



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

2021/0250(COD)

17.5.2022

*****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 purposes of money
laundering or terrorist financing: mechanisms to be put in place by the Member
States

(COM(2021)0423 – C9-0342/2021 – 2021/0250(COD))

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

Rapporteurs: Luděk Niedermayer, Paul Tang

(Joint committee procedure – Rule 58 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 purposes of money laundering or terrorist financing: mechanisms to be put in place by the Member States (COM(2021)0423 – C9-0342/2021 – 2021/0250(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2021)0423),
 - 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 (C9-0342/2021),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its 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 (A9-0000/2022),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) Specific money laundering and terrorist financing threats, risks and vulnerabilities affecting certain economic sectors at national level diminish in distinct manners Member States ability to contribute to the integrity and soundness of the Union financial system. As such, it is

Amendment

(6) Specific money laundering and terrorist financing threats, risks and vulnerabilities affecting certain economic sectors at national level diminish in distinct manners Member States ability to contribute to the integrity and soundness of the Union financial system. As such, it is

appropriate to allow Member States, upon identification of such sectors and specific risks **to decide** to apply AML/CFT requirements to additional sectors than those covered by Regulation [please insert reference – proposal for Anti-Money Laundering Regulation]. With a view to preserving the effectiveness of the internal market and the Union AML/CFT system, the Commission should be able, with the support of AMLA, to assess whether the intended decisions of the Member States to apply AML/CFT requirements to additional sectors are justified. In cases where the best interests of the Union would be achieved at Union level as regards specific sectors, the Commission should inform that Member State that it intends to take action at Union level instead and the Member State should abstain from taking the intended national measures.

appropriate to allow Member States, upon identification of such sectors and specific risks to apply AML/CFT requirements to additional sectors than those covered by Regulation [please insert reference – proposal for Anti-Money Laundering Regulation]. With a view to preserving the effectiveness of the internal market and the Union AML/CFT system, the Commission should be able, with the support of AMLA, to assess whether the intended decisions of the Member States to apply AML/CFT requirements to additional sectors are justified. In cases where the best interests of the Union would be achieved at Union level as regards specific sectors, the Commission should inform that Member State that it intends to take action at Union level instead and the Member State should abstain from taking the intended national measures.

Or. en

Amendment 2

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) It is essential to ensure that applicants for specific professions which are obliged entities possess a good understanding of money laundering and terrorist financing risks in their sector of activity in view of protecting the Union's financial system. Therefore, Member States should ensure that licensing procedures and entry requirements provided under national law to regulated professions which are obliged entities referred to in Regulation [please insert reference –proposal for Anti-Money Laundering Regulation - COM/2021/420 final] require applicants to demonstrate good understanding of risks of money

laundering and terrorism financing in their sector of activity. AML/CFT training, provided either by obliged entities or by supervisors, should be accessible to applicants.

Or. en

Amendment 3

Proposal for a directive Recital 8

Text proposed by the Commission

(8) Supervisors should ensure that, with regard to currency exchange offices, cheque cashing offices, trust or company service providers or gambling service providers, the persons who effectively manage the business of such entities and the beneficial owners of such entities act with honesty and integrity and possess knowledge and expertise necessary to carry out their functions. The criteria for determining whether or not a person complies with those requirements should, as a minimum, reflect the need to protect such entities from being misused by their managers or beneficial owners for criminal purposes.

Amendment

(8) Supervisors should ensure that, with regard to currency exchange offices, cheque cashing offices, trust or company service providers or gambling service providers, the persons who effectively manage the business of such entities and the beneficial owners of such entities ***are of good repute***, act with honesty and integrity, and possess knowledge and expertise necessary to carry out their functions. The criteria for determining whether or not a person complies with those requirements should, as a minimum, reflect the need to protect such entities from being misused by their managers or beneficial owners for criminal purposes. ***AMLA should issue guidelines for the purposes of fostering a common understanding of the elements which supervisors are to take into account in order to determine whether senior management is of good repute, acts with honesty and integrity and possesses the necessary knowledge and expertise.***

Or. en

Amendment 4

Proposal for a directive Recital 10

Text proposed by the Commission

(10) The Commission is well placed to review specific cross-border threats that could affect the internal market and that cannot be identified and effectively combatted by individual Member States. It should therefore be entrusted with the responsibility for coordinating the assessment of risks relating to cross-border activities. Involvement of the relevant experts, such as the Expert Group on Money Laundering and Terrorist Financing and the representatives from the FIUs, as well as, where appropriate, from other Union-level bodies, is essential for the effectiveness of the process of the assessment of risks. National risk assessments and experience are also an important source of information for that process. Such assessment of the cross-border risks by the Commission should not involve the processing of personal data. In any event, data should be fully anonymised. National and Union data protection supervisory authorities should be involved only if the assessment of the risk of money laundering and terrorist financing has an impact on the privacy and data protection of individuals.

Amendment

(10) The Commission is well placed to review specific cross-border threats that could affect the internal market and that cannot be identified and effectively combatted by individual Member States. It should therefore be entrusted with the responsibility for coordinating the assessment of risks relating to cross-border activities. Involvement of the relevant experts, such as the Expert Group on Money Laundering and Terrorist Financing and the representatives from the FIUs, as well as, where appropriate, from other Union-level bodies, is essential for the effectiveness of the process of the assessment of risks. National risk assessments *on a continuous basis* and experience are also an important source of information for that process. Such assessment of the cross-border risks by the Commission should not involve the processing of personal data. In any event, data should be fully anonymised. National and Union data protection supervisory authorities should be involved only if the assessment of the risk of money laundering and terrorist financing has an impact on the privacy and data protection of individuals.

Or. en

Amendment 5

Proposal for a directive Recital 12

Text proposed by the Commission

(12) The Member States remain the best placed to identify, assess, understand and

Amendment

(12) The Member States remain the best placed to identify, assess, understand and

decide how to mitigate risks of money laundering and terrorist financing affecting them directly. Therefore, each Member State should take the appropriate steps *in an effort* to properly *identify*, assess and understand its money laundering and terrorist financing risks, as well as risks of non-implementation and evasion of targeted financial sanctions and to define a coherent national strategy to put in place actions to mitigate those risks. Such national risk assessment should be updated regularly and should include a description of the institutional structure and broad procedures of the Member State's AML/CFT regime, as well as the allocated human and financial resources *to the extent that this information is available*.

decide how to mitigate risks of money laundering and terrorist financing affecting them directly. Therefore, each Member State should take the appropriate steps to properly *identify*, assess and understand its money laundering and terrorist financing risks *on a continuous basis*, as well as risks of non-implementation and evasion of targeted financial sanctions, *terrorism and terrorism financing related targeted financial sanctions and other applicable Union targeted financial sanctions*, and to define a coherent national strategy to put in place actions to mitigate those risks. Such national risk assessment should be updated regularly and should include a description of the institutional structure and broad procedures of the Member State's AML/CFT regime, as well as the allocated human and financial resources. *National risk assessments should remain up to date and should be reviewed at least every three years. Based on the identification of country-specific risks and for justified grounds, the Commission should be able to request Member States to review their risk assessment earlier in order to reduce money laundering and terrorist financing risks in the Union. Following a request by the Commission, Member States should review their risk assessment and share the results of such a review.*

Or. en

Amendment 6

Proposal for a directive Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Member States should make publicly available a summary of the results of their risk assessment. Such a summary should not contain classified information. The information contained

in such a summary should not permit the identification of any natural person. Member States should aim at ensuring that information contained in such summaries do not permit the identification of any legal person. However, in specific circumstances, Member States might need to refer to prominent money laundering cases, relevant information from leaks or other major suspicions of money laundering or terrorist financing that were widely reported in the media and where the identification of certain legal person cannot be avoided or can be inferred from factual situations.

Or. en

Amendment 7

Proposal for a directive

Recital 13

Text proposed by the Commission

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

Amendment

(13) The results of risk assessments should be made available to obliged entities in a timely **and appropriate** manner to enable them to identify, understand, manage and mitigate their own risks.

Or. en

Amendment 8

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) To be able to review the effectiveness of their systems for combating money laundering and terrorist

Amendment

(15) To be able to review the effectiveness of their systems for combating money laundering and terrorist

financing, Member States should maintain, and improve the quality of, relevant statistics. With a view to enhancing the quality and consistency of the statistical data collected at Union level, the Commission and the AMLA should keep track of the Union-wide situation with respect to the fight against money laundering and terrorist financing and should publish regular overviews.

financing, Member States should maintain, and improve the quality of, relevant statistics. With a view to enhancing the quality and consistency of the statistical data collected at Union level, the Commission and the AMLA should keep track of the Union-wide situation with respect to the fight against money laundering and terrorist financing and should publish regular overviews. ***The Commission should adopt implementing acts laying down the methodology for the collection of statistics and the arrangements for transmission of such statistics to the Commission and AMLA.***

Or. en

Amendment 9

Proposal for a directive Recital 16

Text proposed by the Commission

(16) The FATF has developed standards for jurisdictions to identify, and assess the risks of potential non-implementation or evasion of the proliferation financing-related targeted financial sanctions, and to take action to mitigate those risks. Those new standards introduced by the FATF do not substitute nor undermine the existing strict requirements for countries to implement targeted financial sanctions to comply with the relevant United Nations Security Council Regulations relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing. Those existing obligations, as implemented at Union level by Council Decisions 2010/413/CFSP²⁶ and (CFSP) 2016/849²⁷ as well as Council Regulations (EU) 267/2012²⁸ and (EU) 2017/1509²⁹, remain strict rule-based obligations binding on all

Amendment

(16) The FATF has developed standards for jurisdictions to identify, and assess the risks of potential non-implementation or evasion of the proliferation financing-related targeted financial sanctions, and to take action to mitigate those risks. Those new standards introduced by the FATF do not substitute nor undermine the existing strict requirements for countries to implement targeted financial sanctions to comply with the relevant United Nations Security Council Regulations relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing. Those existing obligations, as implemented at Union level by Council Decisions 2010/413/CFSP and (CFSP) 2016/849 as well as Council Regulations (EU) 267/2012 and (EU) 2017/1509, remain strict rule-based obligations binding on all natural and legal persons within the Union.

natural and legal persons within the Union.

Strict rule-based obligations should equally apply with regard to terrorism and terrorism financing-related sanctions and other targeted financial sanctions adopted by the Union.

²⁶ 2010/413/CFSP: Council Decision of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ L 195, 27.7.2010, p. 39).

²⁶ 2010/413/CFSP: Council Decision of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ L 195, 27.7.2010, p. 39).

²⁷ Council Decision (CFSP) 2016/849 of 27 May 2016 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Decision 2013/183/CFSP (OJ L 141, 28.5.2016, p. 79).

²⁷ Council Decision (CFSP) 2016/849 of 27 May 2016 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Decision 2013/183/CFSP (OJ L 141, 28.5.2016, p. 79).

²⁸ Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ L 88, 24.3.2012, p. 1).

²⁸ Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ L 88, 24.3.2012, p. 1).

²⁹ Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007 (OJ L 224, 31.8.2017, p. 1).

²⁹ Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007 (OJ L 224, 31.8.2017, p. 1).

Or. en

Amendment 10

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) In order to reflect the latest developments at international level, ***a requirement has*** been introduced by this Directive to identify, understand, manage and mitigate risks of potential non-implementation or evasion of ***proliferation financing-related*** targeted financial

Amendment

(17) In order to reflect the latest developments at international level ***and ensure a comprehensive framework for implementing targeted financial sanctions, requirements have*** been introduced by this Directive to identify, understand, manage and mitigate risks of

sanctions at Union level and at Member State level.

potential non-implementation or evasion of targeted financial sanctions at Union level and at Member State level.

Or. en

Amendment 11

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) Central registers of beneficial ownership information are crucial in combating the misuse of legal entities. To ensure that the registers of beneficial ownership information are easily accessible and contain high-quality data, consistent rules on the collection and storing of this information should be introduced.

Amendment

(18) Central registers of beneficial ownership information are crucial in combating the misuse of legal entities. ***Therefore, Member States should ensure that the beneficial ownership information of legal entities and legal arrangements, information on nominee arrangements and information on foreign legal entities and foreign legal arrangements are held in a central register.*** To ensure that the registers of beneficial ownership information are easily accessible and contain high-quality data, consistent rules on the collection and storing of this information should be introduced.

Or. en

Amendment 12

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) With a view to enhancing transparency in order to combat the misuse of legal entities, Member States should ensure that beneficial ownership information is stored in a central register located outside the company, in full compliance with Union law. Member

Amendment

(19) With a view to enhancing transparency in order to combat the misuse of legal entities, Member States should ensure that beneficial ownership information is stored in a central register located outside the company, in full compliance with Union law. Member

States *can*, for that purpose, use a central database, which collects beneficial ownership information, or the business register, or another central register. Member States may decide that obliged entities are responsible for filling in the register. Member States should make sure that in all cases that information is made available to competent authorities and FIUs and is provided to obliged entities when they take customer due diligence measures.

States *should*, for that purpose, use a central database, which collects beneficial ownership information, or the business register, or another central register. Member States may decide that obliged entities are responsible for filling in the register. Member States should make sure that in all cases that information is made available to competent authorities and FIUs and is provided to obliged entities when they take customer due diligence measures.

Or. en

Amendment 13

Proposal for a directive Recital 20

Text proposed by the Commission

(20) Beneficial ownership information of trusts and similar legal arrangements should be registered where the trustees and persons holding equivalent positions in similar legal arrangements are established or where they reside. In order to ensure the effective monitoring and registration of information on the beneficial ownership of trusts and similar legal arrangements, cooperation between Member States is also necessary. The interconnection of Member States' registries of beneficial owners of trusts and similar legal arrangements *would* make this information accessible, and *would* also ensure that the multiple registration of the same trusts and similar legal arrangements is avoided within the Union.

Amendment

(20) Beneficial ownership information of trusts and similar legal arrangements should be registered where the trustees and persons holding equivalent positions in similar legal arrangements are established or where they reside. In order to ensure the effective monitoring and registration of information on the beneficial ownership of trusts and similar legal arrangements, cooperation between Member States is also necessary. The interconnection of Member States' registries of beneficial owners of trusts and similar legal arrangements *should* make this information accessible, and *should* also ensure that the multiple registration of the same trusts and similar legal arrangements is avoided within the Union.

Or. en

Amendment 14

Proposal for a directive Recital 22

Text proposed by the Commission

(22) The accuracy of data included in the beneficial ownership registers is fundamental for all of the relevant authorities and other persons allowed access to that data, and to make valid, lawful decisions based on that data. Therefore, where sufficient reasons arise, after careful analysis by the registrars, to doubt the accuracy of the beneficial ownership information held by the registers, legal entities and legal arrangements should be required to provide additional information on a risk-sensitive basis. In addition, it is important that Member States entrust the entity in charge of managing the registers with sufficient powers to verify beneficial ownership and the veracity of information provided to it, and to report any suspicion to their FIU. Such powers should extend to the conduct of inspections at the premises of the legal entities.

Amendment

(22) The accuracy of data included in the beneficial ownership registers is fundamental for all of the relevant authorities and other persons allowed access to that data, and to make valid, lawful decisions based on that data. Therefore, ***Member States should ensure that entities in charge of the central registers verify, at the time of submission of the beneficial ownership information and on a regular basis thereafter, that that information is adequate, accurate and up to date. Member States should ensure that entities in charge of central registers have at their disposal state-of-the-art technology to carry out automated verifications in a manner that safeguards fundamental rights and avoids discriminatory outcomes. Furthermore,*** where sufficient reasons arise, after careful analysis by the registrars, to doubt the accuracy of the beneficial ownership information held by the registers, legal entities and legal arrangements should be required to provide additional information on a risk-sensitive basis. In addition, it is important that Member States entrust the entity in charge of managing the registers with sufficient powers to verify beneficial ownership and the veracity of information provided to it, and to report any suspicion to their FIU. Such powers should extend to the conduct of inspections at the premises of the legal entities ***and, where applicable, to obliged entities, in accordance with national law. Similarly, such powers should extend to representatives of foreign legal persons and foreign legal arrangements in the Union, where there are such representatives.***

Or. en

Amendment 15

Proposal for a directive Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) Where a verification carried out at the time of submission of the beneficial ownership information leads an entity in charge of the register to conclude that there are inconsistencies or errors in that information, or where that information otherwise fails to fulfil the necessary requirements, Member States should ensure that such entity is able to withhold the certification of registration and any legal effects thereof or, where the inconsistencies are detected at a later stage, determine the invalidation of specific legal acts or transactions carried out by the legal entities or express trusts or similar legal arrangements, until the beneficial owner information provided is in order.

Or. en

Amendment 16

Proposal for a directive Recital 22 b (new)

Text proposed by the Commission

Amendment

(22b) Entities in charge of central registers should be operationally independent and autonomous and have the authority and capacity to carry out their functions free of political, government or industry influence or interference. Staff of those entities should be of high integrity and appropriately skilled and maintain high professional standards. Employees or managers of the

central register who report breaches of the requirements under this Directive should be legally protected from being exposed to threats, retaliatory or hostile action and, in particular, adverse or discriminatory employment actions in accordance with Directive (EU) 2019/1937.

Or. en

Amendment 17

Proposal for a directive Recital 22 c (new)

Text proposed by the Commission

Amendment

(22c) Peer reviews are an effective instrument to ensure that registers established in Member States fulfil the requirements of this Directive and to identify best practices and shortcomings. AMLA should therefore have a role in conducting peer reviews of some or all of the activities of the entity in charge of the central beneficial ownership register with the purpose of assessing whether those entities have mechanisms to fulfil the requirements of this Directive and effectively check whether the beneficial ownership information held in the register is accurate, adequate and up to date.

Or. en

Amendment 18

Proposal for a directive Recital 22 d (new)

Text proposed by the Commission

Amendment

(22d) Beneficial ownership registers are well placed to identify, in a rapid and

efficient manner, those individuals who ultimately own or control legal entities and arrangements, including individuals designated in relation to targeted financial sanctions. Timely detection of such ownership structures contributes to improving the understanding of the exposure to risks of evasion of targeted financial sanctions, and to the adoption of mitigating measures to reduce such risks. It is therefore important that registers be required to screen the beneficial ownership information they hold against designations in relation to targeted financial sanctions, both immediately upon such designation and regularly thereafter, in order to detect whether changes in the ownership or control structure of the legal entity or arrangement are conducive to risks of evasion of targeted financial sanctions.

Or. en

Amendment 19

Proposal for a directive Recital 24

Text proposed by the Commission

(24) In view of ensuring that the mechanism of discrepancy reporting is proportionate and focused on the detection of instances of inaccurate beneficial ownership information, Member States **may** allow obliged entities to request the customer to rectify discrepancies of a technical nature directly with the entity in charge of the central registers. Such option only applies to low-risk customers and to those errors of a technical nature, such as minor cases of misspelt information, where it is evident that those do not hinder the identification of the beneficial owner(s) and the accuracy of the information.

Amendment

(24) In view of ensuring that the mechanism of discrepancy reporting is proportionate and focused on the detection of instances of inaccurate beneficial ownership information, Member States **should** allow obliged entities to request the customer to rectify discrepancies of a technical nature directly with the entity in charge of the central registers. Such option only applies to low-risk customers and to those errors of a technical nature, such as minor cases of misspelt information, where it is evident that those do not hinder the identification of the beneficial owner(s) and the accuracy of the information.

Amendment 20**Proposal for a directive
Recital 27 a (new)***Text proposed by the Commission**Amendment*

(27a) FIUs, other competent authorities, self-regulatory bodies and obliged entities should have prompt, unrestricted and free access to beneficial ownership information through the European Central Platform for the purposes of fulfilling their duties of combating money laundering and terrorism financing and carrying out due diligence.

Or. en

Amendment 21**Proposal for a directive
Recital 28***Text proposed by the Commission**Amendment*

(28) Public access to beneficial ownership information ***can allow*** greater scrutiny of information by civil society, including by the press or civil society organisations, and contributes to preserving trust in the integrity of the financial system. It can ***contribute*** to combating the misuse of corporate and other legal entities and legal arrangements for the purposes of money laundering or terrorist financing, both by helping investigations and through reputational effects, given that anyone who could enter into a business relationship is aware of the identity of the beneficial owners. It ***may also facilitate*** the timely and efficient availability of information for obliged entities as well as authorities of

(28) Public access to beneficial ownership information ***allows*** greater scrutiny of information by civil society, including by the press or civil society organisations, and contributes to preserving trust in the integrity of the financial system. It can ***contribute*** to combating the misuse of corporate and other legal entities and legal arrangements for the purposes of money laundering or terrorist financing, both by helping investigations and through reputational effects, given that anyone who could enter into a business relationship is aware of the identity of the beneficial owners. ***As such, public information can be a deterrent against such misuse.*** It ***also facilitates*** the timely and efficient

third countries involved in combating such offences. The access to that information **would also help** investigations on money laundering, associated predicate offences and terrorist financing.

availability of information for obliged entities as well as authorities of third countries involved in combating such offences. The access to that information **also helps** investigations on money laundering, associated predicate offences and terrorist financing.

