Basic information

1999/0152(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Money laundering: prevention of the use of the financial system (amend. Directive 91/308/EEC) **Subject** 7.30.30.08 Capital outflow, money laundering	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
DELE EP Delegation to Conciliation Committee	LEHNE Klaus-Heiner (PPE-DE)	24/04/2001

Former committee responsible	Former rapporteur	Appointed
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	LEHNE Klaus-Heiner (PPE-DE)	29/07/1999
LIBE Citizens' Freedoms and Rights, Justice and Home Affairs	LEHNE Klaus-Heiner (PPE-DE)	29/07/1999

Former committee for opinion	Former rapporteur for opinion	Appointed
CONT Budgetary Control	THEATO Diemut R. (PPE-DE)	13/10/1999
ECON Economic and Monetary Affairs	PAPAYANNAKIS Mihail (GUE/NGL)	22/09/1999
JURI Legal Affairs and Internal Market	WALLIS Diana (ELDR)	23/11/1999

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2386	2001-11-19
Economic and Financial Affairs ECOFIN	2375	2001-10-16
Economic and Financial Affairs ECOFIN	2268	2000-06-05
Economic and Financial Affairs ECOFIN	2290	2000-09-29

	Economic and Financial Affairs ECOFIN	2283	2000-07-17
	Justice and Home Affairs (JHA)	2376	2001-10-16

European Commission	Commission DG	Commissioner
	Financial Stability, Financial Services and Capital Markets Union	

Key events

Date	Event	Reference	Summary
14/07/1999	Legislative proposal published	COM(1999)0352	Summary
25/10/1999	Committee referral announced in Parliament, 1st reading		
05/06/2000	Debate in Council		
21/06/2000	Vote in committee, 1st reading		Summary
21/06/2000	Committee report tabled for plenary, 1st reading	A5-0175/2000	
03/07/2000	Debate in Parliament		
05/07/2000	Decision by Parliament, 1st reading	T5-0302/2000	Summary
17/07/2000	Debate in Council		
30/11/2000	Council position published	12469/1/2000	Summary
17/01/2001	Committee referral announced in Parliament, 2nd reading		
20/03/2001	Vote in committee, 2nd reading		Summary
20/03/2001	Committee recommendation tabled for plenary, 2nd reading	A5-0090/2001	
04/04/2001	Debate in Parliament		
05/04/2001	Decision by Parliament, 2nd reading	T5-0190/2001	Summary
20/08/2001	Parliament's amendments rejected by Council		
18/09/2001	Formal meeting of Conciliation Committee		
18/09/2001	Final decision by Conciliation Committee		Summary
16/10/2001	Debate in Council		
17/10/2001	Report tabled for plenary, 3rd reading	A5-0380/2001	
31/10/2001	Joint text approved by Conciliation Committee co-chairs	3654/2001	
13/11/2001	Decision by Parliament, 3rd reading	T5-0585/2001	Summary
13/11/2001	Debate in Parliament		
19/11/2001	Decision by Council, 3rd reading		
04/12/2001	Final act signed		
04/12/2001	End of procedure in Parliament		
28/12/2001	Final act published in Official Journal		

Technical information	
Procedure reference	1999/0152(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 095 Rules of Procedure EP 050
Stage reached in procedure	Procedure completed
Committee dossier	CODE/5/14660

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0175/2000 OJ C 121 24.04.2001, p. 0008	21/06/2000	
Text adopted by Parliament, 1st reading/single reading		T5-0302/2000 OJ C 121 24.04.2001, p. 0036-0133	05/07/2000	Summary
Committee recommendation tabled for plenary, 2nd reading		A5-0090/2001	20/03/2001	
Text adopted by Parliament, 2nd reading		T5-0190/2001 OJ C 021 24.01.2002, p. 0254-0305 E	05/04/2001	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A5-0380/2001	17/10/2001	
Text adopted by Parliament, 3rd reading		T5-0585/2001 OJ C 140 13.06.2002, p. 0024-0116 E	13/11/2001	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	12469/1/2000 OJ C 036 02.02.2001, p. 0024	30/11/2000	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1999)0352  OJ C 177 27.06.2000, p. 0014 E	14/07/1999	Summary
Document attached to the procedure	SEC(2000)0326 	25/02/2000	
	SEC(2001)0012		

Commission communication on Council's position		12/01/2001	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2001)0330	13/06/2001	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0089/2000 OJ C 075 15.03.2000, p. 0022	26/01/2000	
CSL/EP	Joint text approved by Conciliation Committee co-chairs	3654/2001	31/10/2001	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 2001/0097
OJ L 344 28.12.2001, p. 0076 Summary

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

1999/0152(COD) - 05/07/2000 - Text adopted by Parliament, 1st reading/single reading

