Council of the European Union

Brussels, 5 December 2022
(OR. en)

15517/22

Interinstitutional File: 2021/0239(COD)

LIMITE

EF 361
ECOFIN 1272
DROIPEN 159
ENFOPOL 611
CT 216
FISC 248
COTER 293
CODEC 1893

NOTE

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments

Having regard to the opinion of the European Central Bank[1],

Having regard to the opinion of the European Economic and Social Committee[2],

Acting in accordance with the ordinary legislative procedure,

1 OJ C [...], [...], p. [...].
2 OJ C , , p. .

Whereas:

(1) Directive (EU) 2015/849 of the European Parliament and of the Council[3] 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 Council[4] further strengthened by addressing emerging risks and increasing transparency of beneficial ownership. Notwithstanding its achievements, experience has shown that further improvements should be introduced to adequately mitigate risks and to effectively detect criminal attempts to misuse the Union financial system for criminal purposes.

(2) The main challenge identified in respect to the application of the provisions of Directive (EU) 2015/849 laying down obligations for private sector actors, the so-called obliged entities, is the lack of direct applicability of those rules and a fragmentation of the approach along national lines. Whereas those rules have existed and evolved over three decades, they are still implemented in a manner not fully consistent with the requirements of an integrated internal market. Therefore, it is necessary that rules on matters currently covered in Directive (EU) 2015/849 which may be directly applicable by the obliged entities concerned are addressed in a new Regulation in order to achieve the desired uniformity of application, while it should be ensured that the high standard achieved by Member States in their national transpositions is maintained overall.

[3] 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).

[4] 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).

(3) This new instrument is part of a comprehensive package aiming at strengthening the Union's anti-money laundering and countering the financing of terrorism (AML/CFT) framework. Together, this instrument, Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*, Regulation *[please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final]* and Regulation *[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]* will form the legal framework governing the AML/CFT requirements to be met by obliged entities and underpinning the Union's AML/CFT institutional framework, including the establishment of an Authority for anti-money laundering and countering the financing of terrorism ('AMLA').

(4) Money laundering and terrorist financing are frequently carried out in an international context. Measures adopted at Union level, without taking into account international coordination and cooperation, would have very limited effect. The measures adopted by the Union in that field should therefore be compatible with, and at least as stringent as actions undertaken at international level. Union action should continue to take particular account of the Financial Action Task Force (FATF) Recommendations and instruments of other international bodies active in the fight against money laundering and terrorist financing. With a view to reinforcing the efficacy of the fight against money laundering and terrorist financing, the relevant Union legal acts should, where appropriate, be aligned with the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation adopted by the FATF in February 2012 (the 'revised FATF Recommendations') and the subsequent amendments to such standards.

(5) Since the adoption of Directive (EU) 2015/849, recent developments in the Union's criminal law framework have contributed to strengthening the prevention and fight against money laundering, its predicate offences and terrorist financing. Directive (EU) 2018/1673 of the European Parliament and of the Council[5] has led to a common understanding of the money laundering crime and its predicate offences. Directive (EU) 2017/1371 of the European Parliament and of the Council[6] defined financial crimes affecting the Union's financial interest, which should also be considered predicate offences to money laundering. Directive (EU) 2017/541 of the European Parliament and of the Council[7] has achieved a common understanding of the crime of terrorist financing. As those concepts are now clarified in Union criminal law, it is no longer needed for the Union's AML/CFT rules to define money laundering, its predicate offences or terrorist financing. Instead, the Union's AML/CFT framework should be fully coherent with the Union's criminal law framework.

(6) Technology keeps evolving, offering opportunities to the private sector to develop new products and systems to exchange funds or value. While this is a positive phenomenon, it may generate new money laundering and terrorist financing risks, as criminals continuously manage to find ways to exploit vulnerabilities in order to hide and move illicit funds around the world. Crypto-assets service providers and crowdfunding platforms are exposed to the misuse of new channels for the movement of illicit money and are well placed to detect such movements and mitigate risks. The scope of Union legislation should therefore be expanded to cover these entities, in line with the recent developments in FATF standards in relation to crypto-assets.

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5 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).

6 Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

7 Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

(6a) Services based on instruments falling under Article 3, point (k), of Directive (EU) 2015/2366 of the European Parliament and of the Council[8] are exempted from the scope of that Directive (so called limited network exemption). Provision of those services therefore does not fall under point 4 of the Annex I to Directive (EU) 2013/36 of the European Parliament and of the Council.[9] Since those instruments are neither other means of payment under Annex I point 5 of the latter Directive, issuing and administering those instruments does not qualify a provider of such services as obliged entity under this Regulation.

(7) The institutions and persons covered by this Regulation play a crucial role as gatekeepers of the Union's financial system and should therefore take all necessary measures necessary to implement the requirements of this Regulation with a view to preventing criminals from laundering the proceeds of their illegal activities or from financing terrorist activities. Measures should also be put in the place to mitigate any risk of non-implementation or evasion of targeted financial sanctions.

(8) Financial transactions can also take place within the same group as way of managing group finances. However, such transactions are not undertaken vis-à-vis customers and do not require the application of AML/CFT measures. In order to ensure legal certainty, it is necessary to recognise that this Regulation does not apply to financial activities or other financial services which are provided by members of a group to other members of that group.

8 Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC.

9 Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC

(9) Independent legal professionals should be subject to this Regulation when participating in financial or corporate transactions, including when providing tax advice, where there is the risk of the services provided by those legal professionals being misused for the purpose of laundering the proceeds of criminal activity or for the purpose of terrorist financing. There should, however, be exemptions from any obligation to report information obtained before, during or after judicial proceedings, or in the course of ascertaining the legal position of a client, which should be covered by the legal privilege. Therefore, legal advice should remain subject to the obligation of professional secrecy, except where the legal professional is taking part in money laundering or terrorist financing, the legal advice is provided for the purposes of money laundering or terrorist financing, or where the legal professional knows that the client is seeking legal advice for the purposes of money laundering or terrorist financing, where Member States provide for such exemption.

(10) In order to ensure respect for the rights guaranteed by the Charter of Fundamental Rights of the European Union (the 'Charter'), in the case of auditors, external accountants and tax advisors, who, in some Member States, are entitled to defend or represent a client in the context of judicial proceedings or to ascertain a client's legal position, the information they obtain in the performance of those tasks should not be subject to reporting obligations.

(11) Directive (EU) 2018/843 was the first legal instrument to address the risks of money laundering and terrorist financing posed by crypto-assets in the Union. It extended the scope of the AML/CFT framework to two types of crypto-assets services providers: providers engaged in exchange services between virtual currencies and fiat currencies and custodian wallet providers. Due to rapid technological developments and the advancement in FATF standards, it is necessary to review this approach. A first step to complete and update the Union legal framework has been achieved with Regulation *[please insert reference – proposal for a Regulation on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 - COM/2020/593 final]*, which set requirements for crypto-asset service providers wishing to apply for an authorisation to provide their services in the single market. It also introduced a definition of crypto-assets and crypto-assets services providers encompassing a broader range of activities. Crypto-asset service providers covered by Regulation *[please insert reference – proposal for a Regulation on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 - COM/2020/593 final]* should also be covered by this Regulation, to mitigate any risk of misuse of crypto-assets for money laundering or terrorist financing purposes.

(12) Crowdfunding platforms' vulnerabilities to money laundering and terrorist financing risks are horizontal and affect the internal market as a whole. To date, diverging approaches have emerged across Member States as to the management of those risks. Regulation (EU) 2020/1503 of the European Parliament and of the Council[10] harmonises the regulatory approach for business investment and lending-based crowdfunding platforms across the Union and ensures that adequate and coherent safeguards are in place to deal with potential money laundering and terrorist financing risks. Among those, there are requirements for the management of funds and payments in relation to all the financial transactions executed on those platforms. Crowdfunding service providers must either seek a license or partner with a payment service provider or a credit institution for the execution of such transactions. The Regulation also sets out safeguards in the authorisation procedure, in the assessment of good repute of management and through due diligence procedures for project owners. The Commission is required to assess by 10 November 2023 in its report on that Regulation whether further safeguards may be necessary.

10 Regulation (EU) 2020/1503 of the European Parliament and of the Council of 7 October 2020 on European crowdfunding service providers for business, and amending Regulation (EU) 2017/1129 and Directive (EU) 2019/1937 (OJ L 347, 20.10.2020, p. 1).

(13) Deleted

(13a) Third-party financing intermediaries, which operate a digital platform in order to match or facilitate the matching of funders with projects owners such as association or individuals that seek funding, are exposed to money laundering and terrorist financing risks. Those intermediaries should therefore be subject to the obligations of this Regulation, in particular to avoid the diversion of funds raised for illicit purposes by criminals. In order to meet the challenges, these obligations apply to a wide range of projects, including, inter alia, educational or cultural projects and the collection of funds to support more general causes, for example in the humanitarian field, or to organize or celebrate a family or social event.

(14) Directive (EU) 2015/849 set out to mitigate the money laundering and terrorist financing risks posed by large cash payments by including persons trading in goods among obliged entities when they make or receive payments in cash above EUR 10 000, whilst allowing Member States to introduce stricter measures. Such approach has shown to be ineffective in light of the poor understanding and application of AML/CFT requirements, lack of supervision and limited number of suspicious transactions reported to the FIU. In order to adequately mitigate risks deriving from the misuse of large cash sums, a Union-wide limit to large cash transactions above EUR 10 000 should be laid down. As a consequence, persons trading in goods no longer need to be subject to AML/CFT obligations, with the exception of persons trading in precious metals, precious stones and cultural goods.

(15) Some categories of traders in goods are particularly exposed to money laundering and terrorist financing risks due to the high value that the small, transportable goods they deal with contain. For this reason, persons dealing in precious metals and precious stones should be subject to AML/CFT requirements. Where such trading is either a regular or a principal business or a professional activity, the trader should be considered an obliged entity.

(16) Investment migration operators are private companies, bodies or persons acting or interacting directly with the competent authorities of the Member States on behalf of third-country nationals or providing intermediary services to third-country nationals seeking to obtain residence rights in a Member State in exchange of any kind of investments, 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. Investor residence schemes present risks and vulnerabilities in relation to money laundering, corruption and tax evasion. Such risks are exacerbated by the cross-border rights associated with residence in a Member State. Therefore, it is necessary that investment migration operators are subject to AML/CFT obligations. This Regulation should not apply to investor citizenship schemes, which result in the acquisition of nationality in exchange for such investments, as such schemes must be considered as undermining the fundamental status of Union citizenship and sincere cooperation among Member States.

(17) Consumer and mortgage creditors and intermediaries that are not credit institutions or financial institutions have not been subject to AML/CFT requirements at Union level, but have been subject to such obligations in certain Member States due to their exposure to money laundering and terrorist financing risks. Depending on their business model, such consumer and mortgage creditors and intermediaries may be exposed to significant money laundering and terrorist financing risks. It is important to ensure that entities carrying out similar activities that are exposed to such risks are covered by AML/CFT requirements, regardless of whether they qualify as credit institutions or financial institutions. Therefore, it is appropriate to include consumer and mortgage creditors and intermediaries that are not credit institutions or financial institutions but that are, as a result of their activities, exposed to money laundering and terrorist financing risks. In many cases, however, there is a credit or financial institution involved that grants and processes the loan. Due to the involvement of the credit or financial institution, it is ensured that AML/CFT requirements are observed. In these cases, however, there is no need to subject persons intermediating consumer and mortgage credits to AML/CFT requirements in addition to the credit or financial institution, that grants and processes the credit and AML/CFT requirements should not apply to consumer and mortgage credit intermediaries in those cases. It should be ensured, however, that AML/CFT requirements are covered by the consumer and mortgage credit intermediary, if no obliged entity as a credit or financial institution is involved.

(18) To ensure a consistent approach, it is necessary to clarify which entities in the investment sector are subject to AML/CFT requirements. Although collective investment undertakings already fell within the scope of Directive (EU) 2015/849, it is necessary to align the relevant terminology with the current Union investment fund legislation, namely Directive 2009/65/EC of the European Parliament and of the Council[11] and Directive 2011/61/EU of the European Parliament and of the Council[12]. Because funds might be constituted without legal personality, the inclusion of their managers in the scope of this Regulation is also necessary. AML/CFT requirements should apply regardless of the form in which units or shares in a fund are made available for purchase in the Union, including where units or shares are directly or indirectly offered to investors established in the Union or placed with such investors at the initiative of the manager or on behalf of the manager.

(19) It is important that AML/CFT requirements apply in a proportionate manner and that the imposition of any requirement is proportionate to the role that obliged entities can play in the prevention of money laundering and terrorist financing. To this end, it should be possible for Member States in line with the risk base approach of this Regulation to exempt certain operators from AML/CFT requirements, where the activities they perform present low money laundering and terrorist financing risks and where the activities are limited in nature. To ensure transparent and consistent application of such exemptions across the Union, a mechanism should be put in place allowing the Commission to verify the necessity of the exemptions to be granted. The Commission should also publish such exemptions on a yearly basis in the *Official Journal of the European Union*.

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11 Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

12 Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

(20) A consistent set of rules on internal systems and controls that applies to all obliged entities operating in the internal market will strengthen AML/CFT compliance and make supervision more effective. In order to ensure adequate mitigation of money laundering and terrorist financing risks, obliged entities should have in place an internal control framework consisting of risk–based policies, controls and procedures and clear division of responsibilities throughout the organisation. In line with the risk-based approach of this Regulation, those policies, controls and procedures should be proportionate to the nature and size of the obliged entity and respond to the risks of money laundering and terrorist financing that the entity faces.

(21) An appropriate risk-based approach requires obliged entities to identify the inherent risks of money laundering and terrorist financing that they face by virtue of their business in order to mitigate them effectively and to ensure that their policies, procedures and internal controls are appropriate to address those inherent risks. In doing so, obliged entities should take into account the characteristics of their customers, the products, services or transactions offered, the countries or geographical areas concerned and the distribution channels used. Obliged entities should also take into account the supra-national risk assessment drawn up by the Commission and the national risk assessments. Relevant information can also be brought by the international standard-setters such as the FATF and, at the European level, by the Commission in its high-risk third countries lists. In light of the evolving nature of risks, such risk assessment should be regularly updated.

(22) It is appropriate to take account of the characteristics and needs of smaller obliged entities, and to ensure treatment which is appropriate to their specific needs, and the nature of the business. This may include exempting certain obliged entities from performing a risk assessment where the risks involved in the sector in which the entity operates are well understood.

(23) The FATF has developed standards for jurisdictions to identify, and assess the risks of potential non-implementation or evasion of the targeted financial sanctions related to proliferation financing, 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/CFSP[13] and (CFSP) 2016/849[14] as well as by Council Regulations (EU) No 267/2012[15] and (EU) 2017/1509[16], remain strict rule-based obligations binding on all natural and legal persons within the Union.

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

13 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).

14 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).

15 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).

16 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).

(25) It is important that obliged entities take all measures at the level of their management to implement internal policies, controls and procedures and to implement AML/CFT requirements. While a member of the management body should be identified as being responsible for implementing the obliged entity's policies, controls and procedures, the responsibility for the compliance with AML/CFT requirements should rest ultimately with the governing body of the entity. Tasks pertaining to the day-to-day operation of the obliged entity's AML/CFT policies, controls and procedures should be entrusted to an AML compliance officer in consideration of the size and nature of the obliged entity. However, for larger obliged entities or entities that are exposed to higher money laundering and financing of terrorism risks, the responsibility of the day-to-day implementation of AML/CFT policies and procedures on one hand, and the responsibility of compliance controls on the other, can be entrusted to two different positions. In particular, the responsibility of AML/CFT compliance controls may be entrusted to the head of compliance provided by prudential regulations, where obliged entities are subjected to such requirements. This organisation ensures where justified a better effectiveness of the compliance function within major entities and promotes the avoidance of conflicts of interests.

(26) For effective implementation of AML/CFT measures, it is also vital that the employees of obliged entities, as well as their agents and distributors, who have a role in their implementation understand the requirements and the internal policies, controls and procedures in place in the entity. Obliged entities should put in place measures, including training programmes, to this effect.

(27) Individuals directly participating in the implementation of AML/CFT requirements should undergo assessment of their skills, knowledge, expertise, integrity and conduct. Performance by employees or persons in a comparable position of tasks related to the obliged entity's compliance with the AML/CFT framework in relation to customers with whom they have a close private or professional relationship can lead to conflicts of interests and undermine the integrity of the system. Therefore, persons in such situations should be prevented from performing any tasks related to the obliged entity's compliance with the AML/CFT framework in relation to such customers. These requirements should be applicable to any person entrusted with AML/CFT related tasks by the obliged entity, irrespective of its employment status. They apply to employees or to any person in a comparable position, such as an service provider or seconded staff. At the same time, however, this does not mean that the employee himself becomes an obliged entity.

(28) The consistent implementation of group-wide AML/CFT policies and procedures is key to the robust and effective management of money laundering and terrorist financing risks within the group. To this end, group-wide policies, controls and procedures should be adopted and implemented by the parent undertaking. Obliged entities within the group should be required to exchange information when such sharing is relevant for preventing money laundering and terrorist financing. Information sharing should be subject to sufficient guarantees in terms of confidentiality, data protection and use of information. AMLA should have the task of drawing up draft regulatory standards specifying the minimum requirements of group-wide procedures and policies, including minimum standards for information sharing within the group and the role and responsibilities of parent undertakings that are not themselves obliged entities.

(29) In addition to groups, other structures exist, such as networks or partnerships, in which obliged entities share common ownership, management and compliance controls. To ensure a level playing field across the sectors whilst avoiding overburdening it, AMLA should identify those situations where similar group-wide policies should apply to those structures.

(30) There are circumstances where branches and subsidiaries of obliged entities are located in third countries where the minimum AML/CFT requirements, including data protection obligations, are less strict than the Union AML/CFT framework. In such situations, and in order to fully prevent the use of the Union financial system for the purposes of money laundering and terrorist financing and to ensure the highest standard of protection for personal data of Union citizens, those branches and subsidiaries should comply with AML/CFT requirements laid down at Union level. Where the law of a third country does not permit compliance with those requirements, for example because of limitations to the group's ability to access, process or exchange information due to an insufficient level of data protection or banking secrecy law in the third country, obliged entities should take additional measures to ensure the branches and subsidiaries located in that country effectively handle the risks. AMLA should be tasked with developing draft technical standards specifying the type of such additional measures.

(31) Customer due diligence requirements are essential to ensure that obliged entities identify, verify and monitor their business relationships with their clients, in relation to the money laundering and terrorist financing risks that they pose. Accurate identification and verification of data of prospective and existing customers are essential for understanding the risks of money laundering and terrorist financing associated with clients, whether they are natural or legal persons.

(32) It is necessary to achieve a uniform and high standard of customer due diligence in the Union, relying on harmonised requirements for the identification of customers and verification of their identity, and reducing national divergences to allow for a level playing field across the internal market and for a consistent application of provisions throughout the Union. At the same time, it is essential that obliged entities apply customer due diligence requirements in a risk-based manner. The risk-based approach is not an unduly permissive option for obliged entities. It involves the use of evidence-based decision-making in order to target more effectively the risks of money laundering and terrorist financing facing the Union and those operating within it.

(32a) Identification and verification of identity of beneficial owner is an important part of customer due diligence. Obliged entities should take reasonable measures to verify identity of beneficial owners so that they are satisfied that they know who the beneficial owner is and that they understand the ownership and control structure of the customer.

(32b) When it comes to identification and verification of identity of beneficial owners of legal entities, express trusts or similar legal arrangements, obliged entities should, except where simplified due diligence is permissible, always follow multi-prong approach. Therefore, they should consult beneficial owners register under Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* and also use other reliable source like business register or reliable information provided by the customer.

(32c) The risks posed by non-Union legal entities and legal arrangements, which are misused to channel proceeds of funds into the Union's financial system, need to be mitigated. Where legal entity incorporated outside the Union or express trust or similar legal arrangement administered outside the Union are about to enter into significant business relationship, that means risky in terms of ML/TF, with obliged entity, the registration of the beneficial ownership information in the central register of Member State should be conditional for entering the business relationship. Which business relationships are significant, meaning in terms of ML/TF risks, should be determined by this Regulation in the context of the requirement to register the beneficial owner of non-Union legal entities and legal arrangements. Registration of the beneficial owner should be a condition for the continuation of the business relationship also in a situation where the business relationship becomes significant after its establishment.

(32d) In the case of customers who are legal entities, where obliged entity comes to the conclusion that there is no beneficial owner or if obliged entity has doubts that the identified natural person is indeed beneficial owner, obliged entity should instead of beneficial owner identify all the natural person(s) holding the position(s) of senior managing official(s) in the corporate or other legal entity and shall take reasonable measures to verify their identity. In the case of customers who are not, by their nature, subject to beneficial ownership rules, such as Member States, municipalities in Member States, but also non-Member States and their municipalities, it should be sufficient within the customer due diligence to only conclude that there is no beneficial owner.

(32e) Beneficial owner under Article 2, point (22)(b), shall be understood as the end user of the services provided through the business relationship or the occasional transaction. Where such services are provided to the end user through other obliged entities, like in case of virtual IBANs, the obliged entity shall ensure that it knows at any moment the identity of the end user and that it can obtain the information identifying and verifying the identity of the end user from the other obliged entities without delay and in any case within no more than five working days.

(32f) In view of ensuring that the mechanism of discrepancy reporting is proportionate and focused on the detection of instances of inaccurate beneficial ownership information, obliged entities may request the customer to rectify discrepancies directly with the entity in charge of the central registers without having to report discrepancies themselves. Such option should only apply to low-risk customers and at the same time to those errors of a technical nature, such as cases of misspelt information, and discrepancies consisting of outdated data, if at the same time the beneficial owners are known to the obliged entity from another reliable source and it is obvious that the reason for the outdated data is only the negligence of the legal entity, not the intention to conceal anything. The possibility of not reporting these minor discrepancies should be limited in time so that data accuracy can be achieved within a clearly defined framework. The customer should actively pursue to correct the discrepancy in the register or to provide an explanation to the obliged entity that that the findings are not a discrepancy. Unresolved discrepancies at the level of the obliged entity and the customer should lead to the reporting of the discrepancy in order to allow the entity in charge of the registry or other authorities to resolve it.

(33) Obliged entities should not be required to apply due diligence measures on customers carrying out occasional or linked transactions below a certain value, unless there is suspicion of money laundering or terrorist financing. Whereas the EUR 10 000 threshold applies to most occasional transactions, obliged entities which operate in sectors or carry out transactions that present a higher risk of money laundering and terrorist financing should be required to apply customer due diligence for transactions with lower thresholds. To identify the sectors or transactions as well as the adequate thresholds for those sectors or transactions, AMLA should develop dedicated draft regulatory technical standards.

(34) Some business models are based on the obliged entity having a business relationship with a merchant for offering payment initiation services through which the merchant gets paid for the provision of goods or services, and not with the merchant's customer, who authorises the payment initiation service to initiate a single or one-off transaction to the merchant. In such a business model, the obliged entity's customer for the purpose of AML/CFT rules is the merchant, and not the merchant's customer. Therefore, customer due diligence obligations should be applied by the obliged entity vis-a-vis the merchant.

(35) Directive (EU) 2015/849, despite having harmonised the rules of Member States in the area of customer identification obligations to a certain degree, did not lay down detailed rules in relation to the procedures to be followed by obliged entities. In view of the crucial importance of this aspect in the prevention of money laundering and terrorist financing, it is appropriate, in accordance with the risk-based approach, to introduce more specific and detailed provisions on the identification of the customer and on the verification of the customer's identity, whether in relation to natural or legal persons, legal arrangements such as trusts or entities having legal capacity under national law.

(36) Technological developments and progress in digitalisation enable a secure remote or electronic identification and verification of prospective and existing customers and can facilitate the remote performance of customer due diligence. The identification solutions as set out in Regulation (EU) No 910/2014 of the European Parliament and of the Council and the proposal for an amendment to it in relation to a framework for a European Digital Identity[17] enable secure and trusted means of customer identification and verification for both prospective and existing customers and can facilitate the remote performance of customer due diligence. The electronic identification as set out in that Regulation should be taken into account and accepted by obliged entities for the customer identification process. These means of identification may present, where appropriate risk mitigation measures are in place, a standard or even low level of risk.

