Money laundering: prevention of the use of the financial system (amend. Directive 91/308/EEC)

1999/0152(COD) - 04/12/2001 - Final act

PURPOSE : to update Council Directive 91/038/EEC so as to reflect best international practice in this area and also continue to set a high standard in protecting the financial sector and other vulnerable activities from the harmful effects of the proceeds of crime. COMMUNITY MEASURE : Directive 2001/97/EC of the European Parliament and of the Council amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering. CONTENT : the 1991 anti-money laundering Directive was a landmark in the fight against criminal money and its potentially highly damaging effect on the financial system. The Directive is based on a wide coverage of the financial sector. It requires financial firms to know their customers, to keep appropriate records and establish anti-money laundering programmes. Most importantly, it requires banking secrecy rules to be suspended whenever necessary, and any suspicions of money laundering to be reported to the authorities. The main changes to the 1991 Directive are a widening of the prohibition of money laundering to embrace not only drugs trafficking but all organised crime, and an extension of the obligations of the Directive to certain non-financial activities and professions. A cooperation between national authorities and the Commission in case of illegal activities against the financial interests of the European Communities is also required. This Directive stipulates that the Member States shall ensure that the obligations laid down in this Directive are imposed on the following institutions: credit institutions; financial institutions; and on the following legal or natural persons acting in the exercise of their professional activities: auditors, external accountants and tax advisors; real estate agents; notaries and other independent legal professionals, when they participate, whether: a) by assisting in the planning or execution of transactions for their client concerning the : i) buying and selling of real property or business entities; ii) managing of client money, securities or other assets; iii) opening or management of bank, savings or securities accounts; iv) organisation of contributions necessary for the creation, operation or management of companies; v) creation, operation or management of trusts, companies or similar structures; b) or by acting on behalf of and for their client in any financial or real estate transaction; dealers in high-value goods, such as precious stones or metals, or works of art, auctioneers, whenever payment is made in cash, and in an amount of EUR 15000 or more; as well as casinos. ii) Member States shall ensure that the institutions and persons subject to this Directive: a) establish adequate procedures of internal control and communication in order to forestall and prevent operations related to money laundering; b) take appropriate measures so that their employees are aware of the provisions contained in this Directive. These measures shall include participation of their relevant employees in special training programmes to help them recognise operationswhich may be related to money laundering as well as to instruct them as to how to proceed in such cases. Member States shall ensure that the institutions and persons subject to this Directive have access to up-to-date information on the practices of money launderers and on indications leading to the recognition of suspicious transactions. ENTRY INTO FORCE : 28/12/2001. IMPLEMENTATION : 15/06/2003.