposal for a directive
Recital 13**

Text proposed by the Commission

(13) The use of the gambling sector to launder the proceeds of criminal activity is of concern. In order to mitigate the risks related to the sector and to provide parity amongst the providers of gambling services, an obligation for all providers of gambling services to conduct customer due diligence for single transactions of EUR 2 000 or more should be laid down. Member States should consider applying this threshold to the collection of winnings as well as wagering a stake. Providers of gambling services ***with physical premises (e.g. casinos and gaming houses)*** should ensure that customer due diligence, if it is taken at the point of entry ***to the premises***, can be linked to the transactions conducted by the customer ***on those premises***.

Amendment

(13) The use of the gambling sector to launder the proceeds of criminal activity is of concern. In order to mitigate the risks related to the sector and to provide parity amongst the providers of gambling services, an obligation for all providers of gambling services to conduct customer due diligence for single transactions of EUR 2 000 or more should be laid down. Member States should consider applying this threshold to the collection of winnings as well as wagering a stake. Providers of gambling services should ensure that customer due diligence, if it is taken at the point of entry can be linked to the transactions conducted by the customer.

Or. en

Amendment 10

**Proposal for a directive
Recital 15**

Text proposed by the Commission

(15) Underpinning the risk-based approach is a need for Member States to identify, understand and mitigate the money laundering and terrorist financing risks it faces. The importance of a supra-national approach to risk identification has been recognised at international level, and the European Supervisory Authority (European Banking Authority) (hereinafter 'EBA'), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and

Amendment

(15) Underpinning the risk-based approach is a need for Member States ***and the Union*** to identify, understand and mitigate the money laundering and terrorist financing risks it faces. The importance of a supra-national approach to risk identification has been recognised at international level, and the European Supervisory Authority (European Banking Authority) (hereinafter 'EBA'), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and

repealing Commission Decision 2009/78/EC²⁹ ; the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (hereinafter ‘EIOPA’), established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC³⁰ ; and the European Supervisory Authority (European Securities and Markets Authority) (hereinafter ‘ESMA’), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC³¹ , should be tasked with issuing an opinion on the risks affecting the financial sector.

²⁹ OJ L 331, 15.12.2010, p. 12.

³⁰ OJ L 331, 15.12.2010, p. 48.

³¹ OJ L 331, 15.12.2010, p. 84.

repealing Commission Decision 2009/78/EC²⁹ ; the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (hereinafter ‘EIOPA’), established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC³⁰ ; and the European Supervisory Authority (European Securities and Markets Authority) (hereinafter ‘ESMA’), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC³¹ , should be tasked with issuing an opinion on the risks affecting the financial sector.

²⁹ OJ L 331, 15.12.2010, p. 12.

³⁰ OJ L 331, 15.12.2010, p. 48.

³¹ OJ L 331, 15.12.2010, p. 84.

Or. en

Amendment 11

Proposal for a directive Recital 16

Text proposed by the Commission

(16) The results of risk assessments **at Member State level** should, where appropriate, be made available to obliged entities to enable them to identify,

Amendment

(16) The results of risk assessments should, where appropriate, be made available **in a timely manner** to obliged entities to enable them to identify, understand and mitigate

understand and mitigate their own risks.

their own risks.

Or. en

Amendment 12

Proposal for a directive Recital 17

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 13

Proposal for a directive Recital 21

Text proposed by the Commission

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

Amendment

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

Amendment 14

Proposal for a directive

Recital 25

Text proposed by the Commission

(25) All Member States have, or should, set up financial intelligence units (hereinafter referred to as FIUs) 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. Suspicious transactions should be reported to the FIUs, which should serve as a national centre for receiving, analysing and disseminating to the competent authorities suspicious transaction reports and other information regarding potential money laundering or terrorist financing. This should not compel Member States to change their existing reporting systems where the reporting is done through a public prosecutor or other law enforcement authorities, as long as the information is forwarded promptly and unfiltered to FIUs, allowing them to perform their tasks properly, including international cooperation with other FIUs.

Amendment

(25) All Member States have, or should, set up financial intelligence units (hereinafter referred to as FIUs) 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. Suspicious transactions should be reported to the FIUs, which should serve as a national centre for receiving, analysing and disseminating to the competent authorities suspicious transaction reports and other information regarding potential money laundering or terrorist financing. This should not compel Member States to change their existing reporting systems where the reporting is done through a public prosecutor or other law enforcement authorities, as long as the information is forwarded promptly and unfiltered to FIUs, allowing them to perform their tasks properly, including international cooperation with other FIUs.

It is important that Member States provide FIUs with the necessary resources to ensure their full operational capacity to deal with the current challenges posed by money laundering and terrorist financing, while respecting fundamental rights, including the right to privacy and data protection.

Amendment 15

Proposal for a directive Recital 29

Text proposed by the Commission

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

Amendment

(29) There have been a number of cases of ***individuals, including*** employees ***and representatives*** who report their suspicions of money laundering being subjected to threats or hostile action. Although this Directive cannot interfere with Member States' judicial procedures, this is a crucial issue for the effectiveness of the anti-money laundering and anti-terrorist financing system. Member States should be aware of this problem and should do whatever they can to protect ***individuals, including*** employees ***and representatives*** from such threats or hostile action, ***as well as other adverse treatment or adverse consequence.***

Or. en

Amendment 16

Proposal for a directive Recital 30 a (new)

Text proposed by the Commission

Amendment

(30a) Regulation (EC) No 45/2001 of the European Parliament and of the Council^{32a} is applicable to the processing of personal data by the Union institutions and bodies for the purposes of this Directive.