(37) To ensure that the AML/CFT framework prevents illicit funds from entering the financial system, obliged entities should carry out customer due diligence before entering into business relationships with prospective clients, in line with the risk-based approach. Nevertheless, in order not to unnecessarily delay the normal conduct of business, obliged entities may collect the information from the prospective customer during the establishment of a business relationship. Credit and financial institutions may obtain the necessary information from the prospective customers once the relationship is established, provided that transactions are not initiated until the customer due diligence process is successfully completed.

(38) Deleted

17 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) and the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 910/2014 as regards establishing a framework for a European Digital Identity, COM/2021/281 final.

(39) The customer due diligence process is not limited to the identification and verification of the customer's identity. Before entering into business relationships or carrying out occasional transactions, obliged entities should also assess the purpose and nature of a business relationship. Pre-contractual or other information about the proposed product or service that is communicated to the prospective customer may contribute to the understanding of that purpose. Obliged entities should always be able to assess the purpose and nature of a prospective business relationship in an unambiguous manner. Where the offered service or product enables customers to carry out various types of transactions or activities, obliged entities should obtain sufficient information on the intention of the customer regarding the use to be made of that relationship.

(40) To ensure the effectiveness of the AML/CFT framework, obliged entities should regularly review the information obtained from their customers, in accordance with the risk-based approach. Obliged entities should also set up a monitoring system to detect atypical transactions that might raise money laundering or terrorist financing suspicions. To ensure the effectiveness of the transaction monitoring, obliged entities' monitoring activity should in principle cover all services and products offered to customers and all transactions which are carried out on behalf of the costumer or offered to the customer by the obliged entity. However, not all transactions need to be scrutinised individually. The intensity of the monitoring should respect the risk-based approach and be designed around precise and relevant criteria, taking account, in particular, of the characteristics of the customers and the risk level associated with them, the products and services offered, and the countries or geographical areas concerned. AMLA should develop guidelines to ensure that the intensity of the monitoring of business relationships and of transactions is adequate and proportionate to the level of risk.

(41) In order to ensure consistent application of this Regulation, AMLA should have the task of drawing up draft regulatory technical standards on customer due diligence. Those regulatory technical standards should set out the minimum set of information to be obtained by obliged entities in order to enter into new business relationships with customers or assess ongoing ones, according to the level of risk associated with each customer. Furthermore, the draft regulatory technical standards should provide sufficient clarity to allow market players to develop secure, accessible and innovative means of verifying customers' identity and performing customer due diligence, also remotely, while respecting the principle of technology neutrality. The Commission should be empowered to adopt those draft regulatory technical standards. Those specific tasks are in line with the role and responsibilities of AMLA as provided in Regulation *[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]*.

(42) The harmonisation of customer due diligence measures should not only seek to achieve consistent, and consistently effective, understanding of the risks associated with an existing or prospective customer regardless of where the business relationship is opened in the Union, and their harmonisation will help to achieve this aim. It should also ensure that the information obtained in the performance of customer due diligence is not used by obliged entities to pursue de-risking practices which may result in circumventing other legal obligations, in particular those laid down in Directive 2014/92/EU of the European Parliament and of the Council[18] or Directive (EU) 2015/2366 of the European Parliament and of the Council[19], without achieving the Union's objectives in the prevention of money laundering and terrorist financing. To enable the proper supervision of compliance with the customer due diligence obligations, it is important that obliged entities keep record of the actions undertaken and the information obtained during the customer due diligence process, irrespective of whether a new business relationship is established with them and of whether they have submitted a suspicious transaction report upon refusing to establish a business relationship. Where the obliged entity takes a decision to not enter into a business relationship with a prospective customer, the customer due diligence records should include the grounds for such a decision. This will enable supervisory authorities to assess whether obliged entities have appropriately calibrated their customer due diligence practices and how the entity's risk exposure evolves, as well as help building statistical evidence on the application of customer due diligence rules by obliged entities throughout the Union.

(43) The approach for the review of existing customers in the current AML/CFT framework is already risk-based. However, given the higher risk of money laundering, its predicate offences and terrorist financing associated with certain intermediary structures, that approach might not allow for the timely detection and assessment of risks. It is therefore important to ensure that clearly specified categories of existing customers are also monitored on a regular basis.

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18 Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214).

19 Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

(44) Risk itself is variable in nature, and the variables, on their own or in combination, may increase or decrease the potential risk posed, thus having an impact on the appropriate level of preventive measures, such as customer due diligence measures.

(45) In low risk situations, obliged entities should be able to apply simplified customer due diligence measures. This does not equate to an exemption or absence of customer due diligence measures. It rather consists in a simplified or reduced set of scrutiny measures, which should however address all components of the standard customer due diligence procedure. In line with the risk-based approach, obliged entities should nevertheless be able to reduce the frequency or intensity of their customer or transaction scrutiny, or rely on adequate assumptions with regard to the purpose of the business relationship or use of simple products. The regulatory technical standards on customer due diligence should set out the specific simplified measures that obliged entities may implement in case of lower risk situations identified in the Supranational Risk Assessment of the Commission. When developing draft regulatory technical standards, AMLA should have due regard to preserving social and financial inclusion.

(46) It should be recognised that certain situations present a greater risk of money laundering or terrorist financing. Although the identity and business profile of all customers should be established with the regular application of customer due diligence requirements, there are cases in which particularly rigorous customer identification and verification procedures are required. Therefore, it is necessary to lay down detailed rules on such enhanced due diligence measures, including specific enhanced due diligence measures for cross-border correspondent relationships.

(47) Cross-border correspondent relationships with a third-country's respondent institution are characterised by their on-going, repetitive nature. Moreover, not all cross-border correspondent banking services present the same level of money laundering and terrorist financing risks. Therefore, the intensity of the enhanced due diligence measures should be determined by application of the principles of the risk based approach. However, the risk based approach should not be applied when interacting with third-country's respondent institutions that have no physical presence where they are incorporated. Given the high risk of money laundering and terrorist financing inherent in shell banks, credit institutions and financial institutions should refrain from entertaining any correspondent relationship with such shell banks.

(48) In the context of enhanced due diligence measures, obtaining approval from senior management for establishing business relationships does not need to imply, in all cases, obtaining approval from the board of directors. It should be possible for such approval to be granted by someone with sufficient knowledge of the entity's money laundering and terrorist financing risk exposure and of sufficient seniority to take decisions affecting its risk exposure.

(49) Deleted

(50) Third countries “subject to a call for action” by the relevant international standard-setter (the FATF) present significant strategic deficiencies of a persistent nature in their legal and institutional AML/CFT frameworks and their implementation which are likely to pose a high risk to the Union’s financial system. The persistent nature of the significant strategic deficiencies, reflective of the lack of commitment or continued failure by the third country to tackle them, signal a heightened level of threat emanating from those third countries, which requires an effective, consistent and harmonised mitigating response at Union level. It is therefore of the utmost importance that list of those countries developed by FATF is transcribed into EU list of higher-risk third countries in timely manner. European Commission, which is member to the FATF, shall closely participate in the development of FATF list, in order to make sure that all third countries on that list indeed present significant strategic deficiencies of a persistent nature in their legal and institutional AML/CFT frameworks and their implementation. Such safeguard ensures that third countries, that could be hypothetically listed by FATF on other grounds as a result of a mistake, are not listed by EU. However, such mistake is very improbable, also because 14 Member States and the Commission are members of the FATF. Therefore, it is improbable that EU lists will deviate from FATF lists. At the same time, such arrangement does not require the Commission to redo the identification process performed by the FATF, which ensures that FATF lists are transcribed in timely manner and that wasting of resources is avoided. In order to mitigate risks stemming from higher-risk third countries, it is necessary that obliged entities apply specific enhanced due diligence measures and countermeasures. In order to ensure uniform conditions for implementing this principle by obliged entities, it is necessary that the Commission adopts implementing act providing for specific enhanced due diligence measures and countermeasures to mitigate risks stemming from each higher-risk third country.

Given its technical expertise, AMLA can provide useful input to the Commission in identifying the appropriate enhanced due diligence measures and countermeasures. In order to be fully compliant with FATF Recommendation 19, it is necessary that Member States are able to mandate obliged entities established on their territory to apply specific additional countermeasures to mitigate risk posed by third country to that Member State, even where that third country is not listed by FATF.

(51) Compliance weaknesses in both the legal and institutional AML/CFT framework and its implementation of third countries which are subject to "increased monitoring" by the FATF are susceptible to be exploited by criminals. In order to mitigate risks stemming from such third countries, it is necessary that obliged entities apply specific enhanced due diligence measures and countermeasures. In order to ensure uniform conditions for implementing this principle by obliged entities, it is necessary that the Commission adopts implementing act providing for specific enhanced due diligence measures to mitigate risks stemming from each higher-risk third country. Given AMLA's technical expertise, it can provide useful input to the Commission to identify the appropriate enhanced due diligence measures.

(52) Deleted

(53) Considering that there may be changes in the AML/CFT frameworks of those third countries or in their implementation, for example as result of the country's commitment to address the identified weaknesses or of the adoption of relevant AML/CFT measures to tackle them, which could change the nature and level of the risks emanating from them, the Commission should regularly review the identification of those specific enhanced due diligence measures in order to ensure that they remain proportionate and adequate.

(54) Potential external threats to the Union's financial system do not only emanate from third countries, but can also emerge in relation to specific customer risk factors or products, services, transactions or delivery channels which are observed in relation to a specific geographical area outside the Union. There is therefore a need to identify money laundering and terrorist financing trends, risks and methods to which Union's obliged entities may be exposed. AMLA is best placed to detect any emerging ML/TF typologies from outside the Union, to monitor their evolution with a view to providing guidance to the Union's obliged entities on the need to apply enhanced due diligence measures aimed at mitigating such risks.

(55) Relationships with individuals who hold or who have held important public functions, within the Union or internationally, and particularly individuals from countries where corruption is widespread, may expose the financial sector to significant reputational and legal risks. The international effort to combat corruption also justifies the need to pay particular attention to such persons and to apply appropriate enhanced customer due diligence measures with respect to persons who are or who have been entrusted with prominent public functions and with respect to senior figures in international organisations. Therefore, it is necessary to specify measures which obliged entities should apply with respect to transactions or business relationships with politically exposed persons. To facilitate the risk-based approach, AMLA should be tasked with issuing guidelines on assessing the level of risks associated with a particular category of politically exposed persons, their family members or persons known to be close associates.

(56) In order to identify politically exposed persons in the Union, lists should be issued by Member States indicating the specific functions which, in accordance with national laws, regulations and administrative provisions, qualify as prominent public functions. Member States should request each international organisation accredited on their territories to issue and keep up to date a list of prominent public functions at that international organisation. The Commission should be tasked with compiling and issuing a list, which should be valid across the Union, as regards persons entrusted with prominent public functions in Union institutions or bodies.

(57) When customers are no longer entrusted with a prominent public function, they can still pose a higher risk, for example because of the informal influence they could still exercise, or because their previous and current functions are linked. It is essential that obliged entities take into consideration those continuing risks and apply one or more enhanced due diligence measures until such time that the individuals are deemed to pose no further risk, and in any case for not less than 12 months following the time when they are no longer entrusted with a prominent public function.

(58) Insurance companies often do not have client relationships with beneficiaries of the insurance policies. However, they should be able to identify higher risk situations, such as when the proceeds of the policy benefit a politically exposed person. To determine whether this is the case, the insurance policy should include reasonable measures to identify the beneficiary, as if this person were a new client. Such measures can be taken at the time of the payout or at the time of the assignment of the policy, but not later.

(59) Close private and professional relationships can be abused for money laundering and terrorist financing purposes. For that reason, measures concerning politically exposed persons should also apply to their family members and persons known to be close associates. Properly identifying family members and persons known to be close associates may depend on the socio-economic and cultural structure of the country of the politically exposed person. Against this background, AMLA should have the task of issuing guidelines on the criteria to use to identify persons who should be considered as close associate.

(60) The requirements relating to politically exposed persons, their family members and close associates, are of a preventive and not criminal nature, and should not be interpreted as stigmatising politically exposed persons, their family members or close associates as being involved in criminal activity. Refusing a business relationship with a person simply on the basis of a determination that they are a politically exposed person, their relative or a close associate is contrary to the letter and spirit of this Regulation.

(61) In order to avoid repeated customer identification procedures, it is appropriate, subject to suitable safeguards, to allow obliged entities to rely on the customer information collected by other obliged entities. Where an obliged entity relies on another obliged entity, the ultimate responsibility for customer due diligence should remain with the obliged entity which chooses to rely on the customer due diligence performed by another obliged entity. The obliged entity relied upon should also retain its own responsibility for compliance with AML/CFT requirements, including the requirement to report suspicious transactions and retain records.

(62) Obliged entities may outsource tasks to a service provider, including agent, distributor and another group member, unless they are established in third countries that are designated as high-risk, as having compliance weaknesses or as posing a threat to the Union's financial system. In the case of agency or outsourcing relationships on a contractual basis between obliged entities and service providers not covered by AML/CFT requirements, any AML/CFT obligations upon those service providers could arise only from the contract between the parties and not from this Regulation. Therefore, the responsibility for complying with AML/CFT requirements should remain entirely with the obliged entity itself. The obliged entity should in particular ensure that, where an outsourced service provider is involved for the purposes of remote customer identification, the risk-based approach is respected. Intra-group outsourcing should be subject to the same regulatory framework as outsourcing to service providers outside the group.

(63) In order for third party reliance and outsourcing relationships to function efficiently, further clarity is needed around the conditions according to which reliance takes place. AMLA should have the task of developing guidelines on the conditions under which third-party reliance and outsourcing can take place, as well as the roles and responsibilities of the respective parties. To ensure that consistent oversight of reliance and outsourcing practices is ensured throughout the Union, the guidelines should also provide clarity on how supervisors should take into account such practices and verify compliance with AML/CFT requirements when obliged entities resort to those practices.

(63a) When outsourcing tasks deriving from requirements under this Regulation, the obliged entity remains the controller under Regulation (EU) 2016/679 of the European Parliament and of the Council[20] and thus would have to ensure full compliance with the requirements of Regulation (EU) 2016/679. Outsourcing tasks to external service providers in third countries has to follow the requirements of Chapter V of Regulation (EU) 2016/679; processors from third countries would also have to designate in writing a representative in the Union (Article 27 of Regulation (EU) 2016/679). Furthermore, as this would regularly constitute processing within the meaning of Article 28 of Regulation (EU) 2016/679, a contract or other legal act would have to be concluded with the service provider. In that context, in order to ensure that the supervisory capacity of the data protection supervisory authorities is not restricted due to multiple outsourcing, service providers are not allowed to outsource the tasks mandated to them on their behalf.

(64) The concept of beneficial ownership was introduced by Directive (EU) 2015/849 to increase transparency of complex corporate structures. The need to access accurate, up-to-date and adequate information on the beneficial owner is a key factor in tracing criminals who might otherwise be able to hide their identity behind such opaque structures. Member States are currently required to ensure that both corporate and other legal entities as well as express trusts and other similar legal arrangements obtain and hold adequate, accurate and current information on their beneficial ownership. However, the degree of transparency imposed by Member States varies. The rules are subject to divergent interpretations, and this results in different methods to identify beneficial owners of a given legal entity or legal arrangement. This is due, inter alia, to inconsistent ways of calculating indirect ownership of a legal entity or legal arrangement, and differences between the legal systems of the Member States. This hampers the transparency that was intended to be achieved. It is therefore necessary to clarify the rules to achieve a consistent definition of beneficial owner and its application across the internal market.

[20] 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 L119, 4.5.2016, p. 1).

(65) Detailed rules should be laid down to identify the beneficial owners of corporate and other legal entities and to harmonise definitions of beneficial ownership. Beneficial ownership is based on two components – ownership and control. While these two factors might be fulfilled at the same time, they are essentially independent of one other. It is therefore important that both factors are analyzed in order to assess how control is exercised over a legal entity, and to identify all natural persons who are the beneficial owners of that legal entity.

(66) A meaningful identification of the beneficial owners requires a determination of whether control is exercised via other means. The determination of control through an ownership interest is necessary but not sufficient and it does not exhaust the necessary checks to determine the beneficial owners. The test on whether any natural person exercises control via other means is not a subsequent test to be performed only when it is not possible to determine an ownership interest. The two tests, namely that of control through an ownership interest and that of control via other means, should be performed in parallel.

(66a) An ownership of 25% or more of the shares or voting rights or other ownership interest in general establishes the beneficial ownership of the legal entity. Ownership interest should encompass both control rights and rights that are significant in terms of receiving a benefit, as is a right to a share of profits or other internal resources or liquidation balance. There may, however, be situations where the risk that certain categories of legal entities be misused for money laundering or terrorist financing purposes are higher. In such situations, enhanced transparency measures are necessary to dissuade criminals from setting up or infiltrating these entities, either through direct or indirect ownership or control. In order to ensure that the Union is able to adequately mitigate such varying levels of risk, it is necessary to empower the Commission to identify those categories of legal entities that should be subject to lower beneficial transparency thresholds. Such identification should be ongoing and should rely on the results of the national and supranational risk assessments as well as on relevant analyses and reports produced by AMLA, Europol or other Union bodies that have a role in the prevention, investigation and prosecution of money laundering and terrorist financing.

(66b) By their complex nature, multi-layered ownership and control structures make the identification of the beneficial owners more difficult. In order to ensure a consistent approach throughout the internal market, it is necessary to clarify the rules that apply to those situations. For this purpose, it is necessary to assess simultaneously whether any natural person has a direct or indirect shareholding with 25% or more of the shares or voting rights or other ownership interest, and whether any natural person controls the direct shareholder with 25% or more of the shares or voting rights or other ownership interest in the corporate entity. In case of indirect shareholding, the beneficial owners should be identified by multiplying the shares in the ownership chain. To this end, all shares directly or indirectly owned by the same natural person should be added together. Where 25% of the shares or voting rights or other ownership interest in the corporate entity are owned by a shareholder that is a legal entity other than a corporate entity, the beneficial ownership should be determined having regard to the specific structure of the shareholder, including whether any natural person exercises control through other means over a shareholder.

(66c) The determination of the beneficial owner of a legal entity in situations where the shares of the legal entity are held in a legal arrangement, or where they are held by a foundation or similar legal entity, might be more difficult in view of the different nature and identification criteria of beneficial ownership between legal entities and legal arrangements. It is therefore necessary to set out clear rules to deal with these situations of multi-layered structure. In such cases, all beneficial owners of the legal arrangement or structurally and functionally similar legal entity as may be foundation, should be the beneficial owners of the legal entity whose shares are held in the legal arrangement or held by the foundation.

(66d) A common understanding of the concept of control and a more precise definition of the means of control are necessary to ensure consistent application of the rules across the internal market. Control should be understood as the effective ability to impose one's will on the corporate entity's decision-making on substantive issues. The usual mean of control is a majority share of voting rights. The position of beneficial owner can also be established by control via other means without having significant, or any, ownership interest. For this reason, in order to ascertain all individuals that are the beneficial owners of a legal entity, control should be identified independently of ownership interest. Control can generally be exercised by any means, including legal and non-legal means. Without necessarily establishing the position of the beneficial owner, these means may be taken into account for assessing whether control via other means is exercised, depending on the specific situation of each legal entity.

(66e) Indirect ownership or control may be mediated by multiple links in a chain or by multiple individual or interlinked chains. A link in a chain may be any person or organisation or a legal arrangement without legal personality. The relations between the links may consist of ownership interest or voting rights or other means of control.

(67) In order to ensure effective transparency, the widest possible range of legal entities and arrangements incorporated or created in the territory of Member States should be covered by beneficial ownership rules. This includes legal entities other than corporate ones and legal arrangements similar to express trusts. Due to differences in the legal systems of Member States, those broad categories encompass a variety of different organisational structures. Member States should notify to the Commission a list of the types of corporate and other legal entities where the beneficial owners is identified in line with the rules for the identification of beneficial owners for corporate entities.

(68) The specific nature of certain legal entities, such as for example associations, trade unions, political parties or churches, does not lend them a meaningful identification of beneficial owners based of ownership interests or membership. In those cases, however, it may be the case that the senior managing officials exercise control over the legal entity through other means. In those cases, they should be reported as the beneficial owners.

(68a) To ensure the consistent identification of beneficial owners of legal entities, which are structurally or functionally similar to express trust, it is necessary to lay down harmonised beneficial ownership rules. Similar rules to those set out for express trusts shall be applied to the relevant legal entities. Legal entities that are similar in function and structure to an express trust are for example foundations, in the sense of legal persons established by the founder to support public benefit purposes, charitable purposes or a certain group of persons using their own assets.

(68b) To ensure the consistent identification of beneficial owners of collective investment undertaking, it is necessary to lay down harmonised beneficial ownership rules. Regardless of whether the collective investment undertaking exist in the Member State in the form of a legal entity with legal personality and as a legal arrangement without legal personality, the rules for corporate entities shall be applied in identifying the beneficial owner. Such an approach is consistent with their purpose and function.

(68c) The characteristics of express trusts and similar legal arrangements in Member States may vary. In order to ensure a harmonised approach, it is appropriate to set out common principles for the identification of such arrangements. Express trusts are trusts created at the initiative of the settlor. Trusts set up by law or that do not result from the explicit intent of the settlor to create them should be excluded from the scope of this Regulation. Express trust are usually created in the form of a document e.g. a written deed or written instrument of trust and usually fulfil a business or personal need. Legal arrangements similar to express trusts are arrangements without legal personality which are similar in structure or functions. The determining factor is not the designation of the type of legal arrangement, but the fulfilment of the basic features of the definition of an express trust, i.e. the settlor's intention to place the assets under the administration and control of a certain person for specified purpose, usually of a business or personal nature, such as the benefit of the beneficiaries. To ensure the consistent identification of beneficial owners of legal arrangements similar to express trusts, Member States should notify to the Commission a list of the types of legal arrangements similar to express trusts. Such notification should be accompanied by an assessment justifying the identification of certain legal arrangements as similar to express trusts as well as why other legal arrangements have been considered as dissimilar in structure or function from express trusts. In performing such assessment, Member States should take into consideration all legal arrangements that are governed under their law.

(68d) In some cases of legal entities such as foundations, express trusts and similar legal arrangements, it is not possible to identify individual beneficiaries because they have yet be determined; in such cases, beneficial ownership information should include instead a description of the class of beneficiaries and its characteristics. As soon as beneficiaries within the class are designated, they shall be beneficial owners. Furthermore, there are specific types of legal persons and legal arrangements where beneficiaries exist, but their identification is not proportionate in respect of the money laundering and terrorist financing risks associated with those legal persons or legal arrangements. This can be the case for example of regulated products such as pension schemes within the scope of Directive (EU) 2016/2341 of the European Parliament and of the Council, employee financial ownership or participation schemes, or of legal entities or legal arrangements with a non-profit or charitable purpose, provided the risks associated with such legal persons and legal arrangements are low. In these cases, an identification of the class of beneficiaries should be sufficient.

(69) A consistent approach to the beneficial ownership transparency regime also requires ensuring that the same information is collected on beneficial owners across the internal market. It is appropriate to introduce precise requirements concerning the information that should be collected in each case. That information includes a minimum set of personal data of the beneficial owner, the nature and extent of the beneficial interest held in the legal entity or legal arrangement and information on the legal entity or legal arrangement, which are necessary to ensure the appropriate identification of the natural person who is the beneficial owner and the reasons why that natural person has been identified as the beneficial owner.

(69a) An effective framework of beneficial ownership transparency requires information to be collected through various channels. Such multi-pronged approach includes the information held by the legal entity or trustee of an express trust or similar legal arrangement themselves, the information obtained by obliged entities in the context of customer due diligence, as well as the information held in beneficial ownership registers. Cross-checking of information among these pillars contributes to ensuring that each pillar holds adequate, accurate and up-to-date information. To this end, and in order to avoid that discrepancies are identified because of different approaches, it is important to identify those categories of data that should always be collected in order to ensure the beneficial ownership information is adequate. This includes basic information on the legal entity and legal arrangement, which is the precondition allowing the entity or arrangement itself to understand its control structure, whether through ownership or other means.

