

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849 (Text with

EEA relevance)

2021/0250(COD)

Non-versioned [LATEST TEXT]

22-01-2024 at 10h17

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
Recital 35				
45	<p>(35) Moreover, with the aim of ensuring a proportionate and balanced approach and to guarantee the rights to private life and personal data protection, it should be possible for Member States to provide for exemptions to the disclosure of the personal information on the beneficial owner through the registers of beneficial ownership information and to access to such information, in exceptional circumstances, where that information would expose the beneficial owner to a disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation. It should also be possible for Member States to require online registration in order to identify any person who requests information from the register, as well as the</p>	<p>(35) Moreover, with the aim of ensuring a proportionate and balanced approach and to guarantee the rights to private life and personal data protection, it should be possible for Member States to provide for exemptions to the disclosure of the personal information on the beneficial owner through the registers of beneficial ownership information and to access to such information, in exceptional circumstances, where that information would expose the beneficial owner to a disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation. It should also be possible for Member States to require online registration in order to identify any person who requests information from the register, as well as the</p>	<p>(35) Moreover, with the aim of ensuring a proportionate and balanced approach and to guarantee the rights to private life and personal data protection, it should be possible for Member States to <u>should</u> provide for exemptions to the disclosure of the personal information on the beneficial owner through the registers of beneficial ownership information and to access to such information, in exceptional circumstances, where that information would expose the beneficial owner to a disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation. <u>Such exemptions should be granted by competent authorities on a case-by-case basis and upon a detailed analysis of the nature of the exceptional circumstances in each</u></p>	<p>(35) Moreover, with the aim of ensuring a proportionate and balanced approach and to guarantee the rights to private life and personal data protection, it should be possible for Member States to provide for exemptions to the disclosure of the personal information on the beneficial owner through the registers of beneficial ownership information and to access to such information, in exceptional circumstances, where that information would expose the beneficial owner to a disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation. It should also be possible for Member States to require online registration in order to identify any person who requests information from the register, as well as the</p>

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	payment of a fee for access to the information in the register.	payment of a fee for access to the information in the register.	<u>case.</u> It should also be possible for Member States to require online registration in order to identify any person who requests information from the register, as well as the payment of a <u>proportionate and adequate</u> fee for access to the information in the register, <u>which should not exceed the direct costs of requesting or making the information available. Where the access to the register is provided online through electronic means, Member States should not require the payment of any fees since it is assumed that there is no direct cost of making the information available.</u>	payment of a fee for access to the information in the register. <u>However, those fees should be strictly limited to what is necessary to cover the costs of making the information available and of ensuring the quality of the information they hold, and should not undermine the effective access to beneficial ownership information.</u> Trilogue 16012024 Text Origin: Commission Proposal
Article 10(1), second subparagraph				
208	The beneficial ownership information contained in the central registers may be collected in accordance with national systems.	<u>1b.</u> The beneficial ownership information contained in the central registers may be collected in accordance with national systems.	The beneficial ownership information contained in the central registers may <u>shall be available in machine-readable format and</u> be collected in accordance with national systems <u>the implementing acts referred to in paragraph 4. Each Member State shall ensure that such beneficial ownership information is made available in the official language or languages of that Member State and in English.</u>	The beneficial ownership information contained in the central registers may <u>shall be available in machine-readable format and</u> be collected in accordance with national systems <u>the implementing acts referred to in paragraph 4.</u> Reference to EN deleted following Political trilogue 16012023 revert to after discussions on article 12 CONS to reflect on EP-proposal on machine-readable format

