

**TEXT OF REGULATION (EU) 2015/847 AS AT 20 MAY 2015 AS MODIFIED TO
APPLY IN ALDERNEY**

1. This is an informal document provided to assist the reader. It shows how Regulation (EU) No. 2015/847 of the European Parliament and of the Council of the European Union of 20th May, 2015 on information accompanying transfers of funds and repealing Regulation (EC) No. 1781/2006 ("the EU Regulation") applies in Alderney, marked up to show the modifications made by the Transfer of Funds (Alderney) Ordinance, 2017 ("the Ordinance"). There are also some additional endnotes to assist the reader with some of the cross references to other pieces of European legislation. Whilst it is believed to be accurate, it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions and no liability is accepted for any loss arising from its use. The authoritative text of the modifications to the EU Regulation is as shown in the First Schedule to the Ordinance.

2. This document shows the text of the EU Regulation as modified at the date the Ordinance comes into force and so will not include subsequent amendments made to the EU Regulation or repeals and replacements of legislation referred to in the EU Regulation.

REGULATION (EU) 2015/847 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 20 May 2015****on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank ⁽¹⁾,Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) Flows of illicit money through transfers of funds can damage the integrity, stability and reputation of the financial sector, and threaten the internal market of the Union as well as international development. Money laundering, terrorist financing and organised crime remain significant problems which should be addressed at Union level. The soundness, integrity and stability of the system of transfers of funds and confidence in the financial system as a whole could be seriously jeopardised by the efforts of criminals and their associates to disguise the origin of criminal proceeds or to transfer funds for criminal activities or terrorist purposes.
- (2) In order to facilitate their criminal activities, money launderers and financiers of terrorism are likely to take advantage of the freedom of capital movements within the Union's integrated financial area unless certain coordinating measures are adopted at Union level. International cooperation within the framework of the Financial Action Task Force (FATF) and the global implementation of its recommendations aim to prevent money laundering and terrorist financing while transferring funds.
- (3) By reason of the scale of the action to be undertaken, the Union should ensure that the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation adopted by FATF on 16 February 2012 (the 'revised FATF Recommendations'), and, in particular, FATF Recommendation 16 on wire transfers (the 'FATF Recommendation 16') and the revised interpretative note for its implementation, are implemented uniformly throughout the Union and that, in particular, there is no discrimination or discrepancy between, on the one hand, national payments within a Member State and, on the other, cross-border payments between Member States.

Uncoordinated action by Member States acting alone in the field of cross-border transfers of funds could have a significant impact on the smooth functioning of payment systems at Union level and could therefore damage the internal market in the field of financial services.

- (4) In order to foster a coherent approach in the international context and to increase the effectiveness of the fight against money laundering and terrorist financing, further Union action should take account of developments at international level, namely the revised FATF Recommendations.
- (5) The implementation and enforcement of this Regulation, including FATF Recommendation 16, represent relevant and effective means of preventing and combating money-laundering and terrorist financing.
- (6) This Regulation is not intended to impose unnecessary burdens or costs on payment service providers or on persons who use their services. In this regard, the preventive approach should be targeted and proportionate and should be in full compliance with the free movement of capital, which is guaranteed throughout the Union.
- (7) In the Union's Revised Strategy on Terrorist Financing of 17 July 2008 (the 'Revised Strategy'), it was pointed out that efforts must be maintained to prevent terrorist financing and to control the use by suspected terrorists of their own financial resources. It is recognised that FATF is constantly seeking to improve its Recommendations and is working towards a common understanding of how they should be implemented. It is noted in the Revised Strategy that implementation of the revised FATF Recommendations by all FATF members and members of FATF-style regional bodies is assessed on a regular basis and that a common approach to implementation by Member States is therefore important.
- (8) In order to prevent terrorist financing, measures with the purpose of freezing the funds and the economic resources of certain persons, groups and entities have been taken, including Council Regulations (EC) No 2580/2001 [\(4\)](#), (EC) No 881/2002 [\(5\)](#) and (EU) No 356/2010 [\(6\)](#). To the same end, measures with the purpose of protecting the financial system against the channelling of funds and economic resources for terrorist purposes have also been taken. Directive (EU) 2015/849 of the European Parliament and of the Council [\(7\)](#) contains a number of such measures. Those measures do not, however, fully prevent terrorists or other criminals from accessing payment systems for transferring their funds.
- (9) The full traceability of transfers of funds can be a particularly important and valuable tool in the prevention, detection and investigation of money laundering and terrorist financing, as well as in the implementation of restrictive measures, in particular those imposed by Regulations (EC) No 2580/2001, (EC) No 881/2002 and (EU) No 356/2010, and in full compliance with Union regulations implementing such measures. It is therefore appropriate, in order to ensure the transmission of information throughout the payment chain, to provide for a system imposing the obligation on payment service providers to accompany transfers of funds with information on the payer and the payee.
- (10) This Regulation should apply without prejudice to the restrictive measures imposed by regulations based on Article 215 of the Treaty on the Functioning of the European Union (TFEU), such as Regulations (EC) No 2580/2001, (EC) No 881/2002 and (EU) No 356/2010, which may require that payment service providers of payers and of payees, as well as intermediary payment service providers, take appropriate action to freeze certain funds or that they comply with specific restrictions concerning certain transfers of funds.
- (11) This Regulation should also apply without prejudice to national legislation transposing

