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

of 7.5.2020

amending Delegated Regulation (EU) 2016/1675 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council, as regards adding the Bahamas, Barbados, Botswana, Cambodia, Ghana, Jamaica, Mauritius, Mongolia, Myanmar/Burma, Nicaragua, Panama and Zimbabwe to the table in point I of the Annex and deleting Bosnia-Herzegovina, Ethiopia, Guyana, Lao People's Democratic Republic, Sri Lanka and Tunisia from this table

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

According to Article 9(1) of Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as amended by Directive (EU) 2018/843, third-country jurisdictions which have strategic deficiencies in their Anti-Money Laundering / Counter Terrorist Financing (AML/CFT) regimes that pose significant threats to the financial system of the Union (“high-risk third countries”) must be identified in order to protect the proper functioning of the internal market. Article 9(2) of the Directive empowers the Commission to adopt delegated acts in order to identify those high-risk third countries, taking into account strategic deficiencies, and laying down the criteria on which the Commission's assessment is to be based. The delegated acts must be adopted within one month after the identification of the strategic deficiencies. Article 18a of Directive (EU) 2015/849 obliges Member States to require obliged entities to apply enhanced customer due diligence measures when establishing business relationships or carrying out transactions involving high-risk third countries identified by the Commission.

On 14 July 2016, the Commission adopted Delegated Regulation (EU) 2016/1675 which identified a number of third countries that have strategic deficiencies in their AML/CFT regimes that pose significant threats to the financial system of the Union. This Delegated Regulation was subsequently amended by Delegated Regulation (EU) 2018/105, Delegated Regulation (EU) 2018/212, and Delegated Regulation (EU) 2018/1467.

Following the amendment of Article 9 by Directive (EU) 2018/843, Commission Staff Working Document which was published on 22 June 2018¹ sets out the methodology that the Commission applies for the identification of high-risk third countries.

On 13 February 2019, the Commission adopted a Delegated Regulation identifying third-country jurisdictions pursuant to Article 9 of Directive (EU) 2015/849 and applying the methodology issued for this purpose. On 7 March 2019, the Council objected to this Delegated Regulation on procedural grounds, as “not established in a transparent and resilient process that actively incentivises affected countries to take decisive action while also respecting their right to be heard”². The European Parliament in its resolution of 14 March 2019³, while commended the Commission’s work, called on the Commission to ensure “a transparent process with clear and concrete benchmarks for countries which commit to undergo reforms so as to avoid being listed” and to “engage with the Member States to increase the Council’s ownership over the Commission’s proposed methodology”.

In this context, a revised methodology for identifying high-risk third countries, which supersedes the previous one, has been published on 7 May 2020⁴. Its key new elements are an increased interaction with the Financial Action Task Force listing process; an enhanced engagement with the third countries; and reinforced consultation of Member States and the European Parliament.

It is necessary to continue to update the Delegated Regulation in order to take into account information from international organisations and standard setters in the field of AML/CFT,

¹ SWD(2018) 362 final available at:

https://ec.europa.eu/info/sites/info/files/swd_2018_362_f1_staff_working_paper_en_v2_p1_984066.pdf

² <https://data.consilium.europa.eu/doc/document/ST-6964-2019-REV-1/en/pdf>

³ https://www.europarl.europa.eu/doceo/document/TA-8-2019-0216_EN.html

⁴ Commission Staff Working document, Methodology for identifying high-risk third countries under Directive (EU) 2015/849, SWD(2020) 99.

such as FATF public statements, mutual evaluation or detailed assessment reports or published follow-up reports. The changing nature of money laundering and terrorist financing threats, facilitated by a constant evolution of technology and of the means at the disposal of criminals, requires that quick and continuous adaptations of the legal framework as regards high-risk third countries be made in order to efficiently address existing risks and prevent new ones from arising. Since the last amendments to Regulation (EU) 2016/1675 the FATF has identified a number of third countries as having strategic deficiencies at its Plenary meetings in October 2018, February 2019, June 2019, October 2019 and February 2020. Considering the level of financial systems' integration, the internal market would be exposed to serious risks of money laundering and terrorist financing if the EU does not add jurisdictions identified by the FATF to the EU list. Similarly, the FATF removed from its list a number of jurisdictions following the implementation of action plans agreed with the FATF.

Delegated Regulation (EU) 2016/1675 should be amended by adding third countries which have been identified as having strategic deficiencies as well as by removing those that no longer present strategic deficiencies on the basis of the criteria laid down in Directive (EU) 2015/849.

As outlined in the [Action plan on Terrorist Financing](#), the Commission is committed to providing technical assistance to the third countries identified under Delegated Regulation (EU) 2016/1675 to support them in remedying the identified strategic deficiencies. The Commission has set up an AML/CFT Global Facility (EUR 20 million) aimed at providing such technical assistance to support countries in the fight against money laundering and terrorist financing.

