



07/12/2016

**AMENDMENTS: 43**

**Krišjānis Kariņš, Judith Sargentini**

Prevention of the use of the financial system for the purposes of money laundering or terrorist financing

**Proposal for a directive** COM(2016)0450 - C8-0265/2016 – 2016/0208(COD)

Amendments created with

**at4am**

Go to <http://www.at4am.ep.parl.union.eu>

## **Amendments on Base Acts:**

AM 1 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 2 (1) point 3  
AM 2 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 2 (4)  
AM 3 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 3 (4)  
AM 4 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 3 (6) (a) (i)  
AM 5 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 3 (6) (a) (ii)  
AM 6 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 3 (6) (b)  
AM 7 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 3 (9)  
AM 8 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 6  
AM 9 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 7  
AM 10 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 9  
AM 11 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Articles 15 and 16  
AM 12 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 18 (2)  
AM 14 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 20 (b) (ii)  
AM 15 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 22  
AM 16 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 30 (5)  
AM 17 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 30 (8)  
AM 20 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 31 (1a – 4)  
AM 22 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 31 (5)  
AM 23 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 31 (6)  
AM 26 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 32 (7)  
AM 29 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 34 (2)  
AM 30 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 37  
AM 31 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 38  
AM 32 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 44 (2) (d)  
AM 36 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Article 59  
AM 37 - Fabio De Masi - DIRECTIVE (EU) 2015/849 / Annex II  
AM 43 - Fabio De Masi - Directive 2009/101/EC / Article 7

## **Amendments per language:**

EN: 43

## Amendment 1

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

### Proposal for a directive

#### Article 1 – paragraph 1 – point 1 a (new)

DIRECTIVE (EU) 2015/849

Article 2 (1) point 3

#### *Present text*

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

(a) auditors, external accountants ***and tax advisors***;

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

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

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

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

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

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

(c) trust or company service providers not already covered under points (a) or (b);

(d) estate agents;

(e) other persons trading in goods to the extent that payments are made or received in cash in an amount of EUR 10 000 or

#### *Amendment*

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

(a) auditors ***and*** external accountants;

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

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

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

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

***(iii new) provision of tax advice;***

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

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

(c) trust or company service providers not already covered under points (a) or (b);

***(c new) tax service providers not already covered under points (a) or (b);***

more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;

(f) providers of gambling services."

(d) estate agents *and persons providing customers, through sale or rental, with the possibility to use freeports or similar arrangements;*

(e) *other persons trading in goods to the extent that payments are made or received in cash in an amount of EUR 10 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;*

(f) providers of gambling services."

Or. en

([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))

## Amendment 2

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

### Proposal for a directive

**Article 1 – paragraph 1 – point 1 b (new)**

DIRECTIVE (EU) 2015/849

Article 2 (4)

#### *Present text*

"4. For the purposes of point (a) of paragraph 3, Member States shall require that the total turnover of the financial activity does not exceed a threshold, which must be sufficiently low. That threshold shall be established at national level, depending on the type of financial activity."

#### *Amendment*

**(1 b)** "4. For the purposes of point (a) of paragraph 3, Member States shall require that the total turnover of the financial activity does not exceed a threshold, which must be sufficiently low. That threshold shall be established at national level, depending on the type of financial activity. ***The threshold shall be reported to the European Commission and assessed in the risk analyses performed by the Commission and each Member States in accordance with Articles 6 and 7 of this Directive.***"

Or. en

### Amendment 3

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

#### Proposal for a directive

##### Article 1 – paragraph 1 – point 2 a (new)

DIRECTIVE (EU) 2015/849

Article 3 (4)

#### *Present text*

"(f) all offences, ***including tax crimes relating to direct taxes and indirect taxes and as defined in the national law of the Member States***, which are punishable by deprivation of liberty or a detention order for a maximum of more than one year or, as regards those Member States that have a minimum threshold for offences in their legal system, all offences punishable by deprivation of liberty or a detention order for a minimum of more than six months;"

#### *Amendment*

**(2 a)** "(f) all offences which are punishable by deprivation of liberty or a detention order for a maximum of more than one year or, as regards those Member States that have a minimum threshold for offences in their legal system, all offences punishable by deprivation of liberty or a detention order for a minimum of more than six months;"

**(g) offences relating to direct taxes and indirect taxes as defined in the national law of the Member States;"**

Or. en

#### *Justification*

*Tax-related offences often do not count as ML predicate offence because the current wording requires a certain degree of punishment. In particular, obliged entities are not in a position to ascertain the exact legal severity of a tax offence when handling client funds that seem somehow "dubious" in this regard. Hence, the current wording is also notoriously difficult to apply for obliged entities and, by creating a wide margin of interpretation, leads to unequal treatment.*

### Amendment 4

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 b (new)**  
DIRECTIVE (EU) 2015/849  
Article 3 (6) (a) (i)

*Present text*

"(i) the natural person(s) who ultimately **owns or controls** a legal entity **through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, or through control via other means**, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Union law or subject to equivalent international standards which ensure adequate transparency of ownership information.

*A shareholding of 25 % plus one share or an ownership interest of more than 25% in the customer held by a natural person shall be an indication of direct ownership. A shareholding of 25 % plus one share or an ownership interest of more than 25% in the customer held by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership. This applies without prejudice to the right of Member States to decide that a lower percentage may be an indication of ownership or control. Control through other means may be determined, inter alia, in accordance with the criteria in Article 22(1) to (5) of Directive 2013/34/EU of the European Parliament and of the Council."*

*Amendment*

**(2 b)** "(i) **all** the natural person(s) who ultimately **own(s) or control(s)** a legal entity, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Union law or subject to equivalent international standards which ensure adequate transparency of ownership information, **through direct or indirect ownership of at least one share or equivalent minimum unit of interest in that entity, including through bearer shareholdings, or through control via other means.**

*Indirect ownership means at least one natural person owning at least one share in an entity, not directly but via one or multiple other entities, spread over one or multiple layers.*

*If two or more natural persons jointly own, directly or indirectly, a single share of an entity (or the minimum unit of*

*interest in that entity), then each of those persons should be considered as owner of that share or unit of interest for the purpose of this article."*

Or. en

([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))

#### **Amendment 5**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 c (new)**

DIRECTIVE (EU) 2015/849

Article 3 (6) (a) (ii)

#### *Present text*

"(ii) if, *after having exhausted all possible means and provided there are no grounds for suspicion, no person* under point (i) is *identified*, or if there is *any* doubt *that* the person(s) identified are the beneficial owner(s), *the natural person(s) who hold the position of senior managing official(s)*, the obliged *entities* shall *keep records of the actions taken in order to identify the beneficial ownership under point (i) and this point.*"

