



## EUROPEAN COMMISSION

Brussels, 21.8.2013  
C(2013) 5499 final

Dear President,

The Commission would like to thank the Senát for its Opinion concerning the 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 {COM(2013) 45 final}, and the Proposal for a Regulation of the European Parliament and of the Council on information accompanying transfers of funds {COM(2013) 44 final}.

1. With respect to the possible incompatibility between the guarantees of fundamental rights and Article 44.3 of the Commission's proposal, which requires Member States to ensure that competent authorities take the necessary measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, or holding a management function in obliged entities, the Commission would like to draw the Senát's attention to Article 52 of the EU Charter of Fundamental Rights which recognizes that some limitations to fundamental rights may be laid down by law if proportionate and necessary, for example to protect fundamental rights and liberties of other people.
2. With respect to the administrative pecuniary sanction of up to € 5,000,000 for obliged entities that are natural persons, the Commission draws the Senát's attention to Article 57 of its proposed Directive which requires that competent authorities take into account notably the gravity and duration of the breach, the degree of responsibility, and the financial strength of the natural or legal person. Furthermore, recital 41 indicates that the range of administrative sanctions should be "sufficiently broad to allow Member States and competent authorities to take account of the differences between obliged entities, in particular between financial institutions and other obliged entities, as regards their size, characteristics and areas of activity".
3. With respect to the abolition of a provision permitting the application of simplified customer due diligence in the case of small payments (Article 11.5(d) of Directive 2005/60/EC applied to low value payments in the case of electronic money), the

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