A. Addition to the list of Delegated Regulation (EU) 2016/1675

The Commission took into account, as appropriate, information from international organisations and standard setters in the field of AML/CFT, the recent FATF Public Statements, FATF documents “Improving Global AML/CFT Compliance: On-going Process Statement”, FATF reports of the International Cooperation Review Group, and mutual evaluation reports carried out by the FATF and the FATF-Style Regional Bodies (FSRBs) in relation to strategic deficiencies of individual third countries, in line with Article 9(4) of Directive (EU) 2015/849.

In particular, it considered The Bahamas, Barbados, Botswana, Cambodia, Ghana, Jamaica, Mauritius, Mongolia, Myanmar/Burma, Nicaragua, Panama and Zimbabwe as having strategic deficiencies in their AML/CFT regime, also based on the fact that these countries were identified in the FATF document “Improving Global AML/CFT Compliance: on-going process statement”.

Consequently, the Commission considers that The Bahamas, Barbados, Botswana, Cambodia, Ghana, Jamaica, Mauritius, Mongolia, Myanmar/Burma, Nicaragua, Panama and Zimbabwe meet the criteria set in article 9(2) of Directive (EU) 2015/849. These countries should be added to the list of the Delegated Regulation (EU) 2016/1675 as countries presenting strategic deficiencies in their AML/CFT regime that pose significant threats to the financial system of the Union.

It is further noted that Uganda was also identified by the FATF as having strategic deficiencies in its AML/CFT regime in February 2020. Uganda is already included in the list of Delegated Regulation (EU) 2016/1675. Therefore, the status and current measures applied with regard to Uganda remain unchanged and the Delegated Regulation (EU) 2016/1675 does not need to be amended in this respect.

The Bahamas, Barbados, Botswana, Cambodia, Ghana, Jamaica, Mauritius, Mongolia, Myanmar/Burma, Nicaragua, Panama, Uganda and Zimbabwe provided a written high-level political commitment to address the identified deficiencies and developed an action plan with the FATF for this purpose. The Commission welcomes these commitments and calls on these jurisdictions to complete the implementation of the action plan expeditiously and within the proposed timeframes. The implementation of the action plans will be closely monitored by the FATF. In order to take into account the level of commitment that has been demonstrated in the context of the FATF, these high-risk third countries are listed in the table in point I of the Annex to the Delegated Regulation (“High-risk third countries which have provided a written high-level political commitment to address the identified deficiencies and have developed an action plan with FATF”).

According to article 18a of Directive (EU) 2015/849, obliged entities in all Member States will be bound to apply enhanced customer due diligence measures with respect to business relationships or transactions involving countries included in Delegated Regulation (EU) 2016/1675.

B. Deletion from the list of Delegated Regulation (EU) 2016/1675

The Commission reviewed the strategic deficiencies of other countries listed in Delegated Regulation (EU) 2016/1675 that have been delisted by the FATF since July 2016 (Bosnia-Herzegovina, Guyana, Lao People’s Democratic Republic, Ethiopia, Sri Lanka and Tunisia) based on the requirements of Directive (EU) 2015/849.

The Commission's assessment concluded that, at this stage, Bosnia-Herzegovina and Guyana do not have strategic deficiencies in their AML/CFT regime considering the available information. Those countries have recently taken a number of measures in order to reinforce their AML/CFT regimes and remedy identified strategic deficiencies and the Commission will review those countries when new information sources become available.

Similarly the Commission's analysis concluded that Tunisia no longer has strategic deficiencies in its AML/CFT regime considering the available information. Tunisia has strengthened the effectiveness of its AML/CFT regime and addressed the strategic deficiencies identified by the FATF. These measures are sufficiently comprehensive and meet the necessary requirements to consider that strategic deficiencies identified under article 9 of the Directive (EU) 2015/849 have been removed. The European Union has provided technical assistance to Tunisia to help the country to address the FATF Action Plan.

Furthermore, the Commission's assessment concluded that Ethiopia, Lao People’s Democratic Republic and Sri Lanka no longer have such strategic deficiencies in their AML/CFT regime considering the available information. Following the measures implemented to address the action plan agreed with the FATF, Ethiopia, Lao People’s Democratic Republic and Sri Lanka have remedied the strategic deficiencies in their AML/CFT regime and no longer present a significant AML/CFT threat to the international financial system. Taking into account their relevance under the revised methodology, the Commission considers that these jurisdictions no longer have strategic deficiencies in the AML/CFT framework and do not pose a significant threat to the financial system of the Union.

