



EC PROPOSED REVISION OF THE ANTI-MONEY LAUNDERING DIRECTIVE TO INCREASE INFORMATION ON BENEFICIAL OWNERS

On July 4th, the European Commission unveiled an ambitious program to revise the 4th Anti-Money Laundering Directive and to increase the fight against the financing of terrorism.

This Commission proposal is the first initiative to implement the [Action Plan](#) for strengthening the fight against terrorist financing of February 2016 and is also part of a broader drive to boost tax transparency and tackle tax abuse. This is why in parallel the Commission is also presenting a [Communication](#) that responds to the recent Panama Papers revelations.

First Vice-President Frans **Timmermans** said *"these proposals will help national authorities to track down people who hide their finances in order to commit crimes such as terrorism. Member States will be able to get and share vital information about who really owns companies or trusts, who is dealing in online currencies, and who is using pre-paid cards. Making public the information on who is behind companies and trusts should also be a strong deterrent for potential tax-evaders."*

Věra **Jourová**, the EU's Commissioner for Justice, Consumers and Gender Equality said:

"Today, we are putting forward stricter transparency rules to cut terrorist financing and step up our fight against money laundering and tax avoidance. The update of the Fourth Anti-Money Laundering Directive will prevent any loopholes in Europe for terrorists, criminals or anyone trying to play with taxation rules to finance their activities. Better cooperation to fight these issues will make the difference."

The adoption of the Fourth [Anti-Money Laundering Package](#) in May 2015 marked a significant step towards improving effectiveness of the EU's efforts to combat the laundering of money from criminal activities and to counter the financing of terrorist activities. It sets high standards to prevent money laundering, such as the requirement for Member States to put in place national registers of beneficial owners of companies and some trusts. Member States have committed to implement the package more swiftly than initially planned, at the latest at the end of 2016.

Contents

EC proposed revision of the anti-money laundering directive to increase information on beneficial owners	1
EP ECON Committee satisfied that Vice-President Dombrovskis is in a position to assume the Financial Stability, Financial Services and Capital Markets Union.....	3
ESMA consults on the validation and review of CRAs' methodologies guidelines	4
EP study on harmonisation of EU insolvency laws.....	4

As announced in the [Action Plan](#) for strengthening the fight against terrorist financing, the Commission is proposing changes to prevent the financial system from being used for funding terrorist activities:

- **Enhancing the powers of EU Financial Intelligence Units and facilitating their cooperation:** the scope of information accessible by the Financial Intelligence Units will be widened, and they will have access to information in centralised bank and payment account registers and central data retrieval systems, which Member States will have to establish to identify holders of bank and payment accounts;
- **Tackling terrorist financing risks linked to virtual currencies:** to prevent misuse of virtual currencies for money laundering and terrorist financing purposes, the Commission proposes to bring virtual currency exchange platforms and custodian wallet providers under the scope of the Anti-Money Laundering Directive. These entities will have to apply customer due diligence controls when exchanging virtual for real currencies, ending the anonymity associated with such exchanges;
- **Tackling risks linked to anonymous pre-paid instruments (e.g. pre-paid cards):** the Commission also proposes to minimise the use of anonymous payments through pre-paid cards, by lowering thresholds for identification from €250 to €150 and widening customer verification requirements. Proportionality has been taken into account, with particular regard paid to the use of these cards by financially vulnerable citizens;
- **Stronger checks on risky third countries:** As mandated by the Fourth Anti-Money laundering directive, the Commission proposes to harmonise the list of checks applicable to countries with deficiencies in their anti-money laundering and countering terrorist financing regimes. Banks will have to carry out additional checks ('due diligence measures') on financial flows from these countries. The list of countries, mirroring the FATF list, will, for procedural reasons, be formally adopted on 14 July.

The proposal also reinforces the measures introduced by the Fourth Anti-Money Laundering with the following changes:

- **Full public access to the beneficial ownership registers:** *Member States will make public certain information of the beneficial ownership registers on companies and business-related trusts.* Information on all other trusts will be included in the national registers and available to parties who can show a legitimate interest. The beneficial owners who have 10% ownership in certain companies that present a risk of being used for money laundering and tax evasion will be included in the registries. The threshold remains at 25% for all other companies.
- **Interconnection of the registers:** *the proposal provides for the direct interconnection of the registers to facilitate cooperation between Member States.*
- **Extending the information available to authorities:** The Commission has proposed that existing, as well as new, accounts should be subject to due diligence controls. This will prevent accounts that are potentially used for illicit activities from escaping detection. Passive companies and trusts, such as those highlighted in the Panama Papers, will also be subject to greater scrutiny and tighter rules.

A first analysis of the revision of the AML directive and its impact for the credit reference sector is available on demand (email stephanie@svmconsult.com)

More information:

[Amendment](#) of the Fourth Anti-Money Laundering Directive

[Q&A](#)

[Factsheet](#)

EP ECON COMMITTEE SATISFIED THAT VICE-PRESIDENT DOMBROVSKIS IS IN A POSITION TO ASSUME THE FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

Following the Brexit vote, Jonathan Hill, Commissioner for Financial Services and in particular in charge of the Capital Markets Union initiative, announced its resignation as the UK Commissioner, which became effective on July 15th 2016. He is replaced by Valdis Dombrovskis, Vice-President responsible for the Euro and Social Dialogue, to take over the portfolio for Financial Stability, Financial Services and the Capital Markets Union. In a hearing before the EP committees, Mr. Dombrovskis has shown he had a good knowledge of the issues he will have to supervise. This was confirmed in a [letter](#) from the EP to President Juncker confirming the transfer of the Financial Services and CMU portfolio to Mr. Dombrovskis. This letter outlines inter alia that the Commission plans to propose a draft legislation based on principles-based rules for insolvency and second chance to honest entrepreneurs. The Commission will also do, in a second term, an overview of existing national insolvency regimes for loans and collateral enforcement. The Commissioner also stated that “Diverging and ineffective insolvency regimes are a long-standing barrier to cross- · border investment. Differences in insolvency frameworks are a major source of uncertainty and unpredictability, including when investing across borders. We will work towards clear and effective approaches to debt restructuring in all Member States, which can save economically viable companies in temporary financial distress. ***Improved debt restructuring rules can also help creditors of non-viable businesses by providing more transparency about the situation and the likelihood of recovering some value for more information***”.

Talking about the Capital Markets Union and the need to increase SMEs’ Access to Finance, the Commissioner stated that the Commission is also working with Member States to support them in harnessing the potential of the public markets for small and mid-cap companies, including SME Growth Markets. The aim is to encourage a capital market environment that is suitable for mid-sized and smaller companies seeking to raise equity or debt finance for expansion. **As part of this, they will closely follow the creation of SME Growth Markets.**

ESMA CONSULTS ON THE VALIDATION AND REVIEW OF CRAS' METHODOLOGIES GUIDELINES

The European Securities and Markets Authority (ESMA) has published on 13th July 2016 a [Consultation Paper](#) on guidelines on the validation and review of Credit Rating Agencies' (CRAs) methodologies (the CP).

The purpose of the draft guidelines is to clarify ESMA's expectations regarding how CRAs should validate and review their methodologies. ESMA aims to achieve a consistent application of validation and review measures across CRAs through the demonstration of the discriminatory power, predictive power and historical robustness of their methodologies. The draft guidelines also identify the measures that CRAs should implement when validating and reviewing their methodologies with limited quantitative evidence.

The CP is accompanied by a [Feedback Statement](#) which outlines the main issues that were highlighted in response to the [Discussion Paper](#) on these guidelines published in December 2015. The initial proposals have not been substantially altered and this consultation focuses on the changes that have been made in response to the feedback received.

ESMA is seeking feedback from users of credit ratings and CRAs. The consultation closes on 22 August 2016.

In responding to this CP, you have to follow the instructions given in the [reply form](#) document published with this CP.

EP STUDY ON HARMONISATION OF EU INSOLVENCY LAWS

On 14th July the EP IPOL department, responsible for studies in the European Parliament unveiled a study entitled "harmonising EU insolvency laws in the Euro area: rationale and stock-taking, what role for the Eurogroup?". This survey gives a very good overview of the differences existing in insolvency laws in the various EU Member States and some possible options for EU institutions to better harmonise insolvency rules and provide a second chance for entrepreneurs.

The study highlights that potential conflicts between the EU legislation (or the lack thereof) and national insolvency regimes have emerged in the following areas:

- Business restructuring and 'second chance'
- Cross-border insolvency
- Bank recovery and resolution
- NPL management and quality of national insolvency regimes.

As a result, distinct EU actions in those areas could be considered.

In the area of business restructuring and second chance for bankrupt entrepreneurs, regimes across the Euro area are very diverse and often punitive for entrepreneurs. ***The European Commission will soon propose a Directive that will introduce an early restructuring (pre-insolvency) regime to be implemented across the EU. In doing so, the proposal could expand on a series of other areas that are relevant for the predictability of cross-border insolvency procedures, which have direct effects on cross-border capital markets transactions (and so CMU).*** In effect, as data suggests, the quality of insolvency frameworks across the Euro area is low on average and very diversified across member states. This situation raises barriers to the development of a single market for capital, which relies on a smooth and coordinated legal framework. The report, therefore, suggests additional actions in the following areas:

- Opening of proceedings (with the introduction of a minimum liquidation evaluation);
- Relief actions (with the harmonisation of suspect periods and a list of ‘suspicious’ and ‘benign’ transactions);
- Governance of proceedings (with the introduction of a common time period for a ‘duty to file’, a cramdown procedure and two options for a set of specialised insolvency courts).

FEBIS– Federation of Business Information Services

Benefiting from the opening of markets within Europe and overseas, world-wide business has experienced substantial growth. As business grows so does the demand for business information, in particular, intelligence for cross-border business activities.

In 1973, leading European credit information agencies joined forces to form the Federation of Business Information Services FEBIS (initially known as FECRO), with its registered office in Frankfurt. Today, FEBIS has developed into a sizable organization comprising more than 60 full Members from all over the world involved in providing Business Information and Debt Collection services of National and International importance.

Supported by a combined workforce of more than 20,000 staff, FEBIS Members generate over 180 million Business Information and Consumer reports annually for over 500,000 organizations, providing these clients with invaluable business support. Aggregate sales turnover **of FEBIS Members is in excess of €2.5 Billion.**

As the industry association, FEBIS strives to look after common interests of its members. While monitoring new legislation like data protection laws and insolvency laws, FEBIS also oversees and the application of public sources and information.