^{32a} 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).

Or. en

Amendment 17

Proposal for a directive Recital 31

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 18

Proposal for a directive Recital 34

Text proposed by the Commission

(34) The rights of access of the data subject are applicable to the personal data processed for the purpose of this Directive. However, access by the data subject to information contained in a suspicious transaction report would seriously undermine the effectiveness of the fight against money laundering and terrorist financing. Limitations to this right in accordance with the rules laid down in Article 13 of Directive 95/46/EC may therefore be justified.

Amendment

(34) The rights of access of the data subject are applicable to the personal data processed for the purpose of this Directive. However, access by the data subject to information contained in a suspicious transaction report would seriously undermine the effectiveness of the fight against money laundering and terrorist financing. Limitations to this right in accordance with the rules laid down in Article 13 of Directive 95/46/EC may therefore be justified. ***However, such limitations have to be counterbalanced by effective powers of data protection authorities, including the indirect access powers, as laid down in Directive 95/46/EC to investigate, either ex officio or based on a complaint, any claims as regards problems with personal data processing. This should include particularly access to the data file at the obliged entity.***

Or. en

Amendment 19

**Proposal for a directive
Recital 37**

Text proposed by the Commission

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

Amendment

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

Commission should keep track of the EU-wide situation with respect to the fight against money laundering and terrorist financing and publish regular overviews.

Commission should keep track of the EU-wide situation with respect to the fight against money laundering and terrorist financing and publish regular overviews.
The Commission should also include in its overviews an evaluation of national risk assessments. The first overview by the Commission should be carried out within one year from the date of entry into force of this Directive.

Or. en

Amendment 20

Proposal for a directive Recital 37 a (new)

Text proposed by the Commission

Amendment

(37a) Member States should ensure that obliged entities not only comply with the relevant rules and guidelines, but also have systems in place that actually minimise the risks of money laundering within those entities.

Or. en

Amendment 21

Proposal for a directive Recital 37 b (new)

Text proposed by the Commission

Amendment

(37b) To be able to review the effectiveness of their systems to combat money laundering and terrorist financing, Member States should keep and improve the relevant statistics. To further enhance the quality and consistency of the statistical data collected at Union level, the Commission should keep track of the

EU-wide situation with respect to the fight against money laundering and terrorist financing and publish regular overviews.

Or. en

Amendment 22

Proposal for a directive Recital 46

Text proposed by the Commission

(46) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular, the respect for private and family life, the right to protection of personal data, the freedom to conduct a business, the prohibition of discrimination, the right to an effective remedy and to a fair trial, and the right of defence.

Amendment

(46) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular, the respect for private and family life, the ***presumption of innocence, the*** right to protection of personal data, the freedom to conduct a business, the prohibition of discrimination, the right to an effective remedy and to a fair trial, and the right of defence.

Or. en

Amendment 23

Proposal for a directive Recital 48 a (new)

Text proposed by the Commission

Amendment

(48 a) Member States and obliged entities, when applying this directive or national law implementing this directive, are bound by Council Directive 2000/43/EC^{33a}.

^{33a} Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons

irrespective of racial or ethnic origin (OJ L 180, 19.7.2000, p. 22).

Or. en

Amendment 24

Proposal for a directive

Article 2 – paragraph 1 – point 3 – point b – point v

Text proposed by the Commission

(v) creation, operation or management of trusts, companies or similar structures;

Amendment

(v) creation, operation or management of trusts, ***foundations, mutuals***, companies or similar structures;

Or. en

Amendment 25

Proposal for a directive

Article 3 – paragraph 1 – point 4 – point f

Text proposed by the Commission

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

Amendment

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

This linguistic change is proposed to align in particular the English language version with other language versions making clear that criminal law tax offences are addressed.

Or. en

Amendment 26

Proposal for a directive

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

Text proposed by the Commission

Amendment

(4a) "self-regulatory body" means a body that has power, recognised by national law, to establish the obligations and rules governing a certain profession or a certain field of economic activity, which must be complied with by natural or legal persons in that profession or field;

Or. en

Amendment 27

Proposal for a directive

Article 3 – paragraph 1 – point 5 – point b – introductory part

Text proposed by the Commission

Amendment

(b) in the case of legal entities, such as foundations, and legal arrangements, such as trusts, which administer and distribute funds:

(b) in the case of legal entities, such as foundations, and legal arrangements, such as trusts ***or mutuals***, which administer and distribute funds:

Or. en

Amendment 28

Proposal for a directive

Article 3 – paragraph 1 – point 5 – point b – point iii a (new)

Text proposed by the Commission

Amendment

(iiia) where no natural person is identified under point (i) or (ii), the natural person(s) who holds the position of senior managing official. In this case, obliged entities must keep records of the actions taken in order to identify the beneficial ownership under point (i) and (ii) in order

*to be able to justify the lack of
identification of such persons;*

Or. en

Amendment 29

Proposal for a directive

Article 3 – paragraph 1 – point 7 – point d – point ii

Text proposed by the Commission

Amendment

(ii) members of parliaments;

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

Or. en

Amendment 30

Proposal for a directive

Article 3 – paragraph 1 – point 7 – point d – point vi

Text proposed by the Commission

Amendment

(vi) members of the administrative,
management or supervisory bodies of State
owned enterprises.