For other countries which were delisted by the FATF since the adoption of Delegated Regulation (EU) 2016/1675, the assessment by the Commission is still ongoing (*i.e.*, Afghanistan, Iraq, Trinidad and Tobago and Vanuatu). Regarding Iraq and Afghanistan, available information sources did not allow the Commission to conclude, at this stage, whether they addressed their strategic deficiencies, in particular with respect to the effectiveness of their AML/CFT system and the relevant requirements of Article 9(2) of

Directive (EU) 2015/849. The evolving security situation in these countries and its impact on the AML/CFT regime also require further analysis before concluding whether strategic deficiencies have been addressed. Regarding Vanuatu, available information sources (notably recent relevant information from the Global Forum) did not allow the Commission to conclude, at this stage, whether it addressed its strategic deficiencies, notably with regard to transparency of beneficial ownership. Regarding Trinidad and Tobago, available information sources did not allow the Commission to conclude, at this stage, whether it addressed its strategic deficiencies, notably with regard to transparency of beneficial ownership for legal arrangements. The Commission will make a review of the AML/CFT regime of those countries as a matter of priority and will engage with them as appropriate, based on the revised methodology.

C. Other third countries publicly identified by the FATF

On 21 February 2020, the FATF publicly identified Albania as having strategic deficiencies in its AML/CFT regime. Albania made a written high-level political commitment to work with the FATF and MONEYVAL to remedy the identified strategic deficiencies. Since the publication of its Mutual Evaluation Report in July 2018, Albania has made progress to improve technical compliance and effectiveness, including by enhancing relevant authorities' understanding of terrorist financing risks in order to prosecute terrorist financing more effectively and by establishing a legal framework to implement targeted financial sanctions related to proliferation financing. Albania will work to implement its commitments, including by: (1) conducting additional in-depth analysis to understand its money laundering and other risks sufficiently, and enhancing institutional coordination and cooperation; (2) improving the timely handling of mutual legal assistance requests; (3) establishing effective mechanisms to detect and prevent criminal infiltration of the economy, including by strengthening competent authorities' powers to take necessary action; (4) ensuring that accurate and up-to-date basic and beneficial ownership information is available on a timely basis; (5) increasing the number and improving the sophistication of prosecutions and confiscations for money laundering, especially in cases involving foreign predicate offenses or third-party money laundering; (6) improving the implementation of targeted financial sanctions, in particular through enhanced supervisory action and targeted, proactive outreach.

As provided by the revised methodology, with respect to candidate countries, the Commission, in its assessment, may consider mitigating measures included in the accession negotiations that address the identified strategic deficiencies. In this context, the Commission has developed further mitigating measures with Albania in order to ensure alignment with Directive (EU) 2015/849, including by setting up registers of beneficial ownership information. The implementation of these mitigating measures goes beyond the commitments that Albania undertook with the FATF. Subject to the implementation of the commitments taken by Albania, the Commission considers that those additional mitigating measures allow addressing sufficiently the remaining deficiencies. Therefore, there is no need to adopt further measures under article 9 of Directive (EU) 2015/849 at this stage.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

On 4 May 2020, the Expert Group on Money Laundering and Terrorist Financing (EGMLTF) was consulted on the draft Delegated Regulation by written procedure.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

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

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

As a direct consequence of the adoption of this Delegated Regulation, obliged entities in all Member States will be bound to apply enhanced customer due diligence measures according to article 18a of Directive (EU) 2015/849 with respect to business relationships or transactions involving countries included in the Annex to this Delegated Regulation. Such obligations therefore also apply with regard to the countries added to the Annex - namely the Bahamas, Barbados, Botswana, Cambodia, Ghana, Jamaica, Mauritius, Mongolia, Myanmar/Burma, Nicaragua, Panama, and Zimbabwe.

Furthermore, Article 155 (2) of the Financial Regulation⁵ prohibits persons and entities implementing Union funds or budgetary guarantees from entering into new or renewed operations with entities incorporated or established in countries included in this Delegated Regulation pursuant to Directive (EU) 2015/849, except when an action is physically implemented in these countries and subject to the absence of other risk factors⁶. Implementing partners must transpose those requirements also in their own contracts with selected financial intermediaries.

4. OTHER ELEMENTS

Taking into account the very exceptional and unpredictable situation arising from the COVID-19 pandemic which has an impact at global scale and is very likely to lead to disruptions in the proper functioning of economic operators and competent authorities alike, the date of application of this Regulation concerning the addition of third countries should allow sufficient time for its effective implementation in these circumstances. Therefore, the date of application of Article 2 of this Regulation should exceptionally be set at a later date than its entry into force. It should apply as of 1 October 2020.

These considerations do not apply to the case of third countries which should be delisted, for which no major implementation issues arise. It is therefore reasonable to provide for delisting without undue delay.

⁵ Regulation (EU, Euratom) 2018/1046 of 18 July 2018 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018).

