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**COVER NOTE**

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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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No. Cion doc.: C(2023) 8595 final

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 12.12.2023 amending Delegated Regulation (EU) 2016/1675 as regards the deletion of the Cayman Islands and Jordan from the table in point I of the Annex

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Delegations will find attached document C(2023) 8595 final.

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Encl.: C(2023) 8595 final



Brussels, 12.12.2023  
C(2023) 8595 final

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 12.12.2023**

**amending Delegated Regulation (EU) 2016/1675 as regards the deletion of the Cayman Islands and Jordan from the table in point I of the Annex**

(Text with EEA relevance)

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

Under Article 9(1) of Directive (EU) 2015/849<sup>1</sup>, third-country jurisdictions which have strategic deficiencies in their anti-money laundering / countering the financing of terrorism (AML/CFT) regimes that pose significant threats to the financial system of the European Union ('high-risk third countries') must be identified in order to protect the proper functioning of the internal market. Article 9(2) empowers the Commission to adopt delegated acts to identify those high-risk third countries, taking into account strategic deficiencies, and lays down the criteria on which the Commission's assessment is to be based. The delegated acts must be adopted within 1 month after the identification of the strategic deficiencies. Article 18a of Directive (EU) 2015/849 obliges Member States to require obliged entities to apply enhanced customer due diligence measures when establishing business relationships or carrying out transactions involving high-risk third countries identified by the Commission.

On 14 July 2016, the Commission adopted Delegated Regulation (EU) 2016/1675 which identified third countries that have strategic deficiencies in their AML/CFT regimes that pose significant threats to the financial system of the EU. This Delegated Regulation was subsequently amended by Delegated Regulation (EU) 2018/105, Delegated Regulation (EU) 2018/212, Delegated Regulation (EU) 2018/1467, Delegated Regulation (EU) 2020/855, Delegated Regulation (EU) 2021/37, Delegated Regulation (EU) 2022/229, Delegated Regulation (EU) 2023/410, Delegated Regulation (EU) 2023/1219 and Delegated Regulation (EU) 2023/2070.

The Commission published a revised methodology for identifying high-risk third countries on 7 May 2020<sup>2</sup>. The main new elements are an increased interaction with the Financial Action Task Force (FATF) listing process, strengthened engagement with third countries, and reinforced consultation of the Member States and the European Parliament.

The FATF has updated its list of 'Jurisdictions under Increased Monitoring' since the last amendments to Delegated Regulation (EU) 2016/1675. At its plenary meeting in October 2023, the FATF removed among others two third-country jurisdictions from its list: the Cayman Islands and Jordan. Albania and Panama were also removed from the list.

It is necessary to continue to update the Delegated Regulation to take into account information from international organisations and standard setters in the field of AML/CFT, such as FATF public statements, mutual evaluation or detailed assessment reports, and published follow-up reports. The changing nature of money laundering and terrorist financing threats, which are facilitated by the constant development of technology and the means at the disposal of criminals, requires quick and continuous adaptation of the legal framework on high-risk third countries to efficiently address existing risks and prevent new ones.

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<sup>1</sup> 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 (OJ L 141, 5.6.2015, p. 73).

<sup>2</sup> Commission staff working document on a methodology for identifying high-risk third countries under Directive (EU) 2015/849, SWD(2020) 99.

Delegated Regulation (EU) 2016/1675 should therefore be amended by removing those third-country jurisdictions that no longer have strategic deficiencies on the basis of the criteria laid down in Directive (EU) 2015/849.

### **Deletion from the list of Delegated Regulation (EU) 2016/1675**

Since the last amendments to Delegated Regulation (EU) 2016/1675, the FATF removed the Cayman Islands and Jordan in October 2023, following the implementation of their respective action plans agreed with the FATF. In addition, Albania and Panama were removed from the FATF list.

The Commission has reviewed progress in addressing the strategic deficiencies of the Cayman Islands and Jordan, based on the requirements of Directive (EU) 2015/849.

Following the measures implemented to address the action plans agreed with the FATF, the Cayman Islands and Jordan have remedied the strategic deficiencies in their respective AML/CFT regimes and no longer pose a significant AML/CFT threat to the international financial system. Taking into account their relevance under the revised methodology, the Commission considers that these jurisdictions no longer have strategic deficiencies in their respective AML/CFT frameworks and do not pose a significant threat to the financial system of the EU.

With regards to Albania, the Commission has not adopted measures under article 9 of Directive (EU) 2015/849 considering the mitigating measures included in the accession negotiations that address the identified strategic deficiencies as provided by the revised methodology.

Regarding Panama, available information sources did not allow the Commission to conclude, at this stage, whether it addressed its strategic deficiencies, notably with regard to transparency of beneficial ownership.