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				<p>Trilogue 16012024</p> <p>TM3 14062023</p>
Article 11(2)				
226	<p>2. Access to the central registers referred to in Article 10 shall be granted to FIUs, supervisory authorities, public authorities with designated responsibilities for combating money laundering or terrorist financing, as well as tax authorities and authorities that have the function of investigating or prosecuting money laundering, its predicate offences and terrorist financing, tracing and seizing or freezing and confiscating criminal assets. Self-regulatory bodies shall be granted access to the registers when performing supervisory functions.</p>	<p>2. Access to the <u>interconnected</u> central registers referred to in Article 10 shall be granted to FIUs<u>the FIU</u>, supervisory authorities, public authorities with designated responsibilities for combating money laundering or terrorist financing, as well as tax authorities and authorities that have the function of investigating or prosecuting money laundering, its predicate offences and terrorist financing, tracing and seizing or freezing and confiscating criminal assets. Self-regulatory bodies shall be granted access to the registers when performing supervisory functions.</p>	<p>2. Access to the central registers referred to in Article 10 shall be granted to FIUs, <u>AMLA</u>, supervisory authorities, public authorities with designated responsibilities for combating money laundering or terrorist financing, <u>public procurement agencies</u> as well as tax authorities and authorities that have the function of investigating or prosecuting money laundering, its predicate offences and terrorist financing, tracing and seizing or freezing and confiscating criminal assets. Self-regulatory bodies shall be granted access to the registers when performing supervisory functions.</p>	<p>2. Access <u>as described in paragraph 1</u> to the central registers referred to in Article 10 shall be granted to:</p> <p><u>(a) competent authorities;</u></p> <p><u>(b) self-regulatory bodies in the performance of FIUs;</u> supervisory <u>functions pursuant to Article 29;</u></p> <p><u>(c) tax</u> authorities, public;</p> <p><u>(d) national</u> authorities with designated responsibilities for combating money laundering or terrorist financing, as well as tax authorities and authorities that have the function of investigating or prosecuting money laundering, its predicate offences and terrorist financing, tracing and seizing or freezing and confiscating criminal assets. Self-regulatory bodies shall be granted access<u>the implementation of EU restrictive measures identified under the relevant Council Regulations adopted on the basis of Article 215 of the Treaty on the Functioning of the European Union;</u></p> <p><u>(e) AMLA for the purposes of joint analyses pursuant to Article 25 of</u></p>

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				<p>this Directive and Article 33 of [AMLAR]; (f) the European Public Prosecutor's Office; (g) the European Anti-Fraud Office (OLAF); (h) Europol and Eurojust when providing operational support to the registers when performing supervisory functions competent authorities of the Member States.</p> <p>COM Draft based on Non-Paper of 20102023</p> <p>COM to provide a strnghtened recital on acces by public procurement and its mission to combat corruption</p> <p>Trilogue 16012024 EC to revert</p> <p>TM20 18112023</p>
Article 11(3)				
227	<p>3. Member States shall ensure that, when taking customer due diligence measures in accordance with Chapter III of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation], obliged entities have timely access to the information held in the interconnected central registers referred to in Article 10.</p>	<p>3. Member States shall ensure that, when taking customer due diligence measures in accordance with Chapter III of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] [please insert reference – proposal for Anti-Money Laundering Regulation], obliged entities have timely access to the information held in the</p>	<p>3. Member States shall ensure that, when taking customer due diligence measures in accordance with Chapter III of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation], obliged entities and agents or external service providers to which tasks are outsourced in accordance with Regulation ... [please refer to AML Regulation -</p>	<p>3. Member States shall ensure that, when taking customer due diligence measures in accordance with Chapter III of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation] please insert reference – proposal for Anti-Money Laundering Regulation, obliged entities have timely access to the information held in the interconnected central</p>

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		<p>interconnected central registers referred to in Article 10. <u>Member States may choose to make access for obliged entities on the condition of the payment of a fee, which shall not exceed the administrative costs of making the information accessible, including costs of maintenance and developments of the register.</u></p>	<p><u>2021/0239(COD)</u> have timely, <u>unrestricted and free</u> access to the information held in the interconnected central registers referred to in Article 10.</p> <p><u>In accordance with Chapter IV of Regulation (EU) 2016/679, the obliged entity shall remain fully liable for any action of agents or external service providers to which activities are outsourced when those agents or external service providers access the information held in the interconnected central registers referred to in Article 10.</u></p> <p><u>The obliged entity shall obtain prior authorisation from the data protection supervisory authority in relation to access to a register by an agent or external service provider for the duration of the outsourcing contract between the obliged entities and the agents or external service providers. The data protection supervisory authority shall respond in a timely manner and no later than within two months. If no response is given within that time limit, access shall be deemed to have been granted.</u></p> <p><u>The entity in charge of the central register shall suspend access to the register to obliged entities or agents or external service providers to which tasks are outsourced, in the event of [a risk of a serious failure to comply with the purposes for</u></p>	<p>registers referred to in Article 10.</p> <p>COM Draft based on Non-Paper of 20102023</p> <p>EP drafting proposal:</p> <p>Member States shall ensure that, when taking customer due diligence measures in accordance with Chapter III of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation], obliged entities, [have timely] access to the information held in the interconnected central registers referred to in Article 10. [Member States may make their access subject to payment of a fee which shall not exceed the direct costs of making the information available.]</p> <p>CONS to revert Trilogue 16012024</p> <p>TM20 18112023</p>