Directive 95/46/EC of the European Parliament and of the Council [\(8\)](#). For example, personal data collected for the purpose of complying with this Regulation should not be further processed in a way that is incompatible with Directive 95/46/EC. In particular, further processing of personal data for commercial purposes should be strictly prohibited. The fight against money laundering and terrorist financing is recognised as an important public interest ground by all Member States. Therefore, in applying this Regulation, the transfer of personal data to a third country which does not ensure an adequate level of protection in accordance with Article 25 of Directive 95/46/EC should be permitted in accordance with Article 26 thereof. It is important that payment service providers operating in multiple jurisdictions with branches or subsidiaries located outside the Union should not be prevented from transferring data about suspicious transactions within the same organisation, provided that they apply adequate safeguards. In addition, the payment service providers of the payer and of the payee and the intermediary payment service providers should have in place appropriate technical and organisational measures to protect personal data against accidental loss, alteration, or unauthorised disclosure or access.

- (12) Persons that merely convert paper documents into electronic data and are acting under a contract with a payment service provider and persons that provide payment service providers solely with messaging or other support systems for transmitting funds or with clearing and settlement systems do not fall within the scope of this Regulation.
- (13) Transfers of funds corresponding to services referred to in points (a) to (m) and (o) of Article 3 of Directive 2007/64/EC of the European Parliament and of the Council [\(9\)](#) do not fall within the scope of this Regulation. It is also appropriate to exclude from the scope of this Regulation transfers of funds that represent a low risk of money laundering or terrorist financing. Such exclusions should cover payment cards, electronic money instruments, mobile phones or other digital or information technology (IT) prepaid or postpaid devices with similar characteristics, where they are used exclusively for the purchase of goods or services and the number of the card, instrument or device accompanies all transfers. However, the use of a payment card, an electronic money instrument, a mobile phone, or any other digital or IT prepaid or postpaid device with similar characteristics in order to effect a person-to-person transfer of funds, falls within the scope of this Regulation. In addition, Automated Teller Machine withdrawals, payments of taxes, fines or other levies, transfers of funds carried out through cheque images exchanges, including truncated cheques, or bills of exchange, and transfers of funds where both the payer and the payee are payment service providers acting on their own behalf should be excluded from the scope of this Regulation.
- (14) In order to reflect the special characteristics of national payment systems, and provided that it is always possible to trace the transfer of funds back to the payer, Member States should be able to exempt from the scope of this Regulation certain domestic low-value transfers of funds, including electronic giro payments, used for the purchase of goods or services.
- (15) Payment service providers should ensure that the information on the payer and the payee is not missing or incomplete.
- (16) In order not to impair the efficiency of payment systems, and in order to balance the risk of driving transactions underground as a result of overly strict identification requirements against the potential terrorist threat posed by small transfers of funds, the obligation to check whether information on the payer or the payee is accurate should, in the case of transfers of funds where verification has not yet taken place, be imposed only in respect

of individual transfers of funds that exceed EUR 1 000, unless the transfer appears to be linked to other transfers of funds which together would exceed EUR 1 000, the funds have been received or paid out in cash or in anonymous electronic money, or where there are reasonable grounds for suspecting money laundering or terrorist financing.