(vi) *senior* members of the administrative,
management or supervisory bodies of State
owned enterprises.

Or. en

Amendment 31

Proposal for a directive

Article 3 – paragraph 1 – point 7 – point e – point iii

Text proposed by the Commission

Amendment

*(iii) the children and their spouses or
partners;*

deleted

Or. en

Amendment 32

Proposal for a directive

Article 3 – paragraph 1 – point 7 – point e – point iv

Text proposed by the Commission

Amendment

(iv) the parents;

deleted

Or. en

Amendment 33

Proposal for a directive

Article 3 – paragraph 1 – point 7 – point f – point ii

Text proposed by the Commission

Amendment

(ii) any natural person who has *sole* beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in points (7)(a) to (7)(d) above;

(ii) any natural person who has beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in points (7)(a) to (7)(d) above;

Or. en

Amendment 34

Proposal for a directive

Article 5 – paragraph 1

Text proposed by the Commission

Amendment

1: The Member States may adopt or retain in force stricter provisions in the field covered by this Directive to prevent money laundering and terrorist financing.

1: The Member States may adopt or retain in force stricter provisions in the field covered by this Directive to prevent money laundering and terrorist financing, *provided that such provisions are in full compliance with the Union legal order, especially as regards Union data protection rules and the protection of fundamental rights as enshrined in the*

Amendment 35

Proposal for a directive

Article 6 – paragraph 1 – subparagraph 1

Text proposed by the Commission

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

Amendment

The **Commission shall produce an assessment on the money laundering and terrorist financing risks affecting the internal market. In order to produce such assessment, the Commission will consult the Member States, the** European Banking Authority (hereinafter "**EBA**"), the European Insurance and Occupational Pensions Authority (hereinafter "**EIOPA**"), the European Securities and Markets Authority (hereinafter "**ESMA**"), **the EDPS, Article 29 Working Party, Europol and other relevant authorities.**

Or. en

Amendment 36

Proposal for a directive

Article 6 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The **opinion** shall be provided within **2 years** from the date of entry into force of this Directive.

Amendment

The **assessment** shall be provided within **one year** from the date of entry into force of this Directive.

Or. en

Amendment 37

Proposal for a directive Article 6 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The assessment referred to in paragraph 1 shall consist of at least an overall evaluation of the extent of money laundering, the risks associated to each relevant sector, the most widespread means used by criminals to launder illicit proceeds, and the recommendations to the competent authorities on the effective deployment of resources.

Or. en

Amendment 38

Proposal for a directive Article 6 – paragraph 2

Text proposed by the Commission

Amendment

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

2. The Commission shall make the ***assessment*** available to assist Member States and obliged entities to identify, manage and mitigate the risk of money laundering and terrorist financing, ***and to allow other stakeholders including legislators to better understand the risks. A summary of the assessment shall be publicly available. That summary shall not contain classified information.***

Or. en

Amendment 39

Proposal for a directive Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The assessment shall be provided on a biannual basis, or more often, if necessary.

Or. en

Amendment 40

Proposal for a directive Article 7 – paragraph 1

Text proposed by the Commission

Amendment

1. Each Member State shall take appropriate steps to identify, assess, understand and mitigate the money laundering and terrorist financing risks affecting it, and keep the assessment up-to-date.

1. Each Member State shall take appropriate steps to identify, assess, understand and mitigate the money laundering and terrorist financing risks affecting it, ***as well as data protection concerns in that regard***, and keep the assessment up-to-date.

Or. en

Amendment 41

Proposal for a directive Article 7 – paragraph 4 – point c

Text proposed by the Commission

Amendment

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

(c) make appropriate information available to obliged entities ***in a timely manner*** to carry out their own money laundering and terrorist financing risk assessments.

Or. en

Amendment 42

Proposal for a directive Article 7 – paragraph 5

Text proposed by the Commission

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

Amendment

5. Member States shall make the results of their risk assessments available to the other Member States, the Commission, and EBA, EIOPA and ESMA upon request. ***A summary of the assessment shall be publicly available. That summary shall not contain classified information.***

Or. en

Amendment 43

Proposal for a directive Article 8 – paragraph 2

Text proposed by the Commission

2. The assessments referred to in paragraph 1 shall be documented, kept up to date and be made available to competent authorities and self-regulatory bodies.