(69b) When legal entities and legal arrangements are part of a complex structure, clarity on their ownership or control structure is critical in order to ascertain who their beneficial owners are. To this end, it is important that legal entities and legal arrangements clearly understand the relationships by which they are indirectly owned or controlled, including all those intermediary steps between the beneficial owners and the legal entity or legal arrangement itself, whether these are in the form of other legal entities and legal arrangements or of nominee relationships. Identification of the ownership and control structure allows to identify the ways by which ownership is established or control can be exercised over a legal entity and is therefore essential for a comprehensive understanding of the position of the beneficial owner. The beneficial owner information should therefore always include a description of the relationship structure.

(70) Underpinning an effective framework on beneficial ownership transparency is the knowledge by corporate and other legal entities of the natural persons who are their beneficial owners. Thus, all corporate and other legal entities in the Union should obtain and hold adequate, accurate and current beneficial ownership information. That information should be retained for five years and the identity of the person responsible for retaining the information should be reported to the registers. That retention period is equivalent to the period for retention of the information obtained within the application of AML/CFT requirements, such as customer due diligence measures. In order to ensure the possibility to cross-check and verify information, for instance through the mechanism of discrepancy reporting, it is justified to ensure that the relevant data retention periods are aligned.

(70a) To ensure that beneficial ownership information is up-to-date, the legal entity should both update such information immediately after any change and periodically verify it. The time limit for updating the information should be reasonable in view of possible complex situations. Confirmation of the timeliness of the data should take place on a regular basis and various mechanisms can be used to do so. Legal entity should be able to verify accuracy of the information in the register also be using the different channels and instruments e.g. together with the submission of the financial statements, of other repetitive interaction with public authorities. Using the interconnection of registers and databases of a Member State may allow legal entity to validate information effectively.

(71) Corporate and other legal entities should take all necessary measures to identify their beneficial owners. There may however be cases where no natural person is identifiable who ultimately owns or exerts control over an entity. In such exceptional cases, provided that all means of identification are exhausted, the senior managing officials can be reported instead of the beneficial owners when providing beneficial ownership information to obliged entities in the course of the customer due diligence process or when submitting the information to the central register. Although they are identified in these situations, the senior managing officials are not the beneficial owners. Corporate and legal entities should keep records of the actions taken in order to identify their beneficial owners, especially when they rely on this last resort measure, which should be duly justified and documented. However, concerns about the difficulty in obtaining the information should not be a valid reason to avoid the identification effort and resort to reporting the senior management instead. Therefore, legal entities should always be able to substantiate their doubts as to the veracity of the information collected. Such justification should be proportionate to the risk of the legal entity and the complexity of its ownership structure. In cases where the absence of beneficial owners is evident with respect to the specific form and structure of legal entity, the justification should be understood as a reference to this fact, i.e. that the legal entity does not have a beneficial owner due to its specific form and structure, where, for example, there are no ownership interests in it, nor can it be ultimately controlled by other means. For the purpose of the statement of the absence of the beneficial owner, it should be possible to use universal formulations or uniform forms.

(71a) In view of the purpose of determining beneficial ownership, which is to ensure effective transparency of legal persons, it is proportionate to exempt certain entities from the obligation to identify their beneficial owner. Such a regime can only be applied to entities for which the identification and registration of their beneficial owners is not useful and where the similar level of transparency is achieved by means other than beneficial ownership. In this respect, bodies governed by public law of the Member State should not be obliged to determine their beneficial owner. Directive 2004/109/EC of the European Parliament and of the Council[21] introduced strict transparency requirements for companies whose securities are admitted to trading on a regulated market. In certain circumstances, those transparency requirements can achieve an equivalent transparency regime to the beneficial ownership transparency rules set out in this Regulation. This is the case when the control over the company is exercised through voting rights, and the ownership or control structure of the company only includes natural persons. In those circumstances, there is no need to apply beneficial ownership requirements to those listed companies. The exemption for legal entities from the obligation to determine their own beneficial owner and to register it should not affect the obligation of obliged entities to identify the beneficial owner of a customer in customer due diligence when performing customer due diligence.

(72) There is a need to ensure a level playing field among the different types of legal forms and to avoid the misuse of express trusts and legal arrangements, which are often layered in complex structures to further obscure beneficial ownership. Trustees of any express trust administered or residing in a Member State should thus be responsible for obtaining and holding adequate, accurate and current beneficial ownership information regarding the express trust, and for disclosing their status and providing this information to obliged entities carrying out costumer due diligence. Any other beneficial owner of the express trust should assist the trustee in obtaining such information.

21 Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).

(73) In view of the specific structure of certain legal arrangements, and the need to ensure sufficient transparency about their beneficial ownership, such legal arrangements similar to express trusts should be subject to equivalent beneficial ownership requirements as those that apply to express trusts.

(74) Nominee arrangements may allow the concealment of the identity of the beneficial owners, because a nominee might act as the director or shareholder of a legal entity while the nominator is not always disclosed. Those arrangements might obscure the beneficial ownership and control structure, when beneficial owners do not wish to disclose their identity or role within them. There is thus a need to introduce transparency requirements in order to avoid that these arrangements are misused and to prevent criminals from hiding behind persons acting on their behalf. The relationship between nominee and nominator is not determined by whether it has an effect on the public or third parties. Although a nominee shareholders whose name appears in public or official records would formally have independent control over the company, it should be required to disclose whether they are acting on the instructions of someone else on the basis of a private concert. Nominee shareholders and nominee directors of corporate or other legal entities should maintain sufficient information on the identity of their nominator as well as of any beneficial owner of the nominator and disclose them as well as their status to the corporate or other legal entities. The same information should also be reported by corporate and other legal entities to obliged entities, when customer due diligence measures are performed.

(75) The risks posed by foreign corporate entities and legal arrangements, which are misused to channel proceeds of funds into the Union's financial system, need to be mitigated. Since beneficial ownership standards in place in third countries might not be sufficient to allow for the same level of transparency and timely availability of beneficial ownership information as in the Union, there is a need to ensure adequate means to identify the beneficial owners of foreign corporate entities or legal arrangements in specific circumstances. Therefore, legal entities incorporated outside the Union and express trusts or similar legal arrangements administered outside the Union should be required to disclose their beneficial owners when they operate in the Union by entering into a business relationship with a Union's obliged entity or by acquiring real estate in the Union, as well as when they are awarded a public procurement for goods, services or concessions. Achieving identification of beneficial owners of legal persons and legal arrangements from outside the Union should be achieved through requirements within CDD processes by Union's obliged entities. The need to register the beneficial owner of a non-Union customers entering into a business relationship with obliged entities should be with regard to proportional work and administrative burden limited to situations where a potentially higher ML/TF risk can be perceived. Thus, the need to register the beneficial owner in the central register of a Member State should only be required for customers of obliged entities operating in sectors with a higher ML/TF risk and, in general, for customers with which the value of the business relationship exceeds EUR 250 000. The fact that an obliged entity operates in a sector that is assessed with higher ML/TF risk, and therefore that registration of the beneficial owner is a condition of the business relationship and transaction, should be apparent to the customer from the obliged entity's communication. Without the registration of the beneficial owner of such a customer, the obliged person cannot conduct business with that customer. Active identification of the beneficial owner and its registration in the register of beneficial owners by the non-EU customer should be a condition for entering into a significant business relationship with obliged entity. Where an obliged entity is unable to comply with the customer due diligence measures regarding non-EU customer it should refrain from carrying out a transaction or establishing a business relationship, and should terminate the business relationship.

(76) In order to encourage compliance and ensure an effective beneficial ownership transparency, beneficial ownership requirements need to be enforced. To this end, Member States should apply sanctions for breaches of those requirements. Those sanctions should be effective, proportionate and dissuasive, and should not go beyond what is required to encourage compliance. Sanctions introduced by Member States should have an equivalent deterrent effect across the Union on the breaches of beneficial ownership requirements. Sanctions may for example include fines for legal entities and trustees or persons holding an equivalent position in a similar legal arrangement for outdated, inaccurate or incorrect beneficial ownership data, the strike-off of legal entities that fail to comply with the obligation to hold beneficial ownership information or to submit beneficial ownership information within a given time limit, fines for beneficial owners and other persons who fail to cooperate with legal entity or trustee of an express trust or similar legal arrangement, fines for nominee shareholders and nominee directors who fail to comply with the obligation of disclosure or private law consequences for undisclosed beneficial owners as prohibition of the payment of profits or prohibition of the exercise of voting rights.

(77) Obliged entities should promptly report to the FIU all suspicious funds, transactions or activities, including attempted transactions or activities, and other information relevant to money laundering, or terrorist financing. When reporting on a suspicion of money laundering, obliged entities should also report, where applicable, on the underlying predicate offence. Furthermore, in order to help prevent the laundering of future proceeds of criminal activity as defined by Article 2, point (3), obliged entities should report to the FIU all funds, transactions and activities, including attempted transactions and activities, related to the commission of offences that have the potential to generate proceeds. In order to avoid the unnecessary reporting of low impact and isolated offences, Member States should be able to exempt obliged entities from reporting certain categories of low-level criminal activity, including for example, categories of criminal activity posing low risks of generating significant proceeds. Such exemptions should not have a negative impact on the protection of the internal market from the threats posed by money laundering, its predicate offences and terrorist financing. The Commission and AMLA should be notified of such instances, and evaluate whether the exemption envisaged is adequate to the level of impact identified. The FIU should serve as a single central national unit for receiving and, analysing reported suspicions and for disseminating to the competent authorities the results of its analyses. Reporting obligation may also include threshold-based reporting or systematic reporting of unusual transactions or activities information. The disclosure of information to the FIU in good faith by an obliged entity or by an employee or director of such an entity should not constitute a breach of any restriction on disclosure of information and should not involve the obliged entity or its directors or employees in liability of any kind.

(78) Differences in suspicious transaction reporting obligations between Member States may exacerbate the difficulties in AML/CFT compliance experienced by obliged entities that have a cross-border presence or operations. Moreover, the structure and content of the suspicious transaction reports have an impact on the FIU's capacity to carry out analysis and on the nature of that analysis, and also affects FIUs' abilities to cooperate and to exchange information. In order to facilitate obliged entities' compliance with their reporting obligations and allow for a more effective functioning of FIUs' analytical activities and cooperation, AMLA should develop draft regulatory standards specifying a common template for the reporting of suspicious transactions to be used as a uniform basis throughout the Union.

(79) FIUs should be able to obtain swiftly from any obliged entity all the necessary information relating to their functions. Their unfettered and swift access to information is essential to ensure that flows of money can be properly traced and illicit networks and flows detected at an early stage. The need for FIUs to obtain additional information from obliged entities based on a suspicion of money laundering or financing of terrorism might be triggered by a prior suspicious transaction report reported to the FIU, but might also be triggered through other means such as the FIU's own analysis, intelligence provided by competent authorities or information held by another FIU. FIUs should therefore be able, in the context of their functions, to obtain information from any obliged entity, even without a prior report being made. Obliged entities should reply to a request for information by the FIU as soon as possible and, in any case, within five days of receipt of the request. In justified and urgent cases, the obliged entity should be able to respond to the FIU's request within 24 hours. This does not include indiscriminate requests for information to the obliged entities in the context of the FIU's analysis, but only information requests based on sufficiently defined conditions. An FIU should also be able to obtain such information on a request made by another Union FIU and to exchange the information with the requesting FIU.

(80) For certain obliged entities, Member States should have the possibility to designate an appropriate self-regulatory body to be informed in the first instance instead of the FIU. In accordance with the case-law of the European Court of Human Rights, a system of first instance reporting to a self-regulatory body constitutes an important safeguard for upholding the protection of fundamental rights as concerns the reporting obligations applicable to lawyers. Member States should provide for the means and manner by which to achieve the protection of professional secrecy, confidentiality and privacy.

(81) Where a Member State decides to designate such a self-regulatory body, it may allow or require that body not to transmit to the FIU or to AMLA any information obtained from persons represented by that body where such information has been received from, or obtained on, one of their clients, in the course of ascertaining the legal position of their client, or in performing their task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings, whether such information is received or obtained before, during or after such proceedings. Other supervisory authorities may as well be allowed or required not to transmit to the FIU or AMLA any information falling under the legal privilege.

(82) Obliged entities should exceptionally be able to carry out suspicious transactions before informing the FIU where refraining from doing so is impossible or likely to frustrate efforts to pursue the beneficiaries of a suspected money laundering or terrorist financing operation. However, this exception should not be invoked in relation to transactions concerned by the international obligations accepted by the Member States to freeze without delay funds or other assets of terrorists, terrorist organisations or those who finance terrorism, in accordance with the relevant United Nations Security Council resolutions.

(83) Confidentiality in relation to the reporting of suspicious transactions and to the provision of other relevant information to FIUs is essential in order to enable the competent authorities to freeze and seize assets potentially linked to money laundering, its predicate offences or terrorist financing. A suspicious transaction is not an indication of criminal activity. Disclosing that a suspicion has been reported may tarnish the reputation of the persons involved in the transaction and jeopardise the performance of analyses and investigations. Therefore, obliged entities and their directors and employees, or persons in a comparable position, including agents and distributors, should not inform the customer concerned or a third party that information is being, will be, or has been submitted to the FIU, whether directly or through the self-regulatory body, or that a money laundering or terrorist financing analysis is being, or may be, carried out. The prohibition of disclosure should not apply in specific circumstances concerning, for example, disclosures to competent authorities and self-regulatory bodies when performing supervisory functions, or disclosures for law enforcement purposes or when the disclosures take place between obliged entities that belong to the same group.

(84) Criminals move illicit proceeds through numerous intermediaries to avoid detection. Therefore it is important to allow obliged entities to exchange information not only between group members, but also in certain cases between credit and financial institutions and other entities that operate within networks, in full compliance with data protection rules.

(85) Regulation (EU) 2016/679 applies to the processing of personal data for the purposes of this Regulation. The fight against money laundering and terrorist financing is recognised as an important public interest ground by all Member States. Member States may apply Directive (EU) 2016/680 of the European Parliament and of the Council[22], as well as national law where appropriate, to the processing of data by their FIU, based on the sensitive nature of their activities and their relevance to national security.

(86) It is essential that the alignment of the AML/CFT framework with the revised FATF Recommendations is carried out in full compliance with Union law, in particular as regards Union data protection law and the protection of fundamental rights as enshrined in the Charter. Certain aspects of the implementation of the AML/CFT framework involve the collection, analysis, storage and sharing of data. Such processing of personal data should be permitted, while fully respecting fundamental rights, only for the purposes laid down in this Regulation, and for carrying out customer due diligence, ongoing monitoring, analysis and reporting of suspicious transactions, identification of the beneficial owner of a legal person or legal arrangement, identification of a politically exposed person and sharing of information by credit institutions and financial institutions and other obliged entities. The collection and subsequent processing of personal data by obliged entities should be limited to what is necessary for the purpose of complying with AML/CFT requirements and personal data should not be further processed in a way that is incompatible with that purpose. In particular, further processing of personal data for commercial purposes should be strictly prohibited.

[22] Directive (EU) 2016/680 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 by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

(87) The revised FATF Recommendations demonstrate that, in order to be able to cooperate fully and comply swiftly with information requests from competent authorities for the purposes of the prevention, detection or investigation of money laundering and terrorist financing, obliged entities should maintain, for at least five years, the necessary information obtained through customer due diligence measures and the records on transactions. In order to avoid different approaches and in order to fulfil the requirements relating to the protection of personal data and legal certainty, that retention period should be fixed at five years after the end of a business relationship or an occasional transaction.

(88) When the notion of competent authorities refers to investigating and prosecuting authorities, it shall be interpreted as including the European Public Prosecutor's Office (EPPO) with regard to the Member States that participate in the enhanced cooperation on the establishment of the EPPO.

(89) For the purpose of ensuring the appropriate and efficient administration of justice during the period between the entry into force and application of this Regulation, and in order to allow for its smooth interaction with national procedural law, information and documents pertinent to ongoing legal proceedings for the purpose of the prevention, detection or investigation of possible money laundering or terrorist financing, which have been pending in the Member States on the date of entry into force of this Regulation, should be retained for a period of five years after that date, and it should be possible to extend that period for a further five years.

(90) The rights of access to data by the data subject as well as other data subject rights laid down in applicable data protection legislation are applicable to the personal data processed for the purpose of this Regulation. However, access by the data subject to any information related to a suspicious transaction report would seriously undermine the effectiveness of the fight against money laundering and terrorist financing. Exceptions to and restrictions of that right in accordance with Article 23 of Regulation (EU) 2016/679 may therefore be justified.
Member States may apply Directive (EU) 2016/680, as well as national law where appropriate, to the processing of data by their FIU, based on the sensitive nature of their activities and their relevance to national security.

(91) Obliged entities might resort to the services of other private operators. However, the AML/CFT framework should apply to obliged entities only, and obliged entities should retain full responsibility for compliance with AML/CFT requirements. In order to ensure legal certainty and to avoid that some services are inadvertently brought into the scope of this regulation, it is necessary to clarify that persons that merely convert paper documents into electronic data and are acting under a contract with an obliged entity, and persons that provide credit institutions or financial institutions solely with messaging or other support systems for transmitting funds or with clearing and settlement systems do not fall within the scope of this Regulation.

(92) Obliged entities should obtain and hold adequate and accurate information on the beneficial ownership and control of legal persons. As bearer shares accord the ownership to the person who possesses the bearer share certificate, they allow the beneficial owner to remain anonymous. To ensure that those shares are not misused for money laundering or terrorist financing purposes, companies - other than those with listed securities on a regulated market or whose shares are issued as intermediated securities - should convert all existing bearer shares into registered shares. In addition, only bearer share warrants in intermediated form should be allowed.

(93) The anonymity of crypto-assets exposes them to risks of misuse for criminal purposes. Anonymous crypto-asset wallets do not allow the traceability of crypto-asset transfers, whilst also making it difficult to identify linked transactions that may raise suspicion or to apply to adequate level of customer due diligence. In order to ensure effective application of AML/CFT requirements to crypto-assets, it is necessary to prohibit the provision and the custody of anonymous crypto-asset wallets by crypto-asset service providers.

(94) The use of large cash payments is highly vulnerable to money laundering and terrorist financing; this has not been sufficiently mitigated by the requirement for traders in goods to be subject to anti-money laundering rules when making or receiving cash payments of EUR 10 000 or more. At the same time, differences in approaches among Member States have undermined the level playing field within the internal market to the detriment of businesses located in Member States with stricter controls. It is therefore necessary to introduce a Union-wide limit to large cash payments of EUR 10 000. Member States should be able to adopt lower thresholds and further stricter provisions.

(95) The Commission should assess the costs, benefits and impacts of lowering the limit to large cash payments at Union level with a view to levelling further the playing field for businesses and reducing opportunities for criminals to use cash for money laundering. This assessment should consider in particular the most appropriate level for a harmonised limit to cash payments at Union level considering the current existing limits to cash payments in place in a large number of Member States, the enforceability of such a limit at Union level and the effects of such a limit on the legal tender status of the euro.

(96) The Commission should also assess the costs, benefits and impacts of lowering the threshold for the identification of beneficial owners when control is exercised through ownership. This assessment should consider in particular the lessons learned from Member States or third countries having introduced lower thresholds.

(97) In order to ensure consistent application of AML/CFT requirements, 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 Regulation by adopting delegated acts identifying high-risk third countries, third countries with compliance weaknesses as well as the regulatory technical standards setting out the minimum requirements of group-wide policies, controls and procedures and the conditions under which structures which share common ownership, management or compliance controls are required to apply group-wide policies, controls and procedures, the actions to be taken by groups when the laws of third countries do not permit the application of group-wide policies, controls and procedures and supervisory measures, the sectors and transactions subject to lower thresholds for the performance of customer due diligence and the information necessary for the performance of customer due diligence. 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[23]. 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.

23 OJ L 123, 12.5.2016, p. 1.

(98) In order to ensure uniform conditions for the application of this Regulation, implementing powers should be conferred on the Commission in order to identify legal arrangements similar to express trusts governed by the national laws of Member States as well as to adopt implementing technical standards specifying the format to be used for the reporting of suspicious transactions. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[24].

(99) This Regulation 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).

(100) In accordance with Article 21 of the Charter, which prohibits discrimination based on any grounds, obliged entities should perform risk assessments in the context of customer due diligence without discrimination.

(101) When drawing up a report evaluating the implementation of this Regulation, the Commission should give due consideration to the respect of the fundamental rights and principles recognised by the Charter.

[24] 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).

(102) Since the objective of this Regulation, namely to prevent the use of the Union's financial system for the purposes of money laundering and terrorist financing, cannot be sufficiently achieved by the Member States and can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(103) The European Data Protection Supervisor has been consulted in accordance with Article 42 of Regulation (EU) 2018/1725 [and delivered an opinion on ...[25]],

[25] OJ C , , p. .

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Section 1

Subject matter and definitions

Article 1

Subject matter

To prevent the misuse of the financial system for money laundering and the financing of terrorism this Regulation lays down rules concerning:

(a) measures to be applied by obliged entities;

(b) beneficial ownership transparency requirements for legal entities, express trusts and similar legal arrangements;

(ba) data protection and record-retention provisions related to points (a) and (b);

(c) measures to limit the misuse of anonymous instruments.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) ‘money laundering’ means the conduct as set out in Article 3, paragraphs 1 and 5 of Directive (EU) 2018/1673 including aiding and abetting, inciting and attempting to commit that conduct, whether the activities which generated the property to be laundered were carried out on the territory of a Member State or on that of a third country;

(2) ‘terrorist financing’ means the conduct set out in Article 11 of Directive (EU) 2017/541 including aiding and abetting, inciting and attempting to commit that conduct, whether carried out on the territory of a Member State or on that of a third country;

(3) ‘criminal activity’ means criminal activity as defined in Article 2(1) of Directive (EU) 2018/1673, as well as fraud affecting the Union’s financial interests as defined in Article 3(2) of Directive (EU) 2017/1371, passive and active corruption as defined in Article 4 (2) and misappropriation as defined in Article 4(3), second subparagraph of that Directive;

(4) ‘property’ means property as defined in Article 2(2) of Directive (EU) 2018/1673;

(5) ‘credit institution’ means:

(a) a credit institution as defined in Article 4(1), point (1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council[26];

(b) a branch of a credit institution referred to in point (a), when located in the Union, whether its head office is situated within the Union or in a third country;

[26] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

(6) ‘financial institution’ means:

(a) an undertaking other than a credit institution or an investment firm, which carries out one or more of the activities listed in points (2) to (12), (14) and (15) of the Annex I to Directive 2013/36/EU of the European Parliament and of the Council[27], including the activities of currency exchange offices (bureaux de change), or the principal activity of which is to acquire holdings, including a financial holding company and a mixed financial holding company; creditors as defined in Article 4, point (2) of Directive 2014/17/EU of the European Parliament and of the Council[28] and in Article 3, point (b) of Directive 2008/48/EC of the European Parliament and of the Council[29] and the activities of central securities depositories as defined in Article 2(1), point (1) of Regulation (EU) No 909/2014 of the European Parliament and of the Council[30], but with the exception of the activities of account information service providers as defined in Article 4, point (19) of Directive (EU) 2015/2366;

(b) an insurance undertaking as defined in Article 13, point (1) of Directive 2009/138/EC of the European Parliament and of the Council[31], insofar as it carries out life or other investment-related assurance activities covered by that Directive, including insurance holding companies and mixed-activity insurance holding companies as defined, respectively, in Article 212(1), points (f) and (g) of Directive 2009/138/EC;

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27 Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

28 Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2017, p. 34).

29 Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

30 Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

31 Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

(c) an insurance intermediary as defined in Article 2(1), point (3) of Directive (EU) 2016/97 of the European Parliament and of the Council[32] where it acts with respect to life insurance and other investment-related insurance services, with the exception of an insurance intermediary which does not collect premiums or amounts intended for the customer and which acts under the full responsibility of one or more insurance undertakings or intermediaries for the products which concern them respectively;

(d) an investment firm as defined in Article 4(1), point (1) of Directive 2014/65/EU of the European Parliament and of the Council[33];

(e) a collective investment undertaking, in particular:

(i) an undertaking for collective investment in transferable securities as defined in Article 1(2) of Directive 2009/65/EC and its management company as defined in Article 2(1)(b) of that Directive or an investment company authorised in accordance with that Directive and which has not designated a management company, that makes available for purchase units of UCITS in the Union;

(ii) an alternative investment fund as defined in Article 4(1), point (a) of Directive 2011/61/EU and its alternative investment fund manager as defined in Article 4(1), point (b) of that Directive that fall within the scope set out in Article 2 of that Directive;

32 Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast) (OJ L 26, 2.2.2016, p. 19).