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			<u>which access was granted] and or to comply with their obligations under Regulation (EU) 2016/679].</u> <u>Member States shall ensure that such a suspension can be reviewed by the relevant administrative or judicial authorities.”</u>	
Article 11(3a)				
227a				<u>3a. Member States may choose to make beneficial ownership information held in their central registers available the obliged entities the condition of authentication using electronic identification means and relevant trust services as set out in Regulation (EU) 910/2014 of the European Parliament and of the Council and the payment of a fee, which shall be limited to what is strictly necessary to cover costs of making the information available, and of ensuring the quality of the information contained therein. Those fees shall be established in such a way as not to undermine the effective access to the information held in the registers.</u> Trilogue 16012024 Consistency check
Article 12(1), second subparagraph				
233				

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	<p>In addition to the information listed in the first subparagraph, point (a), Member States may, under conditions to be determined in national law, provide for access to additional information necessary for the identification of the beneficial owner. That additional information shall include at least the date of birth or contact details in accordance with Union and Member State data protection rules.</p>	<p><u><i>The natural or legal persons that have a legitimate interest in accessing</i></u> In addition to the information listed in the first subparagraph, point (a), Member States may, under conditions to be determined in national law, provide for access to additional information necessary for the identification of the beneficial owner. That additional information shall include at least the date of birth or contact details in accordance with Union and Member State data protection rules <u><i>shall include the journalists and civil society organisations that are connected with the prevention and combating of money laundering and terrorist financing and persons who are likely to enter into transactions with a legal entity and financial institutions and authorities, in so far as they are involved in the prevention and combat of money laundering, its predicate offences or terrorist financing and do not already have access pursuant to Article 11.</i></u></p>	<p>In addition to the information listed in the first subparagraph, point (a), Member States may, under conditions to be determined in national law, provide for access to additional information necessary for the identification of the beneficial owner. That additional information shall include at least the date of birth or contact details in accordance with Union and Member State data protection rules.</p>	<p>In addition to the information listed <u>referred to</u> in the first subparagraph, point (a), Member States may, under conditions to be determined in national law, provide for access to additional information necessary for the identification of the beneficial owner. That <u>additional Member States shall ensure that any natural or legal persons referred to in points (a), (b) and (e) of paragraph 2 has also access to [all of] the following information:</u></p> <p><u>(a) historical data on the beneficial ownership</u> information shall include at least the date of birth or contact details in accordance with Union and Member State data protection rules <u>of the legal entity or arrangement [including of entities or arrangements ceased to exist in the past five years];</u> <u>(b) a description of the control or ownership structure.</u></p> <p>COM Draft based on Non-Paper of 20102023</p> <p>Outcome trilogue: deletion of contact details information</p> <p>EP drafting proposal 12122023 []</p> <p>Addition of recital : Recital (xx) clarifying persons mentioned in points (a) and (b)</p>

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				<p>with legitimate interest who intend to carry out activities are also covered.</p> <p>CONS to revert Trilogue 16012024</p> <p>TM20 18112023 TM25 04122023</p>
Article 12a				
234k				<p><u>Article 12a</u> <u>Procedure for the verification and mutual recognition of a legitimate interest to access beneficial ownership information</u></p> <p><u>1. Member States shall ensure that the registers referred to in Article 10 take measures to verify the existence of the legitimate interest referred to in Article 12 on the basis of documents, information and data obtained from the applicant and, where necessary, information available to them pursuant to Article 12(3).</u></p> <p><u>[1a. Member States may decide to renew access to information granted under paragraph 2a on the basis of a declaration of honour and proof of identification submitted to those authorities, declaring the provided information is still accurate.]</u></p> <p><u>2. The existence of a legitimate</u></p>

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				<p><u>interest to access beneficial ownership information shall be determined by taking into consideration:</u></p> <p><u>(a) the function or occupation of the applicant; and</u></p> <p><u>(b) with the exception of persons referred to in points (a) and (b) of Article 12(2), the connection with the specific legal entities or legal arrangements whose information is being sought.</u></p> <p><u>3. Member states shall ensure that where access to information is requested by a person whose legitimate interest to access beneficial ownership information has already been verified by the register of another Member State, the verification of the condition in point (a) of the previous Paragraph is satisfied by collecting proof of the legitimate interest issued by the register of that other Member State.</u></p> <p><u>4. Member States shall ensure that registers verify the identity of the applicant whenever accessing the registers. To that end, Member States shall enable the verification of the identity of the applicant using electronic identification means and relevant trust services as set out in Regulation (EU) 910/2014 of the European Parliament and of the Council.</u></p>

