



Council of the European Union
General Secretariat

**Interinstitutional files:
2018/0105(COD)**

Brussels, 10 January 2019

WK 189/2019 INIT

LIMITE

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CODEC

WORKING PAPER

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Law Enforcement Working Party JHA Counsellors
N° prev. doc.:	14792/18; WK 15444/18
N° Cion doc.:	8411/18
Subject:	Proposal for a Directive of the European Parliament and of the Council laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences and repealing Council Decision 2000/642/JHA - preparation of the second informal trilogue

Delegations will find attached the updated 4-columns table, updated in the light of discussions at the previous meeting of JHA Counsellors and in the second technical meeting with the European Parliament (EP) and the Commission.

In the first place, the Presidency would like to point out that the most important outstanding issues pertain to Articles 7 and 9. While no specific engagements have been taken by either side, it appears that each of the co-legislators might have to make concessions in one of these areas in order to preserve the overall balance of the negotiation.

In this context, the EP also intends to table a compromise suggestion for a new wording of Article 9 which would enlarge the scope of its application to serious criminal offences, in order to dissipate the initial concerns of the Council as to the legal uncertainty with respect to the Anti-Money-Laundering Directive. This new text will be circulated by Friday 11 January and the Member States will be invited to consider it swiftly in order to allow for a constructive discussion during the next informal trilogue in Strasbourg on 15 January 2019.

Concerning the results of negotiations that have already taken place, delegations are invited to endorse the text in the fourth column marked in blue where the Presidency considers that the agreed compromise solutions are of technical nature or do not represent a major political challenge.

Delegations are also invited to take a position on the following issues appearing in the respective lines indicated at the beginning of each row:

- 79: Council text combined with the addition by the EP in paragraph 1
- 111: Wording provisionally agreed by the Presidency, as this solution also appears in the EDPS opinion and its language is consistent with subsequent changes in line 113, also proposed by the Council
- 113: Wording provisionally agreed by the Presidency as a combination of both texts, where the addition of "where applicable" addresses the initial concerns of the Council
- 125: Delegations are invited to indicate whether they could consider the reintroduction of Article 9, provided its scope would no longer be the same as in the AMLD, but would also cover the prevention and combatting of serious criminal offences.
- 136 and 137: Delegations are invited to consider whether exchange of information with other Member States could be acceptable, and under which conditions (such as guarantees similar to Article 7/recital 13, that is exemptions based on Articles 54 and 55 of the AMLD).
- 148: The EP requests the Council to consider whether its text could be acceptable with some additional safeguards. The Presidency argues, however, that imposing an obligation on Europol through this Directive should not be possible.
- 151: Delegations are invited to consider whether they could accept the introduction of deadlines, as suggested by the EP.
- 164: The EP suggest to align the wording with the one in Article 6
- 177: Could the Member States accept AM 67 of the EP?

Finally, the Member States are also invited to approve or comment on the compromise solutions proposed in the following lines:

104, 107, 114, 120, 122, 134, 146-147, 150, 153, 161, 170

Proposal for a
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences and repealing Council Decision 2000/642/JHA

The amendments made by the EP and the Council in the text of the proposal for a Directive compared to the Commission's proposal are marked as follows:

- the new text is marked in ***bold italics***;
- the deleted parts of the text are marked in ~~strike through~~.
- the parts amended following the discussions at the trilogues or technical meetings are underlined.

Where full paragraphs of the Commission's proposal were not amended by the EP and/or the Council, they are not repeated in the columns reflecting their respective positions, but are marked with a diagonal line. If the three texts are the same, a diagonal line is marked on the 4th column only.

Parts provisionally agreed at the trilogue are **marked in green**.

Parts provisionally agreed at the technical meetings and to be confirmed at the trilogue are **marked in blue**.

Parts to be further discussed are **marked in yellow**.

Line	COM Proposal (8411/18 dd. 17/04/2018)	EP Position/Ammendments (A8-0442/2018, vote on 3.12.2018)	Council negotiation mandate (14792/18 dd. 21/11/2018)	Comments
1.	Proposal for a		Proposal for a <i>Draft</i>	
2.	DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL			
	laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences and repealing Council Decision 2000/642/JHA	AM 1 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain <i>serious</i> criminal offences and repealing Council Decision 2000/642/JHA		

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3.	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,			
4.	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 87(2) thereof,			
5.	Having regard to the proposal from the European Commission,			
6.	After transmission of the draft legislative act to the national parliaments,			
7.	Having regard to the opinion of the European Economic and Social Committee ¹ ,			
8.	¹ OJ C , , p. .			
9.	Having regard to the opinion of the Committee of the Regions ² ,			
10.	² OJ C , , p. .			
11.	Acting in accordance with the ordinary legislative procedure,			
12.	Whereas:			
13.	(1) Facilitating the use of financial information is necessary to prevent, detect, investigate or prosecute serious crimes.			
14.	(2) In order to enhance security in the Member States and across the Union, it is necessary to improve access to information by Financial	AM 2 (2) In order to enhance security, <i>improve prosecution of financial</i>		

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	Intelligence Units and public authorities responsible for the prevention, detection, investigation or prosecution of serious forms of crimes, to enhance their ability to conduct financial investigations and to improve cooperation between them.	<i>crimes, combat money laundering and prevent tax evasion</i> in the Member <i>States and</i> across the Union, it is necessary to improve access to information by Financial Intelligence Units and public authorities responsible for the prevention, detection, investigation or prosecution of serious forms of crimes, to enhance their ability to conduct financial investigations and to improve cooperation between them.		
15.		AM 3 <i>(2a) Member States are obliged to cooperate sincerely, loyally and expeditiously pursuant to Article 4(3) of the Treaty on European Union.</i>		
16.	(3) In its Action Plan to strengthen the fight against terrorist financing ³ , the Commission committed to explore the possibility of a dedicated legal instrument to broaden the access to centralised bank account registries by Member States' authorities, namely authorities competent for the prevention, detection, investigation or prosecution of criminal offences,			

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	Asset Recovery Offices, tax authorities, anti-corruption authorities. Moreover, the 2016 Action Plan also called for a mapping of obstacles to the access to, exchange and use of information and to the operational cooperation between Financial Intelligence Units.			
17.	³ COM (2016) 50 of 2.2.2016.			
18.		AM 4 <i>(3a) Financial fraud and money laundering affect European tax payers. Combating those crimes, therefore, remains a priority for the Union.</i>		
19.	(4) Directive (EU) 2015/849 ⁴ requires Member States to establish centralised bank account registries or data retrieval systems allowing the timely identification of the persons holding bank and payment accounts and safe deposit boxes.			
20.	⁴ 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			

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	European Parliament and of the Council and Commission Directive 2006/70/EC, OJ L 141 of 5.6.2015, p. 73.			
21.	(5) Pursuant to Directive (EU) 2015/849, the information held in those registries is directly accessible to Financial Intelligence Units and is also accessible to national authorities competent for the prevention of money laundering, its predicate offences and terrorist financing.			
22.	(6) Immediate and direct access to the information held in centralised bank account registries is often indispensable for the success of a criminal investigation or for the timely identification, tracing and freezing of the related assets in view of their confiscation. Direct access is the most immediate type of access to the information held in centralised bank account registries. This Directive should therefore lay down rules granting direct access to information held in centralised bank account registries to designated Member States' authorities and other bodies competent for the prevention, detection, investigation or prosecution of criminal offences.	AM 5 (6) Immediate and direct access to the information held in centralised bank account registries is often indispensable for the success of a criminal investigation or for the timely identification, tracing and freezing of the related assets in view of their confiscation. Direct access is the most immediate type of access to the information held in centralised bank account registries. This Directive should therefore lay down rules granting direct access to information held in centralised bank account registries to designated Member States' authorities and other bodies competent for the prevention,	(6) Immediate and direct access to the information held in centralised bank account registries is often indispensable for the success of a criminal investigation or for the timely identification, tracing and freezing of the related assets in view of their confiscation. Direct access is the most immediate type of access to the information held in centralised bank account registries. This Directive should therefore lay down rules granting direct access to information held in centralised bank account registries to designated Member States' authorities and other bodies competent for the prevention, detection, investigation or prosecution of criminal offences.	

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		detection, investigation or prosecution of criminal offences.	<i>This Directive should not affect channels to exchange information between competent authorities or their powers to obtain information from obliged entities under Union or national law of Member States. Any access to information held in centralized registries by other national authorities for other purposes or with respect to other crimes than those covered by this Directive falls outside the scope of this Directive.</i>	
23.	(7) Given that in each Member States there are numerous authorities or bodies which are competent for the prevention, detection, investigation or prosecution of criminal offences, and in order to ensure a proportionate access to financial and other information under the present Directive, Member States should be required to designate which authorities should be empowered to have access to the centralised bank account registries and request information from Financial Intelligence Units for the purposes of this Directive.	AM 6 (7) Given that in each Member States there are numerous authorities or bodies which are competent for the prevention, detection, investigation or prosecution of criminal offences, and in order to ensure a proportionate access to financial and other information under the present Directive, Member States should be are required to designate which authorities should be empowered to have access to the centralised bank account registries and which should be able to request information from Financial Intelligence Units for the		

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		purposes of this Directive. Member States <i>are also required to delimit the powers of such authorities.</i>		
24.	(8) Asset Recovery Offices should be designated among the competent authorities and have direct access to the information held in centralised bank account registries when preventing, detecting or investigating a specific serious criminal offence or supporting a specific criminal investigation, including the identification, tracing and freezing of assets.			
25.	(9) To the extent that tax authorities and anti-corruption agencies are competent for the prevention, detection, investigation or prosecution of criminal offences under national law, they should also be considered authorities that can be designated for the purposes of this Directive. Administrative investigations should not be covered under the present Directive.	AM 7 (9) To the extent that tax authorities and anti-corruption agencies are competent for the prevention, detection, investigation or prosecution of criminal offences under national law, they should also be considered authorities that can be designated for the purposes of this Directive. Administrative investigations, <i>other than those conducted by the Financial Intelligence Units in the context of preventing, detecting and effectively combatting money</i>	(9) To the extent that tax authorities and anti-corruption agencies are competent for the prevention, detection, investigation or prosecution of criminal offences under national law, they should also be considered authorities that can be designated for the purposes of this Directive. Administrative investigations, <i>other than those conducted by the Financial Intelligence Units in the context of preventing, detecting and effectively combatting money laundering and terrorist financing,</i>	

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		<i>laundering and terrorism financing</i> , should not be covered under the present <i>this</i> Directive.	should not be covered under the present Directive.	
26.	(10) The perpetrators of criminal offences, in particular criminal groups and terrorists, often operate across different Member States and their assets, including bank accounts, are often located in other Member States. Given the cross-border dimension of serious crimes, including terrorism, and of the related financial activities, it is often necessary for competent authorities carrying out investigations to access information on bank accounts held in other Member States.	AM 8 (10) The perpetrators of criminal offences, <i>such as financial fraud and money laundering, are often</i> criminal groups and terrorists, often <i>organisations that</i> operate across different Member States and their assets, including bank accounts, are often located in other Member States. Given the cross-border dimension of serious crimes, including terrorism, and of the related financial activities, it is often necessary for competent authorities carrying out <i>criminal</i> investigations to access information on bank accounts held in other Member States.		
27.	(11) The information acquired by competent authorities from the national centralised bank account registries can be exchanged with competent authorities located in a different Member State, in accordance with Council Framework Decision 2006/960/JHA ⁵ and Directive	AM 9 (11) The information acquired by competent authorities from the national centralised bank account registries can be exchanged with competent authorities located in a different Member State, in accordance with Council		

