Fighting Against Money Laundering
The views of organised civil society

Summary of relevant EESC opinions

ECO
Section for Economic and Monetary Union and Economic and Social Cohesion

European Economic and Social Committee
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Preface

Money laundering presents a threat to the security, integrity and stability of the financial system in Europe and across the globe; combating it is essential for sustainable growth and goes hand in hand with the fight to cut off the financial channels for the terrorism that is shaking the very foundations of our societies. Combating money laundering and the financing of terrorism was one of the main priorities of the Juncker Commission, and the European Union has developed a number of policies to protect against the misuse of the financial market for these purposes.

Thanks to the efforts made to date, the European Union has developed a solid regulatory framework to prevent money laundering and terrorism financing. However, we need to make sure that this framework is regularly updated to keep up with the increasing integration in the European financial markets and is able to respond effectively to the technological developments and new methods of criminals looking for loopholes.

The fight against terrorism financing and the efforts to combat money laundering and other related forms of economic crime must have a permanent place among the European Union’s top policy priorities. The European Economic and Social Committee (EESC) – a consultative body of the European Union that gives representatives of Europe’s organised civil society a formal platform to express their points of view on EU issues and policies – supports every ambition set in this area. It is a horizontal issue overarching almost all policy areas, and success will therefore depend on a diligent and comprehensive approach and will require all stakeholders to join forces.

The way forward

This brochure presents the EESC’s opinions on various aspects of the fight against money laundering and terrorism financing in the EU, providing an overview of policy developments and the views of civil society on the steps taken. We call on European and national policy-makers to keep working to ensure that the policies are effective, up-to-date and properly implemented. Ensuring the security of our citizens should remain one of the main concerns for both the EU and its Member States, no matter how much effort it takes. To ensure the success of these policies, globally coordinated action is indispensable and Europe can lead the way in this process.

Stefano Palmieri
President
Section for Economic and Monetary Union and Economic and Social Cohesion (ECO)
European Economic and Social Committee
It is essential to equip the European Union and the Member States with effective means of bolstering the integrity and transparency of financial transactions. The Commission’s proposals are certainly a step in the right direction in this respect.

Carlos Trias Pintó, Study Group President

The EESC
• welcomes the Commission’s proposals on adapting the European regulatory framework to reflect changes made to international standards on preventing and combating money laundering and the financing of terrorism;
• welcomes the clarifications that have been made with regard to the customer due diligence requirements of professionals regarding beneficial owners;
• approves of the inclusion of gambling service providers on the list of professionals subject to requirements;
• notes that the proposal contains a certain number of requirements that go beyond international standards, in particular by lowering the threshold above which traders in goods must implement the requirements (from EUR 15 000 to EUR 7 500);
• calls on the Commission and the Member States to do more to help small entities comply with anti-money laundering requirements;
• applauds the Commission for attempting the delicate balancing act of reconciling the apparently conflicting interests of personal data protection and the fight against money laundering;
• welcomes the proposal to harmonise the sanctions applicable in the financial sector at European level. It is essential that sanctions are dissuasive and commensurate with the sums of money being laundered;
• has reservations regarding the purely “administrative” nature of the sanctions foreseen, in terms of their severity and in relation to Articles 6(1) and 7 of the European Convention on Human Rights.

Rapporteur: Christopher Zeeb
The EESC

• welcomes in principle the measures included in the proposed amendment to the Anti Money Laundering Directive (AMLD) and agrees that its transposition is urgent;

• is aware of the effort that adapting to the directive demands of businesses and obliged entities, as well of the supervisory authorities and proposes that the impact of applying these measures be assessed;

• is concerned that a number of factors may seriously limit the practical effectiveness of the fourth and fifth AMLD;

• criticises that the list of high-risk third countries, published on 14 July 2016, does not include many of the countries or jurisdictions which – on the basis of credible evidence – are believed to be acting as tax havens for money laundering, or any of the 21 territories mentioned in the Panama Papers;

• proposes that either a new list of high-risk third countries be drawn up, or the scope of the measures under Article 18a of 5AMLD be broadened;

• considers creating public national registers of the beneficial owners of bank accounts, businesses, trusts and transactions, and access to them by obliged entities, to be a priority;

• believes that all obligations laid down in the 5AMLD should be extended to all territories or jurisdictions whose sovereignty resides with the Member States;

• feels that the fight against money laundering should be linked more closely with the efforts needed to combat tax fraud and avoidance, corruption and other connected crimes;

• underlines that the fight against terrorism and money laundering requires closer cooperation between the various intelligence and security services of the Member States, and between these services and Europol;

• considers that free trade and economic partnership agreements should include a chapter on measures to tackle tax fraud and avoidance, money laundering and terrorist financing;

• suggests that the Commission should explore additional steps to protect the rights of citizens against illegal use or abuse of the information recorded by the competent authorities or obliged entities.

Rapporteur: Javier Doz Orrit

The fight against terrorism and its financing and efforts to combat money laundering and other related forms of economic crime should be a permanent EU policy priority. To ensure its effectiveness, we need to establish a single list of non-cooperative states and jurisdictions, strong sanctions against their harmful practices, and real and fair collaboration among all EU Member States, in respect of such activities, including tax avoidance. This is not yet the case today.

Javier Doz Orrit
Access to anti-money-laundering information by tax authorities

The EESC

• welcomes the efforts to combat tax evasion and money laundering;

• endorses the rules proposed for amending the Directive on Administrative Cooperation (DAC). Information on the beneficiaries of financial transactions is to be included in the categories of information to be exchanged between Member State tax administrations, which will enhance their administrative capacity;

• calls on the Member States to ensure that their tax administrations have the human, financial and logistical resources needed to successfully implement the new rules.