#### *Amendment*

(2 c) "(ii) if *the entity fails to provide the identity of any natural person who meets the criteria set out in point (i), the obliged entities shall record that no beneficial owner exists and keep records of the actions taken in order to identify the beneficial ownership* under point (i). *In such case* or if there is doubt *under (i) as to whether* the person(s) identified are the beneficial owner(s) *and the entity does not cooperate to clarify the information*, the obliged *entity* shall *terminate its business relationship with the customer and refrain from executing any more transactions on his or her behalf.*"

Or. en

([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))

#### **Amendment 6**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 d (new)**  
DIRECTIVE (EU) 2015/849  
Article 3 (6) (b)

<i>Present text</i>	<i>Amendment</i>
<p>"(b) in the case of trusts:</p> <p>(i) the settlor;</p> <p>(ii) the trustee(s);</p> <p>(iii) the protector, if any;</p> <p>(iv) the beneficiaries; or where the individuals benefiting from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;</p> <p>(v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means"</p>	<p><b>(2 d)</b> "(b) in the case of trusts:</p> <p>(i) the settlor(s);</p> <p>(ii) the trustee(s);</p> <p>(iii) the protector(s), if any;</p> <p>(iv) the beneficiaries; or where the individuals benefiting from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;</p> <p>(v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means.</p> <p><i>If any of the above categories (i) - (v) involves, instead of or in addition to natural persons, one or several legal entities, the beneficial owners of that entity, as defined in the paragraph above, shall in turn be considered as part of the beneficial owners of the trust."</i></p>

Or. en

*([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))*

**Amendment 7**  
**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 2 e (new)**  
DIRECTIVE (EU) 2015/849  
Article 3 (9)



*Present text*

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

[...]

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

*Amendment*

**(2 e)** "(f) ambassadors, chargés d'affaires and high-ranking officers in the armed forces, ***intelligence and other security services***;

[...]

No public function referred to in points (a) to (h) shall be understood as covering middle-ranking or more junior officials. ***All categories in points (a) to (h) shall however be understood as also covering former holders of the listed public functions.***"

Or. en

*([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))*

**Amendment 8**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 2 f (new)**

DIRECTIVE (EU) 2015/849

Article 6

*Present text*

"Article 6

1. The Commission shall conduct an assessment of the risks of money laundering and terrorist financing affecting the internal market and related to cross-border activities.

To that end, the Commission shall by 26 June 2017, draw up a report identifying, analysing and evaluating those risks at Union level. Thereafter, the Commission shall update its report every two years, or more frequently if appropriate.

*Amendment*

**(2 f)** "Article 6

1. The Commission shall conduct an assessment of the risks of money laundering and terrorist financing affecting the internal market and related to cross-border activities, ***including between Member States and third countries.***

To that end, the Commission shall by 26 June 2017, draw up a report identifying, analysing and evaluating those risks at Union level. Thereafter, the Commission shall update its report every two years, or more frequently if appropriate.

2. The report referred to paragraph 1 shall cover at least the following:

(a) the areas of the internal market that are at greatest risk;

(b) the risks associated with each relevant sector;

(c) the most widespread means used by criminals to launder illicit proceeds.

3. The Commission shall make the report referred to in paragraph 1 available to the Member States and obliged entities in order to assist them to identify, understand, manage and mitigate the risk of money laundering and terrorist financing, and to allow other stakeholders, including national legislators, the European Parliament, the ESAs, and representatives from FIUs to better understand the risks.

4. The Commission shall make the recommendations to Member States on the measures suitable for addressing the identified risks. In the event that Member States decide not to apply **any of the recommendations** in their national AML/CFT regimes, they shall notify the Commission thereof and provide a justification of such a decision.

5. By 26 December 2016, the ESAs, through the Joint Committee, shall issue an opinion on the risks of money laundering and terrorist financing affecting the Union's financial sector (the 'joint opinion'). Thereafter, the ESAs, through the Joint Committee, shall issue an opinion every

2. The report referred to paragraph 1 shall cover at least the following:

(a) the areas of the internal market that are at greatest risk;

(b) the risks associated with each relevant sector, **including estimates of the monetary volumes of money-laundering for each of those sectors**;

(c) the most widespread means used by criminals to launder illicit proceeds, **including those particularly used in transactions between Member States and third countries, independently of the latter's classification as regards the list drawn up on the basis of Article 9 (2)**.

3. The Commission shall make the report referred to in paragraph 1 available to the Member States and obliged entities in order to assist them to identify, understand, manage and mitigate the risk of money laundering and terrorist financing, and to allow other stakeholders, including national legislators, the European Parliament, the ESAs, and representatives from FIUs to better understand the risks. **Reports shall be made public six months after having been made available to Member States.**

4. The Commission shall make the recommendations to Member States on the measures suitable for addressing the identified risks. In the event that Member States decide not to apply **a particular recommendation** in their national AML/CFT regimes, they shall notify the Commission thereof and provide a justification of such a decision.

5. By 26 December 2016, the ESAs, through the Joint Committee, shall issue an opinion on the risks of money laundering and terrorist financing affecting the Union's financial sector (the 'joint opinion'). Thereafter, the ESAs, through the Joint Committee, shall issue an opinion every

two years.

6. In conducting the assessment referred to in paragraph 1, the Commission shall organise the work at Union level, shall take into account the joint opinions referred to in paragraph 5 and shall involve the Member States' experts in the area of AML/CTF, representatives from FIUs and other Union level bodies where appropriate. The Commission shall make the joint opinions available to the Member States and obliged entities in order to assist them to identify, manage and mitigate the risk of money laundering and terrorist financing.

7. Every two years, or more frequently if appropriate, the Commission shall submit a report to the European Parliament and to the Council on the finding resulting from the regular risk assessments and the action taken based on those findings."

two years.

6. In conducting the assessment referred to in paragraph 1, the Commission shall organise the work at Union level, shall take into account the joint opinions referred to in paragraph 5 and shall involve the Member States' experts in the area of AML/CTF, representatives from FIUs and other Union level bodies where appropriate. The Commission shall make the joint opinions available to the Member States and obliged entities in order to assist them to identify, manage and mitigate the risk of money laundering and terrorist financing.

7. Every two years, or more frequently if appropriate, the Commission shall submit a report to the European Parliament and to the Council on the finding resulting from the regular risk assessments and the action taken based on those findings."

