►B 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)

(IO L 141, 5.6.2015, lch. 73)

Arna leasú le:

		Iris Oifigiúil		
		Uimh	Leathanach	Dáta
►M1	Treoir (AE) 2018/843 ó Pharlaimint na hEorpa agus ón gComhairle an 30 Bealtaine 2018	L 156	43	19.6.2018
►M2	Treoir (AE) 2019/2177 ó Pharlaimint na hEorpa agus ón gComhairle An 18 Nollaig 2019	L 334	155	27.12.2019

▼B

DIRECTIVE (EU) 2015/849 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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(Text with EEA relevance)

CHAPTER I

GENERAL PROVISIONS

SECTION 1

Subject-matter, scope and definitions

Article 1

1. This Directive aims to prevent the use of the Union's financial system for the purposes of money laundering and terrorist financing.

2. Member States shall ensure that money laundering and terrorist financing are prohibited.

3. For the purposes of this Directive, the following conduct, when committed intentionally, shall be regarded as money laundering:

(a) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an activity to evade the legal consequences of that person's action;

(b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is derived from criminal activity or from an act of participation in such an activity;

(c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such an activity;

(d) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions referred to in points (a), (b) and (c).

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4. Money laundering shall be regarded as such even where the activities which generated the property to be laundered were carried out in the territory of another Member State or in that of a third country.

5. For the purposes of this Directive, 'terrorist financing' means the provision or collection of funds, by any means, directly or indirectly, with the intention that they be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences within the meaning of Articles 1 to 4 of Council Framework Decision 2002/475/JHA ([1]).

6. Knowledge, intent or purpose required as an element of the activities referred to in paragraphs 3 and 5 may be inferred from objective factual circumstances.

Article 2

1. This Directive shall apply to the following obliged entities:

(1) credit institutions;

(2) financial institutions;

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

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(a) iniúchóirí, cuntasóirí seachtracha agus comhairleoirí cánach, agus aon duine eile a ghabhann air féin, go díreach nó trí bhíthin daoine eile a bhfuil gaol ag an duine eile sin leo, cabhair ábhartha, cúnamh nó comhairle maidir le cúrsaí cánach mar phríomhghnó nó mar ghníomhaíocht ghairmiúil a sholáthar;

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(b) notaries and other independent legal professionals, where 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 carrying out 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;

([1]) Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3).

▼B

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

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

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(d) gníomhairí eastáit lena n-áirítear agus iad ag gníomhú mar idirghabhálaithe i ndáil le maoin chónaithe dhochorraithe a ligean, ach amháin maidir le hidirbhearta ina bhfuil an cíos míosúil cothrom le EUR 10 000 nó níos mó dóibh;

▼B

(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;

▼M1

(g) soláthróirí atá ag gabháil do sheirbhísí malairte idir airgeadraí fiorúla agus airgeadraí fiat;

(h) soláthraithe tiachóg taisceánach;

(i) daoine atá ag trádáil nó ag gníomhú mar idirghabhálaithe i dtrádáil saothar ealaíne, lena n-áirítear nuair is dánlanna agus siopaí ceantála a dhéanann í seo, i gcás ina bhfuil luach an idirbhirt nó luach sraith idirbheart nasctha cothrom le EUR 10 000 nó níos mó;

(j) daoine atá ag stóráil, ag trádáil nó ag gníomhú mar idirghabhálaithe i dtrádáil saothar ealaíne nuair is saorphoirt a dhéanann í seo, i gcás ina bhfuil luach an idirbhirt nó luach sraith idirbheart nasctha cothrom le EUR 10 000 nó níos mó.

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2. With the exception of casinos, and following an appropriate risk assessment, Member States may decide to exempt, in full or in part, providers of certain gambling services from national provisions transposing this Directive on the basis of the proven low risk posed by the nature and, where appropriate, the scale of operations of such services.

Among the factors considered in their risk assessments, Member States shall assess the degree of vulnerability of the applicable transactions, including with respect to the payment methods used.

In their risk assessments, Member States shall indicate how they have taken into account any relevant findings in the reports issued by the Commission pursuant to Article 6.

Any decision taken by a Member State pursuant to the first subparagraph shall be notified to the Commission, together with a justification based on the specific risk assessment. The Commission shall communicate that decision to the other Member States.

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3. Member States may decide that persons that engage in a financial activity on an occasional or very limited basis where there is little risk of money laundering or terrorist financing do not fall within the scope of this Directive, provided that all of the following criteria are met:

(a) the financial activity is limited in absolute terms;

(b) the financial activity is limited on a transaction basis;

(c) the financial activity is not the main activity of such persons;

(d) the financial activity is ancillary and directly related to the main activity of such persons;

(e) the main activity of such persons is not an activity referred to in points (a) to (d) or point (f) of paragraph 1(3);

(f) the financial activity is provided only to the customers of the main activity of such persons and is not generally offered to the public.

The first subparagraph shall not apply to persons engaged in the activity of money remittance as defined in point (13) of Article 4 of Directive 2007/64/EC of the European Parliament and of the Council ([1]).

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.

5. For the purposes of point (b) of paragraph 3, Member States shall apply a maximum threshold per customer and per single transaction, whether the transaction is carried out in a single operation or in several operations which appear to be linked. That maximum threshold shall be established at national level, depending on the type of financial activity. It shall be sufficiently low in order to ensure that the types of transactions in question are an impractical and inefficient method for money laundering or terrorist financing, and shall not exceed EUR 1 000.

6. For the purposes of point (c) of paragraph 3, Member States shall require that the turnover of the financial activity does not exceed 5 % of the total turnover of the natural or legal person concerned.

([1]) Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319, 5.12.2007, p. 1).

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7. In assessing the risk of money laundering or terrorist financing for the purposes of this Article, Member States shall pay particular attention to any financial activity which is considered to be particularly likely, by its nature, to be used or abused for the purposes of money laundering or terrorist financing.

8. Decisions taken by Member States pursuant to paragraph 3 shall state the reasons on which they are based. Member States may decide to withdraw such decisions where circumstances change. They shall notify such decisions to the Commission. The Commission shall communicate such decisions to the other Member States.

9. Member States shall establish risk-based monitoring activities or take other adequate measures to ensure that the exemption granted by decisions pursuant to this Article is not abused.

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;

([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).

▼B

(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 ([1]);

(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 ([2]) 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;

(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:

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(a) cionta sceimhlitheoireachta, cionta a bhaineann le grúpa sceimhlitheoireachta agus cionta a bhaineann le gníomhaíochtaí sceimhlitheoireachta mar a leagtar amach i dTeideal II agus i dTeideal III de Threoir (AE) 2017/541 ([3]);

▼B

(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;

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(c) gníomhaíochtaí eagraíochtaí coiriúla mar a shainmhínítear in Airteagal 1(1) de Chinneadh Réime 2008/841/CGB ón gComhairle ([4]);

([1]) 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).

([2]) 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).

([3]) Treoir (AE) 2017/541 ó Pharlaimint na hEorpa agus ón gComhairle an 15 Márta 2017 maidir leis an sceimhlitheoireacht a chomhrac, agus lena n-ionadaítear Cinneadh Réime 2002/475/CGB ón gComhairle agus lena leasaítear Cinneadh 2005/671/CGB ón gComhairle (IO L 88, 31.3.2017, lch. 6).

([4]) Cinneadh Réime 2008/841/CGB ón gComhairle an 24 Deireadh Fómhair 2008 maidir leis an gcomhrac i gcoinne na coireachta eagraithe (IO L 300, 11.11.2008, lch. 42).

▼B

(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 ([1]);

(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 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 ([2]);

([1]) OJ C 316, 27.11.1995, p. 49.

([2]) 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).

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(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;

▼M1

(b) i gcás iontaobhas, na daoine seo a leanas go léir:

(i) an socraitheoir/na socraitheoirí;

(ii) an t-iontaobhaí/na hiontaobhaithe;

(iii) an cosantóir/na cosantóirí, más ann;

(iv) na tairbhithe; nó i gcás ina mbeidh na daoine aonair a thairbhíonn den chomhshocrú dlíthiúil nó den eintiteas dlíthiúil fós le cinneadh, an aicme daoine arb ina bpríomhleas a bhunaítear nó a oibrítear an comhshocrú nó an t-eintiteas dlíthiúil;

(v) aon duine nádúrtha eile a fheidhmíonn rialú deiridh ar an iontaobhas trí bhíthin úinéireacht dhíreach nó neamhdhíreach nó trí mhodh eile;

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(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;

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(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:

(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

(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.

(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;

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(16) ciallaíonn “airgead leictreonach” airgead leictreonach arna shainmhíniú i bpointe (2) d’Airteagal 2 de Threoir 2009/110/CE, ach gan luach airgid amhail dá dtagraítear in Airteagal 1(4) agus (5) den Treoir sin a áireamh;

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(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;

▼M1

(18) ciallaíonn “airgeadraí fíorúla” léiriú digiteach luach nach n-eisíonn nó nach ráthaíonn banc ceannais ná údarás poiblí, nach gá go bhfuil sé ag gabháil le hairgeadra atá bunaithe go dleathach, agus nach bhfuil stádas dlíthiúil airgeadra nó airgid aige, ach a nglacann daoine nádúrtha nó dlítheanacha leis mar mhodh malairte agus gur féidir a aistriú, a stóráil agus a thrádáil go leictreonach;

(19) ciallaíonn “soláthraí tiachóg taisceánach” eintiteas a chuireann seirbhísí ar fáil chun eochracha cripteagrafacha príobháideacha a choimirciú thar ceann a chustaiméirí, chun airgeadraí fíorúla a shealbhú, a stóráil agus a aistriú.

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Article 4

1. Member States shall, in accordance with the risk-based approach, ensure that the scope of this Directive is extended in whole or in part to professions and to categories of undertakings, other than the obliged entities referred to in Article 2(1), which engage in activities which are particularly likely to be used for the purposes of money laundering or terrorist financing.

2. Where a Member State extends the scope of this Directive to professions or to categories of undertaking other than those referred to in Article 2(1), it shall inform the Commission thereof.

Article 5

Member States may adopt or retain in force stricter provisions in the field covered by this Directive to prevent money laundering and terrorist financing, within the limits of Union law.

SECTION 2

Risk assessment

Article 6

1. The Commission shall conduct an assessment of the risks of money laundering and terrorist financing affecting the internal market and relating 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.

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

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

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(b) na rioscaí a bhaineann le gach earnáil ábhartha, lena n-áirítear, i gcás ina mbeidh fáil orthu, meastacháin ar mhéideanna airgeadaíochta sciúrtha airgid a chuireann *Eurostat* ar fáil maidir le gach ceann de na hearnálacha sin;

(c) na modhanna is forleithne a úsáideann coirpigh trína ndéantar fáltais aindleathacha a sciúradh, lena n-áirítear go háirithe, i gcás ina mbeidh fáil orthu, na modhanna a úsáidtear in idirbhearta idir na Ballstáit agus tríú tíortha, go neamhspleách ar aicmiú tríú tír mar ardriosca de bhun Airteagal 9(2).

▼M2

3. Déanfaidh an Coimisiún an tuarascáil dá dtagraítear i mír 1 a chur ar fáil do na Ballstáit agus d'eintitis faoi oibleagáid chun cuidiú leo na rioscaí sciúrtha airgid agus maoinithe sceimhlitheoireachta a shainaithint, a thuiscint, a bhainistiú agus a mhaolú, agus chun ligean do gheallsealbhóirí eile, lena n-áirítear reachtóirí náisiúnta, Parlaimint na hEorpa, an tÚdarás Maoirseachta Eorpach (an tÚdarás Baincéireachta Eorpach) arna bhunú le Rialachán (AE) Uimh. 1093/2010 ó Pharlaimint na hEorpa agus ón gComhairle ([1]) (ÚBE), agus ionadaithe ó Aonaid um Fhaisnéis Airgeadais AE (AFAnna) tuiscint níos fearr a bheith acu ar na rioscaí sin. Cuirfear na tuarascálacha sin ar fáil go poiblí 6mhí ar a dhéanaí tar éis iad a bheith curtha ar fáil do na Ballstáit, cé is moite de na gnéithe sin den tuarascáil a bhfuil faisnéis rúnaicmithe iontu.

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4. The Commission shall make 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 for 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'). ►M2 Ina dhiaidh sin, eiseoidh ÚBE tuairim gach dara bliain. ◄

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/CFT, 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 findings resulting from the regular risk assessments and the action taken based on those findings.

([1]) Rialachán (AE) Uimh. 1093/2010 ó Pharlaimint na hEorpa agus ón gComhairle an 24 Samhain 2010 lena mbunaítear Údarás Maoirseachta Eorpach (An tÚdarás Baincéireachta Eorpach), lena leasaítear Cinneadh Uimh. 716/2009/CE agus lena n-aisghairtear Cinneadh 2009/78/CE ón gCoimisiún (IO L 331, 15.12.2010, lch. 129).

▼B

Article 7

1. Each Member State shall take appropriate steps to identify, assess, understand and mitigate the risks of money laundering and terrorist financing affecting it, as well as any data protection concerns in that regard. It shall keep that risk assessment up to date.

2. Each Member State shall designate an authority or establish a mechanism by which to coordinate the national response to the risks referred to in paragraph 1. ►M2 Tabharfar fógra faoi chéannacht an údaráis sin nó faoin tuairisc ar an sásra don Choimisiún, do ÚBE, agus do na Ballstáit eile. ◄

3. In carrying out the risk assessments referred to in paragraph 1 of this Article, Member States shall make use of the findings of the report referred to in Article 6(1).

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 risks 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;

▼M1

(f) tuairisc a dhéanamh ar struchtúr institiúideach agus ar nósanna imeachta ginearálta a gcóras AML/CFT, lena n-áirítear, *inter alia*, an FIU, údaráis chánach agus ionchúisitheoirí, chomh maith leis na hacmhainní daonna agus airgeadais a leithdháiltear a mhéid atá an fhaisnéis sin ar fáil;

(g) tuairisc a dhéanamh ar iarrachtaí agus ar acmhainní náisiúnta (fórsaí saothair agus buiséad) a leithdháiltear chun sciúradh airgid agus maoiniú sceimhlitheoireachta a chomhrac.

▼M1

5. ►M2 Cuirfidh na Ballstáit torthaí a gcuid measúnuithe riosca, lena n-áirítear a gcuid nuashonruithe, ar fáil don Choimisiún, do ÚBE agus do na Ballstáit eile. ◄ Other Member States may provide relevant additional information, where appropriate, to the Member State carrying out the risk assessment. A summary of the assessment shall be made publicly available. That summary shall not contain classified information.

▼B

Article 8

1. Member States shall ensure that obliged entities take appropriate steps to identify and assess the risks of money laundering and terrorist financing, taking into account risk factors including those relating to their customers, countries or geographic areas, products, services, transactions or delivery channels. Those steps shall be proportionate to the nature and size of the obliged entities.

2. The risk assessments referred to in paragraph 1 shall be documented, kept up-to-date and made available to the relevant competent authorities and self-regulatory bodies concerned. Competent authorities may decide that individual documented risk assessments are not required where the specific risks inherent in the sector are clear and understood.

3. Member States shall ensure that obliged entities have in place policies, controls and procedures to mitigate and manage effectively the risks of money laundering and terrorist financing identified at the level of the Union, the Member State and the obliged entity. Those policies, controls and procedures shall be proportionate to the nature and size of the obliged entities.

4. The policies, controls and procedures referred to in paragraph 3 shall include:

(a) the development of internal policies, controls and procedures, including model risk management practices, customer due diligence, reporting, record-keeping, internal control, compliance management including, where appropriate with regard to the size and nature of the business, the appointment of a compliance officer at management level, and employee screening;

(b) where appropriate with regard to the size and nature of the business, an independent audit function to test the internal policies, controls and procedures referred to in point (a).

5. Member States shall require obliged entities to obtain approval from their senior management for the policies, controls and procedures that they put in place and to monitor and enhance the measures taken, where appropriate.

▼B

SECTION 3

Third-country policy

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.

▼M1

2. Tugtar de chumhacht don Choimisiún gníomhartha tarmligthe a ghlacadh i gcomhréir le hAirteagal 64 chun tríú tíortha ardriosca a shainaithint, agus easnaimh straitéiseacha á gcur san áireamh go háirithe sna réimsí seo a leanas:

(a) creat dlíthiúil agus institiúideach AML/CFT an tríú tír, go háirithe:

(i) sciúradh airgid agus maoiniú sceimhlitheoireachta a choiriúlú;

(ii) bearta a bhaineann le dícheall cuí custaiméara;

(iii) ceanglais maidir le coinneáil taifead;

(iv) ceanglais maidir le hidirbhearta amhrasacha a thuairisciú;

(v) faisnéis chruinn agus thráthúil maidir le húinéireacht thairbhiúil daoine dlítheanacha agus comhshocruithe dlíthiúla a bheith ar fáil d'údaráis inniúla;

(b) cumhachtaí agus nósanna imeachta údaráis inniúla an tríú tír chun críocha sciúradh airgid agus maoiniú sceimhlitheoireachta a chomhrac, lena n-áirítear smachtbhannaí éifeachtacha, comhréireacha agus athchomhairleacha iomchuí, chomh maith le cleachtas an tríú tír i dtaca le comhoibriú agus malartú faisnéise le húdaráis inniúla na mBallstát;

(c) éifeachtacht chóras AML/CFT an tríú tír chun aghaidh a thabhairt ar rioscaí sciúrtha airgid nó maoinithe sceimhlitheoireachta.

▼B

3. The delegated acts referred to in paragraph 2 shall be adopted within one month after the identification of the strategic deficiencies referred to in that paragraph.

▼M1

4. Cuirfidh an Coimisiún san áireamh, le linn dó na gníomhartha tarmligthe dá dtagraítear i mír 2 a tharraingt suas, na meastóireachtaí, na measúnuithe nó na tuarascálacha ábhartha arna dtarraingt suas ag eagraíochtaí idirnáisiúnta agus lucht leagtha amach caighdeán a bhfuil inniúlacht acu i ndáil le sciúradh airgid a chosc agus maoiniú sceimhlitheoireachta a chomhrac.

▼B

CHAPTER II

CUSTOMER DUE DILIGENCE

SECTION 1

General provisions

Article 10

▼M1

1. Toirmiscfidh na Ballstáit ar a n-institiúidí creidmheasa agus a n-institiúidí airgeadais cuntais gan ainm nó pasleabhair gan ainm nó taisceadáin gan ainm a choinneáil. Ceanglóidh na Ballstáit, in aon chás, go mbeidh úinéirí agus tairbhithe na gcuntas gan ainm nó na bpasleabhar gan ainm nó na dtaisceadán gan ainm atá ann cheana faoi réir bearta díchill chuí do chustaiméirí tráth nach déanaí ná 10 Eanáir 2019 agus in aon chás sula ndéanfar na cuntais, na pasleabhair nó na taisceadáin sin a úsáid in aon slí.

