



**2016/0208(COD)**

7.11.2016

**\*\*\*I**

## **DRAFT REPORT**

on the proposal for a directive of the European Parliament and of the Council amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and amending Directive 2009/101/EC  
(COM(2016)0450 – C8-0265/2016 – 2016/0208(COD))

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

Rapporteurs: Krišjānis Kariņš, Judith Sargentini

(Joint committee meetings – Rule 55 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 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and amending Directive 2009/101/EC (COM(2016)0450 – C8-0265/2016 – 2016/0208(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0450),
  - having regard to Article 294(2) and Articles 50 and 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0265/2016),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 19 October 2016<sup>1</sup>,
  - having regard to the opinion of the European Central Bank of 14 October 2016<sup>2</sup>,
  - having regard to Rule 59 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 55 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, the Committee on International Trade and the Committee on Legal Affairs (A8-0000/2016),
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.

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<sup>1</sup> Not yet published in the Official Journal.

<sup>2</sup> Not yet published in the Official Journal.

## Amendment 1

### Proposal for a directive

#### Recital 11

##### *Text proposed by the Commission*

(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 terrorist 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 suppress the customer due diligence exemption for their online use.***

##### *Amendment*

(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 terrorist 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.

Or. en

## Amendment 2

### Proposal for a directive

#### Recital 21

##### *Text proposed by the Commission*

(21) The specific factor determining the Member State responsible for the monitoring and registration of beneficial ownership information of trusts and similar legal arrangements should be clarified. In order to avoid that, due to differences in the legal systems of Member States, certain

##### *Amendment*

(21) The specific factor determining the Member State responsible for the monitoring and registration of beneficial ownership information of trusts and similar legal arrangements should be clarified. In order to avoid that, due to differences in the legal systems of Member States, certain

trusts are not monitored or registered 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.

trusts are not monitored or registered anywhere in the Union, all trusts and similar legal arrangements should be registered where they are **created**, administered **or operated**. In order to ensure the effective monitoring and registration of information on the beneficial ownership of trusts, cooperation among Member States is also necessary.

Or. en

### Amendment 3

#### Proposal for a directive

#### Article 1 – paragraph 1 – point -1 (new)

Directive 2015/849/EU

Article 2 – paragraph 1 – point 3 – point d

#### *Present text*

(d) estate agents;

#### *Amendment*

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

‘(d) estate agents **including letting agents**;’

Or. en

### Amendment 4

#### Proposal for a directive

#### Article 1 – paragraph 1 – point -1 a (new)

Directive 2015/849/EU

Article 2 – paragraph 1 – point 3 – point e

#### *Present text*

(e) other persons trading in goods or services to the extent that payments are made or received in cash in an amount of EUR 10 000 or more, whether the transaction is carried out in a single

#### *Amendment*

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

‘(e) other persons trading in goods **or services** to the extent that payments are made or received in cash in an amount of EUR 10 000 or more, whether the transaction is carried out in a single

operation or in several operations which appear to be linked;

operation or in several operations which appear to be linked;’

Or. en

## Amendment 5

### Proposal for a directive

#### Article 1 – paragraph 1 – point 1

Directive 2015/849/EU

Article 2 – paragraph 1 – point 3 – point h a (new)

#### *Text proposed by the Commission*

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

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

(h) wallet providers offering custodial services of credentials necessary to access virtual currencies.";

#### *Amendment*

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

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

(h) wallet providers offering custodial services of credentials necessary to access virtual currencies;

**(ha) electronic money issuers and distributors."**;

Or. en

## Amendment 6

### Proposal for a directive

#### Article 1 – paragraph 1 – point 2 – point a a (new)

Directive 2015/849/EU

Article 3 – point 6 – point a – point ii

#### *Present text*

(ii) **if, after having exhausted all possible means and provided there are no grounds for suspicion, no person under point (i) is identified, or if there is any**

#### *Amendment*

**(aa) in point (6)(a), point (ii) is replaced by the following:**

**‘(ii) if the entity fails to provide the identity of any natural person who meets the criteria set out in point (i), the obliged entities shall record that no beneficial**



