



Plenary sitting

A9-0150/2023

14.4.2023

*****I**
REPORT

on the proposal for a directive of the European Parliament and of the Council on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849 (COM(2021)0423 – C9-0342/2021 – 2021/0250(COD))

Committee on Economic and Monetary Affairs
Committee on Civil Liberties, Justice and Home Affairs

Rapporteurs: Luděk Niedermayer, Paul Tang

(Joint committee procedure – Rule 58 of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849 (COM(2021)0423 – C9-0342/2021 – 2021/0250(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2021)0423),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0342/2021),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the opinion of the European Central Bank of 16 February 2022¹,
 - having regard to the opinion of the European Economic and Social Committee of 8 December 2021²,
 - having regard to the joint deliberations of the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs under Rule 58 of the Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs (A9-0150/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 210, 25.5.2022, p. 15.

² OJ C 152, 6.4.2022, p. 89.

Amendment 1
Proposal for a directive
Recital 1

Text proposed by the Commission

(1) Directive (EU) 2015/849 of the European Parliament and of the Council²² constitutes the main legal instrument for the prevention of the use of the Union financial system for the purposes of money laundering and terrorist financing. That Directive sets out a comprehensive legal framework, which Directive (EU) 2018/843 of the European Parliament and the Council²³ further strengthened by addressing emerging risks and increasing transparency of beneficial ownership. Notwithstanding its achievements, experience has shown that Directive (EU) 2015/849 should be further improved to adequately mitigate risks and to effectively detect criminal attempts to misuse the Union financial system for criminal purposes.

²² Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

²³ Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (OJ L 156, 19.6.2018, p. 43).

Amendment

(1) Directive (EU) 2015/849 of the European Parliament and of the Council²² constitutes the main legal instrument for the prevention of the use of the Union financial system for the purposes of money laundering and terrorist financing. That Directive sets out a comprehensive legal framework, which Directive (EU) 2018/843 of the European Parliament and the Council²³ further strengthened by addressing emerging risks and increasing transparency of beneficial ownership. Notwithstanding its achievements, experience has shown that Directive (EU) 2015/849 should be further improved to adequately mitigate risks and to effectively detect criminal attempts to misuse the Union financial system for criminal purposes ***and to further the integrity of the internal market.***

²² Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

²³ Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (OJ L 156, 19.6.2018, p. 43).

Amendment 2
Proposal for a directive
Recital 6

Text proposed by the Commission

(6) Specific money laundering and terrorist financing threats, risks and vulnerabilities affecting certain economic sectors at national level diminish in distinct manners Member States ability to contribute to the integrity and soundness of the Union financial system. As such, it is appropriate to allow Member States, upon identification of such sectors and specific risks to **decide to** apply AML/CFT requirements to additional sectors than those covered by Regulation [please insert reference – proposal for Anti-Money Laundering Regulation]. With a view to preserving the effectiveness of the internal market and the Union AML/CFT system, the Commission should be able, with the support of AMLA, to assess whether the **intended** decisions of the Member States to apply AML/CFT requirements to additional sectors are justified. In cases where the best interests of the Union would be achieved at Union level as regards specific sectors, the Commission should inform that Member State that it intends to take action at Union level instead and the Member State should abstain from taking the intended national measures.

Amendment 3
Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6) Specific money laundering and terrorist financing threats, risks and vulnerabilities affecting certain economic sectors at national level diminish in distinct manners Member States ability to contribute to the integrity and soundness of the Union financial system. As such, it is appropriate to allow Member States, upon identification of such sectors and specific risks to apply AML/CFT requirements to additional sectors than those covered by Regulation [please insert reference – proposal for Anti-Money Laundering Regulation]. With a view to preserving the effectiveness of the internal market and the Union AML/CFT system, the Commission should be able, with the support of AMLA, to assess whether the decisions of the Member States to apply AML/CFT requirements to additional sectors are justified. In cases where the best interests of the Union would be achieved at Union level as regards specific sectors, the Commission should inform that Member State that it intends to take action at Union level instead and the Member State should abstain from taking the intended national measures.

(6a) *With a view to protecting the Union's financial system it is essential that applicants entering into regulated professions that are obliged entities have a good understanding of the risks of*

money laundering and terrorist financing in their sector of activity. Therefore, Member States should ensure that licensing procedures and entry requirements under national law to regulated professions that are obliged entities as referred to in Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239(COD)] require applicants to demonstrate a good understanding of the risks of money laundering and terrorism financing in their sector of activity. AML/CFT training, provided either by obliged entities or by supervisors, should be accessible to such applicants.

Amendment 4
Proposal for a directive
Recital 7

Text proposed by the Commission

(7) In light of *the specific* anti-money laundering vulnerabilities *that have been witnessed in* the electronic money issuing, the payment services and the crypto-assets service providing industry, it should be possible for Member States to require that those providers established on their territory in forms other than a branch and the head office of which is situated in another Member State appoint a central contact point. Such a central contact point, acting on behalf of the appointing institution, should ensure the establishments' compliance with AML/CFT rules.

Amendment 5
Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Supervisors should ensure that,

Amendment

(7) In light of anti-money laundering vulnerabilities *related to* the electronic money issuing, the payment services and the crypto-assets service providing industry, it should be possible for Member States to require that those providers established on their territory in forms other than a branch and the head office of which is situated in another Member State appoint a central contact point. Such a central contact point, acting on behalf of the appointing institution, should ensure the establishments' compliance with AML/CFT rules.

Amendment

(8) Supervisors should ensure that,

with regard to currency exchange offices, cheque cashing offices, trust or company service providers or gambling service providers, the persons who effectively manage the business of such entities and the beneficial owners of such entities act with honesty and integrity and possess knowledge and expertise necessary to carry out their functions. The criteria for determining whether or not a person complies with those requirements should, as a minimum, reflect the need to protect such entities from being misused by their managers or beneficial owners for criminal purposes.

with regard to currency exchange offices, cheque cashing offices, trust or company service providers or gambling service providers, the persons who effectively manage the business of such entities and the beneficial owners of such entities ***are of good repute and*** act with honesty, ***good faith*** and integrity and possess ***proven*** knowledge and expertise necessary to carry out their functions. The criteria for determining whether or not a person complies with those requirements should, as a minimum, reflect the need to protect such entities from being misused by their managers or beneficial owners for criminal purposes. ***AMLA should issue guidelines for the purposes of fostering a common understanding of the elements which supervisors are to take into account in order to determine whether senior management is of good repute, acts with honesty and integrity and possesses the necessary knowledge and expertise.***

Amendment 6
Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Member States should ensure that estate agents as referred to in Regulation [please insert reference to Anti-Money Laundering Regulation - 2021/0239(COD)] develop or have in place training programmes for professionals. Such training programmes could be facilitated or provided by professional associations representing agents and the real estate sector. The nature and extent of training should be tailored to the scale and complexity of the business and be appropriate to the level of the risk of money laundering and terrorist financing faced by the obliged entity.

Amendment 7
Proposal for a directive
Recital 10

Text proposed by the Commission

(10) The Commission is well placed to review specific cross-border threats that could affect the internal market and that cannot be identified and effectively combatted by individual Member States. It should therefore be entrusted with the responsibility for coordinating the assessment of risks relating to cross-border activities. Involvement of the relevant experts, such as the Expert Group on Money Laundering and Terrorist Financing and the representatives from the FIUs, as well as, where appropriate, from other Union-level bodies, is essential for the effectiveness of the process of the assessment of risks. National risk assessments and experience are also an important source of information for that process. Such assessment of the cross-border risks by the Commission should not involve the processing of personal data. In any event, data should be fully anonymised. National and Union data protection supervisory authorities should be involved only if the assessment of the risk of money laundering and terrorist financing has an impact on the privacy and data protection of individuals.

Amendment 8
Proposal for a directive
Recital 12

Text proposed by the Commission

(12) **The** Member States remain the best placed to identify, assess, understand and decide how to mitigate risks of money laundering and terrorist financing affecting them directly. Therefore, each Member State should take the appropriate steps **in an effort** to properly **identity**, assess and

Amendment

(10) The Commission is well placed to review specific cross-border threats that could affect the internal market and that cannot be identified and effectively combatted by individual Member States. It should therefore be entrusted with the responsibility for coordinating the assessment of risks relating to cross-border activities. Involvement of the relevant experts, such as the Expert Group on Money Laundering and Terrorist Financing and the representatives from the FIUs, as well as, where appropriate, from other Union-level bodies, is essential for the effectiveness of the process of the assessment of risks. **Ongoing** national risk assessments and experience are also an important source of information for that process. Such assessment of the cross-border risks by the Commission should not involve the processing of personal data. In any event, data should be fully anonymised. National and Union data protection supervisory authorities should be involved only if the assessment of the risk of money laundering and terrorist financing has an impact on the privacy and data protection of individuals.

Amendment

(12) Member States remain the best placed to identify, assess, understand and decide how to mitigate risks of money laundering and terrorist financing, **and how to fight money laundering and terrorist financing** affecting them directly. Therefore, each Member State should take

understand its money laundering and terrorist financing risks, as well as risks of non-implementation and evasion of targeted financial sanctions and to define a coherent national strategy to put in place actions to mitigate those risks. Such national risk assessment should be updated regularly and should include a description of the institutional structure and broad procedures of the Member State's AML/CFT regime, as well as the allocated human and financial resources *to the extent that this information is available*.

the appropriate steps to properly *identify*, assess and understand its money laundering and terrorist financing risks *on an ongoing basis*, as well as risks of non-implementation and evasion of targeted financial sanctions and to define a coherent national strategy to put in place actions to mitigate those risks. Such national risk assessment should be updated regularly and should include a description of the institutional structure and broad procedures of the Member State's AML/CFT regime, as well as the allocated human and financial resources. *National risk assessments should be kept up to date and should be reviewed at least every three years. Based on the identification of country-specific risks and for justified reason, the Commission should be able to require that Member States review their risk assessment earlier in order to reduce the risk of money laundering and terrorist financing in the Union..*

Amendment 9
Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Member States should make a summary of the results of their risk assessment publicly available. Such a summary should not contain classified information. The information contained in such a summary should not name any natural or legal person. In specific circumstances, Member States might need to refer to prominent money laundering cases, relevant information from leaks or other major suspicions of money laundering or terrorist financing that were widely reported in the media. It is accepted that in such cases it might not be possible to avoid the identification of certain natural or legal persons or that their identity can be inferred from the

factual information.

Amendment 10
Proposal for a directive
Recital 13

Text proposed by the Commission

(13) The results of risk assessments should, *where appropriate*, be made available to obliged entities in a timely manner to enable them to identify, understand, manage and mitigate their own risks.

Amendment

(13) The results of risk assessments should, be made available to obliged entities in a timely *and appropriate* manner to enable them to identify, understand, manage and mitigate their own risks.

Amendment 11
Proposal for a directive
Recital 14

Text proposed by the Commission

(14) In addition, to identify, understand, manage and mitigate risks at Union level to an even greater degree, Member States should make available the results of their risk assessments to each other, to the Commission and to AMLA.

Amendment

(14) In addition, to identify, understand, manage and mitigate risks at Union level to an even greater degree, Member States should make available the results of their risk assessments to each other, to the Commission and to AMLA. *In order to respect privacy and protect personal data, the results of risk assessments should only be made available to the extent that the data provided is the minimum level of data necessary for the carrying out of AML/CFT duties.*

Amendment 12
Proposal for a directive
Recital 15

Text proposed by the Commission

(15) To be able to review the effectiveness of their systems for combating money laundering and terrorist financing, Member States should maintain, and improve the quality of, relevant

Amendment

(15) To be able to review the effectiveness of their systems for combating money laundering and terrorist financing, Member States should maintain, and improve the quality of, relevant

statistics. With a view to enhancing the quality and consistency of the statistical data collected at Union level, the Commission and the AMLA should keep track of the Union-wide situation with respect to the fight against money laundering and terrorist financing and should publish regular overviews.

statistics. With a view to enhancing the quality and consistency of the statistical data collected at Union level, the Commission and the AMLA should keep track of the Union-wide situation with respect to the fight against money laundering and terrorist financing and should publish regular overviews. ***The Commission should adopt implementing acts laying down the methodology for the collection of statistics and the arrangements for transmission of such statistics to the Commission and AMLA.***

Amendment 13
Proposal for a directive
Recital 16

Text proposed by the Commission

(16) The FATF has developed standards for jurisdictions to identify, and assess the risks of potential non-implementation or evasion of the ***proliferation financing-related*** targeted financial sanctions, and to take action to mitigate those risks. Those new standards introduced by the FATF do not substitute nor undermine the existing strict requirements for countries to implement targeted financial sanctions to comply with the relevant United Nations Security Council Regulations relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing. Those existing obligations, as implemented at Union level by Council Decisions 2010/413/CFSP²⁶ and (CFSP) 2016/849²⁷ as well as Council Regulations (EU) 267/2012²⁸ and (EU) ***2017/1509***²⁹, remain strict rule-based obligations binding on all natural and legal persons within the Union.

Amendment

(16) The FATF has developed standards for jurisdictions to identify, and assess the risks of potential non-implementation or evasion of the targeted financial sanctions, and to take action to mitigate those risks. Those new standards introduced by the FATF do not substitute nor undermine the existing strict requirements for countries to implement targeted financial sanctions to comply with the relevant United Nations Security Council Regulations relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing. Those existing obligations, as implemented at Union level by Council Decisions 2010/413/CFSP²⁶ and (CFSP) 2016/849²⁷ as well as Council Regulations (EU) 267/2012²⁸ and (EU) 2017/1509²⁹ remain strict rule-based obligations binding on all natural and legal persons within the Union. ***Strict rule-based obligations should also apply with regard to terrorism and terrorism financing-related sanctions and other targeted financial sanctions adopted by the Union.***

²⁶ 2010/413/CFSP: Council Decision of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ L 195, 27.7.2010, p. 39).

²⁷ Council Decision (CFSP) 2016/849 of 27 May 2016 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Decision 2013/183/CFSP (OJ L 141, 28.5.2016, p. 79).

²⁸ Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ L 88, 24.3.2012, p. 1).

²⁹ Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007 (OJ L 224, 31.8.2017, p. 1).

²⁶ 2010/413/CFSP: Council Decision of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP (OJ L 195, 27.7.2010, p. 39).

²⁷ Council Decision (CFSP) 2016/849 of 27 May 2016 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Decision 2013/183/CFSP (OJ L 141, 28.5.2016, p. 79).

²⁸ Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010 (OJ L 88, 24.3.2012, p. 1).

²⁹ Council Regulation (EU) 2017/1509 of 30 August 2017 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Regulation (EC) No 329/2007 (OJ L 224, 31.8.2017, p. 1).

Amendment 14 **Proposal for a directive** **Recital 17**

Text proposed by the Commission

(17) In order to reflect the latest developments at international level, ***a requirement has*** been introduced by this Directive to identify, understand, manage and mitigate risks of potential non-implementation or evasion of ***proliferation financing-related targeted*** financial sanctions at Union level and at Member State level.

Amendment 15 **Proposal for a directive** **Recital 18**

Amendment

(17) In order to reflect the latest developments at international level ***and ensure a comprehensive framework for implementing targeted financial sanctions, multiple requirements have*** been introduced by this Directive to ***prevent***, identify, understand, manage and mitigate risks of potential non-implementation or evasion of financial sanctions at Union level and at Member State level.

Text proposed by the Commission

(18) Central registers of beneficial ownership information are crucial in combating the misuse of legal entities. To ensure that the registers of beneficial ownership information are easily accessible and contain high-quality data, consistent rules on the collection and storing of this information should be introduced.

Amendment

(18) Central registers of beneficial ownership information are crucial in combating the misuse of legal entities. ***Therefore, Member States should ensure that the beneficial ownership information of legal entities and legal arrangements, information on nominee arrangements and information on foreign legal entities and foreign legal arrangements are held in a central register.*** To ensure that the registers of beneficial ownership information are easily accessible and contain high-quality data, consistent rules on the collection and storing of this information should be introduced. ***Central registers should be accessible in a readily usable and machine readable format.***

Amendment 16
Proposal for a directive
Recital 19

Text proposed by the Commission

(19) With a view to enhancing transparency in order to combat the misuse of legal entities, Member States should ensure that beneficial ownership information is stored in a central register located outside the company, in full compliance with Union law. Member States ***can***, for that purpose, use a central database, which collects beneficial ownership information, or the business register, or another central register. Member States may decide that obliged entities are responsible for filling in the register. Member States should make sure that in all cases that information is made available to competent authorities and FIUs and is provided to obliged entities when they take customer due diligence measures.

Amendment

(19) With a view to enhancing transparency in order to combat the misuse of legal entities, Member States should ensure that beneficial ownership information is stored in a central register located outside the company, in full compliance with Union law. Member States ***should***, for that purpose, use a central database, which collects beneficial ownership information, or the business register, or another central register. Member States may decide that obliged entities are responsible for filling in the register. Member States should make sure that in all cases that information is made available to competent authorities and FIUs and is provided to obliged entities when they take customer due diligence measures.

Amendment 17
Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Beneficial ownership information of trusts and similar legal arrangements should be registered where the trustees and persons holding equivalent positions in similar legal arrangements are established or where they reside. In order to ensure the effective monitoring and registration of information on the beneficial ownership of trusts and similar legal arrangements, cooperation between Member States is also necessary. The interconnection of Member States' registries of beneficial owners of trusts and similar legal arrangements **would** make this information accessible, and **would** also ensure that the multiple registration of the same trusts and similar legal arrangements is avoided within the Union.

Amendment 18
Proposal for a directive
Recital 22

Text proposed by the Commission

(22) The accuracy of data included in the beneficial ownership registers is fundamental for all of the relevant authorities and other persons allowed access to that data, and to make valid, lawful decisions based on that data. Therefore, where sufficient reasons arise, after careful analysis by the registrars, to doubt the accuracy of the beneficial ownership information held by the registers, legal entities and legal arrangements should be required to provide additional information on a risk-sensitive basis. In addition, it is important that Member States entrust the entity in charge of managing the registers with sufficient powers to verify beneficial ownership and

Amendment

(20) Beneficial ownership information of trusts and similar legal arrangements should be registered where the trustees and persons holding equivalent positions in similar legal arrangements are established or where they reside. In order to ensure the effective monitoring and registration of information on the beneficial ownership of trusts and similar legal arrangements, cooperation between Member States is also necessary. The interconnection of Member States' registries of beneficial owners of trusts and similar legal arrangements **should** make this information accessible, and **should** also ensure that the multiple registration of the same trusts and similar legal arrangements is avoided within the Union.

Amendment

(22) The accuracy of data included in the beneficial ownership registers is fundamental for all of the relevant authorities and other persons allowed access to that data, and to make valid, lawful decisions based on that data. Therefore, **Member States should ensure that entities in charge of the central registers verify, at the time of submission of the beneficial ownership information and on a regular basis thereafter, that that the information submitted is adequate, accurate and up to date. Member States should ensure that entities in charge of central registers have at their disposal state-of-the-art technology to carry out automated verifications in a**

the veracity of information provided to it, and to report any suspicion to their FIU. Such powers should extend to the conduct of inspections at the premises of the legal entities.

manner that safeguards fundamental rights and avoids discriminatory outcomes. Furthermore, where sufficient reasons arise, after careful analysis by the registrars, to doubt the accuracy of the beneficial ownership information held by the registers, legal entities and legal arrangements should be required to provide additional information on a risk-sensitive basis. In addition, it is important that Member States entrust the entity in charge of managing the registers with sufficient powers ***and resources*** to verify beneficial ownership and the veracity of information provided to it, and to report any suspicion to their FIU. Such powers should extend to the conduct of inspections at the premises of the legal entities ***and, where applicable, to obliged entities, in accordance with national law. Similarly, such powers should extend to representatives of foreign legal persons and foreign legal arrangements in the Union, where there are such representatives.***

Amendment 19
Proposal for a directive
Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) Where a verification carried out at the time of submission of the beneficial ownership information leads an entity in charge of the register to conclude that there are inconsistencies or errors in that information , or where that information otherwise fails to fulfil the necessary requirements, Member States should ensure that such entity is able to withhold and suspend the certification of registration until the beneficial owner information provided is in order. Where the inconsistencies are detected at a later stage, Member States should ensure that the legal consequences attached to the registration cannot follow.

Amendment 20
Proposal for a directive
Recital 22 b (new)

Text proposed by the Commission

Amendment

(22b) Member States should ensure that, in the event of repeated failure to provide up-to-date, accurate and adequate information to the authorities in charge of the central registers, the relevant national authorities impose appropriate sanctions. Such sanctions should be able to include restrictions in the access to certain professions and in the exercise of certain functions within a corporate, legal entity or legal arrangement, restrictions in the establishment of a business relationship with an obliged entities, in the exercise of ownership rights of a corporate and legal entity or in the ability to receive dividends, and suspension or discontinuation of activities. The entity in charge of registers should notify the national authorities competent for imposing appropriate sanctions of the repeated failures. In the event of repeated failures to provide up-to-date, accurate and adequate information, sanctions should be increased to the level necessary to ensure compliance.

Amendment 21
Proposal for a directive
Recital 22 c (new)

Text proposed by the Commission

Amendment

(22c) Entities in charge of central registers should be operationally independent and autonomous and have the authority and capacity to carry out their functions free of political, governmental or industry influence or interference. Staff of such entities should be of high integrity and appropriately

skilled and maintain high professional standards. Employees or managers of the central register who report breaches of the requirements under this Directive should be legally protected from being exposed to threats, retaliatory or hostile action and, in particular, adverse or discriminatory employment actions in accordance with Directive (EU) 2019/1937 of the European Parliament and of the Council^{1a}.

^{1a} Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).

Amendment 22
Proposal for a directive
Recital 22 d (new)

Text proposed by the Commission

Amendment

(22d) Peer reviews are an effective instrument to ensure that registers established in Member States fulfil the requirements of this Directive and to identify best practices and shortcomings. AMLA should therefore have a role in conducting peer reviews of some or all of the activities of the entities in charge of the central beneficial ownership registers with the purpose of assessing whether those entities have mechanisms to fulfil the requirements of this Directive and effectively check whether the beneficial ownership information held in those register is accurate, adequate and up to date.

Amendment 23
Proposal for a directive
Recital 22 e (new)

(22e) Beneficial ownership registers are well placed to identify, in a rapid and efficient manner, the individuals who ultimately own or control legal entities and arrangements, including individuals designated in relation to targeted financial sanctions. Timely detection of such ownership structures contributes to improving the understanding of the exposure to risks of evasion of targeted financial sanctions, and to the adoption of mitigating measures to reduce such risks. It is therefore important that such registers be required to screen the beneficial ownership information they hold against designations in relation to targeted financial sanctions, both immediately upon such designation and regularly thereafter, in order to detect whether changes in the ownership or control structure of the legal entity or arrangement are conducive to risks of evasion of targeted financial sanctions. Entities in charge of beneficial ownership registers should promptly share such findings with competent authorities, including FIUs and AML/CFT supervisors, for the purposes of ensuring compliance with targeted financial sanctions.

Amendment 24
Proposal for a directive
Recital 24

(24) In view of ensuring that the mechanism of discrepancy reporting is proportionate and focused on the detection of instances of inaccurate beneficial ownership information, Member States **may** allow obliged entities to request the customer to rectify discrepancies of a technical nature directly with the entity in

(24) In view of ensuring that the mechanism of discrepancy reporting is proportionate and focused on the detection of instances of inaccurate beneficial ownership information, Member States **should** allow obliged entities to request the customer to rectify discrepancies of a technical nature directly with the entity in

charge of the central registers. Such option only applies to low-risk customers and to those errors of a technical nature, such as minor cases of misspelt information, where it is evident that those do not hinder the identification of the beneficial owner(s) and the accuracy of the information.

charge of the central registers. Such option only applies to low-risk customers and to those errors of a technical nature, such as minor cases of misspelt information, where it is evident that those do not hinder the identification of the beneficial owner(s) and the accuracy of the information.

Amendment 25
Proposal for a directive
Recital 27 a (new)

Text proposed by the Commission

Amendment

(27a) FIUs, other competent authorities, self-regulatory bodies and obliged entities should have prompt, unrestricted and free access to information on beneficial ownership through the European Central Platform for the purposes of combating money laundering and terrorism financing and carrying out due diligence.

Amendment 26
Proposal for a directive
Recital 28

Text proposed by the Commission

Amendment

(28) Public access to beneficial ownership information can allow greater scrutiny of information by civil society, including by the press or civil society organisations, and contributes to preserving trust in the integrity of the financial system. It can contribute to combating the misuse of corporate and other legal entities and legal arrangements for the purposes of money laundering or terrorist financing, both by helping investigations and through reputational effects, given that anyone who could enter into a business relationship is aware of the identity of the beneficial owners. It may also facilitate the timely and efficient availability of

(28) Registers of beneficial ownership are important tools for advancing the fight against money laundering and terrorism financing, and corruption, tax abuse and other predicate offences. The access to that information also helps investigations on money laundering, associated predicate offences and terrorist financing.

information for obliged entities as well as authorities of third countries involved in combating such offences. The access to that information would also help investigations on money laundering, associated predicate offences and terrorist financing.

Amendment 27
Proposal for a directive
Recital 29

Text proposed by the Commission

Amendment

(29) Confidence in financial markets from investors and the general public depends in large part on the existence of an accurate disclosure regime that provides transparency in the beneficial ownership and control structures of companies. This is particularly true for corporate governance systems that are characterised by concentrated ownership, such as the one in the Union. On the one hand, large investors with significant voting and cash-flow rights may encourage long-term growth and firm performance. On the other hand, however, controlling beneficial owners with large voting blocks may have incentives to divert corporate assets and opportunities for personal gain at the expense of minority investors. The potential increase in confidence in financial markets should be regarded as a positive side effect and not the purpose of increasing transparency, which is to create an environment less likely to be used for the purposes of money laundering and terrorist financing.

deleted

Amendment 28
Proposal for a directive
Recital 30

(30) Confidence in financial markets from investors and the general public depends in large part on the existence of an accurate disclosure regime that provides transparency in the beneficial ownership and control structures of corporate and other legal entities as well as certain types of trusts and similar legal arrangements. Member States should therefore allow access to beneficial ownership information in a sufficiently coherent and coordinated way, by establishing confidence rules of access by the public, so that third parties are able to ascertain, throughout the Union, who are the beneficial owners of corporate and other legal entities as well as, provided that there is a legitimate interest, of certain types of trusts and similar legal arrangements.

(30) In its judgment of 22 November 2022 in Case C-37/201^{1a}, the Court of Justice ruled that persons connected with the prevention and combating of money laundering and terrorist financing are considered as having a legitimate interest in accessing the information on beneficial owners. Notably, the Court identified several categories of persons as having a legitimate interest in accessing such information, namely persons acting for the purpose of journalism, reporting or other form of expression in the media that are connected with the prevention and combating of money laundering, any of its associated predicate offences or terrorist financing; civil society organisations that are connected with the prevention and combating of money laundering, any of its associated predicate offences or terrorist financing; persons who are likely to enter into transactions or business relationship with a corporate, legal entity or legal arrangements; and financial institutions and authorities in so far as they are involved in the prevention and combat of money laundering, its predicate offences or terrorist financing and do not already have access pursuant to Article 11 of this Directive. Therefore, this Directive aims at defining a minimum and non-exhaustive list of persons that have a legitimate interest in accessing information on beneficial owners. Other categories of persons could also claim a legitimate interest based on grounds other than those listed in this Directive. While fully respecting the applicable case law of the Court of Justice, this Directive should be without prejudice to any Union or national law that provide for broader access to specific beneficial information on the basis of different objectives of general interest or rights to information. For the purpose of assessing whether persons acting for the purpose of

journalism, reporting or any other form of expression in the media have a legitimate interest, the concept of media should be interpreted broadly, to include any means of providing content accessible to the public, in order to inform, entertain or educate, regardless of whether there is editorial responsibility of a traditional media service provider or not. Similarly, civil society organisations should include all forms of non-governmental organisations established under the law of a Member State or a third country, as well as local, national or international grassroots organisations and citizen associations which are not managed by state authorities. Determinations of legitimate interest should apply without any discrimination based on nationality, country of residence or country of establishment of the person making a request, including on the means of authentication.

^{1a} Judgment of the Court of 22 November 2022, Luxembourg Business Registers, C-37/20, ECLI:EU:C:2022:912, paragraph 74,

Amendment 29
Proposal for a directive
Recital 31

Text proposed by the Commission

(31) With regard to corporate **and other** legal entities, a fair balance should be sought in particular between the general public interest in the prevention of money laundering and terrorist financing and the data subjects' fundamental rights. The set of data to be made available to the **public** should be limited, clearly and exhaustively defined, and should be of a general nature, so as to minimise the potential prejudice to the beneficial owners. At the same time, information made accessible to the **public**

Amendment

(31) With regard to corporate, legal entities **and legal arrangements**, a fair balance should be sought in particular between the general public interest in the prevention of money laundering, **its predicate offences** and terrorist financing and the data subjects' fundamental rights. The set of data to be made available to the **persons having a legitimate interest** should be limited, clearly and exhaustively defined, and should be of a general nature, so as to minimise the potential prejudice to

should not significantly differ from the data currently collected. In order to limit the interference with the right to respect for their private life in general and to protection of their personal data in particular, that information should relate essentially to the status of beneficial owners of corporate **and other** legal entities and should strictly concern the sphere of economic activity in which the beneficial owners operate. In cases where the senior managing official has been identified as the beneficial owner only ex officio and not through ownership interest held or control exercised by other means, this should be clearly visible in the registers.

the beneficial owners. At the same time, information made accessible to the **persons having a legitimate interest** should not significantly differ from the data currently collected. In order to limit the interference with the right to respect for their private life in general and to protection of their personal data in particular, that information should relate essentially to the status of beneficial owners of corporate, legal entities **and legal arrangements** and should strictly concern the sphere of economic activity in which the beneficial owners operate. In cases where the senior managing official has been identified as the beneficial owner only ex officio and not through ownership interest held or control exercised by other means, this should be clearly visible in the registers.

Amendment 30
Proposal for a directive
Recital 32

Text proposed by the Commission

Amendment

(32) In case of express trusts and similar legal arrangements, the information should be accessible to any member of the general public, provided that the legitimate interest can be demonstrated. This should include situations where natural or legal persons file a request in relation to a trust or similar legal arrangement which holds or owns a controlling interest in a legal entity incorporated or created outside the Union through direct or indirect ownership, including through bearer shareholding, or through control via other means. The interpretation of the legitimate interest by the Member States should not restrict the concept of legitimate interest to cases of pending administrative or legal proceedings, and should enable to take into account the preventive work in the field of anti-money laundering and its predicate offences and

deleted

counter-terrorist financing undertaken by non-governmental organisations and investigative journalists. While trusts and other legal arrangements can be used in complex corporate structures, their primary objective remains the management of individual wealth. In order to adequately balance the legitimate aim of preventing the use of the financial system for the purposes of money laundering or terrorist financing, which public scrutiny enhances, and the protection of fundamental rights of individuals, in particular the right to privacy and protection of personal data, it is necessary to provide for the demonstration of a legitimate interest in accessing beneficial ownership information of trusts and other legal arrangements.

Amendment 31
Proposal for a directive
Recital 33

Text proposed by the Commission

(33) In order to ensure that the information available to **the public** allows the correct identification of the beneficial owner, a minimum set of data should be accessible to **the public**. Such data should allow for the unequivocal identification of the beneficial owner, whilst minimising the amount of personal data **publicly** accessible. In the absence of information pertaining to the name, the month and year of birth and the country of residence and nationality of the beneficial owner, it would not be possible to establish unambiguously who the natural person being the beneficial owner is. Similarly, the absence of information on the beneficial interest held would make it impossible to determine why that natural person should be identified as being the beneficial owner. Therefore, in order to avoid misinterpretations of the beneficial

Amendment

(33) In order to ensure that the information available to **persons having a legitimate interest** allows the correct identification of the beneficial owner, a minimum set of data should be accessible to **persons having a legitimate interest**. Such data should allow for the unequivocal identification of the beneficial owner, whilst minimising the amount of personal data accessible. In the absence of information pertaining to the name, the month and year of birth and the country of residence and nationality of the beneficial owner, it would not be possible to establish unambiguously who the natural person being the beneficial owner is. Similarly, the absence of information on the **nature and extent of** beneficial interest held, **including information on ownership and control chain, as well as the date somebody became a beneficial owner,**

ownership information **publicly** available and to ensure a proportionate disclosure of personal data consistent across the Union, it is appropriate to lay down the **minimum** set of data that can be accessed by **the public**.

would make it impossible to determine why that natural person should be identified as being the beneficial owner **at a given moment**. Therefore, in order to avoid misinterpretations of the beneficial ownership information available and to ensure a proportionate disclosure of personal data consistent across the Union, it is appropriate to lay down the set of data that can be accessed by **persons having a legitimate interest**.

Amendment 32
Proposal for a directive
Recital 34

Text proposed by the Commission

(34) ***The enhanced public scrutiny may contribute to preventing the misuse of legal entities and legal arrangements, including tax avoidance.*** Therefore, it is essential that the information on beneficial ownership remains available through the national registers and through the system of interconnection of beneficial ownership registers for a minimum of five years after the grounds for registering beneficial ownership information of the trust or similar legal arrangement have ceased to exist. ***However***, Member States should be able to provide by law for the processing of the information on beneficial ownership, including personal data for other purposes if such processing meets an objective of public interest and constitutes a necessary and proportionate measure in a democratic society to the legitimate aim pursued.

Amendment

(34) ***Competent authorities, obliged entities and persons having a legitimate interest need to access information on the beneficial owners of corporate, legal entities and legal arrangements that have been struck off from registers. This is due to the fact that investigations, monitoring, analysis or research need sufficient time to detect, uncover and identify facts related to money laundering and terrorist financing cases. Money laundering schemes often involve corporate entities, legal entities and legal arrangements which are created for a short period to limit traceability. An immediate deletion of the data would create a loophole whereby criminals would strike off related corporate entities, legal entities or legal arrangements for the purpose of removing any trace of them for competent authorities, obliged entities and persons having a legitimate interest.*** Therefore, it is essential that the information on beneficial ownership remains available through the national registers and through the system of interconnection of beneficial ownership registers for a minimum of five years ***and up to ten years*** after the grounds for registering beneficial ownership information of the trust or similar legal

arrangement have ceased to exist. ***Without prejudice to national law on evidence applicable to ongoing criminal investigations and legal proceedings, Member States should be able to allow or require the retention of such information or documents in concrete cases for a further maximum period of five years where the necessity and proportionality of such further retention have been established for the prevention, detection, investigation or prosecution of suspected money laundering, its predicate offences or terrorist financing.*** Member States should be able to provide by law for the processing of the information on beneficial ownership, including personal data for other purposes if such processing meets an objective of public interest and constitutes a necessary and proportionate measure in a democratic society to the legitimate aim pursued.