⁶ This is also relevant for the European External Investment Plan, as the same prohibition is contained in Article 22 (1) of Regulation (EU) 2017/1601 on the European Fund for Sustainable Development and in Regulation (EU) 2017/2396 on the European Fund for Strategic Investment

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (1)⁷, and in particular Article 9(2) thereof,

Whereas:

- (1) The Union has to ensure an effective protection of the integrity and proper functioning of its financial system and the internal market from money laundering and terrorist financing. Hence, Directive (EU) 2015/849 provides that the Commission should identify countries which present strategic deficiencies in their regimes on anti-money laundering and countering terrorist financing that pose significant threats to the financial system of the Union.
- (2) Delegated Regulation (EU) 2016/1675⁸ identified high-risk third countries with strategic deficiencies. That Regulation should be reviewed at appropriate times in light of the progress made by those high-risk third countries in removing the strategic deficiencies in their regime on anti-money laundering and countering terrorist financing ("AML/CFT"). The Commission should take into account in its assessments new information from international organisations and standard setters, such as those issued by the Financial Action Task Force (FATF). In light of that information, the Commission should also identify additional countries presenting strategic deficiencies in their AML/CFT regime.
- (3) Considering the high level of integration of the international financial system, the close connection of market operators, the high volume of cross border transactions to/from the Union, as well as the degree of market openness, it is therefore considered

⁷ OJ L 141, 5.6.2015, p. 73.

⁸ Commission Delegated Regulation (EU) 2016/1675 of 14 July 2016 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies (OJ L 254, 20.9.2016, p. 1).

that any AML/CFT threat posed to the international financial system also represents a threat to the financial system of the Union.

- (4) It is thus essential to take into account relevant work already undertaken at international level for identifying countries, in particular that of the FATF. With a view to ensuring the integrity of the global financial system, it is of the highest importance that the Union duly considers the countries identified as having strategic deficiencies in their AML/CFT regime in the FATF at Union level. In line with the criteria set out in Directive (EU) 2015/849, the Commission took into account the recent available information, in particular recent FATF Public Statements, FATF documents "Improving Global AML/CFT Compliance: Ongoing Process Statement", and FATF reports of the International Cooperation Review Group in relation to the risks posed by individual third countries, in line with Article 9(4) of Directive (EU) 2015/849.
- (5) Any third country representing a risk to the international financial system, as identified by the FATF, is presumed to represent a risk to the internal market. That presumption concerns any country publicly identified in the FATF documents "Public Statement" and in the FATF documents "Improving Global AML/CFT Compliance: Ongoing Process Statement".
- (6) In order to conduct its autonomous assessment, the Commission assessed available information from the FATF and, where appropriate, other sources of information to reach its conclusion. Following that assessment, the Commission's analysis has confirmed the respective strategic deficiencies described in recitals 8 to 19.
- (7) In October 2018, the FATF identified The Bahamas as a jurisdiction having strategic AML/CFT deficiencies for which The Bahamas has developed an action plan with the FATF. The Commission assessed the latest information received in this context from the FATF relating to these deficiencies and other relevant information. The Bahamas has taken steps towards improving its AML/CFT regime and in February 2020, the FATF has made the initial determination that The Bahamas has substantially completed its action plan and warrants an on-site assessment to verify that the implementation of The Bahamas' AML/CFT reforms has begun and is being sustained, and that the necessary political commitment remains in place to sustain implementation in the future. The FATF has yet to carry out such assessment to confirm its initial determination. Therefore, the Commission does not have in its possession information which would enable it to confirm at this stage that the strategic deficiencies have been effectively addressed. The future assessment will focus on the following areas: (1) developing of a comprehensive electronic case management system for international cooperation; (2) demonstrating risk-based supervision of non-bank financial institutions; (3) ensuring the timely access to adequate, accurate and current basic and beneficial ownership information; (4) increasing the quality of the Financial Intelligence Unit's products to assist Law Enforcement Authorities in the pursuance of Money Laundering (ML)/Terrorist Financing (TF) investigations, specifically complex ML/TF and stand-alone ML investigations; (5) demonstrating that authorities are investigating and prosecuting all types of money laundering, including complex ML cases, stand-alone money laundering, and cases involving proceeds of foreign offences; (6) demonstrating that confiscation proceedings are initiated and concluded for all types of ML cases; and (7) addressing gaps in the Terrorist Financing and Proliferation Financing Targeted Financial Sanctions' frameworks and demonstrating implementation. On this basis, the Bahamas should be

considered as a country having strategic deficiencies in its AML/CFT regime under Article 9 of Directive (EU) 2015/849.