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	2014/41/EU ⁶ of the European Parliament and the Council.	Framework Decision 2006/960/JHA ¹⁴ and Directive 2014/41/EU <i>of the European Parliament and the Council</i> ¹⁵ , in compliance with the applicable data protection rules.		
28.	⁵ Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union, OJ L 386 of 29.12.2006, p. 89.	¹⁴ Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union, OJ L 386 of 29.12.2006, p. 89.		
29.	⁶ Directive 2014/41/EU of 3 April 2014 regarding the European Investigation Order in criminal matters, OJ L 130 of 1.5.2014, p. 1.	¹⁵ Directive 2014/41/EU of 3 April 2014 regarding the European Investigation Order in criminal matters, OJ L 130 of 1.5.2014, p. 1.		
30.	(12) Directive (EU) 2015/849 has substantially enhanced the Union legal framework that governs the activity and cooperation of Financial Intelligence Units. The powers of Financial Intelligence Units include the right to access the financial, administrative and law enforcement information that they require to combat money laundering, the associated predicate offences and terrorist financing.	AM 10 (12) Directive (EU) 2015/849 has substantially enhanced the Union legal framework that governs the activity and cooperation of Financial Intelligence Units, <i>including the possibility of establishing a coordination and support mechanism</i> . The powers of Financial Intelligence Units, <i>the legal status of which varies across</i>	(12) Directive (EU) 2015/849 has substantially enhanced the Union legal framework that governs the activity and cooperation of Financial Intelligence Units, <i>the legal status of which varies across the Member States from administrative or law enforcement to hybrid ones</i> . The powers of Financial Intelligence Units include the right to access the financial,	

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	Nevertheless, Union law does not lay down all specific tools and mechanisms that Financial Intelligence Units must have at their disposal in order to access such information and accomplish their tasks. Since Member States remain entirely responsible for the setting up and deciding the organisational nature of Financial Intelligence Units, different Financial Intelligence Units have varying degrees of access to regulatory databases which leads to an insufficient exchange of information between law enforcement or prosecution services and Financial Intelligence Units.	<i>Member States from administrative or law enforcement to hybrid ones,</i> include the right to access the financial, administrative and law enforcement information that they require to <i>prevent, detect and</i> combat money laundering, the associated predicate offences and terrorist financing. Nevertheless, Union law does not lay down all specific tools and mechanisms that Financial Intelligence Units must have at their disposal in order to access such information and accomplish their tasks. Since Member States remain entirely responsible for the setting up and deciding the organisational nature of Financial Intelligence Units, different Financial Intelligence Units have varying degrees of access to regulatory databases which leads to an insufficient exchange of information between law enforcement or prosecution services and Financial Intelligence Units.	administrative and law enforcement information that they require to combat money laundering, the associated predicate offences and terrorist financing. Nevertheless, Union law does not lay down all specific tools and mechanisms that Financial Intelligence Units must have at their disposal in order to access such information and accomplish their tasks. Since Member States remain entirely responsible for the setting up and deciding the organisational nature of Financial Intelligence Units, different Financial Intelligence Units have varying degrees of access to regulatory databases which leads to an insufficient exchange of information between law enforcement or prosecution services and Financial Intelligence Units.	
31.	(13) In order to enhance legal certainty and operational effectiveness, this Directive should lay down rules to strengthen the	AM 11 (13) In order to enhance legal certainty and operational	(13) In order to enhance legal certainty and operational effectiveness, this Directive should lay down rules to strengthen the	

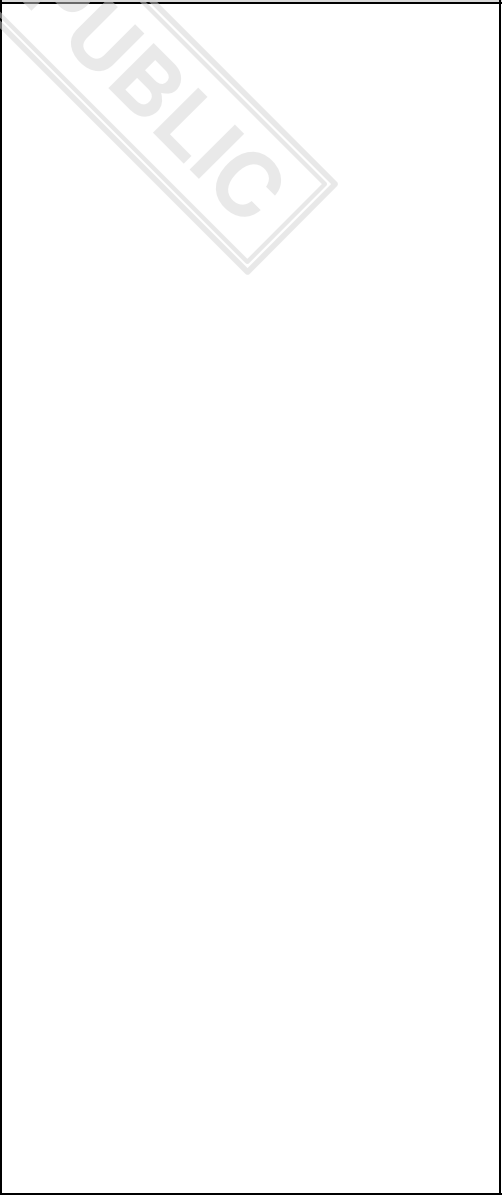
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	Financial Intelligence Units' ability to share information with their designated competent authorities for all serious criminal offences.	effectiveness, this Directive should lay down rules to strengthen the Financial Intelligence Units' ability to share information <i>or analysis</i> with <i>the designated competent authorities in their Member State for all serious criminal offences. More precisely, Financial Intelligence Units should be required to share information or analysis with the</i> designated competent authorities for all <i>the purposes of the prevention, detection, investigation or prosecution of money laundering, the associated predicate offences and terrorist financing, and, where it is necessary on a case-by-case basis, of</i> serious criminal offences. <i>At the same time, this Directive should not affect the operational independence and autonomy of the Financial Intelligence Units as established in Directive (EU) 2015/849, including the ability to take autonomous decisions to analyse, request and disseminate information. Any refusal to comply with a request for information from a competent</i>	Financial Intelligence Units' ability to share information with their designated competent authorities for all serious criminal offences. <i>For that reason, Financial Intelligence Units should be entitled to reply to requests for information by competent authorities in certain situations. That entitlement does not preclude the autonomy of the Financial Intelligence Units under the Directive (EU) 2015/849 to disseminate information on their own initiative. In particular, in cases where the information originates from a Financial Intelligence Unit of another Member State, any restrictions and conditions imposed by that Financial Intelligence Unit for the use of that information need to be complied with and any use for purposes beyond those originally approved is made subject to the prior consent of that Financial Intelligence Unit.</i>	

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		<i>authority in its Member State should be appropriately explained.</i>		
32.	(14) This Directive should also set out a clearly defined legal framework to enable Financial Intelligence Units to request relevant data stored by designated competent authorities in order to enable them to prevent and combat money laundering, the associated predicate offences and terrorist financing effectively.	AM 12 (14) This Directive should also set out a clearly defined legal framework to enable Financial Intelligence Units to request relevant data stored by designated competent authorities in their Member State in order to enable them to prevent, detect and combat money laundering, the associated predicate offences and terrorist financing effectively.		
33.	(15) Sharing information between Financial Intelligence Units and with competent authorities should only be permitted where it is necessary on a case-by-case basis, either for the prevention, detection, investigation or prosecution of serious criminal offences or for money laundering, the associated predicate offences and terrorist financing.	AM 13 (15) Sharing information between Financial Intelligence Units and with competent authorities should only be permitted where it is necessary on a case-by-case basis, either for the purposes of the prevention, detection, investigation or prosecution of serious criminal offences or for money laundering, the associated predicate offences or terrorist financing, and, in exceptional and urgent cases where this is sufficiently justified, of serious criminal offences. Such	(15) Sharing information between Financial Intelligence Units and with competent authorities should only be permitted where it is necessary on a case-by-case basis in accordance with the principle of proportionality either for the prevention, detection, investigation or prosecution of serious criminal offences or for money laundering, the associated predicate offences and terrorist financing.	

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		<i>sharing of information should be undeterred.</i>		
34.	(16) In order to prevent and combat money laundering, the associated predicate offences and terrorist financing more effectively and to reinforce its role in providing financial information and analysis, a Financial Intelligence Unit should be empowered to exchange information or analysis already in its possession or which can be obtained from obliged entities at the request of another Financial Intelligence Unit or of a competent authority in its Member State. This exchange should not hamper a Financial Intelligence Unit's active role in disseminating its analysis to other Financial Intelligence Units where that analysis reveals facts, conduct or suspicion of money laundering and terrorist financing of direct interest to those other Financial Intelligence Units. Financial analysis covers 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	AM 14 (16) In order to prevent, <i>detect</i> and combat money laundering, the associated predicate offences and terrorist financing more effectively and to reinforce its role in providing financial information and analysis, a Financial Intelligence Unit should be empowered to exchange information already in its possession or which can be obtained from obliged entities <i>or analysis already in its possession</i> at the request of another Financial Intelligence Unit or of a competent authority in its Member State. This exchange should not hamper a Financial Intelligence Unit's active role in disseminating its analysis to other Financial Intelligence Units where that analysis reveals facts, conduct or suspicion of money laundering and terrorist financing of direct interest to those other Financial Intelligence Units. Financial analysis covers operational analysis which focuses on individual cases and specific targets or on	(16) In order to prevent and combat money laundering, the associated predicate offences and terrorist financing more effectively and to reinforce its role in providing financial information and analysis, a Financial Intelligence Unit should be empowered to exchange information or analysis already in its possession or which can be obtained from obliged entities at the request of another Financial Intelligence Unit or of a competent authority in its Member State. This <i>The</i> exchange <i>of information</i> should not hamper a Financial Intelligence Unit's active role in disseminating its analysis to other Financial Intelligence Units where that analysis reveals facts, conduct or suspicion of money laundering and terrorist financing of direct interest to those other Financial Intelligence Units. Financial analysis covers operational analysis which focuses on individual cases and specific targets or on appropriate selected information, depending on the type and volume of the disclosures	

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	expected use of the information after dissemination as well as strategic analysis addressing money laundering and terrorist financing trends and patterns. However, this Directive should be without prejudice to the organisational status and role conferred to Financial Intelligence Units under the national law of Member States.	appropriate selected information, depending on the type and volume of the disclosures received and the expected use of the information after dissemination as well as strategic analysis addressing money laundering and terrorist financing trends and patterns. <i>It is essential that FIUs be provided with feedback from competent authorities as regards the use made of the financial information and financial analysis provided and the outcome of the investigation or prosecution relating to such information. Member States should put in place appropriate mechanisms to allow for such exchanges of information and follow-ups.</i> However, this Directive should be without prejudice to the organisational status and role conferred to Financial Intelligence Units under the national law of Member States.	received and the expected use of the information after dissemination as well as strategic analysis addressing money laundering and terrorist financing trends and patterns. However, this Directive should be without prejudice to the organisational status and role conferred to Financial Intelligence Units under the national law of Member States.	
35.	(17) Time limits for exchanges of information between Financial Intelligence Units are necessary to ensure quick, effective and consistent cooperation. Sharing information necessary to solve cross-	AM 15 (17) Time limits for exchanges of information between Financial Intelligence Units are necessary to ensure quick, effective and	(17) — Time limits for exchanges of information between Financial Intelligence Units are necessary to ensure quick, effective and consistent cooperation. Sharing information necessary to solve cross-	