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				<p><u>--- alternative COM ---</u> <u>Member States may choose to make beneficial ownership information held in their central registers available to the public on the condition of authentication using electronic identification means and relevant trust services as set out in Regulation (EU) 910/2014 of the European Parliament and of the Council and the payment of a fee, [TRILOGUE : which shall be limited to what is strictly necessary to cover costs of making the information available and of ensuring the quality of the information contained therein. Those fees shall be established in such a way as not to undermine the effective access to the information held in the registers.]</u> <u>[However, Member States shall ensure that access to beneficial ownership information is not prevented on the basis of the geographical establishment or location of the applicant, legal or organisational status or nationality of the natural or legal person requesting access, or of the means or conditions of authentication, notably for applicants who are nationals of third countries.]</u></p> <p><u>5. For the purposes of Paragraph 2, point (a), Member states shall ensure that registers have</u></p>

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				<p><u><i>mechanisms in place to allow repeated access to persons with a legitimate interest to access beneficial ownership information without the need to assess their function or occupation whenever accessing the information.</i></u></p> <p><u><i>6. Member states shall require registers to conduct the assessment in Paragraph 1 and provide a response to the applicant within [TRILOGUE: twelve days]. [TRILOGUE: In exceptional cases, justified by the nature of checks or due to the exceptional volume of the requests to be processed, the registers may request an extension of that deadline to provide their response by twelve additional days. They shall notify the Commission of such extensions.] Following that assessment, where registers decide to grant access to beneficial ownership information, they shall issue a certificate granting access for [TRILOGUE: 3 years.] Any subsequent requests to access information by the same person shall be addressed no later than seven days.</i></u></p> <p><u><i>[TRILOGUE : Exceptionally Extension by twelve days]</i></u></p> <p><u><i>7. Member states shall ensure that registers may only refuse a request</i></u></p>

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				<p><u>to access information on one of the following grounds:</u></p> <p><u>(a) the applicant has not provided the necessary information or documents pursuant to paragraph 1;</u></p> <p><u>(b) the legitimate interest to access beneficial ownership information has not been demonstrated;</u></p> <p><u>(c) the register has a reasonable concern that the information will not be used [for the purposes for which it was requested or that the information will be used for purposes that are not connected to the prevention of money laundering or terrorism financing / directly or indirectly for marketing purposes];</u></p> <p><u>(d) in any of the situations referred to in Article 13;</u></p> <p><u>(e) in the cases referred to in Paragraph 3, the legitimate interest to access beneficial ownership information granted by the register of another Member State does not extend to the purposes for which information is sought;</u></p> <p><u>(f) where the applicant is in a third country and responding to the request to access information would not comply with the provisions of Chapter V of Regulation (EU) 2016/679.</u></p> <p><u>Member States shall ensure that registers consider requesting additional information or documents from the applicant prior</u></p>

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				<p><u>to refusing a request for access on the grounds listed in points (a) to (c) and (e) of this paragraph.</u> <u>Where registers request additional information, the timeframe for providing a response shall be extended by seven days.</u></p> <p><u>8. Where registers refuse to provide access to information pursuant to paragraph 7, Member States shall require that they inform the applicant [in writing] of the reasons for refusal and of their right of redress. The register shall document the steps taken to assess the request and to obtain more information pursuant to the previous paragraph.</u> <u>Member States shall ensure that registers are able to revoke access where any of the grounds listed in paragraph 7 arise or become known to the register after such access has been granted, including, where relevant, on the basis of revocation by a register in another Member State.</u></p> <p><u>9. Member States shall ensure that there are judicial or administrative remedies for challenging the refusal or revocation of access pursuant to this paragraph.</u></p> <p><u>10. Member States shall ensure that registers repeat the verification of</u></p>