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

*owner exists and keep records of the actions taken in order to identify the beneficial ownership under point (i).*

*Where there is any doubt that the person(s) identified are the beneficial owner(s), a record of that doubt shall be made.*

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

Or. en

## **Amendment 7**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 – point a b (new)**

Directive 2015/849/EU

Article 3 – point 6 – point b – point i

*Present text*

*Amendment*

(i) the *settlor*;

*(ab) in point (6)(b), point (i) is replaced by the following:*

*‘(i) the *settlor(s)*;’*

Or. en

## **Amendment 8**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 – point a c (new)**

Directive 2015/849/EU

Article 3 – point 6 – point b – point iii

*Present text*

*Amendment*

(iii) the *protector*, if any;

*(ac) in point (6)(b), point (iii) is replaced by the following:*

*‘(iii) the **protector(s)**, if any;’*

Or. en

## **Amendment 9**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 – point c**

Directive 2015/849/EU

Article 3 – point 18 a (new)

*Text proposed by the Commission*

*Amendment*

(c) the following *point* (18) *is* added:

"(18) 'virtual currencies' means a digital representation of value that is neither issued by a central bank or a public authority, nor necessarily attached to a fiat currency, but is accepted by natural or legal persons as a means of payment and can be transferred, stored or traded electronically.";

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

"(18) 'virtual currencies' means a digital representation of value that is neither issued by a central bank or a public authority, nor necessarily attached to a fiat currency, but is accepted by natural or legal persons as a means of payment and can be transferred, stored or traded electronically;

*(18a) ‘electronic money issuer’ means an institution as defined in point (3) of Article 2 of Directive 2009/110/EC.”;*

Or. en

## **Amendment 10**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 a (new)**

Directive 2015/849/EU

Article 7 – paragraph 2 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

*(2a) In paragraph 2 of Article 7, the*

*following subparagraph is added:*

*‘If a Member State confers the competence of its authority from the first subparagraph on other authorities, in particular those at regional or local level, efficient and effective coordination shall be ensured between all the authorities involved. If more than one unit within an authority to which the competence was conferred is in charge of tasks from the first subparagraph, efficient and effective coordination and cooperation shall be ensured between the different units.’*

Or. en

## **Amendment 11**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 b (new)**

Directive 2015/849/EU

Article 7 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

*(2b) In Article 7, the following paragraph 5a is added:*

*‘5a. The ESAs, through the Joint Committee, and the Commission shall make the recommendations to Member States on the measures suitable for addressing the identified risks. In the event that Member States decide not to apply any of the recommendations in their national AML/CFT regimes, they shall notify the ESAs and the Commission thereof and provide a justification of such a decision.’*

Or. en

## Amendment 12

### Proposal for a directive

#### Article 1 – paragraph 1 – point 2 c (new)

Directive 2015/849/EU

Article 9 – paragraph 2 – point c a (new)

*Text proposed by the Commission*

*Amendment*

**(2c) In paragraph 2 of Article 9, the following point is added:**

**‘(ca) the existence of robust systems to ensure that information on beneficial ownership is available to competent authorities without impediments.’**

Or. en

## Amendment 13

### Proposal for a directive

#### Article 1 – paragraph 1 – point 2 d (new)

Directive 2015/849/EU

Article 9 – paragraph 2 – point c b (new)

*Text proposed by the Commission*

*Amendment*

**(2d) In paragraph 2 of Article 9, the following point is added:**

**‘(cb) the existence of proper sanction regime in case of breach of law.’**

Or. en

## Amendment 14

### Proposal for a directive

#### Article 1 – paragraph 1 – point 2 e (new)

Directive 2015/849/EU

Article 11 – point c

*Present text*

*Amendment*

**(2e) In Article 11, point (c) is replaced**

(c) in the case of persons trading in goods, when carrying out occasional transactions in cash amounting to EUR 10 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;

*by the following:*

‘(c) in the case of persons trading in goods *or services*, when carrying out occasional transactions in cash amounting to EUR 10 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;’

Or. en

## Amendment 15

### Proposal for a directive

#### Article 1 – paragraph 1 – point 3 – point a – point i

Directive 2015/849/EU

Article 12 – paragraph 1 – point a

*Text proposed by the Commission*

(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*;

*Amendment*

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

Or. en

## Amendment 16

### Proposal for a directive

#### Article 1 – paragraph 1 – point 3 – point a – point i a (new)

Directive 2015/849/EU

Article 12 – paragraph 1 – point e

*Present text*

(e) the issuer carries out sufficient monitoring of the transactions or business relationship to enable the detection of unusual or suspicious transactions.