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	border cases and investigations should be carried out with the same celerity and priority as for a similar domestic case. Time limits should be provided to ensure effective sharing of information within reasonable time or to meet procedural constraints. Shorter time limits should be provided in duly justified cases, where the requests relate to specific serious criminal offences, such as terrorist offences and offences related to a terrorist group or activities as laid down in Union law.	consistent cooperation. Sharing information necessary to solve cross-border cases and investigations should be carried out with the same celerity and priority as for a similar domestic case. Time limits should be provided to ensure effective sharing of information within reasonable time or to meet procedural constraints, <i>as well as to harmonise practices in the exchange of information between FIUs across the Union.</i> Shorter time limits should be provided in duly justified cases, where the requests relate to specific serious criminal offences, such as terrorist offences and offences related to a terrorist group or activities as laid down in Union law.	border cases and investigations should be carried out with the same celerity and priority as for a similar domestic case. Time limits should be provided to ensure effective sharing of information within reasonable time or to meet procedural constraints. Shorter time limits should be provided in duly justified cases, where the requests relate to specific serious criminal offences, such as terrorist offences and offences related to a terrorist group or activities as laid down in Union law.	
36.	(18) The use of secure facilities for the exchange of information, in particular the decentralised computer network FIU.net (the 'FIU.net'), which is managed by Europol since 1 January 2016, or its successor and the techniques offered by FIU.net, should be used for exchanges of information between Financial Intelligence Units.		(18) — The use of secure facilities for the exchange of information, in particular the decentralised computer network FIU.net (the 'FIU.net'), which is managed by Europol since 1 January 2016, or its successor and the techniques offered by FIU.net, should be used for exchanges of information between Financial Intelligence Units.	

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37.	(19) Given the sensitivity of financial data that should be analysed by Financial Intelligence Units and the necessary data protection safeguards, this Directive should specifically set out the type and scope of information that can be exchanged between Financial Intelligence Units and with designated competent authorities. This Directive should not bring any changes to currently agreed methods of data collection.	AM 16 (19) Given the sensitivity of financial data that should be analysed by Financial Intelligence Units and the necessary data protection safeguards, this Directive should specifically set out the type and scope of information that can be exchanged between Financial Intelligence Units and with designated competent authorities. This Directive should not bring any changes to currently agreed methods of data collection. <i>However, Member States should be able to decide to broaden the scope of financial information and bank account information that can be exchanged between the Financial Intelligence Units and designated competent authorities. Member States could also facilitate access by competent authorities to financial information and bank account information for the prevention, detection, investigation or prosecution of criminal offences other than serious criminal offences. This Directive should not derogate from the applicable data protection rules.</i>		

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38.	(20) Under its specific competences and tasks as laid down in Article 4 of Regulation (EU) 2016/794 of the European Parliament and of the Council ⁷ , Europol provides support to Member States' cross-border investigations into the money laundering activities of transnational criminal organisations. According to Regulation (EU) 2016/794, the Europol National Units are the liaison bodies between Europol and the Member States' authorities competent to investigate criminal offences. To provide Europol with the information necessary to carry out its tasks, Member States should provide that their Financial Intelligence Unit replies to requests for financial information and financial analysis made by Europol through the respective Europol National Unit. Member States should also provide that their Europol National Unit replies to requests for information on bank accounts by Europol. Requests made by Europol have to be duly justified. They have to be made on a case-by case basis, within the limits	AM 17 (20) Under its specific competences and tasks as laid down in Article 4 of Regulation (EU) 2016/794 of the European Parliament and of the Council ¹⁶ , Europol provides support to Member States' cross-border investigations into the money laundering activities of transnational criminal organisations. <i>In that context, Europol should notify the Member States of any information and connections between criminal offences concerning those Member States.</i> According to Regulation (EU) 2016/794, the Europol National Units are the liaison bodies between Europol and the Member States' authorities competent to investigate criminal offences. To provide Europol with the information necessary to carry out its tasks, Member States should provide that their Financial Intelligence Unit replies <i>is entitled to reply</i> to requests for financial information and financial analysis made by Europol through the respective Europol National Unit. Member States should also provide	(20) Under its specific competences and tasks as laid down in Article 4 of Regulation (EU) 2016/794 of the European Parliament and of the Council ⁷ , Europol provides support to Member States' cross-border investigations into the money laundering activities of transnational criminal organisations. <i>In that context, Europol is obliged to notify the Member States of any information and connections between criminal offences concerning them.</i> According to Regulation (EU) 2016/794, the Europol National Units are the liaison bodies between Europol and the Member States' authorities competent to investigate criminal offences. To provide Europol with the information necessary to carry out its tasks, Member States should provide that <i>entitle</i> their Financial Intelligence Unit replies <i>to reply</i> to requests for financial information and financial analysis made by Europol through the respective Europol National Unit <i>or by direct contacts where appropriate.</i> Member States should also provide	

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	of Europol's responsibilities and for the performance of its tasks.	that their Europol National Unit replies is entitled to reply to requests for information on bank accounts by Europol. Requests made by Europol have to be duly justified. They have to be made on a case-by case basis, within the limits of Europol's responsibilities and for the performance of its tasks. <i>The operational independence and autonomy of Financial Intelligence Units should not be jeopardised and the decision whether to provide the requested information or analysis should remain with the FIU. In order to ensure quick and effective cooperation, time limits for replies by the FIUs to requests by Europol should be set.</i>	that entitle their Europol National Unit replies and where appropriate also their competent authorities to reply to requests for information on bank accounts by Europol. Requests made by Europol have to be duly justified. They have to be made on a case-by case basis, within the limits of Europol's responsibilities and for the performance of its tasks.	
39.	⁷ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135, 24.5.2016, p. 53.	¹⁶ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135, 24.5.2016, p. 53.	⁷ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135, 24.5.2016, p. 53.	

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40.	(21) This Directive should also be mindful of the fact that, in accordance with Article 43 of Regulation (EU) 2017/1939 ⁸ , the European Delegated Prosecutors of the European Public Prosecution Office (EPPO) are empowered to obtain any relevant information stored in national criminal investigation and law enforcement databases, as well as other relevant registries of public authorities, including centralised bank account registries and data retrieval systems under the same conditions as those that apply under national law in similar cases.		(21) This Directive should also be mindful of the fact that, where applicable , in accordance with Article 43 of Regulation (EU) 2017/1939 ⁸ , the European Delegated Prosecutors of the European Public Prosecution Office (EPPO) are empowered to obtain any relevant information stored in national criminal investigation and law enforcement databases, as well as other relevant registries of public authorities, including centralised bank account registries and data retrieval systems under the same conditions as those that apply under national law in similar cases.	
41.	⁸ Council Regulation (EU) 2017/1939 of 12 October 2017, implementing enhanced cooperation on the establishment of the European Public Prosecution Office ("the EPPO"), OJ L 283 of 31.10.2017, p. 1.		⁸ Council Regulation (EU) 2017/1939 of 12 October 2017, implementing enhanced cooperation on the establishment of the European Public Prosecution Office ("the EPPO"), OJ L 283 of 31.10.2017, p. 1.	
42.		AM 18 <i>(21 a) To strengthen the cooperation between Financial Intelligence Units, the European Commission should carry out an impact assessment in the near future to evaluate the possibility</i>		

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		<i>and appropriateness of establishing a coordination and support mechanism, such as an EU FIU.</i>		
43.	(22) To achieve the appropriate balance between efficiency and a high level of data protection, Member States should be required to ensure that the processing of sensitive financial information that could reveal a person's race or ethnic origin, political opinions, religion or philosophical beliefs, trade union membership, health, sexual life or sexual orientation should be allowed only to the extent that it is strictly necessary and relevant to a specific investigation.	AM 19 (22) To achieve the appropriate balance between efficiency and a high level of data protection, Member States should be required to ensure that the processing of sensitive financial information that could reveal a person's race or ethnic origin, political opinions, religion or philosophical beliefs, trade union membership, health, sexual life or sexual orientation should be allowed only <i>by persons specifically authorised and</i> to the extent that it is strictly necessary and, relevant to a specific <i>and proportionate for the prevention, detection, investigation or prosecution of a specific crime and in compliance with the applicable data protection rules.</i>		
44.	(23) This Directive respects the fundamental rights and observes the principles recognised by Article 6 of the Treaty on European Union and by the Charter of Fundamental Rights of the European Union, in	AM 20 (23) This Directive respects the fundamental rights and observes the principles recognised by Article 6 of the Treaty on European Union and		

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	particular the right to respect for private and family life (Article 7) and the right to the protection of personal data (Article 8), by international law and international agreements to which the Union or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and in Member States' constitutions in their respective fields of application.	by the Charter of Fundamental Rights of the European Union, in particular the right to respect for private and family life (Article 7) and , the right to the protection of personal data (Article 8), <i>the right to an effective remedy and to a fair trial (Article 47), the presumption of innocence and right of defence (Article 48), the principles of legality and proportionality of criminal offences and penalties (Article 49)</i> , by international law and international agreements to which the Union or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and in Member States' constitutions in their respective fields of application. <i>This Directive respects and observes also the freedom to conduct a business and the prohibition of discrimination.</i>		
45.	(24) It is essential to ensure that processing of personal data under this Directive fully respects the right to protection of personal data. Any such processing is subject to Directive (EU) 2016/680 of the			

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	European Parliament and of the Council and to Regulation (EU) 2016/679 of the European Parliament and of the Council ⁹ , in their respective scope of application. As far as the access of Asset Recovery Offices to centralised bank account registries and data retrieval systems is concerned, Directive (EU) 2016/680 applies while Article 5(2) of Council Decision 2007/845/JHA should not apply. As far as Europol is concerned, Regulation (EU) 2016/794 applies. Specific and additional safeguards and conditions for ensuring the protection of personal data should be laid down in this Directive in respect of mechanisms to ensure the processing of sensitive data and records of information requests.			
46.	⁹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).			
47.	(25) Personal data obtained under this Directive should only be processed by competent authorities	AM 21 (25) <i>Any</i> personal data obtained		

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	where it is necessary and proportionate for the purposes of prevention, detection, investigation or prosecution of serious crime.	under this Directive should only be processed <i>in accordance with Directive (EU) 2016/680 and Regulation (EU) 2016/679</i> by competent authorities where it is necessary and proportionate for the purposes of prevention, detection, investigation or prosecution of serious crime.		
48.	(26) Furthermore, in order to respect the right to the protection of personal data and the right to privacy and limit the impact of the access to the information contained in centralised bank account registries and data retrieval systems, it is essential to provide for conditions limiting the access. In particular, Member States should ensure that appropriate data protection policies and measures apply to the access to personal data from competent authorities for the purposes of this Directive. Only authorised persons should have access to information containing personal data which can be obtained from the centralised bank account registries or through authentication processes.	AM 22 (26) Furthermore, in order to respect the right to the protection of personal data and the right to privacy and limit the impact of the access to the information contained in centralised bank account registries and data retrieval systems, it is essential to provide for conditions limiting the access. In particular, Member States should ensure that appropriate data protection policies and measures apply to the access to personal data from competent authorities for the purposes of this Directive. Only authorised persons staff should have access to information containing personal data which can be obtained from the centralised bank account registries or through authentication		

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		processes. <i>Staff granted access to such sensitive data should receive training on security practices with regards to the exchange and handling of the data.</i>		
49.	(27) The transfer of financial data to third countries and international partners, for the purposes laid down in this Directive should only be allowed under the conditions laid down in Chapter V of Directive (EU) 2016/680 or Chapter V of Regulation (EU) 2016/679.		(27) The transfer of financial data to third countries and international partners, for the purposes laid down in this Directive should only be allowed under the conditions laid down in Chapter V of Directive (EU) 2016/680 or Chapter V of Regulation (EU) 2016/679.	
50.	(28) The Commission should report on the implementation of this Directive three years after its date of transposition, and every three years thereafter. In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement on Better Law-Making ¹⁰ the Commission should also carry out an evaluation of this Directive on the basis of information collected through specific monitoring arrangements in order to assess the actual effects of the Directive and the need for any further action.	AM 23 (28) The Commission should report on the implementation of this Directive three two years after its date of transposition, and every three years thereafter. In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement on Better Law-Making ¹⁹ the Commission should also carry out an evaluation of this Directive on the basis of information collected through specific monitoring arrangements in order to assess the actual effects of the Directive and the need for any further action.		