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				<p><u>the function or occupation identified under paragraph 2, point (a) from time-to-time [TRILOGUE : and in any case not earlier 12 months after granting access] in the case of persons referred to in point (a), (b) and (e).</u></p> <p>COM Draft based on Non-Paper of 20102023</p> <p>EP drafting proposal 12122023 []</p> <p>Trilogue 16012024 See also recital 35</p> <p>COM / EP to clarify in recital that in writing is in electronic form</p> <p>CONS to revert EC to revert Trilogue 16012024 Consistency check</p> <p>TM25 04122023 TM25 04122023</p>
Article 16(1), first subparagraph				
276	<p>1. Member States shall provide competent authorities with access to information which allows the identification in a timely manner of any natural or legal person owning real estate, including through registers or electronic data retrieval systems where such registers or systems are available. Competent authorities shall also have access to</p>	<p>1. Member States shall provide competent authorities with access to information which allows the identification in a timely manner of any natural or legal person owning real estate, including through registers or electronic data retrieval systems where such registers or systems are available. Competent authorities shall also have access to</p>	<p>1. Member States shall provide competent authorities with access <u>via a single access point in each Member State</u> to information which allows the identification in a timely manner of any natural or legal person owning <u>land or</u> real estate, including. <u>Access shall be granted through public registers or electronic data retrieval systems, provided that</u></p>	<p>1. Member States shall provide <u>ensure that</u> competent authorities with <u>have immediate and direct</u> access <u>free of charge</u> to information which allows the identification in a timely manner of any natural or legal person owning land or real estate, including through registers or electronic data retrieval systems where such registers or systems are</p>

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	<p>information allowing the identification and analysis of transactions involving real estate, including their economic value and details of the natural or legal persons involved in those transactions including, where available, whether the natural or legal person owns, sells or acquires real estate on behalf of a legal arrangement.</p>	<p>information allowing the identification and analysis of transactions involving real estate, including their economic value and details of the natural or legal persons involved in those transactions including, where available, whether the natural or legal person owns, sells or acquires real estate on behalf of a legal arrangement.</p>	<p><u>interoperability can be ensured.</u> Where such registers or systems <u>real estate is owned by a legal person or arrangement, the information on the beneficial owner shall be available, either directly in the register or retrieval system, or in the beneficial ownership register referred to in Article 10, including where the legal person is a foreign legal entity or arrangement, as required under Article 48 of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239(COD)]</u>. Competent authorities <u>other than FIUs</u> shall also have <u>timely</u> access to information allowing the identification and analysis of transactions involving <u>land or</u> real estate, including their economic value, <u>the source of funds and the</u> and details of the natural or legal persons involved in those transactions including, where available, whether the natural or legal person owns, sells or acquires <u>land or</u> real estate on behalf of a legal arrangement.</p>	<p>available. Competent authorities shall also have access <u>property and of the natural persons or legal entities or legal arrangements owning that property, as well as</u> to information allowing the identification and analysis of transactions involving real estate, including their economic value and details of the natural or legal persons involved in those transactions including, where available, whether the natural or legal person owns, sells or acquires real estate on behalf of a legal arrangement. <u>That access shall be provided via a single access point to be established in each Member State which allows competent authorities to access, via electronic means, information in a digital format.</u></p> <p>Trilogue 16012024 - by digital means / machine readable format?</p> <p>COM drafting proposal 08012024</p> <p>CONS to revert EP to revert For Political level Trilogue 16012024</p> <p>TM16 of 16102023 TM28 10012024</p>
Article 16a				
278b				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<p><u>Article 16a</u></p> <p><u>Implementing act for the interconnection of land and real estate single access point</u></p> <p><u>1. The Member States' single access points referred to in Article 16(1) shall be interconnected via the European real estate data single access point (E-RED) to be developed and operated by the Commission by ... [four years after the date of entry into force of this Directive]</u></p> <p><u>2. The Commission is empowered to adopt, by means of implementing acts, technical specifications and procedures necessary to provide for the interconnection of Member States' single access point via E-RED in accordance with Article 16 with regard to:</u></p> <p><u>(a) the technical data necessary for the E-RED system to perform its functions and the method of storage, use and protection of that technical data;</u></p> <p><u>(b) the common criteria according to which land and real estate information shall be available through the system of interconnection of registers and retrieval systems;</u></p> <p><u>(c) the technical details on how land and real estate information shall be made</u></p>	<p><i>deleted</i></p> <p>COM drafting proposal 08012024 Interconnection addressed in report/review line 278a</p> <p>COM to provide background information on the current initiatives with regard to interconnection/interoperability of Real estate registers</p> <p>Trilogue 16012024</p> <p>TM16 of 16.10.2023 TM28 10012024</p>

