Prevention of the use of the financial system for the purposes of money laundering or terrorist financing

2021/0239(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 Eero HEINÄLUOMA (S&D, FI) and Damien CARÊME (Greens/EFA, FR) on the proposal for a regulation 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.

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

Members stated that the proposed Regulation should lay down rules concerning:

- measures to be applied by obliged entities to mitigate and manage the risks of non-implementation and evasion of targeted financial sanctions;

- measures to prevent money laundering and terrorist financing in Member States which allow for citizenship or residence rights in exchange for any kind of investment, including capital transfers, purchase or renting of property, investment in government bonds, investment in corporate entities, donation or endowment of an activity contributing to the public good and contributions to the state budget;

- measures to mitigate risks deriving from anonymous instruments and limit the misuse of bearer instruments.

Obliged entities

The amended text adds wealth managers to the list of entities subject to AML/CFT rules, as well as high-level football clubs, agents in the football sector and Member States' football associations.

Moreover, the report stressed that the risks of ML/FT involving works of art and other high value goods are well known. Therefore, it proposed to reduce the value of goods from which due diligence obligations apply from EUR 10 000 to EUR 5 000.

Ban on citizenship by investment and minimum requirements regarding citizenship and residence by investment schemes

Member States should not put in place schemes under national law which allow for citizenship rights in exchange for any kind of investment, including capital transfers, the purchase or renting of property, investment in government bonds, investment in corporate entities, donation or endowment of an activity contributing to the public good and contributions to the state budget, and without a genuine link with the Member States concerned.

Register the beneficial owner of these entities in the Union

The concept of beneficial ownership is crucial to increase transparency of complex corporate structures and ease compliance with AML/CFT rules. In this regard, the beneficial ownership (BO) register is a key instrument to grant sufficient transparency and assist obliged entities in their customer due diligence obligations as well as competent authorities in their tasks. However, to reduce the chances to circumvent this tool, it is important to reduce the percentage threshold that serves as indication of ownership of a legal entity from 25% to 15%.

Reporting of suspicions

Members considered that obliged entities should report all suspicions of money laundering, terrorist financing or predicate offences to the FIU, including suspicious attempted transactions. They should reply to a request for information by the FIU within five working days, unless the FIU determines a different deadline.

By three years from the entry into force of this Regulation, AMLA should develop an electronic filing system, (FIU.net one-stop-shop), to be used by obliged entities to submit to the FIU of the Member State in whose territory the obliged entity transmitting the information is established, and to any other concerned FIU, reports of suspicion of money laundering, predicate offences and terrorist financing, including on attempted transactions. The FIU.net one-stop-shop should provide a single access point for reporting of suspicions through protected channels of communications and via a standardised form.

Exchange of data under partnerships for information sharing in AML/CFT field

To combat money laundering and terrorist financing, the amended text suggested that obliged entities and public authorities may participate in partnerships for information sharing in AML/CFT field established under national law in one or across several Member States.

Each Member State may lay down in its national law that, to the extent that is necessary and proportionate, obliged entities, and where applicable, public authorities that are party to the partnership for information sharing in AML/CFT field, may share personal data collected in the course of performing customer due diligence obligations and process that data within the partnership for the purposes of the prevention of money laundering and terrorist financing, provided that at a minimum of requirements are respected.

Limits to large cash payments

The amended text proposed that persons trading in goods or providing services may accept or make a payment in cash only up to an amount of **EUR 7 000** (as opposed to EUR 10 000) or equivalent amount in national or foreign currency, whether the transaction is carried out in a single operation or in several operations which appear to be linked. Member States should not discriminate between residents and non-residents with regard to the limits applicable for cash payments.

Payments in crypto-assets without the involvement of a crypto-asset service provider

The report stated that persons trading in goods or providing services may accept or make a transfer in crypto-assets from a selfhosted address only up to an amount equivalent to EUR 1 000 whether the transaction is carried out in a single operation or in several operations which appear to be linked, unless the customer or beneficial owner of such self-hosted address can be identified.

Member States should ensure that appropriate measures, including sanctions, are taken against natural or legal persons acting in their professional capacity which are suspected of a breach of the limit.