Or. en

Amendment 22

Proposal for a directive Recital 30

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 23

Proposal for a directive Recital 32

(32) ***In case of*** express trusts and similar legal arrangements, ***the information*** should be accessible to any member of the general public, ***provided that the legitimate interest can be demonstrated***. This should include situations where natural or legal persons file a request in relation to a trust or similar legal arrangement which holds or owns a controlling interest in a legal entity incorporated or created outside the Union through direct or indirect ownership, ***including through bearer shareholding, or through control via other means***. ***The interpretation of the legitimate interest by the Member States should not restrict the concept of legitimate interest to cases of pending administrative or legal proceedings, and should enable to take into account the preventive work in the field of anti-money laundering and its predicate offences and counter-terrorist financing undertaken by non-governmental organisations and investigative journalists. While trusts and other legal arrangements can be used in complex corporate structures, their primary objective remains the management of individual wealth. In order to adequately balance the legitimate aim of preventing the use of the financial system for the purposes of money laundering or terrorist financing, which public scrutiny enhances, and the protection of fundamental rights of individuals, in particular the right to privacy and protection of personal data, it is necessary to provide for the demonstration of a legitimate interest in accessing beneficial ownership information of trusts and other legal arrangements.***

(32) ***Beneficial ownership information on*** express trusts and similar legal arrangements should be accessible to any member of the general public ***in a similar manner***. This should include situations where natural or legal persons file a request in relation to a trust or similar legal arrangement which holds or owns a controlling interest in a legal entity incorporated or created outside the Union through direct or indirect ownership.

Or. en

Amendment 24

Proposal for a directive Recital 33

Text proposed by the Commission

(33) In order to ensure that the information available to the public allows the correct identification of the beneficial owner, a minimum set of data should be accessible to the public. Such data should allow for the unequivocal identification of the beneficial owner, whilst minimising the amount of personal data publicly accessible. In the absence of information pertaining to the name, the month and year of birth and the country of residence and nationality of the beneficial owner, it would not be possible to establish unambiguously who the natural person being the beneficial owner is. Similarly, the absence of information on the beneficial interest held would make it impossible to determine why that natural person should be identified as being the beneficial owner. Therefore, in order to avoid misinterpretations of the beneficial ownership information publicly available and to ensure a proportionate disclosure of personal data consistent across the Union, it is appropriate to lay down the *minimum* set of data that can be accessed by the public.

Amendment

(33) In order to ensure that the information available to the public allows the correct identification of the beneficial owner, a minimum set of data should be accessible to the public. Such data should allow for the unequivocal identification of the beneficial owner, whilst minimising the amount of personal data publicly accessible. In the absence of information pertaining to the name, the month and year of birth and the country of residence and nationality of the beneficial owner, it would not be possible to establish unambiguously who the natural person being the beneficial owner is. Similarly, the absence of information on the beneficial interest held would make it impossible to determine why that natural person should be identified as being the beneficial owner. Therefore, in order to avoid misinterpretations of the beneficial ownership information publicly available and to ensure a proportionate disclosure of personal data consistent across the Union, it is appropriate to lay down the set of data that can be accessed by the public.

Or. en

Amendment 25

Proposal for a directive Recital 35

Text proposed by the Commission

(35) Moreover, with the aim of ensuring a proportionate and balanced approach and to guarantee the rights to private life and

Amendment

(35) Moreover, with the aim of ensuring a proportionate and balanced approach and to guarantee the rights to private life and

personal data protection, ***it should be possible for*** Member States ***to*** provide for exemptions to the disclosure of the personal information on the beneficial owner through the registers of beneficial ownership information and to access to such information, in exceptional circumstances, where that information would expose the beneficial owner to a disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation. It should also be possible for Member States to require online registration in order to identify any person who requests information from the register, as well as the payment of a fee for access to the information in the register.

personal data protection, Member States ***should*** provide for exemptions to the disclosure of the personal information on the beneficial owner through the registers of beneficial ownership information and to access to such information, in exceptional circumstances, where that information would expose the beneficial owner to a disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation. It should also be possible for Member States to require online registration in order to identify any person who requests information from the register, as well as the payment of a fee for access to the information in the register, ***which should not exceed the direct costs of requesting or making the information available.***

Or. en

Amendment 26

Proposal for a directive

Recital 36

Text proposed by the Commission

(36) Directive (EU) 2018/843 achieved the interconnection of Member States' central registers holding beneficial ownership information through the European Central Platform established by Directive (EU) 2017/1132 of the European Parliament and of the Council³⁰. Continued involvement of Member States in the functioning of the whole system should be ensured by means of a regular dialogue between the Commission and the representatives of Member States on the issues concerning the operation of the system and on its future development.

Amendment

(36) Directive (EU) 2018/843 achieved the interconnection of Member States' central registers holding beneficial ownership information through the European Central Platform established by Directive (EU) 2017/1132 of the European Parliament and of the Council. Continued involvement of Member States in the functioning of the whole system should be ensured by means of a regular dialogue between the Commission and the representatives of Member States on the issues concerning the operation of the system and on its future development. ***It is essential that the European Central Platform serve as a central search service making available all information related to beneficial ownership to competent***

authorities, self-regulatory bodies and obliged entities.

³⁰ Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ L 169, 30.6.2017, p. 46).

³⁰ Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ L 169, 30.6.2017, p. 46).

Or. en

Amendment 27

Proposal for a directive Recital 39

Text proposed by the Commission

(39) Delayed access to information by FIUs and other competent authorities on the identity of holders of bank and payment accounts and safe-deposit boxes, especially anonymous ones, hampers the detection of transfers of funds relating to money laundering and terrorist financing. National data allowing the identification of bank and payments accounts and safe-deposit boxes belonging to one person is fragmented and therefore not accessible to FIUs and to other competent authorities in a timely manner. It is therefore essential to establish centralised automated mechanisms, such as a register or data retrieval system, in all Member States as an efficient means to get timely access to information on the identity of holders of bank and payment accounts and safe-deposit boxes, their proxy holders, and their beneficial owners. When applying the access provisions, it is appropriate for pre-existing mechanisms to be used provided that national FIUs can access the data for which they make inquiries in an immediate and unfiltered manner. Member States should consider feeding such mechanisms with other information deemed necessary and proportionate for the more effective

Amendment

(39) Delayed access to information by FIUs and other competent authorities on the identity of holders of bank and payment accounts and safe-deposit boxes, especially anonymous ones, hampers the detection of transfers of funds relating to money laundering and terrorist financing. National data allowing the identification of bank and payments accounts and safe-deposit boxes belonging to one person is fragmented and therefore not accessible to FIUs and to other competent authorities in a timely manner. It is therefore essential to establish centralised automated mechanisms, such as a register or data retrieval system, in all Member States as an efficient means to get timely access to information on the identity of holders of bank and payment accounts, ***including virtual bank accounts***, and safe-deposit boxes, their proxy holders, and their beneficial owners. ***Such information should include the historical information on closed customer-account holders, bank or payment accounts and safe-deposit boxes***. When applying the access provisions, it is appropriate for pre-existing mechanisms to be used provided that national FIUs can access the data for which they make inquiries in an immediate and

mitigation of risks relating to money laundering and the financing of terrorism. Full confidentiality should be ensured in respect of such inquiries and requests for related information by FIUs and competent authorities *other than those authorities responsible for prosecution*.

unfiltered manner. Member States should consider feeding such mechanisms with other information deemed necessary and proportionate for the more effective mitigation of risks relating to money laundering and the financing of terrorism. Full confidentiality should be ensured in respect of such inquiries and requests for related information by FIUs and competent authorities.

Or. en

Amendment 28

Proposal for a directive Recital 40

Text proposed by the Commission

(40) In order to respect privacy and protect personal data, the minimum data necessary for the carrying out of AML/CFT investigations should be held in centralised automated mechanisms for bank and payment accounts, such as registers or data retrieval systems. It should be possible for Member States to determine which data it is useful and proportionate to gather, taking into account the systems and legal traditions in place to enable the meaningful identification of the beneficial owners. When transposing the provisions relating to those mechanisms, Member States should set out retention periods equivalent to the period for retention of the documentation and information obtained within the application of customer due diligence measures. It should be possible for Member States to extend the retention period *on a general basis by law, without requiring case-by-case decisions*. The additional retention period should not exceed an additional five years. That period should be without prejudice to national law setting out other data retention requirements allowing case-by-case

Amendment

(40) In order to respect privacy and protect personal data, the minimum data necessary for the carrying out of AML/CFT investigations should be held in centralised automated mechanisms for bank and payment accounts, such as registers or data retrieval systems. It should be possible for Member States to determine which data it is useful and proportionate to gather, taking into account the systems and legal traditions in place to enable the meaningful identification of the beneficial owners. When transposing the provisions relating to those mechanisms, Member States should set out retention periods equivalent to the period for retention of the documentation and information obtained within the application of customer due diligence measures. It should be possible for Member States to *exceptionally* extend the retention period *for duly justified reasons*. The additional retention period should not exceed an additional five years. That period should be without prejudice to national law setting out other data retention requirements allowing case-by-case decisions to facilitate criminal or

decisions to facilitate criminal or administrative proceedings. Access to those mechanisms should be on a need-to-know basis.

administrative proceedings. Access to those mechanisms should be on a need-to-know basis.

Or. en

Amendment 29

Proposal for a directive

Recital 42

Text proposed by the Commission

(42) In order to respect the right to the protection of personal data and the right to privacy, and to limit the impact of cross-border access to the information contained in the national centralised automated mechanisms, the scope of information accessible through the bank account registers (BAR) central access point would be restricted to the minimum necessary in accordance with the principle of data minimisation in order to allow the identification of any natural or legal persons holding or controlling payment accounts and bank accounts identified by IBAN and safe-deposit boxes.

Furthermore, only FIUs should be granted immediate and unfiltered access to the central access point. Member States should ensure that the FIUs' staff maintain high professional standards of confidentiality and data protection, that they are of high integrity and are appropriately skilled. Moreover, Member States should put in place technical and organisational measures guaranteeing the security of the data to high technological standards.

Amendment

(42) In order to respect the right to the protection of personal data and the right to privacy, and to limit the impact of cross-border access to the information contained in the national centralised automated mechanisms, the scope of information accessible through the bank account registers (BAR) central access point would be restricted to the minimum necessary in accordance with the principle of data minimisation in order to allow the identification of any natural or legal persons holding or controlling payment accounts and bank accounts identified by IBAN and safe-deposit boxes.

Furthermore, only FIUs should be granted immediate and unfiltered access to the central access point. Member States should ensure that the FIUs' staff maintain high professional standards of confidentiality and data protection, that they are of high integrity and are appropriately skilled, ***including in detecting biases in and ethical use of big data sets***. Moreover, Member States should put in place technical and organisational measures guaranteeing the security of the data to high technological standards.

Or. en

Amendment 30

Proposal for a directive Recital 44

Text proposed by the Commission

(44) Real estate is an attractive commodity for criminals to launder the proceeds of their illicit activities, as it allows obscuring the true source of the funds and the identity of the beneficial owner. Proper and timely identification of natural or legal person owning real estate by FIUs and other competent authorities is important both for detecting money laundering schemes as well as for freezing and confiscation of assets. It is therefore important that Member States provide FIUs and competent authorities with access to information which allows the identification in a timely manner of natural or legal person owning real estate and information relevant for the identification of the risk and suspicion of the transaction.

Amendment

(44) Real estate is an attractive commodity for criminals to launder the proceeds of their illicit activities, as it allows obscuring the true source of the funds and the identity of the beneficial owner. Proper and timely identification of natural or legal person owning ***land and*** real estate by FIUs and other competent authorities is important both for detecting money laundering schemes as well as for freezing and confiscation of assets. It is therefore important that Member States provide FIUs and competent authorities with access to information ***through a single access point in each Member State,*** which allows the identification in a timely manner of natural or legal person owning ***such land and*** real estate, ***including through registers or electronic data retrieval systems,*** and information relevant for the identification of the ***beneficial owner, as well as timely access to the*** risk and suspicion of the transaction. ***Such data should be interconnected via the real estate data single access point to be developed and operated by the Commission.***

Or. en

Amendment 31

Proposal for a directive Recital 44 a (new)

Text proposed by the Commission

Amendment

(44a) Certain goods registered under national law can be attractive commodities for criminals to launder the

proceeds of their illicit activities. Member States should provide for systems to aggregate information on ownership of those goods, for example watercraft and aircraft. Member States should also consider aggregating, through registers or other systems, information on ownership of certain goods of high value, particularly insured goods. Proper and timely identification of natural persons who are beneficial owners of those goods by FIUs and other competent authorities is important both for detecting money laundering schemes and for freezing assets. It is therefore important for Member States to provide FIUs and competent authorities with access to information which allows the identification in a timely manner of natural or beneficial ownership of certain goods and to information relevant for the identification of the risk and suspicion of transactions.

Or. en

Amendment 32

Proposal for a directive

Recital 45

Text proposed by the Commission

(45) All Member States have, or should, set up operationally independent and autonomous 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. The FIU should be the single central national unit responsible for the receipt and analysis of suspicious transaction reports, reports on cross-border physical movements of cash and on payments in cash above a certain threshold

Amendment

(45) All Member States have, or should, set up operationally independent and autonomous 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. The FIU should be the single central national unit responsible for the receipt and analysis of suspicious transaction reports, reports on cross-border physical movements of cash and on payments in cash above a certain threshold

as well as other information relevant to money laundering, its predicate offences or terrorist financing submitted by obliged entities. Operational independence and autonomy of the FIU should be ensured by granting the FIU the authority and capacity to carry out its functions freely, including the ability to take autonomous decisions as regards analysis, requests and dissemination of specific information. In all cases, the FIU should have the independent right to forward or disseminate information to competent authorities. The FIU should be provided with adequate financial, human and technical resources, in a manner that secures its autonomy and independence and enables it to exercise its mandate effectively. The FIU should be able to obtain and deploy the resources needed to carry out its functions, on an individual or routine basis, free from any undue political, government or industry influence or interference, which might compromise its operational independence.

as well as other information relevant to money laundering, its predicate offences or terrorist financing submitted by obliged entities. Operational independence and autonomy of the FIU should be ensured by granting the FIU the authority and capacity to carry out its functions freely, including the ability to take autonomous decisions as regards analysis, requests and dissemination of specific information. In all cases, the FIU should have the independent right to forward or disseminate information to competent authorities. The FIU should be provided with adequate financial, human and technical resources, in a manner that secures its autonomy and independence and enables it to exercise its mandate effectively. The FIU should be able to obtain and deploy the resources needed to carry out its functions, on an individual or routine basis, free from any ***unjustifiable*** or undue political, government or industry influence or interference, which might compromise its operational independence. ***In order to assess the fulfilment of those requirements and identify weaknesses and best practices, AMLA should be empowered to coordinate the organisation of peer reviews of FIUs.***

Or. en

Amendment 33

Proposal for a directive Recital 45 a (new)

Text proposed by the Commission

Amendment

(45a) FIU staff should be of high integrity and appropriately skilled, including in detecting biases in and in the ethical use of big data sets, and maintain high professional standards. FIU staff should not be in a situation where a conflict of interest exists or could be

perceived to exist. AMLA should adopt guidelines to address situations of conflict of interest.

Or. en

Amendment 34

Proposal for a directive

Recital 46

Text proposed by the Commission

(46) FIUs play an important role in identifying the financial operations of terrorist networks, especially cross-border, and in detecting their financial backers. Financial intelligence might be of fundamental importance in uncovering the facilitation of terrorist offences and the networks and schemes of terrorist organisations. FIUs maintain significant differences as regards their functions, competences and powers. The current differences should however not affect an FIU's activity, particularly its capacity to develop preventive analyses in support of all the authorities in charge of intelligence, investigative and judicial activities, and international cooperation. In the exercise of their tasks, it has become essential to identify the minimum set of data FIUs should have swift access to and be able to exchange without impediments with their counterparts from other Member States. In all cases of suspected money laundering, its predicate offences and in cases involving the financing of terrorism, information should flow directly and quickly without undue delays. It is therefore essential to further enhance the effectiveness and efficiency of FIUs, by clarifying the powers of and cooperation between FIUs.

Amendment

(46) FIUs play an important role in identifying the financial operations of terrorist networks, especially cross-border, and in detecting their financial backers. Financial intelligence might be of fundamental importance in uncovering the facilitation of terrorist offences and the networks and schemes of terrorist organisations. FIUs maintain significant differences as regards their functions, competences and powers. The current differences should however not affect an FIU's activity, particularly its capacity to develop preventive analyses in support of all the authorities in charge of intelligence, investigative and judicial activities, and international cooperation. In the exercise of their tasks, it has become essential to identify the minimum set of data FIUs should have swift access to and be able to exchange without impediments with their counterparts from other Member States. In all cases of suspected money laundering, its predicate offences and in cases involving the financing of terrorism, information should flow directly and quickly without undue delays. It is therefore essential to further enhance the effectiveness and efficiency of FIUs, by clarifying the powers of and cooperation between FIUs. ***FIUs should cooperate with each other to the greatest extent possible. An FIU should be able to refuse to exchange information with another***

FIU only in exceptional circumstances where the exchange could be contrary to fundamental principles of national law. Those exceptional circumstances should be specified in a way which prevents misuse of, and undue limitations on, the free exchange of information for analytical purposes.

Or. en

Amendment 35

Proposal for a directive

Recital 47

Text proposed by the Commission

(47) The powers of FIUs include the right to access directly or indirectly the ‘financial’, ‘administrative’ and ‘law enforcement’ information that they require in order to combat money laundering, its associated predicate offences and terrorist financing. The lack of definition of what types of information these general categories include has resulted in FIUs having been granted with access to considerably diversified sets of information which has an impact on FIUs’ analytical functions as well as on their capacity to cooperate effectively with their counterparts from other Member States. It is therefore necessary to define the minimum sets of ‘financial’, ‘administrative’ and ‘law enforcement’ information that should be made directly or indirectly available to every FIU across the Union. Moreover, FIUs should be able to obtain swiftly from any obliged entity all necessary information relating to their functions. An FIU should also be able to obtain such information upon request made by another FIU and to exchange that information with the requesting FIU.

Amendment

(47) The powers of FIUs include the right to access directly or indirectly the ‘financial’, ‘administrative’ and ‘law enforcement’ information that they require in order to combat money laundering, its associated predicate offences and terrorist financing. The lack of definition of what types of information these general categories include has resulted in FIUs having been granted with access to considerably diversified sets of information which has an impact on FIUs’ analytical functions as well as on their capacity to cooperate effectively with their counterparts from other Member States. It is therefore necessary to define the minimum sets of ‘financial’, ‘administrative’ and ‘law enforcement’ information that should be made directly or indirectly available to every FIU across the Union. Moreover, FIUs should be able to obtain swiftly from any obliged entity all necessary information relating to their functions. An FIU should also be able to obtain such information upon request made by another FIU and to exchange that information with the requesting FIU.
Access to financial, administrative and law enforcement information by FIUs

should be in accordance with the principle of data minimisation.

Or. en

Amendment 36

Proposal for a directive

Recital 48

Text proposed by the Commission

(48) The vast majority of FIUs have been granted the power to take urgent action and suspend or ***withhold consent to*** a transaction in order to analyse it, confirm the suspicion and disseminate the results of the analytical activities to the competent authorities. However, there are certain variations in relation to the duration of the postponement powers across the different Member States, with an impact not only on the postponement of activities that have a cross-border nature through FIU-to-FIU cooperation, but also on individuals' fundamental rights. Furthermore, in order to ensure that FIUs have the capacity to promptly restrain criminal funds or assets and prevent their dissipation, also for seizure purposes, FIUs should be granted the power to suspend the use of a bank or payment account in order to analyse the transactions performed through the account, confirm the suspicion and disseminate the results of the analysis to the competent authorities. Given that postponement powers have an impact on the right to property, the preservation of affected persons' fundamental rights should be guaranteed.

