

Use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences

2018/0105(COD) - 17/04/2018 - Legislative proposal

PURPOSE: to strengthen the fight against terrorist financing by providing competent authorities with direct access to bank account information.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure on an equal footing with the Council.

BACKGROUND: in its [action plan](#) of February 2016 on strengthening the fight against terrorist financing, the Commission undertook to explore the possibility of a dedicated legal instrument to **broaden the access to centralised bank account registries** by Member States' authorities. Lack of financial information may result in missed opportunities to investigate serious crimes, disrupt criminal activities, stop terrorist plots, and detect and freeze proceeds of crime.

The current mechanisms for accessing and exchanging financial information are slow compared to the fast pace at which funds can be transferred across Europe and globally. **Too much time is required to obtain financial information**, reducing the effectiveness of investigations and prosecutions.

The Union co-legislators agreed in December 2017 on a number of significant changes to the

[4th Anti Money Laundering Directive](#). They include the **mandatory establishment of national centralised bank account registries** or data retrieval systems in all Member States, to which Financial Intelligence Units (FIUs) and anti-money laundering authorities would have access. These Directives mostly deal with preventive efforts to address money laundering, and terrorist financing. They do not, however, set out the precise conditions under which Member States' competent authorities may use financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences. Most competent authorities **currently do not have direct access to the information on the identity of bank account holders**, held in the centralised bank account registries or data retrieval systems. They usually request the information either via blanket requests sent to all financial institutions in their Member State or, if they have been granted indirect access, via a request to an intermediary. Blanket requests carry the real risk of significant delays and also has implications for cross-border cooperation

IMPACT ASSESSMENT: the impact assessment assessed ways to expand access to financial information for competent authorities for the investigation of crimes and examined a number of options. The preferred option is the adoption of an EU legislative instrument which would give direct access to competent authorities for the purposes of criminal investigations.

CONTENT: this proposal provides for:

- **direct access to the national centralised bank account registries** or data retrieval systems to competent authorities, which include tax authorities, anti-corruption authorities and Asset Recovery Offices. These bodies will have direct access on a case-by-case basis to bank account information

contained in national, centralised registries enabling the authorities to identify in which banks a suspect holds accounts. Data protection safeguards ensure that only limited information on the identity of the bank account holder would be made available;

- **cooperation** between Financial Intelligence Units (FIUs) and between FIUs and competent authorities. It defines the type of information (financial information, financial analysis, law enforcement information) that may be requested by competent authorities and FIUs respectively as well as the exhaustive list of criminal offences for which each authority can exchange information on a case-by-case basis.

Member States are required to designate all the competent authorities entitled to request information.

Europol will be provided with indirect access through Member States' National Units.

The decentralised **computer network FIU.net**, which is managed by Europol since 1 January 2016, will be used for exchanges of information between Financial Intelligence Units.

The proposed Directive is in line with the **reformed data protection regime**, stemming from Directive (EU) 2016/680 (the General Data Protection Directive).