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51.	¹⁰ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.	¹⁹ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.		
52.	(29) This Directive aims at ensuring that rules are adopted to provide Union citizens with a higher level of security by preventing and combating crime, pursuant to Article 67 of the Treaty on the Functioning of the European Union. Due to their transnational nature, the terrorist and criminal threats affect the Union as a whole and require a Union wide response. Criminals may exploit, and will benefit from, the lack of an efficient use of bank account information and financial information in a Member State, which can have consequences in another Member State. Since the objective of this Directive cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In	AM 24 (29) This Directive aims at ensuring that rules are adopted to provide Union citizens with a higher level of security by preventing and combating crime, pursuant to Article 67 of the Treaty on the Functioning of the European Union. Due to their transnational nature, the terrorist and criminal threats cross border organised crimes affect the Union as a whole and require a Union wide response. Criminals may exploit, and will benefit from, the lack of an efficient use of bank account information and financial information in a Member State, which can have consequences in another Member State. Since the objective of this Directive cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures in		

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	accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve this objective.	accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve this objective.		
53.	(30) Council Decision 2000/642/JHA should be repealed since its subject matter is regulated by other Union acts and is not needed anymore.			
54.	(31) [In accordance with Article 3 of Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on the European Union and to the Treaty on the Functioning of the European Union, the United Kingdom and Ireland have notified their wish to take part in the adoption and application of this Directive.]			
55.	(32) [In accordance with Articles 1 and 2 of Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European		(32) — [In accordance with Articles 1 and 2 of Protocol (No 21) on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European	

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	Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, the United Kingdom and Ireland are not taking part in the adoption and application of this Directive and are not bound by it or subject to its application.]		Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, the United Kingdom and Ireland are not taking part in the adoption and application of this Directive and are not bound by it or subject to its application.]	
56.	(33) In accordance with Articles 1 and 2 of Protocol (No 22) on the position of Denmark annexed to the Treaty on the European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.			
57.	(34) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 ¹¹ of the European Parliament and of the Council [and delivered an opinion on ... ¹²],			
58.	¹¹ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies on the free movement of such data, OJ L 8, 12.1.2001, p. 1.			

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59.	¹² OJ C ...			
60.	HAVE ADOPTED THIS DIRECTIVE:			
61.	Chapter I			
62.	General provisions			
63.	Article 1 Subject matter			
64.	1. This Directive lays down measures to facilitate access by competent authorities to financial information and bank account information for the prevention, detection, investigation or prosecution of serious criminal offences. It also provides for measures to facilitate access by Financial Intelligence Units to law enforcement information and to facilitate the cooperation between Financial Intelligence Units.	AM 25 1. This Directive lays down measures to facilitate access by competent authorities <i>to and use of</i> financial information and bank account information <i>by competent authorities</i> for the prevention, detection, investigation or prosecution of serious criminal offences. It also provides for measures to facilitate access by Financial Intelligence Units to law enforcement information, <i>where this information is necessary, on a case-by-case basis</i> , and to facilitate the cooperation between Financial Intelligence Units.	1. This Directive lays down measures to facilitate access <i>to and use of financial information and bank account information</i> , by competent authorities, for the prevention, detection, investigation or prosecution of serious criminal offences. It also provides for measures to facilitate access by Financial Intelligence Units to law enforcement information <i>for the prevention and combating of money laundering, associate predicate offences and terrorist financing</i> and to facilitate the cooperation between Financial Intelligence Units.	Open for discussion as regards the deletion in square brackets linked to Article 9 1. This Directive lays down measures to facilitate access by competent authorities <i>to and use of</i> financial information and bank account information <i>by competent authorities</i> for the prevention, detection, investigation or prosecution of serious criminal offences. It also provides for measures to facilitate access by Financial Intelligence Units to law enforcement information <i>for the prevention and combating of money laundering, associate</i>

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				predicate offences and terrorist financing [and to facilitate the cooperation between Financial Intelligence Units]-
65.	2. This Directive is without prejudice to:			
66.	(a) the provisions of Directive (EU) 2015/849 of the European Parliament and of the Council and the related provisions in the national law of Member States, including the organisational status conferred to Financial Intelligence Units under national law;	AM 26 (a) the provisions of Directive (EU) 2015/849 of the European Parliament and of the Council and the related provisions in the national law of Member States, including the organisational status conferred to Financial Intelligence Units under national law <i>and the competences of national authorities responsible for application of legislation concerning prevention of the use of the financial system for the purpose of money laundering and terrorist financing.</i>		(a) the provisions of Directive (EU) 2015/849 of the European Parliament and of the Council and the related provisions in the national law of Member States, including the organisational status conferred to Financial Intelligence Units under national law <u>and their operational independence and autonomy</u> ;
67.	(b) the powers of competent authorities to exchange information between them or to obtain information from obliged entities under Union law or the national law of Member States.		(b) the powers of competent authorities <i>channels</i> to exchange information between them <i>competent authorities</i> or <i>their powers</i> to obtain information from obliged entities under Union law or the national law of Member States-;	(b) the powers of competent authorities <i>channels</i> to exchange information between them <i>competent authorities</i> or <i>their powers</i> to obtain information from obliged entities under Union law or the national law of Member States-;

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68.			<i>(c) the provisions of Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol);</i>	<i>(c) the provisions of Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol);</i>
69.			<i>(d) the obligations resulting from European Union instruments on mutual legal assistance or on mutual recognition of decisions regarding criminal matters and from Framework Decision 2006/960/JHA.</i>	<i>(d) the obligations resulting from European Union instruments on mutual legal assistance or on mutual recognition of decisions regarding criminal matters and from Framework Decision 2006/960/JHA.</i>
70.	Article 2 Definitions			
71.	For the purposes of this Directive, the following definitions apply:			
72.	(a) 'centralised bank account registries' means the centralised automated mechanisms, such as central registries or central electronic data retrieval systems, set up in accordance with Article 32a(1) of Directive (EU) 2015/849;			
73.	(b) 'Asset Recovery Offices' means the national offices designated by the Member States			

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	pursuant to Article 8(1) of Council Decision 2007/845/JHA for the purposes of the facilitation of the tracing and identification of proceeds of crime and other crime related property in view of its possible freezing, seizure or confiscation based on an order issued by a competent judicial authority;			
74.	(c) 'Financial Intelligence Unit' means the body established in each Member State for the purposes of Article 32 of Directive (EU) 2015/849;			
75.	(d) 'obliged entities' means the entities set out in Article 2 of Directive (EU) 2015/849;			
76.	(e) 'financial information' means any type of information or data which is held by Financial Intelligence Units to prevent, detect and effectively combat money laundering and terrorist financing, or any type of information or data which is held by public authorities or by obliged entities for those purposes and which is available to Financial Intelligence Units without the taking of coercive measures under national law;	AM 27 (e) 'financial information' means any type of information or data which is , such as data on financial assets, movements of funds, financial business relationship , held by Financial Intelligence Units to prevent, detect and effectively combat money laundering and terrorist financing, or any type of information or data which is held by public authorities or by obliged entities for those purposes and	(e) 'financial information' means any type of information or data which is already held by Financial Intelligence Units to prevent, detect and effectively combat money laundering and terrorist financing, or any type of information or data which is held by public authorities or by obliged entities for those purposes and which is available to Financial Intelligence Units without the taking	Joint compromise proposal to combine the additions in both texts; the deletion made by the Council remains in square brackets for a political discussion: (e) 'financial information' means any type of information or data, such as data on financial assets, movements of funds, financial business relationship , already held by Financial Intelligence Units to prevent, detect and effectively combat money

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		which is available to Financial Intelligence Units without the taking of coercive measures under national law;	of coercive measures under national law.	laundrying and terrorist financing, [or any type of information or data which is held by public authorities or by obliged entities for those purposes and which is available to Financial Intelligence Units without the taking of coercive measures under national law];
77.	(f) 'law enforcement information' means any type of information or data which is held by competent authorities to prevent, detect, investigate or prosecute criminal offences or any type of information or data which is held by public authorities or by private entities for those purposes and which is available to competent authorities without the taking of coercive measures under national law;	AM 28 (f) law enforcement information' means any type of information or data which <i>already</i> is held by competent authorities to prevent, detect, investigate or prosecute criminal offences or any type of information or data which is held by public authorities or by private entities for those purposes and which is available to competent authorities without the taking of coercive measures under national law; <i>such information includes inter alia criminal records, information on investigations or on ongoing prosecutions, information on the freezing or seizure of assets or on other investigative or provisional measures and information on convictions, on confiscations and on mutual legal</i>	(f) 'law enforcement information' means:	<i>EP suggestion for a compromise:</i> (f) 'law enforcement information' means:

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		<i>assistance activities;</i>		
78.			(1) any type of information or data which is <i>already</i> held by competent authorities <i>in the context of preventing, detecting, investigating or prosecuting</i> criminal offences, or	- any type of information or data which is <i>already</i> held by competent authorities <i>in the context of preventing, detecting, investigating or prosecuting</i> criminal offences, or
79.			(2) any type of information or data which is held by public authorities or by private entities for those purposes <i>in that context</i> and which is available to competent authorities without the taking of coercive measures under national law;	- any type of information or data which is held by public authorities or by private entities for those purposes <i>in that context</i> and which is available to competent authorities without the taking of coercive measures under national law. <u>Such information includes inter alia criminal records, information on investigations or on ongoing prosecutions, information on the freezing or seizure of assets or on other investigative or provisional measures and information on convictions, on confiscations and on mutual legal assistance activities;</u>
80.	(g) 'bank account information' means the following information contained in the centralised bank account registries:	AM 29 (g) 'bank account information' means the following information <i>on bank and payments accounts and</i>	(g) 'bank account information' means the following information <i>on bank and payment accounts</i>	(g) 'bank account information' means the following information <i>on bank and payments accounts and</i>

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		<i>safe deposit boxes</i> contained in the centralised bank account registries:	contained in the centralised bank account registries:	<i>safe deposit boxes</i> contained in the centralised bank account registries:
81.	(a) for the customer-account holder and any person purporting to act on behalf of the customer: the name, complemented by either the other identification data required under the national provisions transposing Article 13(1)(a) of Directive (EU) 2015/849 on identifying the customer and verifying the customer's identity, or a unique identification number;			
82.	(b) for the beneficial owner of the customer-account holder: the name, complemented by either the other identification data required under the national provisions transposing Article 13(1)(b) of Directive (EU) 2015/849 on identifying the beneficial owner and verifying the beneficial owner's identity, or a unique identification number;			
83.	(c) for the bank or payment account: the IBAN number and the date of account opening and closing;			
84.	(d) for the safe deposit box: name of the lessee complemented by the other identification data required under the national			