Amendment 33
Proposal for a directive
Recital 35

Text proposed by the Commission

(35) Moreover, with the aim of ensuring a proportionate and balanced approach and to guarantee the rights to private life and personal data protection, ***it should be possible for*** Member States ***to*** provide for exemptions to the disclosure of the personal information on the beneficial owner through the registers of beneficial ownership information and to access to such information, in exceptional circumstances, where that information would expose the beneficial owner to a disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation. It should also be possible for Member States to require online registration in order to identify any person who requests information from the register, as well as the payment of a fee for access

Amendment

(35) Moreover, with the aim of ensuring a proportionate and balanced approach and to guarantee the rights to private life and personal data protection, Member States ***should*** provide for exemptions to the disclosure of the personal information on the beneficial owner through the registers of beneficial ownership information and to access to such information, in exceptional circumstances, where that information would expose the beneficial owner to a disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation. ***Such exemptions should be granted by competent authorities on a case-by-case basis and upon a detailed analysis of the nature of the exceptional circumstances in each case.*** It should also be possible for Member States to require

to the information in the register.

online registration in order to identify any person who requests information from the register, as well as the payment of a *proportionate and adequate* fee for access to the information in the register, *which should not exceed the direct costs of requesting or making the information available. Where the access to the register is provided online through electronic means, Member States should not require the payment of any fees since it is assumed that there is no direct cost of making the information available.*

Amendment 34
Proposal for a directive
Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) Currently, certain Member States require online registration in order to be able to identify any person who requests information from the register of beneficial ownership information, and the payment of a fee to obtain information from the register. Identification of users can be a legitimate requirement but it should not lead to discrimination based on their country of residence or nationality. Furthermore, requirements linked to registration or to fees can impede access to registers of beneficial ownership information. It is essential that Member States ensure access to beneficial ownership information without any restrictions based on geographical location or nationality.

Amendment 35
Proposal for a directive
Recital 36

Text proposed by the Commission

Amendment

(36) Directive (EU) 2018/843 achieved

(36) Directive (EU) 2018/843 achieved

the interconnection of Member States' central registers holding beneficial ownership information through the European Central Platform established by Directive (EU) 2017/1132 of the European Parliament and of the Council³⁰.

Continued involvement of Member States in the functioning of the whole system should be ensured by means of a regular dialogue between the Commission and the representatives of Member States on the issues concerning the operation of the system and on its future development.

the interconnection of Member States' central registers holding beneficial ownership information through the European Central Platform established by Directive (EU) 2017/1132 of the European Parliament and of the Council³⁰. ***It is essential that the European Central Platform serve as a central search service, making available all information related to beneficial ownership to competent authorities, self-regulatory bodies, obliged entities and persons having a legitimate interest.*** Continued involvement of Member States in the functioning of the whole system should be ensured by means of a regular dialogue between the Commission and the representatives of Member States on the issues concerning the operation of the system and on its future development. ***The European Parliament should be informed about the evolution of this dialogue.***

³⁰ Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ L 169, 30.6.2017, p. 46).

³⁰ Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ L 169, 30.6.2017, p. 46).

Amendment 36

Proposal for a directive

Recital 38

Text proposed by the Commission

(38) Regulation (EU) 2016/679 of the European Parliament and of the Council³¹ applies to the processing of personal data for the purposes of this Directive. Natural persons whose personal data are held in national registers as beneficial owners should be informed about the applicable data protection rules. Furthermore, only personal data that is up to date and corresponds to the actual beneficial owners should be made available and the beneficiaries should be informed about their rights under the Union legal data

Amendment

(38) Regulation (EU) 2016/679 of the European Parliament and of the Council³¹ applies to the processing of personal data for the purposes of this Directive. Natural persons whose personal data are held in national registers as beneficial owners should be informed about the applicable data protection rules. Furthermore, ***competent authorities, obliged entities and persons having a legitimate interest should be able to access the history of all beneficial owners in a given corporate entity, legal entity or legal arrangement in***

protection framework and the procedures applicable for exercising those rights. *In addition, to prevent the abuse of the information contained in the registers and to balance out the rights of beneficial owners, Member States might find it appropriate to consider making information relating to the requesting person along with the legal basis for their request available to the beneficial owner.*

order to identify previous beneficial owners. Such information may be particularly necessary for monitoring, analysis and investigation related to money laundering, its predicate offences or terrorist financing. Only personal data that is up to date and corresponds to the actual beneficial owners *at a given moment in time* should be made available and the beneficiaries should be informed about their rights under the Union legal data protection framework and the procedures applicable for exercising those rights.

³¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

³¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

Amendment 37

Proposal for a directive

Recital 39

Text proposed by the Commission

(39) Delayed access to information by FIUs and other competent authorities on the identity of holders of bank and payment accounts and safe-deposit boxes, especially anonymous ones, hampers the detection of transfers of funds relating to money laundering and terrorist financing. National data allowing the identification of bank and payments accounts and safe-deposit boxes belonging to one person is fragmented and therefore not accessible to FIUs and to other competent authorities in a timely manner. It is therefore essential to establish centralised automated mechanisms, such as a register or data retrieval system, in all Member States as an efficient means to get timely access to information on the identity

Amendment

(39) Delayed access to information by FIUs and other competent authorities on the identity of holders of bank, and payment *and securities*, accounts, *custodial crypto-asset wallets* and safe-deposit boxes, especially anonymous ones, hampers the detection of transfers of funds relating to money laundering and terrorist financing. National data allowing the identification of bank, and payments *and securities*, accounts, *custodial crypto-asset wallets* and safe-deposit boxes belonging to one person is fragmented and therefore not accessible to FIUs and to other competent authorities in a timely manner. It is therefore essential to establish centralised automated mechanisms, such as a register

of holders of bank and payment accounts and safe-deposit boxes, their proxy holders, and their beneficial owners. When applying the access provisions, it is appropriate for pre-existing mechanisms to be used provided that national FIUs can access the data for which they make inquiries in an immediate and unfiltered manner. Member States should consider feeding such mechanisms with other information deemed necessary and proportionate for the more effective mitigation of risks relating to money laundering and the financing of terrorism. Full confidentiality should be ensured in respect of such inquiries and requests for related information by FIUs and competent authorities *other than those authorities responsible for prosecution*.

or data retrieval system, in all Member States as an efficient means to get timely access to information on the identity of holders of bank and payment accounts, *including virtual bank accounts, securities accounts, custodial crypto-asset wallets* and safe-deposit boxes, their proxy holders, and their beneficial owners. *Such information should include the historical information on closed customer-account holders, bank, payment and securities accounts, custodial crypto-asset wallets and safe-deposit boxes*. When applying the access provisions, it is appropriate for pre-existing mechanisms to be used provided that national FIUs can access the data for which they make inquiries in an immediate and unfiltered manner. Member States should consider feeding such mechanisms with other information deemed necessary and proportionate for the more effective mitigation of risks relating to money laundering and the financing of terrorism. Full confidentiality should be ensured in respect of such inquiries and requests for related information by FIUs and competent authorities.

Amendment 38
Proposal for a directive
Recital 40

Text proposed by the Commission

(40) In order to respect privacy and protect personal data, the minimum data necessary for the carrying out of AML/CFT investigations should be held in centralised automated mechanisms for bank *and payment* accounts, such as registers or data retrieval systems. It should be possible for Member States to determine which data it is useful and proportionate to gather, taking into account the systems and legal traditions in place to enable the meaningful identification of the beneficial owners. When transposing the provisions relating to those mechanisms, Member

Amendment

(40) In order to respect privacy and protect personal data, the minimum data necessary for the carrying out of AML/CFT investigations should be held in centralised automated mechanisms for bank accounts *and crypto-asset wallets*, such as registers or data retrieval systems. It should be possible for Member States to determine which data it is useful and proportionate to gather, taking into account the systems and legal traditions in place to enable the meaningful identification of the beneficial owners. When transposing the provisions relating to those mechanisms,

States should set out retention periods equivalent to the period for retention of the documentation and information obtained within the application of customer due diligence measures. It should be possible for Member States to extend the retention period ***on a general basis by law, without requiring case-by-case decisions***. The additional retention period should not exceed an additional five years. That period should be without prejudice to national ***law setting out other data retention requirements allowing case-by-case decisions to facilitate criminal or administrative*** proceedings. Access to those mechanisms should be on a need-to-know basis.

Member States should set out retention periods equivalent to the period for retention of the documentation and information obtained within the application of customer due diligence measures. It should be possible for Member States to ***exceptionally*** extend the retention period, ***provided good reasons are given***. The additional retention period should not exceed an additional five years. That period should be without prejudice to national ***criminal law on evidence applicable to ongoing criminal investigations and legal proceedings and allow or require the retention of such information or documents in concrete cases for a further maximum period of five years where the necessity and proportionality of such further retention have been established for the prevention, detection, investigation or prosecution of suspected money laundering or terrorist financing***. Access to those mechanisms should be on a need-to-know basis.

Amendment 39
Proposal for a directive
Recital 41

Text proposed by the Commission

(41) Through the interconnection of Member States' centralised automated mechanisms, the national FIUs would be able to obtain swiftly cross-border information on the identity of holders of bank ***and*** payment accounts and safe deposit boxes in other Member States, which would reinforce their ability to effectively carry out financial analysis and cooperate with their counterparts from other Member States. Direct cross-border access to information on bank ***and*** payment accounts and safe deposit boxes would enable the Financial Intelligence Units to produce financial analysis within a sufficiently short timeframe to detect potential money laundering and terrorist

Amendment

(41) Through the interconnection of Member States' centralised automated mechanisms, the national FIUs ***and other competent national authorities designated according to Directive (EU) 2019/1153^{1a}*** would be able to obtain swiftly cross-border information on the identity of holders of bank, payment ***and securities*** accounts, ***custodial crypto-asset wallets*** and safe deposit boxes in other Member States, which would reinforce their ability to effectively carry out financial analysis, ***detect, investigate or prosecute criminal offences***, and cooperate with their counterparts from other Member States. Direct cross-border access to information on bank, payment ***and securities*** accounts,

financing cases and guarantee a swift law enforcement action.

custodial crypto-asset wallets and safe deposit boxes would enable the Financial Intelligence Units to produce financial analysis within a sufficiently short timeframe to detect potential money laundering and terrorist financing cases and guarantee a swift law enforcement action.

1^a Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, and repealing Council Decision 2000/642/JHA, OJ L 186, 11.7.2019, p. 122–137.

Amendment 40
Proposal for a directive
Recital 42

Text proposed by the Commission

(42) In order to respect the right to the protection of personal data and the right to privacy, and to limit the impact of cross-border access to the information contained in the national centralised automated mechanisms, the scope of information accessible through the bank account registers (BAR) central access point would be restricted to the minimum necessary in accordance with the principle of data minimisation in order to allow the identification of any natural or legal persons holding or controlling payment accounts and bank accounts identified by IBAN and safe-deposit boxes.

Furthermore, only FIUs should be granted immediate and unfiltered access to the central access point. Member States should ensure that the FIUs' staff maintain high professional standards of confidentiality and data protection, that they are of high integrity and are appropriately skilled. Moreover, Member States should put in

Amendment

(42) In order to respect the right to the protection of personal data and the right to privacy, and to limit the impact of cross-border access to the information contained in the national centralised automated mechanisms, the scope of information accessible through the bank account registers (BAR) central access point would be restricted to the minimum necessary in accordance with the principle of data minimisation in order to allow the identification of any natural or legal persons holding or controlling payment accounts and bank accounts identified by IBAN, **securities accounts, custodial crypto-asset wallets** and safe-deposit boxes. FIUs **and the other competent authorities designated according to Directive (EU) 2019/1153** should be granted immediate and unfiltered access to the central access point. Member States should ensure that the FIUs' staff maintain high professional standards of

place technical and organisational measures guaranteeing the security of the data to high technological standards.

confidentiality and data protection, that they are of high integrity and are appropriately skilled ***including in detecting biases in and ethical use of big data sets***. Moreover, Member States should put in place technical and organisational measures guaranteeing the security of the data to high technological standards.

Amendment 41
Proposal for a directive
Recital 44

Text proposed by the Commission

(44) Real estate is an attractive commodity for criminals to launder the proceeds of their illicit activities, as it allows obscuring the true source of the funds and the identity of the beneficial owner. Proper and timely identification of natural or legal person owning real estate by FIUs and other competent authorities is important both for detecting money laundering schemes as well as for freezing and confiscation of assets. It is therefore important that Member States provide FIUs and competent authorities with access to information which allows the identification in a timely manner of natural or legal person owning real estate and information relevant for the identification of the risk and suspicion of the transaction.

Amendment

(44) ***Land and*** real estate is an attractive commodity for criminals to launder the proceeds of their illicit activities, as it allows obscuring the true source of the funds and the identity of the beneficial owner. Proper and timely identification of natural or legal person owning ***land and*** real estate by FIUs and other competent authorities is important both for detecting money laundering schemes as well as for freezing, ***seizing*** and confiscation of assets, ***in particular in the case of targeted financial sanctions. Member States should set-up registers or electronic data retrieval systems to effectively put an end to real estate or land as a means to launder money.*** It is therefore important that Member States provide FIUs and competent authorities with access to information ***through a single access point in each Member State***, which allows the identification in a timely manner of natural or legal person owning ***land and*** real estate, ***including through registers or electronic data retrieval systems***, and information relevant for the identification of the ***beneficial owner, as well as timely access to the information relevant for the identification of the*** risk and suspicion of the transaction. ***Such data should be interconnected via the European real estate data single access point (E-RED) to be developed and operated by the***

Commission.

Amendment 42
Proposal for a directive
Recital 44 a (new)

Text proposed by the Commission

Amendment

(44a) Certain goods registered under national law can be attractive commodities for criminals to launder the proceeds of their illicit activities. Member States should provide for systems to aggregate information on ownership of such goods, for example watercrafts and aircrafts. Member States should also consider aggregating, through registers or other systems, information on ownership of certain other goods of high value, particularly insured goods. Proper and timely identification of natural persons who are beneficial owners of those goods by FIUs and other competent authorities is important both for detecting money laundering schemes and for freezing assets. It is therefore important for Member States to provide FIUs and competent authorities with access to information which allows the identification in a timely manner of natural persons owning certain goods directly or via beneficial ownership and to information relevant for the identification of the risk and suspicion of transactions. Given the money laundering and terrorist financing risk posed by goods in freezones, it is similarly important for Member States to ensure that information on certain goods in freezones is available to competent authorities through registers or electronic data retrieval systems on free zones. Those registers or data retrieval system should be interconnected via the free zone goods' information (FZGI) single access point to be developed and operated by the Commission.

Amendment 43
Proposal for a directive
Recital 45

Text proposed by the Commission

(45) All Member States have, or should, set up operationally independent and autonomous FIUs to collect and analyse the information which they receive with the aim of establishing links between suspicious transactions and underlying criminal activity in order to prevent and combat money laundering and terrorist financing. The FIU should be the single central national unit responsible for the receipt and analysis of suspicious transaction reports, reports on cross-border physical movements of cash and on payments in cash above a certain threshold as well as other information relevant to money laundering, its predicate offences or terrorist financing submitted by obliged entities. Operational independence and autonomy of the FIU should be ensured by granting the FIU the authority and capacity to carry out its functions freely, including the ability to take autonomous decisions as regards analysis, requests and dissemination of specific information. In all cases, the FIU should have the independent right to forward or disseminate information to competent authorities. The FIU should be provided with adequate financial, human and technical resources, in a manner that secures its autonomy and independence and enables it to exercise its mandate effectively. The FIU should be able to obtain and deploy the resources needed to carry out its functions, on an individual or routine basis, free from any undue political, government or industry influence or interference, which might compromise its operational independence.

Amendment

(45) All Member States have, or should, set up operationally independent and autonomous FIUs to collect and analyse the information which they receive with the aim of establishing links between suspicious transactions and underlying criminal activity in order to prevent and combat money laundering and terrorist financing. The FIU should be the single central national unit responsible for the receipt and analysis of suspicious transaction reports, reports on cross-border physical movements of cash ***through the customs information system*** and on payments in cash above a certain threshold as well as other information relevant to money laundering, its predicate offences or terrorist financing submitted by obliged entities. Operational independence and autonomy of the FIU should be ensured by granting the FIU the authority and capacity to carry out its functions freely, including the ability to take autonomous decisions as regards analysis, requests and dissemination of specific information. In all cases, the FIU should have the independent right to forward or disseminate information to competent authorities. The FIU should be provided with adequate financial, human and technical resources, in a manner that secures its autonomy and independence and enables it to exercise its mandate effectively. The FIU should be able to obtain and deploy the resources needed to carry out its functions, on an individual or routine basis, free from any undue political, government or industry influence or interference, which might compromise its operational independence. ***In order to assess the fulfilment of those requirements and identify weaknesses and best practices, AMLA should be***

empowered to coordinate the organisation of peer reviews of FIUs.

Amendment 44
Proposal for a directive
Recital 45 a (new)

Text proposed by the Commission

Amendment

(45a) FIU staff should be of high integrity and appropriately skilled, including in detecting biases in, and in the ethical use of, big data sets, and maintain high professional standards. FIU staff should not be in a situation where a conflict of interest exists or could be perceived to exist. AMLA should adopt guidelines to address situations of conflict of interest.

Amendment 45
Proposal for a directive
Recital 46

Text proposed by the Commission

Amendment

(46) FIUs play an important role in identifying the financial operations of terrorist networks, especially cross-border, and in detecting their financial backers. Financial intelligence might be of fundamental importance in uncovering the facilitation of terrorist offences and the networks and schemes of terrorist organisations. FIUs maintain significant differences as regards their functions, competences and powers. The current differences should however not affect an FIU's activity, particularly its capacity to develop preventive analyses in support of all the authorities in charge of intelligence, investigative and judicial activities, and international cooperation. In the exercise of their tasks, it has become essential to identify the minimum set of data FIUs should have swift access to and be able to

(46) FIUs play an important role in identifying the financial operations of terrorist networks, especially cross-border, and in detecting their financial backers. Financial intelligence might be of fundamental importance in uncovering the facilitation of terrorist offences and the networks and schemes of terrorist organisations. FIUs maintain significant differences as regards their functions, competences and powers. The current differences should however not affect an FIU's activity, particularly its capacity to develop preventive analyses in support of all the authorities in charge of intelligence, investigative and judicial activities, and international cooperation. In the exercise of their tasks, it has become essential to identify the minimum set of data FIUs should have swift access to and be able to

exchange without impediments with their counterparts from other Member States. In all cases of suspected money laundering, its predicate offences and in cases involving the financing of terrorism, information should flow directly and quickly without undue delays. It is therefore essential to further enhance the effectiveness and efficiency of FIUs, by clarifying the powers of and cooperation between FIUs.

exchange without impediments with their counterparts from other Member States. In all cases of suspected money laundering, its predicate offences and in cases involving the financing of terrorism, information should flow directly and quickly without undue delays. It is therefore essential to further enhance the effectiveness and efficiency of FIUs, by clarifying the powers of and cooperation between FIUs. ***FIUs should cooperate with each other to the greatest extent possible. An FIU should be able to refuse to exchange information with another FIU only in exceptional circumstances where the exchange could be contrary to fundamental principles of national law. Such exceptional circumstances should be specified in a way which prevents the misuse of, and undue limitations on, the free exchange of information for analytical purposes.***

Amendment 46
Proposal for a directive
Recital 47

Text proposed by the Commission

(47) The powers of FIUs include the right to access directly or indirectly the ‘financial’, ‘administrative’ and ‘law enforcement’ information that they require in order to combat money laundering, its associated predicate offences and terrorist financing. The lack of definition of what types of information these general categories include has resulted in FIUs having been granted with access to considerably diversified sets of information which has an impact on FIUs’ analytical functions as well as on their capacity to cooperate effectively with their counterparts from other Member States. It is therefore necessary to define the minimum sets of ‘financial’, ‘administrative’ and ‘law enforcement’ information that should be made directly or

Amendment

(47) The powers of FIUs include the right to access directly or indirectly the ‘financial’, ‘administrative’ and ‘law enforcement’ information that they require in order to combat money laundering, its associated predicate offences and terrorist financing. The lack of definition of what types of information these general categories include has resulted in FIUs having been granted with access to considerably diversified sets of information which has an impact on FIUs’ analytical functions as well as on their capacity to cooperate effectively with their counterparts from other Member States. It is therefore necessary to define the minimum sets of ‘financial’, ‘administrative’ and ‘law enforcement’ information that should be made directly or

indirectly available to every FIU across the Union. Moreover, FIUs should be able to obtain swiftly from any obliged entity all necessary information relating to their functions. An FIU should also be able to obtain such information upon request made by another FIU and to exchange that information with the requesting FIU.

indirectly available to every FIU across the Union. Moreover, FIUs should be able to obtain swiftly from any obliged entity all necessary information relating to their functions. An FIU should also be able to obtain such information upon request made by another FIU and to exchange that information with the requesting FIU ***in compliance with existing legal provisions, such as Directive (EU) 2019/1153. Access to financial, administrative and law enforcement information by FIUs should be in accordance with the principle of data minimisation.***

Amendment 47
Proposal for a directive
Recital 48

Text proposed by the Commission

(48) The vast majority of FIUs have been granted the power to take urgent action and suspend or ***withhold consent to*** a transaction in order to analyse it, confirm the suspicion and disseminate the results of the analytical activities to the competent authorities. However, there are certain variations in relation to the duration of the postponement powers across the different Member States, with an impact not only on the postponement of activities that have a cross-border nature through FIU-to-FIU cooperation, but also on individuals' fundamental rights. Furthermore, in order to ensure that FIUs have the capacity to promptly restrain criminal funds or assets and prevent their dissipation, also for seizure purposes, FIUs should be granted the power to suspend the use of a bank or payment account in order to analyse the transactions performed through the account, confirm the suspicion and disseminate the results of the analysis to the competent authorities. Given that postponement powers have an impact on the right to property, the preservation of affected persons' fundamental rights

Amendment

(48) The vast majority of FIUs have been granted the power to take urgent action and suspend or ***prohibit a transaction for a pre-determined period*** in order to analyse it, confirm the suspicion and disseminate the results of the analytical activities to the competent authorities. However, there are certain variations in relation to the duration of the postponement powers across the different Member States, with an impact not only on the postponement of activities that have a cross-border nature through FIU-to-FIU cooperation, but also on individuals' fundamental rights. Furthermore, in order to ensure that FIUs have the capacity to promptly restrain criminal funds or assets and prevent their dissipation, also for seizure purposes, FIUs should be granted the power to suspend, ***for the necessary and adequate period,*** the use of a bank or payment account in order to analyse the transactions performed through the account, confirm the suspicion and disseminate the results of the analysis to the competent authorities. Given that postponement powers have an impact on

should be guaranteed.

the right to property, the preservation of affected persons' fundamental rights should be guaranteed. ***Where an FIU decides to suspend or prohibit a transaction or an account that concerns another Member State, it should promptly forward that information to the FIU of that Member State and make it available to other FIUs through FIU.net. Each FIU should appoint a fundamental rights officer from within its own staff to ensure that fundamental rights are guaranteed at all times.***

Amendment 48
Proposal for a directive
Recital 49

Text proposed by the Commission

(49) For the purposes of greater transparency and accountability and to increase awareness with regard to their activities, FIUs should issue activity reports on an annual basis. These reports should at least provide statistical data in relation to the suspicious transaction reports received, the number of disseminations made to national competent authorities, the number of requests submitted to and received by other FIUs ***as well as*** information on trends and typologies identified. This report should be made public except for the elements which contain sensitive and classified information. At least once annually, the FIU should provide obliged entities with feedback on the quality of suspicious transaction reports, their timeliness, the description of suspicion and any additional documents provided. Such feedback ***can*** be provided to individual obliged entities or groups of obliged entities and should aim to further improve the obliged entities' ability to detect and identify suspicious transactions and activities and enhance the overall reporting mechanisms.

Amendment

(49) For the purposes of greater transparency and accountability and to increase awareness with regard to their activities, FIUs should issue activity reports on an annual basis. These reports should at least provide statistical data in relation to the suspicious transaction reports received, the number of disseminations made to national competent authorities, the number of requests submitted to and received by other FIUs, information on trends and typologies identified ***and requests submitted to and received from competent authorities, Europol and EPPO.*** This report should be made public except for the elements which contain sensitive and classified information. ***At regular intervals, and at at least once annually,*** the FIU should provide obliged entities with feedback on the quality of suspicious transaction reports, their timeliness, the description of suspicion and any additional documents provided. Such feedback ***should*** be provided to individual obliged entities or groups of obliged entities, ***depending on the sector,*** and should aim to further improve the obliged entities' ability to

detect and identify suspicious transactions and activities and enhance the overall reporting mechanisms.

Amendment 49
Proposal for a directive
Recital 50

Text proposed by the Commission

(50) The purpose of the FIU is to collect and analyse the information which they receive with the aim of establishing links between suspicious transactions and underlying criminal activity in order to prevent and combat money laundering and terrorist financing, and to disseminate the results of its analysis as well as additional information to the competent authorities where there are grounds to suspect money laundering, associated predicate offences or financing of terrorism. An FIU should not refrain from or refuse the exchange of information to another FIU, spontaneously or upon request, for reasons such as a lack of identification of an associated predicate offence, features of criminal national laws and differences between the definitions of associated predicate offences or the absence of a reference to particular associated predicate offences. Similarly, an FIU should grant its prior consent to another FIU to forward the information to other competent authorities regardless of the type of possible associated predicate offence in order to allow the dissemination function to be carried out effectively. FIUs have reported difficulties in exchanging information based on differences in national definitions of certain predicate offences, such as tax crimes, which are not harmonised by Union law. Such differences should not hamper the mutual exchange, the dissemination to other competent authorities and the use of that information. FIUs should rapidly, constructively and effectively ensure the widest range of international cooperation

Amendment

(50) The purpose of the FIU is to collect and analyse the information which they receive with the aim of establishing links between suspicious transactions and underlying criminal activity in order to prevent and combat money laundering and terrorist financing, and to disseminate the results of its analysis as well as additional information to the competent authorities where there are grounds to suspect money laundering, associated predicate offences or financing of terrorism. An FIU should not refrain from or refuse the exchange of information to another FIU, spontaneously or upon request, for reasons such as a lack of identification of an associated predicate offence, features of criminal national laws and differences between the definitions of associated predicate offences or the absence of a reference to particular associated predicate offences. Similarly, an FIU should grant its prior consent to another FIU to forward the information to other competent authorities regardless of the type of possible associated predicate offence ***and whether or not the predicate offence has been identified***, in order to allow the dissemination function to be carried out effectively. FIUs have reported difficulties in exchanging information based on differences in national definitions of certain predicate offences, such as tax crimes, which are not harmonised by Union law. Such differences should not hamper the mutual exchange, the dissemination to other competent authorities and the use of that information. FIUs should rapidly, constructively and

with third countries' FIUs in relation to money laundering, associated predicate offences and terrorist financing in accordance with the applicable data protection rules for data transfers, FATF Recommendations and Egmont Principles for Information Exchange between Financial Intelligence Units.

effectively ensure the widest range of international cooperation with third countries' FIUs in relation to money laundering, associated predicate offences and terrorist financing in accordance with the applicable data protection rules for data transfers, FATF Recommendations and Egmont Principles for Information Exchange between Financial Intelligence Units, ***while fully respecting data protection and fundamental rights obligations and protecting the rule of law.***

Amendment 50
Proposal for a directive
Recital 50 a (new)

Text proposed by the Commission

Amendment

(50a) For FIUs to carry out their tasks effectively, given the cross-border nature of many transactions, they must cooperate with each other and with competent authorities, including not only law enforcement authorities, but also tax and customs authorities, Europol and the European Anti-Fraud Office (OLAF), in a more meaningful and efficient manner. Cooperation with FIUs of third countries is also essential in order to fight money laundering and terrorist financing at the global level and to comply with international AML/CFT standards. Member States should enable, through their legislation, such cooperation and empower their FIUs to enter into effective cooperation arrangements.

Amendment 51
Proposal for a directive
Recital 50 b (new)

Text proposed by the Commission

Amendment

(50b) In order to ensure appropriate follow up, it is essential that FIUs

disseminate the results of their analysis to competent authorities, including information received from other FIUs. Where prior consent to further dissemination is necessary, Member States should ensure that the requested FIU's prior consent is granted promptly and to the largest extent possible, regardless of the type of predicate offences and whether or not the predicate offence has been identified. Any refusal should be based solely on objective grounds and be grounded on a reasoned justification that such dissemination would fall beyond the scope of application of AML/CFT provisions, could lead to impairing ongoing investigations, or would affect fundamental principles of Union or national law.

Amendment 52
Proposal for a directive
Recital 50 c (new)

Text proposed by the Commission

Amendment

(50c) When granting consent for the further dissemination of information to competent authorities, the requested FIU should be able to impose restrictions and conditions for the use of that information. The receiving FIU and the competent authorities concerned should comply with the restrictions and conditions set by the requested FIU. For example, a requested FIU might agree that the receiving FIU disseminate the information to competent authorities on the condition that that information can be used for operational and strategic analysis purposes only. In such an event, competent authorities in the receiving Member State should not automatically use the disseminated information as evidence in a judicial proceeding but the competent authorities of that Member State should rather use the applicable judicial cooperation mechanisms to seek information for

evidentiary purposes.

Amendment 53
Proposal for a directive
Recital 51

Text proposed by the Commission

(51) FIUs should use secure facilities, including protected channels of communication, to cooperate and exchange information amongst each other. In this respect, a system for the exchange of information between FIUs of the Member States ('FIU.net') should be set up. The system should be managed and hosted by AMLA. The FIU.net should be used by FIUs to cooperate and exchange information amongst each other and may also be used, where appropriate, to exchange information with FIUs of third countries and with other authorities and Union bodies. The functionalities of the FIU.net should be used by FIUs to their full potential. Those functionalities should allow FIUs to match their data with data of other FIUs in an anonymous way with the aim of detecting subjects of the FIU's interests in other Member States and identifying their proceeds and funds, whilst ensuring full protection of personal data.

Amendment

(51) FIUs should use secure facilities, including protected channels of communication **by using end-to-end encryption**, to cooperate and exchange information amongst each other **via the FIU.net and, when available, its one-stop-shop**. In this respect, a **fully encrypted, safe and secure** system for the exchange of information between FIUs of the Member States ('FIU.net') should be set up. The system should be managed and hosted by AMLA. The FIU.net should be **the only system** used by FIUs to cooperate and exchange information amongst each other and may also be used, where appropriate, to exchange information with FIUs of third countries and with other authorities and Union bodies. The functionalities of the FIU.net should be used by FIUs to their full potential. Those functionalities should allow FIUs to match their data with data of other FIUs in an anonymous way, **and their subject matter data with the Europol database in accordance with Regulation (EU) 2016/794**, with the aim of detecting subjects of the FIU's interests in other Member States and identifying their proceeds and funds, whilst ensuring full protection of personal data.

Amendment 54
Proposal for a directive
Recital 51 a (new)

Text proposed by the Commission

Amendment

(51a) Obligated entities should report suspicions of money laundering, its

predicate offences and terrorist financing, including attempted transactions, directly to the FIU of the Member State in whose territory the obliged entity in question is established. For that purpose, obliged entities should follow the instructions from their FIU for reporting such suspicion by using protected communication channels. In order to further standardise the reporting of Suspicious Transaction Reports STRs, to reach efficiency gains in FIU operations, and to facilitate the reporting by obliged entities, it is essential to develop a common interface for such reporting based on the FIU.Net system (“FIU.Net one-stop-shop”). AMLA should develop the FIU.Net one-stop-shop reporting interface in order to enable an obliged entity to report directly information to the FIU of the Member State in whose territory the obliged entity transmitting the information is established. Such interface should also allow for the immediate transmission of that information to any other FIU which is concerned by a suspicious transaction report, based on the criteria to be determined through regulatory technical standards. The use of the FIU.Net one-stop-shop should be introduced gradually over time in order to allow a smooth and uninterrupted reporting of suspicion transaction reports and to leave sufficient time for FIUs and obliged entities to implement the necessary technical changes. FIUs should therefore be able to instruct obliged entities to report information via the FIU.Net one-stop-shop five years after this Directive comes into force, and the use of FIU.Net one-stop-shop should be mandatory for obliged entities one year later..

Amendment 55
Proposal for a directive
Recital 52

Text proposed by the Commission

(52) It is important that FIUs cooperate and exchange information effectively with one another. In this regard, AMLA should provide the necessary assistance, not only by means of coordinating joint analyses of cross-border suspicious transaction reports, but also by developing draft regulatory technical standards concerning the format to be used for the exchange of information between FIUs and **guidelines in relation to** the relevant factors to be taken into account when determining if a suspicious transaction report concerns another Member State as well as on the nature, features and objectives of operational and of strategic analysis.

Amendment 56
Proposal for a directive
Recital 54

Text proposed by the Commission

(54) The movement of illicit money traverses borders and may affect different Member States. The cross-border cases, involving multiple jurisdictions, are becoming more and more frequent and increasingly significant, also due to the activities carried out by obliged entities on a cross-border basis. In order to deal effectively with cases that concern several Member States, FIUs should be able to go beyond the simple exchange of information for the detection and analysis of suspicious transactions and activities and share the analytical activity itself. FIUs have reported certain important issues which limit or condition the capacity of FIUs to engage in joint analysis. Carrying out joint analysis of suspicious transactions and activities will enable FIUs to exploit potential synergies, to use information from different sources, to obtain a full picture of the anomalous activities and to

Amendment

(52) It is important that FIUs cooperate and exchange information effectively with one another. In this regard, AMLA should provide the necessary assistance, not only by means of coordinating joint analyses of cross-border suspicious transaction reports, but also by developing draft regulatory technical standards concerning the format to be used for the exchange of information between FIUs and the relevant factors to be taken into account when determining if a suspicious transaction report concerns another Member State as well as **guidelines** on the nature, features and objectives of operational and of strategic analysis.

Amendment

(54) The movement of illicit money traverses borders and may affect different Member States. The cross-border cases, involving multiple jurisdictions, are becoming more and more frequent and increasingly significant, also due to the activities carried out by obliged entities on a cross-border basis. In order to deal effectively with cases that concern several Member States, FIUs should be able to go beyond the simple exchange of information for the detection and analysis of suspicious transactions and activities and share the analytical activity itself. FIUs have reported certain important issues which limit or condition the capacity of FIUs **and AMLA** to engage in joint analysis. Carrying out joint analysis of suspicious transactions and activities will enable FIUs to exploit potential synergies, to use information from different **Union and national** sources, to obtain a full picture of

enrich the analysis. FIUs should be able to conduct joint analyses of suspicious transactions and activities and to set up and participate in joint analysis teams for specific purposes and limited period with the assistance of AMLA. The participation of third parties may be instrumental for the successful outcome of joint analyses. Therefore, FIUs may invite third parties to take part in the joint analysis where such participation would fall within the respective mandates of those third parties.

the anomalous activities and to enrich the analysis. FIUs should be able to conduct joint analyses of suspicious transactions and activities and to set up and participate in joint analysis teams for specific purposes and limited period with the assistance of AMLA. The participation of third parties may be instrumental for the successful outcome of joint analyses. Therefore, FIUs may invite, ***when necessary and relevant***, third parties to take part in the joint analysis where such participation would fall within the respective mandates of those third parties. ***Similarly, AMLA should be able to take the initiative to set up a joint analysis in certain clearly specified situations.***

Amendment 57
Proposal for a directive
Recital 55

Text proposed by the Commission

(55) Effective supervision of all obliged entities is essential to protect the integrity of the Union financial system and of the internal market. To this end, Member States should deploy effective and impartial AML/CFT supervision and set forth the conditions for effective, timely and sustained cooperation between supervisors.