Or. en

*([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))*

## **Amendment 9**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 g (new)**

DIRECTIVE (EU) 2015/849

Article 7

#### *Present text*

"4. As regards the risk assessment referred to in paragraph 1, each Member State shall:

(a) use it to improve its AML/CFT regime, in particular by identifying any areas where obliged entities are to apply enhanced measures and, where appropriate,

#### *Amendment*

**(2 g)** "4. As regards the risk assessment referred to in paragraph 1, each Member State shall:

(a) use it to improve its AML/CFT regime, in particular by identifying any areas where obliged entities are to apply enhanced measures and, where appropriate,

specifying the measures to be taken;

(b) identify, where appropriate, sectors or areas of lower or greater risk of money laundering and terrorist financing;

(c) use it to assist it in the allocation and prioritisation of resources to combat money laundering and terrorist financing;

(d) use it to ensure that appropriate rules are drawn up for each sector or area, in accordance with the risk of money laundering and terrorist financing;

(e) make appropriate information available promptly to obliged entities to facilitate the carrying out of their own money laundering and terrorist financing risk assessments.

5. Member States shall make the results of their risk assessments available to the Commission, the ESAs and the other Member States."

specifying the measures to be taken;

(b) identify, where appropriate, sectors or areas of lower or greater risk of money laundering and terrorist financing;

(c) use it to assist it in the allocation and prioritisation of resources to combat money laundering and terrorist financing;

(d) use it to ensure that appropriate rules are drawn up for each sector or area, in accordance with the risk of money laundering and terrorist financing;

(e) make appropriate information available promptly to obliged entities to facilitate the carrying out of their own money laundering and terrorist financing risk assessments;

*(f) report the institutional structure and broad procedures of their AML/CFT regime, including inter alia the FIU, tax agencies and legal prosecutors, as well as the allocated human and financial resources.*

*5. Member States shall make the results of their risk assessments available to the Commission, the ESAs and the other Member States, and shall publish them after a period of six months."*

Or. en

*([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))*

#### **Amendment 10**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 2 h (new)**

**DIRECTIVE (EU) 2015/849**

**Article 9**

*Present text*

"Article 9

1. Third-country jurisdictions which have **strategic** deficiencies in their national AML/CFT regimes that pose significant threats to the financial system **of** the Union ("high-risk third countries"), shall be identified in order to protect the proper functioning of the internal market.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 64 in order to identify high-risk third countries, taking into account **strategic** deficiencies, in particular in relation to:

(a) the legal and institutional AML/CFT framework of the third country, in particular:

(i) the criminalisation of money laundering and terrorist financing;

(ii) measures relating to customer due diligence;

(iii) requirements relation to record-keeping; and

(iv) requirements to report suspicious transaction;

(b) the powers and procedures of the third country's competent authorities for the purposes of combating money laundering and terrorist financing;

(c) the effectiveness of the AML/CFT system in addressing money laundering or terrorist financing risks of the third country."

*Amendment*

**(2 h)** "Article 9

1. Third-country jurisdictions which have deficiencies in their national AML/CFT regimes that pose significant threats to the financial system **or to public budgets of member states or** the Union **or have other laws or provisions in place with a similar effect** ("high-risk third countries"), shall be identified in order to protect the proper functioning of the internal market.

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 64 in order to identify high-risk third countries, taking into account deficiencies **both in law and actual administrative and commercial practice**, in particular in relation to:

(a) the legal and institutional AML/CFT framework of the third country, in particular:

(i) the criminalisation of money laundering and terrorist financing;

(ii) **new** **the transparency of beneficial ownership of corporations and other entities or arrangements;**

(ii) measures relating to customer due diligence;

(iii) requirements relation to record-keeping; and

(iv) requirements to report suspicious transaction;

(b) the powers and procedures of the third country's competent authorities for the purposes of combating money laundering and terrorist financing, **including appropriately dissuasive and effective penalties and sanctions, as well as its practices in cooperation with competent**

*authorities in member states or the Union;*  
*(c) the effectiveness of the AML/CFT system in addressing money laundering or terrorist financing risks of the third country;*  
*(d) the legal and practical measures in place in the third country to protect whistleblowers when reporting information in relation to money laundering and terrorist financing."*

Or. en

*([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))*

#### **Amendment 11**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 5 a (new)**

DIRECTIVE (EU) 2015/849

Articles 15 and 16

*Present text*

*Amendment*

*(5 a) Deletion of Articles 15 and 16*

*""*

*"Article 15*

*1. Where a Member State or an obliged entity identifies areas of lower risk, that Member State may allow obliged entities to apply simplified customer due diligence measures.*

*2. Before applying simplified customer due diligence measures obliged entities shall ascertain that the customer relationship or transaction presents a lower degree of risk.*

*3. Member States shall ensure that obliged entities carry out sufficient monitoring of the transactions or business relationships to enable the detection of unusual or suspicious transactions.*

## Article 16

***When assessing the risks of money laundering and terrorist financing relating to types of customers, geographic areas, and particular products, services, transactions or delivery channels, Member States and obliged entities shall take into account at least the factors of potentially lower risk situations set out in Annex II."***

Or. en

([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))

### *Justification*

*The simplified customer due diligence procedures grant too sweeping exemptions from the well-established requirements outlined above in Article 13 and 14. Annex II essentially makes it possible to declare most jurisdictions which are not on the high risk country list to be safe and subject to simplified procedures. Hence, the standard procedures would rarely apply. It makes sense to have a proper standard for everyone (balancing checks and the ensuing burden) and additional checks for high risk.*

## Amendment 12

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

### Proposal for a directive

**Article 1 – paragraph 1 – point 6 a (new)**

DIRECTIVE (EU) 2015/849

Article 18 (2)

#### *Present text*

"2. Member States shall require obliged entities to examine, ***as far as reasonably possible***, the background and purpose of all complex, unusually large transactions, ***and all*** unusual ***patterns*** of transactions, ***which have no apparent economic or*** lawful purpose. In particular, obliged entities shall increase the degree and nature of monitoring of the business relationship, in order to determine whether those

#### *Amendment*

**(6 a)** "2. Member States shall require obliged entities to examine the background and purpose of all ***transactions that fulfil one of the following conditions:***

transactions or activities appear suspicious."