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			<p><u>available;</u></p> <p><u>(d) the technical conditions of availability of services provided by the system of interconnection of registers and retrieval systems; Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2).</u></p> <p><u>3. When adopting the implementing acts referred to in paragraph 2, the Commission shall take into account proven technology and existing practices. The Commission shall ensure that the system required to be developed and operated for the interconnection does not incur costs above what is absolutely necessary in order to implement this Directive.</u></p>	
<i>Article 16b</i>				
278d			<p><u>Article 16b</u></p> <p><u>Access to beneficial ownership information of motor vehicles, aircrafts and watercrafts</u></p> <p><u>1. Member States shall provide competent authorities with timely access to information which allows the identification of any natural person or the beneficial owner of any legal person owning motor vehicles, aircrafts or watercrafts whose estimated value is above EUR 200 000 or the</u></p>	<p>COM Comment: To address the risks associated with transactions between legal persons (as well as between natural persons where legal means are used) we suggest to build on the Council's proposal and expand the scope of threshold-based reporting to include obliged entities that are involved in the transfer of ownership of those high-value assets, as such transfers will require a contract and will always have a notary/lawyer involved,</p>

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			<p><u>equivalent in national currency.</u></p> <p><u>2. Member States shall ensure that information referred to in paragraph 1 is available to competent authorities, either through registers or electronic data retrieval systems, where such registers or systems are available, or through other systems which are deemed as efficient, and that ensure that the data is available in a machine-readable and interoperable format.</u></p> <p><u>FIUs and AMLA shall be granted direct and immediate access to the information referred to in paragraph 1 for the purpose of the prevention and combating of money laundering, any of its associated predicate offences or terrorist financing.</u></p> <p><u>3. Member States shall ensure that where the value of motor vehicles, aircrafts or watercrafts is stated or estimated above EUR 2 000 000 EUR or the equivalent in national currency, information set out in the purchase contract or other proof of transaction, including at least the identification of all parties involved in the transaction, the means of payment and the source of funds, is included and available as part of the information referred to in paragraph 1 and can be provided to competent authorities and AMLA</u></p>	<p>or a transfer of funds involving a credit or financial institution.</p> <p>Threshold to be aligned in AMLR - Article 48</p> <p>Trilogue 16012024 EC to revert AMLR related</p> <p>TM16 16102023</p>

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849 (Text with EEA relevance) 2021/0250(COD) 22-01-2024 at 10h17 18/27

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<p><u>without delay, when requested by retrieval systems, or other systems provided by Member States under paragraph 2.</u></p> <p><u>4. Where motor vehicles, aircrafts or watercrafts are owned by a legal person or arrangement, information on the beneficial owner shall be available, either directly in the registers or systems referred to in paragraph 2, or in the beneficial ownership register referred to in Article 10, including where the legal person is a foreign legal entity or arrangement, as required under Article 48 of Regulation ... [please insert reference to Anti-Money Laundering Regulation - 2021/0239 (COD)].</u></p> <p><u>5. By ... [three months after the date of transposition of this Directive], the Member States shall provide the Commission with a list of the competent authorities that have been granted access to the registers or systems referred to in paragraph 2 and the type of information available to them. Member States shall update the list provided to the Commission when there are changes to the competent authorities granted access or to the type of information available. The Commission shall make that information, including any change to it, available to the other Member States.</u></p>	

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849 (Text with EEA relevance) 2021/0250(COD) 22-01-2024 at 10h17 19/27