- (17) For transfers of funds where verification is deemed to have taken place, payment service providers should not be required to verify information on the payer or the payee accompanying each transfer of funds, provided that the obligations laid down in Directive (EU) 2015/849 are met.
- (18) In view of the Union legislative acts in respect of payment services, namely Regulation (EC) No 924/2009 of the European Parliament and of the Council [\(10\)](#), Regulation (EU) No 260/2012 of the European Parliament and of the Council [\(11\)](#) and Directive 2007/64/EC, it should be sufficient to provide that only simplified information accompany transfers of funds within the Union, such as the payment account number(s) or a unique transaction identifier.
- (19) In order to allow the authorities responsible for combating money laundering or terrorist financing in third countries to trace the source of funds used for those purposes, transfers of funds from the Union to outside the Union should carry complete information on the payer and the payee. Those authorities should be granted access to complete information on the payer and the payee only for the purposes of preventing, detecting and investigating money laundering and terrorist financing.
- (20) The Member State authorities responsible for combating money laundering and terrorist financing, and relevant judicial and law enforcement agencies in the Member States, should intensify cooperation with each other and with relevant third country authorities, including those in developing countries, in order further to strengthen transparency and the sharing of information and best practices.
- (21) As regards transfers of funds from a single payer to several payees that are to be sent in batch files containing individual transfers from the Union to outside the Union, provision should be made for such individual transfers to carry only the payment account number of the payer or the unique transaction identifier, as well as complete information on the payee, provided that the batch file contains complete information on the payer that is verified for accuracy and complete information on the payee that is fully traceable.
- (22) In order to check whether the required information on the payer and the payee accompanies transfers of funds, and to help identify suspicious transactions, the payment service provider of the payee and the intermediary payment service provider should have effective procedures in place in order to detect whether information on the payer and the payee is missing or incomplete. Those procedures should include *ex-post* monitoring or real-time monitoring where appropriate. Competent authorities should ensure that payment service providers include the required transaction information with the wire transfer or related message throughout the payment chain.
- (23) Given the potential threat of money laundering and terrorist financing presented by anonymous transfers, it is appropriate to require payment service providers to request information on the payer and the payee. In line with the risk-based approach developed by FATF, it is appropriate to identify areas of higher and lower risk, with a view to better targeting the risk of money laundering and terrorist financing. Accordingly, the payment service provider of the payee and the intermediary payment service provider should have effective risk-based procedures that apply where a transfer of funds lacks the required information on the payer or the payee, in order to allow them to decide whether to

execute, reject or suspend that transfer and to determine the appropriate follow-up action to take.

- (24) The payment service provider of the payee and the intermediary payment service provider should exercise special vigilance, assessing the risks, when either becomes aware that information on the payer or the payee is missing or incomplete, and should report suspicious transactions to the competent authorities in accordance with the reporting obligations set out in Directive (EU) 2015/849 and with national measures transposing that Directive.
- (25) The provisions on transfers of funds in relation to which information on the payer or the payee is missing or incomplete apply without prejudice to any obligations on payment service providers and intermediary payment service providers to suspend and/or reject transfers of funds which breach a provision of civil, administrative or criminal law.
- (26) With the aim of assisting payment service providers to put effective procedures in place to detect cases in which they receive transfers of funds with missing or incomplete payer or payee information and to take follow-up actions, the European Supervisory Authority (European Banking Authority) (EBA), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council ⁽¹²⁾, the European Supervisory Authority (European Insurance and Occupational Pensions Authority) (EIOPA), established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council ⁽¹³⁾, and the European Supervisory Authority (European Securities and Markets Authority) (ESMA), established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council ⁽¹⁴⁾, should issue guidelines.
- (27) To enable prompt action to be taken in the fight against money laundering and terrorist financing, payment service providers should respond promptly to requests for information on the payer and the payee from the authorities responsible for combating money laundering or terrorist financing in the Member State where those payment service providers are established.
- (28) The number of working days in the Member State of the payment service provider of the payer determines the number of days to respond to requests for information on the payer.
- (29) As it may not be possible in criminal investigations to identify the data required or the individuals involved in a transaction until many months, or even years, after the original transfer of funds, and in order to be able to have access to essential evidence in the context of investigations, it is appropriate to require payment service providers to keep records of information on the payer and the payee for a period of time for the purposes of preventing, detecting and investigating money laundering and terrorist financing. That period should be limited to five years, after which all personal data should be deleted unless national law provides otherwise. If necessary for the purposes of preventing, detecting or investigating money laundering or terrorist financing, and after carrying out an assessment of the necessity and proportionality of the measure, Member States should be able to allow or require retention of records for a further period of no more than five years, without prejudice to national criminal law on evidence applicable to ongoing criminal investigations and legal proceedings.
- (30) In order to improve compliance with this Regulation, and in accordance with the Commission Communication of 9 December 2010 entitled 'Reinforcing sanctioning regimes in the financial services sector', the power to adopt supervisory measures and the sanctioning powers of competent authorities should be enhanced. Administrative sanctions and measures should be provided for and, given the importance of the fight

against money laundering and terrorist financing, Member States should lay down sanctions and measures that are effective, proportionate and dissuasive. Member States should notify the Commission and the Joint Committee of EBA, EIOPA and ESMA (the 'ESAs') thereof.