- (i) *they are complex transactions;*
- (ii) *they are unusually large transactions;*
- (iii) *they are conducted in an unusual pattern* of transactions;
- (iv) *they do not seem to have an entirely lawful purpose.*

*In particular, obliged entities shall increase the degree and nature of monitoring of the business relationship, in order to determine whether those transactions or activities appear suspicious."*

Or. en

([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))

### **Amendment 13**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

#### **Proposal for a directive**

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

DIRECTIVE (EU) 2015/849

Article 18a

*Text proposed by the Commission*

*Amendment*

*(g a) In addition to these enhanced CDD measures, obliged entities shall, for all their customers, report to the responsible FIU and competent authorities, including tax authorities, any transactions originating from or destined to high risk third countries.*

Or. en

### **Amendment 14**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**



**Proposal for a directive**

**Article 1 – paragraph 1 – point 7 a (new)**

DIRECTIVE (EU) 2015/849

Article 20 (b) (ii)

*Present text*

"(ii) take adequate measures to establish the source of wealth and source of funds that are involved in the business relationship or transaction with such persons;"

*Amendment*

**(7 a)** "(ii) take adequate measures to establish the source of wealth and source of funds that are involved in the business relationship or transaction with such persons *and spontaneously provide this information to the competent authorities of the person's countries of origin and residence. If there are grounds to believe that the person in question is or was involved in the illicit transfer of funds or the obliged entity is not capable of identifying the source of wealth or source of funds relating to the person, it shall automatically repeat the provision of information to the competent authorities of the person's countries of origin and residence in regular intervals of not more than five years;*"

Or. en

([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))

*Justification*

*This amendment is meant to particularly benefit developing countries locate funds that have been illicitly transferred offshore by politically exposed persons. By introducing a recurring practice of information provision to authorities of these countries, it is ensured that they are able to obtain information also from former office holders which may have been able to impede investigations upon information previously received by authorities during their time in office;*

**Amendment 15**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 7 b (new)**

*Present text*

"Where politically exposed person is no longer entrusted with a prominent function by a Member State or a third country or with a prominent function by an international organisation, obliged entities shall for at least **12** months, be required to take into account the continuing risk posed by that person and to apply appropriate and risk-sensitive measures until such time as that person is deemed to pose no further risk specific to politically exposed persons."

*Amendment*

**(7 b)** "Where **a** politically exposed person is no longer entrusted with a prominent function by a Member State or a third country or with a prominent function by an international organisation, obliged entities shall for at least **36** months, be required to take into account the continuing risk posed by that person and to apply appropriate and risk-sensitive measures until such time as that person is deemed to pose no further risk specific to politically exposed persons."

Or. en

*([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))*

**Amendment 16**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 9 – point a a (new)**

DIRECTIVE (EU) 2015/849

Article 30 (5)

*Present text*

"5. Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:

- a) competent authorities and FIUs, without any restriction;
- b) obliged entities, in the framework of the conduct of customer due diligence in accordance with Chapter II;

*For the purpose of this paragraph, access to the information on beneficial ownership shall be in accordance with data protection rules and may be subject*

*Amendment*

**(a a)** "5. Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:

- a) competent authorities and FIUs, without any restriction;
- b) obliged entities, in the framework of the conduct of customer due diligence in accordance with Chapter II;

*The following parts of the information held in the register referred to in paragraph 3 shall be publicly accessible: the name, the date of birth, the*

*to online registration and to the payment of a fee. The fees charged for obtaining the information shall not exceed the administrative costs thereof."*

*nationality, the country of residence and the nature and extent of the beneficial interest of the beneficial owner(s) as defined in Article 3 (6) (b).*

*For the purpose of this paragraph, access to the information on beneficial ownership shall be in accordance with data protection rules and made possible in machine-readable and open format as defined in Directive 2013/37/EU."*

Or. en

([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))

#### **Amendment 17**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 9 – point b a (new)**

DIRECTIVE (EU) 2015/849

Article 30 (8)

#### *Present text*

"8. Member States shall require that obliged entities do not rely exclusively on the central register referred to in paragraph 3 to fulfil their customer due diligence requirements in accordance with Chapter II. *Those* requirements shall *be fulfilled by using a risk-based approach.*"

#### *Amendment*

**(b a)** "8. Member States shall require that obliged entities do not rely exclusively on the central register referred to in paragraph 3 to fulfil their customer due diligence requirements in accordance with Chapter II. *When carrying out customer due diligence* requirements, *obliged entities shall however be required to report any discrepancy between central registers and information obtained directly through clients or other sources to competent authorities with a view to ensuring that central registers contain the most accurate, up-to-date and complete information possible.*"

Or. en

([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))

## Amendment 18

Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias

### Proposal for a directive

Article 1 – paragraph 1 – point 9 – point c

DIRECTIVE (EU) 2015/849

Article 30 (9)

#### *Text proposed by the Commission*

In exceptional circumstances *to be* laid down in national law, where the access referred to in *point (b) of* paragraph 5 would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis.

#### *Amendment*

In exceptional circumstances *and other specific terms* laid down in national law, where the access referred to in paragraph 5 would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis.

*Member States shall ensure that these exemptions are granted upon a detailed evaluation of the exceptional nature of the circumstances. Exemptions shall be reassessed at regular intervals to avoid abuse. When an exemption is granted, this has to be clearly indicated in the register. It shall further be possible to challenge exemptions before the national authority that granted the exemption.*

Or. en

## Amendment 19

Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias

### Proposal for a directive

Article 1 – paragraph 1 – point 10 – point a

DIRECTIVE (EU) 2015/849

Article 31 (1)

*Text proposed by the Commission*

Each Member State shall require that trustees of any **express** trust administered in that Member State obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust. That information shall include the identity of:

*Amendment*

Each Member State shall require that trustees of any trust **created**, administered **or operated** in that Member State **under the law of a Member State or of a third country** obtain and hold adequate, accurate and up-to-date information on beneficial ownership regarding the trust. That information shall include the identity of:

*(a) the settlor(s);*

*(b) the trustee(s);*

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

*(d) the beneficiaries or class of beneficiaries,*

*(e) any other natural person exercising effective control over the trust or being mentioned in the trust deed or related documents.*

Or. en

**Amendment 20**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 10 – point a a (new)**

DIRECTIVE (EU) 2015/849

Article 31 (1a – 4)

*Present text*

"2. Member States shall **ensure that trustees disclose their status and provide** the information referred to in paragraph 1 **to obliged entities in a timely manner where, as a trustee, the trustee forms a business relationship or carries out an occasional transaction above the threshold set out in points (b), (c) and (d) of Article 11.**

3. Member States shall **require that** the

*Amendment*

*(a a) "1a. Member States shall **set up central trust registers and require trustees to make** the information referred to in paragraph 1 **available in the central register of the Member State(s) where the trust is created, administered or operated.***

2. Member States shall **ensure that trustees**

information referred to in paragraph 1 *can be accessed* in a timely manner *by competent authorities and FIUs*.

