

Combating money laundering and terrorist financing: information on the payer accompanying transfers of funds, transposition of the Special Recommendation VII on “wire transfers” (SR VII) of the Financial Action Task Force (FATF) into Community legislation

2005/0138(COD) - 26/07/2005 - Legislative proposal

PURPOSE : to lay down rules on information on the payer accompanying transfers of funds.

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

CONTENT : this proposal aims to transpose Special Recommendation VII on “wire transfers” (SR VII) of the Financial Action Task Force (FATF) into Community legislation. FATF rules are generally accepted as the international standard in the fight against money laundering and terrorist financing. The proposal lays down rules on information on the payer accompanying transfers of funds, in order to ensure that basic information is immediately available to the authorities responsible for combating money laundering and terrorist financing, to assist them in their task.

The proposal establishes rules aimed at establishing the traceability of transfers of funds, which are applicable to all the Payment Service Providers (PSP) involved in the payment chain. The PSP of the payer must ensure that transfers of funds contain complete, accurate and meaningful information on the payer. Any intermediary PSP must ensure that all information on the payer that accompanies a transfer is retained with the transfer or that appropriate records are kept. The PSP of the payee must be able to detect a lack of presence of information on the payer when receiving transfers and take appropriate steps in order to correct this situation, so that received transfers of funds do not remain anonymous. While doing so, it must exert a special vigilance regarding such transfers and, on a risk sensitive basis, taking into account other pertinent factors, report suspicious transactions to the authorities responsible for combating money laundering and terrorist financing. PSPs should also keep appropriate records and respond fully and rapidly to enquiries by the authorities responsible for combating money laundering and terrorist financing of the Member State where they are situated.

The following points should be noted:

- the proposal establishes that simplified information (the account number of the payer or a unique identifier) has to be applied to transfers of funds within the EU, whereas complete information on the payer has to be applied to transfers of funds between the EU and other jurisdictions;

-complete information on the payer consists of his name, address and account number. The address may be substituted with the date and place of birth of the payer, his customer identification number or national identity number. Where the account number of the payer does not exist, the payment service provider of the payer may substitute it by a unique identifier, which allows the transaction to be traced back to the payer;

- there is provision for derogation from the principle of complete information on the payer as regards batch transfers between jurisdictions. The banking community and the majority of Member States recognise the need for this derogation as regards individual transfers from a single payer that are contained in a batch file for transmission to payees outside the Community. This process specifically refers to bundling together groupings of individual transfers from a single payer to several payees (typically certain type of routine transfers, like social security payments), which does not permit, for cost/efficiency reasons, the inclusion of complete information on the payer with each individual transfer, but only on the batch file which contains them. The proposal therefore contains a specific provision allowing for transfers of funds from a single payer which are contained in a batch file for transmission to payees outside the Community, to only carry the account number of the payer, provided the batch file contains complete information on the payer;

- with regard to exemption or thresholds, the proposal does not contain any threshold either for outgoing transfers from the EU or incoming transfers in the EU, as regards the collection and transmittal of information on the payer. It provides for incoming anonymous transfers in the EU to be subject to special vigilance and to appropriate measures destined to get missing information on the payer. It also establishes that outgoing transfers of funds from the EU shall be accompanied by complete information on the payer, but in order to take into account the risk of driving transactions underground, flexibility is allowed as regards the extent of verification of information on the payer, on a risk-sensitive basis.

FINANCIAL IMPLICATIONS:

- Budget lines and heading: 12.010211.01.03 – Committee meetings.

- Period of application: 2005–2010.

- Overall financial impact of human resources and other administrative expenditure: EUR 0.224 million per year.

- Total staff: 1.5.

- Staff costs: EUR 162 000 per year.

- Other administrative expenditure: EUR 62 400 per year (Regulatory Committee on the prevention of money laundering and terrorist financing).

- Total cost of action over five years: EUR 1 122 000.