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
Article 17a				
292c			<p><u>Article 17a</u></p> <p><u>Fundamental Rights Officer</u></p> <p><u>1. Every FIU shall designate a Fundamental Rights Officer. The Fundamental Rights Officer may be a member of the existing staff of the FIU who received special training in fundamental rights law and practice.</u></p> <p><u>2. The Fundamental Rights Officer shall perform the following tasks:</u></p> <p><u>(a) advise the FIU where he or she deems it necessary, or on request, on activities of the FIU, which have impact on fundamental rights, without impeding or delaying those activities;</u></p> <p><u>(b) support the FIU's staff in ensuring compliance with fundamental rights;</u></p> <p><u>(c) provide non-binding opinions on working arrangements relevant to his or her field of competence, with the view to enhance the FIU's compliance with fundamental rights;</u></p> <p><u>(d) inform the management about possible violations of fundamental rights in the course of the FIU's activities;</u></p> <p><u>(e) promote the FIU's respect</u></p>	<p>CONS to draft alternative wording following political agreement</p> <p>CONS to revert CONS to draft Trilogue 16012024</p> <p>TM10 of 18092023</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<p><u>of fundamental rights in the performance of its tasks and activities.</u></p> <p><u>3. The FIU shall ensure that the Fundamental Rights Officer does not receive any instructions regarding the exercise of his or her tasks. This should not prevent the Fundamental Rights Officer from seeking guidance from relevant actors on the performance of his or her tasks where he or she deems it necessary.</u></p> <p><u>4. The Fundamental Rights Officer shall report directly to the management of the FIU.</u></p>	
Article 31b				
434c			<p><u>Article 31a</u></p> <p><u>List of credit and financial institutions under enhanced supervision and customer due diligence</u></p> <p><u>1. Financial supervisors shall include specific credit or financial institutions on a list of credit and financial institutions under enhanced supervision where, following supervisory activities referred to in Article 29, points (c), (e), (f) and (g), financial supervisors identify serious and structural weaknesses or</u></p>	<p><i>deleted</i></p> <p>Trilogue 16012024</p> <p>TM7 04092023</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<p><u>vulnerabilities in the application of AML/CFT rules by those credit and financial institutions under their supervision.</u></p> <p><u>2. When applying the measures referred to in paragraph 1 of this Article, financial supervisors shall take into account the rules and principles of risk-based supervision laid down in Article 31, in particular the benchmarks and a methodology for assessing and classifying the inherent and residual risk profile of obliged entities and the guidelines on the characteristics of a risk-based approach to supervision.</u></p> <p><u>3. Financial supervisors shall inform credit and financial institutions of their inclusion on the list referred to in paragraph 1 prior to their inclusion through a reasoned communication. Financial supervisors shall also communicate to the credit or financial institution concerned the measures they will put in place in order to address the weaknesses identified within a specific timeframe.</u></p> <p><u>4. Financial supervisors shall promptly inform AMLA and national non-AML/CFT supervisors of the measures taken</u></p>	

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the mechanisms to be put in place by the Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and repealing Directive (EU) 2015/849 (Text with EEA relevance) 2021/0250(COD) 22-01-2024 at 10h17 22/27

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
			<p><u>under paragraph 1. Financial supervisors shall also in a timely manner inform obliged entities, as referred to in Article 3, points (1) and (2), of Regulation ... [please insert reference to Anti-Money Laundering Regulation – 2021/0239(COD)], of the measures taken under paragraph 1.</u></p> <p><u>5. Where obliged entities, as referred to in Article 3, points 1 and 2, of Regulation ... [please insert reference to Anti-Money Laundering Regulation – 2021/0239(COD)], become aware of transactions involving credit and financial institutions under enhanced supervision, they shall consider applying measures laid down in article 28(4) of that Regulation proportionate to the risks identified with regards to transactions involving credit or financial institutions under enhanced supervision.</u></p> <p><u>6. Where the specific credit and financial institution referred to in paragraph 1 of this Article is part of a group, financial supervisors shall inform their counterparts in other Member States in accordance with Article 33.]</u></p>	
<i>Article 42(1), first subparagraph</i>				