Amendment

2. The assessments referred to in paragraph 1 shall be documented, kept up to date and be made available to competent authorities and self-regulatory bodies ***upon request.***

Or. en

Amendment 44

Proposal for a directive Article 8 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that obliged entities have policies, controls and procedures to mitigate and manage effectively the money laundering and terrorist financing risks identified at Union level, Member State level, and at the level of obliged entities. Policies, controls and

Amendment

3. Member States shall ensure that obliged entities have policies, controls and procedures to mitigate and manage effectively the money laundering and terrorist financing risks identified at Union level, Member State level, and at the level of obliged entities. Policies, controls and

procedures should be proportionate to the nature and size of those obliged entities.

procedures should be proportionate to the nature and size of those obliged entities *and respect data protection rules.*

Or. en

Amendment 45

Proposal for a directive

Article 8 – paragraph 4 – point b a (new)

Text proposed by the Commission

Amendment

(ba) effective access of data protection authorities as regards the security of the processing and accuracy of personal data, either ex officio or based on a complaint of the person concerned, in accordance with Directive 95/46/EC.

Or. en

Amendment 46

Proposal for a directive

Article 11 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) *identifying* the beneficial owner *and* taking reasonable measures to verify his identity so that the institution or person covered by this Directive is satisfied that it knows who the beneficial owner is, including, as regards legal persons, trusts *and* similar legal arrangements, taking *reasonable* measures to understand the ownership and control structure of the customer;

(b) *further to the identification of* the beneficial owner *as listed in a register pursuant to Article 29*, taking reasonable measures to verify his identity so that the institution or person covered by this Directive is satisfied that it knows who the beneficial owner is, including, as regards legal persons, trusts, *foundations, mutuals, holdings and all other* similar *existing or future* legal arrangements, taking *all necessary* measures to understand the ownership and control structure of the customer;

Or. en

Amendment 47

Proposal for a directive Article 11 – paragraph 1 – point d

Text proposed by the Commission

(d) conducting ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's or person's knowledge of the customer, the business and risk profile, including, *where necessary*, the source of funds and ensuring that the documents, data or information held are kept up-to-date.

Amendment

(d) conducting ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's or person's knowledge of the customer, the business and risk profile, including the source of funds and ensuring that the documents, data or information held are kept up-to-date.

Or. en

Amendment 48

Proposal for a directive Article 11 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Obligated entities shall inform the person concerned of the possible use of the personal data for money laundering prevention purposes before the collection of that data. Processing sensitive categories of data shall be done in accordance with Directive 95/46/EC.

Or. en

Amendment 49

Proposal for a directive Article 12 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States shall require the obliged entities to allow effective access and intervention powers of data protection authorities in accordance with Directive 95/46/EC as regards the processing operations of personal data carried out for the purposes of preventing money laundering.

Or. en

Amendment 50

Proposal for a directive Article 14

Text proposed by the Commission

When assessing the money laundering and terrorist financing risks relating to types of customers, countries or geographic areas, and particular products, services, transactions or delivery channels, Member States and obliged entities shall take into account at least the factors ***of*** potentially lower risk situations set out in Annex II.

Amendment

When assessing the money laundering and terrorist financing risks relating to types of customers, countries or geographic areas, and particular products, services, transactions or delivery channels, Member States and obliged entities shall take into account at least the factors ***relating to customer and product, service, transaction or delivery channel as*** potentially lower risk situations set out in Annex II.

Or. en

Amendment 51

Proposal for a directive Article 15 – paragraph 1

Text proposed by the Commission

EBA, EIOPA and ESMA shall issue guidelines addressed to competent

Amendment

EBA, EIOPA and ESMA shall issue guidelines addressed to competent

authorities and the obliged entities referred to in Article 2(1)(1) and (2) in accordance with Article 16 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010, and of Regulation (EU) No 1095/2010, on the risk factors to be taken into consideration and/or the measures to be taken in situations where simplified due diligence measures are appropriate. Specific account should be taken of the nature and size of the business, and where appropriate and proportionate, specific measures should be foreseen. These guidelines shall be issued within **2 years** of the date of entry into force of this Directive.

authorities and the obliged entities referred to in Article 2(1)(1) and (2) in accordance with Article 16 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010, and of Regulation (EU) No 1095/2010, on the risk factors to be taken into consideration and/or the measures to be taken in situations where simplified due diligence measures are appropriate. Specific account should be taken of the nature and size of the business, and where appropriate and proportionate, specific measures should be foreseen. These guidelines shall be issued within **one year** of the date of entry into force of this Directive.

Or. en

Amendment 52

Proposal for a directive Article 16 – paragraph 2

Text proposed by the Commission

2. Member States shall require obliged entities to examine, ***as far as reasonably possible***, the background and purpose of all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or lawful purpose. In particular, they shall increase the degree and nature of monitoring of the business relationship, in order to determine whether those transactions or activities appear unusual or suspicious.

Amendment

2. Member States shall require obliged entities to examine, the background and purpose of all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or lawful purpose, ***or which constitute tax offences within the meaning of Article 3(4)(f)***. In particular, they shall increase the degree and nature of monitoring of the business relationship, in order to determine whether those transactions or activities appear unusual or suspicious.

Or. en

Amendment 53

Proposal for a directive Article 16 – paragraph 3

Text proposed by the Commission

3. When assessing the money laundering and terrorist financing risks, Member States and obliged entities shall take into account at least the factors *of* potentially higher-risk situations set out in Annex III.

Amendment

3. When assessing the money laundering and terrorist financing risks, Member States and obliged entities shall take into account at least the factors *relating to customer and product, service, transaction or delivery channel as* potentially higher-risk situations set out in Annex III.