Amendment

(55) Effective supervision of all obliged entities is essential to protect the integrity of the Union financial system and of the internal market. To this end, Member States should deploy effective, ***independent*** and impartial AML/CFT supervision and set forth the conditions for effective, timely and sustained cooperation between supervisors, ***and the supervisors should be accordingly granted with such legal powers.***

Amendment 58
Proposal for a directive
Recital 56

Text proposed by the Commission

(56) Member States should ensure effective, impartial and risk-based supervision of all obliged entities, preferably by public authorities via a

Amendment

(56) Member States should ensure effective, impartial, ***independent*** and risk-based supervision of all obliged entities, preferably by public authorities via a

separate and independent national supervisor. National supervisors should be able to perform a comprehensive range of tasks in order to exercise effective supervision of all obliged entities.

separate and independent national supervisor. National supervisors should be able to perform a comprehensive range of tasks in order to exercise effective supervision of all obliged entities.

Amendment 59
Proposal for a directive
Recital 58

Text proposed by the Commission

(58) In order to assess and monitor more effectively and regularly the risks the obliged entities are exposed to and the manner in which they implement targeted financial sanctions, it is necessary to clarify that national supervisors are both entitled and bound to conduct all the necessary off-site, on-site and thematic investigations and any other inquiries and assessments as they see necessary. This will not only help supervisors decide on those cases where the specific risks inherent in a sector are clear and understood, but also provide them with the tools required to further disseminate relevant information to obliged entities in order to inform their understanding of money laundering and terrorist financing risks.

Amendment

(58) In order to assess and monitor more effectively and regularly the risks the obliged entities are exposed to and the manner in which they implement targeted financial sanctions, it is necessary to clarify that national supervisors are both entitled and bound to conduct all the necessary off-site, on-site and thematic investigations and any other inquiries and assessments as they see necessary. ***They should also be able to react without undue delay to any suspicion of non-compliance with applicable requirements and to take appropriate supervisory measures to address allegations of non-compliance.*** This will not only help supervisors decide on those cases where the specific risks inherent in a sector are clear and understood, but also provide them with the tools required to further disseminate relevant information to obliged entities in order to inform their understanding of money laundering and terrorist financing risks.

Amendment 60
Proposal for a directive
Recital 59

Text proposed by the Commission

(59) Outreach activities, including dissemination of information by the supervisors to the obliged entities under

Amendment

(59) Outreach activities, including dissemination of information by the supervisors to the obliged entities under

their supervision, *is* essential to guarantee that the private sector has an adequate understanding of the nature and level of money laundering and terrorist financing risks they face.

their supervision, *including on data protection issues, are* essential to guarantee that the private sector has an adequate understanding of the nature and level of money laundering and terrorist financing risks they face *and their obligations in that regard*.

Amendment 61
Proposal for a directive
Recital 60

Text proposed by the Commission

(60) Supervisors should adopt a risk-based approach to their work, which should enable them to focus their resources where the risks are the highest, whilst ensuring that no sector or entity is left exposed to criminal attempts to launder money or finance terrorism. AMLA should play a leading role in fostering a common understanding of risks, and should therefore be entrusted with developing the benchmarks and a methodology for assessing and classifying the inherent and residual risk profile of obliged entities, as well as the frequency at which such risk profile should be reviewed.

Amendment

(60) Supervisors should adopt a risk-based approach to their work, which should enable them to focus their resources where the risks are the highest, whilst ensuring that no sector or entity is left exposed to criminal attempts to launder money or finance terrorism. AMLA should play a leading role in fostering a common understanding of risks, and should therefore be entrusted with developing the benchmarks and a methodology for assessing and classifying the inherent and residual risk profile of obliged entities, as well as the frequency at which such risk profile should be reviewed. *In that regard, supervisors and self-regulatory bodies should adopt annual activity reports and make summaries thereof publicly available.*

Amendment 62
Proposal for a directive
Recital 62

Text proposed by the Commission

(62) Cooperation between national supervisors is essential to ensure a common supervisory approach across the Union. To be effective, this cooperation has to be leveraged to the greatest extent possible and regardless of the respective

Amendment

(62) Cooperation between national supervisors is essential to ensure a common supervisory approach across the Union. To be effective, this cooperation has to be leveraged to the greatest extent possible and regardless of the respective

nature or status of the supervisors. In addition to traditional cooperation - such as the ability to conduct investigations on behalf of a requesting supervisory authority – it is appropriate to mandate the set-up of AML/CFT supervisory colleges with respect to obliged entities operating under the freedom to provide services or of establishment and with the respect of obliged entities which are part of a group.

nature or status of the supervisors. In addition to traditional cooperation - such as the ability to conduct investigations on behalf of a requesting supervisory authority – it is appropriate to mandate the set-up of AML/CFT supervisory colleges, ***including with the participation of third-country financial supervisors under certain conditions and AMLA***, with respect to obliged entities operating under the freedom to provide services or of establishment and with the respect of obliged entities which are part of a group. ***The supervisory activities of AML/CFT supervisory colleges should be proportionate to the level of risk posed by the relevant obliged entity and the scale of significance of cross-border activity.***

Amendment 63
Proposal for a directive
Recital 66

Text proposed by the Commission

(66) Cross-border groups need to have in place far-reaching group-wide policies and procedures. To ensure that cross-border operations are matched by adequate supervision, there is a need to set out detailed supervisory rules, enabling supervisors of the home Member State and those of the host Member State cooperate with each other to the greatest extent possible, regardless of their respective nature or status, and with AMLA to assess the risks, monitor developments that could affect the various entities that form part of the group coordinate supervisory action. Given its coordinating role, AMLA should be entrusted with the duty to developing the draft regulatory technical standards defining the detailed respective duties of the home and host supervisors of groups, and the modalities of cooperation between them. The supervision of the effective implementation of group policy on AML/CFT should be done in accordance

Amendment

(66) Cross-border groups need to have in place far-reaching group-wide policies and procedures. To ensure that cross-border operations are matched by adequate supervision, there is a need to set out detailed supervisory rules, enabling supervisors of the home Member State and those of the host Member State cooperate with each other to the greatest extent possible, regardless of their respective nature or status, and with AMLA to assess the risks, monitor developments that could affect the various entities that form part of the group, coordinate supervisory action ***and settle disputes by means of binding instructions***. Given its coordinating role, AMLA should be entrusted with the duty to developing the draft regulatory technical standards defining the detailed respective duties of the home and host supervisors of groups, and the modalities of cooperation between them. The supervision of the effective implementation of group policy

with the principles and modalities of consolidated supervision as laid down in the relevant European sectoral legislation.

on AML/CFT should be done in accordance with the principles and modalities of consolidated supervision as laid down in the relevant European sectoral legislation.

Amendment 64
Proposal for a directive
Recital 69

Text proposed by the Commission

(69) Directive (EU) 2015/849 allowed Member States to entrust the supervision of some obliged entities to self-regulatory bodies. However, the quality and intensity of supervision performed by such self-regulatory bodies has been insufficient, and under no or close to no public scrutiny. Where a Member State decides to entrust supervision to a self-regulatory body, it should also designate a public authority to oversee the activities of the self-regulatory body to ensure that the performance of those activities is in line with the requirements of this Directive.

Amendment

(69) Directive (EU) 2015/849 allowed Member States to entrust the supervision of some obliged entities to self-regulatory bodies. However, the quality and intensity of supervision performed by such self-regulatory bodies has been insufficient, and under no or close to no public scrutiny. Where a Member State decides to entrust supervision to a self-regulatory body, it should also designate a public authority to oversee the activities of the self-regulatory body to ensure that the performance of those activities is in line with the requirements of this Directive. ***That public authority should be operationally independent and autonomous and should carry out its functions free of political, government or industry influence or interference.***

Amendment 65
Proposal for a directive
Recital 70

Text proposed by the Commission

(70) The importance of combating money laundering and terrorist financing should result in Member States laying down effective, proportionate and dissuasive administrative sanctions and measures in national law for failure to respect the requirements of Regulation [please insert reference – proposal for

Amendment

(70) The importance of combating money laundering and terrorist financing should result in Member States laying down effective, proportionate and dissuasive administrative sanctions and measures in national law for failure to respect the requirements of Regulation [please insert reference – proposal for

Anti-Money Laundering Regulation]. National supervisors should be empowered by Member States to impose such measures to obliged entities to remedy the situation in the case of breaches and, where the breach so justifies, issue pecuniary sanctions. The range of sanctions and measures should be sufficiently broad to allow Member States and competent authorities to take account of the differences between obliged entities, in particular between credit institutions *and* financial institutions and other obliged entities, as regards their size, characteristics and the nature of the business.

Amendment 66
Proposal for a directive
Recital 71

Text proposed by the Commission

(71) Member States currently have a diverse range of administrative sanctions and measures for breaches of the key preventative provisions in place and an inconsistent approach to investigating and sanctioning violations of anti-money laundering requirements, nor is there a common understanding among supervisors as to what should constitute a "serious" violation and thus distinguish when an administrative sanction should be imposed. That diversity is detrimental to the efforts made in combating money laundering and terrorist financing and the Union's response is fragmented. Therefore, common criteria for determining the most appropriate supervisory response to breaches should be laid down and a range of administrative measures that the supervisors could impose when the breaches are not sufficiently serious to be punished with an administrative sanction should be provided. In order to incentivise obliged entities to comply with the provisions of Regulation [please insert reference – proposal for

Anti-Money Laundering Regulation]. National supervisors should be empowered by Member States to impose such measures to obliged entities to remedy the situation in the case of breaches and, where the breach so justifies, issue pecuniary sanctions. The range of sanctions and measures should be sufficiently broad to allow Member States and competent authorities to take account of the differences between obliged entities, in particular between credit institutions, financial institutions and other obliged entities, as regards their size, characteristics and the nature of the business.

Amendment

(71) Member States currently have a diverse range of administrative sanctions and measures for breaches of the key preventative provisions in place and an inconsistent approach to investigating and sanctioning violations of anti-money laundering requirements, nor is there a common understanding among supervisors as to what should constitute a "serious" violation and thus distinguish when an administrative sanction should be imposed. That diversity is detrimental to the efforts made in combating money laundering and terrorist financing and the Union's response is fragmented. Therefore, common criteria for determining the most appropriate supervisory response to breaches should be laid down and a range of administrative measures that the supervisors could impose when the breaches are not sufficiently serious to be punished with an administrative sanction should be provided. In order to incentivise obliged entities to comply with the provisions of Regulation [please insert reference – proposal for

Anti-Money Laundering Regulation], it is necessary to strengthen the dissuasive nature of administrative sanctions. Accordingly, the minimum amount of the maximum penalty that can be imposed in case of serious breaches of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] should be raised. In transposing this Directive, Member States should ensure that the imposition of administrative sanctions and measures, and of criminal sanctions in accordance with national law, does not breach the principle of ne bis in idem.

Anti-Money Laundering Regulation], it is necessary to strengthen the dissuasive nature of administrative sanctions. Accordingly, the minimum amount of the maximum penalty that can be imposed in case of serious breaches of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] should be raised, ***in a proportionate and adequate way. In that regard, it is essential that regulatory technical standards are developed to define indicators to classify the level of gravity of breaches and the criteria to be taken into account when setting the level of sanctions, including minimum and maximum values of pecuniary sanctions in accordance with the level of gravity, and to address appropriately situations of repeated breaches. Member States should also ensure that legal persons can be held liable for breaches committed for their benefit by any natural person, acting individually or as part of a body of that legal person and having a leading position within the legal person, or where the lack of supervision or control has made possible the commission of breaches.*** In transposing this Directive, Member States should ensure that the imposition of administrative sanctions and measures, and of criminal sanctions in accordance with national law, does not breach the principle of ne bis in idem.

Amendment 67
Proposal for a directive
Recital 73

Text proposed by the Commission

(73) Publication of an administrative sanction or measure for breach of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] can have a strong dissuasive effect against repetition of such breach. It also informs other entities of the money

Amendment

(73) Publication of an administrative sanction or measure for breach of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] can have a strong dissuasive effect against repetition of such breach. It also informs other entities of the money

laundering and financing of terrorism risks associated with the sanctioned obliged entity before entering into a business relationship and assists supervisors in other Member States in relation to the risks associated with an obliged entity when it operates in their Member State on a cross-border basis. For those reasons, the requirement to publish decisions on sanctions ***against which there is no appeal*** should be confirmed. However, any such publication should be proportionate and, in the taking of a decision whether to publish an administrative sanction or measure, supervisors should take into account the gravity of the breach and the dissuasive effect that the publication is likely to achieve.

laundering and financing of terrorism risks associated with the sanctioned obliged entity before entering into a business relationship and assists supervisors in other Member States in relation to the risks associated with an obliged entity when it operates in their Member State on a cross-border basis. For those reasons, the requirement to publish decisions on sanctions ***where such decisions are no longer subject to internal review*** should be confirmed. However, any such publication should be proportionate and, in the taking of a decision whether to publish an administrative sanction or measure, supervisors should take into account the gravity of the breach and the dissuasive effect that the publication is likely to achieve.

Amendment 68
Proposal for a directive
Recital 74

Text proposed by the Commission

(74) There have been a number of cases where employees who have reported their suspicions of money laundering have been subjected to threats or hostile action. It is crucial that this issue be addressed to ensure effectiveness of the AML/CFT system. Member States should be aware of this problem and should ***do whatever they can to*** protect individuals, including employees ***and*** representatives of the obliged entity, from such threats or hostile action, and ***to*** provide, in accordance with national law, appropriate protection to such persons, particularly with regard to their right to the protection of their personal data and their rights to effective judicial protection and representation.

Amendment

(74) There have been a number of cases where employees who have reported their suspicions of money laundering ***or of violations of AML/CFT requirements*** have been subjected to threats or hostile action. It is crucial that this issue be addressed to ensure effectiveness of the AML/CFT system. Member States should be aware of this problem and should protect individuals, including employees, ***such as data protection officers and AML compliance officers, and other*** representatives of the obliged entity, from such threats or hostile action, and provide, in accordance with ***Union and*** national law, ***in particular Directive EU 2019/1937***, appropriate protection to such persons, particularly with regard to their right to the protection of their personal data and their rights to effective judicial protection and representation. ***Member States should apply the same approach***

with regard to employees of competent authorities, in particular staff from supervisory authorities or self-regulatory bodies who report potential or actual breaches of AML/CFT requirements.

Amendment 69
Proposal for a directive
Recital 75

Text proposed by the Commission

(75) The new fully-integrated and coherent anti-money laundering and counter-terrorist financing policy at Union level, with designated roles for both Union and national competent authorities and with a view to ensure their smooth and constant cooperation. In that regard, cooperation between all national and Union AML/CFT authorities is of the utmost importance and should be clarified and enhanced. Internally, it remains the duty of Member States to provide for the necessary rules to ensure that policy makers, the FIUs, supervisors, including AMLA, and other competent authorities involved in AML/CFT, as well as tax authorities and law enforcement authorities when acting within the scope of this Directive, have effective mechanisms to enable them to cooperate and coordinate, including through a restrictive approach to the refusal by competent authorities to cooperate and exchange information at the request of another competent authority.

Amendment

(75) The new fully-integrated and coherent anti-money laundering and counter-terrorist financing policy at Union level, with designated roles for both Union and national competent authorities and with a view to ensure their smooth and constant cooperation. In that regard, cooperation between all national and Union AML/CFT authorities is of the utmost importance and should be clarified and enhanced ***in order to combat money laundering and terrorist financing and to prevent the non-implementation and evasion of targeted financial sanctions.*** Internally, it remains the duty of Member States to provide for the necessary rules to ensure that policy makers, the FIUs, supervisors, including AMLA, and other competent authorities involved in AML/CFT, as well as tax authorities and law enforcement authorities when acting within the scope of this Directive, have effective mechanisms to enable them to cooperate and coordinate, including ***with other Union bodies and*** through a restrictive approach to the refusal by competent authorities to cooperate and exchange information at the request of another competent authority.

Amendment 70
Proposal for a directive
Recital 76

Text proposed by the Commission

(76) In order to facilitate and promote effective cooperation, and in particular the exchange of information, Member States should be required to communicate to the Commission and AMLA the list of their competent authorities and relevant contact details.

Amendment

(76) In order to facilitate and promote effective cooperation, and in particular the exchange of information, Member States should be required to communicate to the Commission and AMLA the list of their competent authorities and ***registers and their*** relevant contact details. ***That list should take into account existing expertise and available networks, such as the expertise gained by the competent authorities of Member States and of third countries through their cooperation with Europol in their fight against money laundering and terrorist financing.***

Amendment 71
Proposal for a directive
Recital 78 a (new)

Text proposed by the Commission

Amendment

(78a) Member States should ensure that credit institutions and financial institutions located on their territory provide legal persons and natural persons who are legally resident in the Union, including natural persons with no fixed address, asylum seekers and natural persons who have not been granted a residence permit but whose expulsion is impossible for legal or factual reasons, the right to open and use a payment account with basic features. Such a right should apply irrespective of the natural person's place of residence. Such a right does not, in any way, exempt obliged entities from their obligations under this Directive and Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239(COD)], in particular their obligation to ensure that proper due diligence checks are carried out on the persons in question.

Amendment 72
Proposal for a directive
Recital 79

Text proposed by the Commission

(79) The cooperation between financial supervisors and the authorities responsible for crisis management of credit institutions and investment firms, such as in particular Deposit Guarantee Scheme designated authorities and resolution authorities, is necessary to reconcile the objectives to prevent money laundering under this Directive and to protect financial stability and depositors under the Directives 2014/49/EU and 2014/59/EU. Financial supervisors should oversee the performance of customer due diligence where the credit institution has been determined failing or likely to fail or when the deposits are defined as unavailable, and the reporting of any suspicious transactions to the FIU. Financial supervisors should inform the authorities responsible for crisis management of credit institutions and investment firms of any relevant outcome from the customer due diligence performed and of any account that has been suspended by the FIU.

Amendment 73
Proposal for a directive
Recital 83

Text proposed by the Commission

(83) Supervisors should be able to cooperate and exchange confidential information, regardless of their respective nature or status. To this end, they should have an adequate legal basis for exchange of confidential information and for cooperation. Exchange of information and cooperation with other authorities competent for supervising or overseeing obliged entities under other Union acts

Amendment

(79) The cooperation between financial supervisors and the authorities responsible for crisis management of credit institutions and investment firms, such as in particular Deposit Guarantee Scheme designated authorities and resolution authorities, is necessary to reconcile the objectives to prevent money laundering under this Directive and to protect financial stability and depositors under the Directives 2014/49/EU and 2014/59/EU. Financial supervisors should oversee the performance *and quality* of customer due diligence *processes* where the credit institution has been determined failing or likely to fail or when the deposits are defined as unavailable, and the reporting of any suspicious transactions to the FIU. Financial supervisors should inform the authorities responsible for crisis management of credit institutions and investment firms of any relevant outcome from the customer due diligence performed and of any account that has been suspended by the FIU.

Amendment

(83) Supervisors should be able to cooperate and exchange confidential information, regardless of their respective nature or status. To this end, they should have an adequate legal basis for exchange of confidential information and for cooperation. Exchange of information and cooperation with other authorities competent for supervising or overseeing obliged entities under other Union acts

should not be hampered unintentionally by legal uncertainty which may stem from a lack of explicit provisions in this field. Clarification of the legal framework is even more important since prudential supervision has, in a number of cases, been entrusted to non-AML/CFT supervisors, such as the European Central Bank (ECB).

should not be hampered unintentionally by legal uncertainty which may stem from a lack of explicit provisions in this field. Clarification of the legal framework is even more important since prudential supervision has, in a number of cases, been entrusted to non-AML/CFT supervisors, such as the European Central Bank (ECB). ***When imposing administrative sanctions and supervisory measures on obliged entities, or performing other tasks necessitating coordination between supervisors and non-AML/CFT authorities, the authorities concerned should take into account the differences between their respective supervisory mandates and cooperate accordingly.***

Amendment 74
Proposal for a directive
Recital 83 a (new)

Text proposed by the Commission

Amendment

(83a) The exchange of information among supervisors and with other authorities is a key enabler in order to ensure the effectiveness of the Union AML/CFT framework. Member States should authorise the exchange of information between supervisors and other relevant authorities, including, where relevant, the European Public Prosecutor's Office (EPPO) and OLAF with regard to possible cases pertaining to their respective legal mandates. Confidential information exchanged should only be used in the discharge of the duties of the authorities concerned and in the context of administrative or judicial proceedings specifically related to the discharge of those duties.

Amendment 75
Proposal for a directive
Recital 84

Text proposed by the Commission

(84) The effectiveness of the Union AML/CFT framework relies on the cooperation between a wide array of competent authorities. To facilitate such cooperation, AMLA should be entrusted to develop guidelines in coordination with the ECB, the European Supervisory Authorities, Europol, Eurojust, and the European Public Prosecutor's Office on cooperation between all competent authorities. Such guidelines should also describe how authorities competent for the supervision or oversight of obliged entities under other Union acts should take into account money laundering and terrorist financing concerns in the performance of their duties.

Amendment 76
Proposal for a directive
Recital 86

Text proposed by the Commission

(86) It is essential that the alignment of this Directive with the revised FATF Recommendations is carried out in full compliance with Union law, in particular as regards Union data protection law, including rules on data transfers, as well as the protection of fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union (the 'Charter'). Certain aspects of the implementation of this Directive involve the collection, analysis, storage and sharing of data within the Union and with third countries. Such processing of personal data should be permitted, **while fully respecting fundamental rights**, only for the purposes laid down in this Directive, and for the activities required under this Directive, such as the exchange of information among competent authorities.

Amendment

(84) The effectiveness of the Union AML/CFT framework relies on the cooperation between a wide array of competent authorities. To facilitate such cooperation, AMLA should be entrusted to develop guidelines in coordination with the ECB, the European Supervisory Authorities, Europol, Eurojust, and the European Public Prosecutor's Office on cooperation between all competent authorities **at Union and national level**. Such guidelines should also describe how authorities competent for the supervision or oversight of obliged entities under other Union acts should take into account money laundering and terrorist financing concerns in the performance of their duties.

Amendment

(86) It is essential that the alignment of this Directive with the revised FATF Recommendations is carried out in full compliance with Union law, in particular as regards Union data protection law, including rules on data transfers, as well as the protection of fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union (the 'Charter'). Certain aspects of the implementation of this Directive involve the collection, analysis, storage and sharing of data within the Union and **possibly** with third countries. Such processing of personal data should be permitted only for the purposes laid down in this Directive, and for the activities required under this Directive, such as the exchange of information among competent authorities, **and should fully respect fundamental rights obligations as required by Article 6**

of the Treaty on European Union (TEU) and Union data protection rules as regards onward data transfers, including to third countries.

Amendment 77
Proposal for a directive
Recital 90

Text proposed by the Commission

(90) In order to ensure consistent approaches among FIUs and among supervisors, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to supplement this Directive by adopting the regulatory technical standards setting out the criteria as regards appointment and functions of a central contact point of certain services providers, setting out benchmarks and methodology for assessing and classifying the inherent and residual risk profile of obliged entities and the frequency of risk profile reviews, laying down details of duties of the home and host supervisors, and the modalities of cooperation between them, specifying the general conditions for the functioning of the AML supervisory colleges and the operational functioning of such colleges, defining indicators to classify the level of gravity of breaches of this Directive and criteria to be taken into account when setting the level of administrative sanctions or taking administrative measures. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all

Amendment

(90) In order to ensure consistent approaches among FIUs and among supervisors, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to supplement this Directive by adopting the regulatory technical standards setting out the criteria as regards appointment and functions of a central contact point of certain services providers, setting out ***indicators to classify the level of gravity of breaches and criteria for repeated failures to provide registers with up-to-date, accurate and adequate information on beneficial ownership, setting out*** benchmarks and methodology for assessing and classifying the inherent and residual risk profile of obliged entities and the frequency of risk profile reviews, laying down details of duties of the home and host supervisors, and the modalities of cooperation between them, specifying the general conditions for the functioning of the AML supervisory colleges and the operational functioning of such colleges, ***specifying the general conditions for supervision of groups of obliged entities other than credit or financial institutions,*** defining indicators to classify the level of gravity of breaches of this Directive and criteria to be taken into account when setting the level of administrative sanctions or taking administrative measures. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert

documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

Amendment 78
Proposal for a directive
Recital 91

Text proposed by the Commission

(91) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission in order to lay down a methodology for the collection of statistics, establish the format for the submission of beneficial ownership information, define the technical conditions for the interconnection of beneficial ownership registers and of bank account registers and data retrieval mechanisms **as well as to** adopt implementing technical standards specifying the format to be used for the exchange of the information among FIUs of the Member States. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council³⁹.

Amendment

(91) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission in order to lay down a methodology for the collection of statistics, establish the format for the submission of beneficial ownership information, define the technical conditions for the interconnection of beneficial ownership registers and of bank account registers and data retrieval mechanisms, **define the technical conditions for the connection of the Member States' mechanisms to the single access point on land and real estate, specify the criteria and format to be used by FIUs for sharing information on suspended or prohibited transactions and on suspended accounts, adopt implementing technical standards specifying the format to be used for the exchange of the information among FIUs of the Member States and the relevant factors to be taken into account when determining if a suspicious transaction report concerns another Member State, and adopt implementing technical standards specifying a common template for the cooperation agreements between**

financial supervisors and their counterparts in third countries. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

³⁹ *Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).*

Amendment 79
Proposal for a directive
Recital 92

Text proposed by the Commission

(92) This Directive respects the fundamental rights and observes the principles recognised by the Charter, in particular the right to respect for private and family life (Article 7 of the Charter), the right to the protection of personal data (Article 8 of the Charter) and the freedom to conduct a business (Article 16 of the Charter).

Amendment

(92) This Directive respects the fundamental rights and observes the principles recognised by the Charter, in particular the right to respect for private and family life (Article 7 of the Charter), the right to the protection of personal data (Article 8 of the Charter) and the freedom to conduct a business (Article 16 of the Charter). ***It does not modify the obligation to respect the fundamental rights and legal principles enshrined in Article 6 TEU.***

Amendment 80
Proposal for a directive
Article 1 – paragraph 1 – point a

Text proposed by the Commission

(a) measures applicable to sectors exposed to money laundering and terrorist financing at national level;

Amendment

(a) measures applicable to sectors exposed to money laundering and terrorist financing at ***Union and*** national level

Amendment 81
Proposal for a directive
Article 1 – paragraph 1 – point c

Text proposed by the Commission

(c) ***the set-up and*** access to beneficial ownership, bank ***account and*** real estate registers;

Amendment

(c) access to ***information on*** beneficial ownership, bank ***accounts, land or*** real estate registers ***and relevant goods***

Amendment 82
Proposal for a directive
Article 2 – paragraph 2 – point 7

Text proposed by the Commission

(7) ‘entity operating on a cross-border basis’ means an obliged entity having at least one establishment in another Member State or in a third country;

Amendment

(7) ‘entity operating on a cross-border basis’ means an obliged entity having at least one establishment in another Member State or in a third country, ***or operating under the freedom to provide services***

Amendment 83
Proposal for a directive
Article 2 – paragraph 2 – point 8 a (new)

Text proposed by the Commission

Amendment

(8a) ‘predicate offence’ means a criminal activity as defined in Article 2, point (3), of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239(COD)]

Amendment 84
Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

Amendment

1. Where the national risk assessment carried out by Member States pursuant to Article 8 identifies that, in addition to obliged entities, entities in other sectors are exposed to money laundering and terrorist

1. Where the national risk assessment carried out by Member States pursuant to Article 8, ***information received from FIUs in other Member States or information from AMLA*** identifies that, in addition to

financing risks, Member States may *decide to* apply the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] to those additional entities.

obliged entities, entities in other sectors are exposed to money laundering and terrorist financing risks, Member States may apply the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] to those additional entities

Amendment 85
Proposal for a directive
Article 3 – paragraph 2 – point c

Text proposed by the Commission

(c) the text of the national measures that the Member State intends to adopt.

Amendment

(c) the text of the national measures that the Member State intends to *propose or* adopt

Amendment 86
Proposal for a directive
Article 4 – title

Text proposed by the Commission

Requirements relating to certain *service providers*

Amendment

Requirements relating to certain *obliged entities*

Amendment 87
Proposal for a directive
Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that the procedures for licensing currency exchange, cheque cashing offices and trusts or company service providers require applicants to demonstrate a good understanding of the risks of money laundering and terrorism financing in their sector of activity. They shall also ensure that applicants have access to anti-money laundering and counter-terrorist financing training provided in accordance with uniform and high standards by

supervisory authorities, certified service providers or obliged entities that have the knowledge and expertise necessary to provide such training.

Amendment 88
Proposal for a directive
Article 4 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. *Member States shall ensure that procedures under national law for entering regulated professions that are obliged entities as referred to in Article 3, point (3) of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239(COD)] require applicants to demonstrate a good understanding of the risks of money laundering and terrorism financing in their sector of activity.*

Amendment 89
Proposal for a directive
Article 4 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. *Member States shall ensure that estate agents as referred to in Article 3 point (3) (d) of Regulation ... [please insert reference to –Anti-Money Laundering Regulation - 2021/0239(COD)] develop or have in place training programmes for professionals. Such training programmes may be facilitated or provided by professional associations representing estate agents and the real estate sector.*

Amendment 90
Proposal for a directive
Article 5 – paragraph 1

Text proposed by the Commission

1. Member States may require electronic money issuers as defined in Article 2(3) of Directive 2009/110/EC⁴⁴, payment service providers as defined in Article 4(11) of Directive (EU) 2015/2366 and crypto-assets service providers operating through **agents** located in the host Member State and operating under either the right of establishment or the freedom to provide services, and whose head office is situated in another Member State, to appoint a central contact point in their territory. That central contact point shall ensure, on behalf of the entity operating on a cross-border basis, compliance with AML/CFT rules and shall facilitate supervision by supervisors, including by providing supervisors with documents and information on request.

⁴⁴ Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7).

Amendment 91
Proposal for a directive
Article 6 – paragraph 1

Text proposed by the Commission

1. Member States shall require supervisors to verify that the members of the senior management in the obliged entities referred to in Article 4, and the beneficial owners of such entities, act with honesty and integrity. Senior management of such entities **should also** possess

Amendment

1. Member States may require electronic money issuers as defined in Article 2(3) of Directive 2009/110/EC⁴⁴, payment service providers as defined in Article 4(11) of Directive (EU) 2015/2366 and crypto-assets service providers operating through **an agent, a distributor or any other natural or legal person which acts on their behalf**, located in the host Member State and operating under either the right of establishment or the freedom to provide services, and whose head office is situated in another Member State, to appoint a central contact point in their territory. That central contact point shall ensure, on behalf of the entity operating on a cross-border basis, compliance with AML/CFT rules and shall facilitate supervision by supervisors, including by providing supervisors with documents and information on request.

⁴⁴ Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7).

Amendment

1. Member States shall require supervisors to verify that the members of the senior management in the obliged entities referred to in Article 4 **as well as in the obliged entities referred to in Article 3, points (3)(a), (b), (d), (e) and (h) to (l), of Regulation ... [please insert reference to**

knowledge and expertise necessary to carry out their functions.

Anti-Money Laundering Regulation - 2021/0239(COD), and the beneficial owners of such entities, act with honesty and integrity. Senior management of such entities ***shall be of good repute and possess proven*** knowledge and expertise necessary to carry out their functions. ***In case no management role exists in an obliged entity, those requirements applies to the person referred to in Article 9(6), second subparagraph, of Regulation ... [insert reference to AML Regulation - 2021/0239(COD)].***

Amendment 92
Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that supervisors verify at regular intervals and on a risk-sensitive basis whether the requirements of paragraphs 1 and 2 continue to be met. In particular, they shall verify whether the senior management acts with honesty and integrity and possesses knowledge and expertise necessary to carry out their functions in cases where there are reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed or attempted, or there is increased risk thereof in an obliged entity.

Amendment

3. Member States shall ensure that supervisors verify at regular intervals and on a risk-sensitive basis whether the requirements of paragraphs 1 and 2 continue to be met. In particular, they shall verify whether the senior management ***is of good repute***, acts with honesty and integrity and possesses ***proven*** knowledge and expertise necessary to carry out their functions in cases where there are reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed or attempted, or there is increased risk thereof in an obliged entity

Amendment 93
Proposal for a directive
Article 6 – paragraph 4

Text proposed by the Commission

4. Supervisors ***shall*** have the power to request the removal of any person convicted of money laundering, any of its predicate offences or terrorist financing

Amendment

4. ***Member States shall ensure that*** supervisors have the power to request the removal of any person convicted of money laundering, any of its predicate offences or

from the management role of the obliged entities referred to in paragraphs 1 and 2. Supervisors shall have the power to remove members of the senior management *that* are not *deemed to act* with honesty and integrity *and* possess knowledge and expertise necessary to carry out their functions.

terrorist financing from the management role of the obliged entities referred to in paragraphs 1 and 2. Supervisors shall have the power to remove *or suspend* members of the senior management *where it is deemed that they* are not *of good repute, have not acted* with honesty and integrity *or do not* possess *proven* knowledge and expertise necessary to carry out their functions. *In cases where no management role exists in an obliged entity, supervisors shall have the power to take adequate measures where it has been deemed that the requirements laid down in paragraph 1 are not met.*

Amendment 94
Proposal for a directive
Article 6 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. *Member States shall ensure that supervisors have the power to request the suspension of any person from the management role of an obliged entity as referred to in paragraphs 1 and 2 or, in the case where no management role exists in an obliged entity, to take adequate measures, where there are reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed or attempted, or that the risk thereof could increase in connection with that obliged entity.*

Amendment 95
Proposal for a directive
Article 6 – paragraph 5

Text proposed by the Commission

Amendment

5. Where the person convicted of money laundering, any of its predicate offences or terrorist financing is the beneficial owner of an obliged entity

5. Where the person convicted of money laundering, any of its predicate offences or terrorist financing is the beneficial owner of an obliged entity

referred to in paragraph 2, Member States shall ensure that such persons *can be* disassociated from any obliged entity, including by granting supervisors the power to request the divestment of the holding by the beneficial owner in an obliged entity.

referred to in paragraph 2, Member States shall ensure that such persons *are* disassociated from any obliged entity, including by granting supervisors the power to request the divestment of the holding by the beneficial owner in an obliged entity

Amendment 96
Proposal for a directive
Article 6 – paragraph 6

Text proposed by the Commission

6. For the purposes of this Article, Member States shall ensure that, in accordance with their national law, supervisors or any other authority competent at national level for assessing the appropriateness of persons referred to in paragraphs 1 and 2, check the existence of a relevant conviction in the criminal record of the person concerned. Any exchange of information for those purposes shall be carried out in accordance with Framework Decision 2009/315/JHA and Decision 2009/316/JHA as implemented in national law.