33 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 (recast) (OJ L 173, 12.6.2014, p. 349).

(ea) a crypto-asset service provider;

(f) branches of financial institutions as defined in points (a) to (ea), when located in the Union, whether their head office is situated in a Member State or in a third country;

(7) 'trust or company service provider' means any person that, by way of its business, provides any of the following services to third parties:

(a) the formation of companies or other legal persons;

(b) acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;

(c) providing a registered office, business address, correspondence or administrative address for a company, a partnership or any other legal person or arrangement or any other related services;

(d) acting as, or arranging for another person to act as, a trustee of an express trust or performing an equivalent function for a similar legal arrangement;

(e) acting as, or arranging for another person to act as, a nominee shareholder for another person;

(8) ‘gambling services’ means a service which involves a games of chance provided at a physical location or by any means at a distance, by electronic means or any other technology for facilitating communication, at the individual request of a recipient of services, such as lotteries, casino games, poker games and betting transactions;

(8a) ‘game of chance’ means any game which involves wagering a stake with monetary value in exchange for a chance to win a prize with a monetary value, and where the occurrence of a win or loss depends wholly or partially on chance.

(9) Deleted

(10) ‘mortgage credit intermediary’ means a credit intermediary as defined in Article 4, point (5) of Directive 2014/17/EU when holding the funds in connection with the credit agreement, with the exception of the mortgage credit intermediary carrying out activities under the full responsibility of one or more creditors or credit intermediaries;

(11) Deleted

(12) ‘consumer a credit intermediary’ means a credit intermediary as defined in Article 3, point (f) of Directive 2008/48/EC when holding the funds in connection with the credit agreement, with the exception of the consumer credit intermediary carrying out activities under the full responsibility of one or more creditors or credit intermediaries;

(13) ‘crypto-asset’ means a crypto-asset as defined in Article 3(1), point (2) of Regulation *[please insert reference – proposal for a Regulation on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 - COM/2020/593 final]* except when falling under the categories listed in Article 2(2) of that Regulation;

(14) ‘crypto-asset service provider’ means a crypto-assets service provider as defined in Article 3(1), point (8) of Regulation *[please insert reference – proposal for a Regulation on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 - COM/2020/593 final]* where performing one or more crypto-asset services as defined in Article 3(1), point (9) of that Regulation, with the exception of providing advice on crypto-assets as defined in point (9)(h) of that Article;

(14a) ‘Self-hosted address’ means a self-hosted address as defined in Article 3(1), point (18a) of Regulation *[please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final]*;

(14b) ‘Crowdfunding service providers’ means a crowdfunding service provider as defined in Article 2(1), point (e) of Regulation (EU) 2020/1503;

(14c) ‘Third-party financing intermediary’ means an undertaking, other than those which are otherwise obliged entities pursuant to Article 3 such as crowdfunding service providers, the business of which is to match or facilitate the matching, through an internet-based information system open to the public or to a limited number of funders of:

(i) project owners, which are any natural or legal person seeking funding for projects, consisting of one or a set of predefined operations aiming at a particular objective, including fundraising for a particular cause or event irrespective of whether these projects are proposed to the public or to a limited number of funders; and

(ii) funders, which are any natural or legal person contributing to the funding of projects, through loans, with or without interest, or donations, including where such donations entitle the donor to a non-material benefit.

(15) ‘electronic money’ means electronic money as defined in Article 2, point (2) of Directive 2009/110/EC of the European Parliament and of the Council[34], but excluding monetary value as referred to in Article 1(4) and (5) of that Directive;

(16) ‘business relationship’ means a business, professional or commercial relationship connected with the professional activities of an obliged entity, which is set up between an obliged entity and a customer, including in the absence of a written contract and which is expected to have, at the time when the contact is established, or which acquires an element of repetition or duration;

(17) ‘linked transactions’ means two or more transactions carried out over a specific period of time, and which appear to have close characteristics such as similar purposes, amounts or other relevant characteristics, or which are carried out by or on behalf of customers, originators or beneficiaries which are similar or have common characteristics;

(18) ‘third country’ means any jurisdiction, independent state or autonomous territory that is not part of the European Union and that has its own AML/CFT legislation or enforcement regime;

[34] 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).

(19) ‘correspondent relationship’ means:

(a) the provision of banking services by one credit institution as the correspondent to another credit institution as the respondent, including providing a current or other liability account and related services, such as cash management, international funds transfers, cheque clearing, payable-through accounts and foreign exchange services;

(b) the relationships between and among credit institutions and financial institutions including where similar services are provided by a correspondent institution to a respondent institution, and including relationships established for securities transactions or funds transfers;

(20) ‘shell bank’ means a credit institution or financial institution, or an institution that carries out activities equivalent to those carried out by credit institutions and financial institutions, incorporated in a jurisdiction in which it has no physical presence, involving meaningful mind and management, and which is unaffiliated with a regulated financial group;

(21) ‘Legal Entity Identifier’ means a unique alphanumeric reference code based on the ISO 17442 standard assigned to a legal entity;

(22) ‘beneficial owner’ means:

(a) any natural person who ultimately owns or controls, according to articles 42 to 43, a legal entity, an express trust or a similar legal arrangement;

(b) any natural person on whose behalf or for the benefit of whom a business relationship or a transaction or activity is being conducted;

(22a) 'Express trust' means a trust intentionally created by the settlor, inter vivos or on death, usually in a form of written document to place assets under the control of a trustee for the benefit of a beneficiary or for a specified purpose, usually to fulfil a business or personal need.

(23) 'legal arrangement' means an express trust or an arrangement which has a similar structure or function to an express trust, including *fiducie* and certain types of *Treuhand* and *fideicomiso*;

(24) 'formal nominee arrangement' means a contract or a equivalent arrangement, between a nominator and a nominee, where the nominator is a legal entity or natural person that issues instructions to a nominee to act on their behalf in a certain capacity, including as a director or shareholder, and the nominee is a legal entity or natural person instructed by the nominator to act on their behalf;

(25) 'politically exposed person' means a natural person who is or has been entrusted with the prominent public functions including:

(a) in a Member State:

(i) heads of State, heads of government, ministers and deputy or assistant ministers;

(ii) members of parliament or of similar legislative bodies;

(iii) members of the governing bodies of political parties;

(iv) members of supreme courts, of constitutional courts or of other high-level judicial bodies, the decisions of which are not subject to further appeal, except in exceptional circumstances;

(v) members of courts of auditors or of the boards of central banks;

(vi) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;

(vii) members of the administrative, management or supervisory bodies of enterprises majority-owned by State or local authorities;

(viii) other prominent public functions provided for by Member States;

(b) in an international organisation:

(i) the highest ranking official, his/her deputies and members of the board or equivalent function of an international organisation;

(ii) representatives to a Member State or to the Union;

(c) at Union level:

(i) functions at the level of Union institutions and bodies that are equivalent to those listed in points (a)(i), (ii), (iv), (v) and (vi);

(d) in a third country:

(i) functions that are equivalent to those listed in point (a);

No public function referred to in points (a) to (d) shall be understood as covering middle-ranking or more junior officials;

(26) 'family members' means:

(a) the spouse, or the person in a registered partnership or civil union or in a similar arrangement;

(b) the children and the spouses of, or persons in a registered partnership or civil union or in a similar arrangement with, those children;

(c) the parents;

(27) ‘persons known to be close associates’ means:

(a) natural persons who are known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a politically exposed person;

(b) natural persons who have sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the de facto benefit of a politically exposed person;

(28) ‘senior management’ means, in addition to the members of the management body in its management function, an officer or employee with sufficient knowledge of the institution's money laundering and terrorist financing risk exposure and sufficient seniority to take decisions affecting its risk exposure;

(29) ‘group’ means a group of undertakings which consists of a parent undertaking, its subsidiaries, and the entities directly or indirectly linked with the parent undertaking or its subsidiaries by a relationship as set out in Article 22 of Directive 2013/34/EU of the European Parliament and of the Council[35], including branches, where applicable, entities permanently affiliated to a central body;

[35] 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. 1).

(29a) ‘parent undertaking’ means:

(a) a parent undertaking of a financial conglomerate as defined in Article 2, point (14) of the Directive 2002/87/EC of the European Parliament and of the Council[36], including a 'mixed financial holding company' as defined in Article 2, point (15) of that directive;

(b) a parent undertaking of a group, other than that mentioned in point (a), which is subject to prudential supervision on a consolidated basis, at the highest level of prudential consolidation in the Union, including a 'financial holding company' as defined in Article 4(1), point (20), of Regulation (EU) 575/2013, an ‘investment holding company’ as defined in Article 4 (1), point (23), of Regulation (EU) 2019/2033 of the European Parliament and of the Council[37] and an ‘insurance holding company’ as defined in Article 212(1), point (f), of Directive 2009/138/EC of the European Parliament and of the Council[38];

(c) a parent undertaking of a group within the meaning of Article 2(29), other than those mentioned in points (a) and (b), which includes at least two obliged entities as defined in Article 3, and which is not itself a subsidiary of another undertaking in the Union.

36 Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L35, 11.2.2003, p. 1).

37 Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (OJ L 314, 5.12.2019, p. 1).

38 Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

When several parent undertakings are identified within the same group, in accordance with the criteria mentioned above, the parent undertaking is the entity within the group which is not itself a subsidiary of another undertaking in the Union;

(30) 'cash' means currency, bearer-negotiable instruments, commodities used as highly-liquid stores of value and prepaid cards, as defined in Article 2(1), points (c) to (f) of Regulation (EU) 2018/1672 of the European Parliament and of the Council[39];

(31) 'competent authority' means:

(a) a Financial Intelligence Unit;

(b) a supervisory authority as defined under point (33);

(c) a public authority that has the function of investigating or prosecuting money laundering, its predicate offences or terrorist financing, or that has the function of tracing, seizing or freezing and confiscating criminal assets;

(d) a public authority with designated responsibilities for combating money laundering or terrorist financing;

[39] Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005 (OJ L 284, 12.11.2018, p. 6).

(32) ‘supervisor’ means the body entrusted with responsibilities aimed at ensuring compliance by obliged entities with the requirements of this Regulation, including the Authority for anti-money laundering and countering the financing of terrorism (AMLA) when performing the tasks entrusted on it in Article 5(2) of Regulation *[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]*;

(33) ‘supervisory authority’ means a supervisor who is a public body, or the public authority overseeing self-regulatory bodies in their performance of supervisory functions pursuant to Article 29 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*;

(34) ‘self-regulatory body’ means a body that represents members of a profession and has a role in regulating them, in performing certain supervisory or monitoring functions and in ensuring the enforcement of the rules relating to them;

(35) ‘targeted financial sanctions’ means both asset freezing and prohibitions to make funds or other assets available, directly or indirectly, for the benefit of designated persons and entities pursuant to Council Decisions adopted on the basis of Article 29 of the Treaty on European Union and Council Regulations adopted on the basis of Article 215 of the Treaty on the Functioning of the European Union;

(36) ‘proliferation financing-related targeted financial sanctions’ means those targeted financial sanctions referred to in point (35) that are imposed pursuant to Decision (CFSP) 2016/849 and Decision 2010/413/CFSP and pursuant to Regulation (EU) 2017/1509 and Regulation (EU) 267/2012;

(37) ‘precious metal and stone’ means metals and stones referred to in Annex IV;

(38) ‘cultural good’ means a good mentioned in part A of the Annex to Regulation (EU) 2019/880 of the European Parliament and of the Council[40];

(39) ‘management body’ means an obliged entity’s body or bodies, which are appointed in accordance with national law, which are empowered to set the obliged entity's strategy, objectives and overall direction, and which oversee and monitor management decision-making, and include the persons who effectively direct the business of the obliged entity. Where no body exists, the management body is the person who effectively direct the business of the obliged entity;

(40) ‘management body in its management function’ means the management body responsible for the day-to-day management of the obliged entity;

(41) ‘management body in its supervisory function’ means the management body acting in its role of overseeing and monitoring management decision-making.

(42) ‘partnership for information sharing in AML/CFT field’ means a formal cooperation established under national law between obliged entities, and where applicable, public authorities, with the purpose of supplementing compliance with this Regulation through cooperation and by sharing and processing data, in particular through the use of new technologies and artificial intelligence.

[40] Regulation (EU) 2019/880 of the European Parliament and of the Council of 17 April 2019 on the introduction and the import of cultural goods (OJ L 151, 7.6.2019, p. 1).

Section 2

Scope

Article 3

Obliged entities

The following entities are to be considered obliged entities for the purposes of this Regulation:

(1) credit institutions, when acting in the exercise of their professional regulated activities;

(2) financial institutions, when acting in the exercise of their professional regulated activities;

(3) the following natural or legal persons acting in the exercise of their professional activities:

(a) auditors, external accountants and tax advisors, and any other natural or legal person including independent legal professionals such as lawyers, that undertakes to provide, directly or by means of other persons to which that other person is related, material aid, assistance or advice on tax matters as principal business or professional activity;

(b) notaries, lawyers and other independent legal professionals, where they participate, whether by acting on behalf of and for their client in any financial or real estate transaction, or by assisting in the planning or carrying out of transactions for their client concerning any of the following:

(i) buying and selling of real property or business entities;

(ii) managing of client money, securities or other assets;

(iii) opening or management of bank, savings or securities accounts;

(iv) organisation of contributions necessary for the creation, operation or management of companies;

(v) creation, operation or management of trusts, companies, foundations, or similar structures;

(c) trust or company service providers;

(d) estate agents, including when acting as intermediaries in the letting of immovable property for transactions for which the monthly rent amounts to value of at least EUR 10 000, or the equivalent in national currency;

(e) persons trading as regular or principal business or professional activity in precious metals and stones referred to in Article 2, point (37), as well as jewellers, horologists and goldsmiths, where the value of the transaction or linked transactions amounts to at least EUR 10 000 or the equivalent in national currency;

(f) providers of gambling services;

(g) Deleted

(h) crowdfunding service providers;

(ha) third-party financing intermediary;

(i) persons trading or acting as intermediaries in the trade of cultural goods, including when this is carried out by art galleries and auction houses, where the value of the transaction or linked transactions amounts to at least EUR 10 000 or the equivalent in national currency;

(j) persons storing, trading or acting as intermediaries in the trade of cultural goods when this is carried out within free zones and customs warehouses, where the value of the transaction or linked transactions amounts to at least EUR 10 000 or the equivalent in national currency;

(k) creditors for mortgage and consumer credits, other than credit institutions defined in Article 2(5) and financial institutions defined in Article 2(6), and credit intermediaries for mortgage and consumer credits;

(l) investment migration operators permitted to represent or offer intermediation services to third country nationals seeking to obtain 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 to the public good and contributions to the state budget.

Article 4

Exemptions for certain providers of gambling services

1. With the exception of casinos, Member States may decide to exempt, , providers of gambling services from all or part of the requirements set out in this Regulation or the Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* on the basis of the proven low risk posed by the nature and, where appropriate, the scale of operations of such services.

2. For the purposes of paragraph 1, Member States shall carry out a risk assessment of gambling services assessing:

(a) money laundering and terrorist financing threats, vulnerabilities and mitigating factors of the gambling services;

(b) the risks linked to the size of the transactions and payment methods used;

(c) the geographical area in which the gambling service is administered, including their cross border dimension and accessibility from other Member States or third countries.

When carrying out such risk assessments, Member States shall take into account the findings of the risk assessment drawn up by the Commission pursuant to Article 7 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*.

3. Member States shall establish risk-based monitoring activities or take other adequate measures to ensure that the exemptions granted pursuant to this Article are not abused.

Article 5

Exemptions for certain financial activities

1. With the exception of persons engaged in the activity of money remittance as defined in Article 4, point (22) of Directive (EU) 2015/2366, Member States may decide to exempt legal or natural persons that engage in a financial activity as listed in Annex I, points (2) to (12), (14) and (15), to Directive 2013/36/EU on an occasional or very limited basis where there is little risk of money laundering or terrorist financing from the requirements set out in this Regulation, provided that all of the following criteria are met:

(a) the financial activity is limited in absolute terms;

(b) the financial activity is limited on a transaction basis;

(c) the financial activity is not the main activity of such persons;

(d) the financial activity is ancillary and directly related to the main activity of such persons;

(e) the main activity of such persons is not an activity referred to in Article 3, point (3)(a) to (d) or (f);

(f) the financial activity is provided only to the customers of the main activity of such persons and is not generally offered to the public.

2. For the purposes of paragraph 1, point (a), Member States shall require that the total turnover of the financial activity does not exceed a threshold which shall be sufficiently low. That threshold shall be established at national level, depending on the type of financial activity.

3. For the purposes of paragraph 1, point (b), Member States shall apply a maximum threshold per customer and per single transaction, whether the transaction is carried out in a single operation or is linked to other transactions. That maximum threshold shall be established at national level, depending on the type of financial activity. It shall be sufficiently low in order to ensure that the types of transactions in question are an impractical and inefficient method for money laundering or terrorist financing, and shall not exceed value of EUR 1 000 or the equivalent in national currency.

4. For the purposes of paragraph 1, point (c), Member States shall require that the turnover of the financial activity does not exceed 5 % of the total turnover of the natural or legal person concerned.

5. In assessing the risk of money laundering or terrorist financing for the purposes of this Article, Member States shall pay particular attention to any financial activity which is considered to be particularly likely, by its nature, to be used or abused for the purposes of money laundering or terrorist financing.

6. Member States shall establish risk-based monitoring activities or take other adequate measures to ensure that the exemptions granted pursuant to this Article are not abused.

Article 6

Prior notification of exemptions

1. Member States shall notify the Commission of any exemption that they intend to grant in accordance with Articles 4 and 5 without delay. The notification shall include a justification based on the relevant risk assessment for the exemption.

2. The Commission shall within two months from the notification referred to in paragraph 2 take one of the following actions:

(a) confirm that the exemption may be granted;

(b) by reasoned decision, declare that the exemption may not be granted.

3. Upon reception of a decision by the Commission pursuant to paragraph 2(a), Member States may adopt the decision granting the exemption. Such decision shall state the reasons on which it is based. Member States shall review such decisions regularly, and in any case when they update their national risk assessment pursuant to Article 8 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*.

4. By *[3 months from the date of application of this Regulation]*, Member States shall notify to the Commission the exemptions granted pursuant to Article 2(2) and (3) of Directive (EU) 2015/849 in place at the time of the date of application of this Regulation.

5. The Commission shall publish every year in the *Official Journal of the European Union* the list of exemptions granted pursuant to this Article.

SECTION 3

Outsourcing

Article 6a

Outsourcing

1. Obliged entities may outsource tasks deriving from requirements under this Regulation to a service provider, whether a natural or legal person, with the exception of natural or legal persons residing or established in third countries identified pursuant to Section 2 of this Chapter. The obliged entity shall notify to the supervisor the outsourcing before the service provider starts the activities for the obliged entity.

The obliged entity shall remain fully liable for any action, whether an act of commission or omission, connected to the outsourced tasks that are carried out by the service provider, and also remains responsible as controller pursuant Article 4, point (7) of Regulation (EU) 2016/679 for any personal data processed for the purpose of the outsourced tasks.

Whenever tasks are outsourced, the obliged entity shall in all cases ensure that it understands the rationale behind the activities carried out by the service provider and the approach followed in their implementation, and that it is able to demonstrate to supervisors that these activities mitigate the specific risks that the obliged entity is exposed to.

2. The tasks outsourced pursuant to paragraph 1 shall not be undertaken in such way as to impair materially the quality of the obliged entity's measures and procedures to comply with the requirements of this Regulation and of Regulation *[please insert reference – proposal for a recast of Regulation (EU) 2015/847 – COM/2021/422 final]*. The following tasks shall not be outsourced under any circumstances:

(a) the approval of the obliged entity's risk assessment pursuant to Article 7;

(b) the approval of the obliged entity's policies, controls and procedures pursuant to Article 8;

(c) the reporting of suspicious activities or threshold-based declarations to the FIU pursuant to Article 50, unless either such activities are outsourced to a service provider belonging to the same group as the obliged entity and which is established in the same Member State as the obliged entity or consent is granted by national competent authority to allow obliged entities participating in a partnership for information sharing in the AML/CFT field to outsource the reporting of suspicious activities within the partnership.

Where a collective investment undertaking established in a Member State has no legal personality, or has only a board of directors and has delegated the processing of subscriptions and the collection of funds from investors, it may outsource the task referred to under point (c) to one of its service providers that is best placed to carry out the said tasks, taking into consideration the resources, experience and knowledge that the service provider has in the area of money laundering and funding of terrorism as well as the type of activity or transactions carried out by the collective investment undertaking.

3. Before an obliged entity outsources a task pursuant to paragraph 1, it shall assure itself that the service provider is reliable and sufficiently qualified to fulfil its obligations. Furthermore, it has to ensure that the service provider applies the measures and procedures adopted by the obliged entity. The conditions for the performance of such tasks shall be laid down in a written agreement between the obliged entity and the service provider. The obliged entity shall perform regular controls to ascertain the effective implementation of such measures and procedures by the service provider. The frequency of such controls shall be determined on the basis of the nature of the tasks outsourced.

4. Obliged entities shall ensure that outsourcing is not undertaken in such way as to impair materially the ability of the supervisory authorities to monitor and retrace the obliged entity's compliance with all of the requirements laid down in this Regulation.

5. By *[3 years after the entry into force of this Regulation]*, AMLA shall issue guidelines addressed to obliged entities on:

(a) the establishment of outsourcing relationships, including the subsequent outsourcing relationship, in accordance with this article, their governance and procedures for monitoring the implementation of functions by the service provider;

(b) the roles and responsibility of the obliged entity and the service provider within an outsourcing agreement;

(c) supervisory approaches to outsourcing.

6. When performing the activities under this Article, the service provider is to be regarded as part of the obliged entity.

CHAPTER II

INTERNAL POLICIES, PROCEDURES AND CONTROLS OF OBLIGED ENTITIES

SECTION 1

Internal procedures, risk assessment and staff

Article 8

Scope of internal policies, procedures and controls

1. Obliged entities shall have in place policies, procedures and controls in order to ensure compliance with this Regulation, the Regulation [*please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final*], any other legal provisions adopted for the implementation of these Regulations and any administrative act issued by any supervisor and in particular to:

(a) mitigate and manage effectively the risks of money laundering and terrorist financing identified at the level of the Union, the Member State and the obliged entity;

(b) in addition to the obligation to apply targeted financial sanctions, mitigate and manage the risks of non-implementation and evasion of proliferation financing-related targeted financial sanctions.

Those policies, procedures and controls shall be proportionate to the risks, nature and complexity of the business and size of the obliged entity and shall cover all the activities of the entity that fall under the scope of this Regulation.

2. The policies, procedures and controls referred to in paragraph 1 shall include:

(a) the development of internal policies and procedures, including in particular:

(i) the establishment and updating of the business-wide risk assessment pursuant to Article 7;

(ii) risk management framework;

(iii) customer due diligence as provided by Chapter III, Sections 1 to 5 and Chapter IV, in particular:

(1) the process of identification of business relationships according to the criteria set out in Article 15 (5);

(2) the individual customer risk assessment;

(3) the identification and verification of the identity of the customer and of the beneficial owner;

(4) the identification of the purpose and intended nature of a business relationship or occasional transaction;

(5) the monitoring of business relationships and occasional transactions, including those that pose a higher or lower money laundering and terrorist financing risk;

(6) the determination of whether the customer or the beneficial owner of the customer is a politically exposed person or family member or close associate of a politically exposed person;

(7) the identification of business relationships or occasional transactions involving natural or legal persons from high risk third countries;

(iv) reporting, in particular reporting of suspicious transactions;

(v) outsourcing and reliance on third parties;

(vi) record-retention as well as policies in relation to the processing of personal data pursuant to Article 55;

(vii) the monitoring and management of compliance with such policies and procedures under the conditions set out in point (b), the identification and management of deficiencies and the implementation of remedial actions;

(viii) the verification, proportionate to the risks associated with the tasks and functions to be performed, when recruiting and assigning staff to certain tasks and functions and when appointing its agents and distributors, that those persons are of good repute, in accordance with Article 11;

(ix) the internal communication of the obliged entity's internal policies, procedures and controls, including to its agents, distributors and service providers involved in the implementation of its AML/CFT policies;

(x) a policy on the training of employees and, where relevant, its agents and distributors with regard to measures in place in the obliged entity to comply with the requirements of this Regulation, Regulation [*please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final*], any other legal provisions adopted for the implementation of these Regulations and any administrative act issued by any supervisor, in accordance with Article 10.

