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THE EUROPEAN UNION**

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**INFORMATION NOTE**

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from: General Secretariat  
to: Permanent Representatives Committee/Council  
Subject: Proposal for a Regulation of the European Parliament and of the Council on  
information accompanying transfers of funds  
- Outcome of the European Parliament's first reading  
(Strasbourg, 10 to 13 March 2014)

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**I. INTRODUCTION**

The co-Rapporteurs, Mrs Mojca KLEVA KEKUŠ (S&D - SI) and Mr Timothy KIRKHOPE (ECR - UK), presented a report consisting of 68 amendments on behalf of the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs.

## II. DEBATE

The debate, which took place on 11 March 2014, was a joint debate which covered two codecision proposals:

- the proposal for a Regulation of the European Parliament and of the Council on information accompanying transfers of funds [2013/0024 (COD) / Co-Rapporteurs: Mrs Mojca KLEVA KEKUŠ (S&D - SI) and Mr Timothy KIRKHOPE (ECR - UK) ] - *see section III below for the voting results*; and
- the proposal for a Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing [2013/0025 (COD) / Co-Rapporteurs: Mr Krišjānis KARIŅŠ (EPP - LV) and Mrs Judith SARGENTINI (Greens/EFA - NL)] - *see doc. 7387/14 for the voting results*.

Mr Krišjānis KARIŅŠ (EPP - LV) opened the debate, which took place on 11 March 2014, and:

- stated that more than 5% of the world's GDP is constituted by the proceeds of criminal activity that has been money-laundered. This damages the overall business environment, because it disadvantages honest and lawful operators. It also reduces tax revenues; and
- argued the need to create a register of beneficial owners, revealing which individuals stand behind which companies. That would make it easier to identify when tax is due and to which Member State.

Speaking on behalf of Mrs Mojca KLEVA KEKUŠ, Mr Peter SIMON (S&D - DE):

- stressed the importance, at a time when technology and the resources available to criminals are constantly evolving, of European legislation keeping pace with changing realities;
- noted the importance attached by the Parliament to ensuring compliance with European data-protection requirements, guaranteeing that all the safeguards protecting individual rights in relation to personal data will actually be applied;
- emphasised the need to work on the enforcement and implementation of the new rules. This requires a coordinated response from law enforcement bodies in the Member States and a standard procedure for financial institutions and payment-service providers. The new rules will centre on a risk-based approach, which should strengthen the capabilities and roles of payment-service providers in identifying suspicious transfers; and
- noted the link between the money-laundering threat on the one hand and the problems of tax evasion and tax havens on the other. He recalled that the Parliament had frequently called for concrete and effective action to eliminate the scandalous tax gap. The improvement of rules on fund transfers will serve as one small piece of the jigsaw.

Mrs Judith SARGENTINI (Greens/EFA - NL):

- argued that a public register identifying stockbrokers and their clients would help to reduce criminal activity;
- highlighted the damage done by money-laundering to developing countries;
- argued that the register could and should be made compliant with data protection requirements; and
- urged the Council to act swiftly on this proposal.

Mr Timothy KIRKHOPE (ECR - UK):

- noted that money-laundering does not respect the borders of individual Member States;
- noted the problems created by the previous money-laundering directive, but stated his belief that this is an opportunity to learn from these mistakes;
- welcomed the proposed risk-based approach, the extension of the scope to include gambling, and the opening up of company ownership to the public;
- expressed the hope that the new rules would help to address not only money-laundering, but also tax evasion;

- noted the tabling of amendments which would strip away the current simplified payments regime. He believed that this was not necessary and that it would disproportionately disadvantage many payment providers and their customers, whilst providing little anti-money-laundering value;
- with regard to the proposed Directive, expressed the belief that good compromises had been found on beneficial ownership, gambling and politically-exposed persons; and
- noted the special situation in the United Kingdom regarding trusts, which provide the legal basis for a number of transactions and institutions such as property ownership, estate planning, wills and insurance. It is thought that the mandatory registration of trusts would not only compromise the privacy of individuals, but also add red tape and costs to family financial planning. The fact that they fall under the United Kingdom's common law system also adds complications. He had worked hard to find language that limits the risk of public exposure for vulnerable people and in cases where the trusts themselves pose little or no risk of money laundering - for example in relation to wills. He welcomed the fact that his proposal in this regard had been accepted, but noted that he had tabled a further amendment.

#### Commissioner BORG:

- welcomed the Parliament's rapid work on the two proposals - which he took as an expression of support for the Commission's proposal and a clear sign of the Parliament's commitment to taking a firm stance against those seeking to abuse the EU's financial system for money-laundering or even for the financing of terrorism;
- predicted that the Parliament would take a clear position in favour of publicly-accessible beneficial ownership registries. He agreed with the aims behind the Parliament's amendment to this effect. These aims are fully compatible with the Commission's objective of enhancing transparency on the ownership of companies and trusts. He nonetheless stressed the need to ensure that there are adequate guarantees that the information contained in such registries is reliable and up-to-date and that obliged entities do not neglect their duties to further investigate beneficial ownership. He also stressed the need to ensure proper respect of data protection laws - access to the registries should be carefully tailored and provided on a need-to-know basis;

- noted that the Parliament wishes to see the Commission play a strong role in several important areas, such as carrying out a supranational risk assessment, compiling lists of politically-exposed persons, making evaluations about the equivalence of third countries and assessing the effectiveness of national regimes. The Commission shares the concerns that the Parliament seeks to address, which are very often motivated by the need for a more European internal market approach. The Commission is ready to look at practical ways in which it might play an enhanced role in the various processes, but bearing in mind the need to avoid duplicating existing effective processes;
- stated that the Commission would in principle prefer not to introduce the proposed derogations or exemptions for gambling services and electronic money, due to the risk that, if accepted, any exemption might be interpreted too widely and misused. This issue will need to be examined further during the continuing negotiations;
- agreed that it is critically important to protect privacy and personal data, but also stressed the need to ensure that a correct balance is struck so that the anti-money laundering directive does not lose its *raison d'être*. Repeating general data protection principles which are already applicable may lead to differences in interpretation and legal uncertainty - and should therefore be avoided;
- welcomed the attention in the Rapporteur's report to the connections between the fight against money laundering and the fight against tax evasion. The report calls on the Commission to increase the pressure on tax havens to improve their cooperation and exchange of information in order to combat money-laundering and the financing of terrorism. The Commission fully shares these objectives, but it is also necessary to take care that such concerns are addressed using the right legal instrument. The Commission had indicated, in its 2012 action plan, that it would study the possibility and feasibility of aligning the definition of certain types of tax offences, including administrative and criminal sanctions;
- noted the Rapporteurs' and the ECON/LIBE Joint Committee's broadly supportive stance on fund transfers regulation. Several of the more technical amendments helpfully clarify the interaction with other financial services legislation. The Commission nevertheless has similar concerns to those already expressed on the Directive regarding the proliferation of data protection roles. It is important to strike the right balance; and
- welcomed the progress made on the proposals and expressed the hope that the Council would make similar progress in the near future so that both co-legislators can work towards a speedy adoption of the proposals.