*Amendment*

*(ia) In the first subparagraph, point (e) is replaced by the following:*

‘(e) the issuer carries out sufficient monitoring *and ensures the traceability* of the transactions or business relationship to enable the detection of unusual or suspicious transactions.’

## Amendment 17

### Proposal for a directive

#### Article 1 – paragraph 1 – point 3 – point b

Directive 2015/849/EU

Article 12 – paragraph 2

#### *Text proposed by the Commission*

2. Member States shall ensure that the derogation provided for in paragraph 1 is not applicable in the case ***either of online payment or*** of redemption in cash or cash withdrawal of the monetary value of the electronic money where the amount redeemed exceeds EUR 50.

#### *Amendment*

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. en

## Amendment 18

### Proposal for a directive

#### Article 1 – paragraph 1 – point 5

Directive 2015/849/EU

Article 14 – paragraph 5

#### *Text proposed by the Commission*

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 a duty in the course of the relevant calendar year, to contact the customer for the purpose of reviewing any information related to the beneficial owner(s), in particular under Directive 2011/16/EU.

#### *Amendment*

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 a duty in the course of the relevant calendar year, to contact the customer for the purpose of reviewing any information related to the beneficial owner(s), in particular under Directive 2011/16/EU. ***Member States shall require that obliged entities contact the customer for the purpose of reviewing any information related to the beneficial***

*owner(s) not later than ... [one year after the date of the entry into force of this amending Directive].*

Or. en

## **Amendment 19**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 9 – point -a (new)**

Directive 2015/849/EU

#### **Article 30 – paragraph 1 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***(-a) In paragraph 1, the following third subparagraph is added:***

***‘Member States shall ensure that owners of shares or voting rights or ownership interest in corporate and other legal entities, including through bearer shareholdings, or through control via other means, disclose to those entities whether they are holding the interest in their own name and on their own account or on behalf of another person. Member States shall ensure that the natural person(s) who hold the position of senior managing official(s) in corporate and other legal entities, disclose to those entities whether they are holding the position in their own name or on behalf of another person.’***

Or. en

## **Amendment 20**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 9 – point a a (new)**

Directive 2015/849/EU

#### **Article 30 – paragraph 5 a (new)**

**(aa)** *The following paragraph 5a is inserted:*

**‘5a.** *The information held in the register referred to in paragraph 3 of this Article on any corporate and legal entities other than those referred to in Article 1a(a) of Directive (EC) 2009/101 shall be publicly accessible.*

*The information publicly accessible shall consist of at least the name, the date of birth, the nationality, the country of residence, contact details (without disclosure of a home address), the nature and extent of the beneficial interest held of the beneficial owner as defined in Article 3(6)(b).*

*For the purpose of this paragraph, access to the information on beneficial ownership shall be in accordance with data protection rules and open data standards, and subject to online registration. Member States may introduce a fee to cover the administrative costs.’*

Or. en

## **Amendment 21**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 9 – point b**

Directive 2015/849/EU

Article 30 – paragraph 6 – subparagraph 2

*Text proposed by the Commission*

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, including tax authorities and authorities that have the function of investigating or

*Amendment*

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, including tax authorities, **supervisors** and authorities that have the function of



prosecuting money laundering, associated predicate offences and terrorist financing, tracing and seizing or freezing and confiscating criminal assets.

investigating or prosecuting money laundering, associated predicate offences and terrorist financing, tracing and seizing or freezing and confiscating criminal assets.