Amendment

(48) The vast majority of FIUs have been granted the power to take urgent action and suspend or ***prohibit a transaction for a determined period of time*** in order to analyse it, confirm the suspicion and disseminate the results of the analytical activities to the competent authorities. However, there are certain variations in relation to the duration of the postponement powers across the different Member States, with an impact not only on the postponement of activities that have a cross-border nature through FIU-to-FIU cooperation, but also on individuals' fundamental rights. Furthermore, in order to ensure that FIUs have the capacity to promptly restrain criminal funds or assets and prevent their dissipation, also for seizure purposes, FIUs should be granted the power to suspend the use of a bank or payment account in order to analyse the transactions performed through the account, confirm the suspicion and disseminate the results of the analysis to the competent authorities. Given that postponement powers have an impact on the right to property, the preservation of affected persons' fundamental rights should be guaranteed. ***Where an FIU decides to suspend or prohibit a transaction or an account that concerns another Member State, it should promptly forward this information to the FIU of that Member State and make it available***

to other FIUs through FIU.net.

Or. en

Amendment 37

Proposal for a directive Recital 49

Text proposed by the Commission

(49) For the purposes of greater transparency and accountability and to increase awareness with regard to their activities, FIUs should issue activity reports on an annual basis. These reports should at least provide statistical data in relation to the suspicious transaction reports received, the number of disseminations made to national competent authorities, the number of requests submitted to and received by other FIUs *as well as* information on trends and typologies identified. This report should be made public except for the elements which contain sensitive and classified information. At least once annually, the FIU should provide obliged entities with feedback on the quality of suspicious transaction reports, their timeliness, the description of suspicion and any additional documents provided. Such feedback *can* be provided to individual obliged entities or groups of obliged entities and should aim to further improve the obliged entities' ability to detect and identify suspicious transactions and activities and enhance the overall reporting mechanisms.

Amendment

(49) For the purposes of greater transparency and accountability and to increase awareness with regard to their activities, FIUs should issue activity reports on an annual basis. These reports should at least provide statistical data in relation to the suspicious transaction reports received, the number of disseminations made to national competent authorities, the number of requests submitted to and received by other FIUs, information on trends and typologies identified *as well as requests submitted to and received from competent authorities, Europol and EPPO*. This report, should be made public except for the elements which contain sensitive and classified information. At least once annually, the FIU should provide *specific* obliged entities with feedback on the quality of suspicious transaction reports, their timeliness, the description of suspicion and any additional documents provided. Such feedback *should* be provided to individual obliged entities or groups of obliged entities, *depending on the sector*, and should aim to further improve the obliged entities' ability to detect and identify suspicious transactions and activities and enhance the overall reporting mechanisms.

Or. en

Amendment 38

Proposal for a directive Recital 50

Text proposed by the Commission

(50) The purpose of the FIU is to collect and analyse the information which they receive with the aim of establishing links between suspicious transactions and underlying criminal activity in order to prevent and combat money laundering and terrorist financing, and to disseminate the results of its analysis as well as additional information to the competent authorities where there are grounds to suspect money laundering, associated predicate offences or financing of terrorism. An FIU should not refrain from or refuse the exchange of information to another FIU, spontaneously or upon request, for reasons such as a lack of identification of an associated predicate offence, features of criminal national laws and differences between the definitions of associated predicate offences or the absence of a reference to particular associated predicate offences. Similarly, an FIU should grant its prior consent to another FIU to forward the information to other competent authorities regardless of the type of possible associated predicate offence in order to allow the dissemination function to be carried out effectively. FIUs have reported difficulties in exchanging information based on differences in national definitions of certain predicate offences, such as tax crimes, which are not harmonised by Union law. Such differences should not hamper the mutual exchange, the dissemination to other competent authorities and the use of that information. FIUs should rapidly, constructively and effectively ensure the widest range of international cooperation with third countries' FIUs in relation to money laundering, associated predicate offences and terrorist financing in accordance with the applicable data

Amendment

(50) The purpose of the FIU is to collect and analyse the information which they receive with the aim of establishing links between suspicious transactions and underlying criminal activity in order to prevent and combat money laundering and terrorist financing, and to disseminate the results of its analysis as well as additional information to the competent authorities where there are grounds to suspect money laundering, associated predicate offences or financing of terrorism. An FIU should not refrain from or refuse the exchange of information to another FIU, spontaneously or upon request, for reasons such as a lack of identification of an associated predicate offence, features of criminal national laws and differences between the definitions of associated predicate offences or the absence of a reference to particular associated predicate offences. Similarly, an FIU should grant its prior consent to another FIU to forward the information to other competent authorities regardless of the type of possible associated predicate offence in order to allow the dissemination function to be carried out effectively. FIUs have reported difficulties in exchanging information based on differences in national definitions of certain predicate offences, such as tax crimes, which are not harmonised by Union law. Such differences should not hamper the mutual exchange, the dissemination to other competent authorities and the use of that information. FIUs should rapidly, constructively and effectively ensure the widest range of international cooperation with third countries' FIUs in relation to money laundering, associated predicate offences and terrorist financing in accordance with the applicable data

protection rules for data transfers, FATF Recommendations and Egmont Principles for Information Exchange between Financial Intelligence Units.

protection rules for data transfers, FATF Recommendations and Egmont Principles for Information Exchange between Financial Intelligence Units, ***while fully respecting data protection and fundamental rights obligations.***

Or. en

Amendment 39

Proposal for a directive Recital 50 a (new)

Text proposed by the Commission

Amendment

(50a) In order to ensure appropriate follow up, it is essential that FIUs disseminate the results of their analysis to competent authorities, including information received from other FIUs. Where prior consent to further dissemination is necessary, Member States should ensure that the requested FIU's prior consent is granted promptly and to the largest extent possible, regardless of the type of predicate offences. Any refusal should be based solely on objective grounds and be grounded on a reasoned justification that such dissemination would fall beyond the scope of application of AML/CFT provisions, could lead to an impairment on ongoing investigations, or would affect fundamental principles of national or Union law.

Or. en

Amendment 40

Proposal for a directive Recital 50 b (new)

(50b) When granting consent for the further dissemination of information to competent authorities, the requested FIU should be able to impose restrictions and conditions for the use of that information. The receiving FIU and the competent authorities concerned should comply with the restrictions and conditions set by the requested FIU. For example, a requested FIU might agree that the receiving FIU disseminate the information to competent authorities on the condition that that information can be used for operational and strategic analysis purposes only. In such an event, competent authorities in the receiving Member States should not automatically use the disseminated information as evidence in a judicial proceeding. Instead, competent authorities should use the applicable judicial cooperation mechanisms to seek information for evidentiary purposes.

Or. en

Amendment 41

Proposal for a directive Recital 51

Text proposed by the Commission

(51) FIUs should use secure facilities, including protected channels of communication, to cooperate and exchange information amongst each other. In this respect, a system for the exchange of information between FIUs of the Member States ('FIU.net') should be set up. The system should be managed and hosted by AMLA. The FIU.net should be used by FIUs to cooperate and exchange information amongst each other and may also be used, where appropriate, to

Amendment

(51) FIUs should use secure facilities, including protected channels of communication ***by using end-to-end encryption***, to cooperate and exchange information amongst each other. In this respect, a system for the exchange of information between FIUs of the Member States ('FIU.net') should be set up. The system should be managed and hosted by AMLA. The FIU.net should be used by FIUs to cooperate and exchange information amongst each other and may

exchange information with FIUs of third countries and with other authorities and Union bodies. The functionalities of the FIU.net should be used by FIUs to their full potential. Those functionalities should allow FIUs to match their data with data of other FIUs in an anonymous way with the aim of detecting subjects of the FIU's interests in other Member States and identifying their proceeds and funds, whilst ensuring full protection of personal data.

also be used, where appropriate, to exchange information with FIUs of third countries and with other authorities and Union bodies. The functionalities of the FIU.net should be used by FIUs to their full potential. Those functionalities should allow FIUs to match their data with data of other FIUs in an anonymous way **and subject matter data with the Europol database, in accordance with Regulation (EU) 2016/794**, with the aim of detecting subjects of the FIU's interests in other Member States and identifying their proceeds and funds, whilst ensuring full protection of personal data.

Or. en

Amendment 42

Proposal for a directive Recital 54

Text proposed by the Commission

(54) The movement of illicit money traverses borders and may affect different Member States. The cross-border cases, involving multiple jurisdictions, are becoming more and more frequent and increasingly significant, also due to the activities carried out by obliged entities on a cross-border basis. In order to deal effectively with cases that concern several Member States, FIUs should be able to go beyond the simple exchange of information for the detection and analysis of suspicious transactions and activities and share the analytical activity itself. FIUs have reported certain important issues which limit or condition the capacity of FIUs to engage in joint analysis. Carrying out joint analysis of suspicious transactions and activities will enable FIUs to exploit potential synergies, to use information from different sources, to obtain a full picture of the anomalous activities and to

Amendment

(54) The movement of illicit money traverses borders and may affect different Member States. The cross-border cases, involving multiple jurisdictions, are becoming more and more frequent and increasingly significant, also due to the activities carried out by obliged entities on a cross-border basis. In order to deal effectively with cases that concern several Member States, FIUs should be able to go beyond the simple exchange of information for the detection and analysis of suspicious transactions and activities and share the analytical activity itself. FIUs have reported certain important issues which limit or condition the capacity of FIUs **and AMLA** to engage in joint analysis. Carrying out joint analysis of suspicious transactions and activities will enable FIUs to exploit potential synergies, to use information from different sources, to obtain a full picture of the anomalous

enrich the analysis. FIUs should be able to conduct joint analyses of suspicious transactions and activities and to set up and participate in joint analysis teams for specific purposes and limited period with the assistance of AMLA. The participation of third parties may be instrumental for the successful outcome of joint analyses. Therefore, FIUs may invite third parties to take part in the joint analysis where such participation would fall within the respective mandates of those third parties.

activities and to enrich the analysis. FIUs should be able to conduct joint analyses of suspicious transactions and activities and to set up and participate in joint analysis teams for specific purposes and limited period with the assistance of AMLA. The participation of third parties may be instrumental for the successful outcome of joint analyses. Therefore, FIUs may invite third parties to take part in the joint analysis where such participation would fall within the respective mandates of those third parties. ***Similarly, AMLA should be able to take the initiative to set up a joint analysis in certain clearly specified situations.***

Or. en

Amendment 43

Proposal for a directive

Recital 55

Text proposed by the Commission

(55) Effective supervision of all obliged entities is essential to protect the integrity of the Union financial system and of the internal market. To this end, Member States should deploy effective and impartial AML/CFT supervision and set forth the conditions for effective, timely and sustained cooperation between supervisors.

Amendment

(55) Effective supervision of all obliged entities is essential to protect the integrity of the Union financial system and of the internal market. To this end, Member States should deploy effective, ***independent*** and impartial AML/CFT supervision and set forth the conditions for effective, timely and sustained cooperation between supervisors.

Or. en

Amendment 44

Proposal for a directive

Recital 56

Text proposed by the Commission

(56) Member States should ensure effective, impartial and risk-based supervision of all obliged entities, preferably by public authorities via a separate and independent national supervisor. National supervisors should be able to perform a comprehensive range of tasks in order to exercise effective supervision of all obliged entities.

Amendment

(56) Member States should ensure effective, impartial, ***independent*** and risk-based supervision of all obliged entities, preferably by public authorities via a separate and independent national supervisor. National supervisors should be able to perform a comprehensive range of tasks in order to exercise effective supervision of all obliged entities.

Or. en

Amendment 45

Proposal for a directive

Recital 58

Text proposed by the Commission

(58) In order to assess and monitor more effectively and regularly the risks the obliged entities are exposed to and the manner in which they implement targeted financial sanctions, it is necessary to clarify that national supervisors are both entitled and bound to conduct all the necessary off-site, on-site and thematic investigations and any other inquiries and assessments as they see necessary. This will not only help supervisors decide on those cases where the specific risks inherent in a sector are clear and understood, but also provide them with the tools required to further disseminate relevant information to obliged entities in order to inform their understanding of money laundering and terrorist financing risks.

Amendment

(58) In order to assess and monitor more effectively and regularly the risks the obliged entities are exposed to and the manner in which they implement targeted financial sanctions, it is necessary to clarify that national supervisors are both entitled and bound to conduct all the necessary off-site, on-site and thematic investigations and any other inquiries and assessments as they see necessary. ***They should also be able to react without undue delay to any suspicion of non-compliance with applicable requirements and to take appropriate supervisory measures to address allegations of breaches.*** This will not only help supervisors decide on those cases where the specific risks inherent in a sector are clear and understood, but also provide them with the tools required to further disseminate relevant information to obliged entities in order to inform their understanding of money laundering and terrorist financing risks.

Or. en

Amendment 46

Proposal for a directive Recital 59

Text proposed by the Commission

(59) Outreach activities, including dissemination of information by the supervisors to the obliged entities under their supervision, *is* essential to guarantee that the private sector has an adequate understanding of the nature and level of money laundering and terrorist financing risks they face.

Amendment

(59) Outreach activities, including dissemination of information by the supervisors to the obliged entities under their supervision, ***including on data protection issues, are*** essential to guarantee that the private sector has an adequate understanding of the nature and level of money laundering and terrorist financing risks they face ***and their obligations in that regard.***

Or. en

Amendment 47

Proposal for a directive Recital 60

Text proposed by the Commission

(60) Supervisors should adopt a risk-based approach to their work, which should enable them to focus their resources where the risks are the highest, whilst ensuring that no sector or entity is left exposed to criminal attempts to launder money or finance terrorism. AMLA should play a leading role in fostering a common understanding of risks, and should therefore be entrusted with developing the benchmarks and a methodology for assessing and classifying the inherent and residual risk profile of obliged entities, as well as the frequency at which such risk profile should be reviewed.

Amendment

(60) Supervisors should adopt a risk-based approach to their work, which should enable them to focus their resources where the risks are the highest, whilst ensuring that no sector or entity is left exposed to criminal attempts to launder money or finance terrorism. AMLA should play a leading role in fostering a common understanding of risks, and should therefore be entrusted with developing the benchmarks and a methodology for assessing and classifying the inherent and residual risk profile of obliged entities, as well as the frequency at which such risk profile should be reviewed. ***In that regard, supervisors and self-regulatory bodies should adopt an annual activity report and make a summary thereof publicly***

available.

Or. en

Amendment 48

Proposal for a directive Recital 62

Text proposed by the Commission

(62) Cooperation between national supervisors is essential to ensure a common supervisory approach across the Union. To be effective, this cooperation has to be leveraged to the greatest extent possible and regardless of the respective nature or status of the supervisors. In addition to traditional cooperation - such as the ability to conduct investigations on behalf of a requesting supervisory authority – it is appropriate to mandate the set-up of AML/CFT supervisory colleges with respect to obliged entities operating under the freedom to provide services or of establishment and with the respect of obliged entities which are part of a group.

Amendment

(62) Cooperation between national supervisors is essential to ensure a common supervisory approach across the Union. To be effective, this cooperation has to be leveraged to the greatest extent possible and regardless of the respective nature or status of the supervisors. In addition to traditional cooperation - such as the ability to conduct investigations on behalf of a requesting supervisory authority – it is appropriate to mandate the set-up of AML/CFT supervisory colleges, ***including with a participation of third country financial supervisors under certain conditions and AMLA***, with respect to obliged entities operating under the freedom to provide services or of establishment and with the respect of obliged entities which are part of a group. ***The supervisory activities of AML/CFT supervisory colleges should be proportionate to the level of risk posed by the credit or financial institution and the scale of significance of cross-border activity.***

Or. en

Amendment 49

Proposal for a directive Recital 66

Text proposed by the Commission

(66) Cross-border groups need to have in place far-reaching group-wide policies and procedures. To ensure that cross-border operations are matched by adequate supervision, there is a need to set out detailed supervisory rules, enabling supervisors of the home Member State and those of the host Member State cooperate with each other to the greatest extent possible, regardless of their respective nature or status, and with AMLA to assess the risks, monitor developments that could affect the various entities that form part of the group **and** coordinate supervisory action. Given its coordinating role, AMLA should be entrusted with the duty to developing the draft regulatory technical standards defining the detailed respective duties of the home and host supervisors of groups, and the modalities of cooperation between them. The supervision of the effective implementation of group policy on AML/CFT should be done in accordance with the principles and modalities of consolidated supervision as laid down in the relevant European sectoral legislation.

Amendment

(66) Cross-border groups need to have in place far-reaching group-wide policies and procedures. To ensure that cross-border operations are matched by adequate supervision, there is a need to set out detailed supervisory rules, enabling supervisors of the home Member State and those of the host Member State cooperate with each other to the greatest extent possible, regardless of their respective nature or status, and with AMLA to assess the risks, monitor developments that could affect the various entities that form part of the group, coordinate supervisory action **and help solving disputes**. Given its coordinating role, AMLA should be entrusted with the duty to developing the draft regulatory technical standards defining the detailed respective duties of the home and host supervisors of groups, and the modalities of cooperation between them. The supervision of the effective implementation of group policy on AML/CFT should be done in accordance with the principles and modalities of consolidated supervision as laid down in the relevant European sectoral legislation.

Or. en

Amendment 50

Proposal for a directive
Recital 69

Text proposed by the Commission

(69) Directive (EU) 2015/849 allowed Member States to entrust the supervision of some obliged entities to self-regulatory bodies. However, the quality and intensity of supervision performed by such self-regulatory bodies has been insufficient, and under no or close to no public scrutiny.

Amendment

(69) Directive (EU) 2015/849 allowed Member States to entrust the supervision of some obliged entities to self-regulatory bodies. However, the quality and intensity of supervision performed by such self-regulatory bodies has been insufficient, and under no or close to no public scrutiny.

Where a Member State decides to entrust supervision to a self-regulatory body, it should also designate a public authority to oversee the activities of the self-regulatory body to ensure that the performance of those activities is in line with the requirements of this Directive.

Where a Member State decides to entrust supervision to a self-regulatory body, it should also designate a public authority to oversee the activities of the self-regulatory body to ensure that the performance of those activities is in line with the requirements of this Directive. ***Such an authority should be operationally independent and autonomous and should carry out its functions free of political, government or industry influence or interference.***

Or. en

Amendment 51

Proposal for a directive Recital 70

Text proposed by the Commission

(70) The importance of combating money laundering and terrorist financing should result in Member States laying down effective, proportionate and dissuasive administrative sanctions and measures in national law for failure to respect the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation]. National supervisors should be empowered by Member States to impose such measures to obliged entities to remedy the situation in the case of breaches and, where the breach so justifies, issue pecuniary sanctions. The range of sanctions and measures should be sufficiently broad to allow Member States and competent authorities to take account of the differences between obliged entities, in particular between credit institutions **and** financial institutions and other obliged entities, as regards their size, characteristics and the nature of the business.

Amendment

(70) The importance of combating money laundering and terrorist financing should result in Member States laying down effective, proportionate and dissuasive administrative sanctions and measures in national law for failure to respect the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation]. National supervisors should be empowered by Member States to impose such measures to obliged entities to remedy the situation in the case of breaches and, where the breach so justifies, issue pecuniary sanctions. The range of sanctions and measures should be sufficiently broad to allow Member States and competent authorities to take account of the differences between obliged entities, in particular between credit institutions, financial institutions **or crypto asset service providers** and other obliged entities, as regards their size, characteristics and the nature of the business.

Amendment 52

Proposal for a directive

Recital 71

Text proposed by the Commission

(71) Member States currently have a diverse range of administrative sanctions and measures for breaches of the key preventative provisions in place and an inconsistent approach to investigating and sanctioning violations of anti-money laundering requirements, nor is there a common understanding among supervisors as to what should constitute a "serious" violation and thus distinguish when an administrative sanction should be imposed. That diversity is detrimental to the efforts made in combating money laundering and terrorist financing and the Union's response is fragmented. Therefore, common criteria for determining the most appropriate supervisory response to breaches should be laid down and a range of administrative measures that the supervisors could impose when the breaches are not sufficiently serious to be punished with an administrative sanction should be provided. In order to incentivise obliged entities to comply with the provisions of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation], it is necessary to strengthen the dissuasive nature of administrative sanctions. Accordingly, the minimum amount of the maximum penalty that can be imposed in case of serious breaches of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] should be raised. In transposing this Directive, Member States should ensure that the imposition of administrative sanctions and measures, and of criminal sanctions in accordance with national law,

Amendment

(71) Member States currently have a diverse range of administrative sanctions and measures for breaches of the key preventative provisions in place and an inconsistent approach to investigating and sanctioning violations of anti-money laundering requirements, nor is there a common understanding among supervisors as to what should constitute a "serious" violation and thus distinguish when an administrative sanction should be imposed. That diversity is detrimental to the efforts made in combating money laundering and terrorist financing and the Union's response is fragmented. Therefore, common criteria for determining the most appropriate supervisory response to breaches should be laid down and a range of administrative measures that the supervisors could impose when the breaches are not sufficiently serious to be punished with an administrative sanction should be provided. In order to incentivise obliged entities to comply with the provisions of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation], it is necessary to strengthen the dissuasive nature of administrative sanctions. Accordingly, the minimum amount of the maximum penalty that can be imposed in case of serious breaches of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] should be raised. In ***that regard, it is essential that draft regulatory technical standards are developed to define indicators to classify the level of gravity of breaches and criteria to be taken into***

does not breach the principle of ne bis in idem.

account when setting the level of sanctions, including minimum and maximum values of pecuniary sanctions in accordance with the level of gravity, and to address appropriately situations of repeated breaches. Member States should also ensure that legal persons can be held liable for breaches committed for their benefit by any person, acting individually or as part of an organ of that legal person and having a leading position within the legal person, or where the lack of supervision or control has made possible the commission of breaches. In

transposing this Directive, Member States should ensure that the imposition of administrative sanctions and measures, and of criminal sanctions in accordance with national law, does not breach the principle of ne bis in idem.