Speaking on behalf of the Committee on Development, Mr Bill NEWTON DUNN (ALDE - UK):

- stressed the need to prevent EU development aid being siphoned off by dictators and their supporters, and money-laundered into Swiss bank accounts;
- regretted the fact that money-laundering is so easy to perform. There is much work to be done on this. Shockingly, Member States do not even implement existing legislation. The Commission must ensure that Member States start to do so, and to follow through and abolish tax havens - rather than just saying that they will take action but actually do nothing; and
- reminded the Commissioner that small-scale gambling operations such as racecourse bookies are SMEs and that their jobs are needed. They should not be eliminated on a mere whim. Small on-course bookies cannot be participating in large-scale money laundering.

Speaking on behalf of the Committee on Legal Affairs, Mr Antonio LÓPEZ-ISTÚRIZ WHITE (EPP - ES):

- argued that legal professionals should be made responsible for ensuring that their services do not facilitate money-laundering;
- stressed the right of investors to know who holds legal title;
- emphasised the need to ensure that the definition of terrorism-financing complies with the recommendations of the International Financial Action Task Force; and
- called for protection of whistle-blowing employees.

Speaking on behalf of the S&D political group, Mr Peter SIMON (S&D - DE):

- noted that money-launderers are constantly devising new methods. He therefore supported the Commission's proposals, for example on gambling;
- called for an open companies register detailing the real ownership of companies;
- called for the networking of national registers in order to address the cross-border dimension; and
- stressed the need for legislation to be properly implemented by Member States in practice.

Speaking on behalf of the ALDE political group, Mrs Sylvie GOULARD (ALDE - FR):

- welcomed the existence of central registers;
- noted the debate on trusts. There are major differences between Member States in this regard. She hoped that a satisfactory solution had been found;
- welcomed the clear identification of politically exposed individuals;
- believed that there would be advantages in having positive lists of non-EU states that are making an effort and negative lists of non-EU states that present risks; and
- welcomed the overall direction of work on these proposals, whilst also recognising that a lot more still needs to be done.

Speaking on behalf of the ECR political group, Mrs Ruža TOMAŠIĆ (ECR - HR) stressed the need to strike the right balance between anti-money-laundering measures and the protection of individual citizens' privacy. Access to data on a need-to-know basis should be legally defined.

Speaking on behalf of the Greens/EFA political group, Mr Kyriacos TRIANTAPHYLLIDES (EUL/NGL - CY) stressed the need to protect personal data. Data should not be transferred to non-EU states that do not provide proper data protection.

Speaking on behalf of the Non-Attached Members, Mrs Diane DODDS (NA - UK):

- supported the struggle against money-laundering and terrorism-financing. As a MEP from Northern Ireland, a part of the United Kingdom which shares a border with the Republic of Ireland, she was only too well aware of the relationship between money-laundering, smuggling and terrorism-financing; and
- called for as much transparency as possible regarding the identify of business owners and those who ultimately gained from transactions. This should nevertheless be done in a way that does not place disproportionate burdens on traders or consumers.

Mr Sławomir NITRAS (EPP - PL):

- supported the amendment addressing pre-paid transactions; and
- welcomed the fact that payments would have to be accompanied by the name of the payer and the service-provider.

Mrs Emine BOZKURT (S&D - NL):

- stressed the need for full openness of registers, in compliance with EU data protection rules; and
- called for whistle-blowers and witnesses to receive the protection they deserve.

Mr Nils TORVALDS (ALDE - FI) and Mr Sampo TERHO (EFD - FI) argued that small-scale slot-machine gambling should not fall within the scope of the proposed legislation. A proportionate risk-based approach is needed.

Mr Sven GIEGOLD (Greens/EFA - DE):

- stressed the need for transparency on business ownership;
- regretted the Commission's failure to ensure the proper implementation of previous money-laundering legislation. He called on the Commission to take a stricter approach in future, including naming-and-shaming where appropriate.

Mrs Arlene McCARTHY (S&D - UK) warned that a 25% threshold for disclosure would limit transparency and might only assist those intent on dodging the rules. She supported her political group's call for a 10% threshold.

Sir Graham WATSON (ALDE - UK):

- expressed his surprise that the S&D and Green/EFA political groups were not seeking to distinguish between low-risk trusts, high-risk trusts and offshore trusts. Their proposal would require the publication of delicate details, including trusts for vulnerable people, in a central registry accessible to all. This would have serious data privacy implications, particularly in the United Kingdom where such trusts are commonplace; and
- opposed the amendments that would treat on-line gaming differently from casino gambling.



Commissioner BORG once more took the floor and:

- regretted the loss of tax revenue through tax havens and the possibility that tax havens may be linked with money-laundering. The Fourth Money Laundering Directive makes a start on a subject on which there is no general consensus among the Member States. The Directive explicitly recognises that tax crimes give rise to a money-laundering offence. He nonetheless called for caution about what can be achieved with this legal instrument, because work is under way in other forums in the taxation field to address more explicitly the problems associated with tax havens themselves;
- noted the calls for exemptions for the many SMEs that do on-course betting and other forms of gambling. He understood the need to reduce burdens, but also believed that - where money-laundering risks arise - there is a need to be very careful and to ensure that there are preventive systems. The Commission therefore remains reluctant to consider any broad-based derogations;
- noted and sympathised with the calls for open beneficial ownership registries. The Commission would explore practical ways in which to bridge the gap between the two co-legislators in this regard;
- noted the call to lower the threshold for beneficial ownership. The figure of 25% was chosen because it is the threshold accepted by the international standard-setter, the Financial Action Task Force; and
- noted the concerns regarding non-implementation by Member States of anti-money-laundering legislation. The Commission occasionally initiates infringement proceedings. The Commission will continue to monitor the situation. International standard-setters already have robust procedures to evaluate the implementation of anti-money-laundering rules. The Commission has a Treaty obligation to monitor implementation. Yet it is also important not to duplicate effective processes, because this would weaken rather than strengthen monitoring.

### III. VOTE

On 11 March 2014, the Parliament voted to adopt all 68 amendments proposed by the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs.

The text of the Parliament's legislative resolution, which contains these amendments, is annexed to this note.

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## Information accompanying transfers of funds \*\*\*I

### European Parliament legislative resolution of 11 March 2014 on the proposal for a regulation of the European Parliament and of the Council on information accompanying transfers of funds (COM(2013)0044 – C7-0034/2013 – 2013/0024(COD))

(Ordinary legislative procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0044),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0034/2013),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Central Bank of 17 May 2013<sup>1</sup>,
  - having regard to the opinion of the European Economic and Social Committee of 11 November 2013<sup>2</sup>,
  - having regard to Rules 55 of its Rules of Procedure,
  - having regard to the joint deliberations of the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs under Rule 51 of the Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Development and the Committee on Legal Affairs (A7-0140/2014),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>1</sup> OJ C 166, 12.6.2013, p. 2.

<sup>2</sup> OJ C 271, 19.9.2013, p. 31.

## Amendment 1

### Proposal for a regulation

#### Recital 1

##### *Text proposed by the Commission*

(1) Flows of **dirty** money through transfers of funds can damage the stability and reputation of the financial sector and threaten the internal market. Terrorism **shakes** the very foundations of our society. The soundness, integrity and stability of the system of transfers of funds and confidence in the financial system as a whole could be seriously jeopardised by the efforts of criminals and their associates either to disguise the origin of criminal proceeds or to transfer funds for terrorist purposes.