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
550	<p>1. Member States shall ensure that a decision imposing an administrative sanction or measure for breach of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] against which there is no appeal shall be published by the supervisors on their official website immediately after the person sanctioned is informed of that decision. The publication shall include at least information on the type and nature of the breach and the identity of the persons responsible. Member States shall not be obliged to apply this subparagraph to decisions imposing measures that are of an investigatory nature.</p>	<p>1. Member States shall ensure that a decision imposing an administrative sanction or measure for breach of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation – COM/2021/420 final] against which there is no appeal pursuant to Article 40 shall be published by the supervisors on their official website <u>in an accessible format</u>, immediately after the person sanctioned is informed of that decision. The publication shall include at least information on the type and nature of the breach and the identity of the persons responsible. Member States shall not be obliged to apply this subparagraph to decisions imposing measures that are of an investigatory nature.</p>	<p>1. Member States shall ensure that a decision imposing an administrative sanction or measure for breach of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation - COM/2021/420 final] against which there is no appeal shall be published by the supervisors on their official website <u>in an accessible format, in the official language of the Member State in question and in English</u>, immediately after the person sanctioned is informed of that decision <u>and it is no longer subject to internal review</u>. The publication shall include at least information on the type and nature of the breach and the identity of the persons responsible <u>and whether the decision is subject to appeal</u>. Member States shall not be obliged to apply this subparagraph to decisions imposing measures that are of an investigatory nature.</p>	<p>1. Member States shall ensure that a decision imposing an administrative sanction or measure for breach of Regulation [please insert reference – proposal for Anti-Money Laundering Regulation – COM/2021/420 final] against which there is no appeal shall be published by the supervisors <u>supervisors publish</u> on their official website immediately after the person sanctioned is informed of that decision. The publication shall include at least information on the type and nature of the breach and the identity of the persons responsible. Member States shall not be obliged to apply this subparagraph to decisions imposing measures that are of an investigatory nature, in an accessible format, decisions imposing pecuniary sanctions, administrative measures pursuant to Article 41(1), point (a) or periodic penalty payments.</p> <p>reference to language customary in the sphere of international finance to be checked further</p> <p>COM comment: We scrutinised financial services legislation and to our knowledge there is no obligation to make documents available in English. Even in MiCA the reference to English is indirect and is contained only in a</p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
				<p>recital. We maintain our position that no language requirements should be imposed on public authorities of the Member States</p> <p>AMLA related post political agreement Trilogue 12122023 Trilogue 16012024</p>
Article 42(1a)				
550a		<p><u>Member States shall ensure that a decision imposing an administrative measure pursuant to Article 41 against which there is no appeal may be published by the supervisors on their official website, at the latest, immediately after the expiry of the period for bringing an action against that decision.</u></p>		<p><u>1a. Member States shall ensure that the decision referred to in paragraph 1 is published by the supervisor immediately after the person sanctioned is informed of that decision.</u></p> <p>AMLA related Trilogue 12122023 Trilogue 16012024</p>
Article 42(1b)				
550b		<p><u>Where an obliged entity appeals the decision referred to in the first subparagraph, Member States shall ensure that supervisors publish on their official website the information regarding the appeal and any subsequent information on the outcome of such appeal, immediately after obtaining such information.</u></p>		<p><u>1b. [Where the publication refers to decisions against which there is an appeal, supervisors shall also publish, immediately, on their official website such information and any subsequent information on an appeal, and the outcome of such appeal. Any decision annulling a previous decision to impose a pecuniary sanction, an administrative measure, or a periodic penalty payment, shall also be published.]</u></p>

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				<p>AMLA related Trilogue 12122023 Trilogue 16012024</p>
Article 42(1c)				
550c		<p><u>The publication shall include at least information on the type and nature of the breach and the identity of the persons responsible and the size of the administrative pecuniary sanction or periodic penalty payment, where applicable. Member States shall not be obliged to apply this subparagraph to decisions imposing measures that are of an investigatory nature.</u></p>		<p><u>Ic. The publication shall include at least information on the type and nature of the breach and the identity of the persons responsible, as well as, for pecuniary sanctions and periodic penalty payments, their amounts. Member States shall not be obliged to apply this subparagraph to decisions imposing measures that are of an investigatory nature, or which are taken pursuant to Article 41(1), points (a) and (c).</u></p> <p>AMLA related Trilogue 12122023 Trilogue 16012024</p>
Article 42(2)				
557	<p>2. Where Member States permit publication of decisions against which there is an appeal, supervisors shall also publish, immediately, on their official website such information and any subsequent information on the outcome of such appeal. Moreover, any decision annulling a previous decision to impose an administrative sanction or</p>	<p>2. Where Member States permit publication of <u>publish</u> decisions against which there is an appeal, supervisors shall also publish, immediately, on their official website such information and any subsequent information on the outcome of such appeal. Moreover, any decision annulling a previous decision to impose an administrative</p>	<p>2. Where Member States permit publication of decisions against which there is an appeal, supervisors shall also publish, immediately, on their official website such information and any subsequent information on the outcome of such appeal. Moreover, any decision annulling a previous decision to impose an administrative sanction or</p>	<p>2. Where Member States permit <u>shall ensure that any publication in accordance with this Article remains on the official website of the supervisors for a period of five years after its publication. However, personal data contained in the publication shall only be kept of decisions against which there is an appeal,</u></p>

	Commission Proposal	Council Mandate	EP Mandate	Draft Agreement
	a measure shall also be published.	sanction or a measure shall also be published.	a measure shall also be published.	<p>supervisors shall also publish, immediately, on their official website such information and any subsequent information on the outcome of such appeal. Moreover, any decision annulling a previous decision to impose an administrative sanction or a measure shall also be published <u>official website of the competent authority for the period which is necessary in accordance with the applicable data protection rules and in any case for no more than 5 years.</u></p> <p>AMLA related Trilogue 16012024</p>

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