Or. en

Amendment 53

Proposal for a directive Recital 73

Text proposed by the Commission

(73) Publication of an administrative sanction or measure for breach of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] can have a strong dissuasive effect against repetition of such breach. It also informs other entities of the money laundering and financing of terrorism risks associated with the sanctioned obliged entity before entering into a business relationship and assists supervisors in other Member States in relation to the risks associated with an obliged entity when it operates in their Member State on a cross-border basis. For those reasons, the requirement to publish decisions on sanctions ***against which there is no appeal***

Amendment

(73) Publication of an administrative sanction or measure for breach of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] can have a strong dissuasive effect against repetition of such breach. It also informs other entities of the money laundering and financing of terrorism risks associated with the sanctioned obliged entity before entering into a business relationship and assists supervisors in other Member States in relation to the risks associated with an obliged entity when it operates in their Member State on a cross-border basis. For those reasons, the requirement to publish decisions on sanctions should be confirmed. However,

should be confirmed. However, any such publication should be proportionate and, in the taking of a decision whether to publish an administrative sanction or measure, supervisors should take into account the gravity of the breach and the dissuasive effect that the publication is likely to achieve.

any such publication should be proportionate and, in the taking of a decision whether to publish an administrative sanction or measure, supervisors should take into account the gravity of the breach and the dissuasive effect that the publication is likely to achieve.

Or. en

Amendment 54

Proposal for a directive Recital 74

Text proposed by the Commission

(74) There have been a number of cases where employees who have reported their suspicions of money laundering have been subjected to threats or hostile action. It is crucial that this issue be addressed to ensure effectiveness of the AML/CFT system. Member States should be aware of this problem and should ***do whatever they can to*** protect individuals, including employees ***and*** representatives of the obliged entity, from such threats or hostile action, and to provide, in accordance with national law, appropriate protection to such persons, particularly with regard to their right to the protection of their personal data and their rights to effective judicial protection and representation.

Amendment

(74) There have been a number of cases where employees who have reported their suspicions of money laundering ***or of violations of AML/CFT requirements*** have been subjected to threats or hostile action. It is crucial that this issue be addressed to ensure effectiveness of the AML/CFT system. Member States should be aware of this problem and should protect individuals, including employees, ***such as the data protection officer and AML compliance officer, and other*** representatives of the obliged entity, from such threats or hostile action, and to provide, in accordance with ***Union and*** national law, appropriate protection to such persons, particularly with regard to their right to the protection of their personal data and their rights to effective judicial protection and representation. ***Member States should apply the same approach with regard to employees from competent authorities, in particular staff from supervisory authorities or self-regulatory bodies who report potential or actual breaches of AML/CFT requirements.***

Or. en

Amendment 55

Proposal for a directive Recital 75

Text proposed by the Commission

(75) The new fully-integrated and coherent anti-money laundering and counter-terrorist financing policy at Union level, with designated roles for both Union and national competent authorities and with a view to ensure their smooth and constant cooperation. In that regard, cooperation between all national and Union AML/CFT authorities is of the utmost importance and should be clarified and enhanced. Internally, it remains the duty of Member States to provide for the necessary rules to ensure that policy makers, the FIUs, supervisors, including AMLA, and other competent authorities involved in AML/CFT, as well as tax authorities and law enforcement authorities when acting within the scope of this Directive, have effective mechanisms to enable them to cooperate and coordinate, including through a restrictive approach to the refusal by competent authorities to cooperate and exchange information at the request of another competent authority.

Amendment

(75) The new fully-integrated and coherent anti-money laundering and counter-terrorist financing policy at Union level, with designated roles for both Union and national competent authorities and with a view to ensure their smooth and constant cooperation. In that regard, cooperation between all national and Union AML/CFT authorities is of the utmost importance and should be clarified and enhanced ***in order to combat money laundering and terrorist financing and to prevent the non-implementation and evasion of targeted financial sanctions relating to terrorism and terrorism financing, proliferation financing and other applicable Union targeted financial sanctions***. Internally, it remains the duty of Member States to provide for the necessary rules to ensure that policy makers, the FIUs, supervisors, including AMLA, and other competent authorities involved in AML/CFT, as well as tax authorities and law enforcement authorities when acting within the scope of this Directive, have effective mechanisms to enable them to cooperate and coordinate, including through a restrictive approach to the refusal by competent authorities to cooperate and exchange information at the request of another competent authority.

Or. en

Amendment 56

Proposal for a directive Recital 76

Text proposed by the Commission

(76) In order to facilitate and promote effective cooperation, and in particular the exchange of information, Member States should be required to communicate to the Commission and AMLA the list of their competent authorities and relevant contact details.

Amendment

(76) In order to facilitate and promote effective cooperation, and in particular the exchange of information, Member States should be required to communicate to the Commission and AMLA the list of their competent authorities and ***registers and their*** relevant contact details.

Or. en

Amendment 57

**Proposal for a directive
Recital 78 a (new)**

Text proposed by the Commission

Amendment

(78a) Member States should ensure that credit institutions and financial institutions provide legal persons and natural persons who are legally resident in the Union, including natural persons with no fixed address, asylum seekers and natural persons who have not been granted a residence permit but whose expulsion is impossible for legal or factual reasons, the right to open and use a payment account with basic features with those obliged entities located in their territory. Such a right should apply irrespective of the natural person's place of residence. Such a right does not, in any way, exempt obliged entities from their obligations under this Directive and the AML Regulation, in particular their obligation to ensure that proper due diligence checks are carried out on the persons in question.

Or. en

Amendment 58

Proposal for a directive Recital 83 a (new)

Text proposed by the Commission

Amendment

(83a) The exchange of information among supervisors and with other authorities is a key enabler in order to ensure the effectiveness of the Union AML/CFT framework. Member States should authorise the exchange of information between supervisors and other relevant authorities, including, where relevant, the European Public Prosecutor's Office and the European Anti-Fraud Office with regard to possible cases pertaining to their respective legal mandates. Confidential information exchanged should only be used in the discharge of the duties of the authorities concerned, and in the context of administrative or judicial proceedings specifically related to the exercise of those functions.

Or. en

Amendment 59

Proposal for a directive Recital 86

Text proposed by the Commission

Amendment

(86) It is essential that the alignment of this Directive with the revised FATF Recommendations is carried out in full compliance with Union law, in particular as regards Union data protection law, including rules on data transfers, as well as the protection of fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union (the 'Charter'). Certain aspects of the implementation of this Directive involve

(86) It is essential that the alignment of this Directive with the revised FATF Recommendations is carried out in full compliance with Union law, in particular as regards Union data protection law, including rules on data transfers, as well as the protection of fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union (the 'Charter'). Certain aspects of the implementation of this Directive involve

the collection, analysis, storage and sharing of data within the Union and with third countries. Such processing of personal data should be permitted, **while fully respecting fundamental rights**, only for the purposes laid down in this Directive, and for the activities required under this Directive, such as the exchange of information among competent authorities.

the collection, analysis, storage and sharing of data within the Union and **possibly** with third countries. Such processing of personal data should be permitted, only for the purposes laid down in this Directive, and for the activities required under this Directive, such as the exchange of information among competent authorities, **while fully respecting fundamental rights obligations as required by Article 6 TEU and Union data protection rules as regards onward data transfers, including to third countries.**

Or. en

Amendment 60

Proposal for a directive Recital 91

Text proposed by the Commission

(91) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission in order to lay down a methodology for the collection of statistics, establish the format for the submission of beneficial ownership information, define the technical conditions for the interconnection of beneficial ownership registers and of bank account registers and data retrieval mechanisms **as well as** to adopt implementing technical standards specifying the format to be used for the exchange of the information among FIUs of the Member States. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council³⁹.

Amendment

(91) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission in order to lay down a methodology for the collection of statistics, establish the format for the submission of beneficial ownership information, define the technical conditions for the interconnection of beneficial ownership registers and of bank account registers and data retrieval mechanisms, **define the technical conditions for the connection of the Member States' mechanisms to the single access point on land and real estate, to specify the criteria and format to be used by FIUs for sharing information on suspended or prohibited transactions and on suspended accounts**, to adopt implementing technical standards specifying the format to be used for the exchange of the information among FIUs of the Member States **as well as to adopt implementing technical standards specifying a common template for the**

cooperation agreements between financial supervisors and their counterparts in third countries. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council³⁹ .

³⁹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

³⁹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Or. en

Amendment 61

Proposal for a directive Recital 92

Text proposed by the Commission

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

Amendment

(92) This Directive respects the fundamental rights and observes the principles recognised by the Charter, in particular the right to respect for private and family life (Article 7 of the Charter), the right to the protection of personal data (Article 8 of the Charter) and the freedom to conduct a business (Article 16 of the Charter). ***It does not modify the obligation to respect the fundamental rights and legal principles enshrined in Article 6 TEU.***

Or. en

Amendment 62

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

Text proposed by the Commission

(c) ***the set-up and*** access to beneficial ownership, bank ***account and*** real estate registers;

Amendment

(c) access to ***information on*** beneficial ownership, bank ***accounts, land or*** real estate ***and certain goods***;

Or. en

Amendment 63

Proposal for a directive

Article 2 – paragraph 2 – point 8 a (new)

Text proposed by the Commission

Amendment

(8 a) ‘predicate offence’ means criminal activity as defined in Article 2, point 3, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].

Or. en

Amendment 64

Proposal for a directive

Article 3 – paragraph 1

Text proposed by the Commission

Amendment

1. Where the national risk assessment carried out by Member States pursuant to Article 8 identifies that, in addition to obliged entities, entities in other sectors are exposed to money laundering and terrorist financing risks, Member States may ***decide to*** apply the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] to those additional entities.

1. Where the national risk assessment carried out by Member States pursuant to Article 8 identifies that, in addition to obliged entities, entities in other sectors are exposed to money laundering and terrorist financing risks, Member States may apply the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] to those additional entities.

Or. en

Amendment 65

Proposal for a directive Article 3 – paragraph 2 – point c

Text proposed by the Commission

(c) the text of the national measures that the Member State intends to adopt.

Amendment

(c) the text of the national measures that the Member State intends to **propose or** adopt.

Or. en

Amendment 66

Proposal for a directive Article 4 – title

Text proposed by the Commission

Requirements relating to certain **service providers**

Amendment

Requirements relating to certain **obliged entities**

Or. en

Amendment 67

Proposal for a directive Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that the procedures for licensing currency exchange and cheque cashing offices and trusts or company service providers and the requirements under national law for entering regulated professions that are obliged entities as referred to in Article 3 point 3 of [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] require applicants to demonstrate a good understanding of the risks of money

laundering and terrorism financing in their sector of activity. Member States shall ensure that AML/CFT training, provided either by obliged entities or supervisors, is accessible to applicants.

Or. en

Amendment 68

Proposal for a directive Article 6 – paragraph 1

Text proposed by the Commission

1. Member States shall require supervisors to verify that the members of the senior management in the obliged entities referred to in Article 4, and the beneficial owners of such entities, act with honesty and integrity. Senior management of such entities ***should also*** possess knowledge and expertise necessary to carry out their functions.

Amendment

1. Member States shall require supervisors to verify that the members of the senior management in the obliged entities referred to in Article 4, and the beneficial owners of such entities, act with honesty and integrity. Senior management of such entities ***shall also be of good repute and*** possess knowledge and expertise necessary to carry out their functions.

Or. en

Amendment 69

Proposal for a directive Article 6 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that supervisors verify at regular intervals and on a risk-sensitive basis whether the requirements of paragraphs 1 and 2 continue to be met. In particular, they shall verify whether the senior management acts with honesty and integrity and possesses knowledge and expertise necessary to carry out their functions in cases where there are reasonable grounds to suspect that money

Amendment

3. Member States shall ensure that supervisors verify at regular intervals and on a risk-sensitive basis whether the requirements of paragraphs 1 and 2 continue to be met. In particular, they shall verify whether the senior management ***is of good repute,*** acts with honesty and integrity and possesses knowledge and expertise necessary to carry out their functions in cases where there are

laundering or terrorist financing is being or has been committed or attempted, or there is increased risk thereof in an obliged entity.

reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed or attempted, or there is increased risk thereof in an obliged entity.

Or. en

Amendment 70

Proposal for a directive Article 6 – paragraph 4

Text proposed by the Commission

4. Supervisors **shall** have the power to request the removal of any person convicted of money laundering, any of its predicate offences or terrorist financing from the management role of the obliged entities referred to in paragraphs 1 and 2. Supervisors shall have the power to remove members of the senior management **that** are not **deemed to act** with honesty and integrity and possess knowledge and expertise necessary to carry out their functions.

Amendment

4. **Member States shall ensure that** supervisors have the power to request the removal of any person convicted of money laundering, any of its predicate offences or terrorist financing from the management role of the obliged entities referred to in paragraphs 1 and 2.

Supervisors shall have the power to remove **or suspend** members of the senior management **where it is deemed that they** are not **of good repute, have not acted** with honesty and integrity **or do not** and possess knowledge and expertise necessary to carry out their functions. **In the case where no management role exists in obliged entities, supervisors shall have the power to suspend their licence to exercise their activity where it has been deemed that they are not of good repute, have not acted with honesty and integrity or do not possess knowledge and expertise necessary to carry out their functions.**

Or. en

Amendment 71

Proposal for a directive Article 6 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States shall ensure that supervisors have the power to request the suspension of any person from the management role of an obliged entity as referred to in paragraphs 1 and 2 or, in the case where no management role exists in obliged entities, the suspension of their licence to exercise the activity, where there are reasonable grounds to suspect or where there is an increased risk that money laundering or terrorist financing is being or has been committed or attempted in connection with that obliged entity.

Or. en

Amendment 72

Proposal for a directive Article 6 – paragraph 5

Text proposed by the Commission

Amendment

5. Where the person convicted of money laundering, any of its predicate offences or terrorist financing is the beneficial owner of an obliged entity referred to in paragraph 2, Member States shall ensure that such persons **can be** disassociated from any obliged entity, including by granting supervisors the power to request the divestment of the holding by the beneficial owner in an obliged entity.

5. Where the person convicted of money laundering, any of its predicate offences or terrorist financing is the beneficial owner of an obliged entity referred to in paragraph 2, Member States shall ensure that such persons **are** disassociated from any obliged entity, including by granting supervisors the power to request the divestment of the holding by the beneficial owner in an obliged entity.

Or. en

Amendment 73

Proposal for a directive Article 6 – paragraph 6

Text proposed by the Commission

6. For the purposes of this Article, Member States shall ensure that, in accordance with their national law, supervisors or any other authority competent at national level for assessing the appropriateness of persons referred to in paragraphs 1 and 2, check the existence of a relevant conviction in the criminal record of the person concerned. Any exchange of information for those purposes shall be carried out in accordance with Framework Decision 2009/315/JHA and Decision 2009/316/JHA as implemented in national law.

Amendment

6. For the purposes of this Article, Member States shall ensure that, in accordance with their national law, supervisors or any other authority competent at national level for assessing the appropriateness of persons referred to in paragraphs 1 and 2, check ***at least*** the existence of a relevant conviction in the criminal record of the person concerned. Any exchange of information for those purposes shall be carried out in accordance with Framework Decision 2009/315/JHA and Decision 2009/316/JHA as implemented in national law.

Or. en

Amendment 74

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

Text proposed by the Commission

Amendment

6a. Member States shall ensure that decisions taken by supervisors under this Article are subject to administrative appeal and to an effective judicial remedy.

Or. en

Amendment 75

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

6b. By [2 years after the date of transposition of this Directive], AMLA shall issue guidelines on the elements to be taken into account by supervisors when assessing whether:

(a) the senior managers and the beneficial owners of obliged entities referred to in paragraph 1 and 2 act with honesty and integrity;

(b) the senior management of obliged entities referred to in paragraph 1 and 2 are of good repute and possess knowledge and expertise necessary to carry out their functions.

(c) there are reasonable grounds to suspect or there is an increased risk that money laundering or terrorist financing is being or has been committed or attempted, or there is increased risk thereof in connection with the obliged entity;

When drawing up the guidelines referred to in the first subparagraph of this Article, AMLA shall take into account the specificities of each sector in which the obliged entities operate and of previous guidelines issued jointly by the European Securities and Market Authority and the European Banking Authority on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU of the European Parliament and of the Council.

Or. en

Amendment 76

**Proposal for a directive
Article 6 – paragraph 6 d (new)**

Text proposed by the Commission

Amendment

6d. *For the purposes of this Article, Member States shall ensure that supervisors or any other authority competent at national level for assessing the appropriateness of persons as referred to in paragraphs 1 and 2 of this Article also consult the AMLA database of sanctions provided for in Article 44(2).*

Or. en

Amendment 77

Proposal for a directive Article 7 – paragraph 1 – subparagraph 1

Text proposed by the Commission

To that end, the Commission shall, at the latest by [4 years after the **date of transposition** of this Directive], draw up a report identifying, analysing and evaluating those risks at Union level. Thereafter, the Commission shall update its report every **four** years. The Commission may update parts of the report more frequently, if appropriate.

Amendment

To that end, the Commission shall, at the latest by [4 years after the **entry into force** of this Directive], draw up a report identifying, analysing and evaluating those risks at Union level. Thereafter, the Commission shall update its report every **three** years. The Commission may update parts of the report more frequently, if appropriate.

Or. en

Amendment 78

Proposal for a directive Article 7 – paragraph 2 – point d

Text proposed by the Commission

(d) the risks of non-implementation and evasion of proliferation **financing-related** targeted financial sanctions.

Amendment

(d) the risks of non-implementation and evasion of **targeted financial sanctions relating to terrorism and terrorism financing**, proliferation **financing and to other applicable Union**

targeted financial sanctions.

Or. en

Amendment 79

Proposal for a directive Article 7 – paragraph 4

Text proposed by the Commission

4. By [3 years after the date of transposition of this Directive], AMLA shall issue an opinion addressed to the Commission on the risks of money laundering and terrorist financing affecting the Union. Thereafter, AMLA shall issue an opinion every two years.

Amendment

4. By [3 years after the date of transposition of this Directive], AMLA shall issue an opinion addressed to the Commission on the risks of money laundering and terrorist financing affecting the Union. Thereafter, AMLA shall issue an opinion every two years. ***AMLA may issue opinions or updates of its previous opinions more frequently, if appropriate.***

Or. en

Amendment 80

Proposal for a directive Article 7 – paragraph 6

Text proposed by the Commission

6. Within 2 years of the adoption of the report referred to in paragraph 1, and every **four** years thereafter, the Commission shall submit a report to the European Parliament and to the Council on the actions taken based on the findings of that report.

Amendment

6. Within 2 years of the adoption of the report referred to in paragraph 1, and every **three** years thereafter, the Commission shall submit a report to the European Parliament and to the Council on the actions taken based on the findings of that report.

Or. en

Amendment 81

Proposal for a directive

Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

1. Each Member State shall carry out a national risk assessment to identify, assess, understand and mitigate the risks of money laundering and terrorist financing affecting it. It shall keep that risk assessment up to date and review it at least every **four** years.

Amendment

1. Each Member State shall carry out a national risk assessment to identify, assess, understand and mitigate the risks of money laundering and terrorist financing affecting it. It shall **assess risks on a continuous basis**, keep that risk assessment up to date and review it at least every **three** years. **Member States may decide to carry out a review of that risk assessment more frequently, if appropriate. In addition, they may carry out ad hoc sectoral risk assessments depending on the level of risk.**

Based on the identification of country-specific risks and on justified grounds, the Commission may request Member States to review their risk assessment earlier in order to reduce money laundering and terrorist financing risks in the Union. Following a request by the Commission, Member States shall review their risk assessment and provide the results of their risk assessment in accordance with paragraph 5.