Or. en

## Amendment 22

### Proposal for a directive

#### Article 1 – paragraph 1 – point 9 – point c

Directive 2015/849/EU

Article 30 – paragraph 9 – subparagraph 1

#### *Text proposed by the Commission*

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

#### *Amendment*

In exceptional circumstances to be laid down in national law, where the access referred to in point (b) of paragraph 5 **and paragraph 5a** would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis. ***Exemptions shall be reassessed at regular intervals to avoid abuse. When an exemption is granted, this has to be clearly indicated in the register.***

Or. en

## Amendment 23

### Proposal for a directive

#### Article 1 – paragraph 1 – point 10 – point a

Directive 2015/849/EU

Article 31 – paragraph 1

#### *Text proposed by the Commission*

1. Member States shall ensure that this

#### *Amendment*

1. Member States shall ensure that this

Article applies to trusts and other types of legal arrangements having a structure or functions similar to trusts, such as, inter alia, fiducie, Treuhand or fideicomiso.

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

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

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

Each Member State shall require that trustees of any express trust **created**, administered **or operated** in that Member State under **the law of a Member State or of a third country** 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 effective control of the trust.

Or. en

## Amendment 24

### Proposal for a directive

#### Article 1 – paragraph 1 – point 10 – point b

Directive 2015/849/EU

Article 31 – paragraph 3a

#### *Text proposed by the Commission*

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

#### *Amendment*

3a. The information referred to in paragraph 1 shall be held in a central register **referred to in paragraph 3** set up by the Member State where the trust is **created**, administered **or operated**.

Or. en

## Amendment 25

### Proposal for a directive

#### Article 1 – paragraph 1 – point 10 – point c

Directive 2015/849/EU

Article 31 – paragraph 4 – subparagraph 2

#### *Text proposed by the Commission*

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, including, tax authorities 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.

#### *Amendment*

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, including, tax authorities, **supervisors** 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.

Or. en

## Amendment 26

### Proposal for a directive

#### Article 1 – paragraph 1 – point 10 – point d

Directive 2015/849/EU

Article 31 – paragraph 4a – subparagraph 2

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en

## Amendment 27

### Proposal for a directive

#### Article 1 – paragraph 1 – point 10 – point d

Directive 2015/849/EU

Article 31 – paragraph 4a – subparagraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***For the purpose of this paragraph, access to the information on beneficial ownership shall be in accordance with data protection rules and open data standards, and subject to online registration. Member States may introduce a fee to cover the administrative costs.***

Or. en

## Amendment 28

### Proposal for a directive

#### Article 1 – paragraph 1 – point 10 – point e

Directive 2015/849/EU

Article 31 – paragraph 7a – subparagraph 1

*Text proposed by the Commission*

*Amendment*

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

In exceptional circumstances laid down in national law, where the access referred to in paragraphs 4 and 4a would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis. ***Exemptions shall be reassessed at regular intervals to avoid abuse. When an exemption is granted, this has to be clearly indicated in the register.***

Or. en

## Amendment 29

### Proposal for a directive

#### Article 1 – paragraph 1 – point 10 – point h

Directive 2015/849/EU

Article 31 – paragraph 10

#### *Text proposed by the Commission*

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

#### *Amendment*

10. For the purpose of this Article, a trust is considered to be *created*, administered *or operated* in a Member State where:

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

*(b) it is connected to the Member State by:*

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

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

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

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

Or. en

## Amendment 30

### Proposal for a directive

#### Article 1 – paragraph 1 – point 11 – point b

Directive 2015/849/EU

Article 32 – paragraph 9

#### *Text proposed by the Commission*

9. In the context of its functions, each FIU shall be able to obtain from any

#### *Amendment*

9. In the context of its functions, each FIU shall be able to obtain from any

obliged entity information for the purpose set in paragraph 1 of this Article, even if such obliged entity did not file a prior report pursuant to Article 33(1)(a).

obliged entity, *without prejudice to Article 53*, information for the purpose set in paragraph 1 of this Article, even if such obliged entity did not file a prior report pursuant to Article 33(1)(a).

Or. en

## Amendment 31

### Proposal for a directive

#### Article 1 – paragraph 1 – point 12

Directive 2015/849/EU

Article 32a – paragraph 1

#### *Text proposed by the Commission*

1. Member States shall put in place automated centralised 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 as defined in Directive 2007/64/EC **and** bank accounts held by a credit institution within their territory. Member States shall notify the Commission of the characteristics of those national mechanisms.