(b) internal controls that include at least:

(i) controls performed by operational functions in the field of AML/CFT, including AML/CFT related tasks carried out by commercial functions;

(ii) controls performed by the compliance functions pursuant to Article 9 other than those referred to in point (i), to ensure the implementation of the policies and procedures referred to in point (a) and controls referred to in point (i) across all obliged entity's activities, including activities carried out by agents and distributors or outsourced to external service providers;

(iii) where appropriate with regard to the size and nature of the business, an independent audit function to test the internal policies and procedures referred to in point (a) and the controls referred to in points (i) and (ii); Member States may, in the absence of an independent audit function, require obliged entities to have this test carried out by an external expert.

The internal policies, procedures and controls set out in the first subparagraph shall be recorded in writing. Those policies shall be approved by the management body in its management function. Internal procedures, including controls, shall be approved, at least, by the AML compliance officer.

The type and extent of controls set out in point (b) should be commensurate to the risk of money laundering and terrorist financing and the size of the business.

3. The obliged entities shall keep the policies, procedures and controls up to date, and enhance them where weaknesses are identified.

4. By *[2 years after the entry into force of this Regulation]*, AMLA shall issue guidelines on the elements that obliged entities should take into account, based on the nature and complexity of their business, size and the risks they are exposed to, when deciding on the extent of their internal policies, procedures and controls.

Article 7

Business-wide risk assessment

1. Obliged entities shall take appropriate measures, proportionate to their size, as well as to the nature and complexity of their business, to identify and assess the risks of money laundering and terrorist financing to which they are exposed, as well as the risks of non-implementation and evasion of proliferation financing-related targeted financial sanctions, taking into account at least:

(a) the risk variables set out in Annex I and the risk factors set out in Annexes II and III;

(b) the findings of the supra-national risk assessment drawn up by the Commission pursuant to Article 7 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*;

(c) the findings of the national risk assessments carried out by the Member States pursuant to Article 8 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*, as well as of any relevant sector-specific risk assessment carried out by the Member States;

(d) the relevant information published by international standard setters in the AML/CFT area or, at European level, by the Commission or by AMLA;

(e) the information on money laundering and terrorist financing risks provided by national competent authorities.

Prior to the launch of new products, services or business practices, including the use of new delivery channels and new or developing technologies, in conjunction with new or pre-existing products and services or before starting to provide an existing service or product to a new customer segment or in a new geographical area, obliged entities shall identify and assess, in particular, the related money laundering and terrorist financing risks and take appropriate measures to manage and mitigate those risks.

2. The business-wide risk assessment drawn up by the obliged entity pursuant to paragraph 1 shall be documented, kept up-to-date and regularly reviewed, including where any internal or external event significantly affect the ML/TF risks associated with the activities, products, transactions, delivery channels, customers or geographical zones of activities of the obliged entity. It shall be made available to supervisors upon request.

The business-wide risk assessment shall be proposed by the AML compliance officer and approved by the management body in its management function and, where such body exists, communicated to the management body in its supervisory function.

3. With the exception of credit institutions, financial institutions, crowdfunding service providers and third-party financing intermediaries, supervisors or, where provided for by national law, other competent authorities, may decide that individual documented risk assessments are not required where the specific risks inherent in the sector are clear and understood.

3a. By [*2 years from the entry into force of this Regulation*], AMLA shall issue guidelines on the minimum requirements for the content of the business-wide risk assessment drawn up by the obliged entity pursuant to paragraph 1.

Article 9

Compliance functions

1. Obliged entities shall appoint one member of the management body in its management function who is responsible to ensure compliance with this Regulation, the Regulation [*please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final*], any other legal provisions adopted for the implementation of these Regulations and any administrative act issued by any supervisor ('compliance manager'). To this end, the compliance manager shall ensure that the obliged entity's policies, procedures and controls are consistent with the AML/CFT risk exposure and that they are implemented, with sufficient human and material resources. The compliance manager shall receive information on significant or material weaknesses in such policies, procedures and controls.

2. Where the management body in its management function is a body collectively responsible for its decisions, the compliance manager is in charge to assist and advise it and to prepare the decisions referred to in this Article.

3. Obliged entities shall have an AML compliance officer, to be appointed with sufficiently high hierarchical standing by the management body in its management function, who shall be responsible for the policies, procedures and controls in the day-to-day operation of the obliged entity's anti-money laundering and countering the financing of terrorism (AML/CFT) and targeted financial sanctions. That person shall also be responsible for reporting suspicious transactions to the Financial Intelligence Unit (FIU) in accordance with Article 50(6).

In the case of obliged entities subject to checks on their senior management or beneficial owners pursuant to Article 6 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* or under other Union acts, AML compliance officers shall be subject to verification that they comply with those requirements.

Where justified by the size, the nature or the risks of its activities, an obliged entity that is part of a group may appoint as its AML compliance officer an individual who performs that function in another entity within that group.

4. Obliged entities shall provide the compliance functions with adequate resources, including staff and technology, in proportion to the size, nature and risks of the obliged entity for effective performance of their tasks, and shall ensure that the persons responsible for those functions are granted the powers to propose any measures necessary to ensure the effectiveness of the obliged entity's internal policies, procedures and controls.

Obliged entities shall ensure that the AML compliance officer and the person responsible of the audit function referred to in Article 8 (2), point (b) (iii), can report directly to management body in its management function and, where such a body exists, to management body in its supervisory function, independent from senior management, and can raise concerns and warn the management body, where specific risk developments affect or may affect the entity.

Obliged entities shall take measures to ensure that the AML compliance officer's decisions are not harmed or unduly influenced by commercial interests of the obliged entity and that it is protected against retaliation, discrimination and any other unfair treatment. The AML compliance officer can only be removed by the management body in its management function after previous information of the management body in its supervisory function, where such a body exists.

Obliged entities shall ensure that the persons directly or indirectly participating in implementation of this Regulation, the Regulation [*please insert reference – proposal for a recast of Regulation (EU) 2015/847 – COM/2021/422 final*], any other legal provisions adopted for the implementation of these Regulations and any administrative act issued by any supervisor, have unrestricted access to all information and data necessary to their tasks.

5. The compliance manager shall regularly report on the implementation of the obliged entity's policies, procedures and controls to the management body. In particular, the compliance manager shall submit once a year, or more frequently where appropriate, to the management body a report on the implementation of the obliged entity's internal policies, procedures and controls drafted by the AML compliance officer, and shall keep that body informed of the outcome of any reviews. The compliance manager shall take the necessary actions to remedy any deficiencies identified in a timely manner.

6. Where the size, nature or risks of the activities of the obliged entity justifies it, the functions referred to in paragraphs 1 and 3 may be performed by the same natural person. Each Member State may lay down in its national law that an obliged entity subject to prudential rules requiring the appointment of a compliance officer or of a head of the internal audit function may entrust those persons with the functions and responsibilities as referred to in paragraph 3, first sub-paragraph and in Article 8(2), point (b)(iii). In cases of higher risks or where the size of the obliged entity justifies it, the responsibilities of controls performed by the compliance functions mentioned in Article 8(2), point (b)(ii), and of the day-to-day operation of the obliged entity's anti-money laundering and countering the financing of terrorism (AML/CFT) policies may be carried by two different persons.

Where the obliged entity is a natural person or a legal person whose activities are performed by one natural person only, that person shall be responsible for performing the tasks under this Article.

Article 10

Awareness of requirements

Obliged entities shall take measures to ensure that their employees or person in comparable position whose function so requires, including their agents and distributors are aware of the requirements arising from this Regulation , the Regulation [*please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final*], any other legal provisions adopted for the implementation of these Regulations and any administrative act issued by any supervisor, and of the business wide risk assessment, internal policies, procedures and controls in place in the obliged entity, including in relation to the processing of personal data for the purposes of this Regulation.

The measures referred to in the first subparagraph shall include the participation of employees or person in comparable position, including agents and distributors, in specific, ongoing training programmes to help them recognise operations which may be related to money laundering or terrorist financing and to instruct them as to how to proceed in such cases. Such training programmes shall be appropriate to their functions or activities and to the risks of money laundering and terrorist financing to which the obliged entity is exposed and shall be duly documented.

Article 11

Integrity of employees

1. Any employee, or person in a comparable position, including agents and distributors, of an obliged entity directly participating in the implementation of the requirements of this Regulation, the Regulation *[please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final]* and any other legal provisions adopted for the implementation of these Regulations and any administrative act issued by any supervisor, shall undergo an assessment commensurate with the risks associated with the tasks performed and whose content is approved by the AML compliance officer of:

(a) individual skills, knowledge and expertise to carry out their functions effectively;

(b) good repute, honesty and integrity.

Such assessment shall be performed prior to taking up of activities by the employee or person in a comparable position, including agents and distributors, and shall be regularly repeated. The intensity of the subsequent assessments shall be determined on the basis of the tasks entrusted to the person and risks associated with function they perform.

2. Employees, or persons in a comparable position, including agents and distributors, entrusted with tasks related to the obliged entity's compliance with this Regulation shall inform the AML compliance officer of any close private or professional relationship established with the obliged entity's customers or prospective customers and shall be prevented from undertaking any tasks related to the obliged entity's compliance in relation to those customers.

3. This Article shall not apply where the obliged entity is a natural person or a legal person whose activities are performed by one natural person only.

Article 11a

Internal reporting

1. Obliged entities shall have in place appropriate procedures for their managers, employees, or persons in a comparable position, including their agents and distributors, to report breaches of this Regulation, the Regulation [*please insert reference – proposal for a recast of Regulation (EU) 2015/847 – COM/2021/422 final]*, and any other legal provisions adopted for the implementation of these Regulations and any administrative act issued by any supervisor, internally to the AML compliance officer and the compliance manager, where applicable, through a specific, independent and anonymous channel, proportionate to the nature and size of the obliged entity concerned.Where the obliged entities already have in place procedures to report breaches in accordance with other Union act, those procedures may also be used to report the breaches of this Regulation and Regulation [*please insert reference – proposal for a recast of Regulation (EU) 2015/847 – COM/2021/422 final]*, any other legal provisions adopted for the implementation of these Regulations and any administrative act issued by any supervisor, provided that the guarantees of this Article are respected.

2. Obliged entities shall take measures to ensure that those persons who report breaches pursuant to the first paragraph are protected against retaliation, discrimination and any other unfair treatment.

These measures shall also define:

(a) specific procedures for the receipt of reports on breaches and their follow-up;

(b) protection of personal data concerning both the person who reports the breaches and the natural person who is allegedly responsible for a breach, in accordance with Regulation (EU) 2016/679;

(c) 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 criminal investigations or subsequent judicial proceedings.

3. This Article shall not apply where the obliged entity is a natural person or a legal person whose activities are performed by one natural person only.

Article 12

Situation of specific employees

Where a natural person falling within any of the categories listed in Article 3, point (3) performs professional activities as an employee of a legal person, the requirements laid down in this Section shall apply to that legal person rather than to the natural person.

SECTION 2

Provisions applying to groups

Article 13

Group-wide requirements

1. A parent undertaking that is itself an obliged entity shall ensure that the requirements on internal procedures, risk assessment and staff referred to in Section 1 of this Chapter apply in all branches and subsidiaries of the group in the Member States and in third countries, where the branches and subsidiaries are majority-owned or controlled via other means. To this end, a parent undertaking shall perform a group-wide risk assessment, taking into account the business-wide risk assessment performed by all branches and subsidiaries of the group, and use it to establish and implement group-wide policies, procedures and controls, including on data protection and on information sharing within the group for AML/CFT purposes. Obliged entities that are part of a group shall implement the aforementioned group-wide policies, procedures and controls, taking into account their specificities and risks to which they are exposed.

With regards to the establishment and implementation of group-wide policies, procedures and controls and the performance of the group-wide risk assessment the Articles 7 and 8 shall apply accordingly. For the application of Article 7(1), points (c) and (e), parent undertakings take into account the information published by the authorities of the Member States where their branches and subsidiaries are established.

Parent undertakings that are themselves obliged entities shall appoint a compliance manager, responsible for overseeing group- wide policies, controls and procedures, under the conditions set out in Article 9(1) and (2). In addition, they shall appoint an AML compliance officer, under the conditions set out in Article 9(3), responsible for the day-to-day operation of the group's AML/CFT policies, procedures and controls. Article 9(4) also applies to parent undertakings.

The compliance manager of the parent undertaking which is itself obliged entity shall regularly report on the implementation of the group's policies, procedures and controls to the management body of the parent undertaking. In particular, the compliance manager shall submit once a year an AML-CFT AML/CFT report, under the conditions set out in Article 9(5). The compliance manager appointed by the parent undertaking which is itself obliged entity shall take the necessary actions to remedy any deficiencies identified in a timely manner.

Parent undertaking which is itself obliged entity shall also apply Article 10 with regards to the group.

2. The policies, procedures and controls pertaining to the sharing of information referred to in paragraph 1 shall require obliged entities within the group to exchange information when such sharing is relevant for the purposes of customer due diligence and money laundering and terrorist financing risk management. The sharing of information within the group shall cover in particular the identity and characteristics of the customer, its beneficial owners or the person on behalf of whom the customer acts, the nature and purpose of the business relationship and of the transactions, as well as, where applicable, the analysis assessment of the atypical transactions and the suspicions that funds are the proceeds of criminal activity or are related to terrorist financing reported to FIU pursuant to Article 50, unless otherwise instructed by the FIU.

The group-wide policies, procedures and controls shall not prevent entities within a group which are not obliged entities according to Article 3 to provide information to obliged entities within the same group in particular where such sharing is relevant for those obliged entities to comply with requirements set out in this Regulation.

A parent undertaking which is itself obliged entity shall put in place group-wide policies, controls and procedures to ensure that the information exchanged pursuant to the first and second subparagraph is subject to sufficient guarantees in terms of confidentiality, data protection and use of the information, including to prevent its disclosure.

3. By *[2 years from the entry into force of this Regulation]*, AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall specify the minimum requirements of group-wide policies, including minimum standards for information sharing within the group, the role and responsibilities of parent undertakings that are not themselves obliged entities with respect to ensuring group-wide compliance with AML/CFT requirements and the conditions under which the provisions of this Article apply to entities that are part of structures which share common ownership, management or compliance control, including networks or partnerships.

4. The Commission is empowered to supplement this Regulation by adopting the regulatory technical standards referred to in paragraph 3 of this Article in accordance with Articles 38 to 41 of Regulation *[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]*.

Article 14

Branches and subsidiaries in third countries

1. Where branches or subsidiaries of obliged entities are located in third countries where the minimum AML/CFT requirements are less strict than those set out in this Regulation, the parent undertaking which is itself obliged entity shall ensure that those branches or subsidiaries comply with the requirements laid down in this Regulation, including requirements concerning data protection, or equivalent.

2. Where the law of a third country does not permit compliance with the requirements laid down in this Regulation, the parent undertaking which is itself obliged entity shall take additional measures to ensure that branches and subsidiaries in that third country effectively handle the risk of money laundering or terrorist financing, and shall inform the supervisors of its home Member State. Where the supervisors of the home Member State consider that the additional measures are not sufficient, they shall exercise additional supervisory actions, including requiring the group not to establish any business relationship, to terminate existing ones or not to undertake transactions, or to close down its operations in the third country.

3. By *[2 years after the date of entry into force of this Regulation]*, AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall specify the type of additional measures referred to in paragraph 2, including the minimum action to be taken by obliged entities where the law of a third country does not permit the implementation of the measures required under Article 13 and the additional supervisory actions required in such cases.

4. The Commission is empowered to supplement this Regulation by adopting the regulatory technical standards referred to in paragraph 3 of this Article in accordance with Articles 38 to 41 of Regulation *[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]*.

CHAPTER III

CUSTOMER DUE DILIGENCE

SECTION 1

General provisions

Article 15

Application of customer due diligence

1. Obliged entities shall apply customer due diligence measures in any of the following circumstances:

(a) when establishing a business relationship;

(b) when carrying out an occasional transaction that amounts to value of at least EUR 10 000 or more, or the equivalent in national currency, whether that transaction is carried out in a single operation or through linked transactions, or a lower threshold laid down pursuant to paragraph 5;

(c) when there is a suspicion of money laundering or terrorist financing, regardless of any derogation, exemption or threshold;

(d) when there are doubts about the veracity or adequacy of previously obtained customer identification data.

(e) when there are doubts that the person who, as part of a business relationship, wishes to carry out a transaction, is actually the customer or person authorized to act on his behalf and who was identified and whose identity was verified as provided for in Article 16 (2), second subparagraph.

2. In addition to the circumstances referred to in paragraph 1, credit and financial institutions, with the exception of crypto-asset service providers, shall apply customer due diligence when initiating or executing an occasional transaction that constitutes a transfer of funds as defined in Article 3, point (9) of Regulation *[please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final]*, that amounts to value of at least EUR 1 000 , or the equivalent in national currency, whether that transaction is carried out in a single operation or through linked transactions.

2a. By way of derogation from paragraph 1, point (b), crypto-asset service providers shall:

(a) apply customer due diligence measures when carrying out an occasional transaction that amounts to value of at least EUR 1 000, or the equivalent in national currency, whether the transaction is carried out in a single operation or through linked transactions;

(b) apply at least customer due diligence measures referred to under Article 16(1), point (a), when carrying out an occasional transaction where the value is below EUR 1 000, or the equivalent in national currency, whether the transaction is carried out in a single operation or through linked transactions.

2b. By way of derogation from paragraph 1, point (b), obliged entities shall apply at least customer due diligence measures referred to under Article 16(1), point (a), when carrying out an occasional transaction in cash amounting to value of at least EUR 1 000, or the equivalent in national currency, whether the transaction is carried out in a single operation or through linked transactions.

2c. Obliged entities whose business activity consists in intermediating transactions between their customers and their counterparts, or whose business activity consists in otherwise facilitating transactions by matching two counterparts, shall also apply customer due diligence measures with regard to that counterparts, where the transaction meets the criteria of paragraph 1, point (b), or the criteria of paragraph 2 or 2a.

2d. Obliged entities under Article 3, point (3)(e) and obliged entities under Article 3, point (3)(i) shall also apply customer due diligence measures with regard to their suppliers, where the transaction concerns precious metals or stones or cultural goods and meets the criteria of paragraph 1, point (b).

2e. By way of derogation from paragraph 1, point (b), obliged entities shall apply customer due diligence when they set up a legal person or a legal arrangement, irrespective of the threshold of the transaction.

3. Providers of gambling services shall apply customer due diligence upon the collection of winnings, the wagering of a stake, or both, when carrying out transactions amounting to at least EUR 2 000 or the equivalent in national currency, whether the transaction is carried out in a single operation or in linked transactions.

The obligation under Article 16 (1), point (a), may be fulfilled by identifying the customer and verifying his identity upon entry to the casino or other physical gambling premises, provided the obliged entity also ensures that each transaction of EUR 2 000 or more, including the purchase or exchange of gambling chips, can be attributed to the player in question.

4. Deleted

4a. In the case of a payout procedure pursuant to Article 8(1) of Directive 2014/49/EU of the European Parliament and of the Council[41], the payout shall be made to an account in the name of the depositor at a credit or financial institution established in the European Union. Where an institution has failed due to AML/CFT breaches, obliged entities holding the accounts to which the payout is made shall take this factor into consideration and consider the application of enhanced due diligence measures.

5. By *[2 years from the date of entry into force of this Regulation]*, AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall specify:

(a) the obliged entities, sectors or transactions that are associated with higher money laundering and terrorist financing risk and which shall comply with thresholds lower than those set in paragraph 1 point (b);

(b) the related occasional transaction thresholds;

(c) the criteria to identify linked transactions.

41 Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes Text with EEA relevance (OJ L 173, 12.6.2014, p. 149).

When developing the draft regulatory technical standards referred to in the first sub-paragraph, AMLA shall take due account of the following:

(a) the inherent levels of risks of the business models of the different types of obliged entities;

(b) the supra-national risk assessment developed by the Commission pursuant to Article 7 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*.

6. The Commission is empowered to supplement this Regulation by adopting the regulatory technical standards referred to in paragraph 5 of this Article in accordance with Articles 38 to 41 of *[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]*.

Article 16

Customer due diligence measures

1. For the purpose of conducting customer due diligence, obliged entities shall apply all of the following measures:

(a) identify the customer and verify the customer's identity;

(b) identify the beneficial owner(s) pursuant to Article 2, point (22) and take reasonable measures to verify their identity so that the obliged entity is satisfied that it knows who the beneficial owner is and that it understands the ownership and control structure of the customer;

(c) assess and, as appropriate, obtain information on and have a general understanding of the purpose and intended nature of the business relationship or the occasional transactions;

(ca) assess and, as appropriate, obtain information on the specific characteristics of the customer; where relevant having regard to the risk posed by the customer and by the transaction or business relationship, this shall also include determination of the business activity of the legal entity or determination of whether legal entity has activities

(d) conduct ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of the business relationship to ensure that the transactions being conducted are consistent with the obliged entity's knowledge of the customer, the business and risk profile, including where necessary the source of funds.

(da) determine whether the customer or the beneficial owner of the customer is a politically exposed person pursuant to Article 32.

When applying the measures referred to in points (a) and (b) of the first subparagraph, obliged entities shall also verify that any person purporting to act on behalf of the customer is so authorised and shall identify and verify the identity of that person in accordance with Article 18.

2. Obliged entities shall determine the extent of the measures referred to in paragraph 1 on the basis of an individual analysis of the risks of money laundering and terrorist financing having regard to the specific characteristics of the client and of the business relationship or occasional transaction, and taking into account the business wide risk assessment by the obliged entity pursuant to Article 7 and the money laundering and terrorist financing variables set out in Annex I as well as the risk factors set out in Annexes II and III.

Where obliged entities identify an increased risk of money laundering or terrorist financing they shall take enhanced due diligence measures pursuant to Section 4 of this Chapter. Where situations of lower risk are identified, obliged entities may apply simplified due diligence measures pursuant to Section 3 of this Chapter.

3. By *[2 years after the date of application of this Regulation]*, AMLA shall issue guidelines on the risk variables and risk factors to be taken into account by obliged entities when entering into business relationships or carrying out occasional transactions.

4. Obliged entities shall at all times be able to demonstrate to their supervisors that the measures taken are appropriate in view of the risks of money laundering and terrorist financing that have been identified.

Article 16a

1. Obliged entities shall report to the entity in charge of the central registers referred to in Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* any discrepancies they find between the information available in the central registers and the information available to them pursuant to Article 18 without undue delay and no later than 14 calendar days after detecting the discrepancy. The report shall include information obtained by the obliged entity which support the existence of discrepancy and information relevant for resolving the discrepancy.

The first subparagraph shall not apply to information that notaries, lawyers and other independent legal professionals, auditors, external accountants and tax advisors receive from, or obtain on, one of their clients, in the course of ascertaining the legal position of their client, or performing their task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings, whether such information is received or obtained before, during or after such proceedings.

2. Except in cases of higher risk to which measures under Section 4 of Chapter III apply, obliged entities may, by way of derogation from paragraph 1, notify the customer first in order to allow the customer to provide clarification on the beneficial ownership information and if necessary to rectify any discrepancy with the information contained in the central register without undue delay, and in any case no later than 14 calendar days following the notification from the obliged entity. Where the customer of the obliged entity has not resolved the discrepancy within 14 calendar days following the notification from the obliged entity, the obliged entity shall report the discrepancy to the register without undue delay after the referred timeframe has expired. The report shall include information obtained by the obliged entity which support the existence of discrepancy and information relevant for resolving the discrepancy.