Or. en

Amendment 82

Proposal for a directive

Article 8 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Each Member State shall also take appropriate steps to identify, assess, understand and mitigate the risks of non-implementation and evasion of proliferation **financing-related** targeted

Amendment

Each Member State shall also take appropriate steps to identify, assess, understand and mitigate the risks of non-implementation and evasion of **targeted financial sanctions relating to terrorism and terrorism financing**, proliferation

financial sanctions.

financing and to other applicable Union
targeted financial sanctions.

Or. en

Amendment 83

Proposal for a directive Article 8 – paragraph 2

Text proposed by the Commission

2. Each Member State shall designate an authority or establish a mechanism to coordinate the national response to the risks referred to in paragraph 1. The identity of that authority or the description of the mechanism shall be notified to the Commission, AMLA, and other Member States.

Amendment

2. Each Member State shall designate an authority or establish a mechanism to coordinate the national response to the risks referred to in paragraph 1. The identity of that authority or the description of the mechanism shall be notified to the Commission, AMLA, and other Member States. ***AMLA shall keep a repository of the designated authority or established mechanisms.***

Or. en

Amendment 84

Proposal for a directive Article 8 – paragraph 4 – point d

Text proposed by the Commission

(d) decide on the allocation and prioritisation of resources to combat money laundering and terrorist financing as well as non-implementation and evasion of proliferation ***financing-related*** targeted financial sanctions;

Amendment

(d) decide on the allocation and prioritisation of resources to combat money laundering and terrorist financing as well as non-implementation and evasion of ***targeted financial sanctions relating to terrorism and terrorism financing,*** proliferation ***financing and to other applicable Union*** targeted financial sanctions;

Or. en

Amendment 85

Proposal for a directive

Article 8 – paragraph 4 – point f

Text proposed by the Commission

(f) make appropriate information available promptly to competent authorities and to obliged entities to facilitate the carrying out of their own money laundering and terrorist financing risk assessments as well as the assessment of risks of evasion of proliferation financing-related targeted financial sanctions referred to in Article 8 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].

Amendment

(f) make appropriate information available promptly to competent authorities and to obliged entities to facilitate the carrying out of their own money laundering and terrorist financing risk assessments as well as the assessment of risks of evasion ***targeted financial sanctions relating to terrorism and terrorism financing, proliferation financing and to other applicable Union targeted financial sanctions*** referred to in Article 8 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].

Or. en

Amendment 86

Proposal for a directive

Article 8 – paragraph 4 – subparagraph 1

Text proposed by the Commission

In the national risk assessment, Member States shall describe the institutional structure and broad procedures of their AML/CFT regime, including, inter alia, the FIU, tax authorities and prosecutors, as well as the allocated human and financial resources ***to the extent that this information is available.***

Amendment

In the national risk assessment, Member States shall describe the institutional structure and broad procedures of their AML/CFT regime, including, inter alia, the FIU, tax authorities and prosecutors, as well as the allocated human and financial resources.

Or. en

Amendment 87

Proposal for a directive Article 8 – paragraph 5

Text proposed by the Commission

5. Member States shall make the results of their national risk assessments, including their updates, available to the Commission, to AMLA and to the other Member States. Any Member State may provide relevant additional information, where appropriate, to the Member State carrying out the national risk assessment. A summary of the assessment shall be made publicly available. That summary shall not contain classified information. The information contained therein shall not permit the identification of any natural *or* legal person.

Amendment

5. Member States shall make the results of their national risk assessments, including their updates, available to the Commission, to AMLA and to the other Member States. Any Member State may provide relevant additional information, where appropriate, to the Member State carrying out the national risk assessment. A summary of the **results of the** assessment shall be made publicly available. That summary shall not contain classified information. The information contained therein shall not permit the identification of any natural **person or, where appropriate,** legal person.

Or. en

Amendment 88

Proposal for a directive Article 9 – paragraph 2 – point c

Text proposed by the Commission

(c) **if available**, data identifying the number and percentage of reports resulting in further investigation, together with the annual report drawn up by FIUs pursuant to Article 21;

Amendment

(c) data identifying **the number of suspicious transaction reports disseminated by the FIU to competent authorities**, the number and percentage of reports resulting in further investigation, together with the annual report drawn up by FIUs pursuant to Article 21;

Or. en

Amendment 89

Proposal for a directive Article 9 – paragraph 4

Text proposed by the Commission

4. By [3 years after the date of **transposition** of this Directive], AMLA shall adopt an opinion addressed to the Commission on the methodology for the collection of the statistics referred to in paragraph 2, points (a), (c), (d) and (f).

Amendment

4. By [2 years after the date of **entry into force** of this Directive], AMLA shall adopt an opinion addressed to the Commission on the methodology for the collection of the statistics referred to in paragraph 2, points (a), (c), (d) and (f).

Or. en

Amendment 90

Proposal for a directive Article 9 – paragraph 5

Text proposed by the Commission

5. The Commission *is empowered to* adopt implementing acts **laying down** the methodology for the collection of the statistics referred to in paragraph 2 and the arrangements for their transmission to the Commission and AMLA. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

Amendment

5. **By [2 years and 6 months after the date of entry into force of this Directive],** the Commission **shall** adopt, **by means of** implementing acts, the methodology for the collection of the statistics referred to in paragraph 2 and the arrangements for their transmission to the Commission and AMLA. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

Or. en

Amendment 91

Proposal for a directive Article 9 – paragraph 6

Text proposed by the Commission

6. The Commission shall publish a

Amendment

6. **By [1 year after the date of entry**

biennial report summarising and explaining the statistics referred to in paragraph 2, which shall be made available on its website.

into force of this Directive], the Commission shall publish a first report based on statistics provided by Member States pursuant to Article 44 of Directive (EU) 2015/849. By ... [3 years after the date of entry into force of this Directive], the Commission shall publish a report summarising and explaining the statistics referred to in paragraph 2 of this Article based on the data collected in accordance with this Article. The Commission shall publish thereafter a biennial report summarising and explaining the statistics referred to in paragraph 2, which shall be made available on its website.

Or. en

Amendment 92

Proposal for a directive

Article 10 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall also ensure that beneficial ownership information of legal entities incorporated outside the Union or of express trusts or similar legal arrangements administered outside the Union are held in the central register under the conditions laid down in Article 48 of Regulation [(please insert reference - proposal for Anti-money Laundering Regulation - COM/2021/420 final)].

Or. en

Amendment 93

Proposal for a directive

Article 10 – paragraph 3 – point a

Text proposed by the Commission

(a) a statement accompanied by a justification, that there is no beneficial owner or that the beneficial owner(s) could not be identified and verified;

Amendment

(a) a statement, accompanied by a ***legitimate*** justification, that there is no beneficial owner or that the beneficial owner(s) could not be identified and verified, ***and the rules according to which profit or shares are allocated within the corporate or legal entity;***

Or. en

Amendment 94

**Proposal for a directive
Article 10 – paragraph 4**

Text proposed by the Commission

4. The Commission ***is empowered to*** adopt, by means of implementing acts, the format for the submission of beneficial ownership information to the central register. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

Amendment

4. ***By [1 year after the entry into force of this Directive]*** the Commission ***shall*** adopt, by means of implementing acts, the format for the submission of beneficial ownership information to the central register. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

Or. en

Amendment 95

**Proposal for a directive
Article 10 – paragraph 5 – introductory part**

Text proposed by the Commission

5. Member States shall require that the beneficial ownership information held in the central registers is adequate, accurate and up-to-date. For that purpose, Member ***State*** shall apply at least the following requirements:

Amendment

5. Member States shall ***take the necessary measures to ensure*** that the beneficial ownership information held in the central registers is adequate, accurate and up-to-date. For that purpose, Member ***States*** shall apply at least the following

requirements:

Or. en

Amendment 96

Proposal for a directive

Article 10 – paragraph 5 – point -a (new)

Text proposed by the Commission

Amendment

(-a) entities in charge of the central registers shall verify, when beneficial ownership is submitted and on a regular basis thereafter, that such information is adequate, accurate and up to date;

Or. en

Amendment 97

Proposal for a directive

Article 10 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall also ensure that the entity in charge of the beneficial ownership register verifies whether beneficial ownership information held in the register concerns persons or entities designated in relation to targeted financial sanctions. Such verification shall take place immediately upon the designation and at regular intervals.

Or. en

Amendment 98

Proposal for a directive

Article 10 – paragraph 7

Text proposed by the Commission

7. Member States shall ensure that the entity in charge of the central registers takes appropriate actions to cease the discrepancies, including amending the information included in the central registers where the entity is able to identify and verify the beneficial ownership information. A specific mention of the fact that there are discrepancies reported shall be included in the central registers and visible ***at least to competent authorities and obliged entities***.

Amendment

7. Member States shall ensure that the entity in charge of the central registers takes appropriate actions to cease the discrepancies, including amending the information included in the central registers where the entity is able to identify and verify the beneficial ownership information. A specific mention of the fact that there are discrepancies reported shall be included in the central registers and visible ***to any person or entity granted access under Articles 11 and 12***.

Or. en

Amendment 99

**Proposal for a directive
Article 10 – paragraph 8**

Text proposed by the Commission

8. In the case of corporate and other legal entities, Member States shall ensure that the entity in charge of the central beneficial ownership register is empowered to carry out checks, including on-site investigations at the premises or registered office of the legal entity, in order to establish the current beneficial ownership of the entity and to verify that the information submitted to the central register is accurate, adequate and up-to-date. The right of the central register to verify such information shall not be restricted, obstructed or precluded in any manner.

Amendment

8. In the case of corporate and other legal entities ***and, where the trustee is an obliged entity as listed in Article, point (3)(a), (b) or (c) of Regulation [please insert reference - proposal for Anti-Money Laundering Regulation - COM/2021/420 final], legal arrangements***, Member States shall ensure that the entity in charge of the central beneficial ownership register is empowered to carry out checks, including on-site investigations, at the premises or registered office of the legal entity, ***at the premises of relevant obliged entities as listed in Article 3, point (3)(a) (b) or (c) of Regulation [please insert reference - proposal for Anti-Money Laundering Regulation - COM/2021/420 final], in accordance with national law, or at the premises of the legal entities' representatives in the Union*** in order to establish the current beneficial ownership of the entity and to verify that

the information submitted to the central register is accurate, adequate and up-to-date. The right of the central register to verify such information shall not be restricted, obstructed or precluded in any manner ***and the central register shall be empowered to request information from other entities, including in other Member States and third countries, in particular through the establishment of cooperation agreements.***

Or. en

Amendment 100

Proposal for a directive Article 10 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. Member States shall ensure that entities in charge of central registers have at their disposal necessary automated technology to carry out verifications as referred to in paragraphs 5 and 5a. Those verifications shall include, in particular, cross-checking beneficial ownership information with other public and private databases, checking supporting documents, detecting errors and inconsistencies, identifying patterns associated with legal entities being used for illicit purposes and carrying out occasional sample testing through a risk based approach. Verifications as referred to in this paragraph shall include measures to safeguard fundamental rights, such as human oversight and the avoidance of discriminatory outcomes.

Or. en

Amendment 101

Proposal for a directive Article 10 – paragraph 8 b (new)

Text proposed by the Commission

Amendment

8b. *Where a verification as referred to in paragraph 8a is carried out when the beneficial ownership information is submitted, and it leads an entity in charge of a central register to conclude that there are inconsistencies or errors in that information, or where that information otherwise fails to fulfil the requirements laid down in paragraph 5, Member States shall ensure that such entity is able to withhold the certification of registration and any legal effects thereof, in particular the legal constitution of the entity, until the beneficial owner information provided is in order.*

Or. en

Amendment 102

Proposal for a directive Article 10 – paragraph 8 c (new)

Text proposed by the Commission

Amendment

8c. *Where a verification as referred to in paragraph 8a is carried out after the submission of the beneficial ownership information, and it leads an entity in charge of a central register to conclude that there are inconsistencies or errors in that information, or where that information otherwise fails to fulfil the requirements laid down in paragraph 5, Member States shall ensure that such entity is able to invalidate specific legal acts or transactions carried out by the legal entity, express trust or similar legal arrangements in question, until the beneficial owner information provided is*

in order.

Or. en

Amendment 103

Proposal for a directive Article 10 – paragraph 9

Text proposed by the Commission

9. Member States shall ensure that the entity in charge of the central register is empowered to impose effective, proportionate and dissuasive measures or sanctions for failures to provide the register with accurate, adequate and up-to-date information about their beneficial ownership.

Amendment

9. Member States shall ensure that the entity in charge of the central register is empowered to impose effective, proportionate and dissuasive measures or sanctions for failures to provide the register with accurate, adequate and up-to-date information about their beneficial ownership. ***Sanctions shall include monetary penalties and restrictions in the access to certain professions and in the exercise of certain functions within a legal entity or arrangement, restrictions in the exercise of ownership rights of a legal entity or in the ability to receive dividends. In the event of repeated failures to ensure the register contains up-to-date, accurate and adequate information, sanctions shall be increased to ensure compliance. By [2 years after entry into force of this Directive], AMLA shall adopt draft regulatory technical standards regarding indicators to classify the level of gravity of breach and criteria for such repeated failures and submit them to the Commission for adoption. The Commission is empowered to supplement this Directive by adopting the regulatory standards referred to in the first subparagraph in accordance with Articles 38 to 41 of Regulation [please insert reference - proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].***

Or. en

Amendment 104

Proposal for a directive Article 10 – paragraph 10

Text proposed by the Commission

10. Member States shall ensure that if, in the course of the checks carried out pursuant to this Article, or in any other way, the entities in charge of the beneficial ownership registers discover facts that could be related to money laundering or to terrorist financing, they shall promptly inform the FIU.

Amendment

10. Member States shall ensure that if, in the course of the checks carried out pursuant to this Article, or in any other way, the entities in charge of the beneficial ownership registers discover facts that could be related to money laundering or to terrorist financing, they shall promptly inform the FIU. ***In such a case, the Member States shall ensure that the entities in charge of the beneficial ownership registers inform the competent FIU within 48 hours of the facts discovered.***

Or. en

Amendment 105

Proposal for a directive Article 10 – paragraph 10 a (new)

Text proposed by the Commission

Amendment

10a. Entities in charge of central registers shall be operationally independent and autonomous and shall have the authority and capacity to carry out their functions free of political, government or industry influence or interference. Staff of those entities shall be of high integrity, be appropriately skilled and maintain high professional standards, including standards of confidentiality, data protection and standards addressing conflicts of interest.

Or. en

Amendment 106

Proposal for a directive Article 10 – paragraph 10 b (new)

Text proposed by the Commission

Amendment

10b. Member States shall ensure that entities in charge of central registers have in place policies and procedures to ensure that employees or managers who report breaches of the requirements set out in this Article are legally protected, in accordance with Directive (EU) 2019/1937 of the European Parliament and of the Council, from being exposed to threats, retaliatory or hostile action and, in particular, adverse or discriminatory employment actions.

Or. en

Amendment 107

Proposal for a directive Article 10 – paragraph 12 a (new)

Text proposed by the Commission

Amendment

12a. AMLA shall periodically conduct peer reviews of some or all of the activities of entities in charge of central beneficial ownership registers for the purposes of assessing whether those entities have in place mechanisms to fulfil the requirements set out in this Article and carry out checks effectively in order to establish that beneficial ownership information held in the registers is accurate, adequate and up to date.

Or. en

Amendment 108

Proposal for a directive Article 11 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that competent authorities have **timely**, unrestricted and free access to the information held in the interconnected central registers referred to in Article 10, without alerting the entity or arrangement concerned.

Amendment

1. Member States shall ensure that competent authorities have **prompt**, unrestricted and free access to the information held in the interconnected central registers referred to in Article 10, without alerting the entity or arrangement concerned.

Or. en

Amendment 109

Proposal for a directive Article 11 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that, when taking customer due diligence measures in accordance with Chapter III of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation], obliged entities have **timely** access to the information held in the interconnected central registers referred to in Article 10.

Amendment

3. Member States shall ensure that, when taking customer due diligence measures in accordance with Chapter III of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation], obliged entities have **prompt** access to the information held in the interconnected central registers referred to in Article 10.

Or. en

Amendment 110

Proposal for a directive Article 12 – paragraph 1 – point a

Text proposed by the Commission

(a) in the case of legal entities, **at least** the name, the month and year of birth and

Amendment

(a) in the case of legal entities, the name, the month and year of birth and the

the country of residence and nationality of the beneficial owner as well as the nature and extent of the beneficial interest held;

country of residence and nationality of the beneficial owner as well as the nature and extent of the beneficial interest held;

Or. en

Amendment 111

Proposal for a directive

Article 12 – paragraph 1 – point b

Text proposed by the Commission

(b) in case of express trusts or similar legal arrangements, the name, the month and year of birth and the country of residence and nationality of the beneficial owner as well as the nature and extent of the beneficial interest held, ***provided that a legitimate interest can be demonstrated.***

Amendment

(b) in case of express trusts or similar legal arrangements, the name, the month and year of birth and the country of residence and nationality of the beneficial owner as well as the nature and extent of the beneficial interest held.

Or. en

Amendment 112

Proposal for a directive

Article 12 – paragraph 1 – subparagraph 1

Text proposed by the Commission

In addition to the information listed in the first subparagraph, point (a), Member States ***may, under conditions to be determined in national law,*** provide for access to ***additional information necessary for the identification of the beneficial owner. That additional information shall include at least the date of birth or*** contact details ***in accordance with Union and Member State data protection rules.***

Amendment

In addition to the information listed in the first subparagraph, point (a), Member States ***shall,*** provide for access to ***corporate*** contact details ***of the legal entity, express trust, similar legal arrangements, or the trustee or person holding an equivalent position.***

Or. en

Amendment 113

Proposal for a directive Article 12 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall make the public access to the information as referred to in paragraph 1 subject to a declaration that the information will not be used, directly or indirectly, for marketing purposes.

Or. en

Amendment 114

Proposal for a directive Article 12 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States may choose to make beneficial ownership information held in their central registers available to the public on the condition of authentication using electronic identification means and relevant trust services as set out in Regulation (EU) 910/2014 of the European Parliament and of the Council⁴⁶ and the payment of a fee, which shall not exceed the administrative costs of making the information available, **including costs of maintenance and developments of the register.**

2. Member States may choose to make beneficial ownership information held in their central registers available to the public on the condition of authentication using electronic identification means and relevant trust services as set out in Regulation (EU) 910/2014 of the European Parliament and of the Council⁴⁶ and the payment of a fee, which shall not exceed the **direct** administrative costs of making **or requesting** the information available.

⁴⁶ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

⁴⁶ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

Or. en

Amendment 115

Proposal for a directive Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

Searches in Beneficial Ownership Register

1. The European Central Platform, established by Article 22(1) of Directive (EU) 2017/1132, shall serve as a central search service making available all information related to beneficial ownership.

2. Competent authorities, self-regulatory bodies and obliged entities as referred in Article 11 shall be able to search beneficial ownership information through the European Central Platform. The following harmonised search criteria shall be searchable through the European Central Platform:

(a) with regard to the companies or other legal entities, the trusts or similar arrangements:

(i) name of the legal entity or arrangement;

(ii) national registration number.

The search criteria under (i) and (ii) can be used alternatively.

(b) with regard to persons as beneficial owners:

(i) first name and last name of the beneficial owner;

(ii) Date of birth of the beneficial owner.

The search criterion under (i) and (ii) shall be used cumulatively.

Member States may make available further search criteria on the portal.

Amendment 116**Proposal for a directive
Article 13 – paragraph 1***Text proposed by the Commission*

In exceptional circumstances to be laid down in national law, where the access referred to in Articles 11(3) and 12(1) would expose the beneficial owner to disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or where the beneficial owner is a minor or otherwise legally incapable, Member States *may* provide for an exemption from such access to all or part of the personal information on the beneficial owner on a case-by-case basis. Member States shall ensure that those exemptions are granted upon a detailed evaluation of the exceptional nature of the circumstances. Rights to an administrative review of the decision granting an exemption and to an effective judicial remedy shall be guaranteed. A Member State that has granted exemptions shall publish annual statistical data on the number of exemptions granted and reasons stated and report the data to the Commission.

Amendment

In exceptional circumstances to be laid down in national law, where the access referred to in Articles 11(3) and 12(1) would expose the beneficial owner to disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or where the beneficial owner is a minor or otherwise legally incapable, Member States *shall* provide for an exemption from such access to all or part of the personal information on the beneficial owner on a case-by-case basis. Member States shall ensure that those exemptions are granted upon a detailed evaluation of the exceptional nature of the circumstances. Rights to an administrative review of the decision granting an exemption and to an effective judicial remedy shall be guaranteed. A Member State that has granted exemptions shall publish annual statistical data on the number of exemptions granted and reasons stated and report the data to the Commission.

