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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

Subject: Annexes to the Proposal for a Regulation of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing
- Mandate for negotiations with the European Parliament

2021/0239 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on the prevention of the use of the financial system for the purposes of money laundering or
terrorist financing
(Text with EEA relevance)

ANNEX I

Indicative list of risk variables

The following is a non-exhaustive list of risk variables that obliged entities shall take into account when drawing up their risk assessment in accordance with Article 8 determining to what extent to apply customer due diligence measures in accordance with Article 16:

- (a) Customer risk variables:
 - (i) the customer's and the customer's beneficial owner's business or professional activity;
 - (ii) the customer's and the customer's beneficial owner's reputation;
 - (iii) the customer's and the customer's beneficial owner's nature and behaviour;
 - (iv) the jurisdictions in which the customer and the customer's beneficial owner are based;
 - (v) the jurisdictions that are the customer's and the customer's beneficial owner's main places of business;
 - (vi) the jurisdictions to which the customer and the customer's beneficial owner have relevant personal links;

- (b) Product, service or transaction risk variables:
- (i) the purpose of an account or relationship;
 - (ii) the regularity or duration of the business relationship;
 - (iii) the level of assets to be deposited by a customer or the size of transactions undertaken;
 - (iv) the level of transparency, or opaqueness, the product, service or transaction affords;
 - (v) the complexity of the product, service or transaction;
 - (vi) the value or size of the product, service or transaction.
- (c) Delivery channel risk variables:
- (i) the extent to which the business relationship is conducted on a non-face-to-face basis;
 - (ii) the presence of any introducers or intermediaries that the customer might use and the nature of their relationship with the customer;
- (d) Risk variable for life and other investment-related insurance:
- (i) the risk level presented by the beneficiary of the insurance policy.

ANNEX II

Lower risk factors

The following is a non-exhaustive list of factors and types of evidence of potentially lower risk referred to in Article 16:

- (1) Customer risk factors:
 - (a) public companies listed on a stock exchange and subject to disclosure requirements (either by stock exchange rules or through law or enforceable means), which impose requirements to ensure adequate transparency of beneficial ownership;
 - (b) public administrations or enterprises;
 - (c) customers that are resident in geographical areas of lower risk as set out in point (3);
- (2) Product, service, transaction or delivery channel risk factors:
 - (a) life insurance policies for which the premium is low;
 - (b) insurance policies for pension schemes if there is no early surrender option and the policy cannot be used as collateral;
 - (c) a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages, and the scheme rules do not permit the assignment of a member's interest under the scheme;

- (d) financial products or services that provide appropriately defined and limited services to certain types of customers, so as to increase access for financial inclusion purposes;
 - (e) products where the risks of money laundering and terrorist financing are managed by other factors such as purse limits or transparency of ownership (e.g. certain types of electronic money);
- (3) Geographical risk factors — registration, establishment, residence in:
- (a) Member States;
 - (b) third countries having effective AML/CFT systems;
 - (c) third countries identified by credible sources as having a low level of corruption or other criminal activity;
 - (d) third countries which, on the basis of credible sources such as mutual evaluations, detailed assessment reports or published follow-up reports, have requirements to combat money laundering and terrorist financing consistent with the revised FATF Recommendations and effectively implement those requirements.

ANNEX III

Higher risk factors

The following is a non-exhaustive list of factors and types of evidence of potentially higher risk referred to in Article 16:

- (1) Customer risk factors:
 - (a) the business relationship is conducted in unusual circumstances;
 - (b) customers that are resident in geographical areas of higher risk as set out in point (3);
 - (c) legal persons or legal arrangements that are personal asset-holding vehicles;
 - (d) companies that have nominee shareholders or shares in bearer form;
 - (e) businesses that are cash-intensive;
 - (f) the ownership structure of the company appears unusual or excessively complex given the nature of the company's business;
 - (g) customer is a third country national who applies for residence rights in a Member State in exchange of any kind of investment, including capital transfers, purchase or renting of property, investment in government bonds, investment in corporate entities, donation or endowment of an activity contributing to the public good and contributions to the state budget;

- (2) Product, service, transaction or delivery channel risk factors:
- (a) private banking;
 - (b) products or transactions that might favour anonymity;
 - (c) payment received from unknown or unassociated third parties;
 - (d) new products and new business practices, including new delivery mechanism, and the use of new or developing technologies for both new and pre-existing products;
 - (e) transactions related to oil, arms, precious metals or stones, tobacco products, cultural artefacts and other items of archaeological, historical, cultural and religious importance, or of rare scientific value, as well as ivory and protected species;
- (3) Geographical risk factors:
- (a) third countries subject to increased monitoring or otherwise identified by the FATF due to the compliance weaknesses in their AML/CFT systems;
 - (b) third countries identified by credible sources/ acknowledged processes, such as mutual evaluations, detailed assessment reports or published follow-up reports, as not having effective AML/CFT systems;
 - (c) third countries identified by credible sources/ acknowledged processes as having significant levels of corruption or other criminal activity;

(d) third countries subject to sanctions, embargos or similar measures issued by, for example, the Union or the United Nations;

(e) third countries providing funding or support for terrorist activities, or that have designated terrorist organisations operating within their country.

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ANNEX IV

Precious metals referred to in article 2 (37) of this regulation include at least :

- a) Gold
- b) Silver
- c) Platinum
- d) Iridium
- e) Osmium
- f) Palladium
- g) Rhodium
- h) Rhutenium

Precious stones referred to in article 2 (37) of this regulation include at least :

- a) Diamond
- b) Ruby
- c) Sapphire
- d) Emerald