## **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

On 28/11/2023, the Commission consulted the Expert Group on Money Laundering and Terrorist Financing on the draft delegated regulation by written procedure.

## **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

This Delegated Regulation amends the Annex to Delegated Regulation (EU) 2016/1675.

The legal effects of the publication of this Delegated Regulation are governed by the basic act, Directive (EU) 2015/849.

As a direct consequence of the adoption of this Delegated Regulation, obliged entities in all Member States are bound to apply enhanced customer due diligence measures in accordance with Article 18a of Directive (EU) 2015/849 with respect to business relationships or transactions involving countries that are included in the Annex to this Delegated Regulation.

Furthermore, Article 155(2) of the Financial Regulation<sup>3</sup> prohibits persons and entities implementing EU funds or budgetary guarantees from entering into new or renewed

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<sup>3</sup> Regulation (EU, Euratom) 2018/1046 of 18 July 2018 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and

operations with entities incorporated or established in countries included in this Delegated Regulation under Directive (EU) 2015/849, except when an action is physically implemented in these countries and subject to the absence of other risk factors. Implementing partners must also transpose those requirements into their own contracts with selected financial intermediaries.

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 12.12.2023**

**amending Delegated Regulation (EU) 2016/1675 as regards the deletion of the Cayman Islands and Jordan from the table in point I of the Annex**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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<sup>1</sup>, and in particular Article 9(2) thereof,

Whereas:

- (1) The Union has to ensure the effective protection of the integrity and proper functioning of its financial system and the internal market from money laundering and terrorist financing. Directive (EU) 2015/849 therefore provides that the Commission is to identify third-country jurisdictions which have strategic deficiencies in their regimes on anti-money laundering and countering financing of terrorism ('AML/CFT') that pose significant threats to the financial system of the Union ('high-risk third countries').
- (2) Commission Delegated Regulation (EU) 2016/1675<sup>2</sup> identifies high-risk third countries with strategic deficiencies.
- (3) Considering the high level of integration of the international financial system, the close connection of market operators, the high volume of cross-border transactions to and from the Union, as well as the degree of market openness, any AML/CFT threat posed to the international financial system is also a threat to the financial system of the Union.
- (4) In accordance with Article 9(4) of Directive (EU) 2015/849, the Commission takes into account recent available information, in particular the recent Financial Action Task Force (FATF) public statements, the FATF list of 'Jurisdictions under Increased Monitoring', and FATF reports of the International Cooperation Review Group in relation to the risks posed by individual third countries.

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<sup>1</sup> OJ L 141, 5.6.2015, p. 73. , ELI: <http://data.europa.eu/eli/dir/2015/849/oj>.

<sup>2</sup> Commission Delegated Regulation (EU) 2016/1675 of 14 July 2016 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies (OJ L 254, 20.9.2016, p. 1, ELI: [http://data.europa.eu/eli/reg\\_del/2016/1675/oj](http://data.europa.eu/eli/reg_del/2016/1675/oj)).

- (5) Since the latest amendments to Delegated Regulation (EU) 2016/1675, the FATF has updated its list of ‘Jurisdictions under Increased Monitoring’. At its plenary meeting in October 2023, the FATF deleted the Cayman Islands and Jordan from that list. Given those changes, the Commission has conducted an assessment to identify high-risk third countries in accordance with Article 9 of Directive (EU) 2015/849.
- (6) The Commission has reviewed the progress of the Cayman Islands and Jordan in addressing their strategic deficiencies. Those countries are identified as high-risk third countries in Delegated Regulation (EU) 2016/1675 but were deleted from the FATF list of ‘Jurisdictions under Increased Monitoring’ in October 2023.
- (7) The FATF has welcomed the significant progress made by the Cayman Islands and Jordan in improving their AML/CFT regimes and has noted that those countries have established legal and regulatory frameworks to meet the commitments in their respective action plans on the strategic deficiencies identified by the FATF. The Cayman Islands and Jordan are therefore no longer subject to the FATF’s monitoring process under its ongoing global AML/CFT compliance process and will continue to work with their FATF-style regional bodies to further strengthen their AML/CFT regimes.
- (8) The Cayman Islands and Jordan have strengthened the effectiveness of their AML/CFT regimes and addressed technical deficiencies to meet the commitments in their action plans on the strategic deficiencies identified by the FATF. The Commission’s assessment of the available information leads it to conclude that the Cayman Islands and Jordan no longer have strategic deficiencies in their AML/CFT regimes. It is therefore appropriate to delete the Cayman Islands and Jordan from the table in point I of the Annex to Delegated Regulation (EU) 2016/1675.
- (9) Delegated Regulation (EU) 2016/1675 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

In the Annex to Delegated Regulation (EU) 2016/1675, in point I, the table is replaced by the table in the Annex to this Regulation.

*Article 2*

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 12.12.2023

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*