Amendment 97
Proposal for a directive
Article 6 – paragraph 6 a (new)

Text proposed by the Commission

Amendment 98
Proposal for a directive
Article 6 – paragraph 6 b (new)

Amendment

6. For the purposes of this Article, Member States shall ensure that, in accordance with their national law, supervisors or any other authority competent at national level for assessing the appropriateness of persons referred to in paragraphs 1 and 2, check *at least* the existence of a relevant conviction in the criminal record of the person concerned. Any exchange of information for those purposes shall be carried out in accordance with Framework Decision 2009/315/JHA and Decision 2009/316/JHA as implemented in national law.

6a. *Member States shall ensure that decisions taken by supervisors pursuant to this Article are subject to administrative appeal and to an effective judicial remedy.*

6b. By ... [two years after the date of transposition of this Directive], AMLA shall issue guidelines on the elements to be taken into account by supervisors when assessing whether:

(a) the senior managers and the beneficial owners of obliged entities referred to in paragraph 1 and 2 act with honesty and integrity;

(b) the senior management of obliged entities referred to in paragraph 1 and 2 are of good repute and possess proven knowledge and expertise necessary to carry out their functions.

(c) there are reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed or attempted, or that the risk thereof could increase in connection with that obliged entity.

When drawing up the guidelines referred to in the first subparagraph of this Paragraph, AMLA shall take into account the specificities of each sector in which the obliged entities operate and of previous guidelines issued jointly by the European Securities and Market Authority and the European Banking Authority on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU of the European Parliament and of the Council^{1a}.

^{1a} **Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).**

Amendment 99
Proposal for a directive
Article 6 – paragraph 6 c (new)

Text proposed by the Commission

Amendment

6c. Member States shall ensure that supervisors or any other authority competent at national level for assessing the appropriateness of persons as referred to in paragraphs 1 and 2 of this Article consult the AMLA database of sanctions provided for in Article 44(2).

Amendment 100
Proposal for a directive
Article 7 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

To that end, the Commission shall, **at the latest** by [4 years after the **date of transposition** of this Directive], draw up a report identifying, analysing and evaluating those risks at Union level. Thereafter, the Commission shall update its report every **four** years. The Commission may update parts of the report more frequently, if appropriate.

To that end, the Commission shall, by [**four** years after the **entry into force** of this Directive], draw up a report identifying, analysing and evaluating those risks at Union level. Thereafter, the Commission shall update its report every **three** years. The Commission may update parts of the report more frequently, if appropriate.

Amendment 101
Proposal for a directive
Article 7 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The report referred to in the first subparagraph shall be made public, except for those parts which contain classified information.

Amendment 102
Proposal for a directive
Article 7 – paragraph 2 – point c

Text proposed by the Commission

(c) the most widespread means used to launder illicit proceeds, including, where available, those particularly used in transactions between Member States and third countries, independently of the identification of a third country pursuant to Section 2 of Chapter III of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final];

Amendment

(c) the most widespread means used to launder illicit proceeds, including, where available, those particularly used in transactions between Member States and third countries, independently of the identification of a third country pursuant to Section 2 of Chapter III of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]

Amendment 103
Proposal for a directive
Article 7 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) an assessment of the risks of money laundering and terrorist financing associated with legal persons and legal arrangements, including the exposure to risks deriving from foreign legal persons and legal arrangements;

Amendment 104
Proposal for a directive
Article 7 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) the risks of non-implementation and evasion of ***proliferation financing-related*** targeted financial sanctions.

(d) the risks of non-implementation and evasion of targeted financial sanctions

Amendment 105
Proposal for a directive
Article 7 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall make recommendations to Member States on the

3. The Commission shall make recommendations to Member States on the

measures suitable for addressing the identified risks. In the event that Member States decide not to apply any of the recommendations in their national AML/CFT regimes, they shall notify the Commission thereof and provide a justification for such a decision.

measures suitable for addressing the identified risks **and deficiencies. Member States shall endeavour to follow those recommendations.** In the event that Member States decide not to apply any of the recommendations in their national AML/CFT regimes, they shall notify the Commission thereof and provide a **detailed justification stating legitimate reasons** for such a decision. **The Commission's recommendations and the Member States' decisions in response to those recommendations, including the justifications where they decide not to apply any of the recommendations, shall be made public.**

Amendment 106
Proposal for a directive
Article 7 – paragraph 4

Text proposed by the Commission

4. By [3 years after the date of transposition of this Directive], AMLA shall issue an opinion addressed to the Commission on the risks of money laundering and terrorist financing affecting the Union. Thereafter, AMLA shall issue an opinion every two years.

Amendment

4. By .. [3 years after the date of transposition of this Directive], AMLA, **in accordance with article 44 of Regulation ... [please insert reference to AMLA Regulation - 2021/0240(COD)]**, shall issue an opinion addressed to the Commission on the risks of money laundering and terrorist financing affecting the Union. Thereafter, AMLA shall issue an opinion every two years. **AMLA may issue opinions or updates of its previous opinions more frequently, where it deems it appropriate to do so. The opinions issued by AMLA shall be made public, except for those parts which contain classified information.**

Amendment 107
Proposal for a directive
Article 7 – paragraph 5

Text proposed by the Commission

5. In conducting the assessment referred to in paragraph 1, the Commission shall organise the work at Union level, shall take into account the opinions referred to in paragraph 4 and shall involve the Member States' experts in the area of AML/CFT, representatives from national supervisory authorities and FIUs, **as well as** AMLA and other Union level bodies where appropriate.

Amendment 108
Proposal for a directive
Article 7 – paragraph 6

Text proposed by the Commission

6. Within **2** years of the adoption of the report referred to in paragraph 1, and every **four** years thereafter, the Commission shall submit a report to the European Parliament and to the Council on the actions taken based on the findings of that report.

Amendment 109
Proposal for a directive
Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

1. Each Member State shall carry out a national risk assessment to identify, assess, understand and mitigate the risks of money laundering and terrorist financing affecting it. It shall keep that risk assessment up to date and review it at least every **four** years.

Amendment

5. In conducting the assessment referred to in paragraph 1, the Commission shall organise the work at Union level, shall take into account the opinions referred to in paragraph 4 and shall involve the Member States' experts in the area of AML/CFT, representatives from national supervisory authorities and FIUs, AMLA and other Union level bodies, **and other relevant stakeholders**, where appropriate

Amendment

6. Within **two** years of the adoption of the report referred to in paragraph 1, and every **three** years thereafter, the Commission shall submit a report to the European Parliament and to the Council on the actions taken based on the findings of that report

Amendment

1. Each Member State shall carry out a national risk assessment to identify, assess, understand and mitigate the risks of money laundering and terrorist financing, **and the risks of non-implementation and evasion of targeted financial sanctions** affecting it. It shall **assess risks on a continuous basis**, keep that risk assessment up to date and review it at least every **three** years. **Member States may decide to carry out a review of that risk assessment more frequently, where they**

deem it appropriate to do so. In addition, they may carry out ad hoc sectoral risk assessments depending on the level of risk.

Amendment 110
Proposal for a directive
Article 8 – paragraph 1 – subparagraph -1 (new)

Text proposed by the Commission

Amendment

Based on the identification of country-specific risks and for good reason, the Commission may require Member States to review their risk assessment earlier than provided for in the first subparagraph in order to reduce the risk of money laundering and terrorist financing in the Union.

Amendment 111
Proposal for a directive
Article 8 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Each Member State shall also take appropriate steps to identify, assess, understand and mitigate the risks of non-implementation and evasion of ***proliferation financing-related*** targeted financial sanctions.

Each Member State shall also take appropriate steps to identify, assess, understand and mitigate the risks of non-implementation and evasion of targeted financial sanctions

Amendment 112
Proposal for a directive
Article 8 – paragraph 2

Text proposed by the Commission

Amendment

2. Each Member State shall designate an authority or establish a mechanism to coordinate the national response to the risks referred to in paragraph 1. The identity of that authority or the description of the mechanism shall be notified to the

2. Each Member State shall designate an authority or establish a mechanism to coordinate the national response to the risks referred to in paragraph 1. The identity of that authority or the description of the mechanism shall be notified to the

Commission, AMLA, and other Member States.

Commission, AMLA, *Europol* and other Member States. ***AMLA shall keep a repository of the designated authorities or established mechanisms. If a Member State establishes a mechanism, in particular to coordinate responses at regional or local level, efficient and effective coordination shall be ensured between all the authorities involved.***

Amendment 113
Proposal for a directive
Article 8 – paragraph 3

Text proposed by the Commission

3. In carrying out the national risk assessments referred to in paragraph 1 of this Article, Member States shall take into account the report referred to in Article 7(1).

Amendment

3. In carrying out the national risk assessments referred to in paragraph 1 of this Article, Member States shall take into account the ***methodology used by the Commission for the report*** referred to in Article 7(1) ***and the results of that report.***

Amendment 114
Proposal for a directive
Article 8 – paragraph 4 – point a

Text proposed by the Commission

(a) improve its AML/CFT regime, in particular by identifying any areas where obliged entities are to apply enhanced measures and, where appropriate, specifying the measures to be taken;

Amendment

(a) improve its AML/CFT regime, in particular by identifying any areas where obliged entities are to apply enhanced measures ***in line with a risk-based approach*** and, where appropriate, specifying the measures to be taken;

Amendment 115
Proposal for a directive
Article 8 – paragraph 4 – point c

Text proposed by the Commission

(c) assess the risks of money laundering and terrorist financing associated with each type of legal person

Amendment

(c) assess the risks of money laundering and terrorist financing associated with each type of legal person

and legal arrangement in their territory and have an understanding of the exposure to risks deriving from foreign legal persons and legal arrangements;

and legal arrangement in their territory, ***taking into account the typical ownership and control structure of different types of legal entities including the number of layers of ownership and the type of legal entity in each layer***, and have an understanding of the exposure to risks deriving from foreign legal persons and legal arrangements, ***in particular those which have a multi-layered control structure involving several jurisdictions***;

Amendment 116
Proposal for a directive
Article 8 – paragraph 4 – point c a (new)

Text proposed by the Commission

Amendment

(ca) identify patterns of money laundering and terrorist financing and assess trends for the associated risks at national or crossborder level;

Amendment 117
Proposal for a directive
Article 8 – paragraph 4 – point d

Text proposed by the Commission

Amendment

(d) decide on the allocation and prioritisation of resources to combat money laundering and terrorist financing as well as non-implementation and evasion of ***proliferation financing-related*** targeted financial sanctions;

(d) decide on the allocation and prioritisation of resources to combat money laundering and terrorist financing as well as non-implementation and evasion of targeted financial sanctions;

Amendment 118
Proposal for a directive
Article 8 – paragraph 4 – point f

Text proposed by the Commission

Amendment

(f) make appropriate information available promptly to competent authorities and to obliged entities to facilitate the

(f) make appropriate information available promptly to competent authorities and to obliged entities to facilitate the

carrying out of their own money laundering and terrorist financing risk assessments as well as the assessment of risks of evasion of ***proliferation financing-related*** targeted financial sanctions referred to in Article 8 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].

carrying out of their own money laundering and terrorist financing risk assessments as well as the assessment of risks of evasion of targeted financial sanctions referred to in Article 8 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].

Amendment 119
Proposal for a directive
Article 8 – paragraph 4 – point f a (new)

Text proposed by the Commission

Amendment

(fa) assess the performance of supervisors of obliged entities;

Amendment 120
Proposal for a directive
Article 8 – paragraph 4 – point f b (new)

Text proposed by the Commission

Amendment

(fb) assess the performance of registers and data retrieval systems specified in this Directive and identify weaknesses to be addressed;

Amendment 121
Proposal for a directive
Article 8 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Amendment

In the national risk assessment, Member States shall describe the institutional structure and broad procedures of their AML/CFT regime, including, inter alia, the FIU, tax authorities and prosecutors, as well as the allocated human and financial resources ***to the extent that this information is available.***

In the national risk assessment, Member States shall describe the institutional structure and broad procedures of their AML/CFT regime, including, inter alia, the FIU, tax authorities and prosecutors, ***the level of European and international cooperation with regard to money laundering and terrorist financing, the whistleblower protection mechanisms*** as

well as the allocated human and financial resources.

Amendment 122
Proposal for a directive
Article 8 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall ensure appropriate participation of competent authorities and relevant stakeholders when carrying out their national risk assessment.

Amendment 123
Proposal for a directive
Article 8 – paragraph 5

Text proposed by the Commission

Amendment

5. Member States shall make the results of their national risk assessments, including their updates, available to the Commission, to AMLA and to the other Member States. Any Member State may provide relevant additional information, where appropriate, to the Member State carrying out the national risk assessment. A summary of the assessment shall be made publicly available. That summary shall not contain classified information. The information contained therein shall not ***permit the identification of*** any natural or legal ***person***.

5. Member States shall make the results of their national risk assessments, including their updates ***and reviews***, available to the Commission, to AMLA and to the other Member States. Any Member State may provide relevant additional information, where appropriate, to the Member State carrying out the national risk assessment. A summary of the ***results of the*** assessment shall be made publicly available. That summary shall not contain classified information ***and shall in general respect high standards of data protection***. The information contained therein shall not ***name*** any natural or legal ***persons***.

Amendment 124
Proposal for a directive
Article 8 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The Commission and AMLA shall

make recommendations to Member States on the measures suitable for addressing the risk identified in the national risk assessments. In the event that a Member State decides not to apply any of the recommendations in its national AML/CFT regime, it shall notify the Commission thereof and provide a justification for that decision.

Amendment 125

Proposal for a directive

Article 9 – paragraph 2 – point b

Text proposed by the Commission

(b) data measuring the reporting, investigation and judicial phases of the national AML/CFT regime, including the number of suspicious transaction reports made to the FIU, the follow-up given to those reports, the information on cross-border physical transfers of cash submitted to the FIU in accordance with Article 9 of Regulation (EU) 2018/1672 together with the follow-up given to the information submitted and, on an annual basis, the number of cases investigated, the number of persons prosecuted, the number of persons convicted for money laundering or terrorist financing offences, the types of predicate offences identified in accordance with Article 2 of Directive (EU) 2018/1673 of the European Parliament and of the Council⁴⁵ where such information is available, and the value in euro of property that has been frozen, seized or confiscated;

⁴⁵ Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law (OJ L 284, 12.11.2018, p. 22).

Amendment

(b) data measuring the reporting, investigation and judicial phases of the national AML/CFT regime, including the number of suspicious transaction reports made to the FIU **and the value of such transactions**, the follow-up given to those reports, the information on cross-border physical transfers of cash submitted to the FIU in accordance with Article 9 of Regulation (EU) 2018/1672 together with the follow-up given to the information submitted and, on an annual basis, the number of cases investigated, the number of persons prosecuted, the number of persons convicted for money laundering or terrorist financing offences, the types of predicate offences identified in accordance with Article 2 of Directive (EU) 2018/1673 of the European Parliament and of the Council⁴⁵ where such information is available, and the value in euro of property that has been frozen, seized or confiscated;

⁴⁵ Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law (OJ L 284, 12.11.2018, p. 22).

Amendment 126
Proposal for a directive
Article 9 – paragraph 2 – point c

Text proposed by the Commission

(c) *if available*, data identifying the number and percentage of reports resulting in further investigation, together with the annual report drawn up by FIUs pursuant to Article 21;

Amendment

(c) data identifying *the number of suspicious transaction reports disseminated by the FIU to competent authorities*, the number and percentage of reports resulting in further investigation, together with the annual report drawn up by FIUs pursuant to Article 21

Amendment 127
Proposal for a directive
Article 9 – paragraph 2 – point h a (new)

Text proposed by the Commission

Amendment

(ha) the number of discrepancies reported to the central register referred to in Article 10, including measures or sanctions imposed by the entity in charge of the central register, the number of on-site and off-site inspections, types of typical discrepancies and patterns identified in the verification process by the entity in charge of the central register

Amendment 128
Proposal for a directive
Article 9 – paragraph 2 – point h b (new)

Text proposed by the Commission

Amendment

(hb) the following information regarding the implementation of Article 12:

(i) the number of requests to access beneficial ownership on the basis of the categories laid down in Article 12(2)

(ii) the percentage of requests for access to information which is refused under each category laid down in Article

12(2a)

(iii) a summary of the categories of persons granted access to beneficial ownership information under Article 12(2a), second subparagraph ;

Amendment 129

Proposal for a directive

Article 9 – paragraph 2 – point h c (new)

Text proposed by the Commission

Amendment

(hc) the information referred to in Article 19(3) of Directive (EU) 2019/1153.

Amendment 130

Proposal for a directive

Article 9 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

3. Member States shall ensure that the statistics referred to in paragraph 2 are collected and transmitted to the Commission on an annual basis. The statistics referred to in paragraph 2, **points (a), (c), (d) and (f)**, shall also be transmitted to AMLA.

3. Member States shall ensure that the statistics referred to in paragraph 2 are collected and transmitted to the Commission on an annual basis. The statistics referred to in paragraph 2 shall also be transmitted to AMLA

Amendment 131

Proposal for a directive

Article 9 – paragraph 4

Text proposed by the Commission

Amendment

4. By [**3** years after the date of **transposition** of this Directive], AMLA shall adopt an opinion addressed to the Commission on the methodology for the collection of the statistics referred to in paragraph 2, points (a), (c), (d) and (f).

4. By [**two** years after the date of **entry into force** of this Directive], AMLA shall adopt an opinion addressed to the Commission on the methodology for the collection of the statistics referred to in paragraph 2, points (a), (c), (d) and (f).

Amendment 132
Proposal for a directive
Article 9 – paragraph 5

Text proposed by the Commission

5. The Commission *is empowered to* adopt implementing acts *laying down* the methodology for the collection of the statistics referred to in paragraph 2 and the arrangements for their transmission to the Commission and AMLA. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

Amendment

5. *By ... [two years and six months after the date of entry into force of this Directive], the Commission shall adopt, by means of* implementing acts, the methodology for the collection of the statistics referred to in paragraph 2 and the arrangements for their transmission to the Commission and AMLA. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

Amendment 133
Proposal for a directive
Article 9 – paragraph 6

Text proposed by the Commission

6. The Commission shall publish a biennial report summarising and explaining the statistics referred to in paragraph 2, which shall be made available on its website.

Amendment

6. *By ... [one year after the date of entry into force of this Directive], the Commission shall publish a first report based on statistics provided by Member States pursuant to Article 44 of Directive (EU) 2015/849. By ... [three years after the date of entry into force of this Directive], the Commission shall publish a report summarising and explaining the statistics referred to in paragraph 2 of this Article, based on the data collected in accordance with this Article. Thereafter, Commission shall publish* a biennial report summarising and explaining the statistics referred to in paragraph 2, which shall be made *publicly* available on its website. *Those reports shall be submitted to the European Parliament and to the Council.*

Amendment 134
Proposal for a directive
Article 10 – paragraph 1 – subparagraph -1 (new)

Text proposed by the Commission

Amendment

Member States shall also ensure that beneficial ownership information of legal entities incorporated outside the Union or of express trusts or similar legal arrangements administered outside the Union are held in the central register under the conditions laid down in Article 48 of Regulation ... [please insert reference to Anti-money Laundering Regulation - 2021/0239(COD)].

Amendment 135
Proposal for a directive
Article 10 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The beneficial ownership information contained in the central registers *may* be collected in accordance with *national systems*.

Amendment

The beneficial ownership information contained in the central registers ***shall be available in machine-readable format and*** be collected in accordance with ***the implementing acts referred to in paragraph 4. Each Member State shall ensure that such beneficial ownership information is made available in the official language or languages of that Member State and in English.***

Amendment 136
Proposal for a directive
Article 10 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Member States shall ensure that the information on the current beneficial and the information on the past beneficial owners is available in the central registers for the period set out in paragraph 12.

Amendment 137
Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. Where there are reasons to doubt the accuracy of the beneficial ownership information held by the central registers, Member States shall ensure that legal entities **and legal arrangements are required to provide additional** information **on a risk-sensitive basis**, including resolutions of the board of directors and minutes of their meetings, partnership agreements, trust deeds, power of attorney or other contractual agreements and documentation.

Amendment

2. Where there are reasons to doubt the accuracy of the beneficial ownership information held by the central registers, Member States shall ensure that ***the entities in charge of the central registers are empowered to request from corporate and legal entities, trustees of any express trust and persons holding an equivalent position in a similar legal arrangement, and their legal and beneficial owners, any information and documents necessary to identify and verify their beneficial owners, including proofs of existence and ownership,*** resolutions of the board of directors and minutes of their meetings, partnership agreements, trust deeds, power of attorney or other contractual agreements and documentation.

Amendment 138
Proposal for a directive
Article 10 – paragraph 3 – point a

Text proposed by the Commission

(a) a statement accompanied by a justification, that there is no beneficial owner or that the beneficial owner(s) could not be identified and verified;

Amendment

(a) a statement ***by the corporate entity, legal entity or legal arrangement*** accompanied by a ***legitimate justification and supporting documents***, that there is no beneficial owner or that the beneficial owner(s) could not be identified and verified ***pursuant to Articles 42 and 43 of Regulation ... [insert reference to AML Regulation - 2021/0239(COD)], and the rules according to which profit or shares are allocated within the corporate or legal entity;***

Amendment 139
Proposal for a directive
Article 10 – paragraph 3 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

Member States shall ensure that the information referred to in the first subparagraph, point (a), is available to FIUs, AMLA, competent authorities, self-regulatory bodies and obliged entities.

Amendment 140
Proposal for a directive
Article 10 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission ***is empowered to*** adopt, by means of implementing acts, the format for the submission of beneficial ownership information to the central register. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

4. ***By ... [one year after the date of entry into force of this Directive]*** the Commission ***shall*** adopt, by means of implementing acts, the format for the submission of beneficial ownership information ***as referred to in article 44 of Regulation ... [please insert reference to the Anti-Money Laundering Regulation - 2021/0239(COD)]*** to the central register, ***including a checklist of minimum requirements for information to be examined by the registrant.*** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

Amendment 141
Proposal for a directive
Article 10 – paragraph 5 – introductory part

Text proposed by the Commission

Amendment

5. Member States shall ***require*** that the beneficial ownership information held in the central registers is adequate, accurate and up-to-date. For that purpose, Member ***State*** shall apply at least the following requirements:

5. Member States shall ***take the necessary measures to ensure*** that the beneficial ownership information held in the central registers is adequate, accurate and up-to-date, ***and shall put in place mechanisms to that effect.*** For that

purpose, Member **States** shall apply at least the following requirements:

Amendment 142
Proposal for a directive
Article 10 – paragraph 5 – point - a (new)

Text proposed by the Commission

Amendment

(-a) entities in charge of the central registers shall verify, at the time beneficial ownership information is submitted and on a regular basis thereafter, that such information is adequate, accurate and up to date.

Amendment 143
Proposal for a directive
Article 10 – paragraph 5 – point a

Text proposed by the Commission

Amendment

(a) obliged entities shall report to the entity in charge of the central registers any discrepancies they find between the beneficial ownership information available in the central registers and the beneficial ownership information available to them pursuant to Article 18 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation].

(a) obliged entities shall report to the entity in charge of the central registers any discrepancies they find between the beneficial ownership information available in the central registers and the beneficial ownership information available to them pursuant to Article 18 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation], **and shall transmit to the central register the relevant beneficial ownership information they have gathered.**

Amendment 144
Proposal for a directive
Article 10 – paragraph 5 – point b

Text proposed by the Commission

Amendment

(b) competent authorities, **if appropriate and to the extent that this requirement does not interfere unnecessarily with their functions**, shall

(b) competent authorities shall report to the entity in charge of the central registers any discrepancies they find between beneficial ownership information available

report to the entity in charge of the central registers any discrepancies they find between beneficial ownership information available in the central registers and the beneficial ownership information available to them.

in the central registers and the beneficial ownership information available to them.

Amendment 145
Proposal for a directive
Article 10 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall ensure that the entities in charge of the central registers verify whether beneficial ownership information held in the registers concerns persons or entities designated in relation to targeted financial sanctions. Such verification shall take place immediately upon the designation in relation to targeted financial sanctions and at regular intervals. The entities in charge of the beneficial ownership registers shall include specific mentions in the registers with regard to information on a corporate entity, legal entity or legal arrangement where:

(a) a corporate entity, legal entity or legal arrangement included in a register is subject to targeted financial sanctions;

(b) a corporate entity, legal entity or legal arrangement included in a register is controlled by a person subject to targeted financial sanctions;

(c) a beneficial owner of a corporate entity, legal entity or legal arrangement is subject to targeted financial sanctions;

The specific mention referred to in the first subparagraph of this paragraph shall remain available to any person or entity granted access under Articles 11 and 12 in the central register until the concerned targeted financial sanctions are removed.

Amendment 146
Proposal for a directive
Article 10 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. By ... [four years after the date of entry into force of this Directive] AMLA shall issue guidelines on the methods and procedures to be employed by entities in charge of central registers to verify beneficial ownership information and by obliged entities and competent authorities to identify and report discrepancies regarding beneficial ownership information.

Amendment 147
Proposal for a directive
Article 10 – paragraph 7

Text proposed by the Commission

Amendment

7. Member States shall ensure that the entity in charge of the central registers takes appropriate actions to cease the discrepancies, including amending the information included in the central registers where the entity is able to identify and verify the beneficial ownership information. A specific mention of the fact that there are discrepancies reported shall be included in the central registers **and visible at least to competent authorities and obliged entities.**

7. Member States shall ensure that the entity in charge of the central registers takes, **within 30 working days after the reporting of a discrepancy**, appropriate actions to cease the discrepancies **and ensure up-to-date information**, including amending the information included in the central registers where the entity is able to identify and verify the beneficial ownership information. A specific mention of the fact that there are discrepancies reported shall be included in the central registers **until the discrepancy is resolved and be visible to any person or entity granted access under Articles 11 and 12**

Amendment 148
Proposal for a directive
Article 10 – paragraph 8

Text proposed by the Commission

8. In the case of corporate and other legal entities, Member States shall ensure that the entity in charge of the central beneficial ownership register is empowered to carry out checks, including on-site investigations at the premises or registered office of the legal entity, in order to establish the current beneficial ownership of the entity and to verify that the information submitted to the central register is accurate, adequate and up-to-date. The right of the central register to verify such information shall not be restricted, obstructed or precluded in any manner.

Amendment

8. In the case of corporate and other legal entities, ***and legal arrangements where the trustee is an obliged entity as listed in Article 3, point (3)(a), (b) or (c) of Regulation [please insert reference to - proposal for Anti-Money Laundering Regulation - 2021/0239(COD)]***, Member States shall ensure that the entity in charge of the central beneficial ownership register is empowered to carry out checks, including on-site investigations at the premises or registered office of the legal entity, ***at the premises of relevant obliged entities as listed in Article 3, point (3)(a), (b) or (c), of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239(COD)] in accordance with national law and at the premises of the legal entities' representatives in the Union***, in order to establish the current beneficial ownership of the entity and to verify that the information submitted to the central register is accurate, adequate and up-to-date. The right of the central register to verify such information shall not be restricted, obstructed or precluded in any manner, ***and the central register shall be empowered to request information from other registers, including in other Member States and third countries, in particular through the establishment of cooperation agreements.***

Amendment 149
Proposal for a directive
Article 10 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. Member States shall ensure that entities in charge of central registers have at their disposal necessary automated technology to carry out verifications as referred to in paragraphs 5 and 5a. Those

verifications shall include, in particular, cross-checking beneficial ownership information with other public and private databases to which they have access under national law for the prevention, detection or investigation of money laundering or terrorist financing, checking supporting documents referred to in paragraph 3, detecting errors and inconsistencies, identifying patterns associated with legal entities being used for illicit purposes and carrying out occasional sample testing using a risk based approach. Those verifications shall be carried out in a way that safeguards fundamental rights, includes human oversight and avoids discriminatory outcomes.

Amendment 150
Proposal for a directive
Article 10 – paragraph 8 b (new)

Text proposed by the Commission

Amendment

8b. *Member States shall ensure that where a verification as referred to in paragraph 5 or 5a is carried out at the time of submission of beneficial ownership information, and it leads an entity in charge of a central register to conclude that there are inconsistencies or errors in the beneficial ownership information or that the beneficial ownership information otherwise does not fulfil the requirements laid down in paragraph 5, that entity in charge of a central register is able to withhold and suspend the certification of registration until the beneficial owner information provided is in order.*

Amendment 151
Proposal for a directive
Article 10 – paragraph 8 c (new)

8c. *Member States shall ensure that where a verification as referred to in paragraph 5 or 5a is carried out after the submission of beneficial ownership information, and it leads an entity in charge of a central register to conclude that there are inconsistencies or errors in the beneficial ownership information or that the beneficial ownership information otherwise does not fulfil the requirements laid down in paragraph 5, national competent authorities ensure that the legal consequence attached to the registration does not follow until the beneficial owner information provided is in order.*

Amendment 152
Proposal for a directive
Article 10 – paragraph 9

9. Member States shall ensure that the entity in charge of the central register is empowered to impose effective, proportionate and dissuasive measures or sanctions for failures to provide the register with accurate, adequate and up-to-date information about their beneficial ownership.

9. Member States shall ensure that the entity in charge of the central register is empowered to impose effective, proportionate and dissuasive measures or sanctions for failures to provide the register with accurate, adequate and up-to-date information about their beneficial ownership. ***Sanctions shall include monetary penalties. Member States shall ensure that in the event of repeated failure to provide up-to-date, accurate and adequate information, national authorities ensure that appropriate sanctions follow. In the event of repeated failures to provide up-to-date, accurate and adequate information, sanctions shall be increased to the level necessary to ensure compliance. In such event, the entity in charge of the central register shall notify the national authorities competent for imposing appropriate***

sanctions about the repeated failures.

Amendment 153
Proposal for a directive
Article 10 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

9a. By ... [two years after entry into force of this Directive], AMLA shall develop draft regulatory technical standards setting out indicators to classify the level of gravity of breaches and criteria for such repeated failures and submit them to the Commission for adoption. The Commission is empowered to supplement this Directive by adopting those regulatory standards in accordance with Articles 38 to 41 of Regulation ... [please insert reference to the AMLA Regulation - 2021/0240(COD)].

Amendment 154

Proposal for a directive
Article 10 – paragraph 10

Text proposed by the Commission

Amendment

10. Member States shall ensure that if, in the course of the checks carried out pursuant to this Article, or in any other way, the entities in charge of the beneficial ownership registers discover facts that could be related to money laundering or to terrorist financing, they shall **promptly** inform the **FIU**.

10. Member States shall ensure that if, in the course of the checks carried out pursuant to this Article, or in any other way, the entities in charge of the beneficial ownership registers discover facts that could be related to money laundering or to terrorist financing, they shall inform the **competent FIU within 48 hours of discovering such facts**

Amendment 155
Proposal for a directive
Article 10 – paragraph 10 a (new)

Text proposed by the Commission

Amendment

10a. *Member States shall ensure that entities in charge of central registers are operationally independent and autonomous and have the authority and capacity to carry out their functions free of political, government or industry influence or interference and that staff of such entities are of high integrity and appropriately skilled and maintain high professional standards, including standards of confidentiality and data protection and standards addressing conflicts of interest.*

Amendment 156
Proposal for a directive
Article 10 – paragraph 10 b (new)

Text proposed by the Commission

Amendment

10 b. *Member States shall ensure that entities in charge of central registers have in place policies and procedures to ensure that their employees or managers who report breaches of the requirements set out in this Article are legally protected in accordance with Directive (EU) 2019/1937 from being exposed to threats, retaliatory or hostile action and, in particular, adverse or discriminatory employment action.*

Amendment 157
Proposal for a directive
Article 10 – paragraph 12

Text proposed by the Commission

Amendment

12. The information referred to in paragraph 1 shall be available through the national registers and through the system of interconnection of central beneficial ownership registers for at least five years

12. The information referred to in paragraph 1 shall be available through the national registers and through the system of interconnection of central beneficial ownership registers for at least five years

and no more than 10 years after the corporate or other legal entity has been struck off from the register.

and no more than 10 years after the corporate or other legal entity has been struck off from the register. *Member States may, without prejudice to national criminal law on evidence applicable to ongoing criminal investigations and legal proceedings, allow or require the retention of such information or documents in concrete cases for a further maximum period of five years where the necessity and proportionality of such further retention have been established by the authorities competent for the prevention, detection, investigation or prosecution of suspected money laundering or terrorist financing in accordance with applicable rules.*

Amendment 158
Proposal for a directive
Article 10 – paragraph 12 a (new)

Text proposed by the Commission

Amendment

12a. AMLA shall periodically conduct peer reviews of some or all of the activities of entities in charge of central beneficial ownership registers for the purposes of assessing whether such entities have in place mechanisms to fulfil the requirements set out in this Article and whether such entities carry out checks effectively in order to establish that beneficial ownership information held in the registers is accurate, adequate and up to date

Amendment 159
Proposal for a directive
Article 11 – title

Text proposed by the Commission

Amendment

General rules regarding access to beneficial ownership registers by competent authorities, self-regulatory bodies **and**

General rules regarding access to beneficial ownership registers by competent authorities, self-regulatory bodies, obliged

obliged entities

entities *and AMLA*

Amendment 160
Proposal for a directive
Article 11 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that competent authorities have timely, unrestricted and free access to the information held in the *interconnected* central registers referred to in Article 10, without alerting the entity or arrangement concerned.

Amendment

1. Member States shall ensure that competent authorities have timely, unrestricted and free access to the information held in the central registers referred to in Article 10, *including the interconnected central registers*, without alerting the entity or arrangement concerned

Amendment 161
Proposal for a directive
Article 11 – paragraph 2

Text proposed by the Commission

2. Access to the central registers referred to in Article 10 shall be granted to FIUs, supervisory authorities, public authorities with designated responsibilities for combating money laundering or terrorist financing, as well as tax authorities and authorities that have the function of investigating or prosecuting money laundering, its predicate offences and terrorist financing, tracing and seizing or freezing and confiscating *criminal* assets. Self-regulatory bodies shall be granted access to the registers when performing supervisory functions.

Amendment

2. Access to the central registers referred to in Article 10 shall be granted to FIUs, *AMLA*, supervisory authorities, public authorities with designated responsibilities for combating money laundering or terrorist financing, *public procurement agencies* as well as tax authorities and authorities that have the function of investigating or prosecuting money laundering, its predicate offences and terrorist financing, tracing and seizing or freezing and confiscating assets. Self-regulatory bodies shall be granted access to the registers when performing supervisory functions.

Amendment 162
Proposal for a directive
Article 11 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that, when taking customer due diligence measures in accordance with Chapter III of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation], obliged entities have timely access to the information held in the interconnected central registers referred to in Article 10.

Amendment

3. Member States shall ensure that, when taking customer due diligence measures in accordance with Chapter III of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation], obliged entities **and agents or external service providers to which tasks are outsourced in accordance with Regulation ... [please refer to AML Regulation - 2021/0239(COD)]** have timely, **unrestricted and free** access to the information held in the interconnected central registers referred to in Article 10.

In accordance with Chapter IV of Regulation (EU) 2016/679, the obliged entity shall remain fully liable for any action of agents or external service providers to which activities are outsourced when those agents or external service providers access the information held in the interconnected central registers referred to in Article 10.

The obliged entity shall obtain prior authorisation from the data protection supervisory authority in relation to access to a register by an agent or external service provider for the duration of the outsourcing contract between the obliged entities and the agents or external service providers. The data protection supervisory authority shall respond in a timely manner and no later than within two months. If no response is given within that time limit, access shall be deemed to have been granted.