▼B

2. Member States shall take measures to prevent misuse of bearer shares and bearer share warrants.

Article 11

Member States shall ensure that obliged entities apply customer due diligence measures in the following circumstances:

(a) when establishing a business relationship;

(b) when carrying out an occasional transaction that:

(i) amounts to EUR 15 000 or more, whether that transaction is carried out in a single operation or in several operations which appear to be linked; or

(ii) constitutes a transfer of funds, as defined in point (9) of Article 3 of Regulation (EU) 2015/847 of the European Parliament and of the Council ([1]), exceeding EUR 1 000;

(c) in the case of persons trading in goods, when carrying out occasional transactions in cash amounting to EUR 10 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;

(d) for providers of gambling services, upon the collection of winnings, the wagering of a stake, or both, when carrying out transactions amounting to EUR 2 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;

([1]) Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (see page 1 of this Official Journal).

▼B

(e) when there is a suspicion of money laundering or terrorist financing, regardless of any derogation, exemption or threshold;

(f) when there are doubts about the veracity or adequacy of previously obtained customer identification data.

Article 12

1. By way of derogation from points (a), (b) and (c) of the first subparagraph of Article 13(1) and Article 14, and based on an appropriate risk assessment which demonstrates a low risk, a Member State may allow obliged entities not to apply certain customer due diligence measures with respect to electronic money, where all of the following risk-mitigating conditions are met:

▼M1

(a) níl an ionstraim íocaíochta ath-inlódáilte, nó tá uasteorainn mhíosúil íocaíocht idirbheart EUR 150 aici nach féidir a úsáid ach amháin sa Bhallstát sin;

(b) ní mó ná EUR 150 an t-uasmhéid a stóráiltear go leictreonach;

▼B

(c) the payment instrument is used exclusively to purchase goods or services;

(d) the payment instrument cannot be funded with anonymous electronic money;

(e) the issuer carries out sufficient monitoring of the transactions or business relationship to enable the detection of unusual or suspicious transactions.

▼M1

—————

2. Áiritheoidh na Ballstáit nach bhfuil an maolú dá bhforáiltear i mír 1 den Airteagal seo infheidhme i gcás fuascailt in airgead tirim nó aistarraingt airgid thirim luach airgeadaíoch an airgid leictreonaigh i gcás gur mó an tsuim a fhuasclaítear ná EUR 50, nó i gcás cian-idirbhearta mar a shainmhínítear i bpointe (6) d'Airteagal 4 de Threoir (AE) 2015/2366 ó Pharlaimint na hEorpa agus ón gComhairle [1] i gcás ina mbeidh an méid a íocadh níos mó ná EUR 50 in aghaidh an idirbhirt.

3. Áiritheoidh na Ballstáit nach nglacfaidh institiúidí creidmheasa agus institiúidí airgeadais a ghníomhaíonn mar fhaighteoirí ach le híocaíochtaí a dhéantar le cártaí réamhíoctha anaithnide arna n-eisiúint i dtríú tíortha ina gcomhlíonann na cártaí sin ceanglais atá coibhéiseach leis na cinn sin a leagtar amach i mír 1 agus mír 2.

Féadfaidh na Ballstáit cinneadh a dhéanamh gan glacadh ar a gcríoch le híocaíochtaí a dhéantar trí chártaí réamhíoctha anaithnide a úsáid.

[1] Treoir (AE) 2015/2366 ó Pharlaimint na hEorpa agus ón gComhairle an 25 Samhain 2015 maidir le seirbhísí íocaíochta sa mhargadh inmheánach, lena leasaítear Treoir 2002/65/CE, Treoir 2009/110/CE agus Treoir 2013/36/AE agus Rialachán (AE) Uimh. 1093/2010, agus lena n-aisghairtear Treoir 2007/64/CE (IO L 337, 23.12.2015, lch. 35).

▼B

Article 13

1. Customer due diligence measures shall comprise:

▼M1

(a) an custaiméir a shainaithint agus aitheantas an chustaiméara a fhíorú ar bhonn na ndoiciméad, na sonraí nó na faisnéise a fhaightear ó fhoinse iontaofa agus neamhspleách, lena n-áirítear, i gcás ina mbeidh fáil orthu, modhanna ríomh-shainaitheantais, seirbhísí ábhartha iontaobhais mar a leagtar amach i Rialachán (AE) Uimh. 910/2014 ó Pharlaimint na hEorpa agus ón gComhairle [1] nó aon phróiseas eile sainaitheantais slán, cianda nó leictreonach atá rialaithe, aitheanta nó formheasta ag na húdaráis náisiúnta inniúla nó a bhfuil glactha acu leis;

▼B

(b) identifying the beneficial owner and taking reasonable measures to verify that person's identity so that the obliged entity is satisfied that it knows who the beneficial owner is, including, as regards legal persons, trusts, companies, foundations and similar legal arrangements, taking reasonable measures to understand the ownership and control structure of the customer. ►M1 I gcás inarb é an t-oifigeach bainistíochta sinsearach an t-úinéir tairbhiúil arna shainaithint, amhail dá dtagraítear in Airteagal 3(6) (a) (ii), déanfaidh eintitis faoi oibleagáid na bearta réasúnacha is gá chun fíorú a dhéanamh ar aitheantas an duine nádúrtha a bhfuil post oifigigh bainistíochta shinsearaigh aige nó aici agus coimeádfaidh siad taifid ar na gníomhaíochtaí a rinneadh chomh maith le haon deacracht a bhí acu le linn phróiseas an fhíoraithe; ◄

(c) assessing and, as appropriate, obtaining information on the purpose and intended nature of the business relationship;

(d) conducting ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the obliged entity's knowledge of the customer, the business and risk profile, including where necessary the source of funds and ensuring that the documents, data or information held are kept up-to-date.

When performing the measures referred to in points (a) and (b) of the first subparagraph, obliged entities shall also verify that any person purporting to act on behalf of the customer is so authorised and identify and verify the identity of that person.

2. Member States shall ensure that obliged entities apply each of the customer due diligence requirements laid down in paragraph 1. However, obliged entities may determine the extent of such measures on a risk-sensitive basis.

[1] Rialachán (AE) Uimh. 910/2014 ó Pharlaimint na hEorpa agus ón gComhairle an 23 Iúil 2014 maidir le ríomh-shainaitheantas agus seirbhísí iontaobhais le haghaidh ríomh-idirbheart sa mhargadh inmheánach agus lena n-aisghairtear Treoir 1999/93/CE (IO L 257, 28.8.2014, lch. 73).

▼B

3. Member States shall require that obliged entities take into account at least the variables set out in Annex I when assessing the risks of money laundering and terrorist financing.

4. Member States shall ensure that obliged entities are able to demonstrate to competent authorities or self-regulatory bodies that the measures are appropriate in view of the risks of money laundering and terrorist financing that have been identified.

5. For life or other investment-related insurance business, Member States shall ensure that, in addition to the customer due diligence measures required for the customer and the beneficial owner, credit institutions and financial institutions conduct the following customer due diligence measures on the beneficiaries of life insurance and other investment-related insurance policies, as soon as the beneficiaries are identified or designated:

(a) in the case of beneficiaries that are identified as specifically named persons or legal arrangements, taking the name of the person;

(b) in the case of beneficiaries that are designated by characteristics or by class or by other means, obtaining sufficient information concerning those beneficiaries to satisfy the credit institutions or financial institution that it will be able to establish the identity of the beneficiary at the time of the payout.

With regard to points (a) and (b) of the first subparagraph, the verification of the identity of the beneficiaries shall take place at the time of the payout. In the case of assignment, in whole or in part, of the life or other investment-related insurance to a third party, credit institutions and financial institutions aware of the assignment shall identify the beneficial owner at the time of the assignment to the natural or legal person or legal arrangement receiving for its own benefit the value of the policy assigned.

6. In the case of beneficiaries of trusts or of similar legal arrangements that are designated by particular characteristics or class, an obliged entity shall obtain sufficient information concerning the beneficiary to satisfy the obliged entity that it will be able to establish the identity of the beneficiary at the time of the payout or at the time of the exercise by the beneficiary of its vested rights.

Article 14

1. Member States shall require that verification of the identity of the customer and the beneficial owner take place before the establishment of a business relationship or the carrying out of the transaction. ►**M1** Aon uair a mbeifear ag dul isteach i ngaolmhaireacht ghnó nua le heintiteas corparáideach nó le heintiteas dlíthiúil eile, nó le hiontaobhas nó le comhshocrú dlíthiúil a bhfuil struchtúr nó feidhmeanna atá comhchosúil le hiontaobhais aige (“comhshocrú dlíthiúil comhchosúil”) atá faoi réir faisnéis maidir le húinéireacht thairbhiúil a chlárú de bhun Airteagal 30 nó Airteagal 31, déanfaidh na heintitis faoi oibleagáid an cruthúnas ar chlárú nó sliocht as an gclár a bhailiú. ◄

▼B

2. By way of derogation from paragraph 1, Member States may allow verification of the identity of the customer and the beneficial owner to be completed during the establishment of a business relationship if necessary so as not to interrupt the normal conduct of business and where there is little risk of money laundering or terrorist financing. In such situations, those procedures shall be completed as soon as practicable after initial contact.

3. By way of derogation from paragraph 1, Member States may allow the opening of an account with a credit institution or financial institution, including accounts that permit transactions in transferable securities, provided that there are adequate safeguards in place to ensure that transactions are not carried out by the customer or on its behalf until full compliance with the customer due diligence requirements laid down in points (a) and (b) of the first subparagraph of Article 13(1) is obtained.

4. Member States shall require that, where an obliged entity is unable to comply with the customer due diligence requirements laid down in point (a), (b) or (c) of the first subparagraph of Article 13(1), it shall not carry out a transaction through a bank account, establish a business relationship or carry out the transaction, and shall terminate the business relationship and consider making a suspicious transaction report to the FIU in relation to the customer in accordance with Article 33.

Member States shall not apply the first subparagraph to notaries, other independent legal professionals, auditors, external accountants and tax advisors only to the strict extent that those persons ascertain the legal position of their client, or perform the task of defending or representing that client in, or concerning, judicial proceedings, including providing advice on instituting or avoiding such proceedings.

▼M1

5. Déanfaidh na Ballstáit a cheangal go gcuirfidh eintitis faoi oibleagáid bearta díchill chuí do chustaiméirí i bhfeidhm, ní hamháin maidir le gach custaiméir nua ach ag amanna iomchuí le custaiméirí atá ann cheana ar bhonn riosca-íogair, nó nuair a athróidh imthosca ábhartha custaiméara, nó nuair a bheidh aon dualgas dlíthiúil ar an eintiteas faoi oibleagáid le linn na bliana féilire ábhartha, go rachaidh na heintitis faoi oibleagáid sin i dteagmháil leis an gcustaiméir chun críche aon fhaisnéis ábhartha a bhaineann leis an úinéir tairbhiúil/na húinéirí tairbhiúla a athbhreithniú, nó má bhí an dualgas seo ar an eintiteas atá faoi oibleagáid faoi Threoir 2011/16/AE ón gComhairle ([1]).

▼B

SECTION 2

Simplified customer due diligence

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.

([1]) Treoir 2011/16/AE ón gComhairle an 15 Feabhra 2011 maidir le comhar riaracháin i réimse an chánachais agus lena n-aisghairtear Treoir 77/799/CEE (IO L 64, 11.3.2011, lch. 1).

▼B

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

3. Member States shall ensure that obliged entities carry out sufficient monitoring of the transactions and 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.

Article 17

►M2 Faoin 26 Meitheamh 2017, eiseoidh na ÚMEnna treoirlínte, arna ndíriú ar údaráis inniúla agus ar na hinstitiúidí creidmheasa agus na hinstitiúidí airgeadais, i gcomhréir le hAirteagal 16 de Rialachán (AE) Uimh. 1093/2010 maidir leis na fachtóirí riosca atá le cur san áireamh agus na bearta atá le déanamh i gcásanna inarb iomchuí bearta simplithe um dhícheall cuí i leith custaiméara. Ón 1 Eanáir 2020, déanfaidh ÚBE treoirlínte den sórt sin a eisiúint, i gcás inarb iomchuí. ◄ Specific account shall be taken of the nature and size of the business, and, where appropriate and proportionate, specific measures shall be laid down.

SECTION 3

Enhanced customer due diligence

Article 18

1. ►M1 Sna cásanna dá dtagraítear in Airteagail 18a go 24, chomh maith le cásanna eile de riosca níos airde a shainaithníonn na Ballstáit nó eintitis faoi oibleagáid, ceanglóidh na Ballstáit ar eintitis faoi oibleagáid bearta feabhsaithe díchill chuí do chustaiméirí a chur i bhfeidhm chun na rioscaí sin a bhainistiú agus a mhaolú go cuí. ◄

Enhanced customer due diligence measures need not be invoked automatically with respect to branches or majority-owned subsidiaries of obliged entities established in the Union which are located in high-risk third countries, where those branches or majority-owned subsidiaries fully comply with the group-wide policies and procedures in accordance with Article 45. Member States shall ensure that those cases are handled by obliged entities by using a risk-based approach.

▼M1

2. Ceanglóidh na Ballstáit ar eintitis faoi oibleagáid scrúdú a dhéanamh, a mhéid is féidir go réasúnta, ar chúlra agus ar chuspóir na n-idirbheart go léir a chomhlíonann ceann amháin ar a laghad de na coinníollacha seo a leanas:

▼M1

(i) is idirbhearta casta iad;

(ii) is idirbhearta iad atá níos mó ná mar is gnách;

(iii) tá pátrún neamhghnách ag baint leis an gcaoi ina ndéantar iad;

(iv) ní léir go bhfuil cuspóir eacnamaíoch nó dleathach iontu.

Go háirithe, méadóidh eintitis faoi oibleagáid méid agus cineál an fhaireacháin ar an ngaolmhaireacht ghnó, chun a chinneadh an bhfuil na hidirbhearta nó na gníomhaíochtaí sin amhrasach.

▼B

3. When assessing the risks of money laundering and terrorist financing, Member States and obliged entities shall take into account at least the factors of potentially higher-risk situations set out in Annex III.

4. ►M2 Faoin 26 Meitheamh 2017, eiseoidh na ÚMEnna treoirlínte, arna ndíriú ar údaráis inniúla agus ar na hinstitiúidí creidmheasa agus na hinstitiúidí airgeadais, i gcomhréir le hAirteagal 16 de Rialachán (AE) Uimh. 1093/2010 maidir leis na fachtóirí riosca atá le cur san áireamh agus na bearta atá le déanamh i gcásanna inarb iomchuí bearta feabhsaithe um dhícheall cuí i leith custaiméara. Ón 1 Eanáir 2020, déanfaidh ÚBE treoirlínte den sórt sin a eisiúint, i gcás inarb iomchuí. ◄ Specific account shall be taken of the nature and size of the business, and, where appropriate and proportionate, specific measures shall be laid down.

▼M1

Airteagal 18a

1. Maidir le gaolmhaireacht ghnó nó idirbhearta lena mbaineann tríú tíortha ardriosca a shainaithnítear de bhun Airteagal 9(2), ceanglóidh na Ballstáit ar eintitis faoi oibleagáid na bearta feabhsaithe díchill chuí do chustaiméirí seo a leanas a chur i bhfeidhm:

(a) faisnéis bhreise a fháil faoin gcustaiméir agus faoin úinéir tairbhiúil/faoi na húinéirí tairbhiúla;

(b) faisnéis bhreise a fháil maidir le cineál beartaithe na gaolmhaireachta gnó;

(c) faisnéis a fháil faoi fhoinse na gcistí agus faoi fhoinse rachmas an chustaiméara agus an úinéara thairbhiúil/na n-úinéirí tairbhiúla;

(d) faisnéis a fháil faoi na cúiseanna atá leis na hidirbhearta beartaithe nó comhlíonta;

(e) faomhadh an lucht bainistíochta sinsearaí a fháil chun an ghaolmhaireacht ghnó a bhunú nó leanúint leis;

(f) faireachán feabhsaithe ar an ngaolmhaireacht ghnó a dhéanamh trí mhéadú a dhéanamh ar líon agus ar uainiú na rialuithe a chuirtear i bhfeidhm, agus rogha a dhéanamh faoi phatrúin idirbheart is gá a scrúdú tuilleadh.

▼**M1**

Féadfaidh na Ballstáit a cheangal ar eintitis atá faoi oibleagáid chun a áirithiú, i gcás inarb infheidhme, go ndéanfar an chéad íocaíocht trí chuntas in ainm an chustaiméara le hinstitiúid chreidmheasa faoi réir chaighdeáin díchill chuí do chustaiméirí nach lú ó thaobh stóinseachta de ná na cinn arna leagan síos sa Treoir seo.

2. I dteannta na mbeart dá bhforáiltear i mír 1 agus i gcomhréir le hoibleagáidí idirnáisiúnta an Aontais, ceanglóidh na Ballstáit ar eintitis atá faoi oibleagáid, i gcás inarb infheidhme, beart maolaithe breise amháin nó níos mó a chur i bhfeidhm do dhaoine agus d'eintitis dhlíthiúla a dhéanann idirbhearta a bhfuil baint ag tríú tíortha atá sainaitheanta de bhun Airteagal 9(2) leo. Is éard a bheidh sna bearta sin ceann amháin nó níos mó de na nithe seo a leanas:

(a) gnéithe breise de bhearta díchill chuí feabhsaithe a chur i bhfeidhm;

(b) sásraí tuairiscithe ábhartha feabhsaithe nó tuairisciú córasach idirbheart airgeadais a thabhairt isteach;

(c) teorainn a chur le gaolmhaireachtaí gnó nó le hidirbhearta le daoine nádúrtha nó le heintitis dhlíthiúla ó thríú tíortha a shainaithnítear mar thíortha ardriosca de bhun Airteagal 9(2).