##### *Amendment*

(1) Flows of **illicit** money damage the **structure**, stability and reputation of the financial sector and threaten the internal market **as well as international development, and directly or indirectly undermine the confidence of citizens in the rule of law. The funding of terrorism and organised crime remains a significant problem which should be addressed at Union level. Terrorism and organised crime damage the democratic institutions and shake** the very foundations of our society. **Crucial facilitators of illicit money flows are secretive corporate structures operating in and through secrecy jurisdiction, often also referred to as tax havens.** The soundness, integrity and stability of the system of transfers of funds and confidence in the financial system as a whole **is being** seriously jeopardised by the efforts of criminals and their associates either to disguise the origin of criminal proceeds or to transfer funds for **criminal activities or** terrorist purposes.

## Amendment 2

### Proposal for a regulation

#### Recital 2

##### *Text proposed by the Commission*

(2) In order to facilitate their criminal activities, money launderers and terrorist financiers **could try to take** advantage of the freedom of capital movements entailed by the integrated financial area, unless certain coordinating measures are adopted at Union level. By its scale, Union action should ensure that Recommendation 16 on wire transfers **of the Financial Action Task Force (FATF)**, adopted in February 2012 is transposed uniformly throughout

##### *Amendment*

(2) In order to facilitate their criminal activities, money launderers and terrorist financiers **are taking** advantage of the freedom of capital movements entailed by the integrated financial area, unless certain coordinating measures are adopted at Union **and international** level. **International cooperation within the framework of the Financial Action Task Force (FATF) and the global implementation of its recommendations**

the Union, and, in particular, that there is no discrimination between national payments within a Member State and cross border payments between Member States. Uncoordinated action by Member States alone in the field of cross border transfers of funds could have a significant impact on the smooth functioning of payment systems at Union level and therefore damage the internal market in the field of financial services.

***aim to prevent regulatory arbitrage and the distortion of competition.*** By its scale, Union action should ensure that ***FATF*** Recommendation 16 on wire transfers adopted in February 2012 is transposed uniformly throughout the Union, and, in particular, that there is no discrimination ***or discrepancy*** between national payments within a Member State and cross border payments between Member States. Uncoordinated action by Member States alone in the field of cross border transfers of funds could have a significant impact on the smooth functioning of payment systems at Union level and therefore damage the internal market in the field of financial services.

### Amendment 3

#### Proposal for a regulation Recital 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(2a) The implementation and enforcement of this Regulation, including FATF Recommendation 16, should not result in unjustified or disproportionate costs for payment service providers and citizens who use their services, and the free movement of legal capital should be fully guaranteed throughout the Union.***

### Amendment 4

#### Proposal for a regulation Recital 5

*Text proposed by the Commission*

*Amendment*

(5) In order to foster a coherent approach in the international context ***in the field of combating*** money laundering and terrorist financing, further Union action should take account of developments at that level, namely the International Standards on combating money-laundering and the financing of terrorism and proliferation adopted in 2012 by the FATF, and in

(5) In order to foster a coherent approach in the international context ***and make the fight against*** money laundering and terrorist financing ***more efficient***, further Union action should take account of developments at that level, namely the International Standards on combating money-laundering and the financing of terrorism and proliferation adopted in 2012

particular Recommendation 16 and the revised interpretative note for its implementation.

by the FATF, and in particular Recommendation 16 and the revised interpretative note for its implementation.

## Amendment 5

### Proposal for a regulation

#### Recital 5 a (new)

*Text proposed by the Commission*

*Amendment*

***(5a) Particular attention should be paid to the Union obligations set out in Article 208 TFEU in order to stem the increasing trend of money laundering activities being moved from developed countries with stringent anti-money laundering rules to developing countries where rules may be less stringent.***

## Amendment 6

### Proposal for a regulation

#### Recital 6

*Text proposed by the Commission*

*Amendment*

(6) The full traceability of transfers of funds can be a particularly important and valuable tool in the prevention, investigation and detection of money laundering or terrorist financing. It is therefore appropriate, in order to ensure the transmission of information throughout the payment chain, to provide for a system imposing the obligation on payment service providers to have transfers of funds accompanied by information on the payer and the payee.

(6) The full traceability of transfers of funds can be a particularly important and valuable tool in the prevention, investigation and detection of money laundering or terrorist financing. It is therefore appropriate, in order to ensure the transmission of information throughout the payment chain, to provide for a system imposing the obligation on payment service providers to have transfers of funds accompanied by information on the payer and the payee, ***which should be accurate and updated. In that regard, it is essential for financial institutions to report adequate, accurate and up-to-date information with respect to transfers of funds carried out for their clients to enable the competent authorities to prevent money laundering and terrorist financing more effectively.***

## Amendment 7

### Proposal for a regulation

#### Recital 7

##### *Text proposed by the Commission*

(7) The provisions of this Regulation apply without prejudice to national legislation implementing Directive 95/46/EC of the European Parliament and of the Council of **24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data**<sup>19</sup>. For example, personal data collected for the purpose of complying with this Regulation should not be further processed in a way inconsistent with Directive 95/46/EC. In particular, further processing for commercial purposes should be strictly prohibited. The fight against money laundering and terrorist financing is recognised as an important public interest ground by all Member States. Hence, in the application of this Regulation, the transfer of personal data to a third country which does not ensure an adequate level of protection in the meaning of Article 25 of Directive 95/46/EC should be permitted according to Article 26 (d) of the same Directive.

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<sup>19</sup> OJ L 281, 23.11.1995, p. 31.

##### *Amendment*

(7) The provisions of this Regulation apply without prejudice to national legislation implementing Directive 95/46/EC of the European Parliament and of the Council<sup>19</sup>. For example, personal data collected for the purpose of complying with this Regulation should not be further processed in a way inconsistent with Directive 95/46/EC. In particular, further processing for commercial purposes should be strictly prohibited. The fight against money laundering and terrorist financing is recognised as an important public interest ground by all Member States. Hence, in the application of this Regulation, the transfer of personal data to a third country which does not ensure an adequate level of protection in the meaning of Article 25 of Directive 95/46/EC should be permitted according to Article 26 (d) of the same Directive. ***It is important that payment service providers operating in multiple jurisdictions with branches or subsidiaries located outside the Union are not unreasonably prevented from sharing information about suspicious transactions within the same organisation. This is without prejudice to international agreements between the Union and third countries which aim to combat money laundering including appropriate safeguards for citizens ensuring an equivalent or adequate level of protection.***

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<sup>19</sup> ***Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data*** (OJ L 281, 23.11.1995, p. 31).

## Amendment 8

### Proposal for a regulation

#### Recital 9

##### *Text proposed by the Commission*

(9) It is appropriate to exclude from the scope of this Regulation transfers of funds that represent a low risk of money laundering or terrorist financing. Such exclusions should cover credit or debit cards, mobile telephones or other digital or information technology (IT) devices, Automated Teller Machine (ATM) withdrawals, payments of taxes, fines or other levies, and transfers of funds where both the payer and the payee are payment service providers acting on their own behalf. In addition, in order to reflect the special characteristics of national payment systems, Member States may exempt electronic giro payments, provided that it is always possible to trace the transfer of funds back to the payer. However, there must be no exemption when a debit or credit card, a mobile telephone or other digital or IT prepaid or postpaid device is used in order to effect a person-to-person transfer.