The entity in charge of the central register shall suspend access to the register to obliged entities or agents or external service providers to which tasks are outsourced, in the event of [a risk of a serious failure to comply with the purposes for which access was granted] and or to comply with their obligations under Regulation (EU) 2016/679]. Member States shall ensure that such a

suspension can be reviewed by the relevant administrative or judicial authorities.”

Amendment 163
Proposal for a directive
Article 11 – paragraph 4

Text proposed by the Commission

4. By [3 months after the date of transposition of this Directive], Member States shall notify to the Commission the list of competent authorities and self-regulatory bodies and the categories of obliged entities that were granted access to the registers and the type of information available to obliged entities, ***as well as the beneficial ownership information that can be accessed by the public pursuant to Article 12***. Member States shall update such notification when changes to the list of competent authorities or categories of obliged entities ***or to the extent of access granted to obliged entities or the public occur***. The Commission shall make the information on the access by competent authorities and obliged entities, including any change to it, available to the other Member States.

Amendment 164
Proposal for a directive
Article 12 – title

Text proposed by the Commission

Specific access rules to beneficial ownership registers for the ***public***

Amendment 165

Proposal for a directive
Article 12 – paragraph 1 – introductory part

Amendment

4. By [3 months after the date of transposition of this Directive], Member States shall notify to the Commission the list of competent authorities and self-regulatory bodies and the categories of obliged entities that were granted access to the registers and the type of information available to obliged entities. Member States shall update such notification when changes to the list of competent authorities or categories of obliged entities. The Commission shall make the information on the access by competent authorities and obliged entities, including any change to it, available to the other Member States ***and AMLA***.

Amendment

Specific access rules to beneficial ownership registers for the ***persons having a legitimate interest***

Text proposed by the Commission

1. Member States shall ensure that any ***member of the general public has access to the following*** information ***held*** in the ***interconnected*** central registers referred to in Article 10:

Amendment 166
Proposal for a directive
Article 12 – paragraph 1 – point a

Text proposed by the Commission

(a) in the case of legal entities, ***at least*** the name, ***the*** month and year of birth ***and*** the country of residence and nationality of the beneficial owner ***as well as*** the nature and extent of the beneficial interest held;

Amendment 167
Proposal for a directive
Article 12 – paragraph 1 – point b

Text proposed by the Commission

(b) ***in case of express trusts or similar legal arrangements***, the name, ***the*** month and year of birth ***and the*** country of residence and nationality of the ***beneficial owner as well as the nature and extent of the beneficial interest held, provided that a legitimate interest can be demonstrated.***

Amendment

1. Member States shall ensure that any ***natural or legal person having a legitimate interest in accessing information on beneficial owners has access***, in the central registers referred to in Article 10, ***including the interconnected central registers, to:***

Amendment

(a) in the case of ***corporate entities, legal entities or legal arrangements***, the name, month and year of birth, the country of residence and nationality of the beneficial owner, the nature and extent of the beneficial interest held, ***the date the beneficial owner became beneficial owner, data on the past beneficial owners, and contact details of the corporate entity, legal entity, express trust or similar legal arrangements, or contact details of the trustee or person holding an equivalent position.***

Amendment

(b) ***where no beneficial owner has been identified, the justification provided for there being no beneficial owner or for it not being possible to identify the beneficial owner, and*** the name, month and year of birth, country of residence and nationality of the ***natural person or persons who hold the position of senior managing official or senior managing***

officials in the corporate or legal entity, as referred to in Article 10(3)(b).

Amendment 168
Proposal for a directive
Article 12 – paragraph 2

Text proposed by the Commission

2. *Member States may choose to make beneficial ownership information held in their central registers available to the public on the condition of authentication using electronic identification means and relevant trust services as set out in Regulation (EU) 910/2014 of the European Parliament and of the Council⁴⁶ and the payment of a fee, which shall not exceed the administrative costs of making the information available, including costs of maintenance and developments of the register.*

Amendment

2. *At least persons that belong to any of the following groups shall be considered to have a legitimate interest in accessing the information on beneficial owners as referred to in paragraph 1:*

(a) persons acting for the purpose of journalism, reporting or any other form of expression in the media that are connected with, or that intend to carry out such activities related to, the prevention or combating of money laundering, its predicate offences or terrorist financing;

(b) civil society organisations that are connected with, or that intend to carry out activities related to, the prevention and combating of money laundering, its predicate offences or terrorist financing;

(c) higher education institutions as defined in Article 2, point 19, of Regulation (EU) 2021/817 of the European Parliament and of the Council^{1a}, that carry out, or that intend to carry out, activities connected with to the prevention and combating of money laundering, or its predicate offences or terrorist financing;

(d) persons who are likely to enter into transactions or business relationships with a corporate entity, legal entity or

legal arrangement;

(e) persons who are likely to perform a task or engage in a business relationship that requires them to assess whether a corporate entity, legal entity or legal arrangements, or its beneficial owner is subject to targeted financial sanctions;

(f) financial institutions, external agents and service providers and authorities in so far as they are involved in the prevention or combating of money laundering, or its predicate offences or terrorist financing, and do not already have such access pursuant to Article 11.

⁴⁶ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

^{1a} Regulation (EU) 2021/817 of the European Parliament and of the Council of 20 May 2021 establishing Erasmus+: the Union Programme for education and training, youth and sport and repealing Regulation (EU) No 1288/2013 (OJ L 189, 28.5.2021, p. 1).

Amendment 169
Proposal for a directive
Article 12 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Members States shall ensure timely access for natural and legal persons belonging to the categories set out in paragraph 2 to information as referred to in paragraph 1 following the assessment by the authorities in charge of the central registers, such assessment to be done individually on the basis of a declaration of honour and proof of identification submitted to those authorities. If no decision on access has been communicated in writing to the person applying for access within ten days of the submission of the declaration of honour and the proof of identification, access shall be considered to have been

granted and shall be given automatically.

For natural or legal person claiming legitimate interest based on grounds other than belonging to one of the categories set out in paragraph 2, access to information as referred to in paragraph 1 shall be granted following the assessment by the authorities in charge of the central registers as to whether the requirement for having legitimate interest is met. That assessment shall be done on a case by case basis, taking into account the grounds provided in the access request and the supporting documents. Those authorities shall take a decision to grant or refuse access in a timely manner and in any event within one month of the submission of the access request.

Amendment 170
Proposal for a directive
Article 12 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. *A decision granting access as referred to in paragraph 2a, first subparagraph, including a decision given automatically ten days after submission of a declaration of honour and proof of identification, shall be valid for a period of at least 2,5 years. Such a decision shall be recognised as proof of having a legitimate interest in all Member States and therefore give access to information as referred to in paragraph 1 for the same period in all Member States.*

Amendment 171
Proposal for a directive
Article 12 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. *Member States may decide to automatically renew access to information*

granted under paragraph 2a. Natural and legal person having been granted such access shall notify authorities in charge of the central registers of any change affecting their right to access information as referred to in paragraph 1.

Amendment 172
Proposal for a directive
Article 12 – paragraph 2 d (new)

Text proposed by the Commission

Amendment

2d. In case of proven or documented abuse or ongoing judicial proceedings related to the illegal use of their systems by a person having been granted access under paragraph 2a, authorities in charge of the central registers in any of the Member States concerned may immediately suspend or revoke that person's access to their own registers, notify the competent authorities in other Member States concerned and submit a request for suspension of access to the authority that granted the access right. Any notification or request for suspension in view of ongoing judicial proceedings shall be duly justified by the requesting competent authority. A revocation or suspension shall be communicated to the affected person in writing, through the communication channel used for the submissions referred to in paragraph 1a, in a timely manner and no later than ten days from the decision to revoke or suspend. Member States shall provide for appropriate legal remedies in case of revocation or suspension of access and communicate them to the affected person.

Amendment 173
Proposal for a directive
Article 12 – paragraph 2 e (new)

Text proposed by the Commission

Amendment

2e. Member States shall provide for appropriate measures, in accordance with national law, in case of a false declaration of honour submitted to authorities in charge of the central registers for the purpose of gaining access to as referred to in paragraph 1.

Amendment 174
Proposal for a directive
Article 12 – paragraph 2 f (new)

Text proposed by the Commission

Amendment

2f. The Commission shall adopt implementing acts to issue a common request form and template for the declaration of honour referred to in paragraph 2a with regard to professional qualifications, professional experience, public activity, membership in any relevant professional association or similar body, or any other valid documentation allowing for the verification that a natural or legal person belong to the categories set out in paragraph 2 as well as proof of identification such as travel or identity documents, the person identification data as defined in Article 3, point (3), of Regulation (EU) No 910/2014 of the European Parliament and of the Council^{1a}, or any other valid documentation allowing the identification of the natural or legal person requesting access. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

The Commission shall adopt implementing acts to specify the common format of the decision referred to in paragraph 2a, with a view to ensure mutual recognition of those decisions by

the central registers in other Member States as referred to in paragraph 2b. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).

^{1a} Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

Amendment 175
Proposal for a directive
Article 12 – paragraph 2 g (new)

Text proposed by the Commission

Amendment

2g. The information set out in paragraph 1, point (a), shall not be used, directly or indirectly, for marketing or commercial purposes, except when those purposes relate directly to the reasons why a legitimate interest in accessing information on beneficial owners has been found to exist. Member States shall make access to that information subject to a signed statement to that effect.

Amendment 176
Proposal for a directive
Article 12 – paragraph 2 h (new)

Text proposed by the Commission

Amendment

2h. Member States may choose to make beneficial ownership information held in their central registers available on the condition of authentication using electronic identification means and relevant trust services as defined in Article 3, points (2) and (16), respectively, of Regulation (EU) 910/2014 and the

payment of a fee which shall not exceed the direct costs of making the information available. Where the access to beneficial ownership information is provided online or in electronic form, Member States shall not require the payment of any fees.

Amendment 177
Proposal for a directive
Article 12 – paragraph 2 i (new)

Text proposed by the Commission

Amendment

2i. Member States shall not impose legal or practical restrictions to access to information as referred to in paragraph 1 on the basis of the geographical establishment or location, legal or organisational status or nationality of the natural or legal person requesting access, or of the means or conditions of authentication.

Amendment 178
Proposal for a directive
Article 12 – paragraph 2 j (new)

Text proposed by the Commission

Amendment

2j. Member States shall ensure that authorities in charge of the central registers keep a log of when a person accesses the register. Member States shall ensure that authorities in charge of the central registers do not monitor or keep any log regarding the specific information in the register consulted by persons having been granted access under paragraph 2a.

Amendment 179
Proposal for a directive
Article 12 a (new)

Article 12a

Searches in Beneficial Ownership Register

- 1. The European Central Platform shall serve as a central search service, making available all information related to beneficial ownership.***
- 2. Competent authorities, AMLA, self-regulatory bodies and obliged entities shall be able to make searches of beneficial ownership information as set out in Article 11 through the European Central Platform. Persons having legitimate interest pursuant to Article 12 shall be able to make searches of the beneficial ownership information as set out in Article 12 through the European Central Platform.***
- 3. The following harmonised search criteria shall be useable for searches referred to in paragraph 2:***
 - (a) with regard to companies or other legal entities, trusts or similar arrangements alternatively:***
 - (i) name of the legal entity, trust or similar arrangement;***
 - (ii) national registration number.***
 - (b) with regard to persons as beneficial owners alternatively:***
 - (i) first name and surname of the beneficial owner;***
 - (ii) month and year of birth of the beneficial owner;***
 - (c) with regard to nominee shareholders and nominee directors first name and surname of the nominee shareholder and nominee director;***

Member States may make available further search criteria in addition to the ones set out in the first subparagraph..

3. The European Central Platform shall allow the reporting of discrepancies as referred to in Article 10(5).

Amendment 180
Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

In exceptional circumstances to be laid down in national law, where the access referred to in Articles 11(3) and 12(1) would expose the beneficial owner to disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, ***or where the beneficial owner is a minor or otherwise legally incapable***, Member States may provide for an exemption from such access to all or part of the personal information on the beneficial owner on a case-by-case basis. Member States shall ensure that those exemptions are granted upon a detailed evaluation of the exceptional nature of the circumstances. Rights to an administrative review of the decision granting an exemption and to an effective judicial remedy shall be guaranteed. A Member State that has granted exemptions shall publish annual statistical data on the number of exemptions granted and reasons stated and report the data to the Commission.

Amendment 181
Proposal for a directive
Chapter II – Section 2 – title

Text proposed by the Commission

Bank account information

Amendment

In exceptional circumstances to be laid down in national law, where the access referred to in Articles 11(3) and 12(1) would expose the beneficial owner to disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, Member States may ***shall*** provide for an exemption from such access to all or part of the personal information on the beneficial owner on a case-by-case basis. Member States shall ensure that those exemptions are granted upon a detailed evaluation of the exceptional nature of the circumstances. Rights to an administrative review of the decision granting an exemption and to an effective judicial remedy shall be guaranteed. ***Member States shall ensure that exemptions granted are reviewed every two years.*** A Member State that has granted exemptions shall publish annual statistical data on the number of exemptions granted and reasons stated and report the data to the Commission.

Amendment

Bank account ***and custodial crypto-asset wallet*** information

Amendment 182
Proposal for a directive
Article 14 – title

Text proposed by the Commission

Bank account registers and electronic data retrieval systems

Amendment

Bank account ***and custodial crypto-asset wallet*** registers and electronic data retrieval systems

Amendment 183
Proposal for a directive
Article 14 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall put in place centralised automated mechanisms, such as a central registers or central electronic data retrieval systems, which allow the identification, in a timely manner, of any natural or legal persons holding or controlling payment accounts and bank accounts identified by IBAN, as defined by Regulation (EU) No 260/2012 of the European Parliament and of the Council⁴⁷, and safe-deposit boxes held by a credit institution within their territory.

Amendment

1. Member States shall put in place centralised automated mechanisms, such as a central registers or central electronic data retrieval systems, which allow the identification, in a timely manner, of any natural or legal persons holding or controlling payment accounts and bank accounts identified by IBAN, as defined by Regulation (EU) No 260/2012 of the European Parliament and of the Council⁴⁷, ***including virtual IBAN accounts, securities accounts*** and safe-deposit boxes held by a credit ***or financial*** institution within their territory, ***and custodial crypto-asset wallets***.

⁴⁷ Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).

⁴⁷ Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22).

Amendment 184
Proposal for a directive
Article 14 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the information held in the centralised mechanisms referred to in paragraph 1 is directly accessible in an immediate and unfiltered manner to national FIUs. The information shall also be accessible to national competent authorities for fulfilling their obligations under this Directive.

Amendment

2. Member States shall ensure that the information held in the centralised mechanisms referred to in paragraph 1 is directly accessible in an immediate and unfiltered manner to national FIUs **and AMLA**. The information shall also be accessible **in a timely manner** to national competent authorities for fulfilling their obligations under this Directive **and Regulation ... [add reference to AML Regulation - 2021/0239(COD)]**.

Amendment 185
Proposal for a directive
Article 14 – paragraph 3 – point a

Text proposed by the Commission

(a) for the customer-account holder and any person purporting to act on behalf of the customer: the name, complemented by either the other identification data required under Article 18(1) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] or a unique identification number;

Amendment

(a) for the customer-account **and securities-account** holder and any person purporting to act on behalf of the customer: the name, complemented by either the other identification data required under Article 18(1) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] or a unique identification number

Amendment 186
Proposal for a directive
Article 14 – paragraph 3 – point b

Text proposed by the Commission

(b) for the beneficial owner of the customer-account holder: the name, complemented by either the other identification data required under Article 18(1) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] or a unique identification number;

Amendment

(b) for the beneficial owner of the customer-account **or securities-account** holder: the name, complemented by either the other identification data required under Article 18(1) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] or a unique identification number;

Amendment 187
Proposal for a directive
Article 14 – paragraph 3 – point c

Text proposed by the Commission

(c) for the bank or payment account:
the IBAN number and the date of account
opening and closing;

Amendment

(c) for the bank or payment account:
the IBAN number, ***or an equivalent
identification number***, and the date of
account opening and closing, ***where
applicable***;

Amendment 188
Proposal for a directive
Article 14 – paragraph 3 – point d a (new)

Text proposed by the Commission

Amendment

***(da) for the custodial crypto-asset
wallet holder and any person purporting
to act on behalf of the customer: the
name, complemented by either the other
identification data required under article
18(1) of Regulation ... [please insert
reference to the AMLR -
2021/0239(COD)] or a unique
identification number;***

Amendment 189
Proposal for a directive
Article 14 – paragraph 3 – point d b (new)

Text proposed by the Commission

Amendment

***(db) for the beneficial owner of the
custodial crypto-asset wallet holder: the
name, complemented by either the other
identification data required under article
18(1) of Regulation ... [please insert
reference to the AMLR -
2021/0239(COD)] or a unique
identification number.***

Amendment 190
Proposal for a directive
Article 14 – paragraph 4

Text proposed by the Commission

4. Member States may require other information deemed essential for FIUs and other competent authorities for fulfilling their obligations under this Directive to be accessible and searchable through the centralised mechanisms.

Amendment 191
Proposal for a directive
Article 14 – paragraph 6 – introductory part

Text proposed by the Commission

6. Member States shall ensure that the information referred to in paragraph 3 is available through the single access point interconnecting the centralised automated mechanisms. Member States shall take adequate measures to ensure that only the information referred to in paragraph 3 that is up to date and corresponds to the actual bank account information is made available through their national centralised automated mechanisms and through the single access point interconnecting the centralised automated mechanisms referred to in this paragraph. The access to that information shall be granted in accordance with data protection rules.

Amendment

4. Member States may require other information deemed essential for FIUs, **AMLA** and other competent authorities for fulfilling their obligations under this Directive to be accessible and searchable through the centralised mechanisms.

Amendment

6. Member States shall ensure that the information referred to in paragraph 3 is available through the single access point interconnecting the centralised automated mechanisms. Member States shall take adequate measures to ensure that only the information referred to in paragraph 3 that is up to date and corresponds to the actual bank account, ***securities account or custodial crypto-asset wallet*** information is made available through their national centralised automated mechanisms and through the single access point interconnecting the centralised automated mechanisms referred to in this paragraph. ***Member States shall take adequate measures to ensure that information on holders of closed customer-accounts, bank or payment accounts, custodial crypto-asset wallets and safe-deposit boxes is made available through their national centralised automated mechanisms and through the single access point interconnecting the centralised automated mechanisms for a period of five years after the closure of the account or wallet. Member States may, without prejudice to national criminal law on evidence applicable to ongoing***

criminal investigations and legal proceedings, allow or require the retention of such information or documents in concrete cases for a further maximum period of five years where the necessity and proportionality of such further retention have been established for the prevention, detection, investigation or prosecution of suspected money laundering or terrorist financing. The access to that information shall be granted in accordance with data protection rules.

Amendment 192
Proposal for a directive
Article 14 – paragraph 7 – introductory part

Text proposed by the Commission

7. National FIUs shall be granted immediate and unfiltered access to the information on payment and bank accounts and safe-deposit boxes in other Member States available through the single access point interconnecting the centralised automated mechanisms. Member States shall cooperate among themselves and with the Commission in order to implement this paragraph.

Amendment

7. National FIUs ***and AMLA*** shall be granted immediate and unfiltered access to the information on payment and bank accounts and safe-deposit boxes ***referred in this Article in other Member States available through the single access point interconnecting the centralised automated mechanisms.*** ***National competent authorities shall be granted access in a timely manner to the information on payment and bank accounts and safe-deposit boxes referred in this Article*** in other Member States available through the single access point interconnecting the centralised automated mechanisms. Member States shall cooperate among themselves and with the Commission in order to implement this paragraph.

Amendment 193
Proposal for a directive
Article 14 – paragraph 7 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that the staff of the national FIUs maintain high

Amendment

Member States shall ensure that the staff of the national FIUs ***and competent***

professional standards of confidentiality and data protection, are of high integrity and are appropriately skilled.

authorities entitled to access to information under the first subparagraph, maintain high professional standards of confidentiality and data protection, are of high integrity and are appropriately skilled.

Amendment 194
Proposal for a directive
Article 14 – paragraph 8

Text proposed by the Commission

8. Member States shall ensure that technical and organisational measures are put in place to ensure the security of the data to high technological standards for the purposes of the exercise by FIUs of the power to access and search the information available through the single access point interconnecting the centralised automated mechanisms in accordance with paragraphs 5 and 6.

Amendment

8. Member States shall ensure that technical and organisational measures are put in place to ensure the security of the data to high technological standards for the purposes of the exercise by FIUs ***and AMLA*** of the power to access and search the information available through the single access point interconnecting the centralised automated mechanisms in accordance with paragraphs 5 and 6.

Amendment 195
Proposal for a directive
Article 15 – paragraph 1 – point e

Text proposed by the Commission

(e) the technical modalities to implement the different types of access to information on beneficial ownership in accordance with Articles 11 and 12 of this Directive, including the authentication of users through the use of electronic identification means and relevant trust services as set out in Regulation (EU) 910/2014;

Amendment

(e) the technical modalities to implement the different types of access to information on beneficial ownership in accordance with Articles 11 and 12 of this Directive, including the authentication of users through the use of electronic identification means and relevant trust services as set out in Regulation (EU) 910/2014, ***in a way that ensures that there are no geographical or other restrictions preventing access to persons granted access under Article 12;***

Amendment 196
Proposal for a directive
Article 15 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) the payment modalities where access to beneficial ownership information is subject to the payment of a fee according to Article 12(2) taking into account available payment facilities such as remote payment transactions.

deleted

**Amendment 197
Proposal for a directive
Chapter II – Section 3 – title**

Text proposed by the Commission

Amendment

Real estate *registers*

Access for competent authorities to information on land and real estate and certain goods

**Amendment 198
Proposal for a directive
Article 16 – title**

Text proposed by the Commission

Amendment

Real estate *registers*

Access to land and real estate information

**Amendment 199
Proposal for a directive
Article 16 – paragraph 1 – introductory part**

Text proposed by the Commission

Amendment

1. Member States shall provide competent authorities with access to information which allows the identification in a timely manner of any natural or legal person owning real estate, **including** through registers or electronic data retrieval systems where **such registers or systems are** available. Competent authorities shall also have access to information allowing the identification and analysis of transactions involving real

1. Member States shall provide competent authorities with access **via a single access point in each Member State** to information which allows the identification in a timely manner of any natural or legal person owning **land or** real estate. **Access shall be granted** through **public** registers or electronic data retrieval systems, **provided that interoperability can be ensured**. Where **real estate is owned by a legal person or arrangement, the**

estate, including their economic value and details of the natural or legal persons involved in those transactions including, **where available**, whether the natural or legal person owns, sells or acquires real estate on behalf of a legal arrangement.

information on the beneficial owner shall be available, either directly in the register or retrieval system, or in the beneficial ownership register referred to in Article 10, including where the legal person is a foreign legal entity or arrangement, as required under Article 48 of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239(COD)]. Competent authorities **other than FIUs** shall also have **timely** access to information allowing the identification and analysis of transactions involving **land or** real estate, including their economic value, **the source of funds** and **the** details of the natural or legal persons involved in those transactions including, whether the natural or legal person owns, sells or acquires **land or** real estate on behalf of a legal arrangement.

Amendment 200
Proposal for a directive
Article 16 – paragraph 1 – subparagraph 1

Text proposed by the Commission

FIUs shall be granted direct **and** immediate access to the information referred to in the first subparagraph.

Amendment

FIUs and AMLA shall be granted direct, immediate, **unrestricted and free** access to the information referred to in the first subparagraph

Amendment 201
Proposal for a directive
Article 16 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. By ... [three years after the date of transposition of this Directive], Member States shall ensure that information referred to in paragraph 1 is held in a register or electronic data retrieval system in machine-readable format. That information may be collected using national systems.

Amendment 202
Proposal for a directive
Article 16 a (new)

Text proposed by the Commission

Amendment

Article 16a

Implementing act for the interconnection of land and real estate single access point

1. The Member States' single access points referred to in Article 16(1) shall be interconnected via the European real estate data single access point (E-RED) to be developed and operated by the Commission by ... [four years after the date of entry into force of this Directive]

2. The Commission is empowered to adopt, by means of implementing acts, technical specifications and procedures necessary to provide for the interconnection of Member States' single access point via E-RED in accordance with Article 16 with regard to:

(a) the technical data necessary for the E-RED system to perform its functions and the method of storage, use and protection of that technical data;

(b) the common criteria according to which land and real estate information shall be available through the system of interconnection of registers and retrieval systems;

(c) the technical details on how land and real estate information shall be made available;

(d) the technical conditions of availability of services provided by the system of interconnection of registers and retrieval systems;

Those implementing acts shall be adopted in accordance with the examination

procedure referred to in Article 54(2).

3. When adopting the implementing acts referred to in paragraph 2, the Commission shall take into account proven technology and existing practices. The Commission shall ensure that the system required to be developed and operated for the interconnection does not incur costs above what is absolutely necessary in order to implement this Directive.

**Amendment 203
Proposal for a directive
Chapter II – Section 3 a (new) – title (new)**

Text proposed by the Commission

Amendment

Section 3a

Access for competent authorities to information on certain goods

**Amendment 204
Proposal for a directive
Article 16 b (new)**

Text proposed by the Commission

Amendment

Article 16b

Access to beneficial ownership information of motor vehicles, aircrafts and watercrafts

1. Member States shall provide competent authorities with timely access to information which allows the identification of any natural person or the beneficial owner of any legal person owning motor vehicles, aircrafts or watercrafts whose estimated value is above EUR 200 000 or the equivalent in national currency.

2. Member States shall ensure that information referred to in paragraph 1 is available to competent authorities, either

through registers or electronic data retrieval systems, where such registers or systems are available, or through other systems which are deemed as efficient, and that ensure that the data is available in a machine-readable and interoperable format.

FIUs and AMLA shall be granted direct and immediate access to the information referred to in paragraph 1 for the purpose of the prevention and combating of money laundering, any of its associated predicate offences or terrorist financing.

3. Member States shall ensure that where the value of motor vehicles, aircrafts or watercrafts is stated or estimated above EUR 2 000 000 EUR or the equivalent in national currency, information set out in the purchase contract or other proof of transaction, including at least the identification of all parties involved in the transaction, the means of payment and the source of funds, is included and available as part of the information referred to in paragraph 1 and can be provided to competent authorities and AMLA without delay, when requested by retrieval systems, or other systems provided by Member States under paragraph 2.

4. Where motor vehicles, aircrafts or watercrafts are owned by a legal person or arrangement, information on the beneficial owner shall be available, either directly in the registers or systems referred to in paragraph 2, or in the beneficial ownership register referred to in Article 10, including where the legal person is a foreign legal entity or arrangement, as required under Article 48 of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239 (COD)].

5. By ... [three months after the date of transposition of this Directive], the Member States shall provide the Commission with a list of the competent

authorities that have been granted access to the registers or systems referred to in paragraph 2 and the type of information available to them. Member States shall update the list provided to the Commission when there are changes to the competent authorities granted access or to the type of information available. The Commission shall make that information, including any change to it, available to the other Member States.

Amendment 205
Proposal for a directive
Article 16 c (new)

Text proposed by the Commission

Amendment

Article 16c

Access to information on goods in freezones

- 1. Member States shall provide competent authorities with access via a single access point in each Member State to information which allows the identification in a timely manner of any natural, legal person or legal arrangement owning any tangible movable good stored, traded or transiting in a free zone or customs warehouse in the Union, through either registers or electronic data retrieval systems, provided that interoperability can be ensured. Where those goods are owned by a legal person or arrangement, information on the beneficial owner shall be available, either directly in those registers or retrieval systems, or in the beneficial ownership register referred to in Article 10, including where the legal person is a foreign legal entity or arrangement, as required under Article 48 of Regulation ... [please insert reference to Anti-Money Laundering Regulation- 2021/0239 (COD)].**
- 2. By ... [three years after the date of transposition of this Directive], the**

Member States shall ensure that the information referred to in paragraph 1 is held in a register or electronic data retrieval system in machine-readable format. That information may be collected using with national systems.

3. By ... [three months after the date of transposition of this Directive], Member States shall provide the Commission a list of the competent authorities that have been granted access to the registers or systems referred to in paragraph 1 and the type of information available to them. Member States shall update the list provided to the Commission when there are changes to the competent authorities granted access or to the type of information available. The Commission shall make that information, including any change to it, available to the other Member States.

4. Member States shall ensure that the information referred to in paragraph 1 is directly accessible in an immediate and unfiltered manner to national FIUs and AMLA for the purpose of the prevention and combating of money laundering, any of its associated predicate offences or terrorist financing. The information shall also be accessible in a timely manner to national competent authorities for fulfilling their obligations under this Directive and Regulation ... [add reference to AML Regulation - 2021/0239 (COD)].

5. By ... [one year after the date of transposition of this Directive] the Member States' single access points referred to in paragraph 1 shall be interconnected via the free zone goods' information single access point (FZGI) to be developed and operated by the Commission.

6. Member States shall ensure that the information referred to in paragraph 1 is available through FZGI. Member States shall ensure that the

information referred to in paragraph 1 is up to date and that information is made available through their national single access points and through FZGI. Member States shall ensure that the historical information on goods is made available through their national single access points and through FZGI for a maximum period of five years after the end of the storing, transiting or trading.

7. National FIUs shall be granted immediate and unfiltered access to the information referred to in paragraph 1 in other Member States through FZGI. National competent authorities shall be granted access in a timely manner to that information in other Member States through FZGI. Member States shall cooperate among themselves and with the Commission in order to implement this paragraph.

Amendment 206
Proposal for a directive
Article 17 – paragraph 1

Text proposed by the Commission

1. Each Member State shall establish an FIU in order to prevent, detect and effectively combat money laundering and terrorist financing.

Amendment

1. Each Member State shall establish an FIU in order to prevent, detect, **report** and effectively combat money laundering and terrorist financing.

Amendment 207
Proposal for a directive
Article 17 – paragraph 2

Text proposed by the Commission

2. The FIU shall be the single central national unit responsible for receiving and analysing suspicious transactions and other information relevant to money laundering, its predicate offences or terrorist financing submitted by obliged entities in accordance with Article 50 or reports submitted by

Amendment

2. The FIU shall be the single central national unit responsible for receiving and analysing suspicious transactions and other information relevant to money laundering, its predicate offences or terrorist financing submitted by obliged entities in accordance with Article 50 or reports submitted by

obliged entities in accordance with Article 59(4), point (b), of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and by customs authorities pursuant to Article 9 of Regulation (EU) 2018/1672.

obliged entities in accordance with Article 59(4), point (b), of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and ***other information relevant to money laundering, its predicate offences or terrorist financing, as well as information*** by customs authorities pursuant to Article 9 of Regulation (EU) 2018/1672.

Amendment 208
Proposal for a directive
Article 17 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. ***FIUs shall participate in, and contribute to, the activities of the Support and Coordination Mechanism of FIUs, in accordance with Regulation ... [please insert reference to the AMLA Regulation-2021/0240 (COD)]. The FIUs shall cooperate effectively with AMLA in accordance with Article 22a of this Directive.***

Amendment 209
Proposal for a directive
Article 17 – paragraph 3 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) a strategic analysis addressing money laundering and terrorist financing trends and patterns.

(b) a ***continuous*** strategic analysis addressing money laundering and terrorist financing trends and patterns.

Amendment 210
Proposal for a directive
Article 17 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

By [***1 year*** after the ***date of transposition*** of this Directive], AMLA shall issue

By ...[***two years*** after the ***entry into force*** of this Directive], AMLA shall issue

guidelines addressed to FIUs on the nature, features and objectives of operational and of strategic analysis.

guidelines addressed to FIUs on the nature, features and objectives of operational and of strategic analysis **and, in particular, on the need to further provide that analysis to the competent authorities responsible for combating money laundering, related predicate offences and terrorist financing.**

Amendment 211
Proposal for a directive
Article 17 – paragraph 4 – introductory part

Text proposed by the Commission

4. Each FIU shall be operationally independent and autonomous, which means that it shall have the authority and capacity to carry out its functions freely, including the ability to take autonomous decisions to analyse, request and disseminate specific information. It shall be free from any undue political, government or industry influence or interference.

Amendment

4. Each FIU shall be operationally independent and autonomous, which means that it shall have the authority and capacity to carry out its functions freely, including the ability to take autonomous decisions to analyse, request and, **in accordance with paragraph 3**, disseminate specific information **in accordance with applicable Union law**. It shall be free from any undue political, government or industry influence or interference.

Amendment 212
Proposal for a directive
Article 17 – paragraph 5

Text proposed by the Commission

5. Member States shall provide their FIUs with adequate financial, human and technical resources in order to fulfil their tasks. FIUs shall be able to obtain and deploy the resources needed to carry out their functions. ***Their staff shall be of high integrity and appropriately skilled, and maintain high professional standards.***

Amendment

5. Member States shall provide their FIUs with adequate financial, human and technical resources in order to fulfil their tasks. FIUs shall be able to obtain and deploy the resources needed to carry out their functions.

Amendment 213
Proposal for a directive
Article 17 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall ensure that the staff of their FIUs maintain high professional standards, including high professional standards of confidentiality and data protection, and be of high integrity and appropriately skilled, including in detecting biases in, and in the ethical use of, big data sets. The staff of FIUs shall not be placed in a situation in which a conflict of interest exists or could be perceived to exist. AMLA shall adopt guidelines to specify the circumstances in which such a conflict of interest exists or could be perceived to exist.

Amendment 214
Proposal for a directive
Article 17 – paragraph 6

Text proposed by the Commission

Amendment

6. Member States shall ensure that FIUs have rules in place governing the security and confidentiality of information.

6. Member States shall ensure that FIUs have rules in place governing the security and **protection of personal data and** confidentiality of information, **including when disseminating information under paragraph 3.**

Amendment 215
Proposal for a directive
Article 17 – paragraph 7

Text proposed by the Commission

Amendment

7. Each Member **States** shall ensure that its FIU is able to make arrangements or engage independently with other domestic competent authorities pursuant to Article 45 on the exchange of information.

7. Each Member **State** shall ensure that its FIU is able to make arrangements or engage independently with other domestic competent authorities pursuant to Article 45 on the exchange of information.

Amendment 216
Proposal for a directive
Article 17 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. AMLA shall coordinate the organisation of periodical peer reviews of FIUs for the purpose of assessing whether the requirements set out in this Article have been fulfilled, including having adequate financial, human and technical resources, in accordance with article 37a of Regulation ... [please insert reference to AMLA Regulation - 2021/0240 (COD)]. Where a peer review indicates substantial shortcomings in the operation of an FIU, AMLA shall issue recommendations to the FIU and the Member State concerned to address the shortcomings identified. The recommendations shall be transmitted to the European Parliament, the Council and the Commission.