*3a. The information referred to in paragraph 1 shall be held in a central register set up by the Member State where the trust is administered.*

4. Member States shall ensure that the information held in the register referred to in paragraph **31a** is accessible in a timely and unrestricted manner by competent authorities and FIUs, without alerting the parties to the trust concerned. They shall also ensure that obliged entities are allowed timely access to that information, pursuant to the provisions on customer due diligence laid down in Chapter II. Member States shall notify to the Commission the characteristics of those mechanisms.

Competent authorities granted access to the central register referred to in paragraph **31a** shall be those public authorities with designated responsibilities for combating money laundering or terrorist financing, including tax authorities and authorities that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing and tracing and seizing or freezing and confiscating criminal assets."

*disclose their status and provide* the information referred to in paragraph 1 *to obliged entities* in a timely manner *where, as a trustee, the trustee forms a business relationship or carries out a transaction with an obliged entity*.

4. Member States shall ensure that the information held in the register referred to in paragraph **1a** is accessible in a timely and unrestricted manner by competent authorities and FIUs, without alerting the parties to the trust concerned. They shall also ensure that obliged entities are allowed timely access to that information, pursuant to the provisions on customer due diligence laid down in Chapter II. Member States shall notify to the Commission the characteristics of those mechanisms.

Competent authorities granted access to the central register referred to in paragraph **1a** shall be those public authorities with designated responsibilities for combating money laundering or terrorist financing, including tax authorities and authorities that have the function of investigating or prosecuting money laundering, associated predicate offences and terrorist financing and tracing and seizing or freezing and confiscating criminal assets."

Or. en

([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))

## Amendment 21

Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias

### Proposal for a directive

Article 1 – paragraph 1 – point 10 – point d

DIRECTIVE (EU) 2015/849

Article 31 (4a)

*Text proposed by the Commission*

The information held in the register referred to in paragraph *3a of this Article with respect to any other trusts than those referred to in Article 7b (b) of Directive (EC) 2009/101* shall be *accessible to any person or organisation that can demonstrate a legitimate interest*.

*Amendment*

*The following parts of the information held in the register referred to in paragraph 1a shall be publicly accessible: the name, the date of birth, the nationality, the country of residence and the nature and extent of the beneficial interest of the beneficial owner(s) as defined in Article 3(6)(b).*

*For the purpose of this paragraph, access to the information on beneficial ownership shall be in accordance with data protection rules and made possible in machine-readable and open format as defined in Directive 2013/37/EU.*

Or. en

## Amendment 22

Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias

### Proposal for a directive

Article 1 – paragraph 1 – point 10 – point d a (new)

DIRECTIVE (EU) 2015/849

Article 31 (5)

*Present text*

"Member States shall require that the information held in the central register referred to in paragraph *4* is adequate, accurate and up-to-date."

*Amendment*

*(d a) "5. Member States shall require that the information held in the central register referred to in paragraph 1a is adequate, accurate and up-to-date.*

*To the extent that there is doubt as to*

*whether the information held in the central register is adequate, accurate and up-to-date and the person(s) identified are the actual beneficial owner(s) and the trust or trustee do not cooperate to clarify the information, or where the trust or trustee do not provide identity information of all natural persons meeting the criteria under paragraph 1 above, trusts should not be allowed to register in the central register.*

*5a. Trusts that are not registered in the central register should not be allowed to operate (i.e. hold bank accounts, engage in business transactions, hold or purchase assets, be enforceable under domestic laws and courts, etc.) within the territory of the Union. Existing registered trusts that do not update information, should be "inactivated": while their available information will be kept, they will be unable to operate within the territory of the Union as if they were unregistered trusts."*

Or. en

*([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))*

#### **Amendment 23**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 10 – point d b (new)**

DIRECTIVE (EU) 2015/849

Article 31 (6)

#### *Present text*

"6. Member States shall ensure that obliged entities do not rely exclusively on the central register referred to in paragraph 4 to fulfil their customer due diligence requirements as laid down in Chapter II.

#### *Amendment*

*(d b)* "6. Member States shall ensure that obliged entities do not rely exclusively on the central register referred to in paragraph 4 to fulfil their customer due diligence requirements as laid down in Chapter II.



*Those requirements shall be fulfilled by using a risk-based approach."*

*When carrying out customer due diligence requirements, obliged entities shall however be required to report any discrepancy between central registers and information obtained directly through clients or other sources to competent authorities with a view to ensuring that central registers contain the most accurate, up-to-date and complete information possible."*

Or. en

([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))

#### **Amendment 24**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 10 – point e**

DIRECTIVE (EU) 2015/849

Article 31 (7a)

#### *Text proposed by the Commission*

In exceptional circumstances laid down in national law, where the access referred to in paragraphs 4 and 4a would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis.

#### *Amendment*

In exceptional circumstances ***and under specific terms*** laid down in national law, where the access referred to in paragraphs 4 and 4a would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from such access to all or part of the information on the beneficial ownership on a case-by-case basis. ***Member States shall ensure that these exemptions are granted upon a detailed evaluation of the exceptional nature of the circumstances. Exemptions shall be reassessed at regular intervals to avoid abuse. When an exemption is granted, this has to be clearly indicated in the register. It shall further be possible to challenge exemptions before the national***

*authority that granted the exemption.*

Or. en

**Amendment 25**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 10 – point h**

DIRECTIVE (EU) 2015/849

Article 31 (10)

*Text proposed by the Commission*

10. For the *purposes* of this Article, a trust is considered to be administered *in each* Member State where *the trustees are established*;

*Amendment*

10. For the *purpose* of this Article, a trust is considered to be *created*, administered *or operated in a* Member State where *one or more of the following conditions are fulfilled*:

*(a) it is created according to or governed by the law of the Member State or has its ultimate court of appeal in the jurisdiction of the Member State;*

*(b) it is connected to the Member State by:*

*i) having one or more of the persons referred to in paragraph 1 or beneficial owners of the trust, as defined in Article 3(6)(b), resident in that Member State;*

*ii) holding real estate or other tangible assets in the Member State;*

*iii) holding shares or voting rights or ownership interest in a legal entity incorporated in that Member State;*

*iv) holding a bank or payment account in a credit institution situated in that Member State.*

Or. en

**Amendment 26**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

## Proposal for a directive

### Article 1 – paragraph 1 – point 11 – point a (new)

DIRECTIVE (EU) 2015/849

Article 32 (7)

#### *Present text*

"7. Member States shall ensure that the FIU is empowered to take urgent action, directly or indirectly, where there is a suspicion that a transaction is related to money laundering or terrorist financing, to suspend or withhold consent to a transaction that is proceeding, in order to analyse the transaction, confirm the suspicion and disseminate the results of the analysis to the competent authorities. The FIU shall be empowered to take such action, directly or indirectly, at the request of an FIU from another Member State for the periods and under the conditions specified in the national law of the FIU receiving the request."