##### *Amendment*

(9) It is appropriate to exclude from the scope of this Regulation transfers of funds that represent a low risk of money laundering or terrorist financing. Such exclusions should cover credit or debit cards, mobile telephones or other digital or information technology (IT) devices, Automated Teller Machine (ATM) withdrawals, payments of taxes, fines or other levies, and transfers of funds where both the payer and the payee are payment service providers acting on their own behalf. In addition, in order to reflect the special characteristics of national payment systems, Member States may exempt electronic giro payments, provided that it is always possible to trace the transfer of funds back to the payer, ***as well as transfers of funds carried out through cheque image exchanges or bills of exchange.*** However, there must be no exemption when a debit or credit card, a mobile telephone or other digital or IT prepaid or postpaid device is used in order to effect a person-to-person transfer. ***Taking into account the dynamically evolving technological progress, consideration should be given to extend the scope of the Regulation to cover e-money and other new payment methods.***

## Amendment 9

### Proposal for a regulation

#### Recital 10

##### *Text proposed by the Commission*

(10) In order not to impair the efficiency of payment systems, the verification requirements for transfers of funds made from an account should be separate from those for transfers of funds not made from

##### *Amendment*

(10) ***Payment service providers should ensure that the information on the payer and the payee is not missing or incomplete.*** In order not to impair the efficiency of payment systems, the



an account. In order to balance the risk of driving transactions underground by imposing overly strict identification requirements against the potential terrorist threat posed by small transfers of funds, the obligation to check whether the information on the payer is accurate should, in the case of transfers of funds not made from an account, be ***imposed only in respect of*** individual transfers of funds ***that exceed*** EUR 1 000,. For transfers of funds made from an account, payment service providers should not be required to verify information on the payer accompanying each transfer of funds, where the obligations under Directive [xxxx/yyyy] have been met.

verification requirements for transfers of funds made from an account should be separate from those for transfers of funds not made from an account. In order to balance the risk of driving transactions underground by imposing overly strict identification requirements against the potential terrorist threat posed by small transfers of funds, the obligation to check whether the information on the payer is accurate should, in the case of transfers of funds not made from an account, be ***restricted only to the name of the payer for*** individual transfers of funds ***of up to*** EUR 1 000. For transfers of funds made from an account, payment service providers should not be required to verify information on the payer accompanying each transfer of funds, where the obligations under Directive [xxxx/yyyy] have been met.

## Amendment 10

### Proposal for a regulation Recital 12 a (new)

*Text proposed by the Commission*

*Amendment*

***(12a) The authorities responsible for combating money laundering and terrorist financing, and relevant judicial and law enforcement agencies in the Member States, should intensify cooperation with each other and with the relevant third-country authorities, including developing countries, in order further to strengthen transparency, the sharing of information and best practices. The Union should support capacity-building programmes in developing countries to facilitate that cooperation. Systems for collecting evidence and making available data and information relevant to the investigation of offences should be improved, without in any way infringing the principles of subsidiarity or proportionality, or fundamental rights, in the Union.***

## Amendment 11

### Proposal for a regulation Recital 12 b (new)

*Text proposed by the Commission*

*Amendment*

***(12b) The payment service providers of the payer, the payee and the intermediary service providers should have in place appropriate technical and organisational measures to protect personal data against accidental loss, alteration, unauthorised disclosure or access.***

## Amendment 12

### Proposal for a regulation Recital 14

*Text proposed by the Commission*

*Amendment*

(14) In order to check whether the required information on the payer and the payee accompanies transfers of funds, and to help to identify suspicious transactions, the payment service provider of the payee and the intermediary payment service provider should have effective procedures in place in order to detect whether information on the payer and the payee is missing.

(14) In order to check whether the required information on the payer and the payee accompanies transfers of funds, and to help to identify suspicious transactions, the payment service provider of the payee and the intermediary payment service provider should have effective procedures in place in order to detect whether information on the payer and the payee is missing ***or incomplete, in particular if numerous payment services are involved to improve the traceability of transfers of funds. Effective checks that the information is available and is complete, in particular where several payment service providers are involved, can help make investigation procedures less time consuming and more effective, which, in turn, improves the traceability of transfers of funds. Competent authorities in the Member States should thus ensure that payment service providers include the required transaction information with the wire transfer or related message throughout the payment chain.***

## Amendment 13

### Proposal for a regulation

#### Recital 15

##### *Text proposed by the Commission*

(15) Owing to the potential terrorist financing threat posed by anonymous transfers, it is appropriate to require payment service providers to request information on the payer and the payee. In line with the risk based approach developed by FATF, it is appropriate to identify areas of higher and lower risk with a view to better targeting money laundering and terrorist financing risks. Accordingly, the payment service provider of the payee and the intermediary service provider should establish effective risk-based procedures for cases where a transfer of funds lacks the required payer and payee information, **in order to** decide whether to execute, reject or suspend that transfer and what appropriate follow-up action to take. Where the payment service provider of the payer is established outside the territory of the Union, enhanced customer due diligence should be applied, in accordance with Directive [xxxx/yyyy], in respect of cross-border correspondent banking relationships with that payment service provider.

##### *Amendment*

(15) Owing to the potential terrorist financing threat posed by anonymous transfers, it is appropriate to require payment service providers to request information on the payer and the payee. In line with the risk based approach developed by FATF, it is appropriate to identify areas of higher and lower risk with a view to better targeting money laundering and terrorist financing risks. Accordingly, the payment service provider of the payee and the intermediary service provider should establish effective risk-based procedures **and assess and weigh risks so that resources can be explicitly steered towards high-risk areas of money laundering. Such effective risk-based procedures** for cases where a transfer of funds lacks the required payer and payee information **will help payment service providers to** decide **more effectively** whether to execute, reject or suspend that transfer and what appropriate follow-up action to take. Where the payment service provider of the payer is established outside the territory of the Union, enhanced customer due diligence should be applied, in accordance with Directive [xxxx/yyyy], in respect of cross-border correspondent banking relationships with that payment service provider.

## Amendment 14

### Proposal for a regulation

#### Recital 17

##### *Text proposed by the Commission*

(17) The provisions on transfers of funds where information on the payer or the payee is missing or incomplete apply without prejudice to any obligations on

##### *Amendment*

(17) The provisions on transfers of funds where information on the payer or the payee is missing or incomplete apply without prejudice to any obligations on

payment service providers and the intermediary payment service providers to suspend and/or reject transfers of funds which violate provisions of civil, administrative or criminal law.

payment service providers and the intermediary payment service providers to suspend and/or reject transfers of funds which violate provisions of civil, administrative or criminal law. ***The need for identity information on payer or the payee of individuals, legal persons, trusts, foundations, mutual societies, holdings and other similar existing or future legal arrangements is a key factor in tracing criminals who might otherwise hide their identity behind corporate structure.***

## Amendment 15

### Proposal for a regulation Recital 18

#### *Text proposed by the Commission*

(18) Until technical limitations that may prevent intermediary payment service providers from satisfying the obligation to transmit all the information they receive on the payer are removed, those intermediary payment service providers should keep records of that information. Such technical limitations should be removed as soon as payment systems are upgraded.