Obliged entities are allowed to notify the customer pursuant to the first sub-paragraph only in the case of discrepancies consisting of typos, different ways of transliteration, minor inaccuracies that do not affect the identification of the beneficial owners or their position, or of discrepancies consisting of outdated data, provided that the beneficial owners are known to the obliged entity from another reliable source and that there are no grounds for suspicion that there is an intention to conceal any information.

Article 17

Inability to comply with the requirement to apply customer due diligence measures

1. Where an obliged entity is unable to comply with the customer due diligence measures laid down in Article 16(1), it shall refrain from carrying out a transaction or establishing a business relationship, and shall terminate the business relationship or adopt alternative measures instead of and having equivalent effect to terminating business relationship and consider filing a suspicious transaction report to the FIU in relation to the customer in accordance with Article 50.

The first subparagraph shall not apply to notaries, lawyers and other independent legal professionals, auditors, external accountants and tax advisors, to the strict extent that those persons ascertain the legal position of their client, or perform the task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings.

Member States may set out in their national law that the exemption set forth in this subparagraph does not apply if the obliged professional has positive knowledge that the customer is seeking legal advice for the purposes of money laundering or terrorist financing.

2. Where obliged entities either accept or refuse to enter in a business relationship, or when they decide to terminate the relationship, or adopt alternative measures under Article 17(1), they shall keep record of the actions taken in order to comply with the requirement to apply customer due diligence measures, including records of the decisions taken and the relevant supporting documents *and justifications*. Documents, data or information held by the obliged entity shall be updated whenever the customer due diligence is reviewed pursuant to Article 21.

3. Obliged entity shall not enter into business relationship with a legal entity incorporated outside the Union or with legal arrangement administered outside the Union, whose beneficial ownership information are not held in the central register referred to in Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*, except in case where an obliged entity entering into business relationship with legal entity operates in sector that is associated with low ML/TF risks and the business relationship or intermediated or linked transactions do not exceed EUR 250 000 or the equivalent in national currency.

Where the obliged entity entered into business relationship and the conditions of exception under first subparagraph are not met anymore, the obliged entity shall notify the customer thereof without undue delay. If the beneficial ownership information is not reported in the central register referred to in Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* within 14 calendar days following the notification from the obliged entity, the obliged entity shall terminate the business relationship, or adopt alternative measures under paragraph 1.

Article 18

Identification and verification of the customer's and beneficial owners's identity

1. With the exception of cases of lower risk to which measures under Section 3 apply and irrespective of the application of additional measures in cases of higher risk under Section 4 obliged entities shall obtain at least the following information in order to identify, as applicable, the customer, a party to the intermediated transaction, and the person purporting to act on their behalf:

(a) for a natural person:

(i) the forename and surname;

(ii) place and date of birth;

(iii) nationality or nationalities, or statelessness and refugee or subsidiary protection status where applicable, and the national identification number, where applicable;

(iv) the usual place of residence or, if there is no fixed residential address with legitimate residence in the Union, the postal address at which the natural person can be reached;

(b) for a legal entity:

(i) legal form and name of the legal entity;

(ii) address of the registered or official office and, if different, the principal place of business, and the country of incorporation;

(iii) the names of the legal representatives as well as, where available, the registration number, the tax identification number and the Legal Entity Identifier;

(c) for a trustee of an express trust or a person holding an equivalent position in a similar legal arrangement:

(i) the name of the express trust or a similar legal arrangement;

(ii) the address of residence of the trustee(s) or person(s) holding an equivalent position in a similar legal arrangement, and the powers that regulate and bind the legal arrangements, as well as, where available, the tax identification number and the Legal Entity Identifier;

(d) for other organisations that have legal capacity under national law:

(i) name, address of the registered office or equivalent;

(ii) names of the persons empowered to represent the organisation as well as, where applicable, legal form, tax identification number, register number, Legal Entity Identifier and deeds of association or equivalent.

2. For the purposes of identifying the beneficial owner of a legal entity, an express trust or a similar legal arrangement, obliged entities shall collect the information referred to in Article 44(1), point (a).

Where, after having exhausted all possible means of identification pursuant to the first subparagraph, no natural person is identified as beneficial owner, or where there is any doubt that the person(s) identified is/are the beneficial owner(s), obliged entities shall identify all the natural person(s) holding the position(s) of senior managing official(s) in the corporate or other legal entity and shall take reasonable measures to verify their identity. Obliged entities shall keep records of the actions taken as well as of the difficulties encountered during the identification process, which led to resorting to the identification of a senior managing official.

2a. For the purposes of identifying the beneficial owner pursuant to Article 2, point (22)(b), obliged entities shall obtain information over the end user of the services provided through the business relationship or the occasional transaction.
Where such services are provided to the end user through other obliged entities, the obliged entity shall ensure that it knows at any moment the identity of the end user and that it can obtain the information identifying and verifying the identity of the end user from the other obliged entities without delay and in any case within no more than five working days.

3. In the case of beneficiaries of legal entities referred to in Article 42a and legal arrangements referred to in Article 43 that are designated by particular characteristics or class, an obliged entity shall obtain sufficient information concerning the beneficiary so that it will be able to establish the identity of the beneficiary at the time of the payout or at the time of the exercise by the beneficiary of its vested rights.

4. Obliged entities shall obtain the information, documents and data necessary for the verification of the identity of the customer, the party to the intermediated transaction and any person purporting to act on behalf of either of them through either of the following means:

(a) the submission of the identity document, passport or equivalent and the acquisition of information from reliable and independent sources, whether accessed directly or provided by the customer;

(b) the use of electronic identification means which meet the requirements set out in Regulation (EU) 910/2014 with regard to the assurance levels ‘substantial’ or ‘high’ and relevant qualified trust services as set out in Regulation (EU) 910/2014.

5. Obliged entities shall obtain the information, documents and data necessary for taking reasonable measures to verify identity of beneficial owner of a customer, from a public register other than the beneficial ownership registers referred to in Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*, the customer or other reliable sources.

Besides sources mentioned in the first subparagraph, for the purposes of verifying the information on the beneficial owner(s) pursuant to Article 2, point (22)(a), obliged entities shall also consult the central registers referred to in Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* as well as additional information. Obliged entities shall determine the extent of the additional information to be consulted, having regard to the risks posed by the transaction or the business relationship and the beneficial owner.

Article 19

Timing of the verification of the customer and beneficial owner identity

1. Verification of the identity of the customer, of any person purporting to act on behalf of the customer and of the beneficial owner shall take place before the establishment of a business relationship or the carrying out of an occasional transaction. Such obligation shall not apply to situations of lower risk under Section 3 of this Chapter, provided that the lower risk justifies postponement of such verification.

Obliged entities whose business activity consists in intermediating transactions between third parties shall identify and verify the identity of any third party to the intermediated transaction, of any person purporting to act on their behalf, and of the beneficial owners as soon as the parties to the prospective transaction express a serious interest in the conclusion of the transaction and the parties to the transaction are sufficiently clear.

2. By way of derogation from paragraph 1, verification of the identity of the customer and of the beneficial owner may be completed during the establishment of a business relationship if necessary so as not to interrupt the normal conduct of business and where there is little risk of money laundering or terrorist financing. In such situations, those procedures shall be completed as soon as practicable after initial contact.

3. By way of derogation from paragraph 1, a credit institution or financial institution may open an account, including accounts that permit transactions in transferable securities, as may be required by a customer provided that there are adequate safeguards in place to ensure that transactions are not carried out by the customer or on its behalf until full compliance with the customer due diligence requirements laid down in Article 16(1), first subparagraph, points (a) and (b) is obtained.

By way of derogation from paragraph 1, verification of the identity may be waived if the obliged entity has already identified and verified the identity of its customer, of any person purporting to act on behalf of the customer and of the beneficial owner on a previous occasion in the course of fulfilling its due diligence obligations and has recorded the information collected in the process. If, due to external circumstances, the obliged entity has doubts as to whether the information collected during the previous identification and verification is still accurate, current and valid it shall carry out a new identification and verification.

4. Whenever entering into a new business relationship with a legal entity or the trustee of an express trust or the person holding an equivalent position in a similar legal arrangement referred to in Articles 42, 42a, 42b, 43 and 48 and subject to the registration of beneficial ownership information pursuant to Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*, obliged entities shall collect proof of registration or an excerpt of the register.

Article 20

Identification of the purpose and intended nature of a business relationship or occasional transaction

Before entering into a business relationship or performing an occasional transaction, an obliged entity shall have a general understanding of:

(a) the purpose and economic rationale of the occasional transaction or business relationship;

(b) the estimated amount of the envisaged activities;

(c) the source of funds, to the extent possible;

(d) the destination of funds, to the extent possible.

Article 21

Ongoing monitoring of the business relationship and monitoring of transactions performed by customers

1. Obliged entities shall conduct ongoing monitoring of the business relationship, including transactions undertaken by the customer throughout the course of that relationship and the monitoring of occasional transactions, to control that those transactions are consistent with the obliged entity's knowledge of the customer, the customer's business activity and risk profile, and where necessary, with the information about the origin of the funds and to detect those transactions that shall be made subject to a more thorough analysis pursuant to Article 50.

The scrutiny of the business relationship shall be comprehensive, incorporating all the customer´s products and transactions with the obliged entity and, when a group exists, with other group entities.

2. In the context of the ongoing monitoring referred to in paragraph 1, obliged entities shall ensure that the relevant documents, data or information of the customer are kept up-to-date.

The frequency of updating customer information pursuant to the first sub-paragraph shall be based on the risk posed by the business relationship. The frequency of updating of customer information shall in any case not exceed five years, unless a different frequency applies pursuant to Article 22(1), point (f).

3. In addition to the requirements set out in paragraph 2, obliged entities shall review and, where relevant, update the customer information where:

(a) there is a change in the relevant circumstances of a customer;

(b) the obliged entity has a legal obligation in the course of the relevant calendar year to contact the customer for the purpose of reviewing any relevant information relating to the beneficial owner(s) or to comply with Council Directive 2011/16/EU[42];

(c) they become aware of a relevant fact which pertains to the customer.

4. By *[2 years after the entry into force of this Regulation]*, AMLA shall issue guidelines on ongoing monitoring of a business relationship and on the monitoring of the transactions carried out in the context of such relationship.

[42] 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 64, 11.3.2011, p. 1).

Article 22

Regulatory technical standards on the information necessary for the performance of customer due diligence

1. By *[2 years after the entry into force of this Regulation]* AMLA shall develop draft regulatory technical standards and submit them to the Commission for adoption. Those draft regulatory technical standards shall specify:

(a) the requirements that apply to obliged entities pursuant to Article 16 and the information to be collected for the purpose of performing standard, simplified and enhanced customer due diligence pursuant to Articles 18 and 20 and Articles 27(1) and 28(4), including minimum requirements in situations of lower risk;

(b) the type of simplified due diligence measures which obliged entities may apply in situations of lower risk pursuant to Article 27(1), including measures applicable to specific categories of obliged entities and products or services, having regard to the results of the supra-national risk assessment drawn up by the Commission pursuant to Article 7 of *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*;

(ba) appropriate postponement duration under Article 27(1), point (a), taking into account the lower risk factors listed in Annex II;

(c) the reliable and independent sources of information that may be used to verify the identification data of natural or legal persons for the purposes of Article 18(4) and (5) and Article 27(1);

(d) the list of attributes which electronic identification means and relevant trust services referred to in Article 18(4), point (b), must feature in order to fulfil the requirements of Article 16, points (a), (b) and (c) in case of standard, simplified and enhanced customer diligence;

(e) the frequency of updating customer information pursuant to Article 21(2), based on the risk posed by the business relationship, and differentiated according to the type of obliged entity;

(f) the alternative measures that obliged entities may take instead of and having equivalent effect to terminating the business relationship under Article 17(1) to mitigating the risks from the inability to comply with the customer due diligence measures, and particular cases where obliged entities are allowed to implement such alternative measures as an alternative to ending the business relationship, when the unilateral termination of the business relationship by the obliged entity is prohibited by other mandatory statutory provisions or public policy provisions, or if such a unilateral termination would have a severe and disproportionate negative impact on the obliged entity.

2. The requirements and measures referred to in paragraph 1, points (a) and (b), shall be based on the following criteria:

(a) the inherent risk involved in the service provided;

(aa) the inherent risk of the customer involved;

(b) the nature, amount and recurrence of the transaction;

(c) the channels used for conducting the business relationship or the occasional transaction.

3. AMLA shall review regularly the regulatory technical standards and, if necessary, prepare and submit to the Commission the draft for updating those standards in order, inter alia, to take account of innovation and technological developments.

4. The Commission is empowered to supplement this Regulation by adopting the regulatory technical standards referred to in paragraphs 1 and 3 of this Article in accordance with Articles 38 to 41 of Regulation *[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]*.

SECTION 2

Third-country policy and ML/TF threats from outside the Union

Article 23

Identification of high-risk third countries

1. Third countries which are subject to a Call for Action regarding the application of enhanced due diligence measures or countermeasures by the Financial Action Task Force, shall be identified by the Commission and designated as 'high-risk third countries', provided:

(a) the Commission remains member of the Financial Action Task Force; and

(b) those third countries suffer from strategic deficiencies in their regimes to counter money laundering, terrorist financing, and financing of proliferation of weapons of mass destruction.

2. In order to identify the countries referred to in paragraph 1, the Commission is empowered to adopt delegated acts in accordance with Article 60 to supplement this Regulation. The Commission shall review any delegated acts adopted under this paragraph within 10 working days from a change to the respective Financial Action Task Force public document currently referred to as "High-Risk Jurisdictions subject to a Call for Action".

(a) Deleted

(b) Deleted

(c) Deleted

3. Deleted

4. Deleted

5. The Commission is empowered to identify, by means of an implementing act:

(a) the specific enhanced due diligence measures among those listed in Article 28(4), points (a) to (g), that obliged entities shall apply to mitigate risks related to business relationships or occasional transactions involving natural or legal persons from that third country; and

(b) the specific countermeasures among those listed in Article 29, mitigating country-specific risks stemming from high-risk third countries.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 61(2).

5a. Where justified by risk posed by a particular third country, even if it is not identified pursuant to paragraph 1, to a particular Member State, that Member State may require obliged entities established on its territory to apply specific additional countermeasures mitigating country-specific risks stemming from that third country.

6. The Commission shall review the implementing act referred to in paragraph 5 on a regular basis to ensure that the specific enhanced due diligence measures and countermeasures identified pursuant to paragraph 5 take account of the changes in the AML/CFT framework of the third country and are proportionate and adequate to the risks.

Article 24

Identification of third countries with compliance weaknesses in their national AML/CFT regimes

1. Third countries, which are under Increased Monitoring by the Financial Action Task Force, shall be identified by the Commission as third countries with compliance weaknesses in their national AML/CFT regime, provided:

(a) the Commission remains member of the Financial Action Task Force; and

(b) those third countries suffer from strategic deficiencies in their regimes to counter money laundering, terrorist financing, and financing of proliferation of weapons of mass destruction.

2. In order to identify the countries referred to in paragraph 1, the Commission is empowered to adopt delegated acts in accordance with Article 60 to supplement this Regulation. The Commission shall review any delegated acts adopted under this paragraph within ten working days from a change to the respective FATF public document currently referred to as "Jurisdictions under Increased Monitoring".

(a) Deleted

(b) Deleted

3. Deleted

4. The Commission is empowered to identify, by means of an implementing act, the specific enhanced due diligence measures, if any, among those listed in Article 28(4), points (a) to (g), that obliged entities shall apply to mitigate risks related to business relationships or occasional transactions involving natural or legal persons from that third country. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 61(3).

5. The Commission shall review the implementing acts referred to in paragraph 4 on a regular basis to ensure that the specific enhanced due diligence measures identified pursuant to paragraph 4 take account of the changes in the AML/CFT framework of the third country and are proportionate and adequate to the risks.

Article 25

Deleted

Article 26

Guidelines on ML/TF risks, trends and methods

1. By *[3 years from the date of entry into force of this Regulation]*, AMLA shall adopt guidelines defining the money laundering and terrorist financing trends, risks and methods involving any geographical area outside the Union to which obliged entities are exposed. AMLA shall take into account, in particular, the risk factors listed in Annex III. Where situations of higher risk are identified, the guidelines shall include enhanced due diligence measures that obliged entities shall consider applying to mitigate such risks.

2. AMLA shall review the guidelines referred to in paragraph 1 at least every two years.

3. In issuing and reviewing the guidelines referred to in paragraph 1, AMLA shall take into account evaluations, assessments or reports of international organisations and standard setters with competence in the field of preventing money laundering and combating terrorist financing.

SECTION 3

Simplified customer due diligence

Article 27

Simplified customer due diligence measures

1. Where, taking into account the risk factors set out in Annexes II and III, the business relationship or transaction present a low degree of risk, obliged entities may apply the following simplified customer due diligence measures:

(a) verify the identity of the customer and the beneficial owner after the establishment of the business relationship, provided that the specific lower risk identified justified such postponement, but in any case no later than 3 months or the period set out in regulatory technical standards under Article 22(1), point (c) or what is appropriate with regards to risk-based approach, whatever is shorter, of the relationship being established;

(b) use sources of information to verify the identification data of natural or legal persons, with proportionately lower degree of reliability and independence;

(c) for the purposes of verifying the information on the beneficial owner(s), only consult the central registers referred to in Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*, insofar the obliged entity is reasonably satisfied that the information therein is correct and there are no grounds for suspicion;

(d) reduce the frequency of customer identification updates

(e) reduce the amount of information collected to identify the purpose and intended nature of the business relationship, or inferring it from the type of transactions or business relationship established;

(f) reduce the frequency or degree of scrutiny of transactions carried out by the customer;

(g) apply any other relevant simplified due diligence measure identified by AMLA pursuant to Article 22.

The measures referred to in the first subparagraph shall be proportionate to the nature and size of the business and to the specific elements of lower risk identified. However, obliged entities shall carry out sufficient monitoring of the transactions and business relationship to enable the detection of unusual or suspicious transactions.

2. Obliged entities shall ensure that the internal procedures established pursuant to Article 7 contain the specific measures of simplified verification that shall be taken in relation to the different types of customers that present a lower risk. Obliged entities shall document decisions to take into account additional factors of lower risk.

3. For the purpose of applying simplified due diligence measures referred to in paragraph 1, point (a), obliged entities shall adopt risk management procedures with respect to the conditions under which they can provide services or perform transactions for a customer prior to the verification taking place, including by limiting the amount, number or types of transactions that can be performed or by monitoring transactions to ensure that they are in line with the expected norms for the business relationship at hand.

4. Obliged entities shall verify on a regular basis that the conditions for the application of simplified due diligence continue to exist. The frequency of such verifications shall be commensurate to the nature and size of the business and the risks posed by the specific relationship.

5. Obliged entities shall refrain from applying simplified due diligence measures in any of the following situations:

(a) the obliged entities have doubts as to the veracity of the information provided by the customer or the beneficial owner at the stage of identification, or they detect inconsistencies regarding that information;

(b) the factors indicating a lower risk are no longer present;

(c) the monitoring of the customer's transactions and the information collected in the context of the business relationship exclude a lower risk scenario;

(d) there is a suspicion of money laundering or terrorist financing.

SECTION 4

Enhanced customer due diligence

Article 28

Scope of application of enhanced customer due diligence measures

1. In the cases referred to in Articles 23, 24 and 30 to 36, as well as in other cases of higher risk of money laundering and terrorist financing that are identified by obliged entities pursuant to Article 16(2), second subparagraph ('cases of higher risk'), obliged entities shall apply enhanced customer due diligence measures to manage and mitigate those risks appropriately.

2. Obliged entities shall examine the origin and destination of funds involved in, and the purpose of, all transactions that fulfil at least one of the following conditions:

(a) the transactions are of a complex nature;

(b) the transactions are unusually large;

(c) the transactions are conducted in an unusual pattern;

(d) the transaction does not have an apparent economic or lawful purpose.

3. With the exception of the cases covered by Section 2 of this Chapter, when assessing the risks of money laundering and terrorist financing posed by a business relationship or occasional transaction, obliged entities shall take into account at least the factors of potential higher risk set out in Annex III and the guidelines adopted by AMLA pursuant to Article 26, as well as notifications of higher risk issued by the FIU under Article 50 (6) and findings of its business-wide risk assessment under Article 7.

4. With the exception of the cases covered by Section 2 of this Chapter, in cases of higher risk, obliged entities may apply any of the following enhanced customer due diligence measures, proportionate to the higher risks identified:

(a) obtain additional information on the customer and the beneficial owner(s);

(b) obtain additional information on the intended nature of the business relationship;

(c) obtain additional information on the source of funds, and source of wealth of the customer and of the beneficial owner(s);

(d) obtain information on the reasons for the intended or performed transactions and their consistency with the business relationship;

(e) obtain the approval of senior management for establishing or continuing the business relationship;

(f) conduct enhanced monitoring of the business relationship by increasing the number and timing of controls applied, and selecting patterns of transactions that need further examination;

(g) require the first payment to be carried out through an account in the customer's name with a credit institution subject to customer due diligence standards that are not less robust than those laid down in this Regulation.

5. With the exception of the cases covered by Section 2 of this Chapter, where Member States identify higher risks pursuant to Article 8 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* or in the course of any relevant sector-specific risk assessment carried out by the Member States, they may require obliged entities to apply enhanced due diligence measures and, where appropriate, specify those measures. Member States shall notify to the Commission and AMLA the enhanced due diligence requirements imposed upon obliged entities established in their territory within one month of their adoption, accompanied by a justification of the money laundering and terrorist financing risks underpinning such decision.

Where the risks identified by the Member States pursuant to the first subparagraph are likely to affect the financial system of the Union, AMLA shall, upon a request from the Commission or of its own initiative, consider updating the guidelines adopted pursuant to Article 26.

6. Enhanced customer due diligence measures shall not be invoked automatically with respect to branches or subsidiaries of obliged entities established in the Union which are located in third countries referred to in Articles 23 and 24 where those branches or subsidiaries fully comply with the group-wide policies, controls and procedures in accordance with Article 14.

Article 29

Countermeasures to mitigate ML/TF threats from outside the Union

For the purposes of Article 23, the Commission may choose from among the following countermeasures:

(a) countermeasures that obliged entities are to apply to persons and legal entities involving high-risk third countries and, where relevant, other countries posing a threat to the Union's financial system consisting in:

(i) the application of additional elements of enhanced due diligence;

(ii) the introduction of enhanced relevant reporting mechanisms or systematic reporting of financial transactions;

(iii) the limitation of business relationships or transactions with natural persons or legal entities from those third countries;

(b) countermeasures that Member States are to apply with regard to high-risk third countries and, where relevant, other countries posing a threat to the Union's financial system consisting in:

(i) refusing the establishment of subsidiaries or branches or representative offices of obliged entities from the country concerned, or otherwise taking into account the fact that the relevant obliged entity is from a third country that does not have adequate AML/CFT regimes;

(ii) prohibiting obliged entities from establishing branches or representative offices of obliged entities in the third country concerned, or otherwise taking into account the fact that the relevant branch or representative office would be in a third country that does not have adequate AML/CFT regimes;

(iii) requiring increased supervisory examination or increased external audit requirements for branches and subsidiaries of obliged entities located in the third country concerned;

(iv) requiring increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in the third country concerned;

(v) requiring credit and financial institutions to review and amend, or if necessary terminate, correspondent relationships with respondent institutions in the third country concerned.

Article 30

Specific enhanced due diligence measures for cross-border correspondent relationships

With respect to cross-border correspondent relationships, including relationships established for securities transactions or fund transfers, involving the execution of payments with a third-country respondent institution, in addition to the customer due diligence measures laid down in Article 16, credit institutions and financial institutions shall be required, when entering into a business relationship, to:

(a) gather sufficient information about the respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision;

(b) assess the respondent institution's AML/CFT controls;

(c) obtain approval from senior management before establishing new correspondent relationships;

(d) document the respective responsibilities of each institution;

(e) with respect to payable-through accounts, be satisfied that the respondent institution has verified the identity of, and performed ongoing due diligence on, the customers having direct access to accounts of the correspondent institution, and that it is able to provide relevant customer due diligence data to the correspondent institution, upon request.

Where credit institutions and financial institutions decide to terminate cross-border correspondent relationships for reasons relating to anti-money laundering and counter-terrorist financing policy, they shall document their decision.