- (8) In February 2020, the FATF identified Barbados as a jurisdiction having strategic AML/CFT deficiencies for which the Barbados has developed an action plan with the FATF. The Commission assessed the latest information received in this context from the FATF relating to these deficiencies and other relevant information. The deficiencies include: (1) lack of effective risk-based supervision for financial institutions and Designated non-financial businesses and professions (“DNFBPs”); (2) deficiencies relating to measures for preventing legal persons and arrangements from being misused for criminal purposes, and deficiencies in ensuring that accurate and up-to-date basic and beneficial ownership information is available on a timely basis; (3) deficiencies relating to the capacity of the Financial Intelligence Unit (“FIU”) in providing financial information to further assist law enforcement authorities in investigating money laundering or terrorism financing; (4) deficiencies relating to money laundering investigations and prosecutions which are not in line with the country’s risk profile and backlog of prosecutions; (5) deficiencies in pursuing confiscation in relation to money laundering cases, including limited assistance requested from foreign counterparts. On this basis, Barbados should be considered as a country having strategic deficiencies in its AML/CFT regime under Article 9 of Directive (EU) 2015/849.
- (9) In October 2018, the FATF identified Botswana as a jurisdiction having strategic AML/CFT deficiencies for which Botswana has developed an action plan with the FATF. The Commission assessed the latest information received in this context from the FATF relating to these deficiencies and other relevant information. The deficiencies include: (1) shortcomings in the assessment of risks associated with legal persons, legal arrangements, and non-profit organisations; (2) lack of implementation of risk-based AML/CFT supervisory manuals; (3) the level of analysis and dissemination of financial intelligence by the FIU; (4) shortcomings in the implementation of a CFT strategy, and insufficient capacity of the law enforcement agencies in relation to investigations of terrorist financing; (5) inability to ensure the implementation without delay of targeted financial sanctions measures related to terrorist financing and proliferation financing, and (6) shortcomings in the application of a risk-based approach to monitoring non-profit organisations. On this basis, Botswana should be considered as a country having strategic deficiencies in its AML/CFT regime under Article 9 of Directive (EU) 2015/849.
- (10) In February 2019, the FATF identified Cambodia as a jurisdiction having strategic AML/CFT deficiencies for which Cambodia has developed an action plan with the FATF. The Commission assessed the latest information received in this context from the FATF relating to these deficiencies and other relevant information. The deficiencies include: (1) lack of a broad legal basis for Mutual Legal Assistance and of relevant training to law enforcement authorities; (2) lack of implementation of risk-based supervision to the real estate sector and casinos; (3) lack of implementation of risk-based supervision to banks, including through prompt, proportionate and dissuasive enforcement actions, as appropriate; (4) technical compliance deficiencies in the AML/CFT Law; (5) the level of analysis of suspicious transaction reports and related disseminations to law enforcement authorities; (6) insufficient results in terms of Money Laundering investigations and prosecutions; (7) insufficient results in terms of freezing and confiscation of criminal proceeds, instrumentalities, and property of equivalent value; (8) lack of legal framework and implementation of United Nations

targeted financial sanctions related to Proliferation Financing, as well as insufficient understanding of sanctions evasion. On this basis, Cambodia should be considered as a country having strategic deficiencies in its AML/CFT regime under Article 9 of Directive (EU) 2015/849.

- (11) In October 2018, the FATF identified Ghana as a jurisdiction having strategic AML/CFT deficiencies for which Ghana has developed an action plan with the FATF. The Commission assessed the latest information received in this context from the FATF relating to these deficiencies and other relevant information. The deficiencies include: (1) lack of implementation of a comprehensive national AML/CFT Policy based on the risks identified in the National Risk Assessment, including measures to mitigate Money Laundering/Terrorism Financing risks associated with the legal persons; (2) shortcomings in risk-based supervision, including insufficient capacity of the regulators and insufficient awareness of the private sector; (3) shortcomings in ensuring timely access to adequate, accurate and current basic and beneficial ownership information; (4) deficiencies as regards the need to ensure that the FIU is focusing its activities on the risks identified in the National Risk Assessment, and that adequate resources are allocated to the FIU and (5) shortcomings in the application of a risk-based approach for monitoring non-profit organisations. On this basis, Ghana should be considered as a country having strategic deficiencies in its AML/CFT regime under Article 9 of Directive (EU) 2015/849.
- (12) In February 2020, the FATF identified Jamaica as a jurisdiction having strategic AML/CFT deficiencies for which Jamaica has developed an action plan with the FATF. The Commission assessed the latest information received in this context from the FATF relating to these deficiencies and other relevant information. The deficiencies include: (1) lack of a comprehensive understanding of its money laundering/terrorism financing risk; (2) failure to include all financial institutions and DNFBPs in the AML/CFT regime and to ensure adequate risk-based supervision in all sectors; (3) lack of appropriate measures to prevent legal persons and arrangements from being misused for criminal purposes, and to ensure that accurate and up-to-date basic and beneficial ownership information is available on a timely basis; (4) lack of proper measures to increase the use of financial information and to increase money laundering investigations and prosecutions, in line with the country's risk profile; (5) failure to demonstrate the implementation of targeted financial sanctions for terrorist financing without delay; and (6) deficiencies in implementing a risk-based approach for supervision of its non-profit organisation sector to prevent abuse for terrorism financing purposes. On this basis, Jamaica should be considered as a country having strategic deficiencies in its AML/CFT regime under Article 9 of Directive (EU) 2015/849.
- (13) In February 2020, the FATF identified Mauritius as a jurisdiction having strategic AML/CFT deficiencies for which Mauritius has developed an action plan with the FATF. The Commission assessed the latest information received in this context from the FATF relating to these deficiencies and other relevant information. The deficiencies include: (1) deficiencies in demonstrating that the supervisors of its global business sector and DNFBPs implement risk-based supervision; (2) failure to ensure access to accurate basic and beneficial ownership information by competent authorities in a timely manner; (3) failure to demonstrate that law enforcement authorities have capacity to conduct money laundering investigations, including parallel financial investigations and complex cases; (4) failure in implementing a risk-based approach for supervision of its non-profit organisation sector to prevent abuse

