

# 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) - 15/11/2006 - Final act

PURPOSE: the setting out of rules on payer information to Payment Service Providers (PSPs).

LEGISLATIVE ACT: Regulation 1781/2006 of the European Parliament and of the Council on information on the payer accompanying transfers of funds.

BACKGROUND: dirty money threatens the credibility of the EU’s internal market. Criminals who launder dirty money, and terrorists in particular, shake the very foundations of the EU’s basic principles. Those laundering money for criminal purposes could exploit the EU’s freedom of capital movements. Payment Service Providers or PSPs play an important role in stemming the flow of laundered money.

CONTENT: the purpose of this Regulation is to lay down rules on payer information which must accompany funds when they are transferred. These rules will help prevent and detect money laundering and terrorist financing by creating a system of full traceability. The rules are a transposition of “Special Recommendation VII on wire transfers” (SR VIII) of the 1989 G7 Financial Action Task Force. One of the main objectives of the Regulation to ensure that there is no discrimination between *national payments within* a Member State and *cross-border payments between* Member States.

The provisions impose obligations on:

- payer PSPs;
- payee PSPs; and
- intermediary PSPs.

The system allows for funds to be transferred on condition that any such transfer is accompanied with accurate and meaningful information on the payer. The full traceability of transferred funds is an important and valuable tool in the prevention, investigation and detection of money laundering and/or terrorist financing.

Obligations on the *payer* PSP are as follows:

The information required to accompany money transfers are his or her:

- name,
- address and

- account number.

The address may be substituted with the date and place of birth of the payer, his/her customer identification number or national identity number. Information provided to the service provider will be verified from a reliable and independent source.

For the transfer of funds *within* the Community transfers need only be accompanied by the account number of the payer or a unique identifier allowing the transaction to be traced back to the payer. However, information to the payee can be made available to the payee PSP, upon request, within three working days of a request.

For the transfer of funds *outside* of the Community transfers need to be accompanied by full payer information. In the case of batch files (where a number of individual transfers are bundled together) and which are being transferred from a single payer from within the Community to a third country then information need only be attached to the batch file and not to each individual file.

The obligations on the *payee* PSP are as follows:

The payee PSP is obliged to detect whether, in either the messaging or payment and settlement system used to effect a transfer of funds, information on the payer has been properly completed. If the payee PSP becomes aware that information on the payer is missing or incomplete it is obliged to either reject the transfer or ask for complete payer information. If information is not forthcoming the payee PSP will need to report that fact to the authorities. Information from a payer must be kept on file by the payee PSP for five years.

The obligations on the *intermediary* PSP are as follows:

Intermediary PSPs that are situated within the Community but that are receiving payments from outside of the Community must ensure that all information on the payer is kept with the transfer. In cases where the intermediary PSP becomes aware that information on the payer is either missing or incomplete it may use a payment system with technical limitations:

- which prevents information on the payer from accompanying the transfer of funds to send transfers of funds to the payee PSP; and
- if it is able to inform the payee PSP provider thereof.

At the same time, however, intermediary PSPs are expected to remove technical limitations as soon as payment systems have been upgraded.

In cases where an intermediary uses a payment system with technical limitations it must make information on the payer (irrespective of whether this information is complete or not) available to the payee PSP within three working days.

A number of situations do not fall under the scope of the Regulation including, for example, persons who convert paper documents into electronic data and who are acting under contract with a payment service provider. Also excluded are fund transfers that represent a low risk of money laundering or terrorist financing – including credit or debit cards, ATM withdrawals, direct debits, truncated cheques, the payment of taxes and the payment of fines.

The Member States may exempt PSPs from the Regulation's provisions in the case of transferring funds to organisations carrying out non-profit charitable, religious, cultural, educational, social, scientific or fraternal activities. These organisations must, however, be subject to reporting and external audit

requirements; they must be limited to a maximum amount of EUR 150 per transfer and they must take place exclusively within the territory of the Member State.

In addition, the Regulation makes a distinction between the transfer of funds from an account and the transfer of funds not made from an account. This distinction dictates that the transfer of funds below EUR 1000 – and which does not stem from an account, will not fall under the scope of this Regulation.

The Regulation sets out provisions on penalties which the Member States are expected to apply from 15 December 2007. The Commission will prepare a report on the Regulation by 28 December 2011.

ENTRY INTO FORCE: 28 December 2006.