Amendment 217
Proposal for a directive
Article 17 a (new)

Text proposed by the Commission

Amendment

Article 17a

Fundamental Rights Officer

- 1. Every FIU shall designate a Fundamental Rights Officer. The Fundamental Rights Officer may be a member of the existing staff of the FIU who received special training in fundamental rights law and practice.**
- 2. The Fundamental Rights Officer shall perform the following tasks:**
 - (a) advise the FIU where he or she deems it necessary, or on request, on activities of the FIU, which have impact on fundamental rights, without impeding or delaying those activities;**

(b) support the FIU's staff in ensuring compliance with fundamental rights;

(c) provide non-binding opinions on working arrangements relevant to his or her field of competence, with the view to enhance the FIU's compliance with fundamental rights;

(d) inform the management about possible violations of fundamental rights in the course of the FIU's activities;

(e) promote the FIU's respect of fundamental rights in the performance of its tasks and activities.

3. The FIU shall ensure that the Fundamental Rights Officer does not receive any instructions regarding the exercise of his or her tasks. This should not prevent the Fundamental Rights Officer from seeking guidance from relevant actors on the performance of his or her tasks where he or she deems it necessary.

4. The Fundamental Rights Officer shall report directly to the management of the FIU.

Amendment 218
Proposal for a directive
Article 18 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that their FIUs have:

Amendment

1. Member States shall ensure that FIUs, regardless of their organisational status, have access to the information that they require to fulfil their tasks properly, including financial, administrative and law enforcement information. Member States shall ensure that their FIUs have at least:

Amendment 219
Proposal for a directive
Article 18 – paragraph 1 – point a – introductory part

Text proposed by the Commission

Amendment

(a) immediate and, **with the exception of point (ii)**, direct access to **at least** the following financial information:

(a) immediate and, direct access to the following financial information:

Amendment 220

Proposal for a directive

Article 18 – paragraph 1 – point a – point ii

Text proposed by the Commission

Amendment

(ii) **information on wire transfers;**

deleted

Amendment 221

Proposal for a directive

Article 18 – paragraph 1 – point a – point iii

Text proposed by the Commission

Amendment

(iii) information from obliged entities;

(iii) information from obliged entities, **including information on wire transfers;**

Amendment 222

Proposal for a directive

Article 18 – paragraph 1 – point b – introductory part

Text proposed by the Commission

Amendment

(b) immediate and, with the exception of **point (xiv)**, direct access to at least the following administrative information:

(b) immediate and, with the exception of **points (ia) and (xiv)**, direct access to at least the following administrative information:

Amendment 223

Proposal for a directive

Article 18 – paragraph 1 – point b – point i a (new)

Text proposed by the Commission

Amendment

(ia) information referred to in Article 8(3a) of Council Directive 2011/16/EU^{1a};

^{1a} Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 064 11.3.2011, p. 1).

Amendment 224
Proposal for a directive
Article 18 – paragraph 1 – point b – point ii

Text proposed by the Commission

(ii) national real estate registers or electronic data retrieval systems and land and cadastral registers;

Amendment

(ii) *the information from the single access point as referred to in article 16 relating to national real estate registers, land registers or electronic data retrieval systems and land and cadastral registers;*

Amendment 225
Proposal for a directive
Article 18 – paragraph 1 – point b – point ii a (new)

Text proposed by the Commission

Amendment

(iia) the information referred to in Articles 16b and 16c ;

Amendment 226
Proposal for a directive
Article 18 – paragraph 1 – point b – point xix a (new)

Text proposed by the Commission

Amendment

(xixa) information on public procurements or contracts

Amendment 227
Proposal for a directive
Article 18 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The information referred to in point (c) **may** include criminal records, information on investigations, information on the freezing or seizure of assets or on other investigative or provisional measures and information on convictions and on confiscations.

Amendment

The information referred to in point (c) **shall** include criminal records, information on investigations, information on the freezing or seizure of assets, **including in the context of economic or targeted financial sanctions**, or on other investigative or provisional measures and information on convictions and on confiscations.

Amendment 228
Proposal for a directive
Article 18 – paragraph 2

Text proposed by the Commission

2. Where the information referred to in paragraph 1, points (a), (b) and (c), is not stored in databases or registers, Member States shall take the necessary measures to ensure that FIUs can obtain that information by other means.

Amendment

2. Where the information referred to in paragraph 1, points (a), (b) and (c), is not stored in databases or registers, Member States shall take the necessary measures to ensure that FIUs can obtain that information by other means **in a timely manner**.

Amendment 229
Proposal for a directive
Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that FIUs respond in a timely manner to reasoned requests for information by other competent authorities in their respective Member State or Union authorities competent for investigating or prosecuting criminal activities when such requests for information are motivated by concerns relating to money laundering, its predicate offences or terrorist financing or when this information is necessary for the competent authority to perform its tasks under this Directive. The decision on conducting the

Amendment

1. Member States shall ensure that FIUs respond in a timely manner, to reasoned requests for information by other competent authorities in their respective Member State or Union authorities competent for investigating or prosecuting criminal activities when such requests for information are motivated by concerns relating to money laundering, its predicate offences or terrorist financing or when this information is necessary for the competent authority to **freeze, seize or confiscate assets or to** perform its tasks under this

dissemination of information shall remain with the FIU.

Directive. The decision on conducting the dissemination of information shall remain with the FIU.

Amendment 230
Proposal for a directive
Article 19 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Where there are objective grounds for assuming that the provision of such information would have a negative impact on ongoing investigations or analyses, or, in exceptional circumstances, where disclosure of the information would be clearly disproportionate to the legitimate interests of a natural or legal person or irrelevant with regard to the purposes for which it has been requested, the FIU ***shall be under no obligation to comply with*** the request for information.

Amendment

Where there are objective grounds for assuming that the provision of such information would have a negative impact on ongoing investigations or analyses, or, in exceptional circumstances, where disclosure of the information would be clearly disproportionate to the legitimate interests of a natural or legal person or irrelevant with regard to the purposes for which it has been requested, the FIU ***may refuse*** the request for information ***but only by means of a written and duly justified response. Such a response shall also be transmitted to AMLA for the purpose of identifying trends and any possible impediments to cooperation.***

Amendment 231
Proposal for a directive
Article 19 – paragraph 2

Text proposed by the Commission

2. Competent authorities shall provide feedback to the FIU about the use made of the information provided in accordance with this Article. Such feedback shall be provided as soon as possible and in any case, at least on an annual basis, in such a way as to inform the FIU about the actions taken by the competent authorities on the basis of the information provided by the FIU and allow the FIU to execute its operational analysis function.

Amendment

2. Competent authorities shall provide feedback to the FIU about the use made of, ***and the usefulness of,*** the information provided in accordance with this Article ***and article 17, and about the outcome of the investigations performed on the basis of that information.*** Such feedback shall be provided as soon as possible and in any case, at least on an annual basis, in such a way as to inform the FIU about the actions taken by the competent authorities on the basis of the information provided by the FIU and allow the FIU to execute ***and***

improve its operational analysis function.

Amendment 232
Proposal for a directive
Article 19 a (new)

Text proposed by the Commission

Amendment

Article 19a

Dissemination of information

1. Member States shall ensure that their FIUs disseminate the results of their analyses and any additional relevant information to other competent authorities where there are grounds to suspect money laundering, its predicate offences or terrorist financing.

2. Member States shall ensure that their FIUs, on a case by case basis, inform competent authorities in their respective Member State, or Union authorities competent to investigate or prosecute criminal activities, where there is evidence of money laundering, its predicate offences or terrorist financing, or where that information is necessary for the competent authority to freeze, seize or confiscate assets or to perform its tasks under criminal law, unless the provision of such information would have a negative impact on ongoing investigations or analyses.

2. The decision to disseminate information as referred to in paragraphs 1 and 2 shall remain with the FIU in question.

4. Dissemination of information as referred to in paragraphs 1 and 2 shall be conducted via secure communication channels

Amendment 233
Proposal for a directive
Article 20 – title

Text proposed by the Commission

Suspension **or withholding of consent to** a transaction and suspension of an account

Amendment

Suspension **of or prohibition to carry out** a transaction and suspension of an account

Amendment 234

Proposal for a directive

Article 20 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that FIUs are empowered to take urgent action, **directly or indirectly**, where there is a suspicion that a transaction is related to money laundering or terrorist financing, to suspend or **withhold consent to** a transaction that is proceeding. **Such suspension shall be imposed on the obliged entity within 48 hours of receiving the suspicious transaction report** in order to analyse the transaction, confirm the suspicion and disseminate the results of the analysis to the competent authorities. Member States shall ensure that subject to national procedural safeguards, the transaction is suspended for a period of a maximum of 15 calendar days from the day of the imposition of such suspension to the obliged entity.

Amendment

1. Member States shall ensure that FIUs are empowered to take urgent action, where there is a suspicion that a transaction is related to money laundering or terrorist financing, to suspend or **prohibit** a transaction that is proceeding in order to analyse the transaction, confirm the suspicion and disseminate the results of the analysis to the competent authorities **and, where relevant, AMLA. In cases covered by Article 52(1) of Regulation ... [please insert reference to AML Regulation - 2021/0239 (COD)], such suspension shall be imposed on the obliged entity within 48 hours of receiving the suspicious transaction report.** Member States shall ensure that subject to national procedural safeguards, the transaction is suspended for a period of a maximum of 15 calendar days from the day of the imposition of such suspension to the obliged entity. **Member States shall ensure that such suspensions may be extended for reasons which are external to the FIU's analysis, in particular the lack of cooperation from the obliged entity.**

Amendment 235

Proposal for a directive

Article 20 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Where an FIU decides to suspend

or prohibit a transaction that concerns another Member State, it shall promptly inform the FIU of that Member State.

Amendment 236
Proposal for a directive
Article 20 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Where an FIU decides to suspend or prohibit a transaction in accordance with paragraph 1, that information shall be made available to other FIUs through FIU.net.

Amendment 237
Proposal for a directive
Article 20 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. Member States shall ensure that FIUs are able to use state-of-the-art technology to match their data with other FIUs' data of suspended or prohibited transactions in an anonymous manner.

Amendment 238
Proposal for a directive
Article 20 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. Where there is a suspicion that several transactions involving a bank ***or*** payment account are related to money laundering or terrorist financing, Member States shall ensure that the FIU is empowered to take urgent action, ***directly or indirectly***, to suspend the use of a bank ***or*** payment account in order to ***analyse the transactions performed through the account***, confirm the suspicion and disseminate the results of the analysis to

2. Where there is a suspicion that several transactions involving a bank ***account, a*** payment account ***or custodial crypto-asset wallet*** are related to money laundering, ***related predicate offences*** or terrorist financing, Member States shall ensure that the FIU is empowered to take urgent action to suspend ***the business relationship or*** the use of a bank ***account, payment account or custodial crypto-asset wallet*** in order to ***perform the analyses***,

the competent authorities.

confirm the suspicion and disseminate the results of the analysis to the competent authorities.

Amendment 239
Proposal for a directive
Article 20 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Such suspension shall be imposed on the obliged entity within 48 hours of receiving the suspicious transaction report and immediately notified to the competent judicial authority. Member States shall ensure that the use of that bank or payment account is suspended for a period of a maximum of 5 days from the day of the imposition of the suspension. Member States shall ensure that any extension of such suspension shall be authorized by the competent judicial authority.

Amendment

Such suspension shall be imposed on the obliged entity within 48 hours of receiving the suspicious transaction report and immediately notified to the competent judicial authority. Member States shall ensure that the use of that bank or payment account is suspended for a period of a maximum of 5 days from the day of the imposition of the suspension, ***or for a maximum period 10 days in case the FIU receives indication about an ongoing mutual legal assistance request in cross-border cases.*** Member States shall ensure that any extension of such suspension shall be authorized by the competent judicial authority ***and notified to the concerned person in order to allow challenging the suspension before a court in accordance with paragraph 3.***

Amendment 240
Proposal for a directive
Article 20 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The FIU shall be empowered to impose such suspension at the request of an FIU from another Member State within 48 hours, and it shall be imposed within 48 hours of the request for the suspension and under the conditions specified in the Union law and national law applicable to the FIU receiving the request. Member States shall ensure that, subject to national procedural safeguards, the bank

or payment account or custodial crypto-asset wallet is suspended for a maximum period of five calendar days from the day of the imposition of such suspension to the obliged entity, or for a maximum period of 10 days in the event that the FIU receives indication about an ongoing mutual legal assistance request in cross-border cases.

Amendment 241
Proposal for a directive
Article 20 – paragraph 2 – subparagraph 1 b (new)

Text proposed by the Commission

Amendment

Member States shall ensure that any extension of such suspension be authorized by the competent judicial authority and notified to the concerned person in order to allow challenging the suspension before a court in accordance with paragraph 3.

Amendment 242
Proposal for a directive
Article 20 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where an FIU decides to suspend the use of a bank or payment account or custodial crypto-asset wallet that concerns another Member State, it shall promptly inform the FIU of that Member State.

Amendment 243
Proposal for a directive
Article 20 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Where an FIU decides to suspend a bank or payment account or custodial crypto-asset wallet in accordance with

paragraph 1, that information shall be made available to other FIUs through FIU.net.

Amendment 244
Proposal for a directive
Article 20 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. Member States shall ensure that FIUs are able to use state-of-the-art technology to match their data with other FIUs' data of suspended banks, payment accounts or crypto-asset wallets in an anonymous manner.

Amendment 245
Proposal for a directive
Article 20 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall provide for the effective possibility for the person whose bank *or* payment account *is affected* to challenge the suspension before a court in accordance with procedures provided for in national law.

3. Member States shall provide for the effective possibility for the person whose bank *account*, payment account *or custodial crypto-asset wallet is suspended* to challenge the suspension before a court in accordance with procedures provided for in national law.

Amendment 246
Proposal for a directive
Article 20 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. FIUs shall be empowered to monitor, during a specified period, the transactions or activities that are being carried out through one or more identified bank accounts or other business relationships with regard to persons who present a significant risk of money laundering or terrorist financing. FIUs

shall be empowered to give instructions to obliged entities in order to ensure that obliged entities carry out such specific monitoring and report the results to the competent FIU.

Amendment 247
Proposal for a directive
Article 20 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. *The FIU shall be empowered to impose the monitoring measures referred to in paragraph 3a at the request of an FIU from another Member State for the periods and under the conditions specified in the Union law and national law applicable to the FIU receiving the request.*

Amendment 248
Proposal for a directive
Article 20 – paragraph 3 c (new)

Text proposed by the Commission

Amendment

3c. *When an FIU imposes the suspensions or a monitoring measure referred to in paragraphs 1, 2 and 3a at the request of an FIU from another Member State, the requesting FIU shall be informed promptly about the measures taken by the FIU that received the request.*

Amendment 249
Proposal for a directive
Article 20 – paragraph 4

Text proposed by the Commission

Amendment

4. FIUs shall be empowered to impose the suspensions referred to in paragraphs 1 **and 2**, directly or indirectly, at the request

4. FIUs shall be empowered to impose the suspensions **and monitoring measures** referred to in paragraphs 1, **2 and 3a**,

of an FIU from another Member State under the conditions specified in the national law of the FIU receiving the request.

directly or indirectly, at the request of an FIU from *a third country* under the conditions specified in the national law of the FIU receiving the request.

Amendment 250
Proposal for a directive
Article 20 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. By ... [two years after the date of entry into force of this Directive], AMLA shall develop draft implementing technical standards and submit them to the Commission for adoption. Those draft implementing technical standards shall specify the format to be used for the exchange of the information referred to in paragraphs 1a, 1b, 2a and 2b of this Article and set the criteria for determining whether a suspension concerns another Member State. The Commission is empowered to adopt those implementing technical standards in accordance with Article 42 of Regulation ... [please insert reference to AMLA regulation - 2021/0240 (COD)].

Amendment 251
Proposal for a directive
Article 21 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

(aa) follow up given by the FIU to suspicious transactions reports it has received;

Amendment 252
Proposal for a directive
Article 21 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) feedback received from competent authorities

Amendment 253
Proposal for a directive
Article 21 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) requests submitted to and received from competent authorities designated under Article 3 of Directive 2019/1153;

Amendment 254
Proposal for a directive
Article 21 – paragraph 1 – point e b (new)

Text proposed by the Commission

Amendment

(eb) human resources allocated.

Amendment 255
Proposal for a directive
Article 21 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

FIUs shall disseminate the report to obliged entities. Such report shall be made public ***within four months*** of its dissemination, except for the elements of the report which contain classified information. The information contained therein shall not permit the identification of any natural or legal person.

FIUs shall disseminate the report to obliged entities. Such report shall be made public ***at the date*** of its dissemination, except for the elements of the report which contain classified information. The information contained therein shall not permit the identification of any natural or legal person.

Amendment 256
Proposal for a directive
Article 21 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that FIUs provide obliged entities with feedback on the reports of suspected money laundering or terrorist financing. Such feedback shall cover at least the quality of the information provided, the timeliness of reporting, the description of the suspicion **and** the documentation provided at submission stage.

Amendment

2. Member States shall ensure that FIUs provide obliged entities with feedback on the reports of suspected money laundering or terrorist financing **at least twice a year. FIUs shall provide feedback on operational and strategic analysis.** Such feedback shall cover at least the quality of the information provided, **how the information was used**, the timeliness of reporting, the description of the suspicion, the documentation provided at submission stage **and potential money laundering or terrorist financing typologies not covered by the obliged entity's report.**

Amendment 257

Proposal for a directive

Article 21 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The FIU shall provide **such** feedback at least once per year, **whether provided to the individual obliged entity or to groups of obliged entities, taking into consideration the overall number of suspicious transactions reported by the obliged entities.**

Amendment

The FIU shall provide feedback at least once per year **to each category of obliged entity as referred to in Article 3, points (1), (2) and (3)(f), (g), (h) and (k), of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239 (COD)].**

Amendment 258

Proposal for a directive

Article 21 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The FIU shall provide a comparative analysis on the quality of suspicious transaction reports by category of obliged entities referred to in Article 3, point (3) points (a)-(e), (i), (j) and (l), of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239

(COD)], taking into consideration the overall number of suspicious transactions reported by those obliged entities.

Amendment 259
Proposal for a directive
Article 21 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Such feedback shall also be **made available** to supervisors to allow them to perform risk-based supervision in accordance with Article 31.

Amendment

Such feedback, **including a comparative assessment between obliged entities and groups or categories of obliged entities**, shall also be **sent** to supervisors to allow them to perform risk-based supervision in accordance with Article 31.

Amendment 260
Proposal for a directive
Article 21 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

FIUs shall provide, at least annually, to all obliged entities within their jurisdiction strategic feedback about financial intelligence priorities and trends in money laundering and terrorist financing.

Amendment 261
Proposal for a directive
Article 22 – paragraph 1

Text proposed by the Commission

Member States shall ensure that FIUs cooperate with each other and with their counterparts in third countries to the greatest extent possible, regardless of their organisational status.

Amendment

Member States shall ensure that FIUs cooperate with each other and with their counterparts in third countries to the greatest extent possible **and in a timely manner**, regardless of their organisational status. **To that end, they shall provide effective arrangements for cross-border and international cooperation.**

Amendment 262
Proposal for a directive
Article 22 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall provide their FIUs with adequate financial, human and technical resources in order to ensure effective and efficient cooperation.

Amendment 263
Proposal for a directive
Article 22 a (new)

Text proposed by the Commission

Amendment

Article 22a

Cooperation with AMLA

Member States shall ensure that FIUs participate in, and contribute to, the activities of AMLA in accordance with the provisions of Regulation ... [please insert reference to AMLA Regulation - 2021/0240(COD)].

Amendment 264
Proposal for a directive
Article 23 – paragraph 1

Text proposed by the Commission

Amendment

1. A system for the exchange of information between FIUs of the Member States shall be set up ('FIU.net'). The system shall ensure ***the*** secure communication and shall be capable of producing a written record under conditions that allow ascertaining authenticity. That system may also be used for communications with FIUs counterparts in third countries and with other authorities and Union bodies. FIU.net shall be managed by AMLA.

1. A system for the exchange of information between FIUs of the Member States shall be set up (FIU.net) ***without delay***. The system shall ensure ***a*** secure communication ***and exchange of information*** and shall be capable of producing a written record under conditions that allow ascertaining authenticity. ***If so decided by AMLA***, that system may also be used for communications with FIUs counterparts in third countries and with other authorities and Union bodies. FIU.net shall be managed by AMLA. ***The system shall***

*serve as a centralised information
exchange hub between FIUs and AMLA.*

Amendment 265
Proposal for a directive
Article 23 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that **any** exchange **of** information pursuant to Article 24 **is transmitted** using the FIU.net. In the event of technical failure of the FIU.net, the information shall be transmitted **by any other appropriate means** ensuring a high level of data security.

Amendment

2. Member States shall ensure that **FIUs** exchange information pursuant to Article 24 **and 25** using the FIU.net. In the event of **temporary** technical failure of the FIU.net, the information shall be transmitted **without any delay through equivalent protected channels of communication** ensuring a high level of data security **and data protection, in accordance with criteria identified by AMLA by means of guidelines.**

Amendment 266
Proposal for a directive
Article 23 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that, in order to fulfil their tasks as laid down in this Directive, their FIUs cooperate in the application of state-of-the-art technologies in accordance with **their national law**.

Amendment

3. Member States shall ensure that, in order to fulfil their tasks as laid down in this Directive **and in applicable Union law**, their FIUs **participate, use and cooperate to the maximum extent** in the application of state-of-the-art technologies, **in particular those developed and managed by AMLA** in accordance with **Article 5(5), point (e), and Article 37 of Regulation ... [please insert reference to AMLA Regulation - 2021/0240 (COD)].**

Amendment 267
Proposal for a directive
Article 23 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *Member States shall ensure that their FIUs are able to use FIU.net for the purpose of matching their data with data of other FIUs in an anonymous manner. Member States shall ensure that their FIUs are able to use FIU.net for the purposes of matching subject-matter data with Europol databases.*

Amendment 268
Proposal for a directive
Article 23 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. *Following a peer review in accordance with Article 17(7a), AMLA may suspend access to FIU.net for a specific FIU where the report of the peer review concludes that requirements relating to the independence, integrity, professionalism, confidentiality or security of that FIU, as set out in Article 17, have not been fulfilled. The decision to impose such suspension shall be taken by the General Board of AMLA in accordance with the the provisions referred to in Article 27(5a) of Regulation [please insert reference to AMLA Regulation - 2021/0240 (COD)] with the affected FIU not having the right to vote. AMLA shall issue an assessment with the decision which explains and indicates the follow-up measures to be complied with in order for the suspension to be lifted. AMLA shall evaluate the actions taken by the FIU concerned no later than three months after issuing the decision.*

Amendment 269
Proposal for a directive
Article 23 a (new)

Text proposed by the Commission

Amendment

Article 23a

Transmission of information by obliged entities to FIUs via FIU.net

- 1. AMLA shall ensure that obliged entities are able to use FIU.net to submit suspicious transaction and activity reports to FIUs concerned, in accordance with this Article, through protected channels of communication.***
- 2. By ... [five years after entry into force of this Directive], AMLA shall ensure that obliged entities are able to use FIU.net to transmit information referred to in Article 50 (1) of Regulation ... [please insert reference to AMLR - 2021/0239 (COD)] to the FIU of the Member State in whose territory the obliged entity transmitting the information is established and to any other FIU which is concerned by such report pursuant to Article 24(1) of this Directive. By the same date, Member States shall ensure that FIUs may request obliged entities to transmit the information referred to in Article 50(1) of Regulation ... [please insert reference to AMLR - 2021/023940 (COD)] through FIU.Net, until its use becomes mandatory under paragraph 3.***
- 3. Member States shall ensure that transmission of information as referred to in paragraph 2 becomes mandatory for obliged entities by ... [six years after entry into force of this Directive].***

Amendment 270

Proposal for a directive

Article 24 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States shall ensure that FIUs exchange, spontaneously or upon

1. Member States shall ensure that FIUs exchange, spontaneously or upon

request, any information that may be relevant for the processing or analysis of information by the FIU related to money laundering, its predicate offences, or terrorist financing, and the natural or legal person involved, even if the type of predicate offences that may be involved is not identified at the time of the exchange.

request, any information that may be relevant for the processing or analysis of information by the FIU related to money laundering, its predicate offences, or terrorist financing, and the natural or legal person involved, ***regardless of the type of predicate offences that may be involved, and*** even if the type of predicate offences that may be involved is not identified at the time of the exchange.

Amendment 271
Proposal for a directive
Article 24 – paragraph 2

Text proposed by the Commission

2. By [2 years after the date of entry into force of this Directive], AMLA shall develop draft implementing technical standards and submit them to the Commission for adoption. Those draft implementing technical standards shall specify the format to be used for the exchange of the information referred to in paragraph 1.

Amendment

2. By ... [2 years after the date of entry into force of this Directive], AMLA shall develop draft implementing technical standards and submit them to the Commission for adoption. Those draft implementing technical standards shall specify the format to be used for the exchange of the information referred to in paragraph 1 ***and shall determine the relevant factors to be taken into consideration when determining whether a report pursuant to Article 50(1), first subparagraph, point (a), of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239 (COD)] concerns another Member State, the procedures to be put in place when forwarding and receiving that report, and the necessary follow-up.***

Amendment 272
Proposal for a directive
Article 24 – paragraph 4

Text proposed by the Commission

4. ***By [1 year after the date of transposition of this Directive], AMLA shall issue guidelines addressed to FIUs***

Amendment

deleted

on the relevant factors to be taken into consideration when determining whether a report pursuant to Article 50(1), the first subparagraph, point (a), of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] concerns another Member State, the procedures to be put in place when forwarding and receiving that report, and the follow-up to be given.

Amendment 273

Proposal for a directive

Article 24 – paragraph 5 – subparagraph 1

Text proposed by the Commission

When an FIU seeks to obtain additional information from an obliged entity established in another Member State which operates on the territory of its Member State, the request shall be addressed to the FIU of the Member State in whose territory the obliged entity is established. That FIU shall obtain information in accordance with Article 50(1) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and transfer the answers promptly.

Amendment

When an FIU seeks to obtain additional information from an obliged entity established in another Member State which operates on the territory of its Member State, the request shall be addressed to the FIU of the Member State in whose territory the obliged entity is established. That FIU shall obtain information in accordance with Article 50(1) of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and transfer the answers promptly. ***Obliged entities shall provide information to their respective competent FIUs which shall then forward the requested information to the requesting FIU.***

Amendment 274

Proposal for a directive

Article 24 – paragraph 6

Text proposed by the Commission

6. Member States shall ensure that where an FIU is requested to provide information pursuant to paragraph 1, it shall respond to the request as soon as possible and in any case no later than seven days after the receipt of the request. In

Amendment

6. Member States shall ensure that where an FIU is requested to provide information pursuant to paragraph 1, it shall respond to the request ***and provide the requested information*** as soon as possible and in any case no later than seven

exceptional, duly justified cases, this time limit may be extended to a maximum of 14 calendar days. Where the requested FIU is unable to obtain the requested information, it shall inform the requesting FIU thereof.

days after the receipt of the request. In exceptional, duly justified cases, this time limit may be extended to a maximum of 14 calendar days. Where the requested FIU is unable to obtain the requested information, it shall inform the requesting FIU thereof.

Amendment 275

Proposal for a directive

Article 24 – paragraph 8 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

By ... [18 months after the date of transposition of this Directive], the Commission shall publish a report outlining notifications of exceptional circumstances referred to in the first subparagraph. The Commission shall publish additional reports in case of updates to those notifications. The Commission shall assess in that report whether or not the exceptional circumstances notified are justified.

Amendment 276

Proposal for a directive

Article 25 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) a number of FIUs are conducting operational analyses in which the circumstances of the case ***necessitate*** coordinated, concerted action in the Member States involved.

(b) a number of FIUs are conducting operational analyses in which the circumstances of the case ***justify or merit*** coordinated, concerted action in the Member States involved.

Amendment 277

Proposal for a directive

Article 25 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) an FIU deems it appropriate and useful for the purposes of ensuring that a

specific analysis and the results thereof are of better quality, exploiting potential synergies and the possibility of using information from different sources, or obtaining comprehensive information concerning the anomalous activities underlying that specific analysis.

Amendment 278
Proposal for a directive
Article 25 – paragraph 3 – subparagraph 1

Text proposed by the Commission

A request for the setting up of a joint analysis team may be made by any of the FIUs concerned.

Amendment

A request for the setting up of a joint analysis team may be made by any of the FIUs concerned *or AMLA, under the conditions laid down in paragraph 3a.*

Amendment 279
Proposal for a directive
Article 25 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *Provided that no FIU has submitted a request for the setting up of a joint analysis team, AMLA may set up such a team on its own initiative where it identifies cases in which:*

(a) *an FIU's operational analyses require difficult and demanding analyses having links with other Member States;*

(b) *a number of FIUs are conducting operational analyses where the circumstances necessitate coordinated, concerted action in the Member States involved;*

(c) *it has received information indicating a suspicion of money laundering or financing of terrorism that could affect the internal market or relate to cross-border activities.*

Amendment 280
Proposal for a directive
Article 27 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the requested FIU's prior consent to disseminate the information to competent authorities is granted promptly and to the largest extent possible, regardless of the type of predicate offences. The requested FIU shall not refuse its consent to such dissemination unless this would fall beyond the scope of application of its AML/CFT provisions or could lead to impairment of an investigation, or would otherwise not be in accordance with fundamental principles of national law of that Member State. Any such refusal to grant consent shall be appropriately explained. The cases where FIUs may refuse to grant consent shall be specified in a way which prevents misuse of, and undue limitations to, the dissemination of information to competent authorities.

Amendment 281
Proposal for a directive
Article 27 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2. Member States shall ensure that the requested FIU's prior consent to disseminate the information to competent authorities is granted promptly and to the largest extent possible, regardless of the type of predicate offences ***and whether or not the predicate offence has been identified***. The requested FIU shall not refuse its consent to such dissemination unless this would fall beyond the scope of application of its AML/CFT provisions or could lead to impairment of an investigation, or would otherwise not be in accordance with fundamental principles of national law of that Member State. Any such refusal to grant consent shall be appropriately explained. The cases where FIUs may refuse to grant consent shall be specified in a way which prevents misuse of, and undue limitations to, the dissemination of information to competent authorities.

2a. By ... [one year after the date of transposition of this Directive], Member States shall notify to the Commission the exceptional circumstances in which dissemination would not be in accordance with fundamental principles of national law referred to in paragraph 2. Member States shall update such notifications where the exceptional circumstances in which dissemination would not be in accordance with fundamental principles of national law change.

Amendment 282
Proposal for a directive
Article 27 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. By ... [18 months after the date of transposition of this Directive], the Commission shall publish a report outlining the notifications of exceptional circumstances referred to in the paragraph 2a. The Commission shall publish additional reports in case of updates to those notifications. The Commission shall assess in those reports whether the notified exceptional circumstances are justified or not.

Amendment 283
Proposal for a directive
Article 27 a (new)

Text proposed by the Commission

Amendment

Article 27a

Transmission of information to EPPO

Where there are grounds to suspect money laundering or its associated predicate offences in respect of which the EPPO could exercise its competence or has exercised its competence in accordance with Article 22 or Article 25(2) and (3) of Council Regulation (EU) 2017/1939^{1a}, Member States shall ensure that the FIU disseminates the following information in accordance with the principles laid down in that Regulation:

- (a) relevant information; and**
- (b) the results of its analyses.**

^{1a} Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the

Amendment 284
Proposal for a directive
Article 29 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that all obliged entities are subject to adequate supervision. To that end, Member States shall appoint supervisors to monitor effectively, and to take the measures necessary to ensure, compliance by the obliged entities with the requirements set out in Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and with the requirement to implement targeted financial sanctions.

Amendment

1. Member States shall ensure that all obliged entities are subject to adequate, ***effective and independent*** supervision. To that end, Member States shall appoint supervisors to monitor effectively, and to take the measures necessary to ensure, compliance by the obliged entities with the requirements set out in Regulations ... [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] ***and ... [please insert reference to the Funds Transfer Regulation - 2021/0241(COD)]*** and with the requirement to implement targeted financial sanctions. ***Where Member States have more than one supervisor, they shall appoint one leading supervisor in order to ensure proper coordination.***

Amendment 285
Proposal for a directive
Article 29 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Supervisors shall participate in, and contribute to, the activities of the European AML/CFT Supervisory system, in accordance with Regulation ... [please insert reference to the AMLA Regulation - 2021/0240(COD)]. They shall in particular:

(a) participate in joint supervisory teams as an integral part of their tasks, as well as in other activities undertaken by AMLA pursuant to its mandate;

(b) provide AMLA with the data and information required to fulfil its tasks, as well as to implement measures taken by AMLA in accordance with Regulation ... [please insert reference to the AMLA Regulation - 2021/0240(COD)] and other applicable Union law.

All information obtained by supervisors through the participation in AMLA's activities shall be covered by the strictest confidentiality.

Amendment 286
Proposal for a directive
Article 29 – paragraph 3

Text proposed by the Commission

3. In the case of the obliged entities referred to in Article 3, points (3)(a), **(b) and (d)**, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], Member States may allow the function referred to in paragraph 1 of this Article to be performed by self-regulatory bodies, provided that those self-regulatory bodies have the powers referred to in paragraph 5 of this Article and have adequate financial, human and technical resources to perform their functions. Member States shall ensure that staff of those bodies are of high integrity and appropriately skilled, and that they maintain high professional standards, including standards of confidentiality, data protection and standards addressing conflicts of interest.

Amendment 287
Proposal for a directive
Article 29 – paragraph 3 a (new)

Amendment

3. In the case of the obliged entities referred to in Article 3, points (3)(a) **and (b)**, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], Member States may allow the function referred to in paragraph 1 of this Article to be performed by self-regulatory bodies, provided that those self-regulatory bodies have the powers referred to in paragraph 5 of this Article and have adequate financial, human and technical resources to perform their functions. Member States shall ensure that staff of those bodies are of high integrity and appropriately skilled, and that they maintain high professional standards, including standards of confidentiality, data protection and standards addressing conflicts of interest

Text proposed by the Commission

Amendment

3a. *By ... [two years after the date of transposition of this Directive], AMLA shall, after consulting EBA, issue guidelines addressed to supervisors on the fulfilment of the requirements laid down in paragraphs 2 and 3.*

Amendment 288
Proposal for a directive
Article 29 – paragraph 4 – point g

Text proposed by the Commission

Amendment

(g) to take appropriate supervisory measures to address any breaches of applicable requirements by the obliged entities identified in the process of supervisory assessments and follow up on the implementation of such measures.

(g) to ***respond without undue delay to any suspicion of non-compliance with applicable requirements on the part of supervised obliged entities*** and take appropriate supervisory measures to address any breaches of applicable requirements by the obliged entities identified in the process of supervisory assessments and follow up on the implementation of such measures

Amendment 289
Proposal for a directive
Article 29 – paragraph 4 – point g a (new)

Text proposed by the Commission

Amendment

(ga) *to take appropriate supervisory measures to address allegations of breaches of applicable requirements following public revelations, or information brought to their knowledge through private channels, in particular through the mechanisms provided for in Article 43.*

Amendment 290
Proposal for a directive
Article 30 – paragraph 2 – point e

Text proposed by the Commission

(e) any guidance and report produced by AMLA and other supervisors and, where relevant, the public authority overseeing self-regulatory bodies, the FIU or any other competent authority or international organisations and standard setters regarding money laundering and terrorist financing methods which might apply to a sector and indications which may facilitate the identification of transactions or activities at risk of being linked to money laundering and terrorist financing in that sector, as well as on obliged entities' obligations in relation to targeted financial sanctions.