#### *Amendment*

(18) Until technical limitations that may prevent intermediary payment service providers from satisfying the obligation to transmit all the information they receive on the payer are removed, those intermediary payment service providers should keep records of that information. Such technical limitations should be removed as soon as payment systems are upgraded. ***In order to overcome technical limitations, the use of the SEPA credit transfer scheme could be encouraged in interbank transfers between Member States and third countries.***

## Amendment 16

### Proposal for a regulation Recital 19

#### *Text proposed by the Commission*

(19) Since in criminal investigations it may not be possible to identify the data required or the individuals involved until many months, or even years, after the original transfer of funds and in order to be able to have access to essential evidence in the context of investigations, it is appropriate to require payment service providers to

#### *Amendment*

(19) Since in criminal investigations it may not be possible to identify the data required or the individuals involved until many months, or even years, after the original transfer of funds and in order to be able to have access to essential evidence in the context of investigations, it is appropriate to require payment service providers to

keep records of information on the payer and the payee for the purposes of preventing, investigating and detecting money laundering or terrorist financing. This period should be limited.

keep records of information on the payer and the payee for the purposes of preventing, investigating and detecting money laundering or terrorist financing. This period should be limited *to five years, after which all personal data should be deleted, unless national law provides otherwise. Such further retention should be permitted only if necessary for the prevention, detection or investigation of money laundering and terrorist financing and should not exceed ten years. Payment service providers should ensure that data retained under this Regulation is used only for the purposes described herein.*

## Amendment 17

### Proposal for a regulation Recital 23

#### *Text proposed by the Commission*

(23) In order to ensure uniform conditions for the implementation of **Articles XXX** of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with 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 Member States of the Commission's exercise of implementing powers*<sup>24</sup>.

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<sup>24</sup> OJ L 55, 28.2.2011, p. 13.

#### *Amendment*

(23) In order to ensure uniform conditions for the implementation of **Chapter V** of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>24</sup>.

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<sup>24</sup> **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 Member States of the Commission's exercise of implementing powers** (OJ L 55, 28.2.2011, p. 13).

## Amendment 18

### Proposal for a regulation Article 2 – paragraph 1 – point 3

*Text proposed by the Commission*

*Amendment*

(3) 'payer' means a *natural or legal person who either carries out a transfer of funds from his or her own account or who places an order for a transfer of funds*;

(3) 'payer' means a *payer as defined in Article 4(7) of Directive 2007/64/EC of the European Parliament and of the Council*<sup>1a</sup>;

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<sup>1a</sup> *Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 187, 18.7.2009, p. 5).*

## **Amendment 19**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 4**

*Text proposed by the Commission*

*Amendment*

(4) 'payee' means a *natural or legal person who is the intended recipient of transferred funds*;

(4) 'payee' means a *payee as defined in Article 4(8) of Directive 2007/64/EC*;

## **Amendment 20**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 5**

*Text proposed by the Commission*

*Amendment*

(5) 'payment service provider' means a *natural or legal person who provides the service of transferring funds in his or her professional capacity*;

(5) 'payment service provider' means a *payment service provider as defined in Article 4(9) of Directive 2007/64/EC*;

## **Amendment 21**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 7**

*Text proposed by the Commission*

*Amendment*

(7) 'transfer of funds' means any transaction carried out by electronic means

(7) 'transfer of funds' means any transaction carried out by electronic means

on behalf of a payer through a payment service provider, with a view to making funds available to a payee through a payment service provider, irrespective of whether the payer and the payee are the same person;

on behalf of a payer through a payment service provider, with a view to making funds available to a payee through a payment service provider, *in particular ‘money remittance services’ and ‘direct debit’ within the meaning of Directive 2007/64/EC*, irrespective of whether the payer and the payee are the same person;

## Amendment 22

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 10

##### *Text proposed by the Commission*

(10) ‘a person-to-person’ transfer of funds means a transaction between two natural persons.

##### *Amendment*

(10) ‘a person-to-person’ transfer of funds means a transaction between two natural persons, *who, as consumers, act for purposes other than their trade, business or profession.*

## Amendment 23

### Proposal for a regulation

#### Article 3 – paragraph 2 – subparagraph 1 – introductory part

##### *Text proposed by the Commission*

2. This Regulation shall not apply to transfers of funds carried out using a credit *or debit card*, or a mobile telephone or any other digital or information technology (IT) device, where the following conditions are fulfilled:

##### *Amendment*

2. This Regulation shall not apply to transfers of funds carried out using a credit, *debit or prepaid card or voucher*, or a mobile telephone, *e-money*, or any other digital or information technology (IT) device *defined in Directive 2014/.../EU [PSD]*, where the following conditions are fulfilled:

## Amendment 24

### Proposal for a regulation

#### Article 3 – paragraph 2 – subparagraph 1 – point a

##### *Text proposed by the Commission*

(a) the card or device is used to pay goods and services;

##### *Amendment*

(a) the card or device is used to pay goods and services *to a company within professional trade or business;*

## Amendment 25

### Proposal for a regulation

#### Article 3 – paragraph 2 – subparagraph 2

##### *Text proposed by the Commission*

However, this Regulation shall apply when a credit or **debit** card, or a mobile telephone, or any other digital or IT device is used in order to effect a person-to-person transfer of funds.

##### *Amendment*

However, this Regulation shall apply when a credit, **debit** or **prepaid** card **or voucher**, or a mobile telephone, **e-money** or any other digital or **information technology** (IT) device is used in order to effect a person-to-person transfer of funds.

## Amendment 26

### Proposal for a regulation

#### Article 3 – paragraph 3 – subparagraph 1 a (new)

##### *Text proposed by the Commission*

##### *Amendment*

***This Regulation shall not apply to natural or legal persons who have no activity other than to convert paper documents into electronic data and who act under a contract with a payment service provider as well as any natural or legal persons who have no activity other than to provide payment service providers with messaging or other support systems for transmitting funds or with clearing and settlement systems.***

## Amendment 27

### Proposal for a regulation

#### Article 4 – paragraph 1 – point c

##### *Text proposed by the Commission*

(c) the payer's address, or **national identity number, or** customer identification number, or date and place of birth.

##### *Amendment*

(c) the payer's address, or customer identification number, or date and place of birth.

## Amendment 28

### Proposal for a regulation

#### Article 4 – paragraph 3



*Text proposed by the Commission*

3. Before transferring the funds, the payment service provider of the payer shall verify the accuracy of the information referred in paragraph 1 on the basis of documents, data or information obtained from a reliable and independent source.

*Amendment*

3. Before transferring the funds, the payment service provider of the payer shall ***apply customer due diligence measures in accordance with Directive (xxxx/yyyy) and shall*** verify the accuracy ***and completeness*** of the information referred in paragraph 1 on the basis of documents, data or information obtained from a reliable and independent source.