- (31) In order to ensure uniform conditions for the implementation of Chapter V of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁵⁾.
- (32) A number of countries and territories which do not form part of the territory of the Union share a monetary union with a Member State, form part of the currency area of a Member State or have signed a monetary convention with the Union represented by a Member State, and have payment service providers that participate directly or indirectly in the payment and settlement systems of that Member State. In order to avoid the application of this Regulation to transfers of funds between the Member States concerned and those countries or territories having a significant negative effect on the economies of those countries or territories, it is appropriate to provide for the possibility for such transfers of funds to be treated as transfers of funds within the Member States concerned.
- (33) Given the number of amendments that would need to be made to Regulation (EC) No 1781/2006 of the European Parliament and of the Council ⁽¹⁶⁾ pursuant to this Regulation, that Regulation should be repealed for reasons of clarity.
- (34) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (35) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the right to respect for private and family life (Article 7), the right to the protection of personal data (Article 8), the right to an effective remedy and to a fair trial (Article 47) and the principle of *ne bis in idem*.
- (36) In order to ensure the smooth introduction of the anti-money laundering and terrorist financing framework, it is appropriate that the date of application of this Regulation be the same as the deadline for transposition of Directive (EU) 2015/849.
- (37) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council ⁽¹⁷⁾ and delivered an opinion on 4 July 2013 ⁽¹⁸⁾,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down rules on the information on payers and payees, accompanying transfers of funds, in any currency, for the purposes of preventing, detecting and investigating money laundering and terrorist financing, where at least one of the payment service providers involved in the transfer of funds is established in ~~Alderney~~[the Union](#).

Article 2

Scope

1. This Regulation shall apply to transfers of funds, in any currency, which are sent or received by a payment service provider or an intermediary payment service provider established in ~~Alderney~~[the Union](#).

2. This Regulation shall not apply to the services listed in points (a) to (m) and (o) of Article 3 of Directive 2007/64/EC^a.

3. This Regulation shall not apply to transfers of funds carried out using a payment card, an electronic money instrument or a mobile phone, or any other digital or IT prepaid or postpaid device with similar characteristics, where the following conditions are met:

- (a) that card, instrument or device is used exclusively to pay for goods or services; and
- (b) the number of that card, instrument or device accompanies all transfers flowing from the transaction.

However, this Regulation shall apply when a payment card, an electronic money instrument or a mobile phone, or any other digital or IT prepaid or postpaid device with similar characteristics, is used in order to effect a person-to-person transfer of funds.

4. This Regulation shall not apply to persons that have no activity other than to convert paper documents into electronic data and that do so pursuant to a contract with a payment service provider, or to persons that have no activity other than to provide payment service providers with messaging or other support systems for transmitting funds or with clearing and settlement systems.

This Regulation shall not apply to transfers of funds:

- (a) that involve the payer withdrawing cash from the payer's own payment account;
- (b) that transfer funds to a public authority ([construed as to include any Committee of the States of Alderney](#)) as payment for taxes, fines or other levies within [the British Islands a Member State](#);
- (c) where both the payer and the payee are payment service providers acting on their own behalf;
- (d) that are carried out through cheque images exchanges, including truncated cheques.

~~5. A Member State may decide not to apply this Regulation to transfers of funds within its territory to a payee's payment account permitting payment exclusively for the provision of goods or services where all of the following conditions are met:~~

- ~~(a) the payment service provider of the payee is subject to Directive (EU) 2015/849;~~
- ~~(b) the payment service provider of the payee is able to trace back, through the payee, by means of a unique transaction identifier, the transfer of funds from the person who has an agreement with the payee for the provision of goods or services;~~
- ~~(c) amount of the transfer of funds does not exceed EUR 1 000.~~