Amendment

(e) any guidance and report produced by AMLA, ***the European Data Protection Board*** and other supervisors and, where relevant, the public authority overseeing self-regulatory bodies, the FIU or any other competent authority or international organisations and standard setters regarding money laundering and terrorist financing methods which might apply to a sector and indications which may facilitate the identification of transactions or activities at risk of being linked to money laundering and terrorist financing in that sector, as well as on obliged entities' obligations in relation to targeted financial sanctions.

Amendment 291

Proposal for a directive

Article 31 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Member States shall ensure that supervisors and self-regulatory bodies, prepare a detailed annual activity report and that a summary of that report is made publicly available. That summary shall not contain confidential information. That summary shall include:

(a) details of the supervisors' tasks;

(b) an overview of the supervisory activities;

(c) the number of on-site and off-site supervisory actions; and

(d) the number of breaches identified on the basis of supervisory actions and sanctions or administrative measures applied by supervisory authorities and self-regulatory bodies pursuant to Section 4 of Chapter IV.

The supervisor and self-regulatory body

that prepares an annual activity report referred to in the first subparagraph shall transmit that report to the designated authority or mechanism referred to in Article 8(2) and to AMLA. The designated authority shall provide feedback and propose possible improvements which may include recommendations to change the allocation of supervisory responsibilities and the arrangements for carrying out supervisory tasks.

Amendment 292
Proposal for a directive
Article 31 a (new)

Text proposed by the Commission

Amendment

Article 31a

List of credit and financial institutions under enhanced supervision and customer due diligence

1. Financial supervisors shall include specific credit or financial institutions on a list of credit and financial institutions under enhanced supervision where, following supervisory activities referred to in Article 29, points (c), (e), (f) and (g), financial supervisors identify serious and structural weaknesses or vulnerabilities in the application of AML/CFT rules by those credit and financial institutions under their supervision.

2. When applying the measures referred to in paragraph 1 of this Article, financial supervisors shall take into account the rules and principles of risk-based supervision laid down in Article 31, in particular the benchmarks and a methodology for assessing and classifying the inherent and residual risk profile of obliged entities and the guidelines on the characteristics of a risk-based approach to supervision.

3. Financial supervisors shall inform credit and financial institutions of their inclusion on the list referred to in paragraph 1 prior to their inclusion through a reasoned communication. Financial supervisors shall also communicate to the credit or financial institution concerned the measures they will put in place in order to address the weaknesses identified within a specific timeframe.

4. Financial supervisors shall promptly inform AMLA and national non-AML/CFT supervisors of the measures taken under paragraph 1. Financial supervisors shall also in a timely manner inform obliged entities, as referred to in Article 3, points (1) and (2), of Regulation ... [please insert reference to Anti-Money Laundering Regulation – 2021/0239(COD)], of the measures taken under paragraph 1.

5. Where obliged entities, as referred to in Article 3, points 1 and 2, of Regulation ... [please insert reference to Anti-Money Laundering Regulation – 2021/0239(COD)], become aware of transactions involving credit and financial institutions under enhanced supervision, they shall consider applying measures laid down in article 28(4) of that Regulation proportionate to the risks identified with regards to transactions involving credit or financial institutions under enhanced supervision.

6. Where the specific credit and financial institution referred to in paragraph 1 of this Article is part of a group, financial supervisors shall inform their counterparts in other Member States in accordance with Article 33.]

**Amendment 293
Proposal for a directive
Article 32 – paragraph 1**

Text proposed by the Commission

1. Member States shall ensure that if, in the course of the checks carried out on the obliged entities, or in any other way, supervisors discover facts that could be related to money laundering or to terrorist financing, they shall promptly inform the FIU.

Amendment

1. Member States shall ensure that if, in the course of the checks carried out on the obliged entities, or in any other way, supervisors discover facts that could be related to money laundering or to terrorist financing, they shall promptly inform the FIU ***if the obliged entity itself would have been obligated to report the suspicious transaction in accordance with Articles 50 and 51 of Regulation ... [please insert reference to AML Regulation - 2021/0239(COD)]***

Amendment 294
Proposal for a directive
Article 33 – paragraph 2

Text proposed by the Commission

2. In addition to Article 5, obliged entities wishing to exercise the freedom to provide services by carrying out activities within the territory of another Member State for the first time shall notify the supervisors of the home Member State of the activities which they intend to carry out. Such notification shall also be required where provision of cross-border services is carried out by agents of the obliged entity.

Amendment

2. In addition to ***the obligations laid down in*** Article 5, obliged entities wishing to exercise the freedom to provide services by carrying out activities within the territory of another Member State for the first time shall notify the supervisors of the home Member State of the activities which they intend to carry out. ***Those supervisors shall, within three months of the receipt of that information, communicate it to the supervisors of the host Member State.*** Such notification shall also be required where provision of cross-border services is carried out by agents of the obliged entity ***or through any natural or legal person which acts on their behalf. It shall not apply to obliged entities that, pursuant to other Union legal acts, are subject to specific notification procedures for the exercise of the freedom of establishment and to provide services.***

Amendment 295
Proposal for a directive
Article 33 – paragraph 4 – introductory part

Text proposed by the Commission

4. In the cases covered by paragraph 2 of this Article and Article 5, supervisors of the host Member State shall cooperate with supervisors of the home Member State and lend assistance to ensure the verification of compliance by the obliged entity with the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and of Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final] and to take appropriate **and** proportionate measures to address breaches.

Amendment 296
Proposal for a directive
Article 33 – paragraph 4 – subparagraph 1

Text proposed by the Commission

In the cases covered by Article 5, the supervisors of the host Member State shall be allowed at their own initiative to take appropriate **and** proportionate measures to address serious failings that require immediate remedies. Those measures shall be temporary and be terminated when the failings identified are addressed, including with the assistance of or in cooperation with the supervisors of the home Member State of the obliged entity.

Amendment 297
Proposal for a directive
Article 33 – paragraph 4 a (new)

Amendment

4. In the cases covered by paragraph 2 of this Article and Article 5, supervisors of the host Member State shall cooperate with supervisors of the home Member State and lend assistance to ensure the verification of compliance by the obliged entity with the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and of Regulation [please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final] and to take appropriate, proportionate, **effective and dissuasive** measures to address breaches

Amendment

In the cases covered by Article 5, the supervisors of the host Member State shall be allowed at their own initiative to take appropriate, proportionate, **effective and dissuasive** measures to address serious failings that require immediate remedies **and shall promptly inform the supervisor of the home Member State.** Those measures shall be temporary and be terminated when the failings identified are addressed, including with the assistance of or in cooperation with the supervisors of the home Member State of the obliged entity.

Text proposed by the Commission

Amendment

4a. By ... [two years after the date of transposition of this Directive], AMLA shall, issue guidelines on the criteria for identifying serious failings that require immediate action, and the measures that may be required from host supervisors to address such failings.

Amendment 298
Proposal for a directive
Article 33 – paragraph 5

Text proposed by the Commission

Amendment

5. Where the supervisors of the home and host Member State disagree on the measures to be taken in relation to an obliged entity, **they** may refer the matter to AMLA and request its assistance in accordance with Articles 5 and 10 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]. AMLA shall provide its advice on the matter of disagreement within one month.

5. Where the supervisors of the home and host Member State disagree on the measures to be taken in relation to an obliged entity, **each of them** may refer the matter to AMLA and request its assistance in accordance with Articles 5 and 10 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]. AMLA shall provide its advice on the matter of disagreement within one month **and settle the disagreement on the matter by means of a binding instruction pursuant to Article XX(X) of that Regulation.**

Amendment 299
Proposal for a directive
Article 34 – paragraph 5 – subparagraph 1

Text proposed by the Commission

Amendment

AMLA may act in accordance with the powers conferred on it under Articles 5 and 10 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]. When doing so, AMLA shall provide its opinion on the

AMLA may act in accordance with the powers conferred on it under Articles 5 and 10 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]. When doing so, AMLA shall provide its opinion on the

subject-matter of the request within one month.

subject-matter of the request within one month ***and settle the disagreement on the matter by means of a binding instruction pursuant to Article XX(X) of that Regulation.***

Amendment 300
Proposal for a directive
Article 34 – paragraph 6

Text proposed by the Commission

Amendment

6. Member States shall ensure that the provisions of this Article also apply to the supervision of groups of obliged entities other than credit or financial institutions. Member States shall also ensure that in cases where obliged entities other than credit and financial institutions are part of structures which share common ownership, management or compliance control, including networks or partnerships, cooperation and exchange of information between supervisors is facilitated.

deleted

Amendment 301
Proposal for a directive
Article 34 a (new)

Text proposed by the Commission

Amendment

Article 34a

Supervision of groups of obliged entities other than credit or financial institutions

1. Member States shall ensure that the provisions of Article 34 also apply to non-financial supervisors in cases of supervision of groups of obliged entities other than credit or financial institutions, except where AMLA exercises direct supervision in accordance with Article 5(2) of Regulation ... [please insert reference to AMLA Regulation - 2021/0240(COD)]. Member States shall

also ensure that in cases where obliged entities other than credit and financial institutions are part of structures which share common ownership, management or compliance control, including networks or partnerships, cooperation and exchange of information between financial and non-financial supervisors is facilitated.

2. By ... [two years after the date of entry into force of this Directive], AMLA shall, after consulting supervisors and authorities overseeing self-regulatory bodies, develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall:

(a) establish criteria to identify groups of obliged entities other than credit or financial institutions which are part of structures which operate cross borders and share common ownership, management or compliance control, including networks or partnerships;

(b) detail the respective duties of the home and host supervisors, and the modalities of cooperation between them, in particular the exchange of relevant information to assess inherent or residual risk exposure of an obliged entity other than credit or financial institutions in another Member State

(c) provide guidance on the instances where cooperation and exchange of information between financial supervisors and non-financial supervisors is relevant and on the modalities of such cooperation.

3. The Commission shall supplement this Directive by adopting the regulatory technical standards referred to in the paragraph 2 of this Article in accordance with Articles 38 to 41 of Regulation ... [please insert reference to AMLA Regulation - 2021/024039(COD)].

Amendment 302
Proposal for a directive
Article 35 – paragraph 1

Text proposed by the Commission

Supervisors, including AMLA, shall inform each other of instances in which the law of a third country does not permit the implementation of the policies, controls and procedures required under Article 13 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]. In such cases, coordinated actions may be taken by supervisors to pursue a solution. In assessing which third countries do not permit the implementation of the policies, controls and procedures required under Article 13 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], supervisors shall take into account any legal constraints that may hinder proper implementation of those policies and procedures, including professional secrecy, an insufficient level of data protection and other constraints limiting the exchange of information that may be relevant for that purpose.

Amendment 303
Proposal for a directive
Chapter IV – Section 2 – title

Text proposed by the Commission

Specific provisions applicable to the financial sector

Amendment 304
Proposal for a directive
Article 36 – title

Amendment

Supervisors, including AMLA **and non-AML/CFT authorities** shall inform each other of instances in which the law of a third country does not permit the implementation of the policies, controls and procedures required under Article 13 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final]. In such cases, coordinated actions may be taken by supervisors to pursue a solution, **if they deem it necessary**. In assessing which third countries do not permit the implementation of the policies, controls and procedures required under Article 13 of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], supervisors shall take into account any legal constraints that may hinder proper implementation of those policies and procedures, including professional secrecy, an insufficient level of data protection and other constraints limiting the exchange of information that may be relevant for that purpose.

Amendment

Specific provisions applicable to the financial **and non-financial** sector

Text proposed by the Commission

AML/CFT supervisory colleges

Amendment

AML/CFT supervisory colleges ***in the financial sector***

Amendment 305
Proposal for a directive
Article 36 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The supervisory activities of AML/CFT supervisory colleges shall be proportionate to the level of risk posed by the credit or financial institution and the scale of its cross-border activity. AML/CFT supervisory colleges may adjust the programme of supervisory activities within the college on a risk-sensitive basis.

Amendment 306
Proposal for a directive
Article 36 – paragraph 5

Text proposed by the Commission

Amendment

5. AMLA shall attend the meetings of the AML/CFT supervisory colleges and shall facilitate their work in accordance with Article 29 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

5. AMLA shall attend the meetings of the AML/CFT supervisory colleges and shall facilitate their work in accordance with Article 29 of Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]. ***AMLA shall have the power to intervene where disagreements arise between supervisors participating in the AML/CFT supervisory colleges and to settle the disagreement on the matter by means of a binding instruction pursuant to Article XX(X) of that Regulation.***

Amendment 307
Proposal for a directive
Article 36 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Financial supervisors in third countries may be allowed to participate in AML/CFT supervisory colleges, in particular in AML/CFT supervisory colleges established under paragraph 1, point (b), provided that:

(a) there is a request for participation;

(b) Union data protection rules concerning data transfers apply;

(c) participation is on the basis of reciprocity;

(d) the information disclosed is subject to a guarantee of professional secrecy requirements at least equivalent to that referred to in Article 50(1) and is used solely for the purpose of performing the supervisory tasks of the participating financial supervisors.

AMLA shall assess whether financial supervisors in third countries fulfil the conditions laid down in the first subparagraph and shall decide on the participation of financial supervisors in third countries in AML/CFT supervisory colleges.

Amendment 308
Proposal for a directive
Article 36 – paragraph 6 – introductory part

Text proposed by the Commission

Amendment

6. By [2 year after the date of entry into force of this Directive], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall specify the general conditions for the functioning

6. By [2 year after the date of entry into force of this Directive], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall specify the general conditions for the functioning

of the AML/CFT supervisory colleges, including the terms of cooperation between participants, and the operational functioning of such colleges.

of the AML/CFT supervisory colleges ***on a risk sensitive basis*** including the terms of cooperation between participants, and the operational functioning of such colleges. ***They shall further specify requirements for the participation of financial supervisors in third countries. Prior to the submission of those draft regulatory technical standards to the Commission, AMLA shall consult with the European Data Protection Board on the data protection rules which apply to data transferred to financial supervisors in third countries.***

Amendment 309
Proposal for a directive
Article 36 a (new)

Text proposed by the Commission

Amendment

Article 36a

AML/CFT supervisory colleges in the non-financial sector

1. Member States shall ensure that non-financial supervisors participate in dedicated AML/CFT supervisory colleges that are established pursuant to article 31a of Regulation ... [please insert reference to AMLA Regulation - 2021/0240 (COD)] in any of the following situations:

(a) where an obliged entity as referred to in Article 3, point (3), of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239 (COD)] has set up establishments or provides services in at least three different Member States other than the Member State where it is established and has an annual EU-wide turnover of at least EUR 200 million;

(b) where an obliged entity as referred to in Article 3, point (3), of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239

(COD)] is a third-country entity that operates in at least four Member States and has an annual EU-wide turnover of at least EUR 200 million.

2. The supervisory activities of AML/CFT supervisory colleges shall be proportionate to the level of risk posed by the obliged entity and the scale of its cross-border activity. AML/CFT supervisory colleges may adjust the programme of supervisory activities within the college on a risk-sensitive basis.

3. For the purposes of paragraph 1 of this Article, following a decision in accordance with Article 31a of Regulation ... [please insert reference to AMLA Regulation - 2021/0240 (COD)], Member States shall ensure that non-financial supervisors identify:

(a) all obliged entity as referred to in Article 3, point (3), of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239 (COD)] operating on a cross-border basis that have been authorised in their Member State;

(b) all establishments set up by obliged entities as referred to in Article 3, point (3), of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239 (COD)] in other jurisdictions;

(c) establishments set up in their territory by obliged entities as referred to in Article 3, point (3), of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239 (COD)] from other Member States or third countries.

4. Such AML/CFT supervisory colleges may be used for exchanging information, providing mutual assistance and, where appropriate, coordinating the supervisory approach to the obliged entity, including the taking of appropriate and

proportionate measures to address serious breaches of the requirements of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239 (COD)] that are detected in the jurisdiction of a supervisor participating in the college.

5. AMLA shall decide on the need to establish the AML/CFT supervisory colleges and attend the meetings of the AML/CFT supervisory colleges and shall facilitate their work in accordance with Article 31a of Regulation ... [please insert reference to AMLA Regulation - 2021/0240 (COD)]. AMLA shall have the power to intervene where disagreements arise between supervisors participating in the AML/CFT supervisory colleges and mediate and assist in resolving conflicts between participating supervisory authorities on their request pursuant to Article 31a(2) of that Regulation.

6. Non-financial supervisors in third countries may be allowed to participate in AML/CFT supervisory colleges, in particular in AML/CFT supervisory colleges established under paragraph 1, point (b), provided that:

- (a) there is a request for participation;*
- (b) Union data protection rules concerning data transfers apply;*
- (c) participation is on the basis of reciprocity;*
- (d) the information disclosed is subject to a guarantee of professional secrecy requirements at least equivalent to that referred to in Article 50(1) and is used solely for the purpose of performing the supervisory tasks of the participating non-financial supervisors.*

AMLA shall assess whether non-financial supervisors in third countries fulfil the conditions laid down in the first subparagraph and decide on the participation of non-financial supervisors in third countries in AML/CFT

supervisory colleges.

7. By ... [three year after the date of entry into force of this Directive], AMLA shall develop draft regulatory technical standards and submit them to the Commission. Those draft regulatory technical standards shall specify the general conditions for the functioning of the AML/CFT supervisory colleges on a risk sensitive basis including the terms of cooperation between participants, and the operational functioning of such colleges. They shall further specify requirements for the participation of non-financial supervisors in third countries. Prior to the submission of those draft regulatory technical standards to the Commission, AMLA shall consult with the European Data Protection Board on the data protection rules which apply to data transferred to non-financial supervisors in third countries.

The Commission is empowered to supplement this Directive by adopting the regulatory technical standards referred to in the first subparagraph in accordance with Articles 38 to 41 of Regulation ... [please insert reference to AMLA Regulation - 2021/0240 (COD)].

Amendment 310
Proposal for a directive
Article 37 – title

Text proposed by the Commission

Cooperation with **financial** supervisors in third countries

Amendment

Cooperation with supervisors in third countries

Amendment 311
Proposal for a directive
Article 37 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States **may** authorise **financial** supervisors to conclude cooperation agreements providing for collaboration and exchanges of confidential information with their counterparts in third countries. Such cooperation agreements shall comply with applicable data protection rules **for data transfers** and be concluded on the basis of reciprocity and **only if the information disclosed is** subject to a guarantee of professional secrecy requirements at least equivalent to that referred to in Article 50(1). Confidential information exchanged in accordance with those cooperation agreements shall be used for the purpose of performing the supervisory tasks of those authorities only.

Amendment 312

Proposal for a directive

Article 37 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Where the information exchanged originates in another Member State, it shall only be disclosed with the explicit consent of the **financial** supervisor which shared it and, where appropriate, solely for the purposes for which that supervisor gave its consent.

Amendment 313

Proposal for a directive

Article 37 – paragraph 2

Text proposed by the Commission

2. For the purposes of paragraph 1, AMLA **may lend such assistance as may be necessary to** assess the equivalence of professional secrecy requirements

Amendment

1. Member States **shall** authorise supervisors to conclude cooperation agreements providing for collaboration and exchanges of confidential information with their counterparts in third countries. Such cooperation agreements shall comply with applicable data protection rules and be concluded on the basis of reciprocity and subject to a guarantee of professional secrecy requirements at least equivalent to that referred to in Article 50(1). Confidential information exchanged in accordance with those cooperation agreements shall be used for the purpose of performing the supervisory tasks of those authorities only.

Amendment

Where the information exchanged originates in another Member State, it shall only be disclosed with the explicit consent of the supervisor which shared it and, where appropriate, solely for the purposes for which that supervisor gave its consent.

Amendment

2. For the purposes of paragraph 1, AMLA **shall** assess the equivalence of professional secrecy requirements applicable to the third country counterpart.

applicable to the third country counterpart.

Amendment 314
Proposal for a directive
Article 37 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that **financial** supervisors notify any agreement signed pursuant to this Article to AMLA within one month of its signature.

Amendment

3. Member States shall ensure that supervisors notify any agreement signed pursuant to this Article to AMLA within one month of its signature. **AMLA shall develop draft implementing technical standards specifying a common template for the cooperation agreements referred to in paragraph 1. The Commission is empowered to adopt those implementing technical standards in accordance with Article 42 of Regulation ... [please insert reference to AMLA Regulation - 2021/0240 (COD)].**

Amendment 315
Proposal for a directive
Article 38 – paragraph 1

Text proposed by the Commission

1. Where Member States decide, pursuant to Article 29(3), to allow self-regulatory bodies to perform supervision of the entities referred to in Article 3, points (3)(a), **(b) and (d)**, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], they shall ensure that the activities of such self-regulatory bodies in the performance of such functions are subject to oversight by a public authority.

Amendment

1. Where Member States decide, pursuant to Article 29(3), to allow self-regulatory bodies to perform supervision of the entities referred to in Article 3, points (3)(a), **and (b)**, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], they shall ensure that the activities of such self-regulatory bodies in the performance of such functions are subject to oversight by a public authority.

Amendment 316
Proposal for a directive
Article 38 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *The public authority overseeing self-regulatory bodies shall be operationally independent and autonomous and shall carry out its functions free of political, government or industry influence or interference. Staff of those public authorities shall be of high integrity and appropriately skilled, including in detecting biases in, and in the ethical use of, big data sets, and shall maintain high professional standards, including standards of confidentiality, of data protection and of addressing conflicts of interest.*

Amendment 317
Proposal for a directive
Article 38 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. The authority overseeing self-regulatory bodies shall be responsible for:

2. The authority overseeing self-regulatory bodies shall be responsible for ***ensuring that self regulatory bodies as a minimum fulfil their legal obligations stemming from Union legal acts and from national legislation transposing Union legal acts, including by:***

Amendment 318
Proposal for a directive
Article 38 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) ensuring that self-regulatory bodies perform their functions under Section 1 of this Chapter to the highest standards;

(c) ensuring that self-regulatory bodies perform their functions under Section 1 of this Chapter to the highest standards ***and that, in particular, self-regulatory bodies perform the tasks laid down in Article 29(4);***

Amendment 319
Proposal for a directive
Article 38 – paragraph 3 – introductory part

Text proposed by the Commission

3. Member States shall ensure that the authority overseeing self-regulatory bodies is granted adequate powers to discharge its responsibilities under paragraph 2. **As a minimum**, Member States shall ensure that the authority has the power to:

Amendment

3. Member States shall ensure that the authority overseeing self-regulatory bodies is granted adequate powers to discharge its responsibilities under paragraph 2. **In particular**, Member States shall ensure that the authority has the power to:

Amendment 320
Proposal for a directive
Article 38 – paragraph 3 – point a

Text proposed by the Commission

(a) compel the production of any information that is relevant to monitoring compliance and performing checks, except for any information collected by obliged entities referred to in Article 3, points (3)(a), **(b) and (d)**, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] in the course of ascertaining the legal position of their client, or for performing the task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings; whether such information was collected before, during or after such proceedings;

Amendment

(a) compel the production of any information that is relevant to monitoring compliance and performing checks, except for any information collected by obliged entities referred to in Article 3, points (3)(a), **and (b)**, of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] in the course of ascertaining the legal position of their client, **subject to the conditions laid down in that Regulation**, or for performing the task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings; whether such information was collected before, during or after such proceedings;

Amendment 321
Proposal for a directive
Article 38 – paragraph 3 – point b

Text proposed by the Commission

(b) issue instructions to a self-regulatory body for the purpose of

Amendment

(b) issue instructions to a self-regulatory body for the purpose of

remedying a failure to perform its functions under Article 29(1) or to comply with the requirements of paragraph 6 of that Article, or to prevent any such failures. When issuing such instructions, the authority shall consider any relevant guidance it provided or that has been provided by AMLA.

remedying a failure to perform its functions under Article 29(1) or to comply with the requirements of paragraph **5 and 6** of that Article, or to prevent any such failures. When issuing such instructions, the authority shall consider any relevant guidance it provided or that has been provided by AMLA.

Amendment 322
Proposal for a directive
Article 39 – paragraph 3 – introductory part

Text proposed by the Commission

3. In the event of a breach of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], Member States shall ensure that where obligations apply to legal *persons*, administrative sanctions and measures can be applied to *the* senior management and to other natural persons who under national law are responsible for the breach.

Amendment

3. In the event of a breach of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], Member States shall ensure that where obligations apply to *a* legal *person*, administrative sanctions and measures can be applied to *its* senior management and to other natural persons who under national law are responsible for the breach.

Amendment 323
Proposal for a directive
Article 39 – paragraph 5 – point g a (new)

Text proposed by the Commission

Amendment

(ga) repeated similar breaches by the natural or legal person held responsible.

Amendment 324
Proposal for a directive
Article 39 – paragraph 6

Text proposed by the Commission

Amendment

6. In the exercise of their powers to impose administrative sanctions and measures, supervisors shall cooperate closely in order to ensure that those

6. In the exercise of their powers to impose administrative sanctions and measures, supervisors shall cooperate closely *and, where relevant, coordinate*

administrative sanctions or measures produce the desired results and coordinate their action when dealing with cross-border cases.

their actions with non-AML/CFT authorities, in order to ensure that those administrative sanctions or measures produce the desired results and coordinate their action when dealing with cross-border cases.

Amendment 325
Proposal for a directive
Article 39 – paragraph 7 – introductory part

Text proposed by the Commission

7. By [2 years after the date of entry into force of this Directive], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall define indicators to classify the level of gravity of breaches and criteria to be taken into account when setting the level of administrative sanctions or taking administrative measures pursuant to this Section.

Amendment

7. By [2 years after the date of entry into force of this Directive], AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall define indicators to classify the level of gravity of breaches and criteria to be taken into account when setting the level of administrative sanctions or taking administrative measures pursuant to this Section ***and the consequences in the event of repeated breaches. Those draft regulatory technical standards shall also include ranges of pecuniary sanctions relative to the turnover of the entity in breach that shall be applied in accordance with the indicators to assess the level of gravity of the breach as references for effective, proportionate and dissuasive sanctions, including in cases of repeated breaches.***

Amendment 326
Proposal for a directive
Article 40 – paragraph 1 – point d

Text proposed by the Commission

(d) Section 1 of Chapter II (internal controls).

Amendment

(d) Section 1 of Chapter II (internal ***policies***, controls ***and procedures of obliged entities***).

Amendment 327
Proposal for a directive
Article 40 – paragraph 3 – point a

Text proposed by the Commission

(a) in the case of a legal person, maximum administrative pecuniary sanctions of at least EUR 10 000 000 or **10** % of the total annual turnover according to the latest available accounts approved by the management body; where the obliged entity is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial accounts in accordance with Article 22 of Directive 2013/34/EU of the European Parliament and of the Council⁴⁹, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with the relevant accounting regime according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking;

⁴⁹ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

Amendment 328
Proposal for a directive
Article 40 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

(a) in the case of a legal person, maximum administrative pecuniary sanctions of at least EUR 10 000 000 or **15** % of the total **global** annual turnover according to the latest available accounts approved by the management body, **whichever is higher**, where the obliged entity is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial accounts in accordance with Article 22 of Directive 2013/34/EU of the European Parliament and of the Council⁴⁹, the relevant total annual turnover shall be the total **global** annual turnover or the corresponding type of income in accordance with the relevant accounting regime according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking;

⁴⁹ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

4a. Member States shall ensure that a legal person can be held liable for

breaches as referred to in paragraph 1 where the breach has been committed for its benefit by any natural person, acting individually or as part of a body of that legal person that has a leading position within that legal person based on any of the following:

- (a) power to represent that legal person;*
- (b) authority to take decisions on behalf of that legal person;*
- (c) authority to exercise control within that legal person.*

Amendment 329
Proposal for a directive
Article 40 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. Member States shall ensure that a legal person can be held liable where the lack of supervision or control by natural persons referred to in paragraph 4a of this Article has made possible the commission by a person under their authority of the breaches referred to in Article 40(1) for the benefit of that legal person.

Amendment 330
Proposal for a directive
Article 41 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. *When* supervisors identify breaches of requirements of the Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] which are not deemed sufficiently serious to be punished with an administrative sanction, *they may decide to impose administrative measures on the obliged entity*. Member States shall ensure

1. *Member States shall ensure that supervisors are able to impose administrative measures other than sanctions on an obliged entity where they identify breaches of requirements of the Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] either in combination with administrative*

that the supervisors are able at least to:

sanctions or, in cases which are not deemed sufficiently serious to be punished with an administrative sanction, **alone**. Member States shall ensure that the supervisors are able at least to:

Amendment 331
Proposal for a directive
Article 41 – paragraph 1 – point b

Text proposed by the Commission

(b) order obliged entities to comply, including to implement specific corrective measures;

Amendment

(b) order obliged entities to comply, including to implement specific corrective measures, ***within a concrete and reasonable timeline***;

Amendment 332
Proposal for a directive
Article 41 – paragraph 1 – point e

Text proposed by the Commission

(e) where an obliged entity is subject to an authorisation, withdraw or suspend the authorisation;

Amendment

(e) where an obliged entity is subject to an authorisation, withdraw or suspend the authorisation ***or propose the imposition of these or similar measures where the corresponding powers rest with another authority***;

Amendment 333
Proposal for a directive
Article 41 – paragraph 1 – point f

Text proposed by the Commission

(f) impose a temporary ban against any person discharging managerial responsibilities in an obliged entity, or any other natural person, held responsible for the breach, from exercising managerial functions in obliged entities.

Amendment

(f) impose a temporary ban against any person discharging managerial responsibilities in an obliged entity, or any other natural person, held responsible for the breach, from exercising managerial functions in obliged entities, ***or propose the imposition of such measure or a removal of the person from a function within the obliged entity where the***

corresponding powers rest with another authority.

Amendment 334

Proposal for a directive

Article 41 – paragraph 2 – point a

Text proposed by the Commission

(a) request an ad-hoc or regular submission of any document necessary for the performance of their tasks, including those to justify the process of implementation of the requested administrative measures;

Amendment

(a) request an ad-hoc or regular submission of any document necessary for the performance of their tasks, including those to justify the process of implementation of the requested administrative measures ***without undue delay***;

Amendment 335

Proposal for a directive

Article 42 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that a decision imposing an administrative sanction or measure for breach of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] ***against which there is no appeal*** shall be published by the supervisors on their official website immediately after the person sanctioned is informed of that decision. The publication shall include at least information on the type and nature of the breach and the identity of the persons responsible. Member States shall not be obliged to apply this subparagraph to decisions imposing measures that are of an investigatory nature.

Amendment

1. Member States shall ensure that a decision imposing an administrative sanction or measure for breach of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] shall be published by the supervisors on their official website ***in an accessible format, in the official language of the Member State in question and in English***, immediately after the person sanctioned is informed of that decision ***and it is no longer subject to internal review***. The publication shall include at least information on the type and nature of the breach and the identity of the persons responsible ***and whether the decision is subject to appeal***. Member States shall not be obliged to apply this subparagraph to decisions imposing measures that are of an investigatory nature.

Amendment 336
Proposal for a directive
Article 42 – paragraph 1 – subparagraph 1 – point c – point ii

Text proposed by the Commission

(ii) the proportionality of the publication of the decision with regard to measures which are deemed to be of a minor nature.

Amendment

(ii) the proportionality of the publication of the decision with regard to ***the damage to the obliged entity or to*** measures which are deemed to be of a minor nature.

Amendment 337
Proposal for a directive
Article 42 – paragraph 3

Text proposed by the Commission

3. Supervisors shall ensure that any publication in accordance with this Article shall remain on their official website for a period of five years after its publication. However, personal data contained in the publication shall only be kept on the official website of the competent authority for the period which is necessary in accordance with the applicable data protection rules and in any case for no more than 5 years.

Amendment

3. Supervisors ***or other competent authorities*** shall ensure that any publication in accordance with this Article shall remain on their official website for a period of five years after its publication. However, personal data contained in the publication shall only be kept on the official website of the competent authority for the period which is necessary in accordance with the applicable data protection rules and in any case for no more than 5 years.

Amendment 338
Proposal for a directive
Article 42 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that supervisors draw up a report on an annual basis containing relevant statistical information on the sanctions issued and measures taken. That report shall contain a summary of the breaches sanctioned and the amounts of fines. The report shall be made public.

Amendment 339
Proposal for a directive
Article 42 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States shall ensure that legal persons can be held liable for the breaches referred to in Article 40(1) committed for their benefit by any person, acting individually or as part of an organ of that legal person, and having a leading position within the legal person based on any of the following:

deleted

(a) power to represent the legal person;

(b) authority to take decisions on behalf of the legal person;

(c) authority to exercise control within the legal person.

Amendment 340
Proposal for a directive
Article 42 – paragraph 5

Text proposed by the Commission

Amendment

5. Member States shall ensure that legal persons can be held liable where the lack of supervision or control by the persons referred to in paragraph 4 of this Article has made possible the commission, by a person under their authority, of the breaches referred to in Article 40(1) for the benefit of that legal person.

deleted

Amendment 341
Proposal for a directive
Article 43 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States shall ensure that supervisory authorities, as well as, where applicable, self-regulatory bodies, establish

1. Member States shall ensure that supervisory authorities, *FIUs*, as well as, where applicable, self-regulatory bodies,

effective and reliable mechanisms to encourage the reporting of potential and actual breaches of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].

establish effective and reliable mechanisms to encourage the reporting of potential and actual breaches of ***the national provisions transposing this Directive and of*** Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final].

Amendment 342
Proposal for a directive
Article 43 – paragraph 1 – subparagraph 1

Text proposed by the Commission

For that purpose, they shall provide one or more secure communication channels for the reporting referred to in the first subparagraph. Such channels shall ensure that the identity of persons providing information is known only to the supervisory authority, or, where applicable, self-regulatory body.

Amendment

For that purpose, they shall provide one or more secure communication channels for the reporting referred to in the first subparagraph. Such channels shall ensure that the identity of persons providing information is ***encrypted and*** known only to the supervisory authority, or, where applicable, self-regulatory body. ***Where reporting relates to potential or actual breaches by employees or the management body of the supervisory authorities or, where applicable, self-regulatory body, the identity of the persons providing information should only be known by the specific body responsible for receiving reports.***

Amendment 343
Proposal for a directive
Article 43 – paragraph 2 – point a

Text proposed by the Commission

(a) specific procedures for the receipt of reports on breaches and their follow-up;

Amendment

(a) specific procedures for the receipt of reports on breaches ***by both anonymous and non-anonymous individuals*** and their follow-up;

Amendment 344
Proposal for a directive
Article 43 – paragraph 2 – point b

Text proposed by the Commission

(b) appropriate protection for employees or persons in a comparable position, of obliged entities who report breaches committed within the obliged entity;

Amendment

(b) appropriate protection ***as well as access to legal and financial advice*** for employees, ***board members, shareholders, contractors, subcontractors, suppliers, trainees and former workers*** or persons in a comparable position, of obliged entities who report breaches committed within the obliged entity, ***and for any individual who has independent knowledge or who after independent evaluation of publicly-available information provides information to the competent authorities***;

Amendment 345
Proposal for a directive
Article 43 – paragraph 2 – point e

Text proposed by the Commission

(e) clear rules that ensure that confidentiality is guaranteed in all cases in relation to the person who reports the breaches committed within the obliged entity, unless disclosure is required by national law in the context of further investigations or subsequent judicial proceedings.

