

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

2021/0250(COD) - 14/04/2023 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs jointly adopted the report by Ludk NIEDERMAYER (EPP, CZ) and Paul TANG (S&D, NL) on the proposal for a directive of the European Parliament and of the Council on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Subject matter

Given that land and real estate is an attractive commodity for criminals to launder the proceeds of their illicit activities, the amended text suggested that the Directive should also lay down rules concerning access to information on beneficial ownership, bank accounts, land or real estate registers and relevant goods.

Regarding real estate, Member States should set-up registers or electronic data retrieval systems to effectively put an end to real estate or land as a means to launder money. It is 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 land and real estate. Moreover, Member States should ensure that estate agents develop or have in place training programmes for professionals. The nature and extent of training should be tailored to the scale and complexity of the business and be appropriate to the level of the risk of money laundering and terrorist financing faced by the obliged entity.

National risk assessment

Each Member State should designate an authority or establish a mechanism to coordinate the national response to the risks set out in the risk assessment. The identity of this authority or the description of the mechanism should be notified to the Commission, the anti-money laundering authority (AMLA), Europol and the other Member States.

Central register of beneficial ownership information

Central registers of beneficial ownership information are crucial in combating the misuse of legal entities. Therefore, Member States should 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.

Searches in Beneficial Ownership Register

Beneficial ownership registers are well placed to identify, in a rapid and efficient manner, the individuals who ultimately own or control legal entities and arrangements, including individuals designated in relation to targeted financial sanctions.

The report includes a new article stating that the European Central Platform should serve as a central search service, making available all information related to beneficial ownership. Competent authorities, AMLA, self-regulatory bodies and obliged entities should be able to make searches of beneficial ownership information through the European Central Platform.

Bank account registers and electronic data retrieval systems

Member States should take adequate measures to ensure that information on holders of closed customer-accounts, bank or payment accounts, custodial crypto-asset wallets and safe-deposit boxes is made available through their national centralised automated mechanisms and through the single access point interconnecting the centralised automated mechanisms for a period of five years after the closure of the account or wallet.

National FIUs and AMLA should 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.

Strengthening the role of the ALMA

Members wish to strengthen the role of the ALMA in the context of the rules and procedures set out in this Directive. In particular, they say that the ALMA should:

- issue guidelines on the elements to be taken into account by supervisors when assessing whether: (i) the senior managers and the beneficial owners of obliged entities act with honesty and integrity; (ii) the senior management of obliged entities are of good repute and possess proven knowledge and expertise necessary to carry out their functions; (iii) there are reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed or attempted, or that the risk thereof could increase in connection with that obliged entity;
- maintain a register of responsible national authorities or mechanisms established to coordinate the national response to risks, identified at national level;
- play a role in conducting peer reviews of some or all of the activities of the entities in charge of the central beneficial ownership registers 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 those register is accurate, adequate and up to date.

Information on motor vehicles, aircrafts and watercrafts

Member States should provide competent authorities with timely access to information which allows the identification of any natural person or the beneficial owner of any legal person owning motor vehicles, aircrafts or watercrafts whose estimated value is above EUR 200 000 or the equivalent in national currency. Information set out in the purchase contract or other proof of transaction, including at least the identification of all parties involved in the transaction, the means of payment and the source of funds, is included and available as part of the information should be provided to competent authorities and AMLA without delay.