Article 30a

Specific enhanced due diligence measures for cross-border correspondent relationships for crypto-asset service providers

1. By way of derogation from Article 30, with respect to cross-border correspondent relationships involving the execution of crypto-asset services as defined in Article [XX] of Regulation *[please insert reference – proposal for a Regulation on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 - COM/2020/593 final]* with a respondent entity not established in the EU and providing similar services, including transfers of crypto-assets, crypto-asset service providers shall, in addition to the customer due diligence measures laid down in article 15, when entering into a business relationship:

(a) determine if the respondent entity is licensed or registered;

(b) gather sufficient information about the respondent entity to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the entity and the quality of supervision;

(c) assess the respondent entity AML/CFT controls;

(d) obtain approval from senior management before the establishment of the correspondent relationship;

(e) document the respective responsibilities of each party to the correspondent relationship;

(f) with respect to payable-through crypto-asset accounts, be satisfied that the respondent entity has verified the identity of, and performed ongoing due diligence on, the customers having direct access to accounts of the correspondent entity, and that it is able to provide relevant customer due diligence data to the correspondent entity, upon request.

Where crypto-asset service providers decide to terminate correspondent relationships for reasons relating to anti-money laundering and counter-terrorist financing policy, they shall document and record their decision.

Crypto-asset service providers shall update the due diligence information for the correspondent relationship on a regular basis or when new risks emerge in relation to the respondent entity.

2. Crypto-asset service providers shall take into account the information collected pursuant to the first paragraph in order to determine, on a risk sensitive basis, the appropriate measures to be taken to mitigate the risks associated with the respondent entity.

3. AMLA shall issue guidelines to specify the criteria and elements that crypto-asset services providers shall take into account for conducting the assessment referred to in paragraph 1 and the risk mitigating measures referred to in paragraph 2, including the minimum action to be taken by crypto-asset service providers where the respondent entity is not registered or licensed.

Article 31

Prohibition of correspondent relationships with shell banks

Credit institutions and financial institutions shall not enter into, or continue, a correspondent relationship with a shell bank. Credit institutions and financial institutions shall take appropriate measures to ensure that they do not engage in or continue correspondent relationships with a credit institution or financial institution that is known to allow its accounts to be used by a shell bank.

Article 31a

Measures to mitigate risks in relation to transactions with a self-hosted address

1. Crypto-asset service providers shall identify and assess the risk of money laundering and financing of terrorism associated with transfers of crypto-assets directed to or originating from a self-hosted address. To that end, crypto-asset service providers shall have in place internal policies, procedures and controls.

Crypto-asset service providers shall apply mitigating measures commensurate with the risks identified. Those mitigating measures shall include one or more of the following:

(a) taking risk-based measures to identify, and verify the identity of, the originator or beneficiary of a transfer made from or to a self-hosted address or beneficial owner of such originator or beneficiary, including through reliance on third parties;

(b) requiring additional information on the origin and destination of the crypto-assets;

(c) conducting enhanced ongoing monitoring of those transactions;

(d) any other measure to mitigate and manage the risks of money laundering and financing of terrorism as well as the risk of non-implementation and evasion of targeted financial sanctions and proliferation financing-related targeted financial sanctions.

2. AMLA shall issue guidelines to specify the measures referred to in this Article, including the criteria and means for identification and verification of the identity of the originator or beneficiary of a transfer made from or to a self-hosted address, including through reliance on third parties, taking into account the latest technological developments;

Article 32

Specific provisions regarding politically exposed persons

1. In addition to the customer due diligence measures laid down in Article 16, obliged entities shall have in place appropriate risk management systems, including risk-based procedures, to determine whether the customer or the beneficial owner of the customer is a politically exposed person.

2. With respect to occasional transactions or business relationships with politically exposed persons, obliged entities shall apply the following measures:

(a) obtain senior management approval for carrying out occasional transaction or establishing or continuing business relationships with politically exposed persons;

(b) take adequate measures in accordance with a risk based approach to establish the source of wealth and source of funds that are involved in business relationships or occasional transactions with politically exposed persons;

(c) conduct enhanced, ongoing monitoring of those business relationships, in accordance with a risk based approach.

3. By [3 years from the date of entry into force of this Regulation], AMLA shall issue guidelines on the following matters:

(a) the criteria for the identification of persons falling under the definition of persons known to be a close associate;

(b) the level of risk associated with a particular category of politically exposed person, their family members or persons known to be close associates, including guidance on how such risks are to be assessed after the person no longer holds a prominent public function for the purposes of Article 35.

Article 33

List of prominent public functions

1. Each Member State shall issue and keep up to date a list indicating the exact functions which, in accordance with national laws, regulations and administrative provisions, qualify as prominent public functions for the purposes of Article 2, point (25). Member States shall request each international organisation accredited on their territories to issue and keep up to date a list of prominent public functions at that international organisation for the purposes of Article 2, point (25). These lists shall also include any function which may be entrusted to representatives of third countries and of international bodies accredited at Member State level. Member States shall notify those lists, as well as any change made to them, to the Commission and to AMLA.

1a. When issuing the list indicating the exact functions Member States can include functions corresponding to prominent public functions not included in Article 2, point (25) that are considered equivalent to other functions listed in Article 2, point (25) in their Member State and require the application of the specific provisions of Article 32. Regarding the prominent public functions listed in Article 2, points (25)(a)(iii), (vi) and (vii), Member States may apply restrictive criteria when indicating the exact functions in order to ensure that the indicated exact functions are equivalent to other functions listed in Article 2, points (25) (a) (i) to (v) and Article 2, points (25) (b) to (d).

2. The Commission shall draw up and keep up to date the list of the exact functions which qualify as prominent public functions at the level of the Union. That list shall also include any function which may be entrusted to representatives of third countries and of international bodies accredited at Union level.

3. The Commission shall assemble, based on the lists provided for in paragraphs 1 and 2 of this Article, a single list of all prominent public functions for the purposes of Article 2, point (25). The Commission shall publish that single list shall in the *Official Journal of the European Union*. AMLA shall make the list public on its website.

Article 34

Politically exposed persons who are beneficiaries of insurance policies

Obliged entities shall take reasonable measures to determine whether the beneficiaries of a life or other investment-related insurance policy or, where relevant, the beneficial owner of the beneficiary are politically exposed persons. Those measures shall be taken no later than at the time of the payout or at the time of the assignment, in whole or in part, of the policy. Where there are higher risks identified, in addition to applying the customer due diligence measures laid down in Article 16, obliged entities shall:

(a) inform senior management before payout of policy proceeds;

(b) conduct enhanced scrutiny of the entire business relationship with the policyholder.

Article 35

Measures towards persons who cease to be politically exposed persons

1. Where a politically exposed person is no longer entrusted with a prominent public function by the Union, a Member State, third country or an international organisation, obliged entities shall take into account the continuing risk posed by that person due to their former function in their assessment of money laundering and terrorist financing risks in accordance with Article 16.

2. Obliged entities shall apply one or more of the measures referred to in Article 28(4) to mitigate the risks posed by the politically exposed person, until such time as that person is deemed to pose no further risk due to their former function, but in any case for not less than 12 months following the time when the individual is no longer entrusted with a prominent public function.

3. The obligation referred to in paragraph 2 shall apply accordingly where an obliged entity carries out an occasional transaction or enters into a business relationship with a person who in the past was entrusted with a prominent public function by the Union, a Member State, third country or an international organisation.

Article 36

Family members and close associates of politically exposed persons

The measures referred to in Articles 32, 34 and 35 shall also apply to family members or persons known to be close associates of politically exposed persons.

SECTION 5

Specific customer due diligence provisions

Article 37

Specifications for the life and other investment-related insurance sector

For life or other investment-related insurance business, in addition to the customer due diligence measures required for the customer and the beneficial owner, obliged entities shall conduct the following customer due diligence measures on the beneficiaries of life insurance and other investment-related insurance policies, as soon as the beneficiaries are identified or designated:

(a) in the case of beneficiaries that are identified as specifically named persons or legal arrangements, taking the name of the person or arrangement;

(b) in the case of beneficiaries that are designated by characteristics or by class or by other means, obtaining sufficient information concerning those beneficiaries so that it will be able to establish the identity of the beneficiary at the time of the payout.

For the purposes of the first subparagraph, points (a) and (b), the verification of the identity of the beneficiaries and, where relevant, their beneficial owners shall take place at the time of the payout. In the case of assignment, in whole or in part, of the life or other investment-related insurance to a third party, obliged entities aware of the assignment shall identify the beneficial owner at the time of the assignment to the natural or legal person or legal arrangement receiving for its own benefit the value of the policy assigned.

SECTION 6

Performance by third parties

Article 38

General provisions relating to reliance on other obliged entities

1. Obliged entities may rely on other obliged entities, whether situated in a Member State or in a third country, to meet the customer due diligence requirements laid down in Article 16(1), points (a), (b) and (c), provided that:

(a) the other obliged entities apply customer due diligence requirements and record-keeping requirements laid down in this Regulation, or equivalent when the other obliged entities are established or reside in a third country;

(b) compliance with AML/CFT requirements by the other obliged entities is supervised in a manner consistent with Chapter IV of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*.

The ultimate responsibility for meeting the customer due diligence requirements shall remain with the obliged entity which relies on another obliged entity.

2. When deciding to rely on other obliged entities situated in third countries, obliged entities shall take into consideration the geographical risk factors listed in Annexes II and III and any relevant information or guidance provided by the Commission, or by AMLA or other competent authorities.

3. In the case of obliged entities that are part of a group, compliance with the requirements of this Article and with Article 39 may be ensured through group-wide policies, controls and procedures provided that all the following conditions are met:

(a) the obliged entity relies on information provided solely by an obliged entity that is part of the same group;

(b) the group applies AML/CFT policies and procedures, customer due diligence measures and rules on record-keeping that are fully in compliance with this Regulation, or with equivalent rules in third countries;

(c) the effective implementation of the requirements referred to in point (b) is supervised at group level by the supervisory authority of the home Member State in accordance with Chapter IV of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* or of the third country in accordance with the rules of that third country.

4. Obliged entities shall not rely on obliged entities established in third countries identified pursuant to Section 2 of this Chapter. However, obliged entities established in the Union whose branches and subsidiaries are established in those third countries may rely on those branches and subsidiaries, where all the conditions set out in paragraph 3, points (a) to (c), are met.

Article 39

Process of reliance on another obliged entity

1. Obliged entities shall obtain from the obliged entity relied upon all the necessary information concerning the customer due diligence requirements laid down in Article 16(1), first subparagraph points (a), (b) and (c), or the business being introduced.

2. Obliged entities which rely on other obliged entities shall take all necessary steps to ensure that the obliged entity relied upon provides, upon request:

(a) copies of the information collected to identify the customer;

(b) all supporting documents or trustworthy sources of information that were used to verify the identity of the client, and, where relevant, of the customer's beneficial owners or persons on whose behalf the customer acts, including data obtained through electronic identification means and relevant trust services as set out in Regulation (EU) 910/2014; and

(c) any information collected on the purpose and intended nature of the business relationship.

3. The information referred to in paragraphs 1 and 2 shall be provided by the obliged entity relied upon without delay and in any case within five working days.

4. The conditions for the transmission of the information and documents mentioned in paragraphs 1 and 2 shall be specified in a written agreement between the obliged entities.

5. Where the obliged entity relies on an obliged entity that is part of its group, the written agreement may be replaced by an internal procedure established at group level, provided that the conditions of Article 38(2) are met.

Article 40

Deleted

Article 41

Guidelines on the performance by third parties

By *[3 years after the entry into force of this Regulation]*, AMLA shall issue guidelines addressed to obliged entities on:

(a) the conditions which are acceptable for obliged entities to rely on information collected by another obliged entity, including in case of remote customer due diligence;

(b) Deleted

(c) the roles and responsibility of each actor in a situation of reliance on another obliged entity;

(d) supervisory approaches to reliance on other obliged entities.

CHAPTER IV

BENEFICIAL OWNERSHIP TRANSPARENCY

Article 42

Identification of Beneficial Owners for corporate and other legal entities

1. In case of corporate entities, the beneficial owner(s) as defined in Article 2, point (22)(a), shall be the natural person(s) who:

(a) have, directly or indirectly, an ownership interest in the corporate entity;

(b) controls, directly or indirectly, the corporate entity, through ownership interest or via other means;

(c) controls, directly or indirectly, legal entities that have a direct ownership interest in the corporate entity, whether individually or cumulatively; or

(d) are the beneficial owner(s) of:

(i) legal persons referred to in Article 42a which have, directly or indirectly, an ownership interest in the corporate entity, whether individually or cumulatively; or

(ii) legal arrangements, which hold, directly or indirectly, an ownership interest of the corporate entity, whether individually or cumulatively.

2. For the purpose of this Article, ‘an ownership interest in the corporate entity’ shall mean direct or indirect ownership of 25% or more of the shares or voting rights or other ownership interest in the corporate entity, including through bearer shareholdings, where the indirect ownership shall be calculated by multiplying the shares or voting rights or other ownership interests held by the intermediate entities in the chain and by adding together the results from the various chains.

3. For the purpose of this Article, ‘control of the legal entity’ shall mean the possibility to exercise, directly or indirectly, significant influence and impose relevant decisions within the legal entity. The ‘indirect control of a legal entity’ shall mean control of intermediate entities in the chain or in various chains of the structure, where the direct control is identified on each level of the structure, insofar the control over intermediate entities allows for a natural person to control the legal entity.

4. Control of the legal entity shall in any case include the possibility to exercise:

(a) in case of a corporate entity, the majority of the voting rights in the corporate entity, whether or not shared by persons acting in concert;

(b) the right to appoint or remove a majority of the members of the board or the administrative, management or supervisory body or similar officers of the legal entity;

(c) relevant veto rights or decision rights attached to the share of the corporate entity and any decisions regarding distribution of profit of the legal entity or leading to a shift in assets in the legal entity.

5. Control of the legal entity may be exercised also via other means than those referred to in paragraph 4. Depending on the particular situation of the legal entity and its structure, other means of control may include:

(a) formal or informal agreements with owners, members or the corporate entities, provisions in the articles of association, partnership agreements, syndication agreements, or equivalent documents or agreements depending on the specific characteristics of the legal corporate entity, as well as voting arrangements;

(b) relationships between family members; or

(c) use of formal or informal nominee arrangements.

Control via other means over corporate entity shall be identified independently of and parallel to the existence of ownership interest or control.

6. In case of legal entities other than corporate entities that have legal personality under national law, for which with regard to their form and structure, it is not appropriate or possible to take into account the ownership interest, the beneficial owner(s) as defined in Article 2, point (22)(a), shall be the natural person(s) who controls, directly or indirectly, the legal entity, except where Article 42a applies.

7. Member States shall notify to the Commission by [3 months from the date of application of this Regulation] a list of the types of corporate and other legal entities existing under their national laws with beneficial owner(s) identified in accordance with paragraph 1 and 6. The Commission shall communicate that decision to the other Member States. The notification by the Member States shall include the specific categories of entities, description of characteristics, names and, where applicable, legal basis under the national laws of the Member States. It shall also include an indication of whether, due to the specific form and structures of legal entities other than corporate entities, the mechanism under Article 45(3) applies, accompanied by a detailed justification of the reasons for that.

8. In case of categories of corporate entities that are associated with higher money laundering and terrorist financing risk and where it is appropriate to mitigate such risk, a lower threshold than set out in paragraph 2 shall be an ownership interest.

The Commission is empowered to identify, by adoption of an implementing act in accordance with the examination procedure referred to in Article 61(2):

(a) the categories of corporate entities that are associated with higher money laundering and terrorist financing risk and for which a lower threshold than that set out in paragraph 2, shall be an ownership interest;

(b) the related thresholds.

9. The Commission shall review the implementing acts referred to in paragraph 8 on a regular basis to ensure that the categories of corporate entities identified as associated with higher risks are correct, and that the lower thresholds imposed are proportionate and adequate to those risks.

Article 42a

Identification of beneficial owners for legal entities similar to express trust

1. In the case of legal entities other than those referred to in Article 42, which have legal personality under national law and are structurally or functionally similar to express trust, such as foundations and other similar legal persons insofar they are similar to express trusts under the law of the Member State, the beneficial owners as defined in Article 2, point (22)(a) shall be all the following natural persons:

(a) the founder(s);

(b) the members of the board or the administrative or management body of the legal entity;

(c) the members of the supervisory or similar body of the legal entity;

(d) the beneficiaries, unless Article 43a applies;

(e) any other natural person, who controls directly or indirectly the legal entity.

2. In cases where legal entities referred to in paragraph 1 belong to multi-layered control structures, where any of the positions listed under paragraph 1, points (a) to (e), is held by a legal entity, beneficial owner of the legal entity referred to in paragraph 1 shall be:

(a) the natural persons listed in paragraph 1, points (a) to (e); and

(b) the beneficial owner of the legal entities that occupy any of the positions listed in paragraph 1, points (a) to (e).

3. Member States shall notify to the Commission by *[3 months from the date of application of this Regulation]* a list of legal entities, where the beneficial owner(s) is identified in accordance with paragraph 1. The Commission shall communicate that decision to the other Member States.

Article 43

Identification of beneficial owners for express trusts and similar legal arrangements

1. In case of express trusts, the beneficial owners as defined in Article 2, point (22)(a), shall be all the following natural persons:

(a) the settlor(s);

(b) the trustee(s);

(c) the protector(s), if any;

(d) the beneficiaries, unless Article 43a applies;

(e) any other natural person exercising ultimate control over the express trust.

1a. In cases where legal arrangements belong to multi-layered control structures, where any of the positions listed under paragraph 1, points (a) to (e), is held by a legal entity, beneficial owner legal arrangements shall be:

(a) the natural persons listed in paragraph 1, points (a) to (e); and

(b) the beneficial owner of the legal entities that occupy any of the positions listed in paragraph 1, points (a) to (e).

2. In the case of legal arrangements other than express trusts, the beneficial owners shall be the natural persons holding equivalent or similar positions to those referred to under paragraph 1.

2a. Member States shall notify to the Commission by *[3 months from the date of application of this Regulation]* a list of legal arrangements, where the beneficial owner(s) is identified in accordance with paragraph 1. The Commission shall communicate that decision to the other Member States. Such notification by Member States shall be accompanied by an assessment of which of the legal arrangements that are regulated or recognised under their national law or, when based on the general principle of the autonomy of the contracting parties, delimited by jurisprudence and doctrine, are to be considered as similar to express trusts and which are not.

3. Deleted

3a. By way of derogation from paragraph 1, where collective investment undertakings are set up in the form of a legal arrangement, the beneficial owner(s) as defined in Article 2, point (22)(a), shall be the natural person(s) who hold directly or indirectly 25% or more of the units held in the undertaking, or who have the ability to define or influence the investment policy of the undertaking, or to control its activities through other means.

Article 43a

Identification of a class of beneficiaries

1. In case of legal entities under Article 42a or express trusts and similar legal arrangements under Article 43, where beneficiaries have yet to be determined, the class of beneficiaries and its general characteristics shall be identified. Beneficiaries within the class shall be beneficial owner(s) as soon as they are identified or designated.

2. In the following cases, only the class of beneficiaries and its characteristics shall be identified:

(a) pension schemes within the scope of Directive (EU) 2016/2341 of the European Parliament and of the Council[43];

(b) employee financial ownership or participation schemes, following an appropriate risk assessment, Member States have concluded a low risk of misuse for money laundering or terrorist financing;

(c) legal entities under Article 42a, express trusts and similar legal arrangements under Article 43, provided that:

(i) the legal entity, the express trusts or similar legal arrangement is set up for a non-profit or charitable purpose; and

(ii) following an appropriate risk assessment, Member States have concluded that the legal entity, express trust or similar legal arrangement is at a low risk of misuse for money laundering or terrorist financing.

3. Member State shall notify to the Commission the categories of legal entities, express trusts or similar legal arrangements where identification is under paragraph 2, together with a justification based on the specific risk assessment. The Commission shall communicate that decision to the other Member States.

43 Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37).

Article 44

Beneficial ownership information

For the purpose of this Regulation, beneficial ownership information submitted to the beneficial ownership register referred to in Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* and held by legal persons and trustees or persons holding equivalent position in the case of legal arrangements shall be adequate, accurate, and current and include at least the following:

(a) all names and surnames, full place and date of birth, residential address, country of residence and nationality or nationalities of the beneficial owner, and if available, unique personal identification number assigned to the person by his or her country of usual residence or number of identity document, and general description of the source of such number, such as passport or national identity document;

(b) the nature and extent of the beneficial interest held in the legal entity or legal arrangement, whether through ownership interest, if applicable, or control via other means, as well as the date of gaining the beneficial interest held;

(c) information on the legal entity or legal arrangement of which the natural person is the beneficial owner in accordance with Article 18(1), point (b), in case of legal arrangement, information about its name and, where applicable, identification number;

(d) where the ownership and control structure contains more than one legal entity or legal arrangement, a description of such structure, including names and, where applicable, identification numbers of the individual legal entities or legal arrangements that are part of that structure, and a description of the relationships between them, including the share of the interest held;

(e) where a class of beneficiaries is identified under section 43a, general description of the characteristic of the class of beneficiaries.

'Ownership or control structure' means the relationships by which is legal entity indirectly owned or controlled or by which is legal arrangement controlled; the structure includes those persons and legal arrangements that mediate the position of beneficial owner or the entity with indirect ownership interest or indirect control.

Article 45

Obligations of legal entities

1. All corporate and other legal entities incorporated in the Union shall obtain and hold adequate, accurate and current beneficial ownership information pursuant to Article 44.

Legal entities shall provide, in addition to information about their legal owner(s), information on the beneficial owner(s) to obliged entities where the obliged entities are taking customer due diligence measures in accordance with Chapter III.

1a. Beneficial ownership information shall be obtained and reported to the register referred to in Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* by the legal entity without undue delay after its incorporation. Without undue delay after any change of the information, and in any case no later than 28 calendar days following the change of the beneficial owner, the legal entity shall ensure that the updated information is reported to the register. The legal entity shall regularly verify that it holds updated information over its beneficial ownership. As a minimum, such verification shall be performed annually whether as a self-standing process or as part of other periodical processes, such as the submission of financial statement.

1b. The beneficial owner(s) of corporate or other legal entities shall provide those entities with all the information and documentation necessary for the corporate or other legal entity to comply with the requirements of this Chapter. The same cooperation shall be provided by those persons and, in the case of legal arrangements, their trustees, who are the links that mediate indirect ownership or control.

2. Where, after having exhausted all possible means of identification pursuant to Article 42 , no person is identified as beneficial owner of the legal entity under Article 42, or where there is substantial and justified uncertainty on the part of the legal entity that the person(s) identified is the beneficial owner(s), legal entities shall keep records of the actions taken in order to identify their beneficial owner(s) pursuant to Article 42.

3. In the cases referred to in paragraph 2, when providing beneficial ownership information in accordance with Article 16 of this Regulation and Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*, corporate or other legal entities shall provide the following:

(a) a statement that there is no beneficial owner or that the beneficial owner(s) could not be identified and verified; accompanied by a justification as to why it was not possible to identify or to verify the beneficial owner in accordance with Article 42 and what constitutes uncertainty about the ascertained information;

(b) the details on all natural person(s) who hold the position of senior managing official(s) in the corporate or legal entity equivalent to the information required under Article 44(1), point (a).

For the purpose of this Article, 'senior management officials' shall mean natural persons who are executive members of the board of directors as well as the natural persons who exercise executive functions within a corporate entity and are responsible, and accountable to the management body, for the day-to-day management of the institution.

4. Legal entities shall make the information collected pursuant to this Article available, upon request and without delay, to competent authorities.

5. The information referred to in paragraph 4 shall be maintained for five years after the date on which the companies are dissolved or otherwise ceases to exist, whether by persons designated by the entity to retain the documents, or by administrators or liquidators or other persons involved in the dissolution of the entity. The identity and contact details of the person responsible for retaining the information shall be reported to the registers referred to in Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*.

