

Money laundering: prevention of the use of the financial system, including terrorist financing (repeal. Directive 91/308/EEC)

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The European Central Bank published an opinion on the proposal for a directive on the prevention of the use of the financial system for the purpose of money laundering, including terrorist financing.

On a general note, the ECB recalls the commitment of the Eurosystem of 'doing everything within its power to contribute to the adoption, implementation and execution of measures against the use of the financial system for terrorist activities', as expressed in the public statement of 1 October 2001 of the Governing Council of the ECB, made in the aftermath of the terrorist attacks in the United States on 11 September 2001. Against this general backdrop, the ECB strongly welcomes the proposed directive since it constitutes an important step towards enhancing the Community's legal framework for protecting the integrity of the financial system, bearing in mind the challenges raised by developments in money laundering and terrorist financing activities. The ECB also welcomes the proposed directive as it facilitates the coordinated implementation and application of the FATF's Forty Recommendations

among Member States, thereby contributing to the convergence of practices in this field.

The ECB notes that the application of Articles 7 and 30 (which respectively cover customer due diligence requirements and internal procedures) to credit institutions and other financial institutions will

mean a substantial interaction with prudential supervision requirements. These provisions are in line with the recommendations of the Basel Committee on Banking Supervision on 'Customer Due Diligence for Banks', which address this issue from a different perspective in that they aim at reducing operational and reputational risks for banks. The ECB welcomes these enhanced requirements of the proposed directive, since they are consistent with internationally-accepted best practice. The ECB further notes that it is important to ensure in the national transposition of the proposed directive consistency between these procedures and national measures implementing the *acquis communautaire* in the area of prudential supervision of credit institutions and other financial institutions, notably with regard to the supervision of banking and financial groups. To this end, a consistent and coordinated application of customer due diligence requirements by the competent authorities should be sought and will be of particular relevance in legislation where the enforcement of compliance with customer due diligence standards is entrusted to authorities other than the prudential supervisor for banks. Consistency and coordination should also lessen the regulatory compliance burden at a cross-border level.

The ECB therefore suggests that the proposed directive exempt credit institutions from other Member States from enhanced customer due diligence requirements in respect of cross-frontier correspondent banking relationships, on the basis of the EU system of mutual recognition.