for terrorist financing purposes; and (5) failure to demonstrate adequate implementation of targeted financial sanctions through outreach and supervision. On this basis, Mauritius should be considered as a country having strategic deficiencies in its AML/CFT regime under Article 9 of Directive (EU) 2015/849.

- (14) In October 2019, the FATF identified Mongolia as a jurisdiction having strategic AML/CFT deficiencies for which Mongolia has developed an action plan with the FATF. The Commission assessed the latest information received in this context from the FATF relating to these deficiencies and other relevant information. While Mongolia has taken steps towards improving its AML/CFT regime outstanding deficiencies include: (1) shortcomings in the sectoral money laundering/terrorism financing risk understanding by DNFBP supervisors, as well as in the application of a risk-based approach to supervision, particularly in relation to dealers in precious metals and stones; (2) need to demonstrate increased investigations and prosecutions of different types of money laundering activity in line with identified risks; and (3) inadequate monitoring of compliance by financial institutions and DNFBPs with their targeted financial sanctions obligations related to proliferation financing, and insufficient application of proportionate and dissuasive sanctions. On this basis, Mongolia should be considered as a country having strategic deficiencies in its AML/CFT regime under Article 9 of Directive (EU) 2015/849.
- (15) In February 2020, the FATF identified Myanmar/Burma as a jurisdiction having strategic AML/CFT deficiencies for which Myanmar/Burma has developed an action plan with the FATF. The Commission assessed the latest information received in this context from the FATF relating to these deficiencies and other relevant information. The deficiencies include: (1) failure to demonstrate an improved understanding of money laundering risks in key areas; (2) failure to ensure the supervisory body for DNFBPs is sufficiently resourced, onsite/offsite inspections are risk-based, and hundi operators are registered and supervised; (3) failure to demonstrate enhancements in the use of financial intelligence in investigations by the law enforcement authorities, and insufficient operational analysis and disseminations by the FIU; (4) need to ensure that money laundering is investigated/prosecuted in line with risks; (5) failure to demonstrate investigation of transnational money laundering cases with international cooperation; (6) failure to demonstrate an increase in the freezing/seizing and confiscation of criminal proceeds, instrumentalities, and/or property of equivalent value; (7) deficiencies in managing seized assets to preserve the value of seized goods until confiscation; and (8) deficiencies in demonstrating implementation of targeted financial sanctions related to proliferation financing, including training on sanctions evasion. On this basis, Myanmar/Burma should be considered as a country having strategic deficiencies in its AML/CFT regime under Article 9 of Directive (EU) 2015/849.
- (16) In February 2020, the FATF identified Nicaragua as a jurisdiction having strategic AML/CFT deficiencies for which Nicaragua has developed an action plan with the FATF. The Commission assessed the latest information received in this context from the FATF relating to these deficiencies and other relevant information. The deficiencies include: (1) lack of a comprehensive understanding of its money laundering/terrorist financing risk; (2) failure to proactively seek international cooperation to support money laundering investigation, especially with the aim of identifying and tracing assets with confiscation and repatriation purposes; (3) deficiencies with regard to conducting effective risk-based supervision; (4) lack of appropriate measures to prevent legal persons and arrangements from being misused

for criminal purposes, and failure to ensure that accurate and up-to-date basic and beneficial ownership information is available on a timely basis. On this basis, Nicaragua should be considered as a country having strategic deficiencies in its AML/CFT regime under Article 9 of Directive (EU) 2015/849.

