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Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

Amending

Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, as regards the implementing powers conferred on the Commission

(presented by the Commission)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

Amending

Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, as regards the implementing powers conferred on the Commission

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 47(2), first and third sentences, and Article 95 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the European Central Bank,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) Directive 2005/60/EC of the European Parliament and of the Council³ provides that certain measures are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁴.
- (2) Decision 1999/468/EC has been amended by Decision 2006/512/EC, which introduced a regulatory procedure with scrutiny for measures of general scope designed to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, including by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ L 309, 25.11.2005, p. 15. Directive as amended by Commission Directive 2006/70/EC (OJ L 214, 4.8.2006, p. 29).

⁴ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p.11).

- (3) In accordance with the joint statement of the European Parliament, the Council and the Commission⁵ on Decision 2006/512/EC, instruments which are already in force must be adjusted in accordance with the applicable procedures. That statement indicates a list of instruments which should be adjusted as a matter of urgency, including Directive 2005/60/EC.
- (4) In particular power should be conferred on the Commission to adopt the measures necessary for the implementation of Directive 2005/60/EC in order to take account of technical developments in the fight against money laundering or terrorist financing and to ensure uniform application of that Directive. More particularly, those measures are designed to clarify the technical aspects of some of the definitions provided under Directive 2005/60/EC, to establish technical criteria for assessing whether situations present a low risk - or on the contrary, a high risk - of money laundering or terrorist financing, whether it is justified or not to apply that Directive to persons carrying out a financial activity on an occasional or very limited basis, and to adapt the amounts foreseen in that Directive, taking account of economic developments and changes in international standards. Since those measures are of general scope and are designed to amend and supplement Directive 2005/60/EC by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (5) Directive 2005/60/EC provided for a time restriction concerning the implementing powers conferred to the Commission. In their joint statement on Decision 2006/512/EC, the European Parliament, the Council and the Commission have stated that Decision 2006/512/EC provides a horizontal and satisfactory solution to the European Parliament's wish to scrutinise the implementation of instruments adopted under the co-decision procedure and that, accordingly, implementing powers should be conferred on the Commission without time-limit. The European Parliament and Council also declared that they would make sure that the proposals aimed at repealing the provisions in the instruments that provide for a time-limit on the delegation of implementing powers to the Commission are adopted as rapidly as possible. Following the introduction of the regulatory procedure with scrutiny, the provision establishing that time restriction in Directive 2005/60/EC should be deleted.
- (6) Directive 2005/60/EC should therefore be amended accordingly.
- (7) Since the amendments to be made to Directive 2005/60/EC by this Directive are adjustments of a technical nature which only concern the committee procedures, they do not need to be transposed by the Member States. It is therefore not necessary to lay down provisions to that effect.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2005/60/EC is amended as follows:

- (1) Article 40(1) is amended as follows:

⁵ OJ C 255, 21.10.2006, p. 1.

(a) The terms "in accordance with the procedure referred to in Article 41(2)" are deleted.

(b) The following subparagraph is added:

"The measures referred to in the first subparagraph, designed to amend non-essential elements of this Directive, including by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 41(2a)."

(2) Article 40(3) is amended as follows:

(a) The terms "in accordance with the procedure referred to in article 41(2)" are deleted.

(b) The following subparagraph is added:

"The measures referred to in the first subparagraph, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 41(2a)."

(3) Article 41 is amended as follows:

(a) The following paragraph 2a, is inserted:

'2a. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.'

(b) Paragraphs (3) and (4) are deleted.

Article 2

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

Article 3

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President