Article 3

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'terrorist financing' means terrorist financing as defined in [section 79\(1\) of the Terrorism Law Article 1\(5\) of Directive \(EU\) 2015/849](#);
- (2) 'money laundering' means the money laundering activities referred to in [section 17\(1\) of the Disclosure Law Article 1\(3\) and \(4\) of Directive \(EU\) 2015/849](#);
- (3) 'payer' means a [natural or legal](#) person that holds a payment account and allows a transfer of funds from that payment account, or, where there is no payment account, that gives a transfer of funds order;
- (4) 'payee' means a [natural or legal](#) person [or legal arrangement identified by the payer as that is](#) the intended recipient of the transfer of funds;
- (5) 'payment service provider' means the categories of payment service provider referred to in Article 1(1) of Directive 2007/64/EC^b, natural or legal persons benefiting from a waiver pursuant to Article 26^c thereof and legal persons benefiting from a waiver pursuant to Article 9 of Directive 2009/110/EC^d of the European Parliament and of the Council⁽¹⁹⁾, providing transfer of funds services;
- (6) 'intermediary payment service provider' means a payment service provider that is not the payment service provider of the payer or of the payee and that receives and transmits a transfer of funds on behalf of the payment service provider of the payer or of the payee or of another intermediary payment service provider;
- (7) 'payment account' means a payment account as defined in point (14) of Article 4 of Directive 2007/64/EC^e;
- (8) 'funds' means funds as defined in point (15) of Article 4 of Directive 2007/64/EC^f;
- (9) 'transfer of funds' means any transaction at least partially carried out by electronic means on behalf of a payer through a payment service provider, with a view to making funds available to a payee through a payment service provider, irrespective of whether the payer and the payee are the same person and irrespective of whether the payment service provider of the payer and that of the payee are one and the same, including:
 - (a) a credit transfer as defined in point (1) of Article 2 of Regulation (EU) No 260/2012^g;
 - (b) a direct debit as defined in point (2) of Article 2 of Regulation (EU) No 260/2012^h;
 - (c) a money remittance as defined in point (13) of Article 4 of Directive 2007/64/ECⁱ, - whether national or cross border;
 - (d) a transfer carried out using a payment card, an electronic money instrument, or a mobile phone, or any other digital or IT prepaid or postpaid device with similar characteristics;
- (10) 'batch file transfer' means a bundle of several individual transfers of funds put together for transmission [being sent to the same payment service provider or intermediary payment service provider, but which may or may not be ultimately intended for different persons](#);
- (11) 'unique transaction identifier' means a combination of letters, numbers or symbols

determined by the payment service provider, in accordance with the protocols of the payment and settlement systems or messaging systems used for the transfer of funds, which permits the traceability of the transaction back to the payer and the payee;

(12) 'person-to-person transfer of funds' means a transaction between natural persons acting, as consumers, for purposes other than trade, business or profession.

(13) "British Islands" means the United Kingdom, the Channel Islands and the Isle of Man;

(14) "Commission" means the Guernsey Financial Services Commission established by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987;

(15) "Disclosure Law" means the Disclosure (Bailiwick of Guernsey) Law, 2007;

(16) "electronic money" means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions (which means an act, initiated by the payer or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee), and which is accepted by a natural or legal person or legal arrangement other than the electronic money issuer;

(17) "Financial Intelligence Service" means the division of the Guernsey Border Agency, comprising those police officers and other persons assigned to the division for the purpose of the receipt, analysis and dissemination within the Bailiwick, and elsewhere, of disclosures under Part I of the Disclosure Law and Part III of the Terrorism Law, which are more commonly known or referred to as suspicious transaction reports or suspicious activity reports;

(18) "Guernsey Border Agency" means the organisation also known or referred to as "the Customs and Excise and Immigration and Nationality Service" including –

(a) its Chief Officer and any officer acting by or under the authority of the Chief Officer, and

(b) any other individual working, including on a temporary basis, for such organisation whether under a contract of employment, a contract for services or otherwise;

(19) "legal arrangement" means an express trust or any other vehicle whatsoever which has a similar legal effect;

(20) "police officer" – means

(a) a member of the salaried police force of the Island of Guernsey, a member of any police force which may be established by the States of Alderney and, within the limits of the member's jurisdiction, a special constable appointed pursuant to section 46A of the Government of Alderney Law, 1987, and

(b) an officer within the meaning of section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972;

(21) "Proceeds of Crime Law" means the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999;

(22) "straight through processing" means payment transactions that are conducted electronically without the need for manual intervention; and

(23)"Terrorism Law" means the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002.