Or. en

Amendment 117**Proposal for a directive
Article 14 – paragraph 1 – introductory part***Text proposed by the Commission*

1. Member States shall put in place centralised automated mechanisms, such as

Amendment

1. Member States shall put in place centralised automated mechanisms, such as

a central registers or central electronic data retrieval systems, which allow the identification, in a timely manner, of any natural or legal persons holding or controlling payment accounts and bank accounts identified by IBAN, as defined by Regulation (EU) No 260/2012 of the European Parliament and of the Council⁴⁷, and safe-deposit boxes held by a credit institution within their territory.

⁴⁷ Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).

a central registers or central electronic data retrieval systems, which allow the identification, in a timely manner, of any natural or legal persons holding or controlling payment accounts and bank accounts identified by IBAN, **including virtual IBAN accounts**, as defined by Regulation (EU) No 260/2012 of the European Parliament and of the Council⁴⁷, and safe-deposit boxes held by a credit institution within their territory.

⁴⁷ Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).

Or. en

Amendment 118

Proposal for a directive

Article 14 – paragraph 6 – introductory part

Text proposed by the Commission

6. Member States shall ensure that the information referred to in paragraph 3 is available through the single access point interconnecting the centralised automated mechanisms. Member States shall take adequate measures to ensure that **only** the information referred to in paragraph 3 that is up to date and corresponds to the actual bank account information is made available through their national centralised automated mechanisms and through the single access point interconnecting the centralised automated mechanisms referred to in this paragraph. The access to that information shall be granted in accordance with data protection rules.

Amendment

6. Member States shall ensure that the information referred to in paragraph 3 is available through the single access point interconnecting the centralised automated mechanisms. Member States shall take adequate measures to ensure that the information referred to in paragraph 3 that is up to date and corresponds to the actual bank account information is made available through their national centralised automated mechanisms and through the single access point interconnecting the centralised automated mechanisms referred to in this paragraph. **Member States shall take adequate measures to ensure that the historical information on closed customer-account holders, bank or**

payment accounts and safe-deposit boxes is made available through their national centralised automated mechanisms and through the single access point interconnecting the centralised automated mechanisms referred to in this paragraph for a period of 5 years after the closure.
The access to that information shall be granted in accordance with data protection rules. *The other information that Member States consider essential for FIUs and other competent authorities pursuant to paragraph 4 shall not be accessible and searchable through the single access point interconnecting the centralised automated mechanisms.*

Or. en

Amendment 119

Proposal for a directive

Article 14 – paragraph 7 – introductory part

Text proposed by the Commission

7. National FIUs shall be granted immediate and unfiltered access to the information on payment and bank accounts and safe-deposit boxes in other Member States available through the single access point interconnecting the centralised automated mechanisms. Member States shall cooperate among themselves and with the Commission in order to implement this paragraph.

Amendment

7. National FIUs shall be granted immediate and unfiltered access to the information on payment and bank accounts and safe-deposit boxes *as referred in this Article* in other Member States available through the single access point interconnecting the centralised automated mechanisms. Member States shall cooperate among themselves and with the Commission in order to implement this paragraph.

Or. en

Amendment 120

Proposal for a directive

Article 15 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

(c) the technical details on how the information on beneficial owners is to be made available, ***in accordance with Article 12a***;

Or. en

Amendment 121

Proposal for a directive Section 3 – title

Text proposed by the Commission

Real estate *registers*

Amendment

Access for competent authorities to information on Land and Real estate and certain goods

Or. en

Amendment 122

Proposal for a directive Article 16 – title

Text proposed by the Commission

Real estate *registers*

Amendment

Access to Land and Real estate information

Or. en

Amendment 123

Proposal for a directive Article 16 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall provide

Amendment

1. Member States shall provide

competent authorities with access to information which allows the identification in a timely manner of any natural or legal person owning real estate, including through registers or electronic data retrieval systems **where such registers or systems are available**. Competent authorities shall also have access to information allowing the identification and analysis of transactions involving real estate, including their economic value and details of the natural or legal persons involved in those transactions including, **where available**, whether the natural or legal person owns, sells or acquires real estate on behalf of a legal arrangement.

competent authorities with **timely** access, **via a single access point in each Member State**, to information which allows the identification in a timely manner of any natural or legal person owning **land or** real estate, including through registers or electronic data retrieval systems. Competent authorities shall also have **timely** access to information allowing the identification and analysis of transactions involving **land or** real estate, including their economic value, **source of funds**, and details of the natural or legal persons involved in those transactions including, whether the natural or legal person owns, sells or acquires **land or** real estate on behalf of a legal arrangement. **FIUs shall be granted direct and immediate access to the information referred to in the first subparagraph.**

Or. en

Amendment 124

Proposal for a directive Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that, where the land or real estate is owned by a legal person or arrangement, the information on the beneficial owner is available, either directly in the register referred to in paragraph 1, or in the beneficial ownership register under Article 10, including where the legal person is a foreign legal entity or arrangement, as required under Article 48 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation].

Or. en

Amendment 125

Proposal for a directive Article 16 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The mechanisms referred to in paragraph 1 shall be interconnected via the real estate data (RED) single access point to be developed and operated by the Commission by [4 years after the date of entry into force of this Directive]. The Commission is empowered to adopt, by means of implementing acts, the technical specifications and procedures for the connection of the Member States' mechanisms to the single access point. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

Or. en

Amendment 126

Proposal for a directive Article 16 a (new)

Text proposed by the Commission

Amendment

Article 16 a

**Access to beneficial ownership
information of certain goods**

- 1. Member States shall provide competent authorities with timely access to information which allows the identification of any natural person or the beneficial owner of a legal person owning goods whose estimated value is above EUR 1 000 000 or the equivalent in national currency and whose ownership is subject to registration under national law, in particular watercraft and aircraft.**
- 2. Member States shall ensure that information referred to in paragraph 1 is**

available to competent authorities, either through registers or electronic data retrieval systems, where such registers or systems are available, or through other systems which are deemed as efficient. FIUs shall be granted direct and immediate access to the information referred to in this first subparagraph.

3. Member States shall also ensure that where the value of goods referred to in paragraph 1 is stated or estimated above EUR 2 000 000 or the equivalent in national currency, the information referring to purchase contract (including at least identification of parties involved in the transaction, means of payment, source of funds) is included and available in the register according to paragraph 1 and can be provided to competent authorities without delay, when requested by retrieval system, or other system provided by Member States under paragraph 2.

4. By [3 months after the date of transposition of this Directive], Member States shall notify the Commission the list of competent authorities that were granted access to the registers or systems referred to in paragraph 2 and the type of information available to them. Member States shall update such notification when changes to the list of competent authorities or to the extent of access to information granted occurs. The Commission shall make that information, including any change to it, available to the other Member States.

Or. en

Amendment 127

**Proposal for a directive
Article 17 – paragraph 1**

Text proposed by the Commission

1. Each Member State shall establish **an** FIU in order to prevent, detect and effectively combat money laundering and terrorist financing.

Amendment

1. Each Member State shall establish **a** FIU in order to prevent, detect, **report** and effectively combat money laundering and terrorist financing.

Or. en

Amendment 128

Proposal for a directive

Article 17 – paragraph 3 – subparagraph 1 – point b

Text proposed by the Commission

(b) a strategic analysis addressing money laundering and terrorist financing trends and patterns.

Amendment

(b) a **continuous** strategic analysis addressing money laundering and terrorist financing trends and patterns.

Or. en

Amendment 129

Proposal for a directive

Article 17 – paragraph 3 – subparagraph 2

Text proposed by the Commission

By [**1 year** after the **date of transposition** of this Directive], AMLA shall issue guidelines addressed to FIUs on the nature, features and objectives of operational and of strategic analysis.

Amendment

By [**2 years** after the **entry into force** of this Directive], AMLA shall issue guidelines addressed to FIUs on the nature, features and objectives of operational and of strategic analysis.

Or. en

Amendment 130

Proposal for a directive

Article 17 – paragraph 4 – introductory part

Text proposed by the Commission

4. Each FIU shall be operationally independent and autonomous, which means that it shall have the authority and capacity to carry out its functions freely, including the ability to take autonomous decisions to analyse, request and disseminate specific information. It shall be free from any undue political, government or industry influence or interference.

Amendment

4. Each FIU shall be operationally independent and autonomous, which means that it shall have the authority and capacity to carry out its functions freely, including the ability to take autonomous decisions to analyse, request and disseminate specific information. It shall be free from any ***unjustifiable or*** undue political, government or industry influence or interference.

Or. en

Amendment 131

**Proposal for a directive
Article 17 – paragraph 5**

Text proposed by the Commission

5. Member States shall provide their FIUs with adequate financial, human and technical resources in order to fulfil their tasks. FIUs shall be able to obtain and deploy the resources needed to carry out their functions. ***Their staff shall be of high integrity and appropriately skilled, and maintain high professional standards.***

Amendment

5. Member States shall provide their FIUs with adequate financial, human and technical resources in order to fulfil their tasks. FIUs shall be able to obtain and deploy the resources needed to carry out their functions.

Or. en

Amendment 132

**Proposal for a directive
Article 17 – paragraph 5 a (new)**

Text proposed by the Commission

Amendment

5a. Member States shall ensure that the FIU's staff maintain high professional standards, including high professional standards of confidentiality

and data protection, and be of high integrity and appropriately skilled, including in detecting biases in and in the ethical use of big data sets. Their staff shall not be placed in a situation in which a conflict of interest exists or could be perceived to exist. AMLA shall adopt guidelines to specify the circumstances in which such a conflict of interest exists or could be perceived to exist.

Or. en

Amendment 133

Proposal for a directive Article 17 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. AMLA shall coordinate the organisation of periodical peer reviews of FIUs for the purposes of assessing whether the requirements set out in paragraphs 1 to 4, 5a, 6 and 7 of this Article have been fulfilled.

Or. en

Amendment 134

Proposal for a directive Article 18 – paragraph 1 – point b – point ii

Text proposed by the Commission

Amendment

(ii) national real estate registers or electronic data retrieval systems and land and cadastral registers;

(ii) *the data from the single access point as referred to in article 16 relating to* national real estate registers or electronic data retrieval systems and land and cadastral registers;

Or. en

Amendment 135

Proposal for a directive

Article 18 – paragraph 1 – point c – introductory part

Text proposed by the Commission

(c) direct **or indirect** access to the following law enforcement information:

Amendment

(c) direct access to the following law enforcement information, **in accordance with national law**:

Or. en

Amendment 136

Proposal for a directive

Article 18 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The information referred to in point (c) **may** include criminal records, information on investigations, information on the freezing or seizure of assets or on other investigative or provisional measures and information on convictions and on confiscations.

Amendment

The information referred to in point (c) **shall** include criminal records, information on investigations, information on the freezing or seizure of assets or on other investigative or provisional measures and information on convictions and on confiscations.

Or. en

Amendment 137

Proposal for a directive

Article 19 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Where there are objective grounds for assuming that the provision of such information would have a negative impact on ongoing investigations or analyses, or, in exceptional circumstances, where disclosure of the information would be clearly disproportionate to the legitimate interests of a natural or legal person or

Amendment

Where there are objective grounds for assuming that the provision of such information would have a negative impact on ongoing investigations or analyses, or, in exceptional circumstances, where disclosure 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, the FIU shall ***be under no obligation to comply with*** the request for information.

irrelevant with regard to the purposes for which it has been requested, the FIU shall ***provide a reasoned justification to refuse*** the request for information.

Or. en

Amendment 138

Proposal for a directive Article 20 – title

Text proposed by the Commission

Suspension ***or withholding of consent to*** a transaction and suspension of an account

Amendment

Suspension ***of or prohibition to carry out*** a transaction and suspension of an account

Or. en

Amendment 139

Proposal for a directive Article 20 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that FIUs are empowered to take urgent action, ***directly or indirectly***, where there is a suspicion that a transaction is related to money laundering or terrorist financing, to suspend or ***withhold consent to*** a transaction that is proceeding. Such suspension shall be imposed on the obliged entity within 48 hours of receiving the suspicious transaction report in order to analyse the transaction, confirm the suspicion and disseminate the results of the analysis to the competent authorities. Member States shall ensure that subject to national procedural safeguards, the transaction is suspended for a period of a maximum of 15 calendar days from the day of the imposition of such suspension to the obliged entity.

Amendment

1. Member States shall ensure that FIUs are empowered to take urgent action, where there is a suspicion that a transaction is related to money laundering or terrorist financing, to suspend or ***prohibit*** a transaction that is proceeding. Such suspension shall be imposed on the obliged entity within 48 hours of receiving the suspicious transaction report in order to analyse the transaction, confirm the suspicion and disseminate the results of the analysis to the competent authorities. Member States shall ensure that subject to national procedural safeguards, the transaction is suspended for a period of a maximum of 15 calendar days from the day of the imposition of such suspension to the obliged entity. ***Member States shall ensure that an extension of such suspension can***

take place for reasons which are external to the FIU's analysis, in particular, the lack of cooperation from the obliged entity.

Or. en

Amendment 140

Proposal for a directive

Article 20 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The FIU shall be empowered to impose such suspension, directly or indirectly, at the request of an FIU from another Member State for the periods and under the conditions specified in the national law of the FIU receiving the request.

Amendment

The FIU shall be empowered to impose such suspension, directly or indirectly, at the request of an FIU from another Member State ***within 48 hours***, for the periods and under the conditions specified in the national law of the FIU receiving the request. ***In such an event, the requesting FIU from another Member States shall be informed promptly about the measures taken by the FIU which received the request.***

Or. en

Amendment 141

Proposal for a directive

Article 20 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Where an FIU decides to suspend or prohibit a transaction that concerns another Member State, it shall promptly inform the FIU of that Member State.

Where an FIU decides to suspend or prohibit a transaction in accordance with paragraph 1, this information shall be made available to other FIUs through FIU.net.

Amendment 142

Proposal for a directive Article 20 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. FIUs shall be able to use state-of-the-art technology in order to match their data with data of suspended or prohibited transactions of other FIUs in an anonymous manner.

Or. en

Amendment 143

Proposal for a directive Article 20 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. By [2 years after the date of entry into force of this Directive], AMLA shall develop draft implementing technical standards and submit them to the Commission for adoption. Those draft implementing technical standards shall specify the format to be used for the exchange of the information referred to in paragraph 1a and set the criteria for determining whether a suspension, concerns another Member State. The Commission is empowered to adopt the implementing technical standards referred to in this paragraph in accordance with Article 42 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

Or. en

Amendment 144

Proposal for a directive

Article 20 – paragraph 2 – introductory part

Text proposed by the Commission

2. Where there is a suspicion that several transactions involving a bank or payment account are related to money laundering or terrorist financing, Member States shall ensure that the FIU is empowered to take urgent action, ***directly or indirectly***, to suspend the use of a bank or payment account in order to analyse the transactions performed through the account, confirm the suspicion and disseminate the results of the analysis to the competent authorities.

Amendment

2. Where there is a suspicion that several transactions involving a bank or payment account are related to money laundering or terrorist financing, Member States shall ensure that the FIU is empowered to take urgent action, to suspend the use of a bank or payment account in order to analyse the transactions performed through the account, confirm the suspicion and disseminate the results of the analysis to the competent authorities.

Or. en

Amendment 145

Proposal for a directive

Article 20 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The FIU shall be empowered to impose such suspension, directly or indirectly, at the request of an FIU from another Member State within 48 hours for the periods and under the conditions specified in the national law of the FIU receiving the request. In such an event, the requesting FIU from another Member States shall be informed promptly about the measures taken by the FIU which received the request.

Or. en

Amendment 146

Proposal for a directive Article 20 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where an FIU decides to suspend the use of a bank or payment account that concerns another Member State, it shall promptly inform the FIU of that Member State.

Or. en

Amendment 147

Proposal for a directive Article 20 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Where an FIU decides to suspend a bank or payment account in accordance with paragraph 1, this information shall be made available to other FIUs through FIU.net.

Or. en

Amendment 148

Proposal for a directive Article 20 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. FIUs shall be able to use state-of-the-art technology in order to match their data with data of suspended bank or payment accounts of other FIUs in an anonymous manner.

Or. en

Amendment 149

Proposal for a directive Article 20 – paragraph 2 d (new)

Text proposed by the Commission

Amendment

2d. By [2 years after the date of entry into force of this Directive], AMLA shall develop draft implementing technical standards and submit them to the Commission for adoption. Those draft implementing technical standards shall specify the format to be used for the exchange of the information referred to in paragraph 1a, and set the criteria for determining whether a suspension of the use of a bank or payment account, concerns another Member State. The Commission is empowered to adopt the implementing technical standards referred to in this paragraph in accordance with Article 42 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

Or. en

Amendment 150

Proposal for a directive Article 20 – paragraph 4

Text proposed by the Commission

Amendment

4. FIUs shall be empowered to impose the suspensions referred to in paragraphs 1 and 2, directly or indirectly, at the request of an FIU from ***another Member State*** under the conditions specified in the national law of the FIU receiving the request.

4. FIUs shall be empowered to impose the suspensions referred to in paragraphs 1 and 2, directly or indirectly, at the request of an FIU from ***a third country*** under the conditions specified in the national law of the FIU receiving the request.

Amendment 151

Proposal for a directive

Article 21 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) requests submitted to and received from competent authorities designated under Article 3 of Directive 2019/1153 of the European Parliament and of the Council, Europol and the European Public Prosecutor's office (EPPO).

Or. en

Amendment 152

Proposal for a directive

Article 21 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

The FIU shall provide such feedback at least once per year, ***whether provided to the individual obliged entity or to groups of obliged entities, taking into consideration the overall number of suspicious transactions reported by the obliged entities.***

The FIU shall provide such feedback at least once per year ***to each*** individual obliged entity ***as referred to in Article 3 points (1), (2) and (3)(f), (g), (h) and (k) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].***

Or. en

Amendment 153

Proposal for a directive

Article 21 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The FIU shall provide a comparative analysis on the quality of suspicious

transaction reports by category of obliged entities referred to in Article 3 (3) points (a), (b), (c), (d) and (e)(i), (j) and (l) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], taking into consideration the overall number of suspicious transactions reported by those obliged entities.

Or. en

Amendment 154

Proposal for a directive Article 21 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Such feedback shall also be *made available* to supervisors to allow them to perform risk-based supervision in accordance with Article 31.

Amendment

Such feedback, *including a comparative assessment between obliged entities and groups or categories of obliged entities* shall also be *sent* to supervisors to allow them to perform risk-based supervision in accordance with Article 31.

Or. en

Amendment 155

Proposal for a directive Article 23 – paragraph 1

Text proposed by the Commission

1. A system for the exchange of information between FIUs of the Member States shall be set up ('FIU.net'). The system shall ensure the secure communication and shall be capable of producing a written record under conditions that allow ascertaining authenticity. That system may also be used for communications with FIUs counterparts in third countries and with

Amendment

1. A system for the exchange of information between FIUs of the Member States shall be set up ('FIU.net'), *without any delay*. The system shall ensure the secure communication *by using end to end encryption* and shall be capable of producing a written record under conditions that allow ascertaining authenticity. That system may also be used for communications with FIUs

other authorities and Union bodies. FIU.net shall be managed by AMLA.

counterparts in third countries and with other authorities and Union bodies. FIU.net shall be managed by AMLA.

Or. en

Amendment 156

Proposal for a directive

Article 23 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that any exchange of information pursuant to Article 24 is transmitted using the FIU.net. In the event of technical failure of the FIU.net, the information shall be transmitted by any other appropriate means ensuring a high level of data security.

Amendment

2. Member States shall ensure that any exchange of information pursuant to Article 24 is transmitted using the FIU.net. In the event of technical failure of the FIU.net, the information shall be transmitted by any other appropriate means ensuring a high level of data security ***without any delay.***

Or. en

Amendment 157

Proposal for a directive

Article 23 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that, in order to fulfil their tasks as laid down in this Directive, their FIUs cooperate in the application of state-of-the-art technologies in accordance with ***their national law.***

Amendment

3. Member States shall ensure that, in order to fulfil their tasks as laid down in this Directive, their FIUs cooperate in the application of state-of-the-art technologies ***developed by AMLA*** in accordance with ***Article 5(5), point (e) and Article 37, of Regulation [please insert reference to AMLA Regulation].***

Or. en

Amendment 158

Proposal for a directive Article 23 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that their FIUs are able to use FIU.net for the purpose of matching the data with data of other FIUs in an anonymous manner. Member States shall ensure that their FIUs are able to use FIU.net for the purposes of matching subject-matter data with Europol databases.

