

Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (Text with EEA relevance)

CHAPTER I

GENERAL PROVISIONS

SECTION 1

Subject-matter, scope and definitions

Article 3

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

- (1) ‘credit institution’ means a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council⁽¹⁾, including branches thereof, as defined in point (17) of Article 4(1) of that Regulation, located in the Union, whether its head office is situated within the Union or in a third country;
- (2) ‘financial institution’ means:
 - (a) an undertaking other than a credit institution, which carries out one or more of the activities listed in points (2) to (12), (14) and (15) of Annex I to Directive 2013/36/EU of the European Parliament and of the Council⁽²⁾, including the activities of currency exchange offices (bureaux de change);
 - (b) an insurance undertaking as defined in point (1) of Article 13 of Directive 2009/138/EC of the European Parliament and of the Council⁽³⁾, insofar as it carries out life assurance activities covered by that Directive;
 - (c) an investment firm as defined in point (1) of Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council⁽⁴⁾;
 - (d) a collective investment undertaking marketing its units or shares;
 - (e) an insurance intermediary as defined in point (5) of Article 2 of Directive 2002/92/EC of the European Parliament and of the Council⁽⁵⁾ where it acts with respect to life insurance and other investment-related services, with the exception of a tied insurance intermediary as defined in point (7) of that Article;
 - (f) branches, when located in the Union, of financial institutions as referred to in points (a) to (e), whether their head office is situated in a Member State or in a third country;

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- (3) ‘property’ means assets of any kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments in any form including electronic or digital, evidencing title to or an interest in such assets;
- (4) ‘criminal activity’ means any kind of criminal involvement in the commission of the following serious crimes:
- (a) [F¹terrorist offences, offences related to a terrorist group and offences related to terrorist activities as set out in Titles II and III of Directive (EU) 2017/541⁽⁶⁾];
 - (b) any of the offences referred in Article 3(1)(a) of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances;
 - (c) [F¹the activities of criminal organisations as defined in Article 1(1) of Council Framework Decision 2008/841/JHA⁽⁷⁾];
 - (d) fraud affecting the Union's financial interests, where it is at least serious, as defined in Article 1(1) and Article 2(1) of the Convention on the protection of the European Communities' financial interests⁽⁸⁾;
 - (e) corruption;
 - (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 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;
- (5) ‘self-regulatory body’ means a body that represents members of a profession and has a role in regulating them, in performing certain supervisory or monitoring type functions and in ensuring the enforcement of the rules relating to them;
- (6) ‘beneficial owner’ means any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted and includes at least:
- (a) in the case of corporate entities:
 - (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

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- 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⁽⁹⁾;
- (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;
- (b) [^{F1}in the case of trusts, all following persons:
- (i) the settlor(s);
- (ii) the trustee(s);
- (iii) the protector(s), if any;
- (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;
- (v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means;]
- (c) in the case of legal entities such as foundations, and legal arrangements similar to trusts, the natural person(s) holding equivalent or similar positions to those referred to in point (b);
- (7) ‘trust or company service provider’ means any person that, by way of its business, provides any of the following services to third parties:
- (a) the formation of companies or other legal persons;
- (b) acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
- (c) providing a registered office, business address, correspondence or administrative address and other related services for a company, a partnership or any other legal person or arrangement;
- (d) acting as, or arranging for another person to act as, a trustee of an express trust or a similar legal arrangement;
- (e) acting as, or arranging for another person to act as, a nominee shareholder for another person other than a company listed on a regulated market that is subject to disclosure requirements in accordance with Union law or subject to equivalent international standards;
- (8) ‘correspondent relationship’ means:

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- (a) the provision of banking services by one bank as the correspondent to another bank as the respondent, including providing a current or other liability account and related services, such as cash management, international funds transfers, cheque clearing, payable-through accounts and foreign exchange services;
 - (b) the relationships between and among credit institutions and financial institutions including where similar services are provided by a correspondent institution to a respondent institution, and including relationships established for securities transactions or funds transfers;
- (9) ‘politically exposed person’ means a natural person who is or who has been entrusted with prominent public functions and includes the following:
- (a) heads of State, heads of government, ministers and deputy or assistant ministers;
 - (b) members of parliament or of similar legislative bodies;
 - (c) members of the governing bodies of political parties;
 - (d) members of supreme courts, of constitutional courts or of other high-level judicial bodies, the decisions of which are not subject to further appeal, except in exceptional circumstances;
 - (e) members of courts of auditors or of the boards of central banks;
 - (f) ambassadors, *chargés d'affaires* and high-ranking officers in the armed forces;
 - (g) members of the administrative, management or supervisory bodies of State-owned enterprises;
 - (h) directors, deputy directors and members of the board or equivalent function of an international organisation.
- No public function referred to in points (a) to (h) shall be understood as covering middle-ranking or more junior officials;
- (10) ‘family members’ includes the following:
- (a) the spouse, or a person considered to be equivalent to a spouse, of a politically exposed person;
 - (b) the children and their spouses, or persons considered to be equivalent to a spouse, of a politically exposed person;
 - (c) the parents of a politically exposed person;
- (11) ‘persons known to be close associates’ means:
- (a) natural persons who are known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a politically exposed person;
 - (b) natural persons who have sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the *de facto* benefit of a politically exposed person.

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- (12) ‘senior management’ means an officer or employee with sufficient knowledge of the institution's money laundering and terrorist financing risk exposure and sufficient seniority to take decisions affecting its risk exposure, and need not, in all cases, be a member of the board of directors;
- (13) ‘business relationship’ means a business, professional or commercial relationship which is connected with the professional activities of an obliged entity and which is expected, at the time when the contact is established, to have an element of duration;
- (14) ‘gambling services’ means a service which involves wagering a stake with monetary value in games of chance, including those with an element of skill such as lotteries, casino games, poker games and betting transactions that are provided at a physical location, or by any means at a distance, by electronic means or any other technology for facilitating communication, and at the individual request of a recipient of services;
- (15) ‘group’ means a group of undertakings which consists of a parent undertaking, its subsidiaries, and the entities in which the parent undertaking or its subsidiaries hold a participation, as well as undertakings linked to each other by a relationship within the meaning of Article 22 of Directive 2013/34/EU;
- (16) [^{F1}‘electronic money’ means electronic money as defined in point (2) of Article 2 of Directive 2009/110/EC, but excluding monetary value as referred to in Article 1(4) and (5) of that Directive;]
- (17) ‘shell bank’ means a credit institution or financial institution, or an institution that carries out activities equivalent to those carried out by credit institutions and financial institutions, incorporated in a jurisdiction in which it has no physical presence, involving meaningful mind and management, and which is unaffiliated with a regulated financial group^{[F1];}
- (18) [^{F2}‘virtual currencies’ means a digital representation of value that is not issued or guaranteed by a central bank or a public authority, is not necessarily attached to a legally established currency and does not possess a legal status of currency or money, but is accepted by natural or legal persons as a means of exchange and which can be transferred, stored and traded electronically;
- (19) ‘custodian wallet provider’ means an entity that provides services to safeguard private cryptographic keys on behalf of its customers, to hold, store and transfer virtual currencies.]

Textual Amendments

- F1** Substituted by [Directive \(EU\) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive \(EU\) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU \(Text with EEA relevance\)](#).
- F2** Inserted by [Directive \(EU\) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive \(EU\) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU \(Text with EEA relevance\)](#).

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- (1) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).
- (2) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).
- (3) Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).
- (4) Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).
- (5) Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation (OJ L 9, 15.1.2003, p. 3).
- (6) [^{F1}Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).]
- (7) [^{F1}Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300, 11.11.2008, p. 42).]
- (8) OJ C 316, 27.11.1995, p. 49.
- (9) Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

Textual Amendments

- F1** Substituted by [Directive \(EU\) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive \(EU\) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU \(Text with EEA relevance\).](#)