- (17) In June 2019, the FATF identified Panama as a jurisdiction having strategic AML/CFT deficiencies for which Panama has developed an action plan with the FATF. The Commission assessed the latest information received in this context from the FATF relating to these deficiencies and other relevant information. The deficiencies include: (1) a limited understanding of the national and sectoral money laundering/terrorist financing risk and consequent shortcoming in informing the related findings to the country's national policies in a view to mitigate the identified risks; (2) deficiencies regarding proactive identification of unlicensed money remitters, the application of a risk-based approach to supervision of the DNFBP sector and the application of effective, proportionate, and dissuasive sanctions against AML/CFT violations; (3) lack of adequate verification and update of beneficial ownership information by obliged entities, lack of an effective mechanism to monitor the activities of offshore entities, shortcomings in assessing the existing risks of misuse of legal persons and arrangements to define and implement specific measures to prevent the misuse of nominee shareholders and directors, and shortcomings in ensuring timely access to adequate and accurate beneficial ownership information; and (4) deficiencies with regard to the effective use of FIU products for money laundering investigations, as well as with regard to the ability to investigate and prosecute money laundering involving foreign tax crimes and to provide constructive and timely international cooperation in relation to such offence, and unsatisfactory focus on ML investigations in relation to high-risk areas identified in the National Risk Assessment and Mutual Evaluation Report. On this basis, Panama should be considered as a country having strategic deficiencies in its AML/CFT regime under Article 9 of Directive (EU) 2015/849.
- (18) In October 2019, the FATF identified Zimbabwe as a jurisdiction having strategic AML/CFT deficiencies for which Zimbabwe has developed an action plan with the FATF. The Commission assessed the latest information received in this context from the FATF relating to these deficiencies and other relevant information. The deficiencies include: (1) insufficient understanding of the key Money Laundering/Terrorist Financing risks among the relevant stakeholders and lack of implementation of the national AML/CFT policy based on the identified risks; (2) lack of implementation of risk-based supervision for financial institutions and DNFBPs, including inadequate capacity building among the supervisory authority; (3) lack of adequate risk mitigation measures among financial institutions and DNFBPs entailing the application of proportionate and dissuasive sanctions to breaches; (4) shortcomings in the legal framework and mechanism to collect and maintain accurate and updated beneficial ownership information for legal persons and arrangements, and to ensure timely access by the competent authorities; and (5) gaps in the framework and implementation of targeted financial sanctions related to terrorist financing and proliferation financing. On this basis, Zimbabwe should be considered as a country having strategic deficiencies in its AML/CFT regime under Article 9 of Directive (EU) 2015/849.
- (19) In accordance with the latest relevant information, the Commission's assessment concluded that The Bahamas, Barbados, Botswana, Cambodia, Ghana, Jamaica, Mauritius, Mongolia, Myanmar/Burma, Nicaragua, Panama and Zimbabwe should be

considered as third-country jurisdictions which have strategic deficiencies in their AML/CFT regime that pose significant threats to the financial system of the Union, in accordance with the criteria set out in Article 9 of Directive (EU) 2015/849. It is noted that these countries have provided written high-level political commitments to address the identified deficiencies and have developed action plans with the FATF.

- (20) It is further noted that the FATF identified Uganda as a jurisdiction having strategic AML/CFT deficiencies for which Uganda has developed an action plan with the FATF in February 2020. The Commission assessed the latest information received in this context from the FATF relating to these deficiencies and other relevant information. The deficiencies include: (1) lack of a national AML/CFT strategy; (2) shortcomings in seeking international cooperation in line with the country's risk profile; (3) lack of development and implementation of risk-based supervision to financial institutions and DNFBPs; (4) gaps in ensuring that competent authorities have timely access to accurate basic and beneficial ownership information for legal entities; (5) deficiencies in demonstrating that law enforcement and judicial authorities apply the money laundering offence consistently with the identified risks; (6) failure to establish and implement policies and procedures for identifying, tracing, seizing and confiscating proceeds and instrumentalities of crime; (7) failure to demonstrate that law enforcement authorities conduct terrorist financing investigations and pursue prosecutions commensurate with Uganda's terrorist financing risk profile; (8) technical deficiencies in the legal framework to implement targeted financial sanctions related to proliferation financing and shortcomings in the implementation a risk-based approach for supervision of its non-profit organisations sector to prevent abuse for terrorist financing purposes. Uganda also provided a written high-level political commitment to address the identified deficiencies and has developed an action plan with the FATF. Uganda is already included in the Delegated Regulation (EU) 2016/1675. Therefore, the status and current measures applied with regard to Uganda should remain unchanged.
- (21) It is of the utmost importance that the Commission conducts a permanent monitoring of third countries and assesses developments in their legal and institutional framework, the powers and procedures of competent authorities, and the effectiveness of their AML/CFT regime, with a view to updating the Annex of Delegated Regulation (EU) 2016/1675.
- (22) The Commission assessed the progress in addressing strategic deficiencies of countries in the Annex of Regulation (EU) 2016/1675 that have been delisted by the FATF since July 2016, based on the requirements of Directive (EU) 2015/849. The Commission concluded the assessment of progress made by Bosnia-Herzegovina, Ethiopia, Guyana, Lao People's Democratic Republic, Sri Lanka and Tunisia.
- (23) The FATF welcomed significant progress made by Bosnia-Herzegovina, Ethiopia, Guyana, Lao People's Democratic Republic, Sri Lanka and Tunisia in improving their AML/CFT regime and noted that these countries have established the legal and regulatory framework to meet the commitments in their action plans regarding the strategic deficiencies that the FATF had identified. These countries are therefore no longer subject to the FATF's monitoring process under its on-going global AML/CFT compliance process. These countries will continue to work with the FATF-Style Regional Bodies to further improve their AML/CFT regime.
- (24) The Commission assessed the information relating to the progress in addressing strategic deficiencies of those third countries.

