



The Consumer Voice in Europe

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing

BEUC POSITION

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Introduction

BEUC supports the Commission's legislative proposal to protect the financial system from being misused for money laundering and financing of terrorism purposes. However, from a consumer perspective, it is also very important that the anti-money laundering and anti-terrorist financing rules do not jeopardise other EU objectives in the area of retail financial services, in particular as regards the right to have a bank account, consumer choice and consumer mobility within the Single Market and the protection of their privacy and personal data. Being overly cautious as to anti-money laundering safeguards can have the unintended consequence of excluding consumers from the financial market.

Even if some consumer concerns, like the issue of financial inclusion, are mentioned in the explanatory memorandum of the proposal, this issue is not effectively addressed.

Furthermore, the issue of the impact of divergent interpretation of the anti-money laundering directive (AMLD) between Member States and between banks that we highlighted in our response to the public consultation organized by the European Commission is not addressed at all. Such divergences do not only act as barriers to consumers' access to financial services both at national and cross-border level and restrict their mobility within the Single Market. They also leave the door wide open to a possible burdening of the consumer with request to supply unnecessary supporting documents when opening a bank account and provide personal data which can be misused for commercial purpose – in both instances exceeding what is strictly necessary to comply with the AMLD objective.

In several countries, the proof of residence is necessary to open a bank account which creates difficulties for consumers in particular circumstances. Some financial institutions use legislation on money laundering to deny the opening of a bank account even if their decision is not based on the assessment of a real risk. Immigrants as well as people having irregular incomes or receiving social benefits have more difficulties to provide supporting documents of their revenues. In addition, one can also wonder why a bank should have an overview of incomes, personal properties and assets of its private customers when no suspect transaction has been identified.

Several AMLD provisions should be amended in order to achieve a more coherent application of this directive across Member States, reduce the eventuality of arbitrary and unfounded refusals to open bank accounts, better protect consumer personal data and privacy, and better conform with other EU legislation.

Summary

- Stricter provisions adopted by Member States when transposing this directive should not unduly prevent consumers from accessing financial services and constitute an obstacle to the functioning of the Single Market.
- Measures to be adopted by the obliged entities to comply with this directive, in particular banks, should not allow them to ask consumers to provide more personal data than necessary or deny access to financial services to some categories of consumers both at national and cross-border level.
- Consumers should never be required to reside or to have proven links in the country where the business relationship is to be established or the transaction carried-out.