#### *Amendment*

1. Member States shall put in place automated centralised 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 as defined in Directive 2007/64/EC, bank accounts **and safe deposit boxes** held by a credit institution within their territory. Member States shall notify the Commission of the characteristics of those national mechanisms.

Or. en

## Amendment 32

### Proposal for a directive

#### Article 1 – paragraph 1 – point 12

Directive 2015/849/EU

Article 32a – paragraph 3 – indent 3 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

- ***for the safe deposit box: the name and the duration of the lease period.***

**Amendment 33****Proposal for a directive****Article 1 – paragraph 1 – point 12 a (new)**

Directive 2015/849/EU

Article 32 b (new)

*Text proposed by the Commission**Amendment*

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

***"Article 32b***

***1. Member States shall put in place automated centralised 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 land and buildings 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, at national level, to FIUs and competent authorities. 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 real property owner and any person purporting to act on behalf of the owner: the name, complemented by 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 real property: the name, complemented by the other identification data required under the national provisions transposing Article 13(1)(b) or a unique identification number;*

– *for the real property: date and cause of ownership acquisition, mortgage and rights other than ownership;*

– *for the land: location, parcel number, land category (current state of land), parcel area (area of land);*

– *for the building: location, parcel number, building number, type, structure, floor area.*

**4. Member States shall cooperate among themselves and with the Commission in order to establish by 1 January 2018 a European real property register in accordance with paragraph 1 building on the European Land Information Service (EULIS).**

Or. en

#### **Amendment 34**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 15 a (new)**

Directive 2015/849/EU

Article 44 – paragraph 4

##### *Present text*

Member States shall transmit to the Commission the statistics referred to in paragraph 2.

##### *Amendment*

***(15a) paragraph 4 of Article 44 is replaced by the following:***

***‘Member States shall transmit to Eurostat and the Commission the statistics referred to in paragraph 2. Eurostat shall publish an annual report summarising and explaining the statistics referred to paragraph 2, which has to be made available on its website.’***

Or. en



## Amendment 35

### Proposal for a directive

#### Article 1 – paragraph 1 – point 17

Directive 2015/849/EU

Article 49

#### *Text proposed by the Commission*

Member States shall ensure that policy makers, the FIUs, supervisors and other competent authorities involved in AML/CFT, such as tax authorities, 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.

#### *Amendment*

Member States shall ensure that policy makers, the FIUs, supervisors and other competent authorities involved in AML/CFT, such as tax authorities **and law enforcement authorities**, 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.

Or. en

## Amendment 36

### Proposal for a directive

#### Article 1 – paragraph 1 – point 17 a (new)

Directive 2015/849/EU

Article 50

#### *Present text*

The competent authorities shall provide the ESAs with all the information necessary to allow them to carry out their duties under this Directive.

#### *Amendment*

***(17a) Article 50 is replaced by the following:***

‘The competent authorities shall provide the ESAs with all the information necessary to allow them to carry out their duties under this Directive. ***By 26 June 2017, the ESAs shall issue guidelines addressed to competent authorities on the modalities of cooperation and information exchange between competent authorities, in relation to the AML/CFT supervision of credit and financial institutions that***

*operate on a cross-border basis.'*

Or. en

### **Amendment 37**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 18**

Directive 2015/849/EU

Article 50a – paragraph 1 – introductory part

#### *Text proposed by the Commission*

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

#### *Amendment*

Member States shall ***ensure*** the exchange of information ***and*** assistance between competent authorities. In particular Member States shall ensure that competent authorities do not refuse a request for assistance on the grounds that:

Or. en

### **Amendment 38**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 18**

Directive 2015/849/EU

Article 50a – paragraph 1 – subparagraph 1 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***Member States shall ensure that competent authorities supervising credit and financial institutions cooperate with each other 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.***

## **Amendment 39**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 19**

Directive 2015/849/EU

Article 53 – paragraph 1 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***A request shall contain the relevant facts, background information, the reasons for the request and a description of how the information sought will be used.***