The European Parliament has adopted the report drafted by Klaus-Heiner LEHNE (EPP/ED, D) under codecision procedure: first reading, on the proposal for a European Parliament and Council directive amending Council Directive 91/308/EEC of 10 June, on prevention of the use of the financial system for the purpose of money laundering. It has widened the scope of the Directive. The obligations that the proposal lays down now apply to other operators outside the financial professions. In its amendments the Parliament has extended the original list, adding art dealers, dealers in luxury items with a sale price of over EUR 50 000, auctioneers, tax inspectors and customs agents. The Directive also applies to notaries and legal consultants representing their clients in commercial activities. It does not apply when they are representing their clients in legal proceedings that are not connected with commercial activities. With regard to distance trading, where an institution establishes business relations or enters into a transaction with a customer who has not been present for identification purposes ('non-face-to-face operations'), the following provisions shall apply: - cash transactions may not be non-face-to-face operations; - in connection with the opening of an account, the identity of the person shall be established and certified by an official document issued by an authorised state body; - the first payment must be made through an account opened in the client's name in a credit institution in the EU or the European Economic Area. Member States may authorise payments by respected third-country credit institutions if the latter apply equivalent provisions to combat money laundering. With regard to the identification requirements with regard to insurance policies written by insurance undertakings within the meaning of Directive 92/96/EEC where they perform activities which fall within the scope of that Directive shall not be required where the periodic premium amounts to be paid in any given year does not exceed EUR 3 000 or where a single premium is paid amounting to EUR 10 000 or less. If the periodic premium amounts to be paid in any given year is or are increased so as to exceed the EUR 3 000 threshold, identification shall be required.

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

1999/0152(COD) - 14/07/1999 - Legislative proposal

PURPOSE : to amend Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering. CONTENT : the Commission's firm commitment to capital market and financial services liberalisation has been clearly demonstrated by the presentation of the Action Plan for Financial Services, which was endorsed by the European Council meeting in Cologne in June 1999. However, financial market liberalisation must not endanger financial stability and a reliable regulatory and supervisory framework is needed to make sure that such liberalisation and freedom of capital movements is not used for undesirable purposes, such as money laundering. For this reason, the adoption of the Directive to update and extend the 1991 anti-money laundering Directive was identified as one of the priority objectives of the Action Plan and the Commission gave an undertaking to present the relevant proposal by mid-1999. The present proposal represents the fulfilment of that commitment. 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. It also 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 91/308/EEC 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. Just as the 1991 Directive moved ahead of the original FAFT 40 Recommendations in requiring obligatory suspicious transaction reporting, the European Union should continue to impose a high standard on its Member States. In addition, as part of the acquis communautaire, the EU anti-money laundering rules will also represent the standard set for the applicant countries. Member States will, of course, remain to be free to extend their national anti-money laundering legislation to any other form of criminal activity. Exchange of information : exchange of information concerning money laundering is essential for the effectiveness of the anti-money laundering effort. The Commission will continue to make regular reports to the European Parliament and the Council on the implementation of the Directive.

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

1999/0152(COD) - 13/06/2001 - Commission opinion on Parliament's position at 2nd reading

Of the fifteen amendments proposed by the European Parliament relating to Directive 91/308/EEC on the prevention of money laundering, none were accepted by the European Commission. Parliamentary suggestions that predicate offenses should be included in the amended Directive were rejected by the Commission on the grounds that limiting the coverage to organised crime only would be too narrow a definition. The Commission could not accept the European Parliament's reference to "legal advice", suggesting that the definition of such a concept has yet to be clarified. Instead, the Commission has a preference for the concept of ascertaining the client's legal position, which it feels is more precise. Concerning Parliamentary suggestions that a fifth category be added to the definition of financial institutions, namely "certain market supervisory authorities", the Commission rejects this on the grounds that the other four categories covering non-bank commercial providers are adequate. The Commission further rejects Parliamentary definitions of "competent authorities", believing that the Council Common Position on this matter, in which Member States are not obliged to create competent (supervisory) authorities where they do not already exist, is both adequate and appropriate. Parliamentary attempts to include "works of art" and "luxury goods" within the scope of the Directive are rejected by the Commission. It holds that both "works of art" and "luxury goods" require greater definition before the obligations of the Directive are imposed on dealers in these goods. Equally, the Commission rejects proposals to include auctioneers, security companies, casinos and customs and tax officials within the boundaries set by the Directive. On the question of life insurance directives and contracts, the Commission holds that any review would have to be based on a detailed technical examination of the issues raised and should be pursued within the context of the Money Laundering Contact Committee rather than the Directive. Proposals to lower the threshold for the purchasing of Casino chips or cheques to EUR 1000 are deemed too low by the European Commission. In any case, the Commission finds that the Parliamentary amendments on customer identification in casinos reiterate, more or less, what was agreed by the common position. The later text, according to the Commission, is more appropriate since it is more specific on money laundering dangers. Importantly, whilst the Commission has some sympathy with Parliamentary attempts to oblige Member States not to furnish information on work relating to professionals, such as lawyers and their client work, the Commission nevertheless can not accept the amendment. The Commission concludes that the Parliamentary amendment would provide an excessive exemption for the non-legal professions and would render their inclusion in the directive virtually meaningless. Lastly, Parliamentary proposals to give the Commission a greater role in cooperation with and exchange of information between Member States' anti-money laundering authorities are rejected on the grounds that the Council has requested the Commission to prepare a separate proposal dealing with this issue, which the Commission is currently doing.