- (25) The Commission's assessment concluded that, at this stage, Bosnia-Herzegovina and Guyana do not have strategic deficiencies in their AML/CFT regime considering the available information. These countries have recently taken a number of measures in order to reinforce their AML/CFT regimes and the Commission will further monitor effective implementation of such measures. The Commission will assess those countries when new information sources become available. Therefore Bosnia and Guyana should not be considered as having strategic deficiencies in their AML/CFT regime.
- (26) Similarly, the Commission's assessment concluded that Tunisia no longer has strategic deficiencies in its AML/CFT regime considering the available information. Tunisia has strengthened the effectiveness of its AML/CFT regime and addressed related technical deficiencies to meet the commitments in its action plan regarding the strategic deficiencies that the FATF had identified. These measures are sufficiently comprehensive and meet the necessary requirements to consider that strategic deficiencies identified under article 9 of the Directive (EU) 2015/849 have been removed.
- (27) Furthermore the Commission's assessment concluded that Ethiopia, Lao People's Democratic Republic and Sri Lanka implemented measures to address the strategic deficiencies identified by the FATF and no longer present such strategic deficiencies. Following the measures implemented to address the action plan agreed with the FATF, these countries no longer present an AML/CFT threat to the international financial system. Taking into account their relevance for the financial system of the Union, the Commission considers that these countries no longer pose a significant threat to the financial system of the Union. Therefore, Ethiopia, Lao People's Democratic Republic and Sri Lanka should not be considered as having strategic deficiencies in their AML/CFT regime at this stage.
- (28) The Commission is committed to provide technical assistance, where appropriate, to third countries included in the Annex of Delegated Regulation (EU) 2016/1675 in order to assist them to remedy the identified strategic deficiencies.
- (29) Taking into account the very exceptional and unpredictable situation arising from the COVID-19 pandemic which has an impact at global scale and is very likely to lead to disruptions in the proper functioning of economic operators and competent authorities alike, the date of application of Article 2 concerning the addition of third countries should be defined in a way that ensures sufficient time for its effective implementation in these circumstances. Therefore, the date of application of Article 2 of this Regulation should exceptionally be set at a later date than its entry into force.
- For third countries which should be delisted, no major implementation issues arise. It is therefore reasonable to provide for delisting without undue delay.
- (30) Delegated Regulation (EU) 2016/1675 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In the Annex to Delegated Regulation (EU) 2016/1675, in the table under point "I. High-risk third countries which have provided a written high-level political commitment to address the identified deficiencies and have developed an action plan with FATF", the following lines are deleted:

2	Bosnia-Herzegovina
3	Guyana
5	Lao PDR
10	Ethiopia
11	Sri Lanka
13	Tunisia

Article 2

In the Annex to Delegated Regulation (EU) 2016/1675, the table under point “I. High-risk third countries which have provided a written high-level political commitment to address the identified deficiencies and have developed an action plan with FATF” is replaced by the following :

No	High-risk third country
1	Afghanistan
2	The Bahamas
3	Barbados
4	Botswana
5	Cambodia
6	Ghana
7	Iraq
8	Jamaica
9	Mauritius
10	Mongolia
11	Myanmar/Burma
12	Nicaragua
13	Pakistan
14	Panama

15	Syria
16	Trinidad and Tobago
17	Uganda
18	Vanuatu
19	Yemen
20	Zimbabwe

Article 3

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

However Article 2 shall apply from 1 October 2020.

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

Done at Brussels, 7.5.2020

For the Commission
The President
Ursula VON DER LEYEN