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	provisions transposing Article 13 (1) of Directive (EU) 2015/849 on the identification of the customer and the beneficial owner and verification of his/her identity, or a unique identification number and the duration of the lease period.			
85.	(h) 'money laundering' means the conduct defined in Article 3 of Directive (EU) 2018/XX ¹³ ;			
86.	¹³ Directive 2018/XX/EU on countering money laundering by criminal law, OJ ...			
87.	(i) 'associated predicate offences' means the offences set out in Article 2 of Directive (EU) 2018/XX;			
88.	(j) 'terrorist financing' means the conduct defined in Article 11 of Directive (EU) 2017/541 ¹⁴ ;			
89.	¹⁴ Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA, OJ L 88 of 31.3.2017, p. 6.			
90.	(k) 'financial analysis' means the operational and strategic analysis carried out by the Financial Intelligence Units for the performance of their tasks pursuant to Directive (EU) 2015/849;	AM 30 (k) 'financial analysis' means the results of operational and strategic analysis carried out by the Financial Intelligence Units for the	(k) 'financial analysis' means the results of operational and strategic analysis that has already been carried out by the Financial Intelligence Units for the	Provisionally agreed at technical level (k) 'financial analysis' means the results of operational and strategic analysis that has already

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		performance of their tasks pursuant to Directive (EU) 2015/849;	performance of their tasks pursuant to Directive (EU) 2015/849;	<i>been</i> carried out by the Financial Intelligence Units for the performance of their tasks pursuant to Directive (EU) 2015/849;
91.	(l) 'serious criminal offences' means the forms of crime listed in Annex I to Regulation (EU) 2016/794 of the European Parliament and of the Council.			
92.	Article 3 Designation of competent authorities			
93.	1. Each Member State shall designate among its authorities competent for the prevention, detection, investigation or prosecution of criminal offences the competent authorities empowered to access and search the national centralised bank account registries set up by the Member States in accordance with Article 32a of Directive (EU) 2015/849. They shall include the Europol National Units and the Asset Recovery Offices.	AM 31 1. Each Member State shall designate among its authorities competent for the prevention, detection, investigation or prosecution of criminal offences the competent authorities empowered to access and search the national centralised bank account registries set up by the Member States in accordance with Article 32a of Directive (EU) 2015/849. They shall include at least the Europol National Units and the Asset Recovery Offices.	1. Each Member State shall designate among its authorities competent for the prevention, detection, investigation or prosecution of criminal offences the competent authorities empowered to access and search <i>its</i> national centralised bank account registries registry set up by the Member States in accordance with Article 32a of Directive (EU) 2015/849. They shall at least include the Europol National Units and the Asset Recovery Offices.	The EP checks whether CONS text acceptable

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94.	2. Each Member State shall designate among its authorities competent for the prevention, detection, investigation or prosecution of criminal offences the competent authorities empowered to request and receive financial information or financial analysis from the Financial Intelligence Unit. They shall include the Europol National Units.	AM 32 2. Each Member State shall designate among its authorities competent for the prevention, detection, investigation or prosecution of criminal offences the competent authorities empowered to request and receive financial information or financial analysis from the Financial Intelligence Unit. They shall <i>at least</i> include the Europol National Units.	2. Each Member State shall designate among its authorities competent for the prevention, detection, investigation or prosecution of criminal offences the competent authorities empowered <i>entitled</i> to request and receive financial information or financial analysis from the Financial Intelligence Unit. They shall include the Europol National Units.	
95.	3. Each Member State shall notify the Commission its designated competent authorities in accordance with paragraphs (1) and (2) by [6 months from transposition date] at the latest, and shall notify the Commission of any amendment thereto. The Commission shall publish the notifications and any amendment thereto in the Official Journal of the European Union.	AM 33 3. Each Member State shall notify the Commission its designated competent authorities in accordance with paragraphs (1) and (2) by [6 months <i>4 months</i> from transposition date] at the latest, and shall notify the Commission of any amendment thereto. The Commission shall publish the notifications and any amendment thereto in the Official Journal of the European Union.		3. Each Member State shall notify the Commission its designated competent authorities in accordance with paragraphs (1) and (2) by [6 months <i>4 months</i> from transposition date] at the latest, and shall notify the Commission of any amendment thereto. The Commission shall publish the notifications and any amendment thereto in the Official Journal of the European Union.
96.	Chapter II			

Line	COM Proposal (8411/18 dd. 17/04/2018)	EP Position/Ammendments (A8-0442/2018, vote on 3.12.2018)	Council negotiation mandate (14792/18 dd. 21/11/2018)	Comments
97.	Access by competent authorities to bank account information			
98.	Article 4 Access and search by competent authorities to bank account information			
99.	1. Member States shall ensure that the competent authorities designated pursuant to Article 3(1) shall have the power to access and search, directly and immediately, bank account information when necessary for the performance of their tasks for the purposes of preventing, detecting, investigating or prosecuting a serious criminal offence or supporting a criminal investigation concerning a serious criminal offence, including the identification, tracing and freezing of the assets related to such investigation.	AM 34 1. Member States shall ensure that the competent authorities designated pursuant to Article 3(1) shall have the power to access and search, directly and immediately, bank account information when necessary for the performance of their tasks for the purposes of preventing, detecting, investigating or prosecuting a serious criminal offence or supporting a criminal investigation concerning a serious criminal offence, including the identification, tracing and freezing of the assets related to such investigation. <i>Access and search is also deemed direct and immediate where the national authorities operating the central bank account registries transmit the bank account information expeditiously by an automated mechanism to</i>	1. Member States shall ensure that the competent <i>national</i> authorities designated pursuant to Article 3(1) shall have the power to access and search, directly and immediately, bank account information when necessary for the performance of their tasks for the purposes of preventing, detecting, investigating or prosecuting a serious criminal offence or supporting a criminal investigation concerning a serious criminal offence, including the identification, tracing and freezing of the assets related to such investigation. <i>Access and search is also deemed direct and immediate where the national authorities operating the central bank account registries transmit the bank account information expeditiously by an automated mechanism to competent authorities, provided that no</i>	1. Member States shall ensure that the competent <i>national</i> authorities designated pursuant to Article 3(1) shall have the power to access and search, directly and immediately, bank account information when necessary for the performance of their tasks for the purposes of preventing, detecting, investigating or prosecuting a serious criminal offence or supporting a criminal investigation concerning a serious criminal offence, including the identification, tracing and freezing of the assets related to such investigation. <i>Access and search is also deemed direct and immediate where the national authorities operating the central bank account registries transmit the bank account information expeditiously by an automated mechanism to competent</i>

Line	COM Proposal (8411/18 dd. 17/04/2018)	EP Position/Ammendments (A8-0442/2018, vote on 3.12.2018)	Council negotiation mandate (14792/18 dd. 21/11/2018)	Comments
		<i>competent authorities, provided that no intermediary institution interferes with the requested data or the information to be provided.</i>	<i>intermediary institution may interfere with the requested data or the information to be provided.</i>	<i>authorities, provided that no intermediary institution may interfere with the requested data or the information to be provided.</i>
100		AM 35 <i>1a. Member States providing access to bank account information through central electronic data retrieval systems shall ensure that the authority operating the retrieval systems reports search results in an immediate and unfiltered way to competent authorities.</i>		<u><i>PRES agrees, as a compromise, with EP suggestion to move the text of AM 35 to recital 6:</i></u> <i>(6).....Member States providing access to bank account information through central electronic data retrieval systems <u>should</u> ensure that the authority operating the retrieval systems reports search results in an immediate and unfiltered way to competent authorities.</i>
101	2. The additional information that Member States may deem essential and include in the centralised bank account registries in accordance with Article 32a(4) of Directive 2018/XX/EU shall not be accessible and searchable by competent authorities according to this Directive.	AM 36 2. The additional information that Member States may deem essential and include in the centralised bank account registries in accordance with Article 32a(4) of Directive 2018/XX/EU shall not be accessible and searchable by competent authorities according to on the basis of this Directive.	2. The additional information that Member States may deem essential and include in the centralised bank account registries in accordance with Article 32a(4) of Directive 2018/XX/EU shall not be accessible and searchable by competent authorities according to on the basis of this Directive.	2. The additional information that Member States may deem essential and include in the centralised bank account registries in accordance with Article 32a(4) of Directive 2018/XX/EU shall not be accessible and searchable by competent authorities according to on the basis of this Directive.

Line	COM Proposal (8411/18 dd. 17/04/2018)	EP Position/Ammendments (A8-0442/2018, vote on 3.12.2018)	Council negotiation mandate (14792/18 dd. 21/11/2018)	Comments
102	Article 5 Conditions for the access and search by competent authorities			
103	1. The access and search of bank account information in accordance with Article 4 shall be performed only by the persons within each competent authority that have been specifically designated and authorised to perform these tasks and on a case-by-case basis.			
104		AM 37 <i>1a. Member States shall ensure that the staff of the national designated competent authorities maintains high professional standards of confidentiality and data protection.</i>		To be further discussed at technical level <i>EP compromise suggestion for paragraph 1a inspired by Art. 48(2) AMLD:</i> <i>1a. Member States shall ensure that staff of the national designated competent authorities maintains high professional standards of confidentiality and data protection, that they are of high integrity and are appropriately skilled.</i>
105	2. Member States shall ensure that the access and search by competent authorities is supported	AM 38 2. Member States shall ensure		2. Member States shall ensure that the access and search by competent authorities is supported

Line	COM Proposal (8411/18 dd. 17/04/2018)	EP Position/Ammendments (A8-0442/2018, vote on 3.12.2018)	Council negotiation mandate (14792/18 dd. 21/11/2018)	Comments
	by technical and organisational measures ensuring the security of the data.	that the access and search by competent authorities is supported by technical and organisational measures ensuring the security of the data <i>to the highest technological standard available</i> .		by technical and organisational measures ensuring the security of the data <i>to the highest technological standard available</i> .
106	Article 6 Monitoring the access and search by competent authorities			
107	1. Member States shall ensure that the authorities operating the centralised bank account registries keep a log of any access by competent authorities to bank account information. The logs shall include, in particular, the following elements:		1. Member States shall ensure that the authorities operating the centralised bank account registries keep a log <i>logs are kept</i> of any access by competent authorities to bank account information. The logs shall include, in particular, the following elements:	Joint compromise proposal: Member States shall ensure that the authorities operating the centralised bank account registries <i>guarantee that logs are kept</i> of any access by competent authorities to bank account information. The logs shall include, in particular, the following elements
108	(a) the national file reference;			
109	(b) the date and time of the query or search;			
110	(c) the type of data used to launch the query or search;			
111	(d) the results of the query or search;	AM 39 (d) <i>the unique identifiers of</i> the results of the query or search;		d) <i>the unique identifiers of</i> the results of the query or search;