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

1999/0152(COD) - 12/01/2001 - Commission communication on Council's position

This Communication from the Commission to the European Parliament concerns the common position of the Council on the adoption of a Directive amending Council Directive 91/308/EEC of 10 June 1991 on the prevention of the use of the financial system for the purpose of money laundering. While many of the European Parliament's amendments were accepted, the main observations of the Commission regarding the amendments of the European Parliament not taken up in the common position are the following: - the two amendments proposed by the European Parliament with regard to the inclusion of certain professions in the scope of the Directive, have not been included; - the three amendments proposed by the European Parliament to include art dealers, auctioneers and custom and tax officials under the Directive, have not been included; - the two amendments of the European Parliament regarding identification requirements, have not been included; - the amendment proposed by the European Parliament regarding the amounts for an identification waiver in respect of certain insurance contracts, has not been taken up; - the amendment of the European Parliament regarding an exception to the "no tipping off rule", has not been included; - the amendment of the European Parliament on the use of suspicious transaction reports, has not been followed; - the European Parliament's proposed amendment on the good faith standard determining the immunity from liability in respect of reports to the authorities, is not taken up. In conclusion, the Commission considers that the Common Position is generally faithful to the spirit of the Commission's proposal. In general, where the Common Position departs from the Commission's proposal, it is in a sense that

seeks to broaden the scope of the proposal; this is particularly true in the mater of predicate offences. Lastly, the Commission believes that the Common Position has achieved the delicate balance of bringing the professions within the scope of the anti-money laundry defences without undermining the basis of trust on which their relations with their clients are traditionally based.

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

1999/0152(COD) - 13/11/2001 - Text adopted by Parliament, 3rd reading

The European Parliament approved the joint text agreed by the Conciliation Committee on money laundering. The rapporteur was Klaus-Heiner LEHNE (EPP/ED, D). Parliament drew attention to the Commission's statement on the joint text.

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.

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

1999/0152(COD) - 05/04/2001 - Text adopted by Parliament, 2nd reading

The Commission declared it could not accept any of the 28 amendments tabled to the common position on prevention of the use of the financial system for money laundering. Parliament consequently voted in favour of only half the amendments proposed by Mr Klaus-Heiner LEHNE (EPP/ED, D) on the directive. As this was second reading, 314 votes were required to have amendments adopted. The proposed directive will oblige financial institutions and professions such as accountants and lawyers to require identification of customers and to inform the authorities if they suspect money laundering. Parliament agrees that the Directive should apply to legal professions when they perform tasks similar to those of banks - such as managing accounts, creating companies or trusts or executing financial transactions. It rejected the amendment proposed by the rapporteur, which explicitly mentioned lawyers, accountants and tax consultants and which said that professionals giving independent legal advice or representing a client in legal proceedings should be exempt. The amendments on identification in the case of non-face-to-face transactions were rejected also. Thus notaries and other independent legal professionals, dealers in high-value goods and casinos will have to demand identification of customers when entering into business relations involving a sum of EUR 15,000 or more. Parliament added to this list sellers of luxury goods at a sum of EUR 50,000 or more, auctioneers in the case of a single lot sold at EUR 15,000 or more, security companies which transport money, and customs and tax officials. It also adopted an amendment that casinos should require identification of customers buying or selling chips with a value of EUR 1,000 or more and that casinos under state supervision should require identification of all customers. Parliament also adopted an amendment scrapping the provision that Member States may use information on money laundering for other purposes. Lastly, an amendment was adopted calling for Member States and the Commission to cooperate when the financial interests of the Communities may be affected.

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

1999/0152(COD) - 30/11/2000 - Council position

The Common Position of the Council with a view to adopting a Directive amending Council Directive 91/308/EEC on the prevention of the use of the financial system for the purpose of money laundering, reflects changes to the original proposal. The main changes introduced in the common position include, inter alia, the following: - enlarging the scope the institutions covered by the Directive which is in line with the European Parliament's proposed amendment; - clarifying that the object of the supervision is the activities carried out and not the institutions and persons covered by the Directive. This does not include the amendment proposed by the European Parliament; - the range of institutions and persons covered by the Directive. This includes two amendments proposed by the European Parliament; - dealers in high value goods. This does not include three amendments proposed by the European Parliament; - provisions relating to casinos. This includes the amendment proposed by the European Parliament; - that the institutions and persons subject to this Directive shall take specific and adequate measures necessary to compensate for the greater risk of money laundering which may arise in 'non-face to face' operations. This partly includes one amendment proposed by the European Parliament; - the scope of the option for Member States to excempt certain professions from the information obligations. This partly includes one amendment proposed by the European Parliament.