

EUROPEAN COMMISSION

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Dear President,

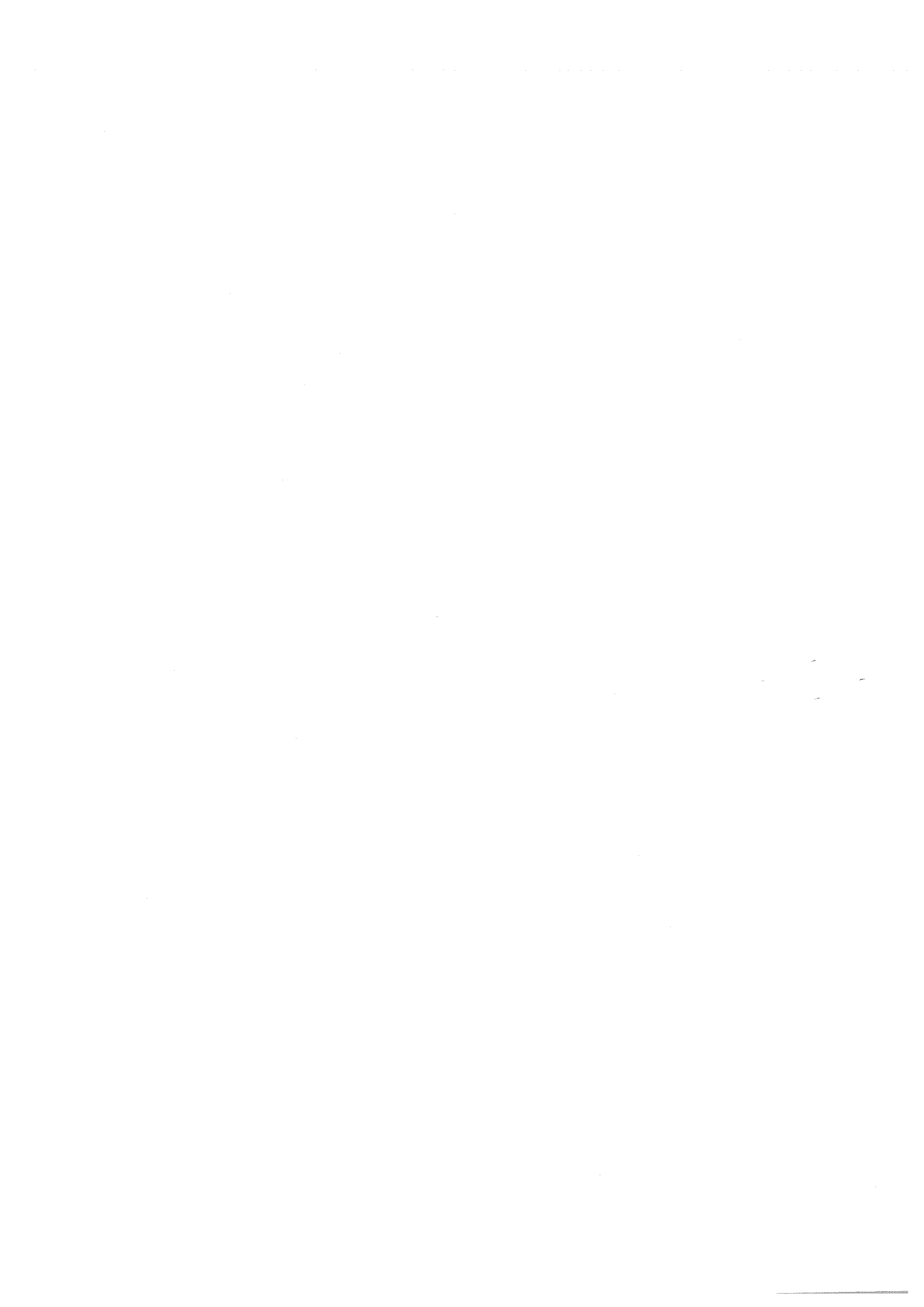
The Commission would like to thank the Camera Deputaților for its Opinion concerning the Proposal for a Directive of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing {COM(2013) 45 final} ("4 AMLD") and on the Proposal for a Regulation of the European Parliament and of the Council on information accompanying transfers of funds {COM(2013) 44 final}.