Line	COM Proposal (8411/18 dd. 17/04/2018)	EP Position/Ammendments (A8-0442/2018, vote on 3.12.2018)	Council negotiation mandate (14792/18 dd. 21/11/2018)	Comments
112	(e) the name of the authority consulting the registry;			
113	(f) the identifiers of the official who carried out the query or search and of the official who ordered the query or search.	AM 40 (f) the identifiers of the official who carried out the query or search and of the official who ordered the query or search, <i>and as far as possible, the identity of the recipient of the results of the query or search.</i>	(f) the identifiers <i>unique user identifier</i> of the official who carried out the query or search and of the official who ordered <i>and, as far as possible, the unique user identifier of the recipient of the results of the query or search.</i>	EP suggestion: (f) the identifiers <i>unique user identifier</i> of the official who carried out the query or search <u>and, where applicable,</u> of the official who ordered <u>them</u> <i>and, as far as possible, the unique user identifier of the recipient of the results of the query or search.</i>
114	2. The logs shall be regularly checked by the data protection officers of the centralised bank account registries and by the competent supervisory authority established in accordance with Article 41 of Directive (EU) 2016/680.		2. The logs shall be regularly checked by <i>made available, on request, to</i> the data protection officers of the centralised bank account registries and by <i>to</i> the competent supervisory authority established in accordance with Article 41 of Directive (EU) 2016/680.	Joint compromise suggestion: The logs shall be regularly checked by the data protection officers of the centralised bank account registries. <i>They shall also be made available, on request, to</i> the competent supervisory authority established in accordance with Article 41 of Directive (EU) 2016/680.
115	3. The logs referred to in paragraph 1 shall be used only for data protection monitoring, including checking the admissibility of a request and the lawfulness of data processing, and for ensuring data security. They shall be			

Line	COM Proposal (8411/18 dd. 17/04/2018)	EP Position/Ammendments (A8-0442/2018, vote on 3.12.2018)	Council negotiation mandate (14792/18 dd. 21/11/2018)	Comments
	protected by appropriate measures against unauthorised access and shall be erased five years after their creation, unless they are required for monitoring procedures that are already ongoing.			
116		AM 41 <i>3a. Member States shall ensure that centralised bank account registers take appropriate measures so that employees are aware of the provisions in force, including the relevant data protection requirements. Such measures shall include special training programmes.</i>		<i>3a. Member States shall ensure that centralised bank account registers take appropriate measures so that employees are aware of the provisions in force, including the relevant data protection requirements. Such measures shall include special training programmes.</i>
117	Chapter III			
118	Exchange of data between competent authorities and Financial Intelligence Units, and between Financial Intelligence Units		EXCHANGE OF DATA BETWEEN COMPETENT AUTHORITIES AND FINANCIAL INTELLIGENCE UNITS, AND BETWEEN FINANCIAL INTELLIGENCE UNITS	

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119	Article 7 Requests for information by competent authorities to the Financial Intelligence Unit			
120	1. Subject to national procedural safeguards, each Member State shall ensure that its national Financial Intelligence Unit is required to reply to requests for financial information or financial analysis by its designated competent authorities referred to in Article 3(2), where that financial information or financial analysis is necessary, on a case-by-case basis, for the prevention, detection, investigation or prosecution of serious criminal offences.	AM 42 1. Subject to national procedural safeguards, each Member State shall ensure that its national Financial Intelligence Unit is required to reply to, in a timely manner, to reasoned requests for financial information or financial analysis by its designated competent authorities referred to in Article 3(2) in their respective Member State , where that financial information or financial analysis is necessary, on a case-by-case basis, for the prevention, detection, investigation or prosecution of serious criminal offences and may be obtained by the requesting competent authorities in accordance with the applicable law. <i>Exemptions provided for under Article 32(5) of Directive (EU) 2015/849 shall apply to the exchange. Any refusal shall be appropriately explained.</i>	1. Subject to national procedural safeguards, each Member State shall ensure that its national Financial Intelligence Unit is required entitled to reply, in a timely manner , to requests for financial information or financial analysis by its designated competent authorities referred to in Article 3(2), where that financial information or financial analysis is necessary, on a case-by-case basis, for the prevention, detection, investigation or prosecution of serious criminal offences. Exemptions provided for under Article 32(5) of Directive (EU) 2015/849 shall apply.	<i>Joint compromise proposal to combine the additions of the co-legislators, except the EP addition "and may be obtained by the requesting competent authorities in accordance with the applicable law" which should be moved to a recital.</i> <i>The text in square brackets remains for a political discussion.</i> Subject to national procedural safeguards, each Member State shall ensure that its national Financial Intelligence Unit is [required / entitled] to reply, in a timely manner , to reasoned requests for financial information or financial analysis by its designated competent

Line	COM Proposal (8411/18 dd. 17/04/2018)	EP Position/Ammendments (A8-0442/2018, vote on 3.12.2018)	Council negotiation mandate (14792/18 dd. 21/11/2018)	Comments
				authorities referred to in Article 3(2) <i>in their respective Member State</i> , where that financial information or financial analysis is necessary, on a case-by-case basis, for the prevention, detection, investigation or prosecution of serious criminal offences. <i>Exemptions provided for under Article 32(5) of Directive (EU) 2015/849 shall apply to the exchange. Any refusal shall be appropriately explained.</i>
121	2. The financial information and financial analysis received from the Financial Intelligence Unit may be processed by the competent authorities of the Member States for the specific purposes of preventing, detecting, investigating or prosecuting serious criminal offences other than the purposes for which personal data are collected in accordance with Article 4(2) of Directive (EU) 2016/680.			

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122		AM 43 <i>2 a. Member States shall require designated competent authorities to provide feedback to the Financial Intelligence Unit about the use made of the information or analysis provided in accordance with this Article and about the outcome of the investigations or inspections performed on the basis of that information or analysis.</i>		<i>EP compromise suggestion introducing further safeguards:</i> <i>Member States shall require designated competent authorities to provide feedback to the Financial Intelligence Unit about the use made of the information or analysis provided in accordance with this Article and about the outcome of the investigations or inspections performed on the basis of that information or analysis <u>in a manner that ensures full confidentiality and data protection.</u></i>
123	Article 8 Requests of information by a Financial Intelligence Unit to competent authorities			
124	Subject to national procedural safeguards, each Member State shall ensure that its designated national competent authorities are required to reply to requests for law enforcement information by the national Financial Intelligence Unit, on a case-by-case basis, where the information is necessary for the prevention and combating of money	AM 44 Subject to national procedural safeguards <i>and in accordance with the rules on the access to information by the Financial Intelligence Units as set out in Article 32(4) of Directive (EU) 2015/849</i> , each Member State shall ensure that its designated national	Subject to national procedural safeguards <i>and in addition to the access to information by the the Financial Intelligence Units, as provided for in Article 32(4) Directive (EU) 2015/849</i> , each Member State shall ensure that its designated national competent authorities are required to reply, <i>in a timely manner</i> , to requests for law	

Line	COM Proposal (8411/18 dd. 17/04/2018)	EP Position/Ammendments (A8-0442/2018, vote on 3.12.2018)	Council negotiation mandate (14792/18 dd. 21/11/2018)	Comments
	laundering, associate predicate offences and terrorist financing.	competent authorities are required to reply to requests for law enforcement information by the national Financial Intelligence Unit, on a case-by-case basis, where the information is necessary for the prevention, detection and combating of money laundering, associate predicate offences and terrorist financing.	enforcement information by the national Financial Intelligence Unit, on a case-by-case basis, where the information is necessary for the prevention and combating of money laundering, associate predicate offences and terrorist financing.	
125	Article 9 Exchange of information between Financial Intelligence Units of different Member States		<i>Article 9</i> <i>Exchange of information between Financial Intelligence Units of different Member States</i>	<i>The EP will present a compromise wording proposal, introducing the possibility of exchanging information also for the purposes of prevention and combatting of serious crime, as is the case in some of the other provisions of this Directive (as opposed to money laundering and terrorist financing in the initial proposal by the Commission).</i>
126	1. Each Member State shall ensure that its Financial Intelligence Unit is enabled to exchange financial information or financial analysis with any Financial Intelligence Unit in the Union where that financial information or financial analysis is necessary for the prevention and combating of	AM 45 1. Each Member State shall ensure that its Financial Intelligence Unit is enabled to exchange exchanges financial information or financial analysis free of charge with any Financial Intelligence Unit in the Union where that financial	1. Each Member State shall ensure that its Financial Intelligence Unit is enabled to exchange financial information or financial analysis with any Financial Intelligence Unit in the Union where that financial information or financial analysis is necessary for	

Line	COM Proposal (8411/18 dd. 17/04/2018)	EP Position/Ammendments (A8-0442/2018, vote on 3.12.2018)	Council negotiation mandate (14792/18 dd. 21/11/2018)	Comments
	money laundering, associate predicate offences and terrorist financing.	information or financial analysis is necessary for the prevention, <i>detection</i> and combating of money laundering, associate predicate offences and terrorist financing <i>in accordance with Article 53(1) of Directive (EU) 2015/849.</i>	the prevention and combating of money laundering, associate predicate offences and terrorist financing.	
127		AM 46 <i>1a. A Financial Investigation Unit 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. Any refusal shall be appropriately explained.</i>		
128	2. Member States shall ensure that where a Financial Intelligence Unit is requested pursuant to paragraph 1 to exchange financial information or financial analysis, it shall do so as soon as possible and in any case no later than three days after the receipt of the request. In exceptional, duly justified cases,	AM 47 2. Member States shall ensure that where a Financial Intelligence Unit is requested pursuant to paragraph 1 to exchange financial information or financial analysis, it shall do so as soon as possible and in any case no later than three days after the receipt of the request. In	2. Member States shall ensure that where a Financial Intelligence Unit is requested pursuant to paragraph 1 to exchange financial information or financial analysis, it shall do so as soon as possible and in any case no later than three days after the receipt of the request. In exceptional, duly justified cases,	

Line	COM Proposal (8411/18 dd. 17/04/2018)	EP Position/Ammendments (A8-0442/2018, vote on 3.12.2018)	Council negotiation mandate (14792/18 dd. 21/11/2018)	Comments
	this time limit may be extended by a maximum of 10 days.	exceptional, duly justified cases, this time limit may be extended by a maximum of 10 days. <i>The same time limits apply for sending an appropriate explanation in case of refusals based on paragraph 1a.</i>	this time limit may be extended by a maximum of 10 days.	
129	3. Member States shall ensure that, in exceptional and urgent cases, and by way of derogation from paragraph 2, where a Financial Intelligence Unit is requested pursuant to paragraph 1 to exchange financial information or financial analysis already in its possession that relates to specific investigations concerning an act or conduct qualified as a serious criminal offence, a Financial Intelligence Unit shall provide that information or analysis no later than 24 hours after the receipt of the request.	AM 48 3. Member States shall ensure that, in exceptional and urgent cases, and by way of derogation from paragraph 2, where a Financial Intelligence Unit is requested pursuant to paragraph 1 to exchange financial information or financial analysis already in its possession that relates to specific investigations concerning an act or conduct qualified as a serious criminal offence, a Financial Intelligence Unit shall provide that information or analysis <i>free of charge</i> no later than 24 hours after the receipt of the request.	3. Member States shall ensure that, in exceptional and urgent cases, and by way of derogation from paragraph 2, where a Financial Intelligence Unit is requested pursuant to paragraph 1 to exchange financial information or financial analysis already in its possession that relates to specific investigations concerning an act or conduct qualified as a serious criminal offence, a Financial Intelligence Unit shall provide that information or analysis no later than 24 hours after the receipt of the request.	
130	4. Member States shall ensure that a request issued pursuant to this Article and its response shall be transmitted by using the dedicated secure electronic communications network FIU.net or its successor. That network shall ensure the secure		4. Member States shall ensure that a request issued pursuant to this Article and its response shall be transmitted by using the dedicated secure electronic communications network FIU.net or its successor. That network shall ensure the secure	