#### *Amendment*

*(a a)* "7. Member States shall ensure that the FIU is empowered to take urgent action, directly or indirectly, where there is a suspicion that a transaction is related to money laundering or terrorist financing, to suspend or withhold consent to a transaction that is proceeding, in order to analyse the transaction, confirm the suspicion and disseminate the results of the analysis **automatically** to the competent authorities. The FIU shall be empowered to take such action, directly or indirectly, at the request of an FIU from another Member State for the periods and under the conditions specified in the national law of the FIU receiving the request."

Or. en

*([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))*

## Amendment 27

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

## Proposal for a directive

### Article 1 – paragraph 1 – point 12

DIRECTIVE (EU) 2015/849

Article 32a (1)

#### *Text proposed by the Commission*

1. Member States shall put in place automated centralised mechanisms, such as central registries or central electronic data retrieval systems, which allow the identification, in a timely manner, of any natural or legal persons holding or controlling payment accounts as defined in

#### *Amendment*

1. Member States shall put in place automated centralised mechanisms, such as central registries or central electronic data retrieval systems, which allow the identification, in a timely manner, of any natural or legal persons holding or controlling payment accounts as defined in

Directive 2007/64/EC and bank accounts held by a credit institution within their territory. Member States shall notify the Commission of the characteristics of those national mechanisms.

Directive 2007/64/EC, *financial instruments as defined in Directive 2014/65/EU* and bank accounts held by a credit institution within their territory. Member States shall notify the Commission of the characteristics of those national mechanisms.

Or. en

## **Amendment 28**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

### **Proposal for a directive**

**Article 1 – paragraph 1 – point 12 a (new)**

DIRECTIVE (EU) 2015/849

Article 32b new

*Text proposed by the Commission*

*Amendment*

*(12 a) Article 32b new*

*1. Member States shall put in place automated centralised mechanisms, such as central registries or central electronic data retrieval systems, which allow the identification, in a timely manner, of any natural or legal persons holding or controlling land, buildings or any other physical assets valued at 10 000 Euros or above within their territory. Member States shall notify the Commission of the characteristics of those national mechanisms.*

*2. Member States shall ensure that the information held in the centralised mechanisms referred to in paragraph 1 is directly accessible, at national level, to FIUs and competent authorities, including tax authorities. Member States shall ensure that any FIU is able to provide information held in the centralised mechanisms referred to in paragraph 1 to any other FIUs or competent authorities, including tax authorities, in a timely manner in*

*accordance with Article 53.*

**3. The following information shall be accessible and searchable through the centralised mechanisms referred to in paragraph 1:**

*– for the real property or asset owner and any person purporting to act on behalf of the owner: the name, complemented by the other identification data required under the national provisions transposing Article 13(1)(a) or a unique identification number;*

*– for the beneficial owner of the property or asset: the name, complemented by the other identification data required under the national provisions transposing Article 13(1)(b) or a unique identification number;*

*– for the property or asset: date and cause of ownership acquisition, mortgage and rights other than ownership;*

*– for the land: location, parcel number, land category (current state of land), parcel area (area of land), valuation;*

*– for the building: location, parcel number, building number, type, structure, floor area, valuation;*

*– for any other asset referred to in paragraph 1: type, description, valuation.*

Or. en

## **Amendment 29**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

### **Proposal for a directive**

**Article 1 – paragraph 1 – point 13 a (new)**

DIRECTIVE (EU) 2015/849

Article 34 (2)

*Present text*

*Amendment*

"2. Member States shall not apply the

**(13 a)** "2. Member States shall not apply

obligations laid down in Article 33(1) to notaries, other independent legal professionals, auditors, external accountants and tax advisors only to the strict extent that such exemption relates to information they receive from, or obtain on, one of their clients, in the course of ascertaining the legal position of their client or performing their task of defending or representing that client in, or concerning, judicial proceedings, **including providing advice on instituting or avoiding such proceedings**, whether such information is received or obtained before, during or after such proceedings."

the obligations laid down in Article 33(1) to notaries, other independent legal professionals, auditors, external accountants and tax advisors only to the strict extent that such exemption relates to information they receive from, or obtain on, one of their clients, in the course of ascertaining the legal position of their client or performing their task of defending or representing that client in, or concerning, judicial proceedings, whether such information is received or obtained before, during or after such proceedings."

Or. en

*([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))*

### **Amendment 30**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 13 b (new)**

DIRECTIVE (EU) 2015/849

Article 37

#### *Present text*

"Disclosure of information in good faith by an obliged entity or by an employee or director of such an obliged entity in accordance with Articles 33 and 34 shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not involve the obliged entity or its directors or employees in liability of any kind even in circumstances where they were not precisely aware of the underlying criminal activity and regardless of whether illegal activity actually occurred."

#### *Amendment*

**(13 b)** "Disclosure of information in good faith by an obliged entity or by an employee or director of such an obliged entity, **FIUs or other relevant public bodies** in accordance with Articles 33 and 34 shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not involve the obliged entity or its directors or employees in liability of any kind even in circumstances where they were not precisely aware of the underlying criminal activity and regardless of whether

illegal activity actually occurred."

Or. en

([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))

### **Amendment 31**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

### **Proposal for a directive**

**Article 1 – paragraph 1 – point 13 c (new)**

DIRECTIVE (EU) 2015/849

Article 38

#### *Present text*

"Member States shall ensure that individuals, including employees and representatives of the obliged entity who report suspicions of money laundering or terrorist financing internally or to the FIU, are protected from being exposed to threats or hostile action, **and** in particular from adverse or discriminatory employment **actions**."