Or. en

Amendment 54

Proposal for a directive Article 16 – paragraph 4

Text proposed by the Commission

4. EBA, EIOPA and ESMA shall issue guidelines addressed to competent authorities and the obliged entities referred to Article 2(1)(1) and (2) in accordance with Article 16 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010, and of Regulation (EU) No 1095/2010 on the risk factors to be taken into consideration and/or the measures to be taken in situations where enhanced due diligence measures need to be applied. Those guidelines shall be issued within **2 years** of the date of entry into force of this Directive.

Amendment

4. EBA, EIOPA and ESMA shall issue guidelines addressed to competent authorities and the obliged entities referred to Article 2(1)(1) and (2) in accordance with Article 16 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010, and of Regulation (EU) No 1095/2010 on the risk factors to be taken into consideration and/or the measures to be taken in situations where enhanced due diligence measures need to be applied. Those guidelines shall be issued within **one year** of the date of entry into force of this Directive.

Or. en

Amendment 55

Proposal for a directive Article 19 a (new)

Text proposed by the Commission

Amendment

Article 19 a

The Commission, in cooperation with Member States and international organisations, shall draw a list of domestic politically exposed persons and persons - residents of the Member States, who are or have been entrusted with a prominent function by an international organisation. The list shall be accessible by competent authorities and by obliged entities.

The Commission shall notify the person concerned of the placement and the removal from the list.

The requirements stipulated in this Article shall not exempt obliged entities from their customer due diligence obligations, and obliged entities shall not rely exclusively on that information as sufficient to fulfil those obligations.

Or. en

Amendment 56

Proposal for a directive Article 21 – paragraph 1

Text proposed by the Commission

Amendment

The measures referred to in Articles 18, 19 and 20 shall also apply to family members or persons ***known to be*** close associates of such politically exposed persons.

The measures referred to in Articles 18, 19 and 20 ***with the exception of Article 19a*** shall also apply to family members or persons ***that evidence indicates are*** close associates of such politically exposed persons.

Or. en

Amendment 57

Proposal for a directive Article 22 – paragraph 1

Text proposed by the Commission

Where a person referred to in Articles 18, 19 and 20 has ceased to be entrusted with a prominent public function by a Member State or a third country or with a prominent function by an international organisation, obliged entities shall be required to consider the continuing risk posed by that person and to apply such appropriate and risk-sensitive measures until such time as that person is deemed to pose no further risk. This period of time shall not be less than **18** months.

Amendment

Where a person referred to in Articles 18, 19 and 20 has ceased to be entrusted with a prominent public function by a Member State or a third country or with a prominent function by an international organisation, obliged entities shall be required to consider the continuing risk posed by that person and to apply such appropriate and risk-sensitive measures until such time as that person is deemed to pose no further risk. This period of time shall not be less than **12** months.

Or. en

Amendment 58

Proposal for a directive Article 27 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

(c) the effective implementation of requirements referred to in point (b) is supervised at group level by a **home** competent authority ***in cooperation with host competent authorities***.

Or. en

Amendment 59

Proposal for a directive Article 27 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. EBA, EIOPA and ESMA shall issue guidelines on the implementation of the supervisory regime by the competent authorities in the relevant Member States for group entities to ensure coherent and effective group level supervision. Those guidelines shall be issued within one year of the date of entry into force of this Directive.

Or. en

Amendment 60

Proposal for a directive Article 29 – paragraph 1

Text proposed by the Commission

Amendment

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

1. Member States shall ensure that ***entities having legal personality, and all other similar, in terms of structure or function, existing or future legal arrangements*** established ***or incorporated*** within their territory, ***or governed under their law*** obtain, ***hold and transmit to a register*** adequate, accurate and current information on their beneficial ownership, ***at the moment of establishment or any changes thereof.***

The register shall contain the minimum information to clearly identify the beneficial owner.

The requirements stipulated in this paragraph shall not exempt obliged entities from their customer due diligence obligations, and obliged entities shall not rely exclusively on this information as sufficient to fulfil these obligations.

Or. en

Amendment 61

Proposal for a directive Article 29 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Regarding trusts or other types of legal entities and arrangements with a similar structure and function, the information shall also include the identity of the settlor, of the trustee(s), of the protector (if relevant), of the beneficiaries or class of beneficiaries, and of any other natural person exercising effective control over the trust. Member States shall ensure that trustees disclose their status to obliged entities when, as a trustee, the trustee forms a business relationship or carries out an occasional transaction above the threshold set out in Article 10(b), (c) and (d).

Or. en

Amendment 62

Proposal for a directive Article 29 – paragraph 2

Text proposed by the Commission

Amendment

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

2. Member States shall ensure that the information referred to in ***paragraphs 1 and 1a is displayed in a register*** in a timely, ***comprehensive and comprehensible*** manner. ***Any changes to the information required shall be clearly indicated in the register without delay and at the latest within 30 days.***

Or. en

Amendment 63

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

Text proposed by the Commission

Amendment

2a. The information referred to in paragraphs 1 and 1a of this Article shall be accessible by competent authorities and by obliged entities in a timely manner. Member States may grant access to the information to other parties and establish rules based on which the register can be accessed.