3. I dteannta na mbeart dá bhforáiltear i mír 1, déanfaidh na Ballstáit, i gcás inarb infheidhme, ceann amháin nó níos mó de na bearta seo a leanas a chur i bhfeidhm i dtaca le tríú tíortha ardriosca a shainaithnítear de bhun Airteagal 9(2) i gcomhréir le hoibleagáidí idirnáisiúnta an Aontais:

(a) diultú fochuideachtaí nó brainsí nó oifigí ionadaíocha d'institiúidí airgeadais eintiteas faoi oibleagáid ón tír lena mbaineann a bhunú, nó go gcuirfí san áireamh ar shlí eile gur as tír nach bhfuil córais leormhaithe AML/CFT aici an t-eintiteas faoi oibleagáid ábhartha;

(b) toirmeasc a chur ar eintitis faoi oibleagáid brainsí nó oifigí ionadaíocha a bhunú sa tír lena mbaineann, nó go gcuirfí san áireamh ar shlí eile gur i dtír nach bhfuil córais leormhaithe AML/CFT aici a bheadh an brainse ábhartha nó an oifig ionadaíoch;

(c) scrúdú maoirseachta méadaithe nó ceanglais iniúchóireachta sheachtracha mhéadaithe a cheangal do bhrainsí agus d'fhochuideachtaí eintiteas faoi oibleagáid atá lonnaithe sa tír lena mbaineann;

(d) ceanglais iniúchóireachta sheachtracha mhéadaithe do ghrúpaí airgeadais maidir le haon cheann dá gcuid brainsí nó fochuideachtaí atá lonnaithe sa tír lena mbaineann.

(e) a cheangal ar institiúidí creidmheasa agus airgeadais athbhreithniú agus leasú a dhéanamh ar ghaolmhaireachtaí comhfhreagracha le hinstitiúidí freagróra sa tír lena mbaineann, nó más gá sin, iad a fhoirceannadh;

4. Le linn do na Ballstáit na bearta a leagtar amach i mír 2 agus mír 3 a achtú nó a chur i bhfeidhm, cuirfidh na Ballstáit san áireamh, de réir mar is iomchuí, meastóireachtaí, measúnuithe nó tuarascálacha ábhartha arna dtarraingt suas ag eagraíochtaí idirnáisiúnta agus ag lucht leagtha amach caighdeán a bhfuil inniúlacht acu maidir le sciúradh airgid a chosc agus le maoiniú sceimhlitheoireachta a chomhrac, i ndáil leis na rioscaí a bhaineann le tríú tíortha aonair.

▼M1

5. Tabharfaidh na Ballstáit fógra don Choimisiún sula ndéanfaidh siad na bearta a leagtar amach i mír 2 agus mír 3 a achtú nó a chur i bhfeidhm.

▼B

Article 19

▼M1

Maidir le gaolmhaireacht fhreagróra thrasteorann lena mbaineann forghníomhú íocaíochtaí le hinstitiúid freagróra tríú tír, déanfaidh na Ballstáit, i dteannta na mbeart díchill chuí do chustaiméirí a leagtar síos in Airteagal 13, a cheangal ar a n-institiúidí creidmheasa agus a n-institiúidí airgeadais agus iad ag dul i mbun gaolmhaireacht ghnó:

▼B

(a) gather sufficient information about the respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision;

(b) assess the respondent institution's AML/CFT controls;

(c) obtain approval from senior management before establishing new correspondent relationships;

(d) document the respective responsibilities of each institution;

(e) with respect to payable-through accounts, be satisfied that the respondent institution has verified the identity of, and performed ongoing due diligence on, the customers having direct access to accounts of the correspondent institution, and that it is able to provide relevant customer due diligence data to the correspondent institution, upon request.

Article 20

With respect to transactions or business relationships with politically exposed persons, Member States shall, in addition to the customer due diligence measures laid down in Article 13, require obliged entities to:

(a) have in place appropriate risk management systems, including risk-based procedures, to determine whether the customer or the beneficial owner of the customer is a politically exposed person;

(b) apply the following measures in cases of business relationships with politically exposed persons:

(i) obtain senior management approval for establishing or continuing business relationships with such persons;

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

(iii) conduct enhanced, ongoing monitoring of those business relationships.

▼M1

Airteagal 20a

1. Déanfaidh gach Ballstát liosta a eisiúint agus a choimeád cothrom le dáta ina gcuirfear in iúl na feidhmeanna beachta a cháilíonn, de réir na ndlíthe, na rialachán agus na bhforálacha riaracháin náisiúnta, mar fheidhmeanna poiblí tábhachtacha chun críocha phointe 9 d'Airteagal 3. Iarrfaidh na Ballstáit ar gach eagraíocht idirnáisiúnta atá creidiúnaithe ar a gcríoch liosta feidhmeanna tábhachtacha ag an eagraíocht idirnáisiúnta sin a eisiúint agus a choimeád cothrom le dáta chun críocha phointe (9) d'Airteagal 3. Seolfar na liostaí sin chuig an gCoimisiún agus féadfar iad a chur ar fáil go poiblí.

2. Déanfaidh an Coimisiún liosta na bhfeidhmeanna beachta a cháilíonn mar fheidhmeanna poiblí tábhachtacha ar leibhéal institiúidí agus comhlachtaí an Aontais a thiomsú agus a choimeád cothrom le dáta. Áireofar sa liosta sin freisin aon fheidhm a fhéadfar a thabhairt d'ionadaithe tríú tíortha agus chomhlachtaí idirnáisiúnta atá creidiúnaithe ar leibhéal an Aontais.

3. Déanfaidh an Coimisiún, bunaithe ar na liostaí dá bhforáiltear i mír1 agus mír 2 den Airteagal seo, liosta aonair a chur i dtoll a chéile de gach feidhm phoiblí thábhachtach chun críocha phointe (9) d'Airteagal 3. Cuirfear an liosta aonair sin ar fáil go poiblí.

4. Maidir le feidhmeanna atá san áireamh sa liosta dá dtagraítear i mír 3 den Airteagal seo, déileálfar leo i gcomhréir leis na coinníollacha a leagtar síos in Airteagal 41(2).

▼B

Article 21

Member States shall require obliged entities to take reasonable measures to determine whether the beneficiaries of a life or other investment-related insurance policy and/or, where required, the beneficial owner of the beneficiary are politically exposed persons. Those measures shall be taken no later than at the time of the payout or at the time of the assignment, in whole or in part, of the policy. Where there are higher risks identified, in addition to applying the customer due diligence measures laid down in Article 13, Member States shall require obliged entities to:

(a) inform senior management before payout of policy proceeds;

(b) conduct enhanced scrutiny of the entire business relationship with the policyholder.

Article 22

Where a politically exposed person is no longer entrusted with a prominent public function by a Member State or a third country, or with a prominent public 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.

▼B

Article 23

The measures referred to in Articles 20 and 21 shall also apply to family members or persons known to be close associates of politically exposed persons.

Article 24

Member States shall prohibit credit institutions and financial institutions from entering into, or continuing, a correspondent relationship with a shell bank. They shall require that those institutions take appropriate measures to ensure that they do not engage in or continue correspondent relationships with a credit institution or financial institution that is known to allow its accounts to be used by a shell bank.

SECTION 4

Performance by third parties

Article 25

Member States may permit obliged entities to rely on third parties to meet the customer due diligence requirements laid down in points (a), (b) and (c) of the first subparagraph of Article 13(1). However, the ultimate responsibility for meeting those requirements shall remain with the obliged entity which relies on the third party.

Article 26

1. For the purposes of this Section, 'third parties' means obliged entities listed in Article 2, the member organisations or federations of those obliged entities, or other institutions or persons situated in a Member State or third country that:

(a) apply customer due diligence requirements and record-keeping requirements that are consistent with those laid down in this Directive; and

(b) have their compliance with the requirements of this Directive supervised in a manner consistent with Section 2 of Chapter VI.

2. Member States shall prohibit obliged entities from relying on third parties established in high-risk third countries. Member States may exempt branches and majority-owned subsidiaries of obliged entities established in the Union from that prohibition where those branches and majority-owned subsidiaries fully comply with the group-wide policies and procedures in accordance with Article 45.

Article 27

1. Member States shall ensure that obliged entities obtain from the third party relied upon the necessary information concerning the customer due diligence requirements laid down in points (a), (b) and (c) of the first subparagraph of Article 13(1).

▼**M1**

2. Áiritheoidh na Ballstáit go ndéanfaidh eintitis faoi oibleagáid lena mbaineann an custaiméir bearta leormhaithe a ghlacadh chun a áirithiú go soláthróidh an tríú páirtí láithreach, arna iarraidh sin, cóipeanna ábhartha de shonraí sainaitheantais agus fíoraithe, lena n-áirítear, i gcás ina mbeidh fáil orthu, sonraí a gheofar trí mheán sainaitheantas leictreonach, seirbhísí ábhartha iontaobhais mar a leagtar amach i Rialachán (AE) Uimh. 910/2014, nó aon phróiseas eile sainaitheantais slán, cianda nó leictreonach atá rialaithe, aitheanta nó formheasta ag na húdaráis naisiúnta ábhartha nó a bhfuil glactha acu leis.

▼**B**

Article 28

Member States shall ensure that the competent authority of the home Member State (for group-wide policies and procedures) and the competent authority of the host Member State (for branches and subsidiaries) may consider an obliged entity to comply with the provisions adopted pursuant to Articles 26 and 27 through its group programme, where all of the following conditions are met:

(a) the obliged entity relies on information provided by a third party that is part of the same group;

(b) that group applies customer due diligence measures, rules on record-keeping and programmes against money laundering and terrorist financing in accordance with this Directive or equivalent rules;

(c) the effective implementation of the requirements referred to in point (b) is supervised at group level by a competent authority of the home Member State or of the third country.

Article 29

This Section shall not apply to outsourcing or agency relationships where, on the basis of a contractual arrangement, the outsourcing service provider or agent is to be regarded as part of the obliged entity.

CHAPTER III

BENEFICIAL OWNERSHIP INFORMATION

Article 30

1. ►**M1** Áiritheoidh na Ballstáit go mbeidh ceanglas ar eintitis chorparáideacha agus ar eintitis dhlíthiúla eile arna n-ionchorprú ina gcríoch faisnéis leormhaith, chruinn agus reatha maidir lena n-úinéireacht thairbhiúil, lena n-áirítear sonraí maidir le leasanna tairbhiúla a shealbhaítear, a fháil agus a shealbhú. Áiritheoidh na Ballstáit go gcuirfear sáruithe ar an Airteagal seo faoi réir bearta nó smachtbhannaí éifeachtacha, comhréireacha agus athchomhairleacha. ◄

Member States shall ensure that those entities are required to provide, in addition to information about their legal owner, information on the beneficial owner to obliged entities when the obliged entities are taking customer due diligence measures in accordance with Chapter II.

▼M1

Úinéirí tairbhiúla eintiteas corparáideach nó eintiteas dlíthiúil eile, lena n-áirítear trí sciaranna, cearta vótála, leas úinéireachta, trí scair-shealbhaíochtaí iompróra nó trí rialú trí mheáin eile, ceanglóidh na Ballstáit orthu go dtabharfaidh siad do na heintitis sin an fhaisnéis uile is gá chun go ndéanfaidh an t-eintiteas corparáideach nó an t-eintiteas dlíthiúil eile na ceanglais atá sa chéad fhomhír a chomhlíonadh.

▼B

2. Member States shall require that the information referred to in paragraph 1 can be accessed in a timely manner by competent authorities and FIUs.

3. Member States shall ensure that the information referred to in paragraph 1 is held in a central register in each Member State, for example a commercial register, companies register as referred to in Article 3 of Directive 2009/101/EC of the European Parliament and of the Council [1], or a public register. Member States shall notify to the Commission the characteristics of those national mechanisms. The information on beneficial ownership contained in that database may be collected in accordance with national systems.

▼M1

4. Ceanglóidh na Ballstáit go bhfuil an fhaisnéis atá sa chlár lárnach dá dtagraítear i mír 3 leormhaith, cruinn agus reatha, agus cuirfidh siad sásraí ar bun chun na críche sin. Áireofar ar shásraí den sórt sin ceanglas a chur ar eintitis faoi oibleagáid agus, más iomchuí agus a mhéid nach gcuirfidh an ceanglas seo isteach gan ghá ar a bhfeidhmeanna, ar údaráis inniúla tuairisc a dhéanamh ar aon neamhréitigh a fhaigheann siad idir an fhaisnéis maidir le húinéireacht thairbhiúil atá ar fáil sna cláir lárnacha agus an fhaisnéis maidir le húinéireacht thairbhiúil atá ar fáil dóibh. I gcás neamhréitigh thuairiscithe, áiritheoidh na Ballstáit go ndéanfar bearta iomchuí chun na neamhréitigh a réiteach go tráthúil agus más iomchuí, go n-áireofar tagairt shonrach dóibh sa chlár lárnach idir an dá linn.

5. Áiritheoidh na Ballstáit go bhfuil rochtain ar an bhfaisnéis maidir leis an úinéireacht thairbhiúil i ngach cás:

(a) ag údaráis inniúla agus FIUnna, gan aon srian;

(b) ag eintitis faoi oibleagáid, faoi chuimsiú díchill chuí custaiméara i gcomhréir le Caibidil II;

(c) ag aon duine den phobal i gcoitinne.

Beidh rochtain ag na daoine dá dtagraítear i bpointe (c) den chéad fhomhír ar a laghad ar ainm, mí agus bliain bhreithe, agus tír chónaithe agus náisiúntacht an úinéara thairbhiúil chomh maith le cineál agus méid an leasa thairbhiúil a shealbhaítear.

Féadfaidh na Ballstáit, faoi choinníollacha a chinnfear leis an dlí náisiúnta, foráil a dhéanamh maidir le rochtain ar fhaisnéis bhreise lena gcumasófar an t-úinéir tairbhiúil a shainaithint. Áireofar ar an bhfaisnéis bhreise sin ar a laghad an dáta breithe nó na sonraí teagmhála i gcomhréir le rialacha cosanta sonraí.

[1] Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent (OJ L 258, 1.10.2009, p. 11).

▼M1

5a. Féadfaidh na Ballstáit rogha a dhéanamh an fhaisnéis atá ina gcláir lárnacha dá dtagraítear i mír 3 a chur ar fáil ar choinníoll clárú ar líne agus táille a íoc, ar táille é nach mó ná na costais riaracháin a bhaineann leis an bhfaisnéis a chur ar fáil, lena n-áirítear costais chothabhála agus forbartha an chláir.

6. Áiritheoidh na Ballstáit go mbeidh rochtain thráthúil agus neamhshrianta ag údaráis inniúla agus ag FIUnna ar an bhfaisnéis go léir atá sa chlár lárnach dá dtagraítear i mír 3 gan aon srian agus gan an t-eintiteas lena mbaineann a chur san airdeall. Ceadóidh na Ballstáit freisin rochtain thráthúil ag eintitis faoi oibleagáid agus bearta díchill chuí do chustaiméirí á nglacadh acu i gcomhréir le Caibidil II.

Údaráis inniúla dá ndeonófar rochtain ar an gclár lárnach dá dtagraítear i mír 3, is é a bheidh iontu na húdaráis phoiblí sin ag a mbeidh freagrachtaí ainmnithe don chomhrac i gcoinne sciúradh airgid nó maoiniú sceimhlitheoireachta, chomh maith le húdaráis chánach, maoirseoirí ar eintitis faoi oibleagáid agus údaráis a bhfuil feidhm acu sciúradh airgid, cionta preideacáide bainteacha agus maoiniú sceimhlitheoireachta a imscrúdú nó a ionchúiseamh, sócmhainní coiriúla a rianú agus a urghabháil nó a chalcadh agus a choigistiú.

7. Áiritheoidh na Ballstáit go mbeidh na húdaráis inniúla agus FIUnna in ann an fhaisnéis dá dtagraítear i mír 1 agus mír 3 a chur ar fáil d'údaráis inniúla agus do FIUnna na mBallstát eile go tráthúil agus saor in aisce.

▼B

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.

▼M1

9. In imthosca eisceachtúla a bheidh le leagan síos sa dlí náisiúnta, más rud é go ndéanfadh an rochtain dá dtagraítear i bpointí (b) agus (c) den chéad fhomhír de mhír 5 an t-úinéir tairbhiúil a nochtadh do bhaol díréireach, baol calaoise, fuadaigh, dúmhála, sractha, ciaptha, foréigin, nó imeaglaithe, nó más rud é gur mionaoiseach an t-úinéir nó go bhfuil sé éagumasach ar shlí eile ó thaobh an dlí de, féadfaidh na Ballstáit foráil a dhéanamh maidir le díolúine ón rochtain sin ar an bhfaisnéis go léir nó cuid di i dtaca leis an úinéireacht thairbhiúil ar bhonn cás ar chás. Áiritheoidh Ballstáit go ndeonófar na díolúintí seo ar athbhreithniú mionsonraithe ar chineál eisceachtúil na gcúinsí. Déanfar na cearta chun athbhreithniú riaracháin ar an gcinneadh díolúine agus ar leigheas breithiúnach éifeachtach a ráthú. Ballstát a bhfuil díolúintí deonaithe aige, foilseoidh sé sonraí staitistiúla bliantúla maidir le líon na ndíolúintí a deonaíodh agus na cúiseanna a luadh agus déanfaidh siad na sonraí sin a thuairisciú don Choimisiún.

Ní bheidh feidhm ag díolúintí a dheonófar de bhun na chéad fhomhíre den mhír seo maidir le hinstitiúidí creidmheasa agus institiúidí airgeadais, ná maidir leis na heintitis faoi oibleagáid amhail dá dtagraítear i bpointe 3(b) d'Airteagal 2(1) arb oifigigh phoiblí iad.

▼M1

10. Áiritheoidh na Ballstáit go mbeidh na cláir lárnacha dá dtagraítear i mír 3 den Airteagal seo idirnasctha tríd an Ardán Lárnach Eorpach arna bhunú ag Airteagal 22(1) de Threoir (AE) 2017/1132 ó Pharlaimint na hEorpa agus ón gComhairle ([1]). Déanfar naisc chláir lárnacha na mBallstát leis an ardán a chur ar bun i gcomhréir leis na sonraíochtaí teicniúla agus na nósanna imeachta arna mbunú ag gníomhartha cur chun feidhme arna nglacadh ag an gCoimisiún i gcomhréir le hAirteagal 24 de Threoir (AE) 2017/1132 agus le hAirteagal 31a den Treoir seo.

Áiritheoidh na Ballstáit go mbeidh an fhaisnéis dá dtagraítear i mír 1 den Airteagal seo ar fáil trí chóras idirnasctha na gclár arna bhunú le hAirteagal 22(1) de Threoir 2017/1132, i gcomhréir le dlíthe náisiúnta na mBallstát lena gcuirtear mír 5, mír 5a agus mír 6 den Airteagal seo chun feidhme.

Beidh an fhaisnéis dá dtagraítear i mír 1 ar fáil trí na cláir náisiúnta agus trí chóras idirnasctha na gclár ar feadh 5 bliana ar a laghad agus tráth nach faide ná 10 mbliana tar éis an t-eintiteas corparáideach nó eintiteas dlíthiúil eile a bheith bainte den chlár. Comhoibreoidh na Ballstáit eatarthu féin agus leis an gCoimisiún chun na cineálacha éagsúla rochtana a chur chun feidhme i gcomhréir leis an Airteagal seo.

▼B

Article 31

▼M1

1. Áiritheoidh na Ballstáit go mbeidh feidhm ag an Airteagal seo maidir le hiontaobhais agus cineálacha eile comhshocruithe dlíthiúla amhail, *inter alia*, *fiducie*, cineálacha áirithe *Treuhand* nó *fideicomiso*, i gcás ina bhfuil struchtúr nó feidhmeanna atá comhchosúil le hiontaobhais ag na comhshocruithe sin. Sainaithneoidh na Ballstáit na saintréithe chun a chinneadh an bhfuil struchtúr nó feidhmeanna ag comhshocruithe dlíthiúla atá comhchosúil le hiontaobhais i dtaca le comhshocruithe dlíthiúla den sórt sin a rialaítear faoina ndlí.

Ceanglóidh gach Ballstát go ndéanfaidh iontaobhaithe aon iontaobhais shainráite a bheidh á riar sa Bhallstát sin faisnéis leordhóthanach, chruinn agus chothrom le dáta a fháil agus a shealbhú maidir leis an úinéireacht thairbhiúil i leith an iontaobhais. Beidh ar áireamh san fhaisnéis sin aitheantas:

(a) an tsocraitheora (na socraitheoirí);

(b) an iontaobhaí (na n-iontaobhaithe);

(c) an chosantóra (na gcosantóirí) (más ann dóibh);

(d) na dtairbheoirí nó aicme na dtairbheoirí;

(e) aon duine nádúrtha eile a bhfuil rialú éifeachtach ar an iontaobhas á fheidhmiú aige.

Áiritheoidh na Ballstáit go mbeidh sáruithe ar an Airteagal seo faoi réir bearta nó smachtbhannaí éifeachtacha, comhréireacha agus athchomhairleacha.

([1]) Treoir (AE) Uimh. 2017/1132 ó Pharlaimint na hEorpa agus ón gComhairle an 14 Meitheamh 2017 maidir le gnéithe áirithe de dhlí na gcuideachtaí (IO L 169, 30.6.2017, lch. 46).

▼M1

2. Áiritheoidh na Ballstáit go ndéanfaidh iontaobhaithe nó daoine ag a bhfuil poist choibhéiseacha i gcomhshocruithe dlíthiúla comhchosúla amhail na cinn dá dtagraítear i mír 1 den Airteagal seo, a stádas a nochtadh agus an fhaisnéis dá dtagraítear i mír 1 den Airteagal seo a chur ar fáil d'eintitis faoi oibleagáid go tráthúil, más rud é, mar iontaobhaí nó mar dhuine ag a bhfuil post coibhéiseach i gcomhshocrú dlíthiúil comhchosúil, go ndéanfaidh siad gaolmhaireacht ghnó, nó go ndéanfaidh siad idirbheart ó am go chéile os cionn na dtairseach a leagtar amach i bpointí (b), (c) agus (d) d'Airteagal 11.

▼B

3. Member States shall require that the information referred to in paragraph 1 can be accessed in a timely manner by competent authorities and FIUs.

▼M1

3a. Ceanglóidh na Ballstáit go ndéanfar faisnéis maidir le húinéireacht thairbhiúil iontaobhas sainráite agus comhshocruithe dlíthiúla comhchosúla amhail dá dtagraítear i mír 1 a choimeád i gclár lárnach le haghaidh úinéireacht thairbhiúil arna chur ar bun ag an mBallstát san áit ina bhfuil iontaobhaí an iontaobhais nó an duine ag a bhfuil post coibhéiseach i gcomhshocrú dlíthiúil comhchosúil bunaithe nó ina bhfuil cónaí air nó uirthi.

Más rud é go bhfuil an áit ina bhfuil iontaobhaí an iontaobhais nó an duine ag a bhfuil post coibhéiseach i gcomhshocrú dlíthiúil comhchosúil bunaithe nó ina bhfuil cónaí air nó uirthi lasmuigh den Aontas, coimeádfar an fhaisnéis dá dtagraítear i gclár lárnach arna bhunú ag an mBallstát i gcás ina dtéann an t-iontaobhaí nó an duine ag a bhfuil post coibhéiseach i gcomhshocrú dlíthiúil comhchosúil isteach i ngaolmhaireacht ghnó nó nuair a gheobhaidh sé eastát réadach in ainm an iontaobhais nó an chomhshocraithe dhlíthiúil chomhchosúil.

Más rud é gur i mBallstáit éagsúla atá iontaobhaithe an iontaobhais nó na daoine ag a bhfuil poist choibhéiseacha i gcomhshocrú dlíthiúil comhchosúil bunaithe nó a bhfuil cónaí orthu, nó más rud é gur i mBallstáit éagsúla a théann iontaobhaí an iontaobhais nó an duine ag a bhfuil post coibhéiseach i gcomhshocrú dlíthiúil comhchosúil isteach i ngaolmhaireachtaí gnó iolracha in ainm an iontaobhaithe nó an chomhshocraithe dhlíthiúil chomhchosúil, féadfar a mheas gur leor deimhniú um chruthúnas ar chlárú nó sliocht as an bhfaisnéis maidir le húinéireacht thairbhiúil arna shealbhú ar chlár ag Ballstáit amháin chun an oibleagáid maidir le clárú a chomhlíonadh.

4. Áiritheoidh na Ballstáit go mbeidh rochtain i ngach cás ar an bhfaisnéis maidir le húinéireacht thairbhiúil iontaobhais nó chomhshocraithe dhlíthiúil chomhchosúil:

(a) ag údaráis inniúla agus ag FIUnna, gan aon srian;

(b) ag eintitis faoi oibleagáid, faoi chuimsiú díchill chuí custaiméara i gcomhréir le Caibidil II;

(c) ag aon duine nádúrtha nó dlítheanach ar féidir leis nó léi leas dlisteanach a thaispeáint ina leith;

(d) ag aon duine nádúrtha nó dlítheanach a thaisceann iarraidh i scríbhinn i ndáil le hiontaobhas nó le comhshocrú dlíthiúil comhchosúil a shealbhaíonn leas rialaitheach in aon eintiteas corparáideach nó in aon eintiteas dlíthiúil eile seachas na cinn dá dtagraítear in Airteagal 30(1), trí úinéireacht dhíreach nó indíreach, lena n-áirítear trí scairshealbhaíochtaí iompróra, nó trí rialú ar mhodh eile.

▼M1

Is é a bheidh san fhaisnéis a bheidh inrochtana do dhaoine nádúrtha nó dlítheanacha dá dtagraítear i bpointí (c) agus (d) den chéad fhomhír, ainm, mí agus dáta breithe, náisiúntacht agus tír chónaithe an úinéara thairbhiúil, chomh maith le cineál agus méid an leasa thairbhiúil a shealbhaítear.

Féadfaidh na Ballstáit, faoi choinníollacha a chinnfear leis an dlí náisiúnta, foráil a dhéanamh maidir le rochtain a fháil ar fhaisnéis bhreise lena gcumasófar an t-úinéir tairbhiúil a shainaithint. Áireofar san fhaisnéis bhreise sin ar a laghad an dáta breithe nó sonraí teagmhála, i gcomhréir le rialacha cosanta sonraí. Féadfaidh na Ballstáit rochtain níos leithne ar an bhfaisnéis a shealbhaítear sa chlár i gcomhréir lena ndlí náisiúnta a cheadú.

Údaráis inniúla dá ndeonófar rochtain ar an gclár lárnach dá dtagraítear i mír 3a, is é a bheidh iontu na húdaráis phoiblí sin ag a mbeidh freagrachtaí ainmnithe don chomhrac i gcoinne sciúradh airgid nó maoiniú sceimhlitheoireachta, chomh maith le húdaráis chánach, maoirseoirí ar eintitis faoi oibleagáid agus údaráis a bhfuil feidhm acu sciúradh airgid, cionta preideacáide bainteacha agus maoiniú sceimhlitheoireachta a imscrúdú nó a ionchúiseamh, sócmhainní coiriúla a rianú, agus a urghabháil nó a chalcadh agus a choigistiú.

4a. Féadfaidh na Ballstáit a roghnú an fhaisnéis a choinnítear ina gcláir náisiúnta dá dtagraítear i mír 3a a chur ar fáil ar choinníoll go ndéantar clárú ar líne agus táille a íoc, nach mó ná na costais riaracháin a bhaineann leis an bhfaisnéís a chur ar fáil, lena n-airítear costais chothabhála agus forbairtí ar an gclár.

5. Ceanglóidh na Ballstáit go mbeidh an fhaisnéis a shealbhaítear sa chlár lárnach dá dtagraítear i mír 3a leormhaith, cruinn agus reatha, agus cuirfidh siad sásraí ar bun chun na críche sin. Áireofar ar shásraí den sórt sin ceanglas a chur ar eintitis faoi oibleagáid agus, más iomchuí agus a mhéid nach gcuirfidh an ceanglas sin isteach gan chúis ar a bhfeidhmeanna, é a chur ar údaráis inniúla tuairisc a dhéanamh ar aon neamhréitigh a fhaigheann siad idir an fhaisnéis maidir le húinéireacht thairbhiúil atá ar fáil sna cláir lárnacha agus an fhaisnéis maidir le húinéireacht thairbhiúil atá ar fáil dóibh. I gcás neamhréitigh thuairiscithe, áiritheoidh na Ballstáit go ndéanfar bearta iomchuí chun na neamhréitigh a réiteach go tráthúil agus más iomchuí, go n-áireofar tagairt shonrach dóibh sa chlár lárnach idir an dá linn.

▼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.

▼M1

7. Áiritheoidh na Ballstáit go mbeidh na húdaráis inniúla agus FIUnna in ann an fhaisnéis dá dtagraítear i mír 1 agus mír 3 a sholáthar d'údaráis inniúla agus do FIUnna na mBallstát eile go tráthúil agus saor in aisce.

▼M1

7a. In imthosca eisceachtúla a bheidh le leagan síos sa dlí náisiúnta, más rud é go ndéanfadh an rochtain dá dtagraítear i bpointí (b), (c) agus (d) den chéad fhomhír an t-úinéir tairbhiúil a nochtadh do bhaol díréireach, baol calaoise, fuadaigh, dúmhála, sractha, ciaptha, foréigin, nó imeaglaithe, nó más rud é gur mionaoiseach an t-úinéir nó go bhfuil sé éagumasach ar shlí eile ó thaobh an dlí de, féadfaidh na Ballstáit foráil a dhéanamh maidir le díolúine ón rochtain sin ar an bhfaisnéis go léir nó ar chuid di maidir leis an úinéireacht thairbhiúil ar bhonn cás ar chás. Áiritheoidh na Ballstáit go ndéanfar díolúintí den sórt sin ar mheastóireacht mhionsonraithe ar chineál eisceachtúil na gcúinsí. Déanfar na cearta chun athbhreithniú riaracháin ar an gcinneadh maidir le díolúine agus ar leigheas breithiúnach éifeachtach a ráthú. Ballstát a bhfuil díolúintí deonaithe aige, foilseoidh sé sonraí staitistiúla bliantúla maidir le líon na ndíolúintí a deonaíodh agus na cúiseanna a luadh agus déanfaidh siad na sonraí sin a thuairisciú don Choimisiún.

Ní bheidh feidhm ag díolúintí a dheonófar de bhun na chéad fhomhíre seo maidir le hinstitiúidí creidmheasa agus institiúidí airgeadais agus maidir le heintitis faoi oibleagáid dá dtagraítear i bpointe 3(b) d'Airteagal 2(1) arb oifigigh phoiblí iad.

I gcás ina gcinnfidh Ballstát díolúine a bhunú i gcomhréir leis an gcéad fhomhír, ní chuirfidh sé srian le húdaráis inniúla agus le FIUnna rochtain a bheith acu ar fhaisnéis.

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9. Áiritheoidh na Ballstáit go mbeidh na cláir lárnacha dá dtagraítear i mír 3a den Airteagal seo idirnasctha tríd an Ardán Lárnach Eorpach arna bhunú ag Airteagal 22(1) de Threoir (AE) 2017/1132. Déanfar naisc chláir lárnacha na mBallstát leis an ardán a chur ar bun i gcomhréir leis na sonraíochtaí teicniúla agus na nósanna imeachta arna mbunú ag gníomhartha cur chun feidhme a ghlacann an Coimisiún i gcomhréir le hAirteagal 24 den Treoir seo agus le hAirteagal 31a de Threoir (AE) 2017/1132.

Áiritheoidh na Ballstáit go mbeidh an fhaisnéis dá dtagraítear i mír 1 den Airteagal seo ar fáil trí chóras idirnasctha na gclár arna bhunú ag Airteagal 22(2) de Threoir (AE) 2017/1132, i gcomhréir le dlíthe náisiúnta na mBallstát lena gcuirtear mír 4 agus mír 5 den Airteagal seo chun feidhme.

Déanfaidh na Ballstáit bearta leormhaithe a ghlacadh chun a áirithiú go ndéanfar an fhaisnéis dá dtagraítear i mír 1, agus an fhaisnéis sin amháin, atá cothrom le dáta agus a fhreagraíonn d'úinéireacht thairbhiúil iarbhír a chur ar fáil trína gcláir náisiúnta agus trí chóras idirnasctha na gclár, agus go mbeidh rochtain ar an bhfaisnéis sin i gcomhréir le rialacha cosanta sonraí.

Cuirfidh an fhaisnéis dá dtagraítear i mír 1 ar fáil trí na cláir náisiúnta agus trí chóras idirnasctha na gclár ar feadh tréimhse 5 bliana ar a laghad agus nach faide ná 10 mbliana tar éis do na forais leis an bhfaisnéis maidir le húineireacht thairbhiúil dá dtagraítear i mír 3a scor de bheith ann. Comhoibreoidh na Ballstáit leis an gCoimisiún chun na cineálacha rochtana éagsula a chur chun feidhme i gcomhréir le mír4 agus mír 4a.

▼**M1**

10. Tabharfaidh na Ballstáit fógra don Choimisiún faoi na catagóirí, faoi chur síos ar na tréithe, faoi na hainmneacha agus, i gcás inarb infheidhme, faoi bhunús dlí na n-iontaobhas agus na gcomhshocruithe dlíthiúla comhchosúla dá dtagraítear i mír 1 faoin 10 Iúil 2019. Foilseoidh an Coimisiún liosta comhdhlúite na n-iontaobhas agus na gcomhshocruithe dlíthiúla comhchosúla den sórt sin in *Iris Oifigiúil an Aontais Eorpaigh* faoin 10 Meán Fómhair 2019.

Faoin 26 Meitheamh 2020, cuirfidh an Coimisiún tuarascáil faoi bhráid Pharlaimint na hEorpa agus na Comhairle ina measúnófar an ndearnadh na hiontaobhais uile agus na comhshocruithe dlíthiúla comhchosúla uile dá dtagraítear mír 1 a rialaítear faoi dhlí na mBallstát a shainaithint go cuí agus a chur faoi réir na n-oibleagáidí a leagtar amach sa Treoir seo. I gcás inarb iomchuí, glacfaidh an Coimisiún na bearta is gá chun gníomhú i leith thorthaí na tuarascála sin.

Airteagal 31a

Gníomhartha cur chun feidhme

I gcás inar gá, sa bhreis ar na gníomhartha cur chun feidhme arna nglacadh ag an gCoimisiún i gcomhréir le hAirteagal 24 de Threoir (AE) 2017/1132 agus i gcomhréir le raon feidhme Airteagal 30 agus Airteagal 31 den Treoir seo, glacfaidh an Coimisiún trí bhíthin gníomhartha cur chun feidhme, na sonraíochtaí teicniúla agus nósanna imeachta is gá chun foráil a dhéanamh maidir le hidirnascadh chláir lárnacha na mBallstát amhail dá dtagraítear in Airteagal 30(10) agus Airteagal (31)9, i dtaca leis:

(a) an tsonraíocht theicniúil lena sainítear sraith na sonraí is gá chun go bhfeidhmeoidh an t-ardán a fheidhmeanna, chomh maith leis an modh ina ndéantar na sonraí sin a stóráil, a úsáid agus a chosaint;

(b) na critéir chomhchoiteanna ar dá réir atá an fhaisnéis maidir le húinéireacht thairbhiúil ar fáil trí chóras idirnasctha na gclár, ag brath ar leibhéal na rochtana a dheonóidh na Ballstáit;

(c) na sonraí teicniúla ar an gcaoi a gcuirfear an fhaisnéis maidir le húinéirí tairbhiúla ar fáil;

(d) na coinníollacha teicniúla a bhaineann le hinfhaighteacht seirbhísí a chuirtear ar fáil faoi chóras idirnasctha na gclár;

(e) na modúlachtaí teicniúla faoin gcaoi a ndéanfar na cineálacha éagsúla rochtana maidir le húinéireacht thairbhiúil bunaithe ar Airteagal 30(5) agus ar Airteagal 31(4) a chur chun feidhme;

(f) na modúlachtaí íocaíochta i gcás a bhfuil rochtain ar fhaisnéis maidir le húinéireacht thairbhiúil faoi réir táille a íoc de réir Airteagal 30(5a) agus Airteagal 31(4a), agus áiseanna íocaíochta atá ar fáil, amhail idirbhearta cianíocaíochta á gcur san áireamh.

Déanfar na gníomhartha cur chun feidhme sin a ghlacadh i gcomhréir leis an nós imeachta scrúdúcháin dá dtagraítear in Airteagal 64a(2).

▼M1

Ina chuid ghníomhartha cur chun feidhme, féachfaidh an Coimisiún le teicneolaíocht agus gnáthaimh a bhfuil a bhfiúntas cruthaithe cheana féin a athúsáid. Áiritheoidh an Coimisiún nach dtabhóidh na córais atá le forbairt costais os cionn an mhéid atá sár-riachtanach chun forálacha na Treorach seo a chur chun feidhme. Beidh trédhearcacht agus malartú taithí agus faisnéise idir an Coimisiún agus na Ballstáit mar shaintréith de ghníomhartha cur chun feidhme an Choimisiúin.

▼B

CHAPTER IV

REPORTING OBLIGATIONS

SECTION 1

General provisions

Article 32

1. Each Member State shall establish an FIU in order to prevent, detect and effectively combat money laundering and terrorist financing.

2. Member States shall notify the Commission in writing of the name and address of their respective FIUs.

3. Each FIU shall be operationally independent and autonomous, which means that the FIU shall have the authority and capacity to carry out its functions freely, including the ability to take autonomous decisions to analyse, request and disseminate specific information. The FIU as the central national unit shall be responsible for receiving and analysing suspicious transaction reports and other information relevant to money laundering, associated predicate offences or terrorist financing. The FIU shall be responsible for disseminating the results of its analyses and any additional relevant information to the competent authorities where there are grounds to suspect money laundering, associated predicate offences or terrorist financing. It shall be able to obtain additional information from obliged entities.

Member States shall provide their FIUs with adequate financial, human and technical resources in order to fulfil their tasks.

4. Member States shall ensure that their FIUs have access, directly or indirectly, in a timely manner, to the financial, administrative and law enforcement information that they require to fulfil their tasks properly. FIUs shall be able to respond to requests for information by competent authorities in their respective Member States when such requests for information are motivated by concerns relating to money laundering, associated predicate offences or terrorist financing. The decision on conducting the analysis or dissemination of information shall remain with the FIU.

▼B

5. Where there are objective grounds for assuming that the provision of such information would have a negative impact on ongoing investigations or analyses, or, in exceptional circumstances, where disclosure of the information would be clearly disproportionate to the legitimate interests of a natural or legal person or irrelevant with regard to the purposes for which it has been requested, the FIU shall be under no obligation to comply with the request for information.

6. Member States shall require competent authorities to provide feedback to the FIU about the use made of the information provided in accordance with this Article and about the outcome of the investigations or inspections performed on the basis of that information.

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.

8. The FIU's analysis function shall consist of the following:

(a) an operational analysis which focuses on individual cases and specific targets or on appropriate selected information, depending on the type and volume of the disclosures received and the expected use of the information after dissemination; and

(b) a strategic analysis addressing money laundering and terrorist financing trends and patterns.

▼M1

9. Gan dochar d'Airteagal 34(2), i gcomhthéacs a fheidhmeanna, beidh gach FIU in ann faisnéis, ó aon eintiteas faoi oibleagáid chun na críche a leagtar síos i mír 1 den Airteagal seo, fiú amháin mura gcomhdaítear tuarascáil ar bith roimh ré de bhun Airteagal 33(1)(a) nó Airteagal 34(1), a iarraidh, a fháil, agus a úsáid.

Airteagal 32a

1. Cuirfidh na Ballstáit i bhfeidhm sásraí uathoibrithe láraithe, amhail cláir lárnacha nó córais aisghabhála leictreonacha lárnacha sonraí, lenar féidir a shainaithint, ar bhealach tráthúil, aon daoine nádúrtha nó dlítheanacha a bhfuil cuntais á gcoimeád nó á rialú acu agus cuntais bhainc a shainaithnítear trí IBAN, mar a shainmhínítear le Rialachán (AE) Uimh. 260/2012 ó Pharlaimint na hEorpa agus ón gComhairle [1] agus taisceadáin a shealbhaíonn institiúid chreidmheasa laistigh dá gcríoch. Tabharfaidh na Ballstáit fógra don Choimisiún maidir le tréithe na sásraí náisiúnta sin.

[1] Rialachán (AE) Uimh. 260/2012 ó Pharlaimint na hEorpa agus ón gComhairle an 14 Márta 2012 lena mbunaítear ceanglais theicniúla agus ghnó le haghaidh aistrithe creidmheasa agus dochar díreach in euro agus lena leasaítear Rialachán (CE) Uimh. 924/2009 (IO L 94, 30.03.2012, lch. 22).

▼M1

2. Déanfaidh na Ballstáit a áirithiú go bhfuil an fhaisnéis a shealbhaíonn na sásraí lárnacha dá dtagraítear i mír 1 den Airteagal seo inrochtana go díreach ar bhealach láithreach agus neamhscagtha do FIUnna náisiúnta. Beidh údaráis inniúla náisiúnta in ann rochtain a fháil freisin ar an bhfaisnéis chun a n-oibleagáidí faoin Treoir seo a chomhlíonadh. Déanfaidh na Ballstáit a áirithiú gur féidir le haon FIU an fhaisnéis a shealbhaíonn na sásraí lárnacha dá dtagraítear i mír 1 den Airteagal seo a sholáthar d'aon FIUnna eile ar bhealach tráthúil i gcomhréir le hAirteagal 53.

3. Beidh an fhaisnéis seo a leanas inrochtana agus inchuardaithe trí na sásraí lárnacha dá dtagraítear i mír 1:

— don sealbhóir cuntais custaiméara agus aon duine a airbheartaíonn a bheith ag gníomhú thar ceann an chustaiméara: an t-ainm, comhlánaithe ag sonraí eile sainaitheantais a cheanglaítear faoi na forálacha náisiúnta lena dtrasuítear i bpointe (a) d'Airteagal 13(1) nó ag uimhir shaineathantais uathúil;

— d'úinéir tairbhiúil an tsealbhóra cuntais custaiméara: an t-ainm, comhlánaithe ag sonraí eile sainaitheantais a cheanglaítear faoi na forálacha náisiúnta lena dtrasuítear i bpointe (b) d'Airteagal 13(1) nó ag uimhir shaineathantais uathúil;

— don bhanc nó don chuntas íocaíochta: uimhir IBAN agus dáta oscailte agus dúnta an chuntais.

— don taisceadán: ainm an léasaí arna chomhlánú ag na sonraí sainaitheantais eile a cheanglaítear faoi na forálacha náisiúnta lena dtrasuítear Airteagal 13(1) nó ag uimhir shaineathantais uathúil agus aga na tréimhse léasaithe.

4. Féadfaidh na Ballstáit breithniú ar a cheangal go mbeidh faisnéis eile, a mheastar a bheith bunriachtanach do FIUnna agus d'údaráis inniúla chun a n-oibleagáidí faoin Treoir seo a chomhlíonadh, inrochtana agus inchuardaithe trí na sásraí lárnacha.

5. Faoin 26 Meitheamh 2020, cuirfidh an Coimisiún tuarascáil mheastóireachta faoi bhráid Pharlaimint na hEorpa agus faoin gComhairle lena ndéanfar meastóireacht ar na coinníollacha agus na sonraíochtaí teicniúla agus na nósanna imeachta chun idirnascadh slán agus éifeachtúil na sásraí uathoibrithe láraithe a áirithiú. Beidh togra reachtach ag gabháil leis an tuarascáil sin, i gcás inarb iomchuí.

Airteagal 32b

1. Soláthróidh na Ballstáit rochtain do FIUnna agus d'údaráis inniúla ar fhaisnéis lenar féidir aon daoine nádúrtha nó dlítheanacha ar leo eastát réadach a shainaithint go tráthúil, lena n-áirítear trí chláir nó córais aisghabhála sonraí leictreonacha i gcás go bhfuil cláir nó córais den sórt sin ar fáil.

2. Faoin 31 Nollaig 2020, cuirfidh an Coimisiún tuarascáil faoi bhráid Pharlaimint na hEorpa agus faoin gComhairle lena ndéanfar measúnú an gá agus an comhréireach an fhaisnéis a bheidh san áireamh sna cláir a chomhchuibhiú agus lena measúnófar an gá idirnascadh na gclár sin. Beidh togra reachtach ag gabháil leis an tuarascáil sin i gcás inarb iomchuí.

▼B

Article 33

1. Member States shall require obliged entities, and, where applicable, their directors and employees, to cooperate fully by promptly:

(a) informing the FIU, including by filing a report, on their own initiative, where the obliged entity knows, suspects or has reasonable grounds to suspect that funds, regardless of the amount involved, are the proceeds of criminal activity or are related to terrorist financing, and by promptly responding to requests by the FIU for additional information in such cases; and

▼M1

(b) an fhaisnéis go léir is gá a sholáthar go díreach do FIU, arna hiarraidh sin dó.

▼B

All suspicious transactions, including attempted transactions, shall be reported.

2. The person appointed in accordance with point (a) of Article 8(4) shall transmit the information referred to in paragraph 1 of this Article to the FIU of the Member State in whose territory the obliged entity transmitting the information is established.

Article 34

1. By way of derogation from Article 33(1), Member States may, in the case of obliged entities referred to in point (3)(a), (b) and (d) of Article 2(1), designate an appropriate self-regulatory body of the profession concerned as the authority to receive the information referred to in Article 33(1).

Without prejudice to paragraph 2, the designated self-regulatory body shall, in cases referred to in the first subparagraph of this paragraph, forward the information to the FIU promptly and unfiltered.

2. Member States shall not apply 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 that 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.

▼M1

3. Foilseoidh comhlachtaí féinrialála arna n-ainmniú ag na Ballstáit tuarascáil bhliantúil ina mbeidh faisnéis faoin méid seo a leanas:

(a) bearta a dhéanfar faoi Airteagal 58, Airteagal 59 agus Airteagal 60;

(b) líon na dtuarascálacha faoi sháruithe a fuarthas amhail dá dtagraítear in Airteagal 61, i gcás inarb infheidhme;

▼M1

(c) líon na dtuarascálacha a fuair an comhlacht féinrialála amhail dá dtagraítear i mír 1 agus líon na dtuarascálacha a chuir an comhlacht féinrialála ar aghaidh chuig an FIU i gcás inarb infheidhme;

(d) i gcás inarb infheidhme líon agus tuairisc ar na bearta arna ndéanamh faoi Airteagal 47 agus Airteagal 48 chun faireachán a dhéanamh ar a n-oibleagáidí faoi na hAirteagail seo a leanas a bheith á gcomhlíonadh ag eintitis faoi oibleagáid faoin méid seo:

(i) Airteagal 10 go hAirteagal 24 (dícheall cuí custaiméara);

(ii) Airteagal 33, Airteagal 34 agus Airteagal 35 (idirbhearta amhrasacha a thuairisciú);

(iii) Airteagal 40 (taifid a choimeád); agus

(iv) Airteagal 45 agus Airteagal 46 (rialuithe inmheánacha).

▼B

Article 35

1. Member States shall require obliged entities to refrain from carrying out transactions which they know or suspect to be related to proceeds of criminal activity or to terrorist financing until they have completed the necessary action in accordance with point (a) of the first subparagraph of Article 33(1) and have complied with any further specific instructions from the FIU or the competent authorities in accordance with the law of the relevant Member State.

2. Where refraining from carrying out transactions referred to in paragraph 1 is impossible or is likely to frustrate efforts to pursue the beneficiaries of a suspected operation, the obliged entities concerned shall inform the FIU immediately afterwards.

Article 36

1. Member States shall ensure that if, in the course of checks carried out on the obliged entities by the competent authorities referred to in Article 48, or in any other way, those authorities discover facts that could be related to money laundering or to terrorist financing, they shall promptly inform the FIU.

2. Member States shall ensure that supervisory bodies empowered by law or regulation to oversee the stock, foreign exchange and financial derivatives markets inform the FIU if they discover facts that could be related to money laundering or terrorist financing.

Article 37

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.

▼M1

Airteagal 38

1. Áiritheoidh na Ballstáit go ndéanfar daoine aonair, lena n-áirítear fostaithe agus ionadaithe an eintitis faoi oibleagáid, a thuairiscíonn amhras faoi sciúradh airgid nó maoiniú sceimhlitheoireachta go hinmheánach nó don FIU, a chosaint ó thaobh an dlí ar bheith neamhchosanta ar bhagairtí nó ar ghníomhaíocht dhíoltach nó naimhdeach, agus go háirithe ar ghníomhaíochtaí fostaíochta díobhálacha nó idirdhealaitheacha.

2. Áiritheoidh na Ballstáit go mbeidh daoine aonair atá neamhchosanta ar bhagairtí, gníomhaíochtaí díoltacha nó naimhdeacha, nó gníomhaíochtaí fostaíochta díobhálacha nó idirdhealaitheacha as amhras faoi sciúradh airgid nó maoiniú sceimhlitheoireachta a thuairisciú go hinmheánach nó chuig an FIU i dteideal gearán a thíolacadh ar bhealach sábháilte chuig na húdaráis inniúla faoi seach. Gan dochar do rúndacht na faisnéise arna bailiú ag an FIU, áiritheoidh Ballstáit go mbeidh an ceart ag daoine aonair den sórt sin leigheas éifeachtach a fháil chun a gcearta a choimirciú faoin mhír seo freisin.

▼B

SECTION 2

Prohibition of disclosure

Article 39

1. Obliged entities and their directors and employees shall not disclose to the customer concerned or to other third persons the fact that information is being, will be or has been transmitted in accordance with Article 33 or 34 or that a money laundering or terrorist financing analysis is being, or may be, carried out.

2. The prohibition laid down in paragraph 1 shall not include disclosure to the competent authorities, including the self-regulatory bodies, or disclosure for law enforcement purposes.

▼M1

3. Ní dhéanfaidh an toirmeasc a leagtar síos i mír 1 den Airteagal seo cosc a chur le nochtadh idir na hinstitiúidí creidmheasa agus na hinstitiúidí airgeadais ó na Ballstáit ar choinníoll go mbainfidh siad leis an ngrúpa céanna, nó idir na heintitis sin agus a gcraobhacha agus a bhfochuideachtaí ina bhfuil sciar tromlaigh ar seilbh acu arna mbunú i dtríú tíortha, ar choinníoll go ndéanfaidh na craobhacha agus na fochuideachtaí sin na beartais agus na nósanna imeachta uile-ghrúpa a chomhlíonadh go hiomlán, lena n-áirítear nósanna imeachta chun faisnéis a roinnt laistigh den ghrúpa, i gcomhréir le hAirteagal 45 agus go ndéanfaidh na beartais agus na nósanna imeachta uile-ghrúpa na ceanglais a leagtar amach sa Treoir seo a chomhlíonadh.

▼B

4. The prohibition laid down in paragraph 1 shall not prevent disclosure between the obliged entities as referred to in point (3)(a) and (b) of Article 2(1), or entities from third countries which impose requirements equivalent to those laid down in this Directive, who perform their professional activities, whether as employees or not, within the same legal person or a larger structure to which the person belongs and which shares common ownership, management or compliance control.

▼B

5. For obliged entities referred to in points (1), (2), (3)(a) and (b) of Article 2(1) in cases relating to the same customer and the same transaction involving two or more obliged entities, the prohibition laid down in paragraph 1 of this Article shall not prevent disclosure between the relevant obliged entities provided that they are from a Member State, or entities in a third country which imposes requirements equivalent to those laid down in this Directive, and that they are from the same professional category and are subject to obligations as regards professional secrecy and personal data protection.

6. Where the obliged entities referred to in point (3)(a) and (b) of Article 2(1) seek to dissuade a client from engaging in illegal activity, that shall not constitute disclosure within the meaning of paragraph 1 of this Article.

CHAPTER V

DATA PROTECTION, RECORD-RETENTION AND STATISTICAL DATA

Article 40

1. Member States shall require obliged entities to retain the following documents and information in accordance with national law for the purpose of preventing, detecting and investigating, by the FIU or by other competent authorities, possible money laundering or terrorist financing:

▼M1

(a) i gcás dícheall cuí custaiméara, cóip de na doiciméid agus den fhaisnéis is gá chun na ceanglais maidir le dícheall cuí custaiméara a leagtar síos i gCaibidil II, lena n-áirítear, nuair a bheidh sé ar fáil, faisnéis a fuarthas trí mheán sainaithint leictreonach, seirbhísí ábhartha iontaobhais mar a leagtar amach i Rialachán (AE) Uimh. 910/2014 nó aon phróiseas sainaitheantais eile bíodh sé slán, cianda nó leictreonach arna rialú, arna aithint nó arna fhormheas nó ar ghlac na húdaráis ábhartha náisiúnta leis, ar feadh tréimhse 5 bliana tar éis chríoch na gaolmhaireachta gnó lena gcustaiméir nó tar éis dáta idirbhirt ócáidigh;

▼B

(b) the supporting evidence and records of transactions, consisting of the original documents or copies admissible in judicial proceedings under the applicable national law, which are necessary to identify transactions, for a period of five years after the end of a business relationship with their customer or after the date of an occasional transaction.

Upon expiry of the retention periods referred to in the first subparagraph, Member States shall ensure that obliged entities delete personal data, unless otherwise provided for by national law, which shall determine under which circumstances obliged entities may or shall further retain data. Member States may allow or require further retention after they have carried out a thorough assessment of the necessity and proportionality of such further retention and consider it to be justified as necessary for the prevention, detection or investigation of money laundering or terrorist financing. That further retention period shall not exceed five additional years.

▼M1

Beidh feidhm freisin ag an tréimhse choinneála dá dtagraítear di sa mhír seo, lena n-áirítear an tréimhse choinneála bhreise nach rachaidh níos faide ná 5 bliana breise, i ndáil leis na sonraí atá inrochtana trí na sásraí lárnacha dá dtagraítear de in Airteagal 32a.

▼B

2. Where, on 25 June 2015, legal proceedings concerned with the prevention, detection, investigation or prosecution of suspected money laundering or terrorist financing are pending in a Member State, and an obliged entity holds information or documents relating to those pending proceedings, the obliged entity may retain that information or those documents, in accordance with national law, for a period of five years from 25 June 2015. Member States may, without prejudice to national criminal law on evidence applicable to ongoing criminal investigations and legal proceedings, allow or require the retention of such information or documents for a further period of five years where the necessity and proportionality of such further retention has been established for the prevention, detection, investigation or prosecution of suspected money laundering or terrorist financing.

Article 41

▼M2

1. Tá próiseáil sonraí pearsanta faoin Treoir seo faoi réir Rialacháin (AE) 2016/679 ([1]) agus (AE) 2018/1725 ([2]) ó Pharlaimint na hEorpa agus ón gComhairle.

▼B

2. Personal data shall be processed by obliged entities on the basis of this Directive only for the purposes of the prevention of money laundering and terrorist financing as referred to in Article 1 and shall not be further processed in a way that is incompatible with those purposes. The processing of personal data on the basis of this Directive for any other purposes, such as commercial purposes, shall be prohibited.

3. Obliged entities shall provide new clients with the information required pursuant to Article 10 of Directive 95/46/EC before establishing a business relationship or carrying out an occasional transaction. That information shall, in particular, include a general notice concerning the legal obligations of obliged entities under this Directive to process personal data for the purposes of the prevention of money laundering and terrorist financing as referred to in Article 1 of this Directive.

([1]) Rialachán (AE) 2016/679 ó Pharlaimint na hEorpa agus ón gComhairle an 27 Aibreán 2016 maidir le daoine nádúrtha a chosaint i ndáil le sonraí pearsanta a phróiseáil agus maidir le saorghluaiseacht sonraí den sórt sin, agus lena n-aisghairtear Treoir 95/46/CE (An Rialachán Ginearálta maidir le Cosaint Sonraí) (IO L 119, 4.5.2016, lch. 1).

([2]) Rialachán (AE) 2018/1725 ó Pharlaimint na hEorpa agus ón gComhairle an 23 Deireadh Fómhair 2018 maidir le daoine nádúrtha a chosaint i ndáil le sonraí pearsanta a phróiseáil ag institiúidí, comhlachtaí, oifigí agus gníomhaireachtaí an Aontais agus maidir le saorghluaiseacht sonraí den sórt sin, agus lena n-aisghairtear Rialachán (CE) Uimh. 45/2001 agus Cinneadh Uimh. 1247/2002/CE (IO L 295, 21.11.2018, lch. 39).

▼B

4. In applying the prohibition of disclosure laid down in Article 39(1), Member States shall adopt legislative measures restricting, in whole or in part, the data subject's right of access to personal data relating to him or her to the extent that such partial or complete restriction constitutes a necessary and proportionate measure in a democratic society with due regard for the legitimate interests of the person concerned to:

(a) enable the obliged entity or competent national authority to fulfil its tasks properly for the purposes of this Directive; or

(b) avoid obstructing official or legal inquiries, analyses, investigations or procedures for the purposes of this Directive and to ensure that the prevention, investigation and detection of money laundering and terrorist financing is not jeopardised.

Article 42

Member States shall require that their obliged entities have systems in place that enable them to respond fully and speedily to enquiries from their FIU or from other authorities, in accordance with their national law, as to whether they are maintaining or have maintained, during a five-year period prior to that enquiry a business relationship with specified persons, and on the nature of that relationship, through secure channels and in a manner that ensures full confidentiality of the enquiries.

▼M1

Airteagal 43

Déanfar próiseáil sonraí pearsanta ar bhonn na Treorach seo chun sciúradh airgid agus maoiniú sceimhlitheoireachta amhail dá dtagraítear in Airteagal 1 a chosc a bhreithniú mar ábhar ar díol spéise poiblí é faoi Rialachán (AE) 2016/679 ó Pharlaimint na Eorpa agus ón gComhairle ([1]).

Airteagal 44

1. Áiritheoidh na Ballstáit, chun críocha rannchuidiú leis an ullmhúchán a bhaineann le measúnú riosca de bhun Airteagal 7, go bhfuil siad in ann athbhreithniú a dhéanamh ar éifeachtúlacht a gcórais chun sciúradh airgid nó maoiniú sceimhlitheoireachta a chomhrac trí staidreamh cuimsitheach a choimeád ar ábhair is ábhartha d'éifeachtúlacht na gcóras sin.

2. Áireofar ar an staidreamh dá dtagraítear i mír 1:

(a) sonraí a thomhaiseann méid agus tábhacht na n-earnálacha éagsúla a thagann laistigh de raon feidhme na Treorach seo, lena n-áirítear líon na ndaoine nádúrtha agus na n-eintiteas agus tábhacht eacnamaíoch gach earnála;

([1]) Rialachán (AE) 2016/679 ó Pharlaimint na hEorpa agus ón gComhairle an 27 Aibreán 2016 maidir le daoine nádúrtha a chosaint i ndáil le sonraí pearsanta a phróiseáil agus maidir le saorghluaiseacht sonraí den sórt sin, agus lena n-aisghairtear Treoir 95/46/CE (An Rialachán Ginearálta maidir le Cosaint Sonraí) (IO L 119, 4.5.2016, lch. 1).

▼M1

(b) sonraí lena ndéantar céimeanna tuairiscithe, imscrúdaithe agus breithiúnacha an chórais AML/CFT náisiúnta a thomhas, lena n-áirítear líon na dtuairiscí ar idirbhearta amhrasacha a thugtar don FIU, an obair leantach ar na tuairiscí sin agus, ar bhonn bliantúil, líon na gcásanna a imscrúdaítear, líon na ndaoine a ionchúisítear, líon na ndaoine a chiontaítear i leith cionta i gcás sciúradh airgid nó maoiniú sceimhlitheoireachta, na cineálacha cionta preideacáide, i gcás go mbeidh an fhaisnéis sin ar fáil, agus luach in euro na maoine atá reoite, urghafa nó coigistithe;

(c) má tá siad ar fáil, sonraí lena sainaithnítear líon agus céatadán na dtuarascálacha a mbíonn imscrúdú breise mar thoradh orthu, in éineacht leis an tuarascáil bhliantúil chuig eintitis faoi oibleagáid ina dtugtar mionsonraí ar úsáideacht na dtuarascálacha agus ar obair leantach a dhéantar ar na tuarascálacha a thíolaic siad;

(d) sonraí maidir le líon na n-arrataí trasteorann ar fhaisnéis a rinne, a fuair agus a dhiúltaigh an FIU agus a d'fhreagair siad go páirteach nó go hiomlán, arna miondealú de réir tír chontrapháirtí;

(e) na hacmhainní daonna arna leithdháileadh ar na húdaráis inniúla atá freagrach as AML/CFT a mhaoirsiú chomh maith le hacmhainní daonna arna leithdháileadh ar an FIU chun na cúraimí a leagtar amach in Airteagal 32 a dhéanamh;

(f) líon na ngníomhaíochtaí maoirseachta ar an láthair agus lasmuigh den láthair, líon na sáruithe a sainaithníodh ar bhonn na ngníomhaíochtaí maoirseachta agus na smachtbhannaí/na mbeart riaracháin a chuir na húdaráis mhaoirseachta i bhfeidhm.

3. Áiritheoidh na Ballstáit go ndéanfar athbhreithniú comhdhlúite ar a gcuid staidreamh a fhoilsiú ar bhonn bliantúil.

4. Cuirfidh na Ballstáit an staidreamh dá dtagraítear i mír 2 ar fáil go bliantúil don Choimisiún. Foilseoidh an Coimisiún tuarascáil bhliantúil ina mbeidh achoimre agus míniú ar an staidreamh dá dtagraítear i mír 2, ar tuarascáil í a chuirfear ar fáil ar a láithreán gréasáin.

▼B

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.

▼B

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.

▼M2

4. Cuirfidh na Ballstáit agus ÚBE a chéile ar an eolas faoi na cásanna nach gceadaítear le dlí tríú tír cur chun feidhme na mbeartas agus na nósanna imeachta is gá faoi mhír 1. I gcásanna den sórt sin, féadfar gníomhaíochtaí comhordaithe a dhéanamh chun teacht ar réiteach. Agus measúnú á dhéanamh acu i dtaobh cé na tríú tíortha nach gceadaíonn cur chun feidhme na mbeartas agus na nósanna imeachta is gá faoi mhír 1, cuirfidh na Ballstáit agus ÚBE san áireamh aon srianta dlíthiúla a d'fhéadfadh bac a chur ar chur chun feidhme cuí na mbeartas agus na nósanna imeachta sin, lena n-áirítear an rúndacht, cosaint sonraí agus srianta eile lena dteorannaítear malartú faisnéise a d'fhéadfadh a bheith ábhartha chun na críche sin.

▼B

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.

▼M2

6. Déanfaidh ÚBE dréachtchaighdeáin theicniúla rialála a fhorbairt ina sonrófar an cineál beart breise dá dtagraítear i mír 5 agus an ghníomhaíocht is lú atá le déanamh ag institiúidí creidmheasa agus institiúidí airgeadais i gcás nach gceadaítear le dlí tríú tír cur chun feidhme na mbeart is gá faoi mhíreanna 1 agus 3.

Cuirfidh ÚBE na dréachtchaighdeáin theicniúla rialála dá dtagraítear sa chéad fhomhír faoi bhráid an Choimisiúin faoin 26 Nollaig 2016.

▼B

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.

▼B

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.

▼M2

10. Déanfaidh ÚBE dréachtchaighdeáin theicniúla rialála a fhorbairt maidir leis na critéir lena gcinntear na himthosca inarb iomchuí lárphointe teagmhála a cheapadh de bhun mhír 9, mar aon leis na feidhmeanna ba cheart a bheith ag na lárphointí teagmhála.

Cuirfidh ÚBE na dréachtchaighdeáin theicniúla rialála dá dtagraítear sa chéad fhomhír faoi bhráid an Choimisiúin faoin 26 Meitheamh 2017.

▼B

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.

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.

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.

▼B

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.

SECTION 2

Supervision

Article 47

▼M1

1. Déanfaidh na Ballstáit a áirithiú go mbeidh soláthraithe seirbhísí malartaithe idir airgeadraí fiorúla agus airgeadraí *fiat*, agus soláthraithe caomhnóirí sparán, cláraithe, go mbeidh ceadúnais ag oifigí malairte airgeadra agus briste seiceanna, agus soláthraithe seirbhíse iontaobhais nó cuideachta nó go mbeidh siad cláraithe, agus go mbeidh soláthróirí seirbhísí cearrbhachais rialáilte.

▼B

2. Member States shall require competent authorities to ensure that the persons who hold a management function in the entities referred to in paragraph 1, or are the beneficial owners of such entities, are fit and proper persons.

3. With respect to the obliged entities referred to in point (3)(a), (b) and (d) of Article 2(1), Member States shall ensure that competent authorities take the necessary measures to prevent criminals convicted in relevant areas or their associates from holding a management function in or being the beneficial owners of those obliged entities.

Article 48

1. Member States shall require the competent authorities to monitor effectively, and to take the measures necessary to ensure, compliance with this Directive.

▼M1

1a. Chun comhar éifeachtach, agus go háirithe malartú faisnéise, a éascú agus a chur chun cinn, cuirfidh na Ballstáit in iúl don Choimisiún liosta d'údaráis inniúla na n-eintiteas faoi oibleagáid a liostaítear in Airteagal 2(1), lena n-áirítear a sonraí teagmhála. Áiritheoidh na Ballstáit go leanfaidh an fhaisnéis a sholáthraítear don Choimisiún de bheith cothrom le dáta.

Foilseoidh an Coimisiún clár de na húdaráis sin agus a sonraí teagmhála ar a shuíomh gréasáin. Feidhmeoidh na húdaráis sa chlár, laistigh de raon feidhme a gcumhachtaí, mar phointe teagmhála d'údaráis inniúla chontrapháirtí na mBallstát eile. ►M2 Feidhmeoidh údaráis mhaoirseachta airgeadais na mBallstát mar phointe teagmhála do ÚBE chomh maith. ◄

Chun a áirithiú go ndéanfar an Treoir seo a fhorfheidhmiú go leordhóthanach, éileoidh na Ballstáit go mbeidh gach eintiteas faoi oibleagáid faoi réir maoirseacht leordhóthanach, lena n-áirítear na cumhachtaí chun maoirseacht ar an láthair agus lasmuigh den láthair a dhéanamh, agus déanfaidh siad bearta riaracháin iomchuí agus comhréireacha a ghlacadh chun an cás a leigheas i gcás sáruithe.

▼M1

2. Áiritheoidh na Ballstáit go mbeidh cumhachtaí leordhóthanacha ag na húdaráis inniúla, lena n-áirítear an chumhacht chun iallach a chur go dtabharfar ar aird aon fhaisnéis atá ábhartha d'fhaireachán a dhéanamh ar chomhlíonadh agus chun seiceálacha a dhéanamh, agus go mbeidh acmhainní airgeadais, daonna agus teicniúla leormhaithe acu chun a gcuid feidhmeanna a fheidhmiú. Áiritheoidh na Ballstáit go mbeidh ardleibhéal ionracais ag foireann na n-údarás sin agus go mbeidh na scileanna iomchuí acu, agus go gcoimeádfaidh siad ardchaighdeáin ghairmiúla, lena n-áirítear caighdeáin maidir le rúndacht, cosaint sonraí agus caighdeáin chun aghaidh a thabhairt ar choinbhleachtaí leasa.

▼B

3. In the case of credit institutions, financial institutions, and providers of gambling services, competent authorities shall have enhanced supervisory powers.

▼M1

4. Áiritheoidh na Ballstáit go ndéanfaidh údaráis inniúla an Bhallstáit ina mbeidh bunaíochtaí á n-oibriú ag an eintiteas faoi oibleagáid maoirseacht ar na bunaíochtaí sin, le féachaint go n-urramóidh siad forálacha náisiúnta an Bhallstáit sin lena dtrasuítear an Treoir seo.

I gcás institiúidí creidmheasa agus airgeadais atá mar chuid de ghrúpa, áiritheoidh na Ballstáit, chun na gcríoch a leagtar síos sa chéad fhomhír, go gcomhoibríonn údaráis inniúla an Bhallstáit ina bhfuil máthairghnóthas bunaithe le húdaráis inniúla na mBallstát ina bhfuil na bunaíochtaí atá mar chuid den ghrúpa bunaithe.

I gcás na mbunaíochtaí dá dtagraítear in Airteagal 45(9), féadfar a áireamh sa mhaoirseacht dá dtagraítear sa chéad fhomhír den mhír seo bearta iomchuí agus comhréireacha a dhéanamh chun aghaidh a thabhairt ar chlistí tromchúiseacha a bhfuil gá le leigheasanna orthu láithreach. Beidh na bearta sin sealadach agus foirceannfar iad nuair a thabharfar aghaidh ar na clistí a shainaithnítear, lena n-áirítear le cúnamh ó údaráis inniúla Bhallstát baile an eintitis faoi oibleagáid nó i gcomhar leo, i gcomhréir le hAirteagal 45(2).

▼B

5. Member States shall ensure that the competent authorities of the Member State in which the obliged entity operates establishments shall cooperate with the competent authorities of the Member State in which the obliged entity has its head office, to ensure effective supervision of the requirements of this Directive.

▼M1

I gcás institiúidí creidmheasa agus airgeadais atá mar chuid de ghrúpa, áiritheoidh na Ballstáit, chun na gcríoch a leagtar síos san fhomhír roimhe seo, go ndéanfaidh údaráis inniúla an Bhallstáit ina bhfuil máthairghnóthas bunaithe maoirsiú ar chur chun feidhme éifeachtúil na mbeartas uile-ghrúpa agus na nósanna imeachta dá dtagraítear in Airteagal 45(1). Chun na críche sin, áiritheoidh na Ballstáit go ndéanfaidh údaráis inniúla na mBallstát i gcás go gcomhoibríonn an chuid den ghrúpa arb institiúidí creidmheasa agus airgeadais iad leis na húdaráis inniúla de chuid an Bhallstáit ina bhfuil an máthairghnóthas bunaithe.

▼B

6. Member States shall ensure that when applying a risk-based approach to supervision, the competent authorities:

(a) have a clear understanding of the risks of money laundering and terrorist financing present in their Member State;

▼B

(b) have on-site and off-site access to all relevant information on the specific domestic and international risks associated with customers, products and services of the obliged entities; and

(c) base the frequency and intensity of on-site and off-site supervision on the risk profile of obliged entities, and on the risks of money laundering and terrorist financing in that Member State.

7. The assessment of the money laundering and terrorist financing risk profile of obliged entities, including the risks of non-compliance, shall be reviewed both periodically and when there are major events or developments in their management and operations.

8. Member States shall ensure that competent authorities take into account the degree of discretion allowed to the obliged entity, and appropriately review the risk assessments underlying this discretion, and the adequacy and implementation of its internal policies, controls and procedures.

9. In the case of the obliged entities referred to in point (3)(a), (b) and (d) of Article 2(1), Member States may allow the functions referred to in paragraph 1 of this Article to be performed by self-regulatory bodies, provided that those self-regulatory bodies comply with paragraph 2 of this Article.

10. ►M2 Faoin 26 Meitheamh 2017, eiseoidh na ÚMEnna treoirlínte, arna ndíriú ar údaráis inniúla, i gcomhréir le hAirteagal 16 de Rialachán (AE) Uimh. 1093/2010 maidir leis na tréithe a ghabhann le cur chuige rioscabhunaithe don mhaoirseacht agus maidir leis na bearta atá le déanamh nuair atá maoirseacht á déanamh ar bhonn riosca-bhunaithe. Ón 1 Eanáir 2020, eiseoidh ÚBE treoracha den sórt sin, i gcás inarb iomchuí. ◄ Specific account shall be taken of the nature and size of the business, and, where appropriate and proportionate, specific measures shall be laid down.

SECTION 3

Cooperation

Subsection I

National cooperation

▼M1

Airteagal 49

Déanfaidh na Ballstáit a áirithiú go mbeidh sásraí éifeachtacha ag lucht déanta beartas, na FIUnna, na maoirseoirí agus údaráis inniúla eile a bhfuil baint acu le AML/CFT, chomh maith le húdaráis chánach agus údaráis forfheidhmithe an dlí nuair a bhíonn siad ag gníomhú laistigh de raon feidhme na Treorach seo, chun a chumasú dóibh obair i gcomhar lena chéile agus comhordú a dhéanamh ar bhonn intíre maidir le forbairt agus cur chun feidhme beartais agus gníomhaíochtaí chun sciúradh airgid agus maoiniú sceimhlitheoireachta a chomhrac, lena n-airítear d'fhonn a n-oibleagáid faoi Airteagal 7 a chomhlíonadh.

▼B

Subsection II

▼M2

Comhar le ÚBE

Airteagal 50

Cuirfidh na húdaráis inniúla an fhaisnéis riachtanach ar fad ar fáil do ÚBE ionas gur féidir leis a chuid dualgas a dhéanamh faoin Treoir seo.

▼M1

Foroinn 11a

Comhar idir údaráis inniúla na mBallstát

Airteagal 50a

Ní chuirfidh na Ballstáit toirmeasc ar mhalartú faisnéise nó ar chúnamh idir na húdaráis inniúla ná ní chuirfidh siad coinníollacha a bheadh sriantach go míchuí ar an malartú sin chun críocha na Treorach seo. Go háirithe déanfaidh na Ballstáit a áirithiú nach ndiúltóidh na húdaráis inniúla iarraidh ar chúnamh ar na forais seo a leanas:

(a) go meastar freisin go bhfuil baint ag an iarraidh le cursaí cánach;

(b) go gceanglaíonn an dlí náisiúnta ar eintitis faoi oibleagáid rúndacht a choimeád, ach amháin sna cásanna sin ina bhfuil an fhaisnéis ábhartha a bheidh á lorg in imthosca atá faoi chosaint pribhléid dhlíthiúil nó i gcás ina bhfuil feidhm ag rúndacht ghairmiúil dhlíthiúil, mar a thuairiscítear in Airteagal 34(2);

(c) go bhfuil fiosrúchán, imscrúdú nó imeacht ar bun sa Bhallstát iarrtha, ach amháin mura gcuirfeadh an cúnamh bac ar an bhfiosrúchán, ar an imscrúdú nó ar an imeacht sin;

(d) go bhfuil cineál nó stádas an údaráis inniúil contrapháirtí iarrthach éagsúil ó chineál nó stádas an údaráis inniúil iarrtha.

▼B

Subsection III

Cooperation between FIUs and with the Commission

Article 51

The Commission may lend such assistance as may be needed to facilitate coordination, including the exchange of information between FIUs within the Union. It may regularly convene meetings of the EU FIUs' Platform composed of representatives from Member States' FIUs, in order to facilitate cooperation among FIUs, exchange views and provide advice on implementation issues relevant for FIUs and reporting entities as well as on cooperation-related issues such as effective FIU cooperation, the identification of suspicious transactions with a cross-border dimension, the standardisation of reporting formats through the FIU.net or its successor, the joint analysis of cross-border cases, and the identification of trends and factors relevant to assessing the risks of money laundering and terrorist financing at national and supranational level.

▼B

Article 52

Member States shall ensure that FIUs cooperate with each other to the greatest extent possible, regardless of their organisational status.

Article 53

▼M1

1. Áiritheoidh na Ballstáit go ndéanfaidh na FIUnna, go spontáineach, nó má iarrtar orthu, aon fhaisnéis a d'fhéadfadh a bheith ábhartha don FIU a bheith ag próiseáil agus ag anailísiú na faisnéise maidir le sciúradh airgid nó le maoiniú sceimhlitheoireachta nó leis an duine nádúrtha nó dlítheanach atá rannpháirteach, beag beann ar chineál na gcionta preideacáide bainteacha agus fiú amháin mura sainaithnítear cineál na gcionta preideacáide bainteacha tráth an mhalartaithe.

▼B

A request shall contain the relevant facts, background information, reasons for the request and how the information sought will be used. Different exchange mechanisms may apply if so agreed between the FIUs, in particular as regards exchanges through the FIU.net or its successor.

When an FIU receives a report pursuant to point (a) of the first subparagraph of Article 33(1) which concerns another Member State, it shall promptly forward it to the FIU of that Member State.

2. Member States shall ensure that the FIU to whom the request is made is required to use the whole range of its available powers which it would normally use domestically for receiving and analysing information when it replies to a request for information referred to in paragraph 1 from another FIU. The FIU to whom the request is made shall respond in a timely manner.

When an FIU seeks to obtain additional information from an obliged entity established in another Member State which operates on its territory, the request shall be addressed to the FIU of the Member State in whose territory the obliged entity is established. ►M1 Gheobhaidh an FIU sin faisnéis i gcomhréir le hAirteagal 33(1) agus déanfaidh sé na freagraí a aistriú go pras. ◄

3. An FIU may refuse to exchange information only in exceptional circumstances where the exchange could be contrary to fundamental principles of its national law. Those exceptions shall be specified in a way which prevents misuse of, and undue limitations on, the free exchange of information for analytical purposes.

Article 54

Information and documents received pursuant to Articles 52 and 53 shall be used for the accomplishment of the FIU's tasks as laid down in this Directive. When exchanging information and documents pursuant to Articles 52 and 53, the transmitting FIU may impose restrictions and conditions for the use of that information. The receiving FIU shall comply with those restrictions and conditions.

▼M1

Áiritheoidh na Ballstáit go n-ainmneoidh na FIUnna duine teagmhála nó pointe teagmhála amháin ar a laghad le bheith freagrach as iarrataí ar fhaisnéis a fháil ó FIUnna i mBallstáit eile.

▼B

Article 55

1. Member States shall ensure that the information exchanged pursuant to Articles 52 and 53 is used only for the purpose for which it was sought or provided and that any dissemination of that information by the receiving FIU to any other authority, agency or department, or any use of this information for purposes beyond those originally approved, is made subject to the prior consent by the FIU providing the information.

▼M1

2. Áiritheoidh na Ballstáit go ndéanfar toiliú roimh ré ó FIU iarrtha chun an fhaisnéis a scaipeadh ar na húdaráis inniúla a dheonú go pras agus a mhéid is féidir beag beann ar chineál na gcionta preideacáide bainteacha. Ní dhiúltóidh an FIU iarrtha a thoiliú don scaipeadh sin mura rud é go mbeadh sé sin thar raon feidhme chur i bhfeidhm a fhorálacha AML/CFT nó go bhféadfadh lagú ar imscrúdú coiriúil teacht as, nó go mbeadh sé díréireach ar shlí eile nach mbeadh sé i gcomhréir le prionsabail bhunúsacha dhlí náisiúnta an Bhallstáit sin. Déanfar aon diúltú chun toiliú a dheonú a mhíniú go hiomchuí. Sonrófar na heisceachtaí sin ar bhealach a chuireann cosc ar mhí-úsáid scaipeadh faisnéise chuig údaráis inniúla, agus ar shrianta míchuí ar an scaipeadh sin.

▼B

Article 56

1. Member States shall require their FIUs to use protected channels of communication between themselves and encourage the use of the FIU.net or its successor.

2. Member States shall ensure that, in order to fulfil their tasks as laid down in this Directive, their FIUs cooperate in the application of state-of-the-art technologies in accordance with their national law. Those technologies shall allow FIUs to match their data with that of other FIUs in an anonymous way by ensuring full protection of personal data with the aim of detecting subjects of the FIU's interests in other Member States and identifying their proceeds and funds.

▼M1

Airteagal 57

Ní chuirfidh difríochtaí idir sainmhínithe dlí náisiúnta de chionta preideacáide dá dtagraítear i bpointe (4) d'Airteagal 3 bac ar chumas FIUnna cúnamh a thabhairt do FIU eile ná ní chuirfidh sé teorainn le malartú, scaipeadh agus úsáid faisnéise de bhun Airteagal 53, Airteagal 54 agus Airteagal 55.

▼M1

Foroinn IIIa

Comhar idir na húdaráis inniúla a dhéanann maoirseacht ar institiúidí creidmheasa agus airgeadais agus údaráis eile faoi cheangal ag rúndacht ghairmiúil

Airteagal 57a

1. Déanfaidh na Ballstáit a cheangal go mbeidh gach duine a oibríonn don nó a d'oibrigh don údaráis inniúil a dhéanann maoirseacht ar institiúidí creidmheasa agus airgeadais i gcomhréir leis an Treoir seo agus iniúchóirí nó saineolaithe a fheidhmíonn thar ceann údaráis inniúla den sórt sin go mbeidh siad faoi cheangal ag oibleagáid na rúndachta gairmiúla.

Gan dochar do chásanna a chumhdaítear leis an dlí coiriúil, ní fhéadfar faisnéis faoi rún a fhaigheann na daoine dá dtagraítear sa chéad fhomhír i bhfeidhmiú a ndualgas faoin Treoir seo dóibh a nochtadh ach amháin mar achoimre nó i bhfoirm chomhiomlánaithe, ar shlí a fhágfaidh nach féidir institiúidí creidmheasa agus airgeadais aonair a shainaithint.

2. Ní chuirfidh mír 1 cosc ar mhalartú faisnéise idir:

(a) údaráis inniúla a dhéanann maoirseacht ar institiúidí creidmheasa agus airgeadais laistigh de Bhallstát i gcomhréir leis an Treoir seo nó gníomhartha reachtacha eile a bhaineann le maoirseacht ar institiúidí creidmheasa agus airgeadais;

(b) údaráis inniúla a dhéanann maoirseacht ar institiúidí creidmheasa agus airgeadais laistigh de Bhallstáit éagsúla i gcomhréir leis an Treoir seo nó le gníomhartha reachtacha eile a bhaineann le maoirseacht ar institiúidí creidmheasa agus airgeadais, lena n-áirítear an Banc Ceannais Eorpach (BCE) ag gníomhú dó i gcomhréir le Rialachán (AE) Uimh 1024/2013 ón gComhairle [1]. Beidh an malartú faisnéise sin faoi réir choinníollacha na rúndachta gairmiúla a luaitear i mír 1.

Faoin 10 Eanáir 2019, déanfaidh na húdaráis inniúla a dhéanann maoirseacht ar institiúidí creidmheasa agus airgeadais i gcomhréir leis an Treoir seo agus an BCE, ag gníomhú dó de bhun Airteagal 27(2) de Rialachán (AE) Uimh. 1024/2013 agus de bhun phointe (g) den chéad fhomhír d'Airteagal 56 de Threoir 2013/36AE ó Pharlaimint na hEorpa agus ón gComhairle [2], le tacaíocht na nÚdarás Maoirseachta Eorpacha, comhaontú a chur i gcrích ar na modúlachtaí praiticiúla chun faisnéis a mhalartú.

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[1] Rialachán (AE) Uimh. 1024/2013 ón gComhairle an 15 Deireadh Fómhair 2013 lena dtugtar cúraimí sonracha don Bhanc Ceannais Eorpach maidir le beartais a bhaineann le maoirseacht stuamachta ar institiúidí creidmheasa (IO L 287, 29.10.2013, lch. 63).

[2] Treoir 2013/36/AE ó Pharlaimint na hEorpa agus ón gComhairle an 26 Meitheamh 2013 maidir le rochtain ar ghníomhaíocht institiúidí creidmheasa agus maoirseacht stuamachta ar institiúidí creidmheasa agus ar ghnólachtaí infheistíochta, lena leasaítear Treoir 2002/87/CE agus lena n-aisghairtear Treoir2006/48/CE agus Treoir 2006/49/CE (IO L 176, 27.6.2013, lch. 338).

▼M1

3. Údaráis inniúla a dhéanann maoirseacht ar institiúidí creidmheasa agus airgeadais a fhaigheann faisnéis rúnda amhail dá dtagraítear i mír 1, bainfidh siad feidhm as an bhfaisnéis sin:

(a) i gcomhlíonadh a ndualgas faoin Treoir seo nó faoi ghníomhartha reachtacha eile i réimse AML/CFT, na rialála stuamachta agus na maoirseacht ar institiúidí creidmheasa agus airgeadais, lena n-áirítear smachtbhannú;

(b) in achomharc i gcoinne cinneadh de chuid an údaráis inniúil a dhéanann maoirseacht ar institiúidí creidmheasa agus airgeadais, lena n-áirítear imeachtaí cúirte;

(c) in imeachtaí cúirte a thionscnaítear de bhun forálacha speisialta dá bhforáiltear i ndlí an Aontais arna ghlacadh i réimse na Treorach seo nó i réimse na rialála stuamachta agus na maoirseachta ar institiúidí creidmheasa agus airgeadais.

4. Áiritheoidh na Ballstáit go n-oibreoidh na húdaráis inniúla a dhéanann maoirseacht ar institiúidí creidmheasa agus airgeadais i gcomhar le chéile chun críocha na Treorach seo a mhéid is féidir, beag beann ar a gcineál nó a stádas atá acu faoi seach. Áirítear leis freisin an cumas comhar den sórt sin a dhéanamh, laistigh de chumhachtaí an údaráis inniúil iarrtha, fiosrúchán a dhéanamh thar ceann údarás inniúil iarrthach, agus i malartú na faisnéise ina dhiaidh sin a fuarthas trí imscrúduithe den sórt sin.

5. Féadfaidh na Ballstáit údarú a thabhairt dá n-údaráis náisiúnta inniúla a dhéanann maoirseacht ar institiúidí creidmheasa agus airgeadais comhaontuithe comhair a thabhairt i gcrích a dhéanann foráil maidir le comhar agus malartú faisnéise rúnda leis na húdaráis inniúla i dtríú tíortha arb ionann a gcontrapháirteanna agus na húdaráis náisiúnta inniúla sin. Déanfar comhaontuithe comhair den sórt sin a thabhairt i gcrích ar bhonn na cómhalartachta agus ní dhéanfar é sin ach amháin má tá an fhaisnéis a nochtfar faoi réir cheanglais rúndachta gairmiúla atá comhionann ar a laghad leis sin dá dtagraítear i mír 1. Bainfear feidhm as an bhfaisnéis rúnda a malartaíodh de réir na gcomhaontuithe comhair sin chun críche cúram maoirseoireachta na n-údarás sin a chomhlíonadh.

I gcás ina dtionscnaíonn an fhaisnéis arna malartú i mBallstát eile, ní dhéanfar í a nochtadh gan toiliú sainráite an údaráis inniúil a chomhroinn í agus, i gcás inarb iomchuí, chun na gcríoch ar thug an t-údarás sin a thoiliú dóibh agus chun na gcríoch sin amháin.

Airteagal 57b

1. D'ainneoin Airteagal 57a (1) agus (3) agus gan dochar d'Airteagal 34(2), féadfaidh na Ballstáit údarú a thabhairt chun faisnéis a mhalartú idir údaráis inniúla, sa Bhallstát céanna nó i mBallstáit éagsúla, idir na húdaráis inniúla agus na húdaráis ar cuireadh ar a n-iontaoibh maoirseacht a dhéanamh ar eintitis na hearnála airgeadais agus ar dhaoine nádúrtha nó dlítheanacha atá ag gníomhú i bhfeidhmiú a gcuid gníomhaíochtaí gairmiúla amhail dá dtagraítear i bpointe (3) d'Airteagal 2(1) agus na húdaráis atá freagrach le dlí as maoirseacht a dhéanamh ar mhargaí airgeadais i gcomhlíonadh a bhfeidhmeanna maoirseachta faoi seach.

▼M1

Beidh an fhaisnéis a fhaightear, in aon chás, faoi réir cheanglais na rúndachta gairmiúla a bheidh coibhéiseach ar a laghad leo siúd dá dtagraítear in Airteagal 57a(1).

2. D'ainneoin Airteagal 57a(1) agus (3), féadfaidh na Ballstáit, de bhua fhorálacha a leagtar síos sa dlí náisiúnta, údarú a thabhairt faisnéis áirithe a nochtadh leis na húdaráis náisiúnta eile atá freagrach le dlí as maoirseacht a dhéanamh ar na margaí airgeadais, nó ag a mbeidh freagrachtaí ainmnithe i réimse sciúradh airgid, na cionta preideacáide bainteacha nó maoiniú sceimhlitheoireachta a chomhrac nó a imscrúdú.

Mar sin féin, ní bhainfear feidhm as an bhfaisnéis rúnda a malartaíodh de réir an mhír 2 seo ach amháin chun críche cúraimí dlíthiúla na n-údarás lena mbaineann a chomhlíonadh. Beidh daoine a bhfuil rochtain acu ar an bhfaisnéis sin faoi réir cheanglais na rúndachta gairmiúla a bheidh coibhéiseach ar a laghad leo siúd dá dtagraítear in Airteagal 57a(1).

3. Féadfaidh na Ballstáit údarú a thabhairt go nochtfar faisnéis áirithe maidir le maoirseacht ar institiúidí creidmheasa agus airgeadais i gcomhréir leis an Treoir seo do choistí fiosrúcháin Parlaiminteacha, do chúirteanna iniúchóirí agus d'eintitis eile atá i gceannas ar fhiosrúcháin, ina mBallstát, faoi na coinníollacha seo a leanas:

(a) go bhfuil sainordú beacht faoin dlí náisiúnta ag na heintitis chun imscrúdú nó grinnscrúdú a dhéanamh ar ghníomhaíochtaí na n-údarás atá freagrach as maoirseacht a dhéanamh ar na hinstitiúidí creidmheasa sin nó as dlíthe maidir le maoirseacht den sórt sin;

(b) go bhfuil dianghá leis an bhfaisnéis chun an sainordú dá dtagraítear i bpointe (a) a chomhlíonadh;

(c) go bhfuil na daoine a mbeidh rochtain acu ar an bhfaisnéis faoi réir na gceanglas maidir le rúndacht ghairmiúil faoin dlí náisiúnta atá coibhéiseach ar a laghad leo siúd dá dtagraítear in Airteagal 57a (1);

(d) i gcás ina dtionscnaíonn an fhaisnéis i mBallstát eile, nach ndéanfar í a nochtadh gan toiliú sainráite na n-údarás inniúil a nocht í agus, chun na gcríoch amháin ar thug na húdaráis sin a dtoiliú dóibh.

▼B

SECTION 4

Sanctions

Article 58

1. Member States shall ensure that obliged entities can be held liable for breaches of national provisions transposing this Directive in accordance with this Article and Articles 59 to 61. Any resulting sanction or measure shall be effective, proportionate and dissuasive.

2. Without prejudice to the right of Member States to provide for and impose criminal sanctions, Member States shall lay down rules on administrative sanctions and measures and ensure that their competent authorities may impose such sanctions and measures with respect to breaches of the national provisions transposing this Directive, and shall ensure that they are applied.

▼B

Member States may decide not to lay down rules for administrative sanctions or measures for breaches which are subject to criminal sanctions in their national law. In that case, Member States shall communicate to the Commission the relevant criminal law provisions.

▼M1

Déanfaidh na Ballstáit a áirithiú freisin i gcás ina sainaithníonn a n-údaráis inniúla sáruithe atá faoi réir smachtbhannaí coiriúla, go gcuirfidh siad na húdaráis forfheidhmithe dlí ar an eolas ar bhealach tráthúil.

▼B

3. Member States shall ensure that where obligations apply to legal persons in the event of a breach of national provisions transposing this Directive, sanctions and measures can be applied to the members of the management body and to other natural persons who under national law are responsible for the breach.

4. Member States shall ensure that the competent authorities have all the supervisory and investigatory powers that are necessary for the exercise of their functions.

5. Competent authorities shall exercise their powers to impose administrative sanctions and measures in accordance with this Directive, and with national law, in any of the following ways:

(a) directly;

(b) in collaboration with other authorities;

(c) under their responsibility by delegation to such other authorities;

(d) by application to the competent judicial authorities.

In the exercise of their powers to impose administrative sanctions and measures, competent authorities shall cooperate closely in order to ensure that those administrative sanctions or measures produce the desired results and coordinate their action when dealing with cross-border cases.

Article 59

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;

▼B

(c) where an obliged entity is subject to an authorisation, withdrawal or suspension 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.

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.

Article 60

1. Member States shall ensure that a decision imposing an administrative sanction or measure for breach of the national provisions transposing this Directive against which there is no appeal shall be published by the competent authorities on their official website immediately after the person sanctioned is informed of that decision. The publication shall include at least information on the type and nature of the breach and the identity of the persons responsible. Member States shall not be obliged to apply this subparagraph to decisions imposing measures that are of an investigatory nature.

Where the publication of the identity of the persons responsible as referred to in the first subparagraph or the personal data of such persons is considered by the competent authority to be disproportionate following a case-by-case assessment conducted on the proportionality of the publication of such data, or where publication jeopardises the stability of financial markets or an on-going investigation, competent authorities shall:

▼B

(a) delay the publication of the decision to impose an administrative sanction or measure until the moment at which the reasons for not publishing it cease to exist;

(b) publish the decision to impose an administrative sanction or measure on an anonymous basis in a manner in accordance with national law, if such anonymous publication ensures an effective protection of the personal data concerned; in the case of a decision to publish an administrative sanction or measure on an anonymous basis, the publication of the relevant data may be postponed for a reasonable period of time if it is foreseen that within that period the reasons for anonymous publication shall cease to exist;

(c) not publish the decision to impose an administrative sanction or measure at all in the event that the options set out in points (a) and (b) are considered insufficient to ensure:

(i) that the stability of financial markets would not be put in jeopardy; or

(ii) the proportionality of the publication of the decision with regard to measures which are deemed to be of a minor nature.

