



TEXTS ADOPTED

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Objection to a delegated act: Identifying high-risk third countries with strategic deficiencies

European Parliament resolution of 19 January 2017 on the Commission delegated regulation of 24 November 2016 amending Commission Delegated Regulation (EU) 2016/1675 supplementing Directive (EU) 2015/849 by identifying high-risk third countries with strategic deficiencies (C(2016)07495 – 2016/3007(DEA))

The European Parliament,

- having regard to the Commission delegated regulation (C(2016)07495),
- having regard to Article 290 of 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/EC¹, in particular Articles 9(2) and 64(5) thereof,
- having regard to 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 deficiencies², in particular the Annex thereto,
- having regard to the joint letter of the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs of 19 September 2016 regarding Commission Delegated Regulation (EU) 2016/1675 and the relevant response of Commissioner Jourová of 26 October 2016,
- having regard to the work performed and conclusions reached so far by the Parliament's two Special Committees, Committee on Tax Rulings and Other Measures Similar in Nature or Effect and the Inquiry Committee on Money Laundering, Tax Avoidance and Tax Evasion,

¹ OJ L 141, 5.6.2015, p. 73.

² OJ L 254, 20.9.2016, p. 1.

- having regard to the opinion of the European Economic and Social Committee on Commission proposal COM(2016)0450, in particular paragraph 3.8 thereof on the list of high-risk third countries,
 - having regard to the motion for a resolution by the Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs,
 - having regard to Rule 105(3) of its Rules of Procedure,
- A. whereas the delegated regulation, its annex and the amending delegated regulation are meant to identify high-risk third countries with strategic deficiencies as regards anti-money laundering and countering terrorist financing (AML/CTF), which represent a threat for the EU financial system and for which enhanced customer due diligence measures are necessary at EU obliged entities under Directive (EU) 2015/849 (4AMLD);
 - B. whereas the most recent Commission Delegated Regulation (EU) 2016/1675 supplementing Directive (EU) 2015/849 by identifying high-risk third countries with strategic deficiencies has been in force since 23 September 2016;
 - C. whereas Commission Delegated Regulation (EU) 2016/1675 will still remain in force even if the amending delegated regulation is rejected;
 - D. whereas the list of countries, including after the amendment introduced in the amending delegated regulation adopted by the Commission on 24 November 2016, matches those identified by the Financial Action Task Force (FATF) at their 28th plenary meeting from 19 to 21 October 2016;
 - E. whereas, as stipulated in Recital 28 of 4AMLD and repeated in the explanatory memorandum (C(2016)4180) to Commission Delegated Regulation (EU) 2016/1675, the Commission assessment is an autonomous process; whereas the Commission is thus free to move beyond FATF standards, either by keeping a third country on its list even if delisted by FATF, or by including additional third countries as long as this is in line with the specific criteria set out in Article 9(2) of 4AMLD;
 - F. whereas the Commission assessment is an autonomous process which has to be carried out in a comprehensive and unbiased manner, assessing all third countries based on the same criteria defined in Article 9 of Directive (EU) 2015/849;
 - G. whereas the Commission assessment must be a fully independent and non-politicised process;
 - H. whereas the Commission, in its letter of 26 October 2016, states that it has to identify high-risk countries exclusively on the grounds listed in Article 9(2) of 4AMLD, only relating to AML and CTF deficiencies;
 - I. whereas the evidence gathered by the Parliament's two Special Committees, Committee on Tax Rulings and Other Measures Similar in Nature or Effect and the Inquiry Committee on Money Laundering, Tax Avoidance and Tax Evasion indicates that there may indeed be AML/CTF deficiencies as regards several aspects of Article 9(2) in some countries not included in the present list of high-risk third countries;

- J. whereas, in addition, Parliament believes that the list of criteria in Article 9(2) of 4AMLD is non-exhaustive ('in particular') and that predicate offences to money laundering, such as tax crimes, fall under these criteria and should be duly taken into account in the autonomous process of the Commission;
 - K. whereas Parliament agrees with the point made by the Commission in its letter of 26 October 2016 that tax evasion and money laundering do not indeed always coincide, but disagrees fundamentally with the possibility of an absolute distinction between non-cooperative tax jurisdictions and AML and CTF deficiencies, in particular when it comes to requirements to report suspicious transactions;
 - L. whereas Parliament expects the Commission to conduct its own assessment and to avoid relying solely on external information sources;
1. Objects to the Commission delegated regulation;
 2. Instructs its President to forward this resolution to the Commission and to notify it that the delegated regulation cannot enter into force;
 3. Calls on the Commission to submit a new delegated act which takes account of the concerns set out above;
 4. Instructs its President to forward this resolution to the Council and to the governments and parliaments of the Member States.