Or. en

Amendment 64

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

Text proposed by the Commission

Amendment

2b. Registers referred to in paragraph 1 of this Article shall be interconnected and accessible by competent authorities and obliged entities from other Member States.

Or. en

Amendment 65

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

Text proposed by the Commission

Amendment

2c. Member States shall rapidly, constructively and effectively provide international cooperation in relation to company information, including

beneficial ownership information.

Or. en

Amendment 66

Proposal for a directive Article 30

Text proposed by the Commission

Amendment

Article 30

deleted

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

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

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

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

Or. en

Amendment 67

Proposal for a directive Article 31 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 68

Proposal for a directive Article 31 – paragraph 4

Text proposed by the Commission

4. Member States shall ensure that the FIU has access, directly or indirectly, on a timely basis, to the financial, administrative and law enforcement information that it requires to properly fulfil its tasks. In addition, FIUs shall respond to requests for information by law enforcement authorities in their Member State unless there are factual reasons to assume that the provision of such information would have a negative impact on ongoing investigations or analyses, or, in exceptional circumstances, where divulcation of the information would be clearly disproportionate to the legitimate

Amendment

4. Member States shall ensure that the FIU has access, directly or indirectly, on a timely basis, to the financial, administrative and law enforcement information that it requires to properly fulfil its tasks. In addition, FIUs shall respond to requests for information by law enforcement authorities in their Member State unless there are factual reasons to assume that the provision of such information would have a negative impact on ongoing investigations or analyses, or, in exceptional circumstances, where divulcation of the information would be clearly disproportionate to the legitimate

interests of a natural or legal person or irrelevant with regard to the purposes for which it has been requested.

interests of a natural or legal person or irrelevant with regard to the purposes for which it has been requested. ***When the FIU receives such a request, the decision to conduct analysis and/or dissemination of information to the requesting law enforcement authority should remain within the FIU.***

Or. en

Amendment 69

Proposal for a directive Article 37 – paragraph 1

Text proposed by the Commission

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

Amendment

Member States shall ***ensure that individuals, including employees and representatives*** of the obliged entity who report suspicions of money laundering or terrorist financing either internally or to the FIU ***are duly protected*** from being exposed to threats or hostile action, ***adverse treatment or adverse consequence.*** ***Member States shall guarantee legal aid free of charge for such persons and shall provide secure communication channels for persons to report suspicions of money laundering or terrorist financing.***

Or. en

Amendment 70

Proposal for a directive Article 38 – paragraph 2

Text proposed by the Commission

2. The prohibition laid down in paragraph 1 shall not include disclosure to the competent authorities of Member States,

Amendment

2. The prohibition laid down in paragraph 1 shall not include disclosure to the competent authorities of Member States,

including the self-regulatory bodies, or disclosure for law enforcement purposes.

including the self-regulatory bodies, **data protection authorities** or disclosure for law enforcement purposes.

Or. en

Amendment 71

Proposal for a directive Article 38 – paragraph 3

Text proposed by the Commission

3. The prohibition laid down in paragraph 1 shall not prevent disclosure between institutions from Member States, or from third countries which impose requirements equivalent to those laid down in this Directive provided that they belong to the same group.

Amendment

3. The prohibition laid down in paragraph 1 shall not prevent disclosure between institutions from Member States, or from third countries which impose requirements equivalent to those laid down in this Directive, **including data protection rules**, provided that they belong to the same group.

Or. en

Amendment 72

Proposal for a directive Article 38 – paragraph 4 – subparagraph 1

Text proposed by the Commission

The prohibition laid down in paragraph 1 shall not prevent disclosure between persons referred to in Article 2(1)(3)(a) and (b) from Member States, or from third countries which impose requirements equivalent to those laid down in this Directive, who perform their professional activities, whether as employees or not, within the same legal person or a network.

Amendment

The prohibition laid down in paragraph 1 shall not prevent disclosure between persons referred to in Article 2(1)(3)(a) and (b) from Member States, or from third countries which impose requirements equivalent to those laid down in this Directive, **including data protection rules**, who perform their professional activities, whether as employees or not, within the same legal person or a network.

Or. en

Amendment 73

Proposal for a directive Article 38 – paragraph 4 – subparagraph 2

Text proposed by the Commission

For the purposes of the first subparagraph, a ‘network’ shall mean the larger structure to which the person belongs and which shares common ownership, management or compliance control.

Amendment

For the purposes of the first subparagraph, a “network” shall mean the larger structure to which the person belongs and which shares common ownership, management, **standards, methods** or compliance control.

Or. en

Amendment 74

Proposal for a directive Article 38 – paragraph 5

Text proposed by the Commission

5. For entities or persons referred to in Article 2(1)(1), (2) and (3)(a) and (b) in cases related to the same customer and the same transaction involving two or more institutions or persons, the prohibition laid down in paragraph 1 of this Article shall not prevent disclosure between the relevant institutions or persons provided that they are situated in a Member State, or in a third country which imposes requirements equivalent to those laid down in this Directive, and that they are from the same professional category and are subject to obligations as regards professional secrecy and personal data protection.

