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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft conclusions on strategic priorities on anti-money laundering and countering the financing of terrorism

Delegations will find attached the draft Council Conclusions on strategic priorities on anti-money laundering and countering the financing of terrorism, as prepared by the Economic and Financial Committee on 25 November 2019.

DRAFT COUNCIL CONCLUSIONS
on
strategic priorities on anti-money laundering and countering the financing of terrorism

THE COUNCIL OF THE EUROPEAN UNION:

1. RECALLING the European Council conclusions of June 2016¹ and the EU Strategic Agenda for 2019-2024², and further to the Council conclusions of February 2016³, October 2016⁴ and December 2018⁵ on anti-money laundering, UNDERLINES that the fight against money laundering and terrorist financing remains a high priority for the European Union.
2. RECOGNISES the significance of recent changes to the legal framework, including the adoption of the fifth Anti-Money Laundering Directive, the Directive on combating money laundering by criminal law and the Directive on facilitating the use of financial information for combating crime, the clarification of the role of prudential supervisors in the fifth Capital Requirements Directive, and the strengthened role of the European Banking Authority in fighting money laundering and terrorist financing through the amendment of the founding Regulations of the European Supervisory Authorities.
3. NOTES the progress made in the implementation of the 2018 Council Action Plan and the efforts of the Member States to strengthen their anti-money laundering and countering the financing of terrorism frameworks following the recent instances of alleged money laundering involving EU banks.

¹ European Council conclusions of 28 June 2016 (ST 26/16).

² EU Strategic Agenda for 2019-2024 (ST EUCO 9/19), which calls for improved cooperation and information-sharing to fight terrorism and cross-border crime.

³ Council conclusions of 12 February 2016 on the fight against the financing of terrorism (ST 6068/16).

⁴ Council conclusions on the Commission Communication on further measures to enhance transparency and the fight against tax evasion and avoidance (ST 13139/16).

⁵ Council conclusions on an Anti-Money Laundering Action Plan (ST 15164/18).

4. WELCOMES the reports submitted by the Commission in July 2019⁶ on the implementation of the EU anti-money laundering and countering the financing of terrorism framework. NOTES several identified instances of inadequate implementation and application of the relevant framework, particularly in relation to cross-border cooperation and coordination.
5. UNDERLINES the importance of taking a holistic approach, and NOTES that further work is needed to determine the areas in which the current legal framework could be further harmonised throughout the Union to enable the various competent authorities and obliged entities to perform their tasks more effectively, and to allow more effective cooperation and coordination. NOTES that such work should not be limited to the financial sector, and that consideration could also be given to further harmonisation of certain provisions relating to other sectors covered by the relevant legislation.
6. RECOGNISES the importance of findings in the Commission's reports concerning outstanding structural issues relating to anti-money laundering supervisors and the need for stronger coordination between Financial Intelligence Units and NOTES that addressing them would enhance the effectiveness of the current framework.

⁶ Documents ST 11514/19 (+ADD1), ST 11516/19, ST 11517/19, ST 11518/19, ST 11519/19.

7. UNDERLINES that potential reforms should be drawn up in a comprehensive way, consider the recent changes to the legal framework and the measures completed under the 2018 Council Action Plan, and take into account the role of the various competent authorities involved in the fight against money laundering and terrorist financing, while protecting the integrity of the internal market, financial stability and the security of the Union, and in line with general principles of the Treaties, such as proportionality and subsidiarity.
8. UNDERLINES the need to enhance Financial Intelligence Units' capacity to tackle money laundering and terrorist financing, including by reinforcing their cooperation and strengthening the coordination work carried out by the EU Financial Intelligence Units Platform.
9. RECOGNISES the findings in the supranational risk assessment and ACKNOWLEDGES that the risk assessments carried out by national authorities are to make use of those findings, as enshrined in the Anti-Money Laundering Directive.
10. NOTES that money laundering and terrorist financing are global phenomena that do not stop at EU borders, and RECOGNISES the importance of ongoing work in international fora, in particular efforts made in the context of the Financial Action Task Force (FATF) to promote international standards in the area of anti-money laundering and countering terrorist financing.

11. NOTES the work done by the Commission in refining the methodology for identifying high-risk third countries as required by the Anti-Money Laundering Directive.
12. RECALLS commitments taken in the G20, especially with regard to the implementation of high-level principles on transparency and beneficial ownership, which remain a key priority in the fight against money laundering and terrorist financing.

In this context, THE COUNCIL:

13. URGES all Member States to swiftly complete the transposition of all relevant Union legislation in this area and to strengthen the effective implementation and application thereof as soon as possible.
14. CALLS on all relevant parties to complete the actions detailed in the Action Plan on Anti-Money Laundering of December 2018.
15. CALLS for efforts to be stepped up to obtain recognition of the supranational nature of the European Union's anti-money laundering and countering the financing of terrorism legal framework by the FATF and MONEYVAL, while also noting that international standards should continue to be incorporated into EU law in a timely and comprehensive manner to ensure full and even compliance throughout the internal market.

16. INVITES the Commission to thoroughly assess, as a matter of priority, any possible restrictions stemming from existing legislation, or lack thereof, with regard to efficient information exchange and cooperation among all relevant competent authorities involved in the implementation and supervision of the Union's anti-money laundering and countering the financing of terrorism framework, and INVITES the Commission to present, if appropriate, legislative proposals to address its findings.
17. INVITES the Commission to further consider the possibility of creating a coordination and support mechanism that encourages and facilitates the cross-border work of Financial Intelligence Units, including through enhancing strategic cooperation and promoting joint analyses.
18. INVITES the Commission to further explore actions to enhance the Union's anti-money laundering and countering the financing of terrorism framework, including by considering whether some aspects could be better addressed through a regulation, and by exploring the opportunities and challenges in using technological innovation in combatting money laundering and countering the financing of terrorism. INVITES the Commission to prioritize the financial sector but to also consider further enhancements to the framework for certain areas of the non-financial sector, while taking into account the impact of the implementation of the recently introduced legal framework.

19. INVITES the Commission to consider various ways to ensure high quality and consistent anti-money laundering supervision throughout the Union, while paying particular attention to the robustness and efficiency of enforcement practices, also when cross-border aspects and cooperation among authorities are involved.
20. INVITES the Commission to explore in particular the possibilities, advantages and disadvantages of conferring certain responsibilities and powers for anti-money laundering supervision to a Union body with an independent structure and direct powers vis-à-vis certain obliged entities chosen by the EU body in accordance with a risk-based approach, taking into account cross-border aspects, and based on a comprehensive analysis, to present legislative proposals in that regard in parallel to efforts to achieve a higher level of harmonization through an AML regulation.
21. INVITES the Commission to work on the actions outlined above in close consultation with Member States and to report every six months, starting with June 2020.