As indicated by the Camera Deputaților, the European Supervisory Authorities (ESAs) have been tasked with providing guidelines of the risk factors to be taken into consideration by the financial sector. In the Commission's opinion the deadline of two years after adoption to issue these guidelines is reasonable and will be compatible with the deadline by which Member States are required to transpose the Directive.

With respect to Article 1(5), the proposal for a Directive is not aiming at harmonising a wide range of law enforcement systems. Nevertheless, the Commission is currently working on a possible legislative proposal on harmonisation of criminalisation of money laundering across the EU, based on art. 83(1) TFEU.

With respect to the existence of certain provisions which are difficult to fulfil, and the Camera Deputaților's recommendation of complementing these proposals with provisions to reduce the risks highlighted, the Commission wishes to draw the Camera Deputaților's attention to the greater emphasis that 4 AMLD is placing on a risk-based approach. Given the evolution of money laundering and terrorist financing risks, it is important that the EU framework is able to respond in a robust but flexible way. The revised Directive recognises that the use of a risk-based approach is an effective way to identify and mitigate risks to the financial system and wider economic stability in the internal market area. As it is based on a need to focus efforts on areas where their resources will be effectively utilised, the risk-based approach promotes a more efficient use of resource for both businesses and anti-money laundering AML supervisors, and acknowledges that the response to threats will vary according to the risks that businesses face, as opposed to imposing unnecessary compliance burdens.

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according to the risks that businesses face, as opposed to imposing unnecessary compliance burdens.

With respect to the request of adopting a more holistic approach to the 'reputation of the financial sector', since it was affected to a greater extent by relatively recent fraud and irresponsible practices than by 'massive flows of dirty money' the Commission fully agrees with this approach. The measures it is proposing to revise the current EU Anti-Money Laundering and Counter Terrorism Financing regime are intended to update it and improve the functioning. By aligning the framework to new international standards, in a way which respects the integrity and consistency of the Internal Market, and where necessary going beyond international standards to target specific EU weaknesses, the Commission is aiming to achieve the highest standards. The EU needs to remain open for business, an attractive place for legitimate investments, but needs to clamp down hard on criminal exploitation. The Commission believes that the set of rules it is proposing are finely balanced in order to achieve that aim, and will result in increased focus on effectiveness and enforcement.

Concerning legal provisions at EU level protecting the employees against threats or hostile actions by offenders, the Commission draws the Camera Deputatilor's attention to recital (29): "Although this Directive cannot interfere with Member States' judicial procedures, this is a crucial issue for the effectiveness of the anti-money laundering and anti-terrorist financing system. Member States should be aware of this problem and should do whatever they can to protect employees from such threats or hostile action".

With regard to Article 19 of the Regulation, both the proposals are in line with Commission policy of reinforcing sanctioning regimes in the financial services sector and both contain a range of administrative sanctions and measures that Member States should ensure are available for systematic breaches of key requirements. In the Commission's view, the above measures are consistent with and promote a level of convergence in how measures are adopted in a single market framework, whilst allowing a degree of flexibility to respond to emerging threats.

With respect to Article 31(4), according to which the financial intelligence units must respond to requests for information by law enforcement authorities in their Member State, the Commission would like to point out that the exemption to this obligation is clearly stated and the Commission's proposed approach is in line with the principles set out in Directive 95/46/EC on data protection.

With respect to Article 38 of the proposed Directive, this article states clearly the prohibition of disclosure in line with the Financial Action Task Force (FATF) standards (Recommendation 21).

The Commission hopes that these clarifications address the concerns raised by the Camera Deputatilor and looks forward to continuing our political dialogue in the future.

Yours faithfully,

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Vice-President/Member of the Commission

