

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) - 06/07/2006 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution based on the draft by Alexander Nuno **ALVARO** (ADLE, DE). The resolution was adopted by 442 votes to 16 with 130 abstentions. Parliament made some amendments to the Commission’s proposal:

1) the Regulation will not apply to:

- electronic transfers covered by the derogation allowed in Article 11(5) of the Money Laundering Directive ("simplified customer due diligence"), unless the amount transferred is higher than EUR 1000;
- pre-paid transfers not exceeding EUR 150, carried out by means of a mobile phone or any other digital or IT device;
- post-paid transfers made by mobile phone or any other digital or IT device, as long as traceability is guaranteed;
- electronic giro payments, provided the payment service provider of the payee is able to trace the paying client and the transaction does not exceed EUR 1000;
- personal cash withdrawals;
- transfers of funds where there is a debit transfer authorisation between two parties;
- truncated cheques;
- the payment of taxes, fines or other levies within a Member State ; and
- transfers of funds where both the payer and the payee are payment service providers acting on their own behalf.

2) Parliament clarified certain definitions, including “payer”, “payment service provider”, “transfer of funds” and “unique identifier”.

3) Amendments were made to take into account the special nature of batch transfers.

4) A new recital states that where guidance is given by national competent authorities as regards the obligations either to reject all transfers from a payment service provider which regularly fails to supply the required information on the payer, or decide whether to restrict or terminate its business relationship with

the payment service provider, it should be based on convergence of best practices, and it should also take into account that the Interpretative Note to SR VII of the FATF allows third countries to set a threshold of EUR 1 000 or USD 1 000 for the obligation to send information on the payer, without prejudice to the objective of efficiently combating money laundering and terrorist financing.

5) Where a payment service provider regularly fails to supply the required information on the payer, the payment service provider of the payee shall take steps which may initially include the issuing of warnings and setting of deadlines, prior to either rejecting any future transfers of funds from that payment service provider or deciding, whether or not to restrict or terminate its business relationship with these payment service providers.

6) Parliament amended the relevant Article (Article 13) which applies in cases where the payment service provider of the payer is situated outside the Community and the intermediary payment service provider is situated within the Community, clarifying when the use of a payment system with technical limitations is permitted.

7) Penalties will apply from 15 December 2007, and Member States must notify the relevant rules by 14 December 2007.

8) 5 years after the entry into force of the Regulation, the Commission shall present a report giving a full economic and legal assessment of the regulation, accompanied, if appropriate, by a proposal for its modification or repeal. This report shall in particular review:

- the application of Article 2 with regard to further experience of the possible misuse of electronic money, as defined in Article 1 (3) of Directive 2000/46/EC, and other newly developed means of payment for the purposes of money laundering and terrorist financing. Should there be a risk of a misuse regarding money laundering or terrorist financing, the Commission shall submit a proposal to amend the Regulation.

- the application of Article 13 with regard to the technical limitations which may prevent the complete information on the payer from being transmitted to the payment service provider of the payee. Should there be a possibility to overcome such technical limitations in the light of new developments in the payments area, and taking into account related costs for payment service providers, the Commission shall submit a proposal to amend the Regulation.

9) A series of amendments aimed at boosting Parliament's role in overseeing implementation of the Regulation were deleted as this 'comitology' issue has been dealt within a new inter-institutional agreement. (Please see ACI/2006/2152).

10) The Regulation will enter into force not earlier than 1 January 2007.