Article 45a

The provisions of Article 45 shall not apply to:

(a) companies whose securities are admitted to trading on a regulated market that are subject to the disclosure requirements consistent with Union legislation or subject to equivalent international standards, provided that:

(i) control over the company is exercised exclusively by the natural person with the voting rights; and

(ii) no other legal persons or legal arrangements are part of the company's ownership or control structure;

(b) bodies governed by public law of a Member State that have all of the following characteristics:

(i) they are established for the specific purpose of meeting needs in the general interest;

(ii) they have legal personality; and

(iii) at least one of the following conditions is met:

(1) they are financed, for the most part, by the Member State or its regional or local authorities or municipalities, or by other bodies governed by public law;

(2) they are subject to management supervision by those authorities or bodies; or

(3) they have an administrative, managerial or supervisory board, more than half of whose members are appointed by the Member State or its regional or local authorities or municipalities, or by other bodies governed by public law.

Article 46

Trustees obligations

1. In case of any legal arrangement administered in a Member State or whose trustee or the person holding an equivalent position in a similar legal arrangement is established or resides in a Member State, trustees and persons holding an equivalent position in a similar legal arrangement shall obtain and hold adequate, accurate and current beneficial ownership information as defined under Article 44 regarding the legal arrangement. Such information shall be maintained for five years after their involvement with the express trust or similar legal arrangement ceases to exist.

1b. Beneficial ownership information shall be obtained and reported to the register referred to in Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* by the trustee or the person holding an equivalent position in a similar legal arrangement without undue delay after the creation of the express trust or similar legal arrangements. Without undue delay after any change of the information, and in any case no later than 28 calendar days following the change of the beneficial owner, the trustee or the person holding an equivalent position in a similar legal arrangement shall ensure that the updated information is reported to the register. The trustee or the person holding an equivalent position shall regularly verify that they hold updated information over the beneficial ownership of the legal arrangement. As a minimum, such verification shall be performed annually whether as a self-standing process or as part of other periodical processes.

2. The persons referred to in paragraph 1 shall disclose their status and provide the information on the beneficial owner(s) to obliged entities when the obliged entities are taking customer due diligence measures in accordance with Chapter III.

3. The beneficial owner(s) of a legal arrangement other than the trustee or person holding an equivalent position, shall provide the trustee or person holding an equivalent position in a similar legal arrangement with all the information and documentation necessary for the trustee or person holding an equivalent position to comply with the requirements of this Chapter. The same cooperation shall be provided by those persons and, in the case of legal arrangements, their trustees, who are the links that mediate the indirect position of beneficial owner(s) of the legal arrangement.

4. Trustees of an express trust and persons holding an equivalent position in a similar legal arrangement shall make the information collected pursuant to this Article available, upon request and without delay, to competent authorities.

Article 47

Nominees obligations

Nominee shareholders and nominee directors of a corporate or other legal entities shall maintain adequate, accurate and current information on the identity of their nominator and the nominator's beneficial owner(s) and disclose them, as well as their status, to the corporate or other legal entities. Corporate or other legal entities shall report this information to the registers set up pursuant to Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*.

Corporate and other legal entities shall also report this information to obliged entities when the obliged entities are taking customer due diligence measures in accordance with Chapter III.

Article 48

Foreign legal entities and arrangements

1. Beneficial ownership information of legal entities incorporated outside the Union or of legal arrangements administered outside the Union or whose trustee or the person holding an equivalent position is established or resides outside the Union shall be held in the central register referred to in Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* set up by the Member State where such entities or trustees of express trusts or persons holding equivalent positions in similar legal arrangements acting in the name of the express trust or similar legal arrangement:

(a) Deleted

(b) acquire real estate in their territory;

(c) are awarded a public procurement for goods, services or concessions.

(d) enter into a business relationship with an obliged entity except in case of the legal entities which enter into a business relationship with an obliged entity that operates in sector that is associated with low ML/TF risks and the business relationship or intermediated or linked transactions do not exceed EUR 250 000 or the equivalent in national currency.

1a. Member States shall allow legal entities incorporated outside the Union and trustees or express trusts or persons holding equivalent positions in similar legal arrangements, in case of legal arrangements administered outside the Union or whose trustee or the person holding an equivalent position is established or resides outside the Union, to reported the beneficial ownership information pursuant to Article 44 to the register referred to in Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* on the basis of their statement that they intend to acquire the real estate in the territory of the Member State, participate in public procurement for goods, services or concessions or enter into a business relationship with an obliged entity.

Article 49

Sanctions

1. Member States shall lay down the rules on sanctions applicable to breaches of the provisions of Articles 45 to 47 and shall take all measures necessary to ensure that they are implemented. The sanctions provided for must be effective, proportionate and dissuasive.

Member States shall notify rules on sanctions by *[6 months after the entry into force of this Regulation]* to the Commission together with their legal basis and shall notify it without delay of any subsequent amendment affecting them.

2. With respect to national limits of enforcing sanctions against legal entities pursuant to Article 48(1a) and trustees or express trusts or persons holding equivalent positions in similar legal arrangements pursuant to Article 48(1a), Member States shall take reasonable measures to ensure that the information pursuant to Article 48(1) is held in the central register referred to in Article 10 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*.

CHAPTER V

REPORTING OBLIGATIONS

Article 50

Reporting of suspicious transactions

1. Obliged entities, and, where applicable, their directors and employees, shall promptly report to the FIU, on their own initiative, where the obliged entity knows, suspects or has reasonable grounds to suspect that funds, transactions or activities, including attempted transactions or activities, or any other relevant fact, fulfil at least one of the following conditions:

(a) they are related to terrorist financing or proceeds of criminal activity;

(b) they are related to proceeds-generating criminal activity.

1a. Obliged entities shall reply to requests for information by the FIU by providing the FIU directly with all necessary information.

Obliged entities shall reply to a request for information by the FIU promptly, within the deadline set by the FIU, taking account of the urgency and the complexity of the query.

1b. Member States shall be able to exempt obliged entities from reporting certain categories of criminal activity for the application of paragraph 1, point (b), where they identify that such exemptions concern low-level criminal activity and would not have a negative impact on the protection of the internal market from the threat caused by money laundering, its predicate offences and terrorist financing. Member States shall notify such exemptions to the Commission and AMLA immediately, accompanied by an assessment of the impacts of such an exemption on the protection of the internal market from the threat caused by money laundering, its predicate offences and terrorist financing. Within 6 months from that notification, the Commission, having consulted AMLA, shall issue a detailed opinion regarding whether the exemption envisaged may have a disproportionate and negative impact on the protection of the internal market from the threat caused by money laundering, its predicate offences and terrorist financing.

2. For the purposes of paragraph 1, obliged entities shall assess transactions or activities carried out by their customers on the basis of and against any relevant fact and information known to them or which they are in possession of, including any fact or information obtained by their agents, distributors and service providers.

A suspicion under paragraph 1 is based on any fact or circumstance known to the obliged entity, including the characteristics of the customer and their counterparts, the size, nature and methods of execution of the transaction or activity, the link between several transactions or activities, the origin, the destination or the use of property and the unexplained inconsistency of the transaction or activity with the information collected in the framework of customer due diligence pursuant to chapter III, or any other relevant information . The grounds to suspect should be properly assessed, qualified and documented. Obliged entities shall keep records of the facts and circumstances considered, the anomalies detected, the decisions taken, for 10 years from fulfilling the obligation under paragraph 1. Member States may require that obliged entities specify in internal policies and procedures under Article 8(2), point (a)(iv) the way in which they carry out this assessment.

3. By *[two years after entry into force of this Regulation]*, AMLA shall develop draft implementing technical standards and submit them to the Commission for adoption. Those draft implementing technical standards shall specify the minimum set of data for the reporting of suspicious transactions pursuant to paragraph 1.

4. The Commission is empowered to adopt the implementing technical standards referred to in paragraph 3 of this Article in accordance with Article 42 of Regulation *[please insert reference – proposal for establishment of an Anti-Money Laundering Authority - COM/2021/421 final]*.

5. AMLA shall issue and periodically update guidance on indicators of unusual or suspicious activity or behaviours. The guidance issued by AMLA shall not prejudge the competence of the FIU to issue guidance or indicators to obliged entities in its Member State in relation to risks and methods identified at national level.

6. The person appointed in accordance with Article 9(3) shall transmit the information referred to in paragraph 1 of this Article to the FIU of the Member State in whose territory the obliged entity transmitting the information is established.

Article 51

Specific provisions for reporting of suspicious transactions by certain categories of obliged entities

1. By way of derogation from Article 50(1), Member States may allow obliged entities referred to in Article 3, point (3)(a), (b) and (d) to transmit the information referred to in Article 50(1) to a self-regulatory body designated by the Member State.

The designated self-regulatory body shall forward the information referred to in the first sub-paragraph to the FIU promptly and unfiltered.

2. Notaries, lawyers and other independent legal professionals, auditors, external accountants and tax advisors shall be exempted from the requirements laid down in Article 50(1) to the extent that such exemption relates to information that they receive from, or obtain on, one of their clients, in the course of ascertaining the legal position of their client, or performing their task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings, whether such information is received or obtained before, during or after such proceedings.

3. Member States may set out in national law that the exemption set forth in paragraph 2 does not apply if the obliged professional has positive knowledge that the client is seeking legal advice for the purposes of money laundering or terrorist financing. Within the limits of Union Law, Member states may adopt or maintain with regard to specific transactions that involve a particular high risk to be used for money laundering or terrorist financing additional reporting obligations for the professionals listed in paragraph 2 to which the exemption set forth in paragraph 2 does not apply.

Article 52

Refraining from carrying out transactions

1. A transaction about which a report under Article 50(1) has been filed may be executed at the earliest when:

(a) the FIU has informed the obliged entity that it is not required to refrain from carrying out the transaction; or

(b) the third working day has elapsed after the day on which the report was sent without the execution of the transaction having been prohibited by the FIU according to Article 20 of *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* or by the public prosecution office in accordance with applicable law.

2. Where refraining from carrying out transactions referred to in paragraph 1 is impossible or is likely to frustrate efforts to pursue the beneficiaries of a suspected transaction, the obliged entities concerned shall inform the FIU immediately afterwards.

Article 53

Disclosure to FIU

Disclosure of information in good faith by an obliged entity or by an employee or director of such an obliged entity in accordance with Articles 50 and 51 shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not involve the obliged entity or its directors or employees in liability of any kind even in circumstances where they were not precisely aware of the underlying criminal activity and regardless of whether illegal activity actually occurred.

Article 54

Prohibition of disclosure

1. Obliged entities and their directors, employees, or persons in a comparable position, including service providers, agents and distributors, shall not disclose to the customer concerned or to other third persons the fact that information is being, will be or has been transmitted in accordance with Article 50 or 51 or that a money laundering or terrorist financing analysis aimed at transmitting the information in accordance with Article 50 or analysis performed by FIU, including analysis under Article 17(2) of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* is being, or may be, carried out.

2. Paragraph 1 shall not apply to disclosures to competent authorities and to self-regulatory bodies where they perform supervisory functions, or to disclosure for the purposes of investigating and prosecuting money laundering, terrorist financing and other criminal activity.

3. By way of derogation from paragraph 1, disclosure may take place between the obliged entities that belong to the same group, or between those entities and their branches and subsidiaries established in third countries, provided that those branches and subsidiaries fully comply with the group-wide policies and procedures, including procedures for sharing information within the group, in accordance with Article 13, and that the group-wide policies and procedures comply with the requirements set out in this Regulation.

3a. By way of derogation from paragraph 1, disclosure may take place between obliged entities, or where applicable public authorities, to partnership for information sharing in AML/CFT field, when established under national law, provided that at least

(a) it is necessary and proportionate for the prevention of money laundering and terrorist financing;

(b) obliged entities, or where applicable public authorities, to the partnership for information sharing in AML/CFT field implement appropriate measures to prevent further undue disclosure, including secure channels for exchange of information;

(c) the measures under point (b), as well as the responsibilities of each obliged entity, or where applicable public authority, to the partnership are duly documented; and

(d) the FIU under Article 50 paragraph 6 has not forbidden this disclosure on case-by-case basis on the grounds of disproportionate impact of disclosure on protection of integrity of its analyses.

4. By way of derogation from paragraph 1, disclosure may take place between the obliged entities as referred to in Article 3, point (3)(a) and (b), or entities from third countries which impose requirements equivalent to those laid down in this Regulation, who perform their professional activities, whether as employees or not, within the same legal person or a larger structure to which the person belongs and which shares common ownership, management or compliance control, including networks or partnerships.

5. For obliged entities referred to in Article 3, points (1), (2), (3)(a) and (b), in cases relating to the same transaction involving two or more obliged entities, and by way of derogation from paragraph 1, disclosure may take place between the relevant obliged entities provided that they are located in the Union, or with entities in a third country which imposes requirements equivalent to those laid down in this Regulation, and that they are subject to professional secrecy and personal data protection requirements.

6. Where the obliged entities referred to in Article 3, point (3)(a) and (b), seek to dissuade a client from engaging in illegal activity, that shall not constitute disclosure within the meaning of paragraph 1.

CHAPTER VI

DATA PROTECTION AND RECORD-RETENTION

Article 55

Processing of personal data

1. To the extent that it is necessary for the purposes of preventing money laundering and terrorist financing, obliged entities 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 the safeguards provided for in paragraphs 2 and 3.

2. Obliged entities shall be able to process personal data covered by Article 9 of Regulation (EU) 2016/679 provided that:

(a) obliged entities inform their customers or prospective customers that such categories of data may be processed for the purpose of complying with the requirements of this Regulation;

(b) the data originate from reliable sources, are accurate and up-to-date;

(c) the obliged entity adopts measures of a high level of security in accordance with Article 32 of Regulation (EU) 2016/679, in particular in terms of confidentiality.

3. In addition to paragraph 2, obliged entities shall be able to process personal data covered by Article 10 of Regulation (EU) 2016/679 provided that:

(a) such personal data relate to money laundering, its predicate offences or terrorist financing;

(b) the obliged entities have procedures in place that allow the distinction, in the processing of such data, between allegations, investigations, proceedings and convictions, taking into account the fundamental right to a fair trial, the right of defence and the presumption of innocence.

4. Obliged entities may process personal data on the basis of this Regulation only for the purposes of the prevention of money laundering and terrorist financing.

5. Without prejudice to Article 54 and to the extent that is necessary and proportionate, obliged entities may share between each other personal data collected in the course of performing its customer due diligence obligations under Chapter III, for the purposes of the prevention of money laundering and terrorist financing, provided that:

(a) personal data shared involve abnormalities or unusual circumstances indicating money laundering or terrorist financing;

(b) obliged entities concerned inform their customers or prospective customers that they may share their personal data under this paragraph;

(c) personal data shared originate from reliable sources, are accurate and up-to-date;

(d) the obliged entities concerned adopt measures of a high level of security in accordance with Article 32 of Regulation (EU) 2016/679, in particular in terms of confidentiality, including secure channels for exchange of information;

(e) each instance of sharing of personal data is recorded by obliged entities concerned; the records shall be made available, without prejudice to Article 54 (1), to data protection authorities and authorities responsible for protection of customers from undue tipping-off upon request; and

(f) obliged entities sharing personal data implement appropriate measures for protection of justified interests of the customer concerned.

Further processing of personal data under this paragraph for other, in particular commercial purposes, shall be prohibited.

6. Without prejudice to further obligations under Regulation (EU) 2016/679 and Regulation *[please insert reference – EU-AI-Reg; COM(2021) 206 final]*, the processing of personal data according to paragraph 4 may be conducted by means of automated decision-making, including profiling within the meaning of Article 4, point (4) of Regulation (EU) 2016/679, or artificial-intelligence systems as defined in Article *[please insert reference – Article 3 of Regulation EU-AI-Reg; COM(2021) 206 final]*, provided that the processing of personal data only comprises data which an obliged entity has collected in the course of performing its customer due diligence obligations under Chapter III, including, in particular, the ongoing monitoring pursuant to Article 20.

7. Without prejudice to Article 54, each Member State may lay down in its national law that to the extent that is necessary and proportionate, obliged entities, and where applicable, public authorities that are party to the partnership for information sharing in AML/CFT field, may share within partnership for information sharing in AML/CFT field, when established under national law, personal data collected in the course of performing its customer due diligence obligations under Chapter III, and process that data within the partnership, including based on outsourcing arrangement established in accordance with article 6a, for the purposes of the prevention of money laundering and terrorist financing, provided that at a minimum:

(a) obliged entities concerned inform their customers or prospective customers that they may share their personal data under this paragraph;

(b) personal data shared originate from reliable sources, are accurate and up-to-date;

(c) the obliged entities concerned adopt measures of a high level of security in accordance with Article 32 of Regulation (EU) 2016/679, in particular in terms of confidentiality, including secure channels for exchange of information;

(d) each instance of sharing of personal data is recorded by obliged entities, and where applicable, public authorities, concerned; the records shall be made available, without prejudice to Article 54 (1), to data protection authorities and authorities responsible for protection of customers from undue tipping-off upon request; and

(e) obliged entities and, where applicable, public authorities, that are party to the partnership for information sharing in AML/CFT field implement appropriate measures for protection of justified interests of the customer concerned.

Further processing of personal data under this paragraph for other, in particular commercial purposes, shall be prohibited.

8. By *[2 years from the entry into force of this Regulation]*, AMLA shall adopt guidelines specify abnormalities or unusual circumstances indicating money laundering or terrorist financing.

Article 56

Record retention

1. Obliged entities shall retain the following documents and information in accordance with national law for the purpose of preventing, detecting and investigating, by the FIU or by other competent authorities, possible money laundering or terrorist financing:

(a) a full copy of the documents and information obtained in the performance of customer due diligence pursuant to Chapter III, including information obtained through electronic identification means, and the results of the analyses undertaken pursuant to Article 50;

(b) the supporting evidence and records of transactions, consisting of the original documents or copies admissible in judicial proceedings under the applicable national law, which are necessary to identify transactions, and the evidence of the suspicious transaction reports sent to the FIU.

2. By way of derogation from paragraph 1, obliged entities may decide to replace the retention of copies of the information by a retention of the references to such information, provided that the nature and method of retention of such information ensure that the obliged entities can provide immediately to competent authorities the information and that the information cannot be modified or altered.

Obliged entities making use of the derogation referred to in the first subparagraph shall define in their internal procedures drawn up pursuant to Article 7, the categories of information for which they will retain a reference instead of a copy or original, as well as the procedures for retrieving the information so that it can be provided to competent authorities upon request.

3. The information referred to in paragraphs 1 and 2 shall be retained for a period of ten years after the end of a business relationship with their customer or after the date of an occasional transaction, or after the date of refrainment from carrying out a transaction or establishing a business relationship. Upon expiry of that retention period obliged entities shall delete personal data.

The retention period referred to in the first subparagraph shall also apply in respect of the data accessible through the centralised mechanisms referred to in Article 14 of Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]*.

4. Where, on *[the date of application of this Regulation]*, legal proceedings concerned with the prevention, detection, investigation or prosecution of suspected money laundering or terrorist financing are pending in a Member State, and an obliged entity holds information or documents relating to those pending proceedings, Member States may, without prejudice to national criminal law on evidence applicable to ongoing criminal investigations and legal proceedings, allow or require the obliged entity to retain that information or those documents, in accordance with national law, for a period of ten years from *[the date of application of this Regulation]*, 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.

Article 57

Provision of records to competent authorities

Obliged entities shall have systems in place that enable them to respond fully and speedily to enquiries from their FIU or from other competent authorities, in accordance with their national law, as to whether they are maintaining or have maintained, during a five-year period prior to that enquiry a business relationship with specified persons, and on the nature of that relationship, through secure channels and in a manner that ensures full confidentiality of the enquiries.

CHAPTER VII

Measures to mitigate risks deriving from anonymous instruments

Article 58

Anonymous accounts and bearer shares and bearer share warrants

1. Credit institutions, financial institutions and crypto-asset service providers shall be prohibited from keeping anonymous accounts, anonymous passbooks, anonymous safe-deposit boxes, anonymity-enhancing coins or anonymous crypto-asset wallets as well as any account otherwise allowing for the anonymisation of the customer account holder.

Owners and beneficiaries of existing anonymous accounts, anonymous passbooks, anonymous safe-deposit boxes or crypto-asset wallets shall be subject to customer due diligence measures before those accounts, passbooks, deposit boxes or crypto-asset wallets are used in any way.

2. Credit institutions and financial institutions acting as acquirers within the meaning Article 2, point (1) of Regulation (EU) 2015/751 of the European Parliament and of the Council[44] shall not accept payments carried out with anonymous prepaid cards issued in third countries, unless otherwise provided in the regulatory technical standards adopted by the Commission in accordance with Article 22 on the basis of a proven low risk.

3. Companies shall be prohibited from issuing bearer shares, and shall convert all existing bearer shares into registered shares by *[2 years after the date of application of this Regulation]*. However, companies with securities listed on a regulated market or whose shares are issued as intermediated securities shall be permitted to maintain bearer shares.

Companies shall be prohibited from issuing bearer share warrants that are not in intermediated form.

Article 59

Limits to large cash payments

1. Persons trading in goods or providing services may accept or make a payment in cash only up to an amount of EUR 10 000 in exchange for such goods or services, or equivalent amount in national or foreign currency, whether the transaction is carried out in a single operation or in several operations which appear to be linked.

2. Member States may adopt lower limits following consultation of the European Central Bank in accordance with Article 2(1) of Council Decision 98/415/EC[45]. Those lower limits shall be notified to the Commission within 3 months of the measure being introduced at national level.

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44 Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (OJ L 123, 19.5.2015, p. 1).

45 Council Decision of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions (OJ L 189, 3.7.1998, p. 42).

3. When limits already exist at national level which are below the limit set out in paragraph 1, they shall continue to apply. Member States shall notify those limits within 3 months of the entry into force of this Regulation.

4. The limit referred to in paragraph 1 shall not apply to:

(a) payments between persons who are not acting in a professional function;

(b) payments or deposits made at the premises of credit institutions, electronic money institutions and payment institutions. It is up to the discretion of the Member States to decide whether in such cases, those institutions shall report the payment or deposit above the limit to the FIU. This report is without prejudice to the obligation to report suspicious transactions under Article 50(1);

(c) central banks when performing their tasks.

5. Member States shall ensure that appropriate measures, including sanctions, are taken against natural or legal persons acting in their professional capacity which are suspected of a breach of the limit set out in paragraph 1, or of a lower limit adopted by the Member States.

6. The overall level of the sanctions shall be calculated, in accordance with the relevant provisions of national law, in such way as to produce results proportionate to the seriousness of the infringement, thereby effectively discouraging further offences of the same kind.

7. In cases of force majeure that result in the unavailability, at the national scale, of other means of payment, Member States may temporarily lift the limit referred to in paragraph 1 or 2.

Member States shall immediately notify the Commission of such lifting and its justification. Member States shall reinstate the limit as soon as other means of payments become available again or if the Commission finds the lifting, or its continuing application, unjustified and issues a decision thereon.

FINAL PROVISIONS

Article 60

Delegated acts

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 23, 24 and 25 shall be conferred on the Commission for an indeterminate period of time from *[date of entry into force of this Regulation]*.

3. The power to adopt delegated acts referred to in Articles 23, 24 and 25 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 23, 24 and 25 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of one month of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by one month at the initiative of the European Parliament or of the Council.

Article 61

Committee

1. The Commission shall be assisted by the Committee on the Prevention of Money Laundering and Terrorist Financing established by Article 28 of Regulation *[please insert reference – proposal for a recast of Regulation (EU) 2015/847 - COM/2021/422 final]*. That committee shall be a committee within the meaning of Regulation (EU) 182/2011 .

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 3 of Regulation (EU) 182/2011 shall apply.

Article 62

Review

By *[5 years from the date of application of this Regulation]*, and every three years thereafter, the Commission shall present a report to the European Parliament and to the Council on the application of this Regulation.

In the preparation of the report, the Commission shall take into account existing assessment reports and similar documents.

Article 63

Reports

By *[3 years from the date of application of this Regulation]*, the Commission shall present reports to the European Parliament and to the Council assessing the need and proportionality of:

(a) lowering the percentage for the identification of beneficial ownership of legal entities;

(b) adjusting the limit for large cash payments.

Article 64

Relation to Directive 2015/849

References to Directive (EU) 2015/849 shall be construed as references to this Regulation and to Directive *[please insert reference – proposal for 6th Anti-Money Laundering Directive - COM/2021/423 final]* and read in accordance with the correlation table set out in Annex IV.

Article 65

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from *[3 years from its date of entry into force]*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	For the Council
The President	The President