Amendment

5. For entities or persons referred to in Article 2(1)(1), (2) and (3)(a) and (b) in cases related to the same customer and the same transaction involving two or more institutions or persons, the prohibition laid down in paragraph 1 of this Article shall not prevent disclosure between the relevant institutions or persons provided that they are situated in a Member State, or in a third country which imposes requirements equivalent to those laid down in this Directive, **including data protection rules**, and that they are from the same professional category and are subject to obligations as regards professional secrecy and personal data protection.

Or. en

Amendment 75

Proposal for a directive Article 38 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6 a. The affected person to whom disclosure is denied shall have the right to refer the matter to his or her data protection authority as regards any verifications, access, corrections or erasure of his or her personal data, as well as the right to lodge a judicial procedure in accordance with Directive 95/46/EC.

Or. en

Amendment 76

Proposal for a directive Article 39 – point a

Text proposed by the Commission

Amendment

(a) in the case of the customer due diligence, a copy or the references of the evidence required, for a period of five years after the business relationship with their customer has ended. Upon expiration of this period, personal data shall be deleted unless otherwise provided for by national law, which shall determine under which circumstances obliged entities may or shall further retain data. Member States may allow or require further retention only if necessary for the prevention, detection or investigation of money laundering and terrorist financing. The maximum retention period after the business relationship has ended shall not exceed ten years;

(a) in the case of the customer due diligence, a copy or the references of the evidence required, for a period of five years after the business relationship with their customer has ended **or after the date of the occasional transaction**. Upon expiration of this period, personal data shall be deleted unless otherwise provided for by national law, which shall determine under which circumstances obliged entities may or shall further retain data. Member States may allow or require further retention only if necessary for the prevention, detection or investigation of money laundering and terrorist financing. The maximum retention period after the business relationship has ended shall not exceed ten years;

Or. en

Amendment 77

Proposal for a directive Article 39 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Any personal data retained may not be used for any purpose other than the purpose for which it has been retained, especially as regards any further use for commercial purposes.

Or. en

Amendment 78

Proposal for a directive Article 41 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) data identifying the number and percentage of reports resulting in further investigation, with annual report to obliged institutions detailing the usefulness and follow-up of the reports they presented;

Or. en

Amendment 79

Proposal for a directive Article 41 – paragraph 2 – point b b (new)

Text proposed by the Commission

Amendment

(bb) data regarding the number of cross-border requests for information that were made by the FIU, received by the FIU, declined by the FIU and responded to in

part or in full by the FIU.

Or. en

Amendment 80

Proposal for a directive Article 44 – paragraph 3

Text proposed by the Commission

3. In respect of the obliged entities referred to in Article 2(1)(3) (a), (b), (d) and (e), Member States shall ensure that competent authorities take the necessary measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, or holding a management function in those obliged entities.

Amendment

3. In respect of the obliged entities referred to in Article 2(1)(3) (a), (b), (d) and (e), Member States shall ensure that competent authorities **and self-regulatory bodies** take the necessary measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, or holding a management function in those obliged entities.

Or. en

Amendment 81

Proposal for a directive Article 46 – paragraph 1

Text proposed by the Commission

Member States shall ensure that policy makers, the FIU, law enforcement authorities, supervisors and other competent authorities involved in anti-money laundering and combating terrorist financing have effective mechanisms to enable them to co-operate and co-ordinate domestically concerning the development and implementation of policies and activities to combat money laundering and terrorist financing.

Amendment

Member States shall ensure that policy makers, the FIU, law enforcement authorities, supervisors, **data protection authorities** and other competent authorities involved in anti-money laundering and combating terrorist financing have effective mechanisms to enable them to co-operate and co-ordinate domestically concerning the development and implementation of policies and activities to combat money laundering and terrorist financing.

Amendment 82

Proposal for a directive Article 47 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 83

Proposal for a directive Article 48 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 84

Proposal for a directive Article 49 – paragraph 1

Text proposed by the Commission

Member States shall ensure that their FIUs

Amendment

Member States shall ensure that their FIUs

co-operate with each other to the greatest extent possible irrespective of whether they are administrative, law enforcement or judicial or hybrid authorities.

co-operate with each other to the greatest extent possible irrespective of whether they are administrative, law enforcement or judicial or hybrid authorities, ***without prejudice to Union data protection rules.***

Or. en

Amendment 85

Proposal for a directive Article 50 – paragraph 1

Text proposed by the Commission

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 or investigation by the FIU regarding financial transactions related to money laundering or terrorist financing and the natural or legal person involved. A request shall contain the relevant facts, background information, reasons for the request and how the information sought will be used.

Amendment

1. Member States shall ensure that FIUs exchange, ***automatically*** or upon request, any information that may be relevant for the processing or analysis of information or investigation by the FIU regarding financial transactions related to money laundering or terrorist financing and the natural or legal person involved. A request shall contain the relevant facts, background information, reasons for the request and how the information sought will be used.

Or. en

Amendment 86

Proposal for a directive Article 54

Text proposed by the Commission

Article 54

Member States shall ensure that their FIUs cooperate with Europol regarding analyses carried out having a cross-border dimension concerning at least two Member States.

Amendment

deleted

Or. en

Amendment 87

Proposal for a directive Article 55 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall lay down the rules on sanctions applicable to infringements of the national provisions adopted pursuant to Article 29 and shall take all measures necessary to ensure that they are applied. The sanctions must be effective, proportionate and dissuasive.