Line	COM Proposal (8411/18 dd. 17/04/2018)	EP Position/Ammendments (A8-0442/2018, vote on 3.12.2018)	Council negotiation mandate (14792/18 dd. 21/11/2018)	Comments
	communication and shall be capable of producing a written record under conditions that allow ascertaining authenticity. In the event of technical failure of the FIU.net, the financial information or financial analysis shall be transmitted by any other appropriate means ensuring a high level of data security.		communication and shall be capable of producing a written record under conditions that allow ascertaining authenticity. In the event of technical failure of the FIU.net, the financial information or financial analysis shall be transmitted by any other appropriate means ensuring a high level of data security.	
131		AM 49 <i>4a. Member States shall ensure that the information exchanged pursuant to this Article is used only for the purpose for which it was sought or provided, and that any dissemination of that information by the receiving Financial Intelligence Unit to any other authority, agency or department, or any use of this information for purposes other than those originally approved, is made subject to the prior consent of the Financial Intelligence Unit providing the information.</i>		
132		AM 50 <i>4b. Member States shall ensure that the prior consent requested from the Financial Intelligence</i>		

Line	COM Proposal (8411/18 dd. 17/04/2018)	EP Position/Ammendments (A8-0442/2018, vote on 3.12.2018)	Council negotiation mandate (14792/18 dd. 21/11/2018)	Comments
		<i>Unit under paragraph 4a is granted promptly and to the largest extent possible. The Financial Intelligence Unit from which consent is requested shall not refuse to grant consent unless it would clearly fall beyond the scope of application of this Directive, could lead to impairment of a criminal investigation, would be clearly disproportionate in light of the legitimate interests of a natural or legal person or of the Member State of the requested Financial Intelligence Unit, or would otherwise clearly not be in accordance with fundamental principles of national law of that Member State. Any such refusal to grant consent shall be appropriately explained.</i>		
133		AM 51 <i>Article 9a Transfer of financial data to third countries</i>		
134		<i>The transfer of financial data to third countries and international partners, for the purposes laid down in this Directive shall only be allowed under the conditions laid</i>		Acompromise solution might consist in reintroducing recital (27)

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		<i>down in Chapter V of Directive (EU) 2016/680 or Chapter V of Regulation (EU) 2016/679.</i>		which was deleted in the Council text (same wording).
135		AM 52 <i>Article 9b</i> <i>Exchange of information between competent authorities in different Member States</i>		<i>To be assessed by the Member States</i>
136		<i>1. Subject to national procedural safeguards, each Member State shall ensure that its competent authorities designated under Article 3 (1) are enabled to exchange information obtained from the access to the national centralised bank account registries set up by the Member States in accordance with Article 32a of Directive (EU) 2015/849, upon request, and on a case-by-case basis, where that bank account information is necessary for the prevention and combating of money laundering, associate predicate offences and terrorist financing.</i>		
137		<i>2. Subject to national procedural safeguards, each Member State shall ensure that its</i>		

Line	COM Proposal (8411/18 dd. 17/04/2018)	EP Position/Ammendments (A8-0442/2018, vote on 3.12.2018)	Council negotiation mandate (14792/18 dd. 21/11/2018)	Comments
		<i>competent authorities designated under Article 3 (2) are enabled to exchange financial information or financial analysis requested from the Financial Intelligence Unit from that Member State, upon request and on a case-by-case basis from a designated competent authority in another Member State, where that financial information or financial analysis is necessary for the prevention and combating of money laundering, associate predicate offences and terrorist financing.</i>		
138		<i>3. Member States shall ensure that a request issued pursuant to this Article and its response are transmitted using dedicated secure electronic communications ensuring a high level of data security. That network shall be capable of producing a written record under conditions that allow authenticity of the request and its response to be ascertained.</i>		
139	Chapter IV			

Line	COM Proposal (8411/18 dd. 17/04/2018)	EP Position/Ammendments (A8-0442/2018, vote on 3.12.2018)	Council negotiation mandate (14792/18 dd. 21/11/2018)	Comments
140	Europol			
141	Article 10 Access by Europol to bank account information and exchange of information between Europol and Financial Intelligence Units	AM 53 Access by Europol to Provision of bank account information and exchange of information between to Europol and Financial Intelligence Units.		
142	1. Each Member State shall ensure that its Europol National Unit replies to duly justified requests related to bank account information made by the Agency for Law Enforcement Cooperation established by Regulation (EU) 2016/794 of the European Parliament and of the Council ('Europol') on a case-by-case basis within the limits of its responsibilities and for the performance of its tasks.	AM 54 1. Each Member State shall ensure that its Europol National Unit replies is entitled to reply to duly justified requests related to bank account information made by the Agency for Law Enforcement Cooperation established by Regulation (EU) 2016/794 of the European Parliament and of the Council ('Europol') on a case-by-case basis within the limits of its responsibilities and for the performance of its tasks. Article 7 (7) of Regulation (EU) 2016/794 shall apply.	1. Each Member State shall ensure that its Europol National Unit replies competent authorities are entitled to reply, through the Europol National Unit or by direct contacts with Europol if allowed by that Member State , to duly justified requests related to bank account information made by the Agency for Law Enforcement Cooperation established by Regulation (EU) 2016/794 of the European Parliament and of the Council ('Europol') on a case-by-case basis within the limits of its responsibilities and for the performance of its tasks. Article 7(7) of Regulation (EU) 2016/794 shall apply.	<i>Cf. lines 146 and 147, as the Presidency could in principle agree with splitting the Article for the purposes of presentation.</i>

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143	2. Each Member State shall ensure that its Financial Intelligence Unit replies to duly justified requests related to financial information and financial analysis made by Europol through the Europol National Unit within the limits of its responsibilities and for the performance of its tasks.	AM 55 <i>deleted</i>	2. Each Member State shall ensure that its Financial Intelligence Unit replies is entitled to reply to duly justified requests related to financial information and financial analysis made by Europol through the Europol National Unit, or by direct contacts between the Financial Intelligence Unit and Europol if allowed by that Member State , within the limits of its responsibilities and for the performance of its tasks. Exemptions provided for under Article 32(5) of Directive (EU) 2015/849 shall apply. Article 7(7) of Regulation (EU) 2016/794 shall also apply.	<i>Cf. lines 146 and 147, as the Presidency could in principle agree with splitting the Article for the purposes of presentation.</i>
144	3. Exchange of information under paragraphs 1 and 2 shall take place electronically through SIENA and in accordance with Regulation (EU) 2016/794. The language used for the request and the exchange of information shall be that applicable to SIENA.	AM 56 <i>deleted</i>	3. Exchange of information between the competent authorities, Financial Intelligence Units or Europol National Units and Europol under paragraphs 1 and 2, respectively , shall take place electronically through SIENA and in accordance with Regulation (EU) 2016/794 or via the FIU.Net or its successor where applicable. The language used for the request and	<i>Cf line 150.</i>

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			the exchange of information shall be that applicable to SIENA.	
145		AM 57 <i>Article 10 a</i> <i>Exchange of information between Europol and Financial Intelligence Units</i>		
146		<i>1. Each Member State shall ensure that its Financial Intelligence Unit is entitled to reply to duly justified requests made by Europol through the Europol National Unit that are related to financial information and financial analysis on a case-by-case basis within the limits of the responsibilities of Europol and for the performance of its tasks.</i>		<i>Joint compromise proposal to combine the features of both texts in lines 146-147; the text in square brackets remains for political discussion concerning the solution for ENUs in Article 3:</i> 1. Each Member State shall ensure that its Financial Intelligence Unit is entitled to reply to duly justified requests made by Europol through the Europol National Unit <i>[or by direct contacts between the Financial Intelligence Unit and Europol if allowed by that Member State,]</i> that are related to financial information and financial analysis

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				on a case-by-case basis within the limits of the responsibilities of Europol and for the performance of its tasks
147		<i>2. Exemptions provided for under Article 32(5) of Directive (EU) 2015/849 shall apply to the exchange. Any refusal shall be appropriately explained.</i>		<i>2. Exemptions provided for under Article 32(5) of Directive (EU) 2015/849 shall apply to the exchange. Article 7(7) of Regulation (EU) 2016/794 shall also apply.</i> <i>2a. Any failure to comply with the request shall be appropriately explained.</i>
148		<i>3. Europol shall provide feedback to the FIU through the Europol National Unit about the use made of the information or analysis provided in accordance with this Article and about the outcome of the investigations or inspections performed on the basis of this information or analysis in line with Regulation (EU) 2016/794.</i>		
149		AM 58 <i>Article 10 b</i> <i>Detailed arrangements for the</i>		

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		<i>exchange of information</i>		
150		<i>1. Exchange of information under Articles 10 and 10a shall take place electronically through SIENA and in accordance with Regulation (EU) 2016/794. The language used for the request and the exchange of information shall be that applicable to SIENA.</i>		Joint proposal to merge the EP text with the Council wording concerning FIU.net: <i>Exchange of information under Articles 10 and 10a shall take place electronically through SIENA and in accordance with Regulation (EU) 2016/794. The language used for the request and the exchange of information shall be that applicable to SIENA.</i> <i>Where applicable, this exchange shall take place via the FIU.Net or its successor.</i>
151		<i>2. The information shall be exchanged as soon as possible and in any case no later than five days after the receipt of the request. In</i>		

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		<i>exceptional, duly justified cases, this time limit may be extended by a maximum of ten days.</i>		
152	Article 11 Data protection requirements			
153	1. The processing of personal data related to bank account information, financial information and financial analysis referred to in Article 10(1) and (2) shall be performed only by the persons within Europol who have been specifically designated and authorised to perform those tasks.	AM 59 1. The processing of personal data related to bank account information, financial information and financial analysis referred to in Article 10(1) and (2) shall be performed only by the persons within Europol who have been specifically designated and authorised to perform those tasks <i>means of operational analysis projects, in respect of which the specific safeguards laid down in Article 18 (3) of Regulation (EU) 2016/794 shall apply.</i>		Joint compromise proposal: The processing of personal data related to bank account information, financial information and financial analysis referred to in Article 10(1) and (2) shall be performed only by the persons within Europol who have been specifically designated and authorised to perform those tasks and in accordance with <i>Article 18 (3) of Regulation (EU) 2016/794 shall apply</i>
154	2. Europol shall inform the data protection officer appointed in accordance with Article 41 of Regulation (EU) 2016/794 of each exchange of information pursuant to Article 10 of this Directive.	AM 60 2. Europol shall inform the data protection officer appointed in accordance with Article 41 of Regulation (EU) 2016/794 of each exchange of information pursuant to Article 10 <i>Articles 10 and 10a</i> of this Directive.		<i>Provisionally agreed, provided the Council agrees to split Article 10.</i> 2. Europol shall inform the data protection officer appointed in accordance with Article 41 of Regulation (EU) 2016/794 of each exchange of information pursuant to

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				Article 10 Articles 10 and 10a of this Directive.
155	Chapter V			
156	Additional provisions related to the Processing of Personal data			
157	Article 12 Scope			
158	This Chapter shall only apply to designated competent authorities and Financial Intelligence Units in the exchange of information pursuant to Chapter III and in respect of exchanges of financial information and financial analysis involving the Europol National Units pursuant to Chapter IV.			
159	Article 13 Processing of sensitive data	AM 61 Processing of sensitive <i>personal</i> data		<i>Processing of sensitive personal data</i>
160	1. The processing of information revealing a person's race or ethnic origin, political opinions, religion or philosophical beliefs, trade union membership, health, sexual life or sexual	AM 62 1. The processing of information <i>personal data</i> revealing a person's race or ethnic origin, political opinions, religion <i>religious</i>	1. The processing of information revealing a person's race or ethnic origin, political opinions, religion or philosophical beliefs, trade union membership, health, sexual life or sexual	Joint compromise proposal: 1. The processing of information <i>personal data</i> revealing a person's race or ethnic origin, political opinions, religion <i>religious</i>