• Since the amendment of the DAC Directive can only be fully implemented if the proposal for a directive amending the Fourth Anti-Money Laundering Directive (4AMLD) is also approved, the EESC recommends that the Member States and the European Parliament approve the Commission’s proposed legislative package in its entirety.

Rapporteur: Petru Sorin Dandea
Terrorism Financing – Controls of cash movements

The EESC

• supports the Commission’s proposal to expand the scope of controls and the competency of the authorities in order to conduct checks and confiscate goods, whenever there is a reasonable indication of illicit activities, will facilitate the discovery of more fraudulent cases and gather more information;

• believes that it is necessary to improve cooperation, both between the competent authorities and between Member States, in order to achieve the maximum effect in applying the new regulation;

• proposes that, following a study and extensive consultations, the Commission should put together a plan for reducing the use of cash in the EU and the adequacy of the EUR 10,000 threshold should be reconsidered;

• believes that the Commission should go further in setting out the penalties for failure to comply with the obligation to declare;

• reiterates its concern that tax havens in which the most significant money laundering takes place – and whose cash flows with the EU should in particular be monitored – are not featured in the list of the Commission of high risk third countries;

• suggests that tax authorities should also have access to information collected in the course of cash flow controls in order to investigate links of such activities with tax offences;

• recommends that in addition to gold, other highly liquid commodities should be included in the definition of cash from the moment the new regulation is adopted;

• proposes that more attention should be paid to the threat of further use of pre-paid cards by criminals and terrorists of such instruments to covertly finance their activities;

• suggests that data protection should be strengthened due to the increase in the amount of data being collected and exchanged between authorities.

Rapporteur: Javier Doz Orrit
Co-rapporteur: Mihai Ivașcu

Cooperation between the Member States must be improved by making their anti-terrorism databases available to Europol and by helping all Member States access the necessary material and human resources for effective control of the different types of cash and their means of transport. The investigation of criminal cash flows is linked to other crimes, particularly tax crimes: tax authorities should therefore have access to information collected in the course of cash flow controls.

Javier Doz Orrit

The fight against terrorism financing should be a permanent and constant EU policy priority, as the safety and protection of our citizens can never be put in second place. The removal from circulation in 2018 of EUR 500 banknotes is definitely a step forward, as it has been widely documented that these banknotes were used to make cash payments for illicit trafficking. However, the amount of cash used in the EU remains at a high level and lowering the EUR 10,000 threshold for which declaration is compulsory should be thoroughly analysed.

Mihai Ivașcu
The latest series of banking scandals has shown that previous improvements to the legislative framework covering financial supervision in these matters did not strengthen the regime enough to meet the rapid technological change and financial innovations that provide new tools for perpetrators to exploit the system for criminal ends. We therefore welcome the Commission’s agility in response to this issue.

Petr Zahradník

The EESC

- appreciates the agility with which the European Commission is responding to the money laundering problems;
- thinks that, in addition to strengthening the coordination between supervisory authorities and streamlining procedures, operations should also be coordinated with other relevant parties;
- underlines the increasing importance of this problem in relation to third countries;
- finds that it is preferable to move in stages so as to avoid significant disruptions to the stability and functioning of the existing system;
- stresses the importance of internal and external communication on money laundering and financing of terrorism:
  - internal communications: improving and protecting information streams between the supervisory bodies concerned;
  - external communication: the public in question should be provided with information and made aware of the different ways this kind of crime may be presented, as a means of preventing and preparing for it;
- would like to see a more detailed outline of the new relationships between the European Banking Authority (EBA) and the other EU supervisory authorities, as well as the national and, especially, third-country supervisory authorities.

Rapporteur: Petr Zahradník
Appendix

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Opinion of the EESC on the Proposal for a Regulation of the European Parliament and of the Council on information accompanying transfers of funds
COM(2013) 44 final – 2013/0024 (COD)
and on 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
COM(2013) 45 final – 2013/0025 (COD)
OJ C 271 of 19.9.2013, p. 31
Rapporteur: Christopher Zeeb
Adopted at the Plenary Session of 22 and 23 May 2013

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COM(2016) 450 final – 2016/0208 (COD)
OJ C 34 of 2.2.2017, p. 121
Rapporteur: Javier Doz Orrit
Adopted at the Plenary Session of 19 and 20 October 2016

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Opinion of the EESC on the Proposal for a Directive of the Council amending Directive (EU) 2011/16 as regards access to anti-money-laundering information by tax authorities
COM(2016) 452 final – 2016/0209 (CNS)
OJ C 34 of 2.2.2017, p. 127
Rapporteur: Petru Sorin Dandea
Adopted at the Plenary Session of 19 and 20 October 2016

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Opinion of the EESC on the Proposal for a Regulation of the European Parliament and of the Council on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005
COM(2016) 825 final – 2016/0413 (COD)
OJ C 246 of 28.7.2017, p. 22
Rapporteur: Javier Doz Orrit
Co-rapporteur: Mihai Șoșcu
Adopted at the Plenary Session of 26 and 27 April 2017
Opinion of the EESC on the Amended Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority); Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority); Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority); Regulation (EU) No 345/2013 on European venture capital funds; Regulation (EU) No 346/2013 on European social entrepreneurship funds; Regulation (EU) No 600/2014 on markets in financial instruments; Regulation (EU) 2015/760 on European long-term investment funds; Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds; Regulation (EU) 2017/1129 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market; and (EU) Directive 2015/849 on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing


OJ C 110 of 22.3.2019, p. 58

Rapporteur: Petr Zahradnik

Adopted at the Plenary Session of 12 and 13 December 2018