Or. en

## **Amendment 40**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 21 a (new)**

Directive 2015/849/EU

Article 59 – paragraph 1 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(21a) In paragraph 1 of Article 59, the following subparagraph is added:***

***‘Member States shall also ensure that this Article applies at least to breaches on the part of corporate and other legal entities, trusts and other types of legal arrangements having a structure or functions similar to trusts, that are serious, repeated, systematic, or a combination thereof, of the requirements laid down in Articles 30 and 31.’***

Or. en

## Amendment 41

### Proposal for a directive

#### Article 1 – paragraph 1 – point 21 b (new)

Directive 2015/849/EU

Article 61 – paragraph 3 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(21b) In paragraph 3 of Article 61, the following subparagraph is added:***

***‘The competent authorities shall provide one or more secure communication channel for persons to report suspicions of money laundering or terrorist financing. Such channels shall ensure that the identity of persons providing information is known only to the competent authorities.’***

Or. en

## Amendment 42

### Proposal for a directive

#### Article 1 – paragraph 1 – point 22

Directive 2015/849/EU

Article 65 – paragraph 2 (new)

*Text proposed by the Commission*

*Amendment*

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.

The report shall be accompanied, if necessary, by appropriate proposals, including, where appropriate, with respect to ***cash payments***, 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.

Or. en

## Amendment 43

### Proposal for a directive

#### Article 1 – paragraph 1 – point 24 a (new)

Directive 2015/849/EU

Annex II – point 3 – introductory part

*Present text*

(3) Geographical risk factors:

*Amendment*

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

***(3) Geographical risk factors - registration in:***

Or. en

## Amendment 44

### Proposal for a directive

#### Article 2 – paragraph 1 – point 1 a (new)

Directive 2009/101/EC

Article 7 – paragraph 1 – point b a (new)

*Text proposed by the Commission*

*Amendment*

***(1a) in the first paragraph of Article 7, the following point ba is added:***

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

Or. en

## Amendment 45

### Proposal for a directive

#### Article 2 – paragraph 1 – point 1 b (new)

Directive 2009/101/EC

Article 7 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

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

*‘Member States shall ensure that where obligations apply to legal persons, penalties can be applied to the members of the management body or to any other individuals who under national law are responsible for the breach.’*

Or. en

## Amendment 46

### Proposal for a directive

#### Article 2 – paragraph 1 – point 2

Directive 2009/101/EC

Article 7b – paragraph 1 – subparagraph 2

#### *Text proposed by the Commission*

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

#### *Amendment*

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

Or. en

## Amendment 47

### Proposal for a directive

#### Article 2 – paragraph 1 – point 2

Directive 2009/101/EC

Article 7b – paragraph 3

#### *Text proposed by the Commission*

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

#### *Amendment*

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

*introduce a fee to cover the administrative costs.*

Or. en

#### **Amendment 48**

##### **Proposal for a directive**

##### **Article 2 – paragraph 1 – point 2**

Directive 2009/101/EC

Article 7b – paragraph 4

##### *Text proposed by the Commission*

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

##### *Amendment*

4. In exceptional circumstances laid down in national law, where the access to the information set out in paragraph 1 would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from the compulsory disclosure of to all or part of the information on the beneficial ownership on a case-by-case basis. ***Exemptions shall be reassessed at regular intervals to avoid abuse. Any exemption granted must be clearly indicated in the register.***

Or. en

#### **Amendment 49**

##### **Proposal for a directive**

##### **Article 2 – paragraph 1 – point 2**

Directive 2009/101/EC

Article 7b – paragraph 5 a (new)

##### *Text proposed by the Commission*

##### *Amendment*

***5a. Member States shall require the competent authorities to effectively monitor and to take the necessary measures with a view to ensuring***

*compliance with the requirements of this Article. Member States shall ensure that the competent authorities have adequate powers, including the power to compel the production of any information that is relevant to monitoring compliance and perform checks, and have adequate financial, human and technical resources to perform their functions. Member States shall ensure that staff of those authorities maintain high professional standards, including standards of confidentiality and data protection, are of high integrity and appropriately skilled.*

Or. en