Or. en

Amendment 159

Proposal for a directive Article 23 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. Following a peer review in accordance with Article 17(7a), AMLA may suspend access to FIU.net for a specific FIU where the report of the peer review concludes that requirements relating to the independence, integrity, professionalism, confidentiality or security of the FIU, as set out in Article 17, have not been fulfilled.

Or. en

Amendment 160

Proposal for a directive Article 24 – paragraph 4

Text proposed by the Commission

Amendment

4. By [1 year after the date of

4. By [1 year after the date of

transposition of this Directive], AMLA shall **issue guidelines** addressed to FIUs on the relevant factors to be taken into consideration when determining whether a report pursuant to Article 50(1), the first subparagraph, point (a), of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] concerns another Member State, the procedures to be put in place when forwarding and receiving that report, and the follow-up to be given.

transposition of this Directive], AMLA shall **develop draft implementing technical standards and submit then to the Commission for adoption. The draft implementing technical standards shall be** addressed to FIUs **and determine** the relevant factors to be taken into consideration when determining whether a report pursuant to Article 50(1), the first subparagraph, point (a), of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] concerns another Member State, the procedures to be put in place when forwarding and receiving that report, and the follow-up to be given.

Or. en

Amendment 161

Proposal for a directive Article 24 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Commission is empowered to adopt the implementing technical standards referred to in paragraph 4 of this Article in accordance with Article 42 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

Or. en

Amendment 162

Proposal for a directive Article 24 – paragraph 8 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

By [18 months after the date of

transposition of this Directive], the Commission shall publish a report outlining notifications of exceptional circumstances as referred to in the first subparagraph and publish a report in case of any updates on those notifications. The Commission shall assess in that report whether or not the notified exceptional circumstances as notified are justified.

Or. en

Amendment 163

Proposal for a directive Article 25 – paragraph 3 – point b

Text proposed by the Commission

(b) a number of FIUs are conducting operational analyses in which the circumstances of the case necessitate coordinated, concerted action in the Member States involved.

Amendment

(b) a number of FIUs are conducting operational analyses in which the circumstances of the case necessitate *or merit* coordinated, concerted action in the Member States involved.

Or. en

Amendment 164

Proposal for a directive Article 25 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) an FIU deems it appropriate and useful for the purposes of ensuring that the analyses and results are of better quality, exploiting potential synergies and the possibility of using information from different sources, or obtaining comprehensive information concerning the anomalous activities underlying the analysis in question.

Amendment 165

Proposal for a directive

Article 25 – paragraph 3 – subparagraph 1

Text proposed by the Commission

A request for the setting up of a joint analysis team may be made by any of the FIUs concerned.

Amendment

A request for the setting up of a joint analysis team may be made by any of the FIUs concerned ***or AMLA, under the conditions laid down in paragraph 3a.***

Amendment 166

Proposal for a directive

Article 25 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Where an FIU has not submitted a request for the setting up of a joint analysis team, AMLA may set up such a team on its own initiative where it identifies cases in which:

(a) an FIU's operational analyses require difficult and demanding analyses having links with other Member States, or cases in which a number of FIUs are conducting operational analyses in which the circumstances of the case necessitate coordinated, concerted action in the Member States involved;

(b) it directly received information indicating a suspicion of money laundering or financing of terrorism that could affect the internal market or relate to cross-border activities.

Amendment 167

Proposal for a directive Article 27 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. By [1 year after the date of transposition of this Directive], Member States shall notify to the Commission the exceptional circumstances in which dissemination would not be in accordance with fundamental principles of national law referred to in the first subparagraph. Member States shall update such notifications where changes to the exceptional circumstances in which dissemination would not be in accordance with fundamental principles of national law.

Or. en

Amendment 168

Proposal for a directive Article 27 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. By [18 months after the date of transposition of this Directive], the Commission shall publish a report outlining the notifications of exceptional circumstances as referred to in the first subparagraph as well as publish a report in case of any updates on those notifications. The Commission shall assess in those reports whether or not the notified exceptional circumstances are justified or not.

Or. en

Amendment 169

Proposal for a directive Article 27 a (new)

Text proposed by the Commission

Amendment

Article 27a

Transmission of information to EPPO

Where there are grounds to suspect money laundering, or its associated predicate offences in respect of which the EPPO could exercise its competence or has exercised its competence in accordance with Article 22 or Article 25(2) and (3) of Council Regulation (EU) 2017/1939^{1a}, Member States shall ensure that the FIU disseminates, spontaneously or upon request, the following to the EPPO:

- (a) relevant information;*
- (b) the results of its analyses. and*
- (c) any additional relevant information.*

^{1a} Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

Or. en

Amendment 170

Proposal for a directive Article 29 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that all obliged entities are subject to adequate supervision. To that end, Member States shall appoint supervisors to monitor effectively, and to take the measures

1. Member States shall ensure that all obliged entities are subject to adequate **and independent** supervision. To that end, Member States shall appoint supervisors to monitor effectively, and to take the

necessary to ensure, compliance by the obliged entities with the requirements set out in Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and with the requirement to implement targeted financial sanctions.

measures necessary to ensure, compliance by the obliged entities with the requirements set out in Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and with the requirement to implement targeted financial sanctions.

Or. en

Amendment 171

Proposal for a directive Article 29 – paragraph 3

Text proposed by the Commission

3. In the case of the obliged entities referred to in Article 3, points (3)(a), **(b) and (d)**, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], Member States may allow the function referred to in paragraph 1 of this Article to be performed by self-regulatory bodies, provided that those self-regulatory bodies have the powers referred to in paragraph 5 of this Article and have adequate financial, human and technical resources to perform their functions. Member States shall ensure that staff of those bodies are of high integrity and appropriately skilled, and that they maintain high professional standards, including standards of confidentiality, data protection and standards addressing conflicts of interest.

Amendment

3. In the case of the obliged entities referred to in Article 3, points (3)(a) **and (b)**, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], Member States may allow the function referred to in paragraph 1 of this Article to be performed by self-regulatory bodies, provided that those self-regulatory bodies have the powers referred to in paragraph 5 of this Article and have adequate financial, human and technical resources to perform their functions. Member States shall ensure that staff of those bodies are of high integrity and appropriately skilled, and that they maintain high professional standards, including standards of confidentiality, data protection and standards addressing conflicts of interest.

Or. en

Amendment 172

Proposal for a directive Article 29 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *By [2 years after the date of transposition of this Directive], AMLA shall, after consulting the EBA, issue guidelines addressed to supervisors on the fulfilment of the standards laid down in paragraphs 2 and 3.*

Or. en

Amendment 173

Proposal for a directive Article 29 – paragraph 4 – point g

Text proposed by the Commission

(g) to take appropriate supervisory measures to address any breaches of applicable requirements by the obliged entities identified in the process of supervisory assessments and follow up on the implementation of such measures.

Amendment

(g) *to react without undue delay to any suspicion of non-compliance with applicable requirements on the part of supervised obliged entities and take appropriate supervisory measures to address any breaches of applicable requirements by the obliged entities identified in the process of supervisory assessments and follow up on the implementation of such measures;*

Or. en

Amendment 174

Proposal for a directive Article 29 – paragraph 4 – point g a (new)

Text proposed by the Commission

Amendment

(ga) *to take appropriate supervisory measures to address allegations of breaches of applicable requirements following public revelations, or information brought to their knowledge through private channels, in particular*

through the mechanisms provided for in Article 43.

Or. en

Amendment 175

Proposal for a directive Article 30 – paragraph 2 – point e

Text proposed by the Commission

(e) any guidance and report produced by AMLA and other supervisors and, where relevant, the public authority overseeing self-regulatory bodies, the FIU or any other competent authority or international organisations and standard setters regarding money laundering and terrorist financing methods which might apply to a sector and indications which may facilitate the identification of transactions or activities at risk of being linked to money laundering and terrorist financing in that sector, as well as on obliged entities' obligations in relation to targeted financial sanctions.

Amendment

(e) any guidance and report produced by AMLA, ***the European Data Protection Board*** and other supervisors and, where relevant, the public authority overseeing self-regulatory bodies, the FIU or any other competent authority or international organisations and standard setters regarding money laundering and terrorist financing methods which might apply to a sector and indications which may facilitate the identification of transactions or activities at risk of being linked to money laundering and terrorist financing in that sector, as well as on obliged entities' obligations in relation to targeted financial sanctions.

Or. en

Amendment 176

Proposal for a directive Article 31 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Member States shall ensure that supervisors and self-regulatory bodies produce a detailed annual activity report and that a summary of that report is made publicly available. The summary of the report referred to in the first subparagraph shall present:

- (a) the tasks of the supervisors;*
- (b) an overview of its supervisory activities;*
- (c) the number of on-site and off-site supervisory actions; and*
- (d) the number of breaches identified on the basis of supervisory actions and sanctions or administrative measures applied by supervisory authorities and self-regulatory bodies pursuant to Section 4 of Chapter IV.*

The annual activity report referred to in the first subparagraph shall be transmitted to the designated authority or mechanism referred to in Article 8(2), which shall provide feedback and propose possible improvements, and shall be able to make recommendations to change the allocation of supervisory responsibilities and the arrangements for carrying out supervisory tasks.

Or. en

Amendment 177

Proposal for a directive Article 33 – paragraph 2

Text proposed by the Commission

2. In addition to Article 5, obliged entities wishing to exercise the freedom to provide services by carrying out activities within the territory of another Member State for the first time shall notify the supervisors of the home Member State of the activities which they intend to carry out. Such notification shall also be required where provision of cross-border services is carried out by agents of the obliged entity.

Amendment

2. In addition to ***the obligations laid down in*** Article 5, obliged entities wishing to exercise the freedom to provide services by carrying out activities within the territory of another Member State for the first time shall notify the supervisors of the home Member State of the activities which they intend to carry out. Such notification shall also be required where provision of cross-border services is carried out by agents of the obliged entity.

Or. en

Amendment 178

Proposal for a directive Article 33 – paragraph 4 – subparagraph 1

Text proposed by the Commission

In the cases covered by Article 5, the supervisors of the host Member State shall be allowed at their own initiative to take appropriate and proportionate measures to address serious failings that require immediate remedies. Those measures shall be temporary and be terminated when the failings identified are addressed, including with the assistance of or in cooperation with the supervisors of the home Member State of the obliged entity.

Amendment

In the cases covered by Article 5, the supervisors of the host Member State shall be allowed at their own initiative to take appropriate and proportionate measures to address serious failings that require immediate remedies **and promptly inform the supervisor of the home Member State**. Those measures shall be temporary and be terminated when the failings identified are addressed, including with the assistance of or in cooperation with the supervisors of the home Member State of the obliged entity.

Or. en

Amendment 179

Proposal for a directive Article 33 – paragraph 5

Text proposed by the Commission

5. Where the supervisors of the home and host Member State disagree on the measures to be taken in relation to an obliged entity, they **may** refer the matter to AMLA and request its assistance in accordance with Articles 5 and 10 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]. AMLA shall provide **its** advice on the matter of disagreement within one month.

Amendment

5. Where the supervisors of the home and host Member State disagree on the measures to be taken in relation to an obliged entity, they **shall** refer the matter to AMLA and request its assistance in accordance with Articles 5 and 10 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]. AMLA shall provide advice on the matter of disagreement within one month **and assist home and host supervisors in reaching an agreement**.

Amendment 180**Proposal for a directive****Article 34 – paragraph 5 – subparagraph 1***Text proposed by the Commission*

AMLA may act in accordance with the powers conferred on it under Articles 5 and 10 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]. When doing so, AMLA shall provide its opinion on the subject-matter of the request within one month.

Amendment

AMLA may act in accordance with the powers conferred on it under Articles 5 and 10 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]. When doing so, AMLA shall provide its opinion on the subject-matter of the request within one month ***and assist the financial supervisors in reaching an agreement.***

Amendment 181**Proposal for a directive****Article 35 – paragraph 1***Text proposed by the Commission*

Supervisors, including AMLA, shall inform each other of instances in which the law of a third country does not permit the implementation of the policies, controls and procedures required under Article 13 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]. In such cases, coordinated actions may be taken by supervisors to pursue a solution. In assessing which third countries do not permit the implementation of the policies, controls and procedures required under Article 13 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420

Amendment

Supervisors, including AMLA, shall inform each other of instances in which the law of a third country does not permit the implementation of the policies, controls and procedures required under Article 13 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]. In such cases, coordinated actions may be taken by supervisors to pursue a solution, ***if deemed necessary.*** In assessing which third countries do not permit the implementation of the policies, controls and procedures required under Article 13 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation -

final], supervisors shall take into account any legal constraints that may hinder proper implementation of those policies and procedures, including professional secrecy, an insufficient level of data protection and other constraints limiting the exchange of information that may be relevant for that purpose.

COM/2021/420 final], supervisors shall take into account any legal constraints that may hinder proper implementation of those policies and procedures, including professional secrecy, an insufficient level of data protection and other constraints limiting the exchange of information that may be relevant for that purpose.

Or. en

Amendment 182

Proposal for a directive Article 36 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The supervisory activities of AML/CFT supervisory colleges shall be proportionate to the level of risk posed by the credit or financial institution and the scale of its cross-border activity. AML/CFT supervisory colleges may adjust the programme of supervisory activities within the college on a risk-sensitive basis.

Or. en

Amendment 183

Proposal for a directive Article 36 – paragraph 5

Text proposed by the Commission

Amendment

5. AMLA shall attend the meetings of the AML/CFT supervisory colleges and shall facilitate their work in accordance with Article 29 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

5. AMLA shall attend the meetings of the AML/CFT supervisory colleges and shall facilitate their work in accordance with Article 29 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]. ***AMLA shall have the power to intervene where***

disagreements arise between supervisors participating in the AML/CFT supervisory colleges and assist the competent authorities in reaching an agreement.

Or. en

Amendment 184

Proposal for a directive Article 36 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Financial supervisors in third countries may be allowed to participate in AML/CFT supervisory colleges, in particular in case of AML/CFT supervisory colleges are established under paragraph 1, point (b), provided that:

(a) there is a request for participation;

(b) data protection rules concerning data transfers apply;

(c) participation is on the basis of reciprocity;

(d) the information disclosed is subject to a guarantee of professional secrecy requirements at least equivalent to that referred to in Article 50(1) and is used solely for the purpose of performing the supervisory tasks of those financial supervisors only.

AMLA shall have the power to assess whether financial supervisors in third countries fulfil the conditions laid down in this paragraph and to decide on the participation of financial supervisors in third countries to supervisory colleges.

Or. en

Amendment 185

Proposal for a directive

Article 36 – paragraph 6 – introductory part

Text proposed by the Commission

6. By [2 year after the date of entry into force of this Directive], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall specify the general conditions for the functioning of the AML/CFT supervisory colleges, including the terms of cooperation between participants, and the operational functioning of such colleges.

Amendment

6. By [2 year after the date of entry into force of this Directive], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall specify the general conditions for the functioning of the AML/CFT supervisory colleges ***on a risk sensitive basis***, including the terms of cooperation between participants, and the operational functioning of such colleges. ***They shall further specify requirements for the participation of financial supervisors in third countries. Prior to the submission of those draft regulatory technical standards to the Commission, AMLA shall consult with the European Data Protection Board on the data protection rules which apply to data transferred to financial supervisors in third countries.***

Or. en

Amendment 186

Proposal for a directive

Article 37 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States ***may*** authorise financial supervisors to conclude cooperation agreements providing for collaboration and exchanges of confidential information with their counterparts in third countries. Such cooperation agreements shall comply with applicable data protection rules for data transfers and be concluded on the basis of

Amendment

1. Member States ***shall*** authorise financial supervisors to conclude cooperation agreements providing for collaboration and exchanges of confidential information with their counterparts in third countries. Such cooperation agreements shall comply with applicable data protection rules for data transfers and be concluded on the basis of

reciprocity and only if the information disclosed is subject to a guarantee of professional secrecy requirements at least equivalent to that referred to in Article 50(1). Confidential information exchanged in accordance with those cooperation agreements shall be used for the purpose of performing the supervisory tasks of those authorities only.

reciprocity and only if the information disclosed is subject to a guarantee of professional secrecy requirements at least equivalent to that referred to in Article 50(1). Confidential information exchanged in accordance with those cooperation agreements shall be used for the purpose of performing the supervisory tasks of those authorities only.

Or. en

Amendment 187

Proposal for a directive Article 37 – paragraph 2

Text proposed by the Commission

2. For the purposes of paragraph 1, AMLA **may lend such assistance as may be necessary to** assess the equivalence of professional secrecy requirements applicable to the third country counterpart.

Amendment

2. For the purposes of paragraph 1, AMLA **shall** assess the equivalence of professional secrecy requirements applicable to the third country counterpart.

Or. en

Amendment 188

Proposal for a directive Article 37 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that financial supervisors notify any agreement signed pursuant to this Article to AMLA within one month of its signature.

Amendment

3. Member States shall ensure that financial supervisors notify any agreement signed pursuant to this Article to AMLA within one month of its signature. **AMLA shall develop draft implementing technical standards specifying a common template for the cooperation agreements referred to in paragraph 1. The Commission is empowered to adopt the implementing technical standards referred to in this paragraph in**

accordance with Article 42 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

Or. en

Amendment 189

Proposal for a directive Article 38 – paragraph 1

Text proposed by the Commission

1. Where Member States decide, pursuant to Article 29(3), to allow self-regulatory bodies to perform supervision of the entities referred to in Article 3, points (3)(a), **(b) and (d)**, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], they shall ensure that the activities of such self-regulatory bodies in the performance of such functions are subject to oversight by a public authority.

Amendment

1. Where Member States decide, pursuant to Article 29(3), to allow self-regulatory bodies to perform supervision of the entities referred to in Article 3, points (3)(a) **and (b)**, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], they shall ensure that the activities of such self-regulatory bodies in the performance of such functions are subject to oversight by a public authority.

Or. en

Amendment 190

Proposal for a directive Article 38 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The public authority overseeing self-regulatory bodies shall be operationally independent and autonomous and shall have the authority and capacity to carry out its functions free of political, government or industry influence or interference. Staff of those public authorities shall be of high integrity and appropriately skilled,

including in detecting biases and in the ethical use of big data sets, and maintain high professional standards, including standards of confidentiality, data protection and standards addressing conflicts of interest.

Or. en

Amendment 191

Proposal for a directive Article 38 – paragraph 2 – point c

Text proposed by the Commission

(c) ensuring that self-regulatory bodies perform their functions under Section 1 of this Chapter to the highest standards;

Amendment

(c) ensuring that self-regulatory bodies perform their functions under Section 1 of this Chapter to the highest standards **and that, in particular, self-regulatory bodies perform the tasks laid down in Article 29(4);**

Or. en

Amendment 192

Proposal for a directive Article 38 – paragraph 3 – introductory part

Text proposed by the Commission

3. Member States shall ensure that the authority overseeing self-regulatory bodies is granted adequate powers to discharge its responsibilities under paragraph 2. **As a minimum**, Member States shall ensure that the authority has the power to:

Amendment

3. Member States shall ensure that the authority overseeing self-regulatory bodies is granted adequate powers to discharge its responsibilities under paragraph 2. **In particular**, Member States shall ensure that the authority has the power to:

Or. en

Amendment 193

Proposal for a directive Article 38 – paragraph 3 – point a

Text proposed by the Commission

(a) compel the production of any information that is relevant to monitoring compliance and performing checks, except for any information collected by obliged entities referred to in Article 3, points (3)(a), **(b) and (d)**, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] in the course of ascertaining the legal position of their client, or for performing the task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings; whether such information was collected before, during or after such proceedings;

Amendment

(a) compel the production of any information that is relevant to monitoring compliance and performing checks, except for any information collected by obliged entities referred to in Article 3, points (3)(a) **and (b)**, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] in the course of ascertaining the legal position of their client **subject to the conditions laid down in the Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]**, or for performing the task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings; whether such information was collected before, during or after such proceedings;

Or. en

Amendment 194

Proposal for a directive Article 39 – paragraph 5 – point g a (new)

Text proposed by the Commission

Amendment

(ga) repeated similar breaches by the natural or legal person held responsible.

Or. en

Amendment 195

Proposal for a directive

Article 39 – paragraph 7 – introductory part

Text proposed by the Commission

7. By [2 years after the date of entry into force of this Directive], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall define indicators to classify the level of gravity of breaches and criteria to be taken into account when setting the level of administrative sanctions or taking administrative measures pursuant to this Section.