Amendment

(e) clear rules that ensure that confidentiality is guaranteed in all cases in relation to the person who reports the breaches committed within the obliged entity, ***supervisor or, where applicable, self-regulatory body***, unless disclosure is required by national law in the context of further investigations or subsequent judicial proceedings.

Amendment 346
Proposal for a directive
Article 43 – paragraph 3 – introductory part

Text proposed by the Commission

3. Member States shall ensure that individuals, including employees and representatives of the obliged entity who report potential or actual breaches of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] ***internally or to the FIU***, are legally

Amendment

3. Member States shall ensure that individuals, including employees and representatives of the obliged entity ***or competent authorities or of supervisory authorities or self-regulatory bodies*** who report potential or actual breaches of ***the national provisions transposing this Directive or*** Regulation [please insert

protected from being exposed to threats, retaliatory or hostile action, and in particular from adverse or discriminatory employment actions.

reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final], **as provided for in paragraph 1 of this Article**, are legally protected **in accordance with Directive EU 2019/1937** from being exposed to threats, retaliatory or hostile action, and in particular from adverse or discriminatory employment actions.

Amendment 347

Proposal for a directive

Article 43 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that individuals who are exposed to threats, hostile actions, or adverse or discriminatory employment actions for reporting potential or actual breaches of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] internally or to the **FIU** are entitled to present a complaint in a safe manner to the respective competent authorities. Without prejudice to the confidentiality of information gathered by the FIU, Member States shall also ensure that such individuals have the right to effective remedy to safeguard their rights under this paragraph.

Amendment

Member States shall ensure that individuals who are exposed to threats, hostile actions, or adverse or discriminatory employment actions for reporting potential or actual breaches of **the national provisions transposing this Directive or** Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] internally or to the **mechanisms referred to in paragraph 1** are entitled to present a complaint in a safe manner to the respective competent authorities. Without prejudice to the confidentiality of information gathered by the FIU, Member States shall also ensure that such individuals have the right to effective remedy to safeguard their rights under this paragraph.

Amendment 348

Proposal for a directive

Article 44 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that their supervisors and, where relevant, the national authority overseeing self-regulatory bodies in their performance of supervisory functions inform AMLA of all

Amendment

1. Member States shall ensure that their supervisors and, where relevant, the national authority overseeing self-regulatory bodies in their performance of supervisory functions inform AMLA, **and,**

administrative sanctions and measures imposed in accordance with this Section, including of any appeal in relation thereto and the outcome thereof. Such information shall also be shared with other supervisors when the administrative sanction or measure concerns an entity operating in two or more Member States.

where relevant, the FIUs of the Member States concerned, of all administrative sanctions and measures imposed in accordance with this Section, including of any appeal in relation thereto and the outcome thereof. Such information shall also be shared with other supervisors when the administrative sanction or measure concerns an entity operating in two or more Member States.

Amendment 349
Proposal for a directive
Article 44 – paragraph 2

Text proposed by the Commission

2. AMLA shall maintain on its website links to each supervisor's publication of administrative sanctions and measures imposed in accordance with Article 42, and shall show the time period for which each Member State publishes administrative sanctions and measures.

Amendment

2. AMLA shall maintain *a database* on its website *with information on the sanctions applied per obliged entity and* links to each supervisor's publication of administrative sanctions and measures imposed in accordance with Article 42, and shall show the time period for which each Member State publishes administrative sanctions and measures.

Amendment 350
Proposal for a directive
Article 45 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that policy makers, the FIUs, supervisors, *including AMLA*, and other competent authorities, as well as tax authorities have effective mechanisms to enable them to cooperate and coordinate domestically concerning the development and implementation of policies and activities to combat money laundering and terrorist financing and to prevent the non-implementation and evasion of *proliferation financing-related* targeted financial sanctions, including with a view

Amendment

1. Member States shall ensure that policy makers, the FIUs, supervisors, and other competent authorities, as well as *law enforcement authorities and* tax authorities have effective mechanisms to enable them to cooperate and coordinate domestically *and at Union level* concerning the development and implementation of policies and activities to combat money laundering and terrorist financing and to prevent the non-implementation and evasion of targeted financial sanctions, including with a view

to fulfilling their obligations under Article 8.

to fulfilling their obligations under Article 8.

Amendment 351
Proposal for a directive
Article 45 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that policy makers, the FIUs, supervisors and other competent authorities have effective mechanisms to enable them to cooperate with AMLA, Europol, Eurojust and EPPO under the applicable Union law concerning the development and implementation of policies and activities to combat money laundering and terrorist financing and to prevent the non-implementation and evasion of targeted financial sanctions.

Amendment 352
Proposal for a directive
Article 45 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. With regard to targeted financial sanctions, Member States shall ensure that FIUs, supervisors, competent authorities in charge of the registers pursuant to Chapter II, competent authorities in charge of targeted financial sanctions, authorities in charge of tracing and seizing or freezing and confiscating assets and other competent authorities have effective mechanisms in place to exchange information with regard to compliance, supervision and enforcement of targeted financial sanctions, including for the purpose of collecting, processing and disclosing relevant data relating to persons subject to targeted financial sanctions.

Amendment 353
Proposal for a directive
Article 45 – paragraph 3 – introductory part

Text proposed by the Commission

3. Member States shall not prohibit or place unreasonable or unduly restrictive conditions on the exchange of information or assistance between competent authorities for the purposes of this Directive. Member States shall ensure that competent authorities do not refuse a request for assistance on the grounds that:

Amendment

3. Member States shall not prohibit or place unreasonable or unduly restrictive conditions on the exchange of information or assistance between competent authorities, ***supervisors and non-AML/CFT authorities*** for the purposes of this Directive. Member States shall ensure that competent authorities ***supervisors and non-AML/CFT authorities*** do not refuse a request for assistance on the grounds that:

Amendment 354
Proposal for a directive
Article 45 – paragraph 3 – point c

Text proposed by the Commission

(c) there is an inquiry, investigation or proceeding underway in the requested Member State, unless the assistance would impede that inquiry, investigation or proceeding;

Amendment

(c) there is an ***analysis***, inquiry, investigation or proceeding underway in the requested Member State, unless the assistance would impede that ***analysis***, inquiry, investigation or proceeding;

Amendment 355
Proposal for a directive
Article 45 – paragraph 3 – point d

Text proposed by the Commission

(d) the nature or status of the requesting counterpart competent authority is different from that of requested competent authority.

Amendment

(d) the nature or status of the requesting counterpart competent authority, ***supervisor or non-AML/CFT authority*** is different from that of requested competent authority, ***supervisor or non-AML/CFT authority***.

Amendment 356
Proposal for a directive
Article 45 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that their supervisors have prompt access to any information required to fulfil their tasks. Supervisors and competent authorities, including FIUs, shall have a duty to cooperate with each other

**Amendment 357
Proposal for a directive
Article 46 – title**

Text proposed by the Commission

Amendment

Communication of the list of *the competent* authorities

Communication of the list of *competent* authorities *and registers*

**Amendment 358
Proposal for a directive
Article 46 – paragraph 1 – point b a (new)**

Text proposed by the Commission

Amendment

(ba) the contact details of the entity in charge of the central registers referred to in Article 10;

**Amendment 359
Proposal for a directive
Article 46 – paragraph 1 – point b b (new)**

Text proposed by the Commission

Amendment

(bb) the contact details necessary to obtain information on real estate data, certain goods and bank accounts;

**Amendment 360
Proposal for a directive
Article 47 – paragraph 1**

Text proposed by the Commission

FIU and supervisory authorities shall cooperate with AMLA and shall provide it with all the information necessary to allow it to carry out its duties under this Directive, under Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and under Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

Amendment 361
Proposal for a directive
Article 48 – title

Text proposed by the Commission

Cooperation in relation to credit institutions

Amendment 362
Proposal for a directive
Article 48 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that financial supervisors, FIUs and authorities competent for the supervision of credit institutions under other legal acts cooperate closely with each other within their respective competences and provide each other with information relevant for the performance of their respective tasks. Such cooperation and information exchange shall not impinge on an ongoing inquiry, investigation or proceedings in accordance with the criminal or administrative law of the Member State where **the financial supervisor** or authority entrusted with

Amendment

FIUs, supervisory **authorities, competent authorities and non-AML/CFT** authorities shall cooperate with AMLA and shall provide it with all the information necessary to allow it to carry out its duties under this Directive, under Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] and under Regulation [please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final].

Amendment

Cooperation in relation to credit **or financial** institutions

Amendment

1. Member States shall ensure that financial supervisors, **non-AML/CFT authorities**, FIUs and authorities competent for the supervision of credit **or financial** institutions under other legal acts cooperate closely with each other within their respective competences and provide each other with information relevant for the performance of their respective tasks. Such cooperation and information exchange shall not impinge on an ongoing inquiry, investigation or proceedings in accordance with the criminal or administrative law of the Member State

competences for the supervision of credit institutions under other legal acts is located and shall not affect obligations of professional secrecy as provided in Article 50(1).

where **supervisors, non-AML/CFT authorities, FIUs** or authority entrusted with competences for the supervision of credit **or financial** institutions under other legal acts is located and shall not affect obligations of professional secrecy as provided in Article 50(1).

Amendment 363
Proposal for a directive
Article 48 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that, where financial supervisors identify weaknesses in the AML/CFT internal control system and application of the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] of a credit institution which materially increase the risks to which the institution is or might be exposed, the financial supervisor immediately notifies the European Banking Authority (EBA) and the authority or body that supervises the credit institution in accordance with **Directive (EU) 2013/36**, including the ECB acting in accordance with Council Regulation (EU) 1024/2013⁵⁰.

⁵⁰ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

Amendment

2. Member States shall ensure that, where financial supervisors, **non-AML/CFT authorities or FIUs** identify weaknesses in the AML/CFT internal control system and application of the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] of a credit **or financial** institution which materially increase the risks to which the institution is or might be exposed, the financial supervisor, **non-AML/CFT authority or FIU** immediately notifies the European Banking Authority (EBA) and the authority or body that supervises the credit institution **affected** in accordance with **applicable Union law**, including the ECB acting in accordance with Council Regulation (EU) 1024/2013⁵⁰.

⁵⁰ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

Amendment 364
Proposal for a directive
Article 48 – paragraph 2 – subparagraph 1

Text proposed by the Commission

In the event of potential increased risk, **financial** supervisors shall **be able to liaise** with the authorities supervising the institution in accordance with **Directive (EU) 2013/36** and draw up a common assessment to be notified to EBA. AMLA shall be kept informed of any such notifications.

Amendment 365
Proposal for a directive
Article 48 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that, where financial supervisors find that a credit institution has refused to enter into a business relationship but the documented customer due diligence pursuant to Article 17(2) does not justify such refusal, they shall inform the authority responsible for ensuring compliance by that institution with Directive (EU) 2014/92 or Directive (EU) 2015/2366.

Amendment 366
Proposal for a directive
Article 48 – paragraph 6

Text proposed by the Commission

6. By [2 years after the date of transposition of this Directive], AMLA shall, in consultation with EBA, issue guidelines on cooperation between financial supervisors and the authorities referred to in paragraphs 2, 3 and 4, including on the level of involvement of FIUs in such cooperation.

Amendment

In the event of potential increased risk, **the respective** supervisors shall **cooperate and share information** with the authorities supervising the institution in accordance with **applicable Union law** and draw up a common assessment to be notified to EBA **by the supervisor who first sent the notification**. AMLA shall be kept informed of any such notifications.

Amendment

3. Member States shall ensure that, where financial supervisors find that a credit institution has refused to enter into **or continue in** a business relationship but the documented customer due diligence pursuant to Article 17(2) does not justify such refusal, they shall inform the authority responsible for ensuring compliance by that institution with Directive (EU) 2014/92 or Directive (EU) 2015/2366.

Amendment

6. By [2 years after the date of transposition of this Directive], AMLA shall, in consultation with EBA **and supervisors**, issue guidelines on cooperation between financial supervisors and the authorities referred to in paragraphs 2, 3 and 4, including on the level of involvement of FIUs in such cooperation.

Amendment 367
Proposal for a directive
Article 49 – paragraph 2

Text proposed by the Commission

2. Member States may prohibit the authorities referred to in paragraph 1 from cooperating when such cooperation, including the exchange of information, would impinge on an ongoing inquiry, investigation or proceedings in accordance with the criminal or administrative law of the Member State where the authorities are located.

Amendment

2. Member States may prohibit the authorities referred to in paragraph 1 from cooperating when such cooperation, including the exchange of information, would impinge on an ongoing inquiry, **analysis**, investigation or proceedings **or would prejudice the prohibition of disclosure under article 54 of Regulation ... [please insert reference to Anti-Money Laundering Regulation -2021/0239 (COD)]** in accordance with the criminal or administrative law of the Member State where the authorities are located.

Amendment 368
Proposal for a directive
Article 50 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall require that all persons working for or who have worked for financial supervisors and auditors or experts acting on behalf of financial supervisors be bound by the obligation of professional secrecy.

Amendment

1. Member States shall require that all persons working for or who have worked for financial supervisors, **FIUs** and auditors or experts acting on behalf of financial supervisors **or FIUs** be bound by the obligation of professional secrecy.

Amendment 369
Proposal for a directive
Article 50 – paragraph 2 – point b

Text proposed by the Commission

(b) financial supervisors and FIUs;

Amendment

(b) financial supervisors, **competent authorities** and FIUs;

Amendment 370
Proposal for a directive
Article 50 – paragraph 2 – point c

Text proposed by the Commission

(c) financial supervisors and **competent** authorities in charge of credit and financial institutions in accordance with other legislative acts relating to the supervision of credit and financial institutions, including the ECB acting in accordance with Regulation (EU) 1024/2013, whether within a Member State or in different Member States.

Amendment

(c) financial supervisors and authorities in charge of **supervising** credit and financial institutions in accordance with other legislative acts relating to the supervision of credit and financial institutions, including the ECB acting in accordance with Regulation (EU) 1024/2013, whether within a Member State or in different Member States.

Amendment 371
Proposal for a directive
Article 50 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) financial supervisors, the national central banks that are members of the European System of Central Banks (ESCB), and the ECB.

Amendment 372
Proposal for a directive
Article 50 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

For the purposes of the **first subparagraph, point (c)**, the exchange of information shall be subject to the professional secrecy requirements provided for in paragraph 1.

For the purposes of the **this paragraph**, the exchange of information shall be subject to the professional secrecy requirements provided for in paragraph 1 **or equivalent requirements provided under Union law.**

Amendment 373
Proposal for a directive
Article 51 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) supervisors and the authorities responsible by law for the supervision of financial markets in the discharge of their

(b) supervisors and the authorities responsible by law for the supervision of financial markets **or credit or financial**

respective supervisory functions;

institutions in the discharge of their respective supervisory functions;

Amendment 374

Proposal for a directive

Article 51 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) supervisors and, where relevant, the EPPO with regard to any criminal conduct in respect of which EPPO could exercise its competence in accordance with Article 22 or Article 25(2) or (3) of Regulation (EU) 2017/1939^{1a}

Amendment 375

Proposal for a directive

Article 51 – paragraph 1 – point c b (new)

Text proposed by the Commission

Amendment

(cb) supervisors and, where relevant, the European Anti-Fraud Office (OLAF) with regard to possible cases of fraud, corruption or any other illegal activity affecting the financial interests of the Union pursuant to Article 8 of Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council^{1a};

^{1a} Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

Amendment 376
Proposal for a directive
Article 51 – paragraph 3 – introductory part

Text proposed by the Commission

3. Member States may authorise the disclosure of certain information relating to the supervision of obliged entities for compliance with the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] to parliamentary inquiry committees, courts of auditors and other entities in charge of enquiries in their Member State, under the following conditions:

Amendment

3. Member States may authorise the disclosure of certain information relating to the supervision of obliged entities for compliance with the requirements of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] to parliamentary inquiry committees, ***including those set up by the European Parliament***, courts of auditors and other entities in charge of enquiries in their Member State, under the following conditions:

Amendment 377
Proposal for a directive
Article 52 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the cooperation between the Union bodies referred to in this Article;

Amendment 378
Proposal for a directive
Article 53 – paragraph 1 – introductory part

Text proposed by the Commission

1. To the extent that it is strictly necessary for the purposes of this Directive, competent authorities may process special categories of personal data referred to in Article 9(1) of Regulation (EU) 2016/679 and personal data relating to criminal convictions and offences referred to in Article 10 of that Regulation subject to appropriate safeguards for the rights and freedoms of the data subject ***and*** the following ***additional*** safeguards:

Amendment

1. To the extent that it is strictly necessary for the purposes of this Directive, competent authorities may process special categories of personal data referred to in Article 9(1) of Regulation (EU) 2016/679 and personal data relating to criminal convictions and offences referred to in Article 10 of that Regulation subject to appropriate safeguards for the rights and freedoms of the data subject, ***in addition to*** the following safeguards:

Amendment 379
Proposal for a directive
Article 53 – paragraph 1 – point b

Text proposed by the Commission

(b) staff of the competent authorities shall maintain high professional standards of confidentiality and data protection, they shall be of high integrity and are appropriately skilled;

Amendment

(b) staff of the competent authorities shall maintain high professional standards of confidentiality and data protection, they shall be of high integrity and are appropriately skilled, ***including in detecting biases in, and in the ethical use of, big data sets;***

Amendment 380
Proposal for a directive
Article 53 – paragraph 1 – point c

Text proposed by the Commission

(c) technical and organisational measures shall be in place to ensure the security of the data to high technological standards.

Amendment

(c) technical and organisational measures shall be in place to ensure the security of the data to high technological standards ***and to ensure that the processing of the data does not lead to biased and discriminatory outcomes;***

Amendment 381
Proposal for a directive
Article 53 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) any automated decision-making shall include human review and the possibility for human intervention

Amendment 382
Proposal for a directive
Article 55 a (new)

Text proposed by the Commission

Amendment

Article 55a

Continuity of application of adopted instruments

1. All guidelines, opinions and recommendations issued by the European Supervisory Authorities in accordance with Directive (EU) 2015/849 and Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010 shall continue to apply until amended or repealed by AMLA.

2. All regulatory technical standards adopted by the Commission in accordance with Directive (EU) 2015/849 and Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010 shall continue to apply until amended or repealed by the Commission through delegated acts.

**Amendment 383
Proposal for a directive
Article 56 a (new)**

Text proposed by the Commission

Amendment

Article 56a

Review relating to availability and access to beneficial ownership information

By ... [three years after the date of entry into force of this Directive], the Commission shall, in close collaboration with AMLA, conduct an assessment of the following:

- (a) the functioning of the beneficial owners registers established in the Member States as well as the interconnected system for searches through the European Central Platform;***
- (b) the feasibility of establishing a centralised European beneficial***

ownership register;

(c) the feasibility of the establishment of a European Know-Your-Customer (KYC)/Customer Due Diligence (CDD) Register, taking into account the potential risks for the de-risking of natural and legal persons, and the mitigation of administrative burdens on both the competent authorities of the Member States and the obliged entities, the added-value in terms of data quality and mitigating measures to limit shortcomings.

By... [three years after the date of entry into force of this Directive], the Commission shall provide a report to the European Parliament and the Council on the results of the assessment. That report may include recommendations for improving the central registers established at national level. The Commission may submit, if appropriate, a legislative proposal to the European Parliament and the Council on the establishment of a centralised European Beneficial ownership register or a European KYC/CDD Register

Amendment 384
Proposal for a directive
Article 56 b (new)

Text proposed by the Commission

Amendment

Article 56b

Review relating to registration obligations of high-value assets or goods

By ... [two years after the date of entry into force of this Directive], the Commission shall, in close collaboration with AMLA, conduct an assessment of the feasibility of expanding the registration obligations for other high-value goods or assets outside of free zones, potentially putting the registration burden on obliged entities. The assessment shall evaluate the

proportionality of establishment of such register and shall include a cost-benefit analysis. It shall take into account the potential risks of evasion of registration of high-value goods or assets by moving those goods and assets outside of the Union internal market or by other means and compare the costs incurred, as well as proportionality.

By... [two years after the date of entry into force of this Directive], the Commission shall provide a report to the European Parliament and the Council on the results of the assessment. That report may include recommendations for expanding the registration obligations. The Commission may submit, if appropriate, a legislative proposal to the European Parliament and the Council on new registration obligations.

Amendment 385
Proposal for a directive
Article 56 c (new)

Text proposed by the Commission

Amendment

Article 56c

Review relating to functioning of of high-value assets or goods registers and systems

By ... five years after the date of entry into force of this Directive], the Commission shall, in close collaboration with AMLA, conduct an assessment of the following:

(a) the functioning of the register and data retrieval systems for motor vehicles, aircrafts and watercrafts as referred to in Article 16b;

(b) the feasibility of expanding the registration obligations for other high-value goods or assets outside of free zones, potentially putting the registration burden on obliged entities, the assessment to include an evaluation of the

proportionality of establishing such register and a cost to benefits assessment that shall play a significant role;

(c) the functioning of the free zone asset registers as referred to in Article 16c;

(d) the feasibility of broader registration obligations for high-value goods and assets in free zones.

The assessment shall take into account the potential risks of evasion of registration of high-value goods or assets by moving those goods and assets outside of the Union internal market or by other means and compare them to the costs incurred, as well as proportionality.

By... [five years after the date of entry into force of this Directive], the Commission shall provide a report to the European Parliament and the Council on the results of such assessment. That report may include recommendations for improving the registers, data retrieval systems and registration obligations. The Commission may submit, if appropriate, a legislative proposal to the European Parliament and the Council on new registration obligations.

Amendment 386
Proposal for a directive
Article 58 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [please insert date - 3 years after the date of entry into force] **at the latest**. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [please insert date - **two** years after the date of entry into force]. They shall forthwith communicate to the Commission the text of those provisions.

EXPLANATORY STATEMENT

General reflections

It has become clear for some time that the current framework to combat money laundering and terrorist financing (AML/CTF) in the EU is ineffective. While the EU legislation lays down some of the most advanced standards in the world, it has not been timely transposed by Member States or enforced properly at national level. The divergences in the implementation of past AML Directives have also seriously undermined the effectiveness of the framework. Therefore, the co-rapporteurs welcome the AML Package proposed by the Commission, which consists of different legislative instruments, including the 6th AML Directive (AMLD). The co-rapporteurs also welcome the proposal to establish an Anti-Money Laundering Authority (AMLA).

It should be understood that the framework to combat ML/TF is only as effective as its weakest spot (be it a country, an institution, an economic sector). This is all the more relevant in the EU single market, which combines common rules and freedoms. Aiming just for average improvements is far from enough.

The Russian aggression against Ukraine and the outcome of the sanctions that followed the war has proved to us that the rules and procedures currently in place do not give rise to desired outcomes. Even as sanctions are directed only to a small number of high-profile cases, the identification of owners of high value goods and assets, such as mansions, private planes and mega-yachts was, in the current circumstances, too challenging a task for the competent authorities to undertake. This shows weaknesses of the current ML/TF frameworks, as there are reasonable suspicions that some of money used by persons under sanction regime do not have a clear origin. The experience from this episode should be reflected in the new legislation.

From the discussions with different stakeholders, it has become clear that both the absence of detailed rules and the divergences of practices in national implementation of the AML Directives have affected the ability of competent authorities to identify suspicious transactions and truly disrupt criminal activity, especially where it crosses borders. We need to close all the remaining gaps, while making the most of the existing system as the foundation upon which improvement can be made. In addition, we must have in mind that impact linked to ML/TF requirements on honest persons, entrepreneurs and firms should be limited and proportionate.

Topical reflections:

It is important to safeguard that persons who take positions in the management of certain obliged entities, or who are beneficial owners of those obliged entities, fulfil certain requirements relating notably to honesty and integrity and good repute. Co-rapporteurs propose to strengthen these requirements and further specify supervisory powers necessary to enforce them.

AML Directives in force already require Member States to prevent the misuse of legal persons for ML/TF and to ensure that there is adequate, accurate and up-to-date information on the

beneficial ownership and control of legal persons and arrangements through public registers. The Commission proposal in AMLD6 is a good basis for discussions on the requirements that EU law lays down for the establishment of beneficial ownership registers by Member States. Still, based on international best practices and to further enhance the accuracy of the data provided in the registers, the Co-Rapporteurs propose stronger requirements, notably on the verification of the data and use of technology for this purpose, and on the abilities of entities in charge of the registers to sanction inaccuracies and inconsistencies. Furthermore, the co-rapporteurs believe that some public access to beneficial ownership information on trusts and similar legal arrangements should no longer be restricted.

It is also very important to set out clear rules for access and search of the beneficial ownership registers by competent authorities, supervisors and obliged entities. Therefore, the Co-Rapporteurs propose a specific provision laying down the criteria for searches in the beneficial ownership registers through the European Central Platform, which we hope will be operational by the time the Directive will come into effect.

Real estate continues to represent an attractive commodity for criminals to launder the proceeds of their illicit activities, as it sometime unfortunately in practice allows obscuring the true source of the funds and the identity of the beneficial owner. Co-Rapporteurs wish, therefore, to ensure timely access to beneficial ownership data of real estate owners, including through registers or electronic data retrieval systems. Member States should be required to provide access to this information to the competent authorities via a single access point, and include information not only on the economic value but also on the means of payment. Registers or electronic data retrieval systems shall be interconnected by Real Estate Data (RED) single access point, which shall be operated by the Commission, allowing Member States discretion to determine which system they will use to fulfil this requirement.

It has also become clear that while information on high value goods, such as yachts and planes is collected, it is rarely useful for the purpose of detecting ML/TF. Therefore, the Co-Rapporteurs introduce an obligation for Member States to provide access to competent authorities to beneficial ownership information on the owners of certain goods whose value is estimated above a certain threshold, as well as, the access to information of means of payment of some of these assets.

Financial Intelligence Units (FIUs) are part of and play a central role in a jurisdiction's AML/CTF operational network, and provide crucial support to the work of other competent authorities. Co-Rapporteurs introduced changes in the chapter governing the functioning of FIUs, aiming to foster access to information by FIUs and exchange of information between them, making the most of technological advancements, while safeguarding fundamental rights. The movement of illicit money increasingly crosses borders and may affect different Member States, which is why it is essential that the information flows without unnecessary hurdles and delays, while opportunities for data matching between Member States should be further improved.

The ability of FIUs to suspend transactions remains crucial to disrupt ML/TF, which is why the Co-Rapporteurs chose to detail such a procedure further in the draft report.

Proper supervision of both credit and financial institutions and other obliged entities in the non-

financial sector sits at the heart of an effective AML/CFT framework. In the past decade, several high-profile money laundering cases revealed significant shortcomings with respect to certain banks' risk management and their surveillance by both AML/CFT and prudential supervisors. Recent scandals also brought to light flawed supervision of non-financial entities. Co-rapporteurs welcome the Commission's proposals to further detail supervisory action and coordination. Co-rapporteurs have further detailed the role of AMLA, where there are disagreements between supervisors and where joint analysis teams are required. AMLA is also given a role in assessing the conditions for cooperation with third country financial supervisors on a case-by-case basis.

The co-rapporteurs fully support the Commission's proposal for public oversight of self-regulatory bodies, who are in charge of supervision of specific obliged entities in the non-financial sector, and further detail requirements in the relevant provisions. Co-rapporteurs believe, however, a public authority, not a self-regulatory body, should supervise the real estate sector.

Further to the mentions already made, co-rapporteurs wish to increase the role of AMLA in the context of the rules and procedures laid down in this Directive. Co-rapporteurs propose, in particular, that AMLA should

- draft and publish guidelines on the elements to be taken into account by supervisors when assessing suitability of the management and beneficial ownership of certain obliged entities, as well as on the circumstances where conflicts of interest may arise amongst FIU staff members.

- keep a repository of the national authorities responsible or mechanisms established to coordinate the national response to risks, identified on a national basis;

- conduct peer reviews regarding the functioning of national entities in charge of beneficial ownership registers, and on the fulfilment, by FIUs, of specific requirements laid down in this Directive.

- be given the power to suspend access to the FIU.net, should the peer review of a specific FIU raise serious concerns;

- include in the technical standards that AMLA should prepare the ranges of pecuniary sanctions relative to the turnover of the entity that shall be applied in breaches of AML obligations .

MINORITY POSITION (RULE 52a)

Proposal for a Directive of the European Parliament and of the Council on the mechanisms to be put in place by the Member States for the prevention and the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849 /2021-0250 (COD))

I firmly agree that the existing EU anti-money laundering framework must be improved. Cross-border collaboration is essential to combat highly mobile criminal networks and terrorist groups. I welcome that some of our amendments that address the current shortcomings have been included in the final compromise. However, setting up a central EU register with sensitive information about European savers and pensioners is not the right way forward. We need to focus on catching tax criminals and terrorists, not surveying law-biding citizens.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849	
References	COM(2021)0423 – C9-0342/2021 – 2021/0250(COD)	
Date submitted to Parliament	22.7.2021	
Committees responsible Date announced in plenary	ECON 4.10.2021	LIBE 4.10.2021
Committees asked for opinions Date announced in plenary	JURI 4.10.2021	
Not delivering opinions Date of decision	JURI 14.10.2021	
Rapporteurs Date appointed	Luděk Niedermayer 25.11.2021	Paul Tang 25.11.2021
Rule 58 – Joint committee procedure Date announced in plenary	16.12.2021	
Discussed in committee	2.6.2022	
Date adopted	28.3.2023	
Result of final vote	+: –: 0:	107 5 0
Members present for the final vote	Abir Al-Sahlani, Rasmus Andresen, Konstantinos Arvanitis, Malik Azmani, Pietro Bartolo, Gunnar Beck, Marek Belka, Isabel Benjumea Benjumea, Stefan Berger, Vladimír Bilčík, Malin Björk, Vasile Blaga, Ioan-Rareș Bogdan, Gilles Boyer, Karolin Braunsberger-Reinhold, Annika Bruna, Damien Carême, Patricia Chagnon, Clare Daly, Lena Düpont, Cornelia Ernst, Engin Eroglu, Markus Ferber, Jonás Fernández, Giuseppe Ferrandino, Laura Ferrara, Nicolaus Fest, Frances Fitzgerald, Daniel Freund, Jean-Paul Garraud, Valentino Grant, Maria Grapini, Claude Gruffat, Sylvie Guillaume, Enikő Győri, Eero Heinäluoma, Michiel Hoogeveen, Evin Incir, Sophia in 't Veld, Stasys Jakeliūnas, Patryk Jaki, Marina Kaljurand, Assita Kanko, Othmar Karas, Billy Kelleher, Fabienne Keller, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Georgios Kyrtos, Aurore Lalucq, Jeroen Lenaers, Juan Fernando López Aguilar, Aušra Maldeikienė, Lukas Mandl, Erik Marquardt, Costas Mavrides, Nuno Melo, Nadine Morano, Javier Moreno Sánchez, Siegfried Mureșan, Luděk Niedermayer, Lefteris Nikolaou-Alavanos, Maite Pagazaurtundúa, Piernicola Pedicini, Lídia Pereira, Kira Marie Peter-Hansen, Eva Maria Poptcheva, Emil Radev, Evelyn Regner, Karlo Ressler, Diana Riba i Giner, Dorien Rookmaker, Alfred Sant, Joachim Schuster, Ralf Seekatz, Vincenzo Sofo, Tineke Strik, Ramona Strugariu, Paul Tang, Annalisa Tardino, Irene Tinagli, Tomas Tobé, Ernest Urtasun, Inese Vaidere, Elissavet Vozemberg-Vrionidi, Jadwiga Wiśniewska, Elena Yoncheva, Stéphanie Yon-	

	Courtin, Marco Zanni, Roberts Zile
Substitutes present for the final vote	Damian Boeselager, Herbert Dorfmann, Margarida Marques, Alessandra Mussolini, Matjaž Nemeč, Dragoș Pîslaru, Thijs Reuten, Eleni Stavrou, Róza Thun und Hohenstein, Tomáš Zdechovský
Substitutes under Rule 209(7) present for the final vote	Attila Ara-Kovács, Hildegard Bentele, Emmanouil Fragkos, Bart Groothuis, Niclas Herbst, Beata Kempa, Antonio López-Istúriz White, Daniela Rondinelli, Susana Solís Pérez, Henna Virkkunen, Rainer Wieland
Date tabled	14.4.2023

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

107	+
ECR	Emmanouil Fragkos, Michiel Hoogeveen, Patryk Jaki, Assita Kanko, Beata Kempa, Vincenzo Sofo, Jadwiga Wiśniewska, Roberts Zīle
ID	Annika Bruna, Patricia Chagnon, Jean-Paul Garraud, Valentino Grant, Annalisa Tardino, Marco Zanni
NI	Laura Ferrara, Enikő Győri
PPE	Isabel Benjumea Benjumea, Hildegard Bentele, Stefan Berger, Vladimír Bilčík, Vasile Blaga, Ioan-Rareș Bogdan, Karolin Braunsberger-Reinhold, Herbert Dorfmann, Lena Düpont, Markus Ferber, Frances Fitzgerald, Niclas Herbst, Othmar Karas, Jeroen Lenaers, Antonio López-Istúriz White, Aušra Maldeikienė, Lukas Mandl, Nuno Melo, Nadine Morano, Siegfried Mureșan, Alessandra Mussolini, Luděk Niedermayer, Lídia Pereira, Emil Radev, Karlo Ressler, Ralf Seekatz, Eleni Stavrou, Tomas Tobé, Inese Vaidere, Henna Virkkunen, Elissavet Vozemberg-Vrionidi, Rainer Wieland, Tomáš Zdechovský
Renew	Abir Al-Sahlani, Malik Azmani, Gilles Boyer, Engin Eroglu, Giuseppe Ferrandino, Bart Groothuis, Sophia in 't Veld, Billy Kelleher, Fabienne Keller, Georgios Kyrtos, Maite Pagazaurtundúa, Dragoș Pîslaru, Eva Maria Poptcheva, Susana Solís Pérez, Ramona Strugariu, Róza Thun und Hohenstein, Stéphanie Yon-Courtin
S&D	Attila Ara-Kovács, Pietro Bartolo, Marek Belka, Jonás Fernández, Maria Grapini, Sylvie Guillaume, Eero Heinäluoma, Evin Incir, Marina Kaljurand, Łukasz Kohut, Aurore Lalucq, Juan Fernando López Aguilar, Margarida Marques, Costas Mavrides, Javier Moreno Sánchez, Matjaž Nemeč, Evelyn Regner, Thijs Reuten, Daniela Rondinelli, Alfred Sant, Joachim Schuster, Paul Tang, Irene Tinagli, Elena Yoncheva
The Left	Konstantinos Arvanitis, Malin Björk, Clare Daly, Cornelia Ernst
Verts/ALE	Rasmus Andresen, Damian Boeselager, Damien Carême, Daniel Freund, Claude Gruffat, Stasys Jakeliūnas, Alice Kuhnke, Erik Marquardt, Piernicola Pedicini, Kira Marie Peter-Hansen, Diana Riba i Giner, Tineke Strik, Ernest Urtasun

5	-
ECR	Dorien Rookmaker
ID	Gunnar Beck, Nicolaus Fest
NI	Lefteris Nikolaou-Alavanos
Renew	Moritz Körner

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention