



Council of the
European Union

Brussels, 11 July 2017
(OR. en)

11189/17

**Interinstitutional File:
2016/0208 (COD)**

EF 164
ECOFIN 641
DROIPEN 102
CRIMORG 132
COTER 71
CODEC 1236

COVER NOTE

From:	Věra Jourová, Member of the European Commission
date of receipt:	30 June 2017
To:	Professor Edward Scicluna, Presidency of the Council of the EU
Subject:	The assessment of High Risk Third Countries under Directive (UE) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing

Delegations will find attached a letter from Commissioner Věra Jourová to Professor Edward Scicluna, Presidency of the Council of the EU on the assessment of High Risk Third Countries under Directive (UE) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

VĚRA JOUROVÁ
Member of the European Commission

Brussels, 30/06/2017
Ares(2017)

Dear Minister,

In accordance with my commitment to effectively fight money laundering, I would like to share with you the attached roadmap "Towards a new methodology for the EU assessment of High Risk Third Countries under Directive (UE) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing". This roadmap has been prepared following the European Parliament's resolution objecting to the Commission Delegated Regulation of 24 March 2017 relating to high risk third countries on anti-money laundering and terrorist financing. It has been communicated to the European Parliament on 29 June 2017.

I am committed to deliver a new approach for identifying high risk third countries by following a staged approach, focusing on priority third countries first. Priority countries will be chosen on the basis of their financial importance for the Union and their exposure to risks of money laundering and terrorist financing. The list of non-cooperative tax jurisdictions to be issued by the Commission at the end of this year will also be taken into account.

As a first step the Commission services will start immediately to develop a methodology for the subsequent assessment process.

For the assessment stage the Commission will consider as a bottom line that any third country presenting a risk for the international financial system, as identified by international fora, also represents a risk for the EU internal market. Further countries will be identified by the Commission and complement this internationally agreed list following the process we propose in the roadmap.

Professor Edward Scicluna
Minister for Finance of Malta
Presidency of the Council of the EU

The need for an own assessment is both consistent with the requirement of Article 9 of the Directive and justified given the EU's substantial *acquis* in this field compared to other jurisdictions. On the other hand, the Commission wishes to build upon, complement and maintain coherence with FATF work rather than duplicate it. In light of the shared responsibility of the EU institutions in fighting money-laundering, The Commission has already started discussions with the Member States on this issue at expert group level and we look forward to continuing our dialogue. I count on the Member States' support for finding a way forward and carrying out this exercise

I would be most grateful if you could share this letter with the other Members States.

Yours sincerely,



Věra Jourová

Annex:

Roadmap (Towards a new methodology for the EU assessment of High Risk Third Countries under Directive (UE) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing)

Towards a new methodology for the EU assessment of High Risk Third Countries under Directive (UE) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing

Tentative timing	Milestones
2017	<p>➤ Stage 1:</p> <p>- Preparation of a new methodology: designing phase</p> <p>Development of a detailed methodology for the assessment by the Commission of high-risk third countries.</p> <p>The methodology would include:</p> <ul style="list-style-type: none"> - criteria to identify which are the relevant third countries to be assessed (Stage 2) as well as criteria to determine the level of priority for their assessment (e.g. countries subject to FATF evaluations, countries listed in the EU list of non-cooperative tax jurisdictions, exposure level to criminal activity or terrorist threat, etc.). - criteria for carrying out the assessment of the selected countries from an AML/CFT point of view (Stages 3 and 4). These would take into account as a baseline the listing process done by FATF, the listing criteria of Article 9 of Directive (UE) 2015/849 (included as amended by 5AMLD) and other relevant criteria. Beneficial ownership transparency could be one of the criteria. - criteria to define the follow up process for monitoring progress shown by high-risk countries in improving their AML/CFT regime and for removing them from the EU list if conditions are satisfied (Stage 4) <p>The Commission would continue to take into account the FATF list, in line with Article 9(4) of the Directive. An own assessment by the Commission would therefore complement FATF work.</p> <p>- International engagement</p> <p>Stepping up the Commission's engagement in FATF in order to exert stronger influence on its work, for example as regards transparency of beneficial ownership, and to work to improve FATF's governance in order to strengthen its accountability, legitimacy and effectiveness.</p> <p>Working on improving the co-ordination of positions of EU Member States in FATF in order to ensure stronger EU influence.</p> <p>- Engagement with the European Parliament and Member States</p> <p>Consultation of the European Parliament and the Member States on a new assessment process, including on possible involvement of Member States expertise.</p> <p>- Continued adoption of Delegated Acts</p>

	Pending completion of the assessment under the new methodology, the Commission will continue adopting Delegated Acts updating Regulation (UE) 1675/2016 in order to ensure EU rules apply to third countries internationally identified as being of high risk.
2018	<p>➤ Stage 2:</p> <p>- Initial scoping/selection phase Commission pre-assessment of all third countries based on economic and socio-political criteria and other relevant risk indicators to be defined under Stage 1. This aims at identifying which are the relevant third countries which should be assessed under Stage 3/4.</p> <p>The Commission would then identify level of priority for assessing selected countries:</p> <ul style="list-style-type: none"> - Priority 1 countries: to be assessed by end of 2018 - Priority 2 countries: to be assessed progressively by 2025 <p>2- Work describe under stage 1 points 2-4 will continue. The Commission will continue its work on International engagement, and adoption of Delegated Acts during this stage</p>
2018	<p>Final list of:</p> <ul style="list-style-type: none"> - Priority 1 third countries to be assessed under Stage 3 - Priority 2 third countries to be assessed under Stage 4
2018	<p>➤ Stage 3:</p> <p>- Assessment phase - Priority 1 third countries Commission assessment of selected countries which have been identified as Priority 1 countries. The assessment would be carried out based on the listing criteria and using the information sources which have been identified in Stage 1 and appropriate contacts with the relevant third countries.</p>
2018	Consultations of Member States experts on the draft Delegated Act.
By end of 2018	Adoption of new EU Delegated Act on high-risk third countries (based on the <u>new methodology</u>)
From 2019 to 2025	<p>➤ Stage 4:</p> <p>- Assessment phase – Priority 2 third countries Gradual assessment of remaining countries (i.e. Priority 2 countries as identified in Stage 2) by the Commission when relevant information sources become available.</p> <p>- Follow-up of countries listed following stage 3 Follow-up of high-risk third countries' progress in improving their AML/CFT regime and possible removal from the EU list.</p>