#### *Amendment*

**(13 c)** "Member States shall ensure that individuals, including employees and representatives of the obliged entity, **FIUs or other relevant public bodies** who report suspicions of money laundering or terrorist financing internally or to the FIU, are protected from being exposed to threats or **any** hostile action, in particular from **any** adverse or discriminatory employment **action**. **This protection shall also effectively comprise relatives or any other person with close links to the one that has reported the suspicion.**

**Where there is reasonable ground to suspect that money laundering, associated predicate offences or terrorist financing, or an action with comparable risks for the public interest, have actually occurred and not been adequately dealt with by the obliged entity or the FIU, an individual, including employees and representatives of the obliged entity or employees of the FIU or other relevant bodies shall also be protected if these cases are exposed publicly. In such circumstances, protection shall entail reasonable financial support or compensation in addition to the elements listed in**

*paragraph 1."*

Or. en

([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))

### **Amendment 32**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 15 a (new)**

DIRECTIVE (EU) 2015/849

Article 44 (2) (d)

#### *Present text*

"(d) data regarding the number of cross-border requests for information that were made, received, refused and partially or fully answered by the FIU."

#### *Amendment*

**(15 a)** "(d) data regarding the number of cross-border requests for information that were made, received, refused and partially or fully answered by the FIU, ***broken down by counterpart country.***"

Or. en

([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))

### **Amendment 33**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

#### **Proposal for a directive**

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

DIRECTIVE (EU) 2015/849

Article 50a

#### *Text proposed by the Commission*

Member States shall ***not prohibit or place unreasonable or unduly restrictive conditions on*** the exchange of information ***or*** assistance between competent authorities. In particular Member States shall ensure that competent authorities do not refuse a request for assistance on the

#### *Amendment*

Member States shall ***ensure*** the exchange of information ***and*** assistance between competent authorities. In particular Member States shall ensure that competent authorities do not refuse a request for assistance on the grounds that:



grounds that:

Or. en

**Amendment 34**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

**Proposal for a directive**

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

DIRECTIVE (EU) 2015/849

Article 50a

*Text proposed by the Commission*

*Amendment*

*The obligation to ensure effective, comprehensive and timely exchange of information with counterpart authorities shall apply to all types of exchanges including automatic, spontaneous and on request.*

Or. en

**Amendment 35**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 19 – point b a (new)**

DIRECTIVE (EU) 2015/849

Article 53

*Text proposed by the Commission*

*Amendment*

*(b a) Add Article 53 4a new*

*4. The FIU of each Member State shall quarterly publish summary statistics on its collaboration and the exchange of information with other FIUs. This should at least include the number of requests sent and received, whether those have been successfully followed-up and concluded, the type of information received or requested, the economic sector and nationality of the entity or individual*

*concerned and the overall as well as average amounts of money included in requests, if applicable.*

Or. en

### **Amendment 36**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 21 a (new)**

DIRECTIVE (EU) 2015/849

Article 59

#### *Present text*

"1. Member States shall ensure that this Article applies at least to breaches on the part of obliged entities *that are serious, repeated, systematic, or a combination thereof*, of the requirements laid down in:

- (a) Articles 10 to 24 (customer due diligence);
- (b) Articles 33, 34 and 35 (suspicious transaction reporting);
- (c) Article 40 (record-keeping); and
- (d) Articles 45 and 46 (internal controls).

2. Member States shall ensure that in the cases referred to in paragraph 1, the administrative sanctions and measures that can be applied include at least the following:

- (a) a public statement which identifies the natural or legal person and the nature of the breach;
- (b) an order requiring the natural or legal person to cease the conduct and to desist from repetition of that conduct;
- (c) where an obliged entity is subject to an authorisation, withdrawal or suspension of the authorisation;

#### *Amendment*

**(21 a)** "1. Member States shall ensure that this Article applies at least to breaches on the part of obliged entities of the requirements laid down in:

- (a) Articles 10 to 24 (customer due diligence);
- (b) Articles 33, 34 and 35 (suspicious transaction reporting);
- (c) Article 40 (record-keeping); and
- (d) Articles 45 and 46 (internal controls).

2. Member States shall ensure that in the cases referred to in paragraph 1, the administrative sanctions and measures that can be applied include at least the following:

- (a) a public statement which identifies the natural or legal person and the nature of the breach;
- (b) an order requiring the natural or legal person to cease the conduct and to desist from repetition of that conduct;
- (c) *for cases that are serious, repeated, systematic, or a combination thereof and* where an obliged entity is subject to an authorisation, *the* withdrawal or suspension

(d) a temporary ban against any person discharging managerial responsibilities in an obliged entity, or any other natural person, held responsible for the breach, from exercising managerial functions in obliged entities;

(e) maximum administrative pecuniary sanctions of at least twice the amount of the benefit derived from the breach where that benefit can be determined, or at least EUR 1 000 000.

3. Member States shall ensure that, by way of derogation from paragraph 2(e), where the obliged entity concerned is a credit institution or financial institution, the following sanctions can also be applied:

(a) in the case of a legal person, maximum administrative pecuniary sanctions of at least EUR 5 000 000 or 10 % of the total annual turnover according to the latest available accounts approved by the management body; where the obliged entity is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial accounts in accordance with Article 22 of Directive 2013/34/EU, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with the relevant accounting Directives according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking;

(b) in the case of a natural person, maximum administrative pecuniary sanctions of at least EUR 5 000 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency on 25 June 2015.

4. Member States may empower competent authorities to impose additional types of administrative sanctions in addition to

of the authorisation;

(d) a temporary ban against any person discharging managerial responsibilities in an obliged entity, or any other natural person, held responsible for the breach, from exercising managerial functions in obliged entities;

(e) maximum administrative pecuniary sanctions of at least twice the amount of the benefit derived from the breach where that benefit can be determined, or at least EUR 1 000 000.

3. Member States shall ensure that, by way of derogation from paragraph 2(e), where the obliged entity concerned is a credit institution or financial institution, the following sanctions can also be applied:

(a) in the case of a legal person, maximum administrative pecuniary sanctions of at least EUR 5 000 000 or 10 % of the total annual turnover according to the latest available accounts approved by the management body; where the obliged entity is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial accounts in accordance with Article 22 of Directive 2013/34/EU, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with the relevant accounting Directives according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking;

(b) in the case of a natural person, maximum administrative pecuniary sanctions of at least EUR 5 000 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency on 25 June 2015.

***(c) for cases that are serious, repeated, systematic, or a combination thereof the withdrawal of the authorisation to***

those referred to in points (a) to (d) of paragraph 2 or to impose administrative pecuniary sanctions exceeding the amounts referred to in point (e) of paragraph 2 and in paragraph 3."