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	orientation may only be allowed to the extent that it is strictly necessary and relevant in a specific case	or philosophical beliefs, trade union membership, data concerning health, sexual or data concerning a natural person's sex life or sexual orientation shall only be allowed to the extent that it is strictly necessary and relevant in a specific case in accordance with Article 10 of Directive (EU) 2016/680.	orientation may only be allowed to the extent that it is strictly necessary and relevant in a specific case, subject to appropriate safeguards for the rights and freedoms of the data subject.	or philosophical beliefs, trade union membership, data concerning health, sexual or data concerning a natural person's sex life or sexual orientation shall only be allowed to the extent that it is strictly necessary and relevant in a specific case subject to appropriate safeguards for the rights and freedoms of the data subject in accordance with relevant EU data protection legislation.
161	2. Only persons specifically authorised may access and process the data referred to in paragraph 1 under the instruction of the data protection officer	AM 63 2. Only persons specifically authorised and trained may access and process the data referred to in paragraph 1 under the instruction of the data protection officer	2. Only persons specifically authorised by the controller may access and process the data referred to in paragraph 1 under the instruction of the data protection officer.	Joint compromise proposal: Only persons specifically trained and who have been specifically authorised by the controller may access and process the data referred to in paragraph 1 under the instruction of the data protection officer
162	Article 14 Records of information requests			

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163	Member States shall ensure that the requesting and the responding authorities maintain records relating to requests for information pursuant to this Directive. Those records shall contain at least the following information:		Member States shall ensure that the requesting and the responding authorities maintain records relating to requests for information pursuant to this Directive. Those records shall contain at least the following information:	
164	(a) the name and contact details of the organisation and personnel member requesting the information;	AM 64 (a) the name and contact details of the organisation and personnel member requesting the information; <i>and, as far as possible, the identity of the recipient of the results of the query or search.</i>		
165	(b) the reference to the national case in relation to which the information is requested;			
166	(c) the requests made pursuant to this Directive and their executing measures.	AM 65 (c) <i>the subject matter of</i> the requests made pursuant to this Directive and their executing measures.	(c) the <i>subject matter of the</i> requests made pursuant to this Directive; and their	(c) the <i>subject matter of the</i> requests made pursuant to this Directive; and their
167			(d) <i>any</i> executing measures of such requests.	(d) <i>any</i> executing measures of such requests.
168	The records shall be kept for a period of five years, and shall be used solely for the purpose of verification of the lawfulness of the			

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	processing of personal data. The authorities concerned shall make all records available, upon request, to the national supervisory authority.			
169	Article 15 Restrictions to data subjects rights			
170	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 processed under this Directive in order to:	AM 66 Member States shall may adopt legislative measures restricting, in whole or in part, the data subject's right of access to personal data relating to him or her processed under this Directive in order to: accordance with Article 15(1) of Directive (EU) 2016/680.	Member States shall may adopt legislative measures restricting, in whole or in part, the data subject's right of access to personal data relating to him or her processed under this Directive to the extent that, and for as long as, such a restriction constitutes a necessary and proportionate measure in a democratic society with due regard for fundamental rights and the legitimate interests of the natural person concerned in order to:	Compromise suggestion using a wording similaro to the one in Article 13 (line 161): Member States shall may adopt legislative measures restricting, in whole or in part, the data subject's right of access to personal data relating to him or her processed under this Directive in order to: accordance with relevant EU data protection legislation
171	(a) enable the Financial Intelligence Unit or the competent national authority to fulfil its tasks properly for the purposes of this Directive;	deleted	(a) enable the Financial Intelligence Unit or the competent national authority to fulfil its tasks properly for the purposes of this Directive;	deleted
172	(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	deleted	(b) avoid obstructing official or legal inquiries, analyses, investigations or procedures for the purposes of this Directive and to ensure that	Deleted, if solution in line 170 confirmed

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	money laundering, terrorist financing or other serious criminal offences is not jeopardised.			
173			(c) <i>avoid prejudicing</i> the prevention, investigation and detection of money laundering, terrorist financing or other serious criminal offences is not jeopardised .	Deleted, if solution in line 170 confirmed
174	Chapter VI			
175	Final provisions			
176	Article 16 Monitoring			
177	1. Member States shall review the effectiveness of their systems to combat serious criminal offences by maintaining comprehensive statistics.	AM 67 1. Member States shall review the effectiveness <i>and efficiency</i> of their systems to combat <i>with regard to the use of financial and other information for the prevention, detection, investigation or prosecution of</i> serious criminal offences by maintaining comprehensive statistics.		
178	2. By [6 months after the entry into force] at the latest, the			

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	Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Directive.			
179	The monitoring programme shall set out the means by which and the intervals at which the data and other necessary evidence will be collected. It shall specify the action to be taken by the Commission and by the Member States in collecting and analysing the data and other evidence.			
180	Member States shall provide the Commission with the data and other evidence necessary for the monitoring.			
181	3. In any event, the statistics referred to in paragraph 1 shall include the following information:			
182	(a) the number of searches carried out by designated competent authorities in accordance with Article 4;			
183	(b) data measuring the volume of requests issued by each authority covered by this Directive, the follow-up given to those requests, the number of cases investigated, the number of persons prosecuted, the number of persons convicted for			

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	serious criminal offences, where such information is available;			
184	(c) data measuring the time it takes an authority to respond to a request after the receipt of the request;			
185	(d) if available, data measuring the cost of human or IT resources that are dedicated to domestic and cross border requests falling under this Directive.			
186	4. Member States shall organise the production and gathering of the statistics and shall transmit the statistics referred to in paragraph 3 to the Commission on an annual basis.			
187	Article 17 Relationship to other instruments			
188	1. Member States may continue to apply bilateral or multilateral agreements or arrangements between themselves on the exchange of information between competent authorities that are in force on the date of entry into force of this Directive, in so far as such agreements or arrangements are compatible with this Directive.		1. <i>This Directive shall not preclude</i> Member States may continue to apply from <i>maintaining or concluding</i> bilateral or multilateral agreements or arrangements between themselves on the exchange of information between competent authorities <i>or on mutual legal assistance</i> that are in force on the date of entry into force of this	

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			Directive, in so far as such agreements or arrangements are compatible with Union Law, in particular this Directive.	
189	2. This Directive is without prejudice to any obligations and commitments of Member States or of the Union by virtue of bilateral or multilateral agreements with third countries.		2. This Directive is without prejudice to any obligations and commitments of Member States or of the Union by virtue of existing bilateral or multilateral agreements with third countries.	
190			3. <i>Without prejudice to the division of competence between the Union and the Member States, in accordance with Union law, Member States shall notify the Commission of their intention to enter into negotiations on, and to conclude, agreements between Member States and third countries.</i>	
191			<i>If, within two months of the receipt of the notification of a Member State's intention to enter into the negotiations referred to in the first subparagraph, the Commission concludes that the negotiations are likely to undermine the objectives of Union negotiations underway with the third countries concerned or to lead to an agreement which is</i>	

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			<i>incompatible with Union law, it shall inform the Member State accordingly.</i>	
192			<i>Member States shall keep the Commission regularly informed of any such negotiations and, where appropriate, invite the Commission to participate as an observer.</i>	
193			<i>Member States shall be authorised to provisionally apply or to conclude agreements with third countries, provided that they are compatible with Union law and do not harm the object and purpose of the relevant policies of the Union. The Commission shall adopt such authorisation decisions by implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 18a.</i>	
194	Article 18 Evaluation			
195	1. By [OJ please insert date: three years after the date of transposition of this Directive] at the latest, and every three years	AM 68 1. By [OJ please insert date: three two years after the date of transposition of this Directive] at the		1. By [OJ please insert date: three years after the date of transposition of this Directive] at

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	thereafter, the Commission shall draw up a report on the implementation of this Directive and submit it to the European Parliament and to the Council. The report shall be made public.	latest, and every three years thereafter, the Commission shall draw up a report on the implementation of this Directive and submit it to the European Parliament and to the Council. The report shall be made public.		<i>the latest, and every three years thereafter, the Commission shall draw up a report on the implementation of this Directive and submit it to the European Parliament and to the Council. The report shall be made public.</i>
196		AM 69 <i>1 a. The Commission shall assess the obstacles and opportunities to enhance cooperation between FIUs in the Union including the possibility and appropriateness of establishing a coordination and support mechanism, such as an EU FIU.</i>		
197	2. No sooner than six years after the date of transposition of this Directive, the Commission shall carry out an evaluation of this Directive and present a report on the main findings to the European Parliament and the Council. The evaluation shall be conducted according to the Commission's better regulation Guidelines. The report shall also include an evaluation of how fundamental rights and principles recognised by the Charter of Fundamental Rights			

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	of the European Union have been respected.			
198	3. For the purposes of paragraphs 1 and 2, Member States shall provide the Commission with necessary information for the preparation of the reports. The Commission shall take into account the statistics submitted by Member States under Article 16 and may request additional information from Member States and supervisory authorities.			
199			Article 18a <i>Committee procedure</i>	
200			1. <u>The Commission shall be assisted by a committee. This committee shall be a committee within the meaning of Regulation (EU) No 182/2011.</u>	
201			2. <u>Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.</u>	
202	Article 19 Transposition			

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203	1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive by XXY [26 months after the date of entry into force of Directive (EU) (...)/2018: OJ please insert number of Directive amending Directive (EU) 2015/849] at the latest. They shall forthwith communicate to the Commission the text of those provisions.	AM 70 Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive by <i>no later than...</i> [26-24 months after the date of entry into force of Directive (EU) (...)/2018-OJ please insert number of Directive amending Directive (EU) 2015/849 ⁺]. They shall forthwith communicate to the Commission the text of those provisions.	1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive by XXY [26-24 months after the date of entry into force of <i>this</i> Directive (EU) (...)/2018: OJ please insert number of Directive amending Directive (EU) 2015/849] at the latest. They shall forthwith communicate to the Commission the text of those provisions.	
204		⁺ <i>OJ: please insert number of Directive amending Directive (EU) 2015/849]</i>		
205	When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.			
206		AM 71 <i>1a. By [OJ please insert date: three years after the date of transposition of this Directive] at the latest, the Commission shall</i>		

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		<i>draw up a report assessing the necessity of specific measures to ensure diagonal cooperation, i.e. cooperation between Financial Intelligence Units in one Member States with competent authorities in another Member State. The report shall be submitted to the European Parliament and to the Council and be accompanied by a legislative proposal, if considered necessary.</i>		
207		AM 72 <i>1b. By [OJ please insert date: three years after the date of transposition of this Directive] at the latest, the Commission shall draw up a report assessing the necessity of specific measures to ensure uniformity in the organisational status and role conferred on Financial Intelligence Units under the national law of Member States, to ensure efficient cooperation and exchange of information. The report shall be submitted to the European Parliament and to the Council and be accompanied by a legislative proposal, if considered</i>		

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		<i>necessary.</i>		
208	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.			
209	Article 20 Repeal of Decision 2000/642/JHA			
210	Decision 2000/642/JHA is repealed with effect from [<i>the date of transposition of this Directive</i>].			
211	Article 21 Entry into force			
212	This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .			
213	Article 22 Addressees			
214	This Directive is addressed to the Member States in accordance with the Treaties.			
215	Done at Strasbourg,			
216	For the European Parliament For the Council			

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217	The President The President			