

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 VI

POLICIES, PROCEDURES AND SUPERVISION

SECTION 1

Internal procedures, training and feedback

Article 45

1 Member States shall require obliged entities that are part of a group to implement group-wide policies and procedures, including data protection policies and policies and procedures for sharing information within the group for AML/CFT purposes. Those policies and procedures shall be implemented effectively at the level of branches and majority-owned subsidiaries in Member States and third countries.

2 Member States shall require that obliged entities that operate establishments in another Member State ensure that those establishments respect the national provisions of that other Member State transposing this Directive.

3 Member States shall ensure that where obliged entities have branches or majority-owned subsidiaries located in third countries where the minimum AML/CFT requirements are less strict than those of the Member State, their branches and majority-owned subsidiaries located in the third country implement the requirements of the Member State, including data protection, to the extent that the third country's law so allows.

[^{F14} The Member States and the ESAs shall inform each other of instances in which the law of a third country does not permit the implementation of the policies and procedures required under paragraph 1. In such cases, coordinated actions may be taken to pursue a solution. In the assessing which third countries do not permit the implementation of the policies and procedures required under paragraph 1, Member States and the ESAs shall take into account any legal constraints that may hinder proper implementation of those policies and procedures, including secrecy, data protection and other constraints limiting the exchange of information that may be relevant for that purpose.]

5 Member States shall require that, where a third country's law does not permit the implementation of the policies and procedures required under paragraph 1, obliged entities ensure that branches and majority-owned subsidiaries in that third country apply additional measures to effectively handle the risk of money laundering or terrorist financing, and inform the competent authorities of their home Member State. If the additional measures are not sufficient, the competent authorities of the home Member State shall exercise additional supervisory actions, including requiring that the group does not establish or that it terminates business relationships, and does not undertake transactions and, where necessary, requesting the group to close down its operations in the third country.

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6 The ESAs shall develop draft regulatory technical standards specifying the type of additional measures referred to in paragraph 5 and the minimum action to be taken by credit institutions and financial institutions where a third country's law does not permit the implementation of the measures required under paragraphs 1 and 3.

The ESAs shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 26 December 2016.

7 Power is delegated to the Commission to adopt the regulatory technical standards referred to in paragraph 6 of this Article in accordance with Articles 10 to 14 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010.

8 Member States shall ensure that the sharing of information within the group is allowed. Information on suspicions that funds are the proceeds of criminal activity or are related to terrorist financing reported to the FIU shall be shared within the group, unless otherwise instructed by the FIU.

9 Member States may require electronic money issuers as defined in point (3) of Article 2 of Directive 2009/110/EC and payment service providers as defined in point (9) of Article 4 of Directive 2007/64/EC established on their territory in forms other than a branch, and whose head office is situated in another Member State, to appoint a central contact point in their territory to ensure, on behalf of the appointing institution, compliance with AML/CFT rules and to facilitate supervision by competent authorities, including by providing competent authorities with documents and information on request.

10 The ESAs shall develop draft regulatory technical standards on the criteria for determining the circumstances in which the appointment of a central contact point pursuant to paragraph 9 is appropriate, and what the functions of the central contact points should be.

The ESAs shall submit the draft regulatory technical standards referred to in the first subparagraph to the Commission by 26 June 2017.

11 Power is delegated to the Commission to adopt the regulatory technical standards referred to in paragraph 10 of this Article in accordance with Articles 10 to 14 of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010.

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 \(Text with EEA relevance\)](#).

Article 46

1 Member States shall require that obliged entities take measures proportionate to their risks, nature and size so that their employees are aware of the provisions adopted pursuant to this Directive, including relevant data protection requirements.

Those measures shall include participation of their employees in special ongoing training programmes to help them recognise operations which may be related to money laundering or terrorist financing and to instruct them as to how to proceed in such cases.

Where a natural person falling within any of the categories listed in point (3) of Article 2(1) performs professional activities as an employee of a legal person, the obligations in this Section shall apply to that legal person rather than to the natural person.

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2 Member States shall ensure that obliged entities have access to up-to-date information on the practices of money launderers and financers of terrorism and on indications leading to the recognition of suspicious transactions.

3 Member States shall ensure that, where practicable, timely feedback on the effectiveness of and follow-up to reports of suspected money laundering or terrorist financing is provided to obliged entities.

4 Member States shall require that, where applicable, obliged entities identify the member of the management board who is responsible for the implementation of the laws, regulations and administrative provisions necessary to comply with this Directive.