Amendment

7. By [2 years after the date of entry into force of this Directive], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall define indicators to classify the level of gravity of breaches and criteria to be taken into account when setting the level of administrative sanctions or taking administrative measures pursuant to this Section ***and the consequences in the event of repeated breaches. The draft regulatory technical standards shall also include ranges of pecuniary sanctions relative to the turnover of the entity that shall be applied in accordance with the indicators to classify the level of gravity of the breach as references for effective, proportionate and dissuasive sanctions, including in cases of repeated breaches.***

Or. en

Amendment 196

Proposal for a directive

Article 40 – paragraph 3 – introductory part

Text proposed by the Commission

3. Member States shall ensure that, by way of derogation from paragraph 2, where the obliged entity concerned is a credit institution or financial institution, the following sanctions can also be applied:

Amendment

3. Member States shall ensure that, by way of derogation from paragraph 2, where the obliged entity concerned is a credit institution, or financial institution ***or a crypto asset service provider***, the following sanctions can also be applied:

Or. en

Amendment 197

Proposal for a directive Article 40 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States shall ensure that legal persons can be held liable for the breaches referred to in paragraph 1 committed for their benefit by any person, acting individually or as part of an organ of that legal person, and having a leading position within the legal person based on any of the following:

(a) power to represent the legal person;

(b) authority to take decisions on behalf of the legal person;

(c) authority to exercise control within the legal person.

Or. en

Amendment 198

Proposal for a directive Article 40 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. Member States shall ensure that legal persons can be held liable where the lack of supervision or control by the persons referred to in paragraph 4 of this Article has made possible the commission, by a person under their authority, of the breaches referred to in Article 40(1) for the benefit of that legal person.

Or. en

Amendment 199

Proposal for a directive

Article 41 – paragraph 1 – introductory part

Text proposed by the Commission

1. **When** supervisors identify breaches of requirements of the Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] which are not deemed sufficiently serious to be punished with an administrative sanction, **they may decide to impose administrative measures on the obliged entity**. Member States shall ensure that the supervisors are able at least to:

Amendment

1. **Member States shall ensure that** supervisors **are able to impose administrative measures other than sanctions on an obliged entity where they** identify breaches of requirements of the Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] **either in combination with administrative sanctions or in cases** which are not deemed sufficiently serious to be punished with an administrative sanction. Member States shall ensure that the supervisors are able at least to:

Or. en

Amendment 200

Proposal for a directive

Article 41 – paragraph 1 – point b

Text proposed by the Commission

(b) order obliged entities to comply, including to implement specific corrective measures;

Amendment

(b) order obliged entities to comply, including to implement specific corrective measures **within a reasonable timeline**;

Or. en

Amendment 201

Proposal for a directive

Article 41 – paragraph 2 – point a

Text proposed by the Commission

(a) request an ad-hoc or regular

Amendment

(a) request an ad-hoc or regular

submission of any document necessary for the performance of their tasks, including those to justify the process of implementation of the requested administrative measures;

submission of any document necessary for the performance of their tasks, including those to justify the process of implementation of the requested administrative measures ***without undue delay***;

Or. en

Amendment 202

Proposal for a directive

Article 42 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that a decision imposing an administrative sanction or measure for breach of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] ***against which there is no appeal*** shall be published by the supervisors on their official website immediately after the person sanctioned is informed of that decision. The publication shall include at least information on the type and nature of the breach and the identity of the persons responsible. Member States shall not be obliged to apply this subparagraph to decisions imposing measures that are of an investigatory nature.

Amendment

1. Member States shall ensure that a decision imposing an administrative sanction or measure for breach of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] shall be published by the supervisors on their official website immediately after the person sanctioned is informed of that decision. The publication shall include at least information on the type and nature of the breach and the identity of the persons responsible ***and whether the decision is subject to appeal***. Member States shall not be obliged to apply this subparagraph to decisions imposing measures that are of an investigatory nature.

Or. en

Amendment 203

Proposal for a directive

Article 42 – paragraph 4

Text proposed by the Commission

4. Member States shall ensure that legal persons can be held liable for the

Amendment

deleted

breaches referred to in Article 40(1) committed for their benefit by any person, acting individually or as part of an organ of that legal person, and having a leading position within the legal person based on any of the following:

- (a) power to represent the legal person;*
- (b) authority to take decisions on behalf of the legal person;*
- (c) authority to exercise control within the legal person.*

Or. en

Amendment 204

Proposal for a directive Article 42 – paragraph 5

Text proposed by the Commission

Amendment

5. Member States shall ensure that legal persons can be held liable where the lack of supervision or control by the persons referred to in paragraph 4 of this Article has made possible the commission, by a person under their authority, of the breaches referred to in Article 40(1) for the benefit of that legal person. *deleted*

Or. en

Amendment 205

Proposal for a directive Article 43 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States shall ensure that supervisory authorities, as well as, where applicable, self-regulatory bodies, establish effective and reliable mechanisms to

1. Member States shall ensure that supervisory authorities, as well as, where applicable, self-regulatory bodies, establish effective and reliable mechanisms to

encourage the reporting of potential and actual breaches of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].

encourage the reporting of potential and actual breaches of **this Directive and of** Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].

Or. en

Amendment 206

Proposal for a directive Article 43 – paragraph 1 – subparagraph 1

Text proposed by the Commission

For that purpose, they shall provide one or more secure communication channels for the reporting referred to in the first subparagraph. Such channels shall ensure that the identity of persons providing information is known only to the supervisory authority, or, where applicable, self-regulatory body.

Amendment

For that purpose, they shall provide one or more secure communication channels for the reporting referred to in the first subparagraph. Such channels shall ensure that the identity of persons providing information is known only to the supervisory authority, or, where applicable, self-regulatory body. ***Where reporting relates to potential or actual breaches by employees or the management body of the supervisory authorities or, where applicable, self-regulatory body, the identity of the person should only be known by the specific body responsible for receiving reports.***

Or. en

Amendment 207

Proposal for a directive Article 43 – paragraph 2 – point e

Text proposed by the Commission

(e) clear rules that ensure that confidentiality is guaranteed in all cases in relation to the person who reports the breaches committed within the obliged entity, unless disclosure is required by

Amendment

(e) clear rules that ensure that confidentiality is guaranteed in all cases in relation to the person who reports the breaches committed within the obliged entity, ***or supervisor or, where applicable,***

national law in the context of further investigations or subsequent judicial proceedings.

self-regulatory body, unless disclosure is required by national law in the context of further investigations or subsequent judicial proceedings.

Or. en

Amendment 208

Proposal for a directive

Article 43 – paragraph 3 – introductory part

Text proposed by the Commission

3. Member States shall ensure that individuals, including employees and representatives of the obliged entity who report potential or actual breaches of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] **internally or to the FIU**, are legally protected from being exposed to threats, retaliatory or hostile action, and in particular from adverse or discriminatory employment actions.

Amendment

3. Member States shall ensure that individuals, including employees and representatives of the obliged entity **or of supervisory authorities or self-regulatory bodies** who report potential or actual breaches **of this Directive or** of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], **as provided in paragraph 1**, are legally protected from being exposed to threats, retaliatory or hostile action, and in particular from adverse or discriminatory employment actions.

Or. en

Amendment 209

Proposal for a directive

Article 43 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that individuals who are exposed to threats, hostile actions, or adverse or discriminatory employment actions for reporting potential or actual breaches of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420

Amendment

Member States shall ensure that individuals who are exposed to threats, hostile actions, or adverse or discriminatory employment actions for reporting potential or actual breaches of **this Directive or of** Regulation [please insert reference – proposal for Anti-Money Laundering Regulation -

final] *internally or to the FIU* are entitled to present a complaint in a safe manner to the respective competent authorities. Without prejudice to the confidentiality of information gathered by the FIU, Member States shall also ensure that such individuals have the right to effective remedy to safeguard their rights under this paragraph.

COM/2021/420 final] *as provided in paragraph 1* are entitled to present a complaint in a safe manner to the respective competent authorities. Without prejudice to the confidentiality of information gathered by the FIU, Member States shall also ensure that such individuals have the right to effective remedy to safeguard their rights under this paragraph.

Or. en

Amendment 210

Proposal for a directive Article 44 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that their supervisors and, where relevant, the national authority overseeing self-regulatory bodies in their performance of supervisory functions inform AMLA of all administrative sanctions and measures imposed in accordance with this Section, including of any appeal in relation thereto and the outcome thereof. Such information shall also be shared with other supervisors when the administrative sanction or measure concerns an entity operating in two or more Member States.

Amendment

1. Member States shall ensure that their supervisors and, where relevant, the national authority overseeing self-regulatory bodies in their performance of supervisory functions inform AMLA, *and where relevant, the FIUs of the Member State concerned*, of all administrative sanctions and measures imposed in accordance with this Section, including of any appeal in relation thereto and the outcome thereof. Such information shall also be shared with other supervisors when the administrative sanction or measure concerns an entity operating in two or more Member States.

Or. en

Amendment 211

Proposal for a directive Article 44 – paragraph 2

Text proposed by the Commission

2. AMLA shall maintain on its website links to each supervisor's publication of administrative sanctions and measures imposed in accordance with Article 42, and shall show the time period for which each Member State publishes administrative sanctions and measures.

Amendment

2. AMLA shall maintain **a database** on its website **with information on the sanctions applied per obliged entity, as well as the** links to each supervisor's publication of administrative sanctions and measures imposed in accordance with Article 42, and shall show the time period for which each Member State publishes administrative sanctions and measures.

Or. en

Amendment 212

**Proposal for a directive
Article 45 – paragraph 1**

Text proposed by the Commission

1. Member States shall ensure that policy makers, the FIUs, supervisors, including AMLA, and other competent authorities, as well 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 and to prevent the non-implementation and evasion of proliferation **financing-related** targeted financial sanctions, including with a view to fulfilling their obligations under Article 8.

Amendment

1. Member States shall ensure that policy makers, the FIUs, supervisors, including AMLA, and other competent authorities, as well 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 and to prevent the non-implementation and evasion of **targeted financial sanctions relating to terrorism and terrorism financing**, proliferation **financing and to other applicable Union** targeted financial sanctions , including with a view to fulfilling their obligations under Article 8.

Or. en

Amendment 213

Proposal for a directive Article 45 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall, in particular, enable access from FIUs to the information referred to in Article 8(3a) of Directive 2014/107/EU^{1a} which is received by tax authorities in accordance with automatic exchange of information procedures laid down in that Directive.

^{1a} Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

Or. en

Amendment 214

Proposal for a directive Article 45 – paragraph 3 – point c

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 215

Proposal for a directive Article 46 – title

Text proposed by the Commission

Amendment

Communication of the list of *the*
competent authorities

Communication of the list of competent
authorities *and registers*

Or. en

Amendment 216

Proposal for a directive

Article 46 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

*(ba) the contact details of the entity in
charge of the central registers referred to
into Article 10;*

Or. en

Amendment 217

Proposal for a directive

Article 46 – paragraph 1 – point b b (new)

Text proposed by the Commission

Amendment

*(bb) the contact details necessary to
obtain information on real estate data,
certain goods and bank accounts;*

Or. en

Amendment 218

Proposal for a directive

Article 51 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

*(ca) supervisors and, where relevant,
the EPPO with regard to any criminal*

conduct in respect of which it could exercise its competence in accordance with Article 22 or Article 25(2) or (3) of Regulation (EU) 2017/1939^{1a};

^{1a} Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

Or. en

Amendment 219

Proposal for a directive Article 51 – paragraph 1 – point c b (new)

Text proposed by the Commission

Amendment

(cb) supervisors and, where relevant, the European Anti-Fraud Office with regard to possible cases of fraud, corruption or any other illegal activity affecting the financial interests of the Union pursuant to Article 8 of Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council^{1a};

^{1a} Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1073/1999 (OJ L 248, 18.9.2013, p. 1).

Or. en

Amendment 220

Proposal for a directive

Article 51 – paragraph 3 – introductory part

Text proposed by the Commission

3. Member States may authorise the disclosure of certain information relating to the supervision of obliged entities for compliance with the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] to parliamentary inquiry committees, courts of auditors and other entities in charge of enquiries in their Member State, under the following conditions:

Amendment

3. Member States may authorise the disclosure of certain information relating to the supervision of obliged entities for compliance with the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] to parliamentary inquiry committees, ***including those set up by the European Parliament***, courts of auditors and other entities in charge of enquiries in their Member State, under the following conditions

Or. en

Amendment 221

Proposal for a directive

Article 53 – paragraph 1 – introductory part

Text proposed by the Commission

1. To the extent that it is strictly necessary for the purposes of this Directive, competent authorities may process special categories of personal data referred to in Article 9(1) of Regulation (EU) 2016/679 and personal data relating to criminal convictions and offences referred to in Article 10 of that Regulation subject to appropriate safeguards for the rights and freedoms of the data subject ***and*** the following ***additional*** safeguards:

Amendment

1. To the extent that it is strictly necessary for the purposes of this Directive, competent authorities may process special categories of personal data ***relating to racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership and genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation*** referred to in Article 9(1) of Regulation (EU) 2016/679 and personal data relating to criminal convictions and offences referred to in Article 10 of that Regulation subject to appropriate safeguards for the rights and

freedoms of the data subject, *in addition to* the following safeguards:

Or. en

Amendment 222

Proposal for a directive Article 53 – paragraph 1 – point b

Text proposed by the Commission

(b) staff of the competent authorities shall maintain high professional standards of confidentiality and data protection, they shall be of high integrity and are appropriately skilled;

Amendment

(b) staff of the competent authorities shall maintain high professional standards of confidentiality and data protection, they shall be of high integrity and are appropriately skilled, *including in detecting biases in and in the ethical use of big data sets*;

Or. en

Amendment 223

Proposal for a directive Article 53 – paragraph 1 – point c

Text proposed by the Commission

(c) technical and organisational measures shall be in place to ensure the security of the data to high technological standards.

Amendment

(c) technical and organisational measures shall be in place to ensure the security of the data to high technological standards, *such as end-to-end encryption, and to ensure that the processing of the data does not lead to biased and discriminatory outcomes*;

Or. en

Amendment 224

Proposal for a directive Article 53 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) automated decision-making shall include human review and the possibility for human intervention.

Or. en

Amendment 225

Proposal for a directive

Article 58 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [please insert date - **3** years after the date of entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [please insert date - **2** years after the date of entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

EXPLANATORY STATEMENT

General reflections

It has become clear for some time that the current framework to combat money laundering and terrorist financing (AML/CTF) in the EU is ineffective. While the EU legislation lays down some of the most advanced standards in the world, it has not been timely transposed by Member States or enforced properly at national level. The divergences in the implementation of past AML Directives have also seriously undermined the effectiveness of the framework. Therefore, the co-rapporteurs welcome the AML Package proposed by the Commission, which consists of different legislative instruments, including the 6th AML Directive (AMLD). The co-rapporteurs also welcome the proposal to establish an Anti-Money Laundering Authority (AMLA).

It should be understood that the framework to combat ML/TF is only as effective as its weakest spot (be it a country, an institution, an economic sector). This is all the more relevant in the EU single market, which combines common rules and freedoms. Aiming just for average improvements is far from enough.

The Russian aggression against Ukraine and the outcome of the sanctions that followed the war has proved to us that the rules and procedures currently in place do not give rise to desired outcomes. Even as sanctions are directed only to a small number of high-profile cases, the identification of owners of high value goods and assets, such as mansions, private planes and mega-yachts was, in the current circumstances, too challenging a task for the competent authorities to undertake. This shows weaknesses of the current ML/TF frameworks, as there are reasonable suspicions that some of money used by persons under sanction regime do not have a clear origin. The experience from this episode should be reflected in the new legislation.

From the discussions with different stakeholders, it has become clear that both the absence of detailed rules and the divergences of practices in national implementation of the AML Directives have affected the ability of competent authorities to identify suspicious transactions and truly disrupt criminal activity, especially where it crosses borders. We need to close all the remaining gaps, while making the most of the existing system as the foundation upon which improvement can be made. In addition, we must have in mind that impact linked to ML/TF requirements on honest persons, entrepreneurs and firms should be limited and proportionate.

Topical reflections:

It is important to safeguard that persons who take positions in the management of certain obliged entities, or who are beneficial owners of those obliged entities, fulfil certain requirements relating notably to honesty and integrity and good repute. Co-rapporteurs propose to strengthen these requirements and further specify supervisory powers necessary to enforce them.

AML Directives in force already require Member States to prevent the misuse of legal persons for ML/TF and to ensure that there is adequate, accurate and up-to-date information on the

beneficial ownership and control of legal persons and arrangements through public registers. The Commission proposal in AMLD6 is a good basis for discussions on the requirements that EU law lays down for the establishment of beneficial ownership registers by Member States. Still, based on international best practices and to further enhance the accuracy of the data provided in the registers, the Co-Rapporteurs propose stronger requirements, notably on the verification of the data and use of technology for this purpose, and on the abilities of entities in charge of the registers to sanction inaccuracies and inconsistencies. Furthermore, the co-rapporteurs believe that some public access to beneficial ownership information on trusts and similar legal arrangements should no longer be restricted.

It is also very important to set out clear rules for access and search of the beneficial ownership registers by competent authorities, supervisors and obliged entities. Therefore, the Co-Rapporteurs propose a specific provision laying down the criteria for searches in the beneficial ownership registers through the European Central Platform, which we hope will be operational by the time the Directive will come into effect.

Real estate continues to represent an attractive commodity for criminals to launder the proceeds of their illicit activities, as it sometime unfortunately in practice allows obscuring the true source of the funds and the identity of the beneficial owner. Co-Rapporteurs wish, therefore, to ensure timely access to beneficial ownership data of real estate owners, including through registers or electronic data retrieval systems. Member States should be required to provide access to this information to the competent authorities via a single access point, and include information not only on the economic value but also on the means of payment. Registers or electronic data retrieval systems shall be interconnected by Real Estate Data (RED) single access point, which shall be operated by the Commission, allowing Member States discretion to determine which system they will use to fulfil this requirement.

It has also become clear that while information on high value goods, such as yachts and planes is collected, it is rarely useful for the purpose of detecting ML/TF. Therefore, the Co-Rapporteurs introduce an obligation for Member States to provide access to competent authorities to beneficial ownership information on the owners of certain goods whose value is estimated above a certain threshold, as well as, the access to information of means of payment of some of these assets.

Financial Intelligence Units (FIUs) are part of and play a central role in a jurisdiction's AML/CTF operational network, and provide crucial support to the work of other competent authorities. Co-Rapporteurs introduced changes in the chapter governing the functioning of FIUs, aiming to foster access to information by FIUs and exchange of information between them, making the most of technological advancements, while safeguarding fundamental rights. The movement of illicit money increasingly crosses borders and may affect different Member States, which is why it is essential that the information flows without unnecessary hurdles and delays, while opportunities for data matching between Member States should be further improved.

The ability of FIUs to suspend transactions remains crucial to disrupt ML/TF, which is why the Co-Rapporteurs chose to detail such a procedure further in the draft report.

Proper supervision of both credit and financial institutions and other obliged entities in the non-

financial sector sits at the heart of an effective AML/CFT framework. In the past decade, several high-profile money laundering cases revealed significant shortcomings with respect to certain banks' risk management and their surveillance by both AML/CFT and prudential supervisors. Recent scandals also brought to light flawed supervision of non-financial entities. Co-rapporteurs welcome the Commission's proposals to further detail supervisory action and coordination. Co-rapporteurs have further detailed the role of AMLA, where there are disagreements between supervisors and where joint analysis teams are required. AMLA is also given a role in assessing the conditions for cooperation with third country financial supervisors on a case-by-case basis.

The co-rapporteurs fully support the Commission's proposal for public oversight of self-regulatory bodies, who are in charge of supervision of specific obliged entities in the non-financial sector, and further detail requirements in the relevant provisions. Co-rapporteurs believe, however, a public authority, not a self-regulatory body, should supervise the real estate sector.

Further to the mentions already made, co-rapporteurs wish to increase the role of AMLA in the context of the rules and procedures laid down in this Directive. Co-rapporteurs propose, in particular, that AMLA should

- draft and publish guidelines on the elements to be taken into account by supervisors when assessing suitability of the management and beneficial ownership of certain obliged entities, as well as on the circumstances where conflicts of interest may arise amongst FIU staff members.

- keep a repository of the national authorities responsible or mechanisms established to coordinate the national response to risks, identified on a national basis;

- conduct peer reviews regarding the functioning of national entities in charge of beneficial ownership registers, and on the fulfilment, by FIUs, of specific requirements laid down in this Directive.

- be given the power to suspend access to the FIU.net, should the peer review of a specific FIU raise serious concerns;

- include in the technical standards that AMLA should prepare the ranges of pecuniary sanctions relative to the turnover of the entity that shall be applied in breaches of AML obligations .