



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
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Opinion

Title **DG MARKT - Impact Assessment on a proposal for a Directive on money laundering and terrorist financing and for a Regulation on transfer of funds**

(resubmitted draft version of 3 October 2012)*

(A) Context

The constantly changing nature of money laundering and terrorist financing threats is driven by the limitless ingenuity of criminals and the constant technological evolution of delivery channels. This necessitates the periodic review, and where necessary, revision of the legal framework designed to counter such threats. The EU rules are to a large extent based on international standards adopted by the Financial Action Task Force (FATF). They have been adapted to fit to an EU context and, as the EU Directive follows a minimum harmonisation approach, the framework has been completed by rules adopted at national level.

The FATF has undertaken a fundamental review of the international standards, which culminated in the adoption of a new set of recommendations in February 2012. In parallel to the international process, the European Commission has undertaken its own review of the European framework. The impact assessment has been prepared with a view to the revision of the Anti-Money Laundering framework.

(B) Overall assessment

The report has been improved to some extent along the lines of the recommendations issued by the Board in its first opinion. However, some aspects, particularly the design of truly alternative options, require further work. The report should provide a realistic and coherent set of alternative options by discarding unrealistic measures up-front and by presenting alternative measures. Greater clarity should be provided regarding the impact of the planned measures on Member States, namely, whether some Member States will be more affected than others. The report should also provide a more complete and forward-looking overview of the cost implications of the envisaged measures, notably, for newly covered actors. Finally the executive summary content should be aligned with that of the main report.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

(C) Main recommendations for improvements

(1) Improve the design and comparison of options. The report should identify a realistic set of alternative options by discarding unrealistic measures up-front and by presenting and comparing alternative measures. The content of the refined options should be clearly described and should be coherent with the objectives they are designed to attain. Measures that imply prescriptive or detailed rules seem to be in contradiction with the flexibility and risk-based approach pursued and should be reconsidered. Consistency should be improved, in particular regarding problem driver 3 (table 3), the naming of the 'dimensions' in table 7, as well as the operational objective column in annex III tables.

(2) Develop the analysis of impacts. When analysing the overall impact of the envisaged changes to the EU framework, the report should clarify which Member States will be more affected than others and describe how.

(3) Strengthen the quantification of impacts. The report should better assess the economic impacts. The analysis should, in particular, reduce its focus on the costs of the existing framework and develop the quantitative analysis regarding the impact of the envisaged changes relative to the baseline scenario. Available data should also be better exploited and, where possible, extrapolated and/or added together in order to provide a more complete overview of the compliance costs resulting from the planned measures, notably, for newly covered actors.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report

(D) Procedure and presentation

The executive summary should be aligned with the content of the main report, in particular with regards to the naming of problem drivers and specific objectives, as well as the presentation of the options (e.g. two-tiered approach described in p. 5). Additionally, section 2 (subsidiarity) needs to be strengthened and section 6 (comparison of options) should be reviewed since it lists the envisaged measures but contains no comparative analysis.

(E) IAB scrutiny process

Reference number	2012/MARKT/001
External expertise used	No
Date of IAB meeting	Written procedure An earlier version of this report was submitted to the IAB in July 2012, for which the Board has issued an opinion on 7 September 2012.