*operate;*

***4. Member States may empower competent authorities to impose additional types of administrative sanctions in addition to those referred to in points (a) to (d) of paragraph 2 or to impose administrative pecuniary sanctions exceeding the amounts referred to in point (e) of paragraph 2 and in paragraph 3."***

Or. en

([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))

#### **Amendment 37**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

#### **Proposal for a directive**

**Article 1 – paragraph 1 – point 24 a (new)**

**DIRECTIVE (EU) 2015/849**

**Annex II**

*Present text*

*Amendment*

**"ANNEX II**

**(24 a) "Deletion Annex II"**

***The following is a non-exhaustive list of factors and types of evidence of potentially lower risk referred to in Article 14:***

***(1) Customer risk factors:***

***(a) public companies listed on a stock exchange and subject to disclosure requirements (either by stock exchange rules or through law or enforceable means), which impose requirements to ensure adequate transparency of beneficial ownership;***

*(b) public administrations or enterprises;*

*(c) customers resident in lower risk geographical areas as set out in paragraph (3).*

*(2) Product, service, transaction or delivery channel risk factors:*

*(a) life insurance policies where the premium is low;*

*(b) insurance policies for pension schemes if there is no early surrender option and the policy cannot be used as collateral;*

*(c) a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages, and the scheme rules do not permit the assignment of a member's interest under the scheme;*

*(d) financial products or services that provide appropriately defined and limited services to certain types of customers, so as to increase access for financial inclusion purposes;*

*(e) products where the risk of money laundering/terrorist financing are managed by other factors such as purse limits or transparency of ownership (e.g. certain types of electronic money as defined in Directive 2009/110/EC on the taking up, pursuit and prudential supervision of the business of electronic money institutions).*

*(3) Geographical risk factors:*

*(a) EU Member States;*

*(b) third countries having effective anti-money laundering/combating terrorist financing systems;*

*(c) third countries identified by credible sources as having a low level of corruption or other criminal activity;*

*(d) third countries which, on the basis of credible sources such as mutual evaluations, detailed assessment reports or published follow-up reports, have requirements to combat money laundering and terrorist financing consistent with the FATF Recommendations and effectively implement those requirements."*

Or. en

*([http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL\\_2015\\_141\\_R\\_0003&from=ES](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES))*

#### *Justification*

*To be voted in conjunction with deletion proposal for Articles 15 and 16 (amendment 11). See justification there.*

#### **Amendment 38**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

#### **Proposal for a directive**

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

Directive 2009/101/EC

Article 1a

#### *Text proposed by the Commission*

(a) corporate and other legal entities referred to in Article 30 of Directive 2015/849 of the European Parliament and of the Council\*, including the types of companies referred to in Article 1 of this Directive, *save for those which are non profit-making*;

#### *Amendment*

(a) corporate and other legal entities referred to in Article 30 of Directive 2015/849 of the European Parliament and of the Council\*, including the types of companies referred to in Article 1 of this Directive;

Or. en

#### **Amendment 39**

**Fabio De Masi, Matt Carthy, Miguel Urbán Crespo, Marisa Matias, Rina Ronja Kari, Paloma López Bermejo**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 1**  
Directive 2009/101/EC  
Article 1a

*Text proposed by the Commission*

(b) trusts which *comprise any property held by, or on behalf of, a person carrying on a business which consists of or includes the management of trusts, and acting as trustee of a trust in the course of that business with a view to gain profit, and other types of legal arrangements having a structure or functions similar to such trusts.*

*Amendment*

(b) trusts which *are covered by Article 31 of Directive 2015/849/EU.*

Or. en

**Amendment 40**  
**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 2**  
Directive 2009/101/EC  
Article 7b (1)

*Text proposed by the Commission*

The information shall consist of the name, the *month and year* of birth, the nationality and the country of residence of the beneficial owner as well as the nature and extent of the beneficial interest held.

*Amendment*

The information shall *at least* consist of the name, the *date* of birth, the nationality and the country of residence of the beneficial owner as well as the nature and extent of the beneficial interest held.

Or. en

**Amendment 41**  
**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

**Proposal for a directive**  
**Article 2 – paragraph 1 – point 2**  
Directive 2009/101/EC  
Article 7b (3)

*Text proposed by the Commission*

3. Member States shall ensure that the beneficial ownership information referred to in paragraph 1 of this Article shall also be made publicly available through the system of interconnection of registers referred to in Article 4a(2).

*Amendment*

3. Member States shall ensure that the beneficial ownership information referred to in paragraph 1 of this Article shall also be made publicly available through the system of interconnection of registers referred to in Article 4a(2). ***For the purpose of this paragraph, access to the information on beneficial ownership shall be in accordance with data protection rules and made possible in machine-readable and open format as defined in Directive 2013/37/EU.***

Or. en

**Amendment 42**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 2**

Directive 2009/101/EC

Article 7b (4)

*Text proposed by the Commission*

4. In exceptional circumstances laid down in national law, where the access to the information set out in paragraph 1 would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from ***the compulsory disclosure of*** to all or part of the information on the beneficial ownership on a case-by-case basis.

*Amendment*

4. In exceptional circumstances ***and other specific terms*** laid down in national law, where the access to the information set out in paragraph 1 would expose the beneficial owner to the risk of fraud, kidnapping, blackmail, violence or intimidation, or where the beneficial owner is a minor or otherwise incapable, Member States may provide for an exemption from ***such access*** to all or part of the information on the beneficial ownership on a case-by-case basis. ***Member States shall ensure that these exemptions are granted upon a detailed evaluation of the exceptional nature of the circumstances. Exemptions shall be reassessed at regular intervals to avoid abuse. When an exemption is granted, this has to be***



*clearly indicated in the register. It shall further be possible to challenge exemptions before the national authority that granted the exemption.*

Or. en

**Amendment 43**

**Fabio De Masi, Rina Ronja Kari, Paloma López Bermejo, Matt Carthy, Miguel Urbán Crespo, Marisa Matias**

**Proposal for a directive**

**Article 2 – paragraph 1 – point 2 a (new)**

Directive 2009/101/EC

Article 7

<i>Present text</i>	<i>Amendment</i>
"Article 7 Member States shall provide for appropriate penalties at least in the case of: (a) failure to disclose accounting documents as required by Article 2(f); (b) omission from commercial documents or from any company website of the compulsory particulars provided for in Article 5."	<b>(2 a)</b> "Article 7 Member States shall provide for appropriate penalties at least in the case of: (a) failure to disclose accounting documents as required by Article 2(f); <b>(b a) failure to disclose accurately and completely beneficial ownership information as required by Article 7b;</b>  <b>(b) omission from commercial documents or from any company website of the compulsory particulars provided for in Article 5."</b>

Or. en

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:258:0011:0019:EN:PDF>)