2. Where Member States permit publication of decisions against which there is an appeal, competent authorities shall also publish, immediately, on their official website such information and any subsequent information on the outcome of such appeal. Moreover, any decision annulling a previous decision to impose an administrative sanction or a measure shall also be published.

3. Competent authorities shall ensure that any publication in accordance with this Article shall remain on their official website for a period of five years after its publication. However, personal data contained in the publication shall only be kept on the official website of the competent authority for the period which is necessary in accordance with the applicable data protection rules.

4. Member States shall ensure that when determining the type and level of administrative sanctions or measures, the competent authorities shall take into account all relevant circumstances, including where applicable:

(a) the gravity and the duration of the breach;

(b) the degree of responsibility of the natural or legal person held responsible;

(c) the financial strength of the natural or legal person held responsible, as indicated for example by the total turnover of the legal person held responsible or the annual income of the natural person held responsible;

(d) the benefit derived from the breach by the natural or legal person held responsible, insofar as it can be determined;

(e) the losses to third parties caused by the breach, insofar as they can be determined;

(f) the level of cooperation of the natural or legal person held responsible with the competent authority;

(g) previous breaches by the natural or legal person held responsible.

▼B

5. Member States shall ensure that legal persons can be held liable for the breaches referred to in Article 59(1) committed for their benefit by any person, acting individually or as part of an organ of that legal person, and having a leading position within the legal person based on any of the following:

(a) power to represent the legal person;

(b) authority to take decisions on behalf of the legal person; or

(c) authority to exercise control within the legal person.

6. Member States shall also ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 5 of this Article has made it possible to commit one of the breaches referred to in Article 59(1) for the benefit of that legal person by a person under its authority.

Article 61

▼M1

1. Déanfaidh na Ballstáit a áirithiú go mbunóidh údaráis inniúla, chomh maith i gcás inarb infheidhme, le comhlachtaí féinrialála, sásraí éifeachtacha agus iontaofa chun tuairisciú sháruithe féideartha nó iarbhír ar na forálacha náisiúnta lena dtrasuítear an Treoir seo chuig údaráis inniúla, chomh maith le, i gcás inarb infheidhme, comhlachtaí féinrialála, a spreagadh.

Chun na críche sin, soláthróidh siad bealach cumarsáide slán amháin nó níos mó do dhaoine le haghaidh an tuairiscithe dá dtagraítear sa chéad fhomhír. Áiritheoidh bealaí den sórt sin nach mbeidh céannacht na ndaoine sin a chuireann faisnéis ar fáil ar eolas ach amháin ag na húdaráis inniúla, chomh maith, i gcás inarb infheidhme, le comhlachtaí féinrialála.

▼B

2. The mechanisms referred to in paragraph 1 shall include at least:

(a) specific procedures for the receipt of reports on breaches and their follow-up;

(b) appropriate protection for employees or persons in a comparable position, of obliged entities who report breaches committed within the obliged entity;

(c) appropriate protection for the accused person;

(d) protection of personal data concerning both the person who reports the breaches and the natural person who is allegedly responsible for a breach, in compliance with the principles laid down in Directive 95/46/EC;

(e) clear rules that ensure that confidentiality is guaranteed in all cases in relation to the person who reports the breaches committed within the obliged entity, unless disclosure is required by national law in the context of further investigations or subsequent judicial proceedings.

▼B

3. Member States shall require obliged entities to have in place appropriate procedures for their employees, or persons in a comparable position, to report breaches internally through a specific, independent and anonymous channel, proportionate to the nature and size of the obliged entity concerned.

▼M1

Áiritheoidh na Ballstáit go ndéanfar daoine aonair, lena n-áirítear fostaithe agus ionadaithe an eintitis faoi oibleagáid, a thuairiscíonn amhras faoi sciúradh airgid nó maoiniú sceimhlitheoireachta go hinmheánach nó don FIU, a chosaint ar bheith neamhchosanta ar bhagairtí nó ar ghníomhaíocht dhíoltach nó naimhdeach, agus go háirithe ar ghníomhaíochtaí fostaíochta díobhálacha nó idirdhealaitheacha.

Áiritheoidh na Ballstáit go mbeidh daoine aonair atá neamhchosanta ar bhagairtí, gníomhaíochtaí naimhdeacha, nó díobhálacha nó idirdhealaitheacha gníomhaíochtaí fostaíochta maidir le tuairisciú amhras faoi sciúradh airgid nó maoiniú sceimhlitheoireachta go hinmheánach, nó chuig an FIU i dteideal gearán a thíolacadh ar bhealach sábháilte, do na húdaráis inniúla faoi seach. Gan dochar do rúndacht na faisnéise arna bailiú ag an FIU, áiritheoidh na Ballstáit freisin go mbeidh an ceart ag daoine aonair den sórt sin chun leigheas éifeachtach chun a gcearta a choimirciú faoin mhír seo.

▼B

Article 62

▼M2

1. Áiritheoidh na Ballstáit go gcuirfidh a gcuid údarás inniúil ÚBE ar an eolas maidir leis na smachtbhannaí riaracháin agus bearta riaracháin ar fad a fhorchuirtear i gcomhréir le hAirteagail 58 agus 59 ar institiúidí creidmheasa agus institiúidí airgeadais, lena n-áirítear maidir le hachomharc ar bith i ndáil leo sin agus an toradh a bhí air.

▼B

2. Member States shall ensure that their competent authorities, in accordance with their national law, check the existence of a relevant conviction in the criminal record of the person concerned. Any exchange of information for those purposes shall be carried out in accordance with Decision 2009/316/JHA and Framework Decision 2009/315/JHA as implemented in national law.

▼M2

3. Déanfaidh ÚBE suíomh gréasáin a choimeád ar bun agus naisc ann chuig na smachtbhannaí riaracháin agus na bearta riaracháin arna bhfoilsiú ag gach údarás inniúil agus arna bhforchur i gcomhréir le hAirteagal 60 ar institiúidí creidmheasa agus institiúidí airgeadais, agus taispeánfaidh ÚBE an tréimhse dá bhfoilsíonn gach Ballstát smachtbhannaí riaracháin agus bearta riaracháin.

▼B

CHAPTER VII

FINAL PROVISIONS

Article 63

Point (d) of paragraph 2 of Article 25 of Regulation (EU) No 648/2012 of the European Parliament and the Council [1] is replaced by the following:

[1] Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

▼B

‘(d) the CCP is established or authorised in a third country that is not considered, by the Commission in accordance with Directive (EU) 2015/849 of the European Parliament and of the Council (*), as having strategic deficiencies in its national anti-money laundering and counter financing of terrorism regime that poses significant threats to the financial system of the Union.

(*) 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 purpose 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 (OJ L 141, 5.6.2015, p. 73).’.

Article 64

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 9 shall be conferred on the Commission for an indeterminate period of time from 25 June 2015.

3. The power to adopt delegated acts referred to in Article 9 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 9 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of one month of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by one month at the initiative of the European Parliament or of the Council.

▼M1

Airteagal 64a

1. Tabharfaidh an Coiste um Chosc ar Sciúradh Airgid agus ar Mhaoiniú Sceimhlitheoireachta (an “Coiste”) amhail dá dtagraítear in Airteagal 23 de Rialachán (AE) 2015/847 ó Pharlaimint na hEorpa agus ón gComhairle ([1]) cúnamh don Choimisiún. Beidh an coiste sin ina choiste de réir bhrí Rialachán (AE) Uimh. 182/2011 ([2]).

([1]) Rialachán (AE) 2015/847 ó Pharlaimint na hEorpa agus ón gComhairle an 20 Bealtaine 2015 maidir le faisnéis a ghabhann le haistrithe cistí agus lena n-aisghairtear Rialachán (CE) Uimh. 1781/2006 (IO L 141, 5.6.2015, lch. 1).

([2]) Rialachán (AE) Uimh. 182/2011 ó Pharlaimint na hEorpa agus ón gComhairle an 16 Feabhra 2011 lena leagtar síos na rialacha agus na prionsabail ghinearálta a bhaineann leis na sásraí maidir le rialú ag na Ballstáit ar fheidhmiú cumhachtaí cur chun feidhme ag an gCoimisiún (IO L 55, 28.2.2011, lch. 13).

▼M1

2. I gcás ina ndéantar tagairt don mhír seo, beidh feidhm ag Airteagal 5 de Rialachán (AE) Uimh. 182/2011.

Airteagal 65

1. Faoin 11 Eanáir 2022, agus gach 3 bliana ina dhiaidh sin, tarraingeoidh an Coimisiún suas tuarascáil ar chur chun feidhme na Treorach seo agus cuirfidh sé faoi bhráid Pharlaimint na hEorpa agus na Comhairle í.

Áireofar sa tuarascáil sin go háirithe:

(a) cuntas ar na bearta sonracha a glacadh agus na sásraí arna gcur ar bun ar leibhéal an Aontais agus ar leibhéal an Bhallstáit chun fadhbanna a bheidh ag teacht chun cinn agus forbairtí nua a bheidh mar bhagairt do chóras airgeadais an Aontais a chosc agus aghaidh a thabhairt orthu;

(b) gníomhaíochtaí leantacha a rinneadh ar leibhéal an Aontais agus ar leibhéal an Bhallstáit ar bhonn imní a thugtar ar aird dóibh, lena n-áirítear gearáin a bhaineann le dlíthe náisiúnta a chuireann bac ar chumhachtaí maoirseachta agus imscrúdaitheacha údaráis inniúla agus comhlachtaí féinrialála;

(c) cuntas ar infhaighteacht na faisnéise ábhartha d'údaráis inniúla agus FIUnna na mBallstát, úsáid an chórais airgeadais chun sciúradh airgid nó maoiniú sceimhlitheoireachta a chosc;

(d) cuntas ar an gcomhar idirnáisiúnta agus ar an malartú faisnéise idir údaráis inniúla agus FIUnna;

(e) cuntas ar ghníomhaíochtaí riachtanacha ón gCoimisiún chun a fhíorú go ndéanann na Ballstáit gníomhaíochtaí i gcomhréir leis an Treoir seo agus chun measúnú a dhéanamh ar fhadhbanna a bheidh ag teacht chun cinn agus ar fhorbairtí nua sna Ballstáit;

(f) anailís ar a indéanta atá bearta sonracha agus sásraí sonracha ar leibhéal an Aontais agus ar leibhéal na mBallstát leis na féidearthachtaí chun faisnéis maidir le húinéireacht thairbhiúil na n-eintiteas corparáideach agus na n-eintiteas dlíthiúil eile a corpraíodh lasmuigh den Aontas a bhailiú agus rochtain a fháil uirthi agus faoi chomhréireacht na mbeart dá dtagraítear i bpointe (b) d'Airteagal 20;

(g) meastóireacht ar conas a urramaíodh na cearta bunúsacha agus na prionsabail a shainaithnítear i gCairt um Chearta Bunúsacha an Aontais Eorpaigh.

Beidh ag gabháil leis an gcéad tuarascáil, atá le foilsiú faoin 11 Eanáir 2022, más gá, tograí iomchuí reachtacha, lena n-áirítear, i gcás inarb iomchuí, maidir le hairgeadraí fiorúla, cumhachtuithe chun bunachar sonraí a chur ar bun agus a chothabháil lena gclárófar céannachtaí agus seoltaí tiacóige úsáideoirí a bheidh inrochtana do FIUnna, chomh maith le foirmeacha féindearbhaithe le haghaidh úsáid na n-úsáideoirí airgeadra fiorúla, agus chun feabhas a chur ar an gcomhar idir Oifigí Gnóthaithe Sócmhainní na mBallstát agus cur i bhfeidhm riosca-bhunaithe na mbeart dá dtagraítear i bpointe (b) d'Airteagal 20.

▼M1

2. Faoin 1 Meitheamh 2019, déanfaidh an Coimisiún measúnú ar an gcreat do chomhar na FIUnna le tríú tíortha agus le bacainní agus deiseanna chun an comhar idir FIUnna san Aontas a fheabhsú lena n-áirítear an fhéidearthacht sásra comhordaithe agus tacaíochta a bhunú.

3. Déanfaidh an Coimisiún, más iomchuí, tuarascáil a eisiúint chuig Parlaimint na hEorpa agus chuig an gComhairle chun measúnú a dhéanamh an gá agus an comhréireach an céatadán a ísliú i ndáil le húinéireacht thairbhiúil eintiteas dlíthiúil a shainaithint i bhfianaise aon mholadh arna eisiúint sa chiall sin ag eagraíochtaí idirnáisiúnta agus ag lucht leagtha amach caighdeán a bhfuil inniúlacht acu i ndáil le sciúradh airgid agus maoiniú sceimhlitheoireachta a chosc mar thoradh ar mheasúnú nua, agus togra reachtach a thíolacadh, más iomchuí.

▼B

Article 66

Directives 2005/60/EC and 2006/70/EC are repealed with effect from 26 June 2017.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex IV.

Article 67

▼M1

1. Déanfaidh na Ballstáit na dlíthe, na rialacháin agus na forálacha riaracháin is gá chun go gcomhlíonfaí an Treoir seo a thabhairt i bhfeidhm faoin 26 Meitheamh 2017.

Cuirfidh na Ballstáit Airteagal 12(3) i bhfeidhm ón 10 Iúil 2020.

Déanfaidh na Ballstáit na cláir dá dtagraítear in Airteagal 30 a chur ar bun faoin 10 Eanáir 2020 agus na cláir dá dtagraítear in Airteagal 31 a chur ar bun faoin 10 Márta 2020 agus na sásraí uathoibrithe láraithe dá dtagraítear in Airteagal 32a a chur ar bun faoin 10 Meán Fómhair 2020.

Áiritheoidh an Coimisiún idirnascadh na gclár dá dtagraítear in Airteagal 30 agus Airteagal 31 i gcomhar leis na Ballstáit faoin 10 Márta 2021.

Cuirfidh na Ballstáit téacs na mbeart sin dá dtagraítear sa mhír seo in iúl don Choimisiún láithreach.

Nuair a ghlacfaidh na Ballstáit na bearta sin, beidh tagairt iontu don Treoir seo nó beidh tagairt den sórt sin ag gabháil leo tráth a bhfoilsithe oifigiúil. Leagfaidh na Ballstáit síos na modhanna a ndéanfar tagairtí den sórt sin.

▼B

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

▼B

Article 68

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 69

This Directive is addressed to the Member States.

▼B

ANNEX I

The following is a non-exhaustive list of risk variables that obliged entities shall consider when determining to what extent to apply customer due diligence measures in accordance with Article 13(3):

(i) the purpose of an account or relationship;

(ii) the level of assets to be deposited by a customer or the size of transactions undertaken;

(iii) the regularity or duration of the business relationship.

▼B

ANNEX II

The following is a non-exhaustive list of factors and types of evidence of potentially lower risk referred to in Article 16:

(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 that are resident in geographical areas of lower risk as set out in point (3);

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

(a) life insurance policies for which 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 risks of money laundering and terrorist financing are managed by other factors such as purse limits or transparency of ownership (e.g. certain types of electronic money);

▼M1

(3) Fachtóirí riosca geografacha — clárúchán, bunú, cónaí i:

▼B

(a) Member States;

(b) third countries having effective AML/CFT 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 revised FATF Recommendations and effectively implement those requirements.

▼B

ANNEX III

The following is a non-exhaustive list of factors and types of evidence of potentially higher risk referred to in Article 18(3):

(1) Customer risk factors:

(a) the business relationship is conducted in unusual circumstances;

(b) customers that are resident in geographical areas of higher risk as set out in point (3);

(c) legal persons or arrangements that are personal asset-holding vehicles;

(d) companies that have nominee shareholders or shares in bearer form;

(e) businesses that are cash-intensive;

(f) the ownership structure of the company appears unusual or excessively complex given the nature of the company's business;

▼M1

(g) is náisiúnach ó thríú tír é an custaiméir a dhéanann iarratas le haghaidh cearta cónaithe nó saoránachta sa Bhallstát mar mhalartú ar aistrithe caipitil, ceannach maoine nó bannaí rialtais, nó infheistíocht a dhéanamh in eintitis chorparáideacha sa Bhallstát sin.

▼B

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

(a) private banking;

(b) products or transactions that might favour anonymity;

▼M1

(c) gaolmhaireachtaí ghnó nó idirbhearta nach ndéantar duine le duine, gan cosaintí áirithe, amhail meáin ríomhaitheantais leictreonacha, seirbhísí ábhartha iontaobhais mar a shainítear i Rialachán (AE) Uimh. 910/2014 nó aon phróiseas eile sainaitheantais atá slán, cianda nó leictreonach rialáilte, aitheanta nó formheasta ag na húdaráis ábhartha náisiúnta nó a mbeidh glactha acu leis;

▼B

(d) payment received from unknown or unassociated third parties;

(e) new products and new business practices, including new delivery mechanism, and the use of new or developing technologies for both new and pre-existing products;

▼M1

(f) idirbhearta a bhaineann le hola, le hairm, le miotail lómhara, le táirgí tobac, le déantáin chultúrtha agus nithe eile a bhfuil tábhacht seandálaíochta, stairiúil nó chultúrtha agus reiligiúnach, nó tearcluach eolaíoch ag baint leo, chomh maith le heabhar agus speicis faoi chosaint.

▼B

(3) Geographical risk factors:

(a) without prejudice to Article 9, countries identified by credible sources, such as mutual evaluations, detailed assessment reports or published follow-up reports, as not having effective AML/CFT systems;

(b) countries identified by credible sources as having significant levels of corruption or other criminal activity;

(c) countries subject to sanctions, embargos or similar measures issued by, for example, the Union or the United Nations;

(d) countries providing funding or support for terrorist activities, or that have designated terrorist organisations operating within their country.

▼B

ANNEX IV

Correlation table

This Directive	Directive 2005/60/EC	Directive 2006/70/EC
—		Article 1
—		Article 3
—		Article 5
—		Article 6
—		Article 7
Article 1	Article 1	
Article 2	Article 2	
Article 2(3) to (9)		Article 4
Article 3	Article 3	
Article 3(9), (10) and (11)		Article 2(1), (2) and (3)
Article 4	Article 4	
Article 5	Article 5	
Articles 6 to 8	—	
Article 10	Article 6	
Article 11	Article 7	
Article 13	Article 8	
Article 14	Article 9	
Article 11(d)	Article 10(1)	
—	Article 10(2)	
Articles 15, 16 and 17	Article 11	
—	Article 12	
Articles 18 to 24	Article 13	
Article 22		Article 2(4)
Article 25	Article 14	
—	Article 15	
Article 26	Article 16	
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