**Amendment 29**

**Proposal for a regulation  
Article 4 – paragraph 5**

*Text proposed by the Commission*

5. However, by way of derogation from paragraph 3, in the case of transfers of funds not made from an account, the payment service provider of the payer ***shall not verify the information referred to in paragraph 1 if the amount does not exceed EUR 1 000 and it does not appear to be linked to other transfers of funds which, together with the transfer in question, exceed EUR 1 000.***

*Amendment*

5. However, by way of derogation from paragraph 3, in the case of transfers of funds not made from an account, the payment service provider of the payer ***is required to verify at least the name of the payer for transfers of funds of up to EUR 1 000, but shall verify the complete information relating to the payer and the payee referred to in paragraph 1 where the transaction is carried out in several operations that appear to be linked or where they exceed EUR 1 000.***

**Amendment 30**

**Proposal for a regulation  
Article 5 – paragraph 1**

*Text proposed by the Commission*

1. By way of derogation from Article 4(1) and (2), where the payment service provider(s) of both the payer and the payee are established in the Union, only the account number of the payer or ***his*** unique transaction identifier shall be provided at the time of the transfer of funds.

*Amendment*

1. By way of derogation from Article 4(1) and (2), where the payment service provider(s) of both the payer and the payee are established in the Union, only the ***full name and the*** account number of the payer ***and the payee*** or ***the*** unique transaction identifier shall ***be required to*** be provided at the time of the transfer of funds, ***without prejudice to the information requirements***

## **Amendment 31**

### **Proposal for a regulation Article 5 – paragraph 2**

*Text proposed by the Commission*

2. Notwithstanding paragraph 1, the payment service provider of the payer shall, upon request from the payment service provider of the payee or the intermediary payment service provider, make available the information on the payer or the payee in accordance with Article 4, within three working days of receiving that request.

*Amendment*

2. Notwithstanding paragraph 1, the payment service provider of the payer shall, ***in the case of an identified higher risk as referred to in the Article 16(2) or (3) of, or in Annex III to, Directive [xxxx/yyyy], require the complete information relating to the payer and to the payee or,*** upon request from the payment service provider of the payee or the intermediary payment service provider, make available the information on the payer or the payee in accordance with Article 4, within three working days of receiving that request.

## **Amendment 32**

### **Proposal for a regulation Article 6 – paragraph 2 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

By way of derogation from Article 4(1) and (2), where the payment service provider of the payee is established outside the Union, transfers of funds amounting to EUR 1 000 or less shall be accompanied ***only*** by:

*Amendment*

By way of derogation from Article 4(1) and (2), where the payment service provider of the payee is established outside the Union, transfers of funds amounting to EUR 1 000 or less shall be accompanied by:

## **Amendment 33**

### **Proposal for a regulation Article 7 – paragraph 1**

*Text proposed by the Commission*

1. The payment service provider of the payee shall detect whether the fields relating to the information on the payer and

*Amendment*

1. The payment service provider of the payee shall detect whether the fields relating to the information on the payer and

the payee in the messaging system or the payment and settlement system used to effect the transfer of funds, have been filled in using the characters or inputs admissible within the conventions of that system.

the payee in the messaging system or the payment and settlement system used to effect the transfer of funds, have been filled in using the characters or inputs admissible *to the internal risk-based established anti-abuse procedures* within the conventions of that *messaging or payment and settlement* system.

## Amendment 34

### Proposal for a regulation Article 7 – paragraph 4

#### *Text proposed by the Commission*

4. For transfers amounting to EUR 1 000 or less, where the payment service provider of the payer is established outside the Union, the payment service provider of the payee need not verify the information pertaining to the payee, unless there is a suspicion of money laundering or terrorist financing.

#### *Amendment*

4. For transfers amounting to EUR 1 000 or less, where the payment service provider of the payer is established outside the Union, the payment service provider of the payee need not verify the information pertaining to the payee, unless there is a suspicion of money laundering or terrorist financing.

*Member States may reduce or waive the threshold where the national risk assessment has advised that checks of transfers of funds not made from an account be intensified. Member States making use of this derogation shall inform the Commission thereof.*

## Amendment 35

### Proposal for a regulation Article 7 – paragraph 4 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

*4a. Where the payment service provider of the payer is established in a third country which presents an increased level of risk, enhanced customer due diligence shall be applied, in accordance with Directive [xxxx/yyyy], in respect of cross-border correspondent banking relationships with that payment service provider.*

## Amendment 36

### Proposal for a regulation

#### Article 8 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

1. The payment service provider of the payee shall establish effective risk-based procedures for determining when to execute, reject or suspend a transfer of funds lacking the required payer and payee information and the appropriate follow up action.

*Amendment*

1. The payment service provider of the payee shall establish effective risk-based procedures, ***based on the identified risks in Article 16(2) of, and Annex III to, Directive [xxxx/yyyy],*** for determining when to execute, reject or suspend a transfer of funds lacking the required ***complete*** payer and payee information and the appropriate follow up action.

## Amendment 37

### Proposal for a regulation

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

*Text proposed by the Commission*

*Amendment*

***1a. In any event, the payment service provider of the payer and the payment service provider of the payee shall comply with any applicable law or administrative provisions relating to money laundering and terrorist financing, in particular Regulation (EC) No 2580/2001, Regulation (EC) No 881/2002 and Directive [xxxx/yyyy].***

## Amendment 38

### Proposal for a regulation

#### Article 8 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

If the payment service provider ***of the payee*** becomes aware, when receiving transfers of funds, that information on the payer and the payee required under Articles 4(1) and (2), 5(1) and 6 is missing or incomplete, it shall either reject the transfer or ask for complete information on the payer and the payee.

*Amendment*

If the payment service provider becomes aware, when receiving transfers of funds, that information on the payer and the payee required under Articles 4(1) and (2), 5(1) and 6 is missing or incomplete ***or has not been completed using the characters or inputs admissible within the conventions of the messaging or payment and***

*settlement system*, it shall either reject the transfer or ***suspend it and*** ask for complete information on the payer and the payee ***before executing the payment transaction***.

## Amendment 39

### Proposal for a regulation

#### Article 8 – paragraph 2 – subparagraph 1

##### *Text proposed by the Commission*

2. Where a payment service provider regularly fails to supply the required information on the payer, the payment service provider of the payee shall take steps, which may initially include the issuing of warnings and setting of deadlines, before either rejecting any future transfers of funds from that payment service provider or deciding whether or not to restrict or terminate its business relationship with that payment service provider.

##### *Amendment*

2. Where a payment service provider regularly fails to supply the required ***complete*** information on the payer, the payment service provider of the payee shall take steps, which may initially include the issuing of warnings and setting of deadlines, before either rejecting any future transfers of funds from that payment service provider or deciding whether or not to restrict or terminate its business relationship with that payment service provider.

## Amendment 40

### Proposal for a regulation

#### Article 9

##### *Text proposed by the Commission*

The payment service provider of the payee shall consider missing or incomplete information on the payer and the payee as ***a factor*** in assessing whether the transfer of funds, or any related transaction, is suspicious, and whether it must be reported to the Financial Intelligence Unit.