Or. en

Amendment 88

Proposal for a directive Article 56 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) a public statement which indicates the natural or legal person and the nature of the breach;

(a) a public statement which indicates the natural or legal person and the nature of the breach, ***if necessary and proportionate after a case by case evaluation;***

Or. en

Amendment 89

Proposal for a directive Article 56 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

For the purpose of point (e), where the legal person is a subsidiary of a parent undertaking, the relevant total annual turnover shall be the total annual turnover resulting from the ***consolidated*** account of

For the purpose of point (e), where the legal person is a subsidiary of a parent undertaking, the relevant total annual turnover shall be the total annual turnover resulting from the account of the

the *ultimate parent undertaking in the preceding business year.*

subsidiary.

Or. en

Amendment 90

Proposal for a directive Article 57 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Member States shall ensure that competent authorities publish any sanction or measure imposed for breach of the national provisions adopted in the implementation of this Directive, ***if necessary and proportionate after a case by case evaluation,*** without undue delay including information on the type and nature of the breach and the identity of persons responsible for it. Where publication would cause a disproportionate damage to the parties involved, competent authorities ***may*** publish the sanctions on an anonymous basis.

Or. en

Amendment 91

Proposal for a directive Article 57 – paragraph 3

Text proposed by the Commission

3. EBA, EIOPA, and ESMA shall issue guidelines addressed to competent authorities in accordance with Article 16 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 on types of administrative measures and sanctions and

Amendment

3. EBA, EIOPA, and ESMA shall issue guidelines addressed to competent authorities in accordance with Article 16 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010 on types of administrative measures and sanctions and

level of administrative pecuniary sanctions applicable to obliged entities referred to in Article 2(1)(1) and (2). These guidelines shall be issued within **2 years** of the date of entry into force of this Directive.

level of administrative pecuniary sanctions applicable to obliged entities referred to in Article 2(1)(1) and (2). These guidelines shall be issued within **one year** of the date of entry into force of this Directive.

Or. en

Amendment 92

Proposal for a directive Annex 2 – paragraph 1 – point 3 – point b

Text proposed by the Commission

(b) third countries having effective anti-money laundering/combating terrorist financing systems;

Amendment

(b) third countries ***identified by credible sources, such FATF public statements, mutual evaluation or detailed assessment reports or published follow-up reports, as*** having effective anti-money laundering/combating terrorist financing systems;

Or. en

Amendment 93

Proposal for a directive Annex III – point 2 – point c

Text proposed by the Commission

(c) non-face-to-face business relationships or transactions;

Amendment

(c) non-face-to-face business relationships or transactions, ***without certain safeguards, e.g. electronic signatures;***

Or. en

EXPLANATORY STATEMENT

The new directive seeks to improve the current framework to prevent the conversion of the proceeds of criminal activity into legitimate funds via the financial system.

The Commission's proposal is drawn up to follow the review conducted by the Commission on the implementation of the current directive in force, as well as to represent the changes made to the non-binding recommendations issued by the Financial Action Taskforce (FATF).

According to the calculations of the International Monetary Fund, the extent of money laundering is vast and is estimated to reach 5% of the world's GDP. Such criminal activities undermine the integrity of the financial sector, result in loss of revenue for governments, hinder competition and adversely affect the smooth operating of the markets, as well as hamper development.

To better address the current challenges, the rapporteurs suggest further improvements to the Commission's text.

Firstly, the operations of business registers have to be improved. The identification of beneficial owner of the business or the business transaction is key in preventing money laundering and terrorist financing. As proposed by the Commission, it is the responsibility of the company to know its customer and find out who the ultimate beneficiary is. Currently businesses lack ways and means to verify the beneficial owners. This leads to disproportionate burden and liability for companies. Therefore the operations of the business registers in Member States should be improved to include beneficial ownership information that would help both authorities and businesses to verify those persons that actually gain from the business transactions. The interconnectivity of registers is vital to efficiently use this information due to the cross-border scope of business and the interconnectivity of the internal market. Therefore registers should be interconnected and accessible by the authorities and the obliged entities. Member States may grant access to the information to other parties and establish rules based on which the register can be accessed.

Secondly, the money laundering risk evaluation on the EU level has to be clarified. The rapporteurs support the evaluation of money laundering and terrorist financing risks on the EU level to better allocate resources. However, it should be clearly stated that the risk assessment contains at least the overall evaluation of the extent of money laundering, the risks associated to each relevant sector, the most widespread means used by criminals to launder illicit proceeds and the recommendation of effective deployment of resources. Due to the ever changing business environment, the evaluation should be done periodically and at least on a biannual basis.

Thirdly, the preventive approach should be a targeted and proportional, and should not amount to an overall controlling system of the whole population. It means that the fight against money laundering and terrorist financing has to be carried out in full respect with the EU legal order, especially as regards EU data protection law and the protection of fundamental rights as enshrined in the EU Charter of Fundamental Rights. Data protection concerns should be addressed at all levels: by the obliged entities, institutions of the Member

States and the European Union. The limitations to the right of access to information by the data subject have to be counterbalanced by effective powers of data protection authorities, including the indirect access powers, as laid down in Directive 95/46/EC, to investigate, either ex officio or based on a complaint, any claims as regards problems with personal data processing.