##### *Amendment*

The payment service provider of the payee shall ***in accordance with the payment service providers risk-based procedures*** consider missing or incomplete information on the payer and the payee as ***one of the factors*** in assessing whether the transfer of funds, or any related transaction, is suspicious, and whether it must be reported to the Financial Intelligence Unit. ***The payment service provider shall, in its effective risk-based procedures, also focus on, and take appropriate measures regarding, other risk factors as identified in Article 16(3) of, and Annex III to, Directive [xxxx/yyyy].***

## Amendment 41

### Proposal for a regulation

#### Article 11 – paragraph 2 – introductory part

##### *Text proposed by the Commission*

2. The intermediary payment service provider shall have effective procedures in place in order to detect whether the following information on the payer and the payee is missing:

##### *Amendment*

2. The intermediary payment service provider shall have effective procedures in place in order to detect whether the following information on the payer and the payee is missing ***or incomplete***:

## Amendment 42

### Proposal for a regulation

#### Article 12 – paragraph 1 – subparagraph 1

##### *Text proposed by the Commission*

1. The intermediary payment service provider shall establish effective risk-based procedures for determining ***when to execute, reject or suspend a transfer of funds lacking the required payer and payee information and the*** appropriate follow up action.

##### *Amendment*

1. The intermediary payment service provider shall establish effective risk-based procedures for determining ***whether the information received on the payer and the payee is missing or incomplete and shall undertake*** appropriate follow up action.

## Amendment 43

### Proposal for a regulation

#### Article 12 – paragraph 1 – subparagraph 2

##### *Text proposed by the Commission*

If the intermediary payment service provider becomes aware, when receiving transfers of funds, that information on the payer and the payee required under Articles 4(1) and (2), 5(1) and 6 is missing or incomplete, it shall either reject the transfer or ask for complete information on the payer and the payee.

##### *Amendment*

If the intermediary payment service provider becomes aware, when receiving transfers of funds, that information on the payer and the payee required under Articles 4(1) and (2), 5(1) and 6 is missing or incomplete ***or has not been completed using the characters or inputs admissible in accordance with the conventions of the messaging or payment and settlement system***, it shall either reject the transfer or ***suspend it and*** ask for complete information on the payer and the payee

*before executing the payment transaction.*

#### **Amendment 44**

##### **Proposal for a regulation Article 15 – title**

*Text proposed by the Commission*

Cooperation obligations

*Amendment*

Cooperation obligations *and equivalence*

#### **Amendment 45**

##### **Proposal for a regulation Article 15 – paragraph 1**

*Text proposed by the Commission*

1. Payment service providers shall respond fully and without delay, in accordance with the procedural requirements established in the national law of the Member State in which they are established, to enquiries from the authorities responsible for combating money laundering or terrorist financing of that Member State concerning the information required under this Regulation.

*Amendment*

1. Payment service providers *and intermediary payment service providers* shall respond fully and without delay, in accordance with the procedural requirements established in the national law of the Member State in which they are established, to enquiries *exclusively* from the authorities responsible for combating money laundering or terrorist financing of that Member State concerning the information required under this Regulation. *Specific safeguards shall be put in place in order to ensure that such exchanges of information comply with data protection requirements. No other external authorities or parties shall have access to the data stored by the payment service providers.*

#### **Amendment 46**

##### **Proposal for a regulation Article 15 – paragraph 1 – point 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*1a. Because a great proportion of illicit financial flows ends up in tax havens, the Union should increase its pressure on those countries to cooperate in order to combat such illicit financial flows and*

*improve transparency.*

#### **Amendment 47**

##### **Proposal for a regulation Article 15 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. Payment service providers established in the Union shall apply this Regulation with regard to their subsidiaries and branches operating in third countries that are not deemed equivalent.***

***The Commission shall be empowered to adopt delegated acts in accordance with Article 22a concerning the recognition of the legal and supervisory framework of jurisdictions outside the Union as equivalent to the requirements of this Regulation.***

#### **Amendment 48**

##### **Proposal for a regulation Article 15 a (new)**

*Text proposed by the Commission*

*Amendment*

##### ***Article 15a***

##### ***Data Protection***

***1. With regard to the processing of personal data within the framework of this Regulation, payment service providers shall carry out their tasks for the purposes of this Regulation in accordance with national law transposing Directive 95/46/EC.***

***2. Payment service providers shall ensure that data retained under this Regulation is used only for the purposes described herein and that it is in no case used for commercial purposes.***

***3. Data protection authorities shall have powers, including the indirect access powers, to investigate, either ex officio or based on a complaint, any claims as***



*regards problems with personal data processing. This should include particularly access to the data file at the payment service provider and competent national authorities.*

#### **Amendment 49**

##### **Proposal for a regulation Article 15 b (new)**

*Text proposed by the Commission*

*Amendment*

##### **Article 15b**

*Transfer of personal data to third countries or international organisations*

*The transfer of personal data to a third country, or to an international organisation, which does not ensure an adequate level of protection within the meaning of Article 25 of Directive 95/46/EC, may take place only if:*

*(a) appropriate data protection measures and safeguards are put in place; and*

*(b) the supervisory authority has, after assessing those measure and safeguards, given prior authorisation for the transfer.*

#### **Amendment 50**

##### **Proposal for a regulation Article 16**

*Text proposed by the Commission*

*Amendment*

The payment service provider of the payer and the payment service provider of the payee shall keep records of the information referred to in Articles 4, 5, 6 and 7 for five years. In the cases referred to in Article 14(2) and (3), the intermediary payment service provider must keep records of all information received for five years. Upon expiry of this period, personal data must be deleted, *unless otherwise provided for by national law, which shall determine under which circumstances payment service providers may or shall further retain data.*

*Information on the payer and the payee shall not be kept any longer than strictly necessary.* The payment service provider of the payer and the payment service provider of the payee shall keep records of the information referred to in Articles 4, 5, 6 and 7 for *a maximum period of* five years. In the cases referred to in Article 14(2) and (3), the intermediary payment service provider must keep records of all information received for five years. Upon expiry of this period, personal data must be deleted. *Member States may allow or*

*Member States may allow or require further retention only* if necessary for the prevention, detection or investigation of money laundering and terrorist financing. The maximum retention period following carrying-out of the transfer of funds shall not exceed ten years.

*require retention for a further period only in exceptional situations, where justified and where reasons have been given, and only* if necessary for the prevention, detection or investigation of money laundering and terrorist financing. The maximum retention period following carrying-out of the transfer of funds shall not exceed ten years *and the storage of personal data shall comply with national law transposing Directive 95/46/EC.*

## **Amendment 51**

### **Proposal for a regulation**

#### **Article 16 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*The payment service providers of the payer, the payee and the intermediary service providers, shall have in place appropriate technical and organisational measures to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access.*

## **Amendment 52**

### **Proposal for a regulation**

#### **Article 16 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

*The information collected on the payer or the payee by the payment service providers of the payer, the payee and the intermediary payment service providers shall be deleted following expiry of the retention period.*

## **Amendment 53**

### **Proposal for a regulation**

#### **Article 16 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 16a**

***Access to information and confidentiality***

***1. Payment service providers shall ensure that the information collected for the purposes of this Regulation is accessible only to designated persons or limited to persons strictly necessary for the completion of the undertaken risk.***

***2. Payment service providers shall ensure that the confidentiality of the data processed is respected.***

***3. Individuals who have access to and who are dealing with personal data of the payer or the payee, shall respect the confidentiality of the data processes as well as the data protection requirements.***

***4. Competent authorities shall ensure that specific data protection training is provided to persons who regularly collect or process personal data.***

**Amendment 54**

**Proposal for a regulation**

**Article 18 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) repeated non-inclusion of required information on the payer and payee, in breach of Articles 4, 5 and 6;

*Amendment*

(a) repeated non-inclusion of required information on the payer and payee ***by a payment service provider***, in breach of Articles 4, 5 and 6;

**Amendment 55**

**Proposal for a regulation**

**Article 18 – paragraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) serious failure by intermediary payment service providers to comply with Articles 11 and 12.***

## Amendment 56

### Proposal for a regulation

#### Article 19 – paragraph 1

##### *Text proposed by the Commission*

Administrative sanctions and measures imposed in the cases referred to in Articles 17 and 18(1) **shall be published** without undue delay including information on the type and nature of the breach and the identity of persons responsible for it, **unless such publication would seriously jeopardise the stability of financial markets.**

##### *Amendment*

**The competent authorities shall publish** administrative sanctions and measures imposed in the cases referred to in Articles 17 and 18(1) without undue delay including information on the type and nature of the breach and the identity of persons responsible for it **if necessary and proportionate after a case-by-case evaluation.**

## Amendment 57

### Proposal for a regulation

#### Article 19 – paragraph 2 a (new)

##### *Text proposed by the Commission*

##### *Amendment*

**2a. Where the competent authority of a Member State imposes or applies an administrative penalty or other measure in accordance with Articles 17 and 18, it shall notify EBA of that penalty or measure and of the circumstances under which it was imposed or applied. EBA shall include such notification in the central database of administrative penalties established in accordance with Article 69 of Directive 2013/36/EU of the European Parliament and of the Council<sup>1a</sup> and shall apply to it the same procedures as for all other published penalties.**

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<sup>1a</sup> 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).

## Amendment 58

### Proposal for a regulation

#### Article 21 – paragraph 1

##### *Text proposed by the Commission*

1. Member States shall establish effective mechanisms to encourage reporting of breaches of the provisions of this Regulation to competent authorities.

##### *Amendment*

1. Member States shall establish effective mechanisms to encourage reporting of breaches of the provisions of this Regulation to competent authorities.  
***Appropriate technical and organisational measures shall be implemented to protect data against accidental or unlawful destruction, accidental loss, alteration, or unlawful disclosure.***

## Amendment 59

### Proposal for a regulation

#### Article 21 – paragraph 2 – point b

##### *Text proposed by the Commission*

(b) appropriate protection for persons who report potential or actual breaches;

##### *Amendment*

(b) appropriate protection for ***whistleblowers and*** persons who report potential or actual breaches;

## Amendment 60

### Proposal for a regulation

#### Article 21 – paragraph 3

##### *Text proposed by the Commission*

3. The payment service providers shall establish appropriate procedures for their employees to report breaches internally through a ***specific*** channel.

##### *Amendment*

3. The payment service providers ***in cooperation with the competent authorities*** shall establish ***internal*** appropriate procedures for their employees to report breaches internally through a ***secure, independent and anonymous*** channel.

## Amendment 61

### Proposal for a regulation

#### Article 22

*Text proposed by the Commission*

Member States shall require competent authorities to effectively monitor, and take necessary measures with a view to ensuring, compliance with the requirements of this Regulation.

*Amendment*

Member States shall require competent authorities to effectively monitor, and take necessary measures with a view to ensuring, compliance with the requirements of this Regulation. ***EBA may issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010, on the processes for implementing this Regulation, taking into account the best practices of Member States.***

**Amendment 62**

**Proposal for a regulation**

**Article 22 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The Commission shall coordinate and carefully monitor the application of this Regulation with regard to payment service providers outside the Union and shall strengthen cooperation, where appropriate, with third-country authorities responsible for investigating and penalising breaches under Article 18.***

**Amendment 63**

**Proposal for a regulation**

**Article 22 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. By 1 January 2017, the Commission shall submit a report to the European Parliament and to the Council on the application of Chapter IV, with particular regard to cross-border cases, third-country payment service providers and their national competent authorities' execution of investigatory and penalising powers. Should there be a risk of a breach relating to the storage of data, the Commission shall take appropriate and***

*effective action, including submitting a proposal to amend this Regulation.*

## **Amendment 64**

### **Proposal for a regulation Article 22 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 22a**

##### ***Exercise of the delegation***

- 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 Article 15(1a) shall be conferred on the Commission for an indeterminate period of time from the date referred to in Article 26.***
- 3. The delegation of power referred to in Article 15(1a) 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 that 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. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.***
- 5. A delegated act adopted pursuant to Article 15(1a) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months 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 two months at the initiative of the***

**Amendment 65**

**Proposal for a regulation**

**Article 23 – paragraph 2**

*Text proposed by the Commission*

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

*Amendment*

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply, ***provided that implementing provisions adopted under the procedure set out therein do not alter the basic provisions of this Regulation.***

**Amendment 66**

**Proposal for a regulation**

**Article 24 – title**

*Text proposed by the Commission*

Agreements with territories or countries mentioned in Article 355 of the Treaty

*Amendment*

Agreements with territories or countries ***not*** mentioned in Article 355 of the Treaty

**Amendment 67**

**Proposal for a regulation**

**Article 24 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

1. The Commission may authorise any Member State to conclude agreements with a country or territory which does not form part of the territory of the Union mentioned in Article 355 of the Treaty, which contain derogations from this Regulation, in order to allow for transfers of funds between that country or territory and the Member State concerned to be treated as transfers of funds within that Member State.

*Amendment*

1. ***Without prejudice to Article 15(1a)***, the Commission may, ***in cases in which equivalence has been substantiated***, authorise any Member State to conclude agreements with a country or territory which does not form part of the territory of the Union mentioned in Article 355 of the Treaty, which contain derogations from this Regulation, in order to allow for transfers of funds between that country or territory and the Member State concerned to be treated as transfers of funds within that Member State.



## Amendment 68

### Proposal for a regulation

#### Article 24 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3a. For authorised decisions relating to dependent or associated territories already in place, uninterrupted continuation shall be ensured, namely Commission Implementing Decision 2012/43/EU<sup>1a</sup>, Commission Decision 2010/259/EC<sup>1b</sup>, and Commission Decision 2008/982/EC<sup>1c</sup>.**

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<sup>1a</sup> **Commission Implementing Decision 2012/43/EU of 25 January 2012 authorising the Kingdom of Denmark to conclude agreements with Greenland and the Faeroe Islands for transfers of funds between Denmark and each of these territories to be treated as transfers of funds within Denmark, pursuant to Regulation (EC) No 1781/2006 of the European Parliament and of the Council (OJ L 24, 27.1.2012, p. 12).**

<sup>1b</sup> **Commission Decision 2010/259/EC of 4 May 2010 authorising the French Republic to conclude an agreement with the Principality of Monaco for transfers of funds between the French Republic and the Principality of Monaco to be treated as transfers of funds within the French Republic, pursuant to Regulation (EC) No 1781/2006 of the European Parliament and of the Council (OJ L 112, 5.5.2010, p. 23).**

<sup>1c</sup> **Commission Decision 2008/982/EC of 8 December 2008 authorising the United Kingdom to conclude an agreement with the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man for transfers of funds between the United Kingdom, pursuant to Regulation (EC) No 1781/2006 of the European Parliament and of the Council (OJ L 352, 31.12.2008, p. 34).**