CHAPTER II

OBLIGATIONS ON PAYMENT SERVICE PROVIDERS

SECTION 1

Obligations on the payment service provider of the payer

Article 4

Information accompanying transfers of funds

1. The payment service provider of the payer shall ensure that transfers of funds are accompanied by the following information on the payer:
 - (a) the name of the payer;
 - (b) the payer's payment account number; and
 - (c) the payer's address, national identity official personal document number, customer identification number or date and place of birth.
2. The payment service provider of the payer shall ensure that transfers of funds are accompanied by the following information on the payee:
 - (a) the name of the payee; and
 - (b) the payee's payment account number.
3. By way of derogation from point (b) of paragraph 1 and point (b) of paragraph 2, in the case of a transfer not made from or to a payment account, the payment service provider of the payer shall ensure that the transfer of funds is accompanied by a unique transaction identifier rather than the payment account number(s).
4. Before transferring funds, the payment service provider of the payer shall verify the accuracy of the information referred to in paragraph 1 on the basis of documents, data or information obtained from a reliable and independent source.
5. Verification as referred to in paragraph 4 shall be deemed to have taken place where:
 - (a) a payer's identity has been verified in accordance with Article 13 of Directive (EU) 2015/849 and the information obtained pursuant to that verification has been stored in

accordance with [any relevant requirements, in or under the Proceeds of Crime Law, including any regulations for the time being in force under section 49 of the Proceeds of Crime Law, relating to the verification of the identity of the payer, and the keeping of information obtained by that verification](#)~~Article 40 of that Directive~~; or

(b) [the payer is an existing customer and it is appropriate to verify that customer on a risk-sensitive basis, including at times when the relevant circumstances of the customer change](#)~~Article 14(5) of Directive (EU) 2015/849 applies to the payer.~~

6. Without prejudice to the derogations provided for in Articles 5 and 6, the payment service provider of the payer shall not execute any transfer of funds before ensuring full compliance with this Article.

Article 5

Transfers of funds within the [British Islands](#)~~Union~~

1. By way of derogation from Article 4(1) and (2), where all payment service providers involved in the payment chain are established in the [British Islands](#)~~Union~~, transfers of funds shall be accompanied by at least the payment account number of both the payer and the payee or, where Article 4(3) applies, the unique transaction identifier, without prejudice to the information requirements laid down in Regulation (EU) No 260/2012, where applicable.

2. Notwithstanding paragraph 1, the payment service provider of the payer shall, within three working days of receiving a request for information from the payment service provider of the payee or from the intermediary payment service provider [or from any police officer, the Financial Intelligence Service, the Commission or from any other appropriate competent authorities](#), make available the following:

(a) for transfers of funds exceeding EUR 1 000, whether those transfers are carried out in a single transaction or in several transactions which appear to be linked, the information on the payer or the payee in accordance with Article 4;

(b) for transfers of funds not exceeding EUR 1 000 that do not appear to be linked to other transfers of funds which, together with the transfer in question, exceed EUR 1 000, at least:

(i) the names of the payer and of the payee; and

(ii) the payment account numbers of the payer and of the payee or, where Article 4(3) applies, the unique transaction identifier.

3. By way of derogation from Article 4(4), in the case of transfers of funds referred to in paragraph 2(b) of this Article, the payment service provider of the payer need not verify the information on the payer unless the payment service provider of the payer:

(a) has received the funds to be transferred in cash or in anonymous electronic money; or

(b) has reasonable grounds for suspecting money laundering or terrorist financing.

Article 6

Transfers of funds to outside the [British Islands](#)~~Union~~

1. In the case of a batch file transfer from a single payer where the payment service providers of the payees are established outside the [British Islands](#)~~Union~~, Article 4(1) shall not apply to the individual transfers bundled together therein, provided that the batch file contains

the information referred to in Article 4(1), (2) and (3), that that information has been verified in accordance with Article 4(4) and (5), and that the individual transfers carry the payment account number of the payer or, where Article 4(3) applies, the unique transaction identifier.

2. By way of derogation from Article 4(1), and, where applicable, without prejudice to the information required in accordance with Regulation (EU) No 260/2012, where the payment service provider of the payee is established outside the [British Islands Union](#), transfers of funds not exceeding EUR 1 000 that do not appear to be linked to other transfers of funds which, together with the transfer in question, exceed EUR 1 000, shall be accompanied by at least:

- (a) the names of the payer and of the payee; and
- (b) the payment account numbers of the payer and of the payee or, where Article 4(3) applies, the unique transaction identifier.

By way of derogation from Article 4(4), the payment service provider of the payer need not verify the information on the payer referred to in this paragraph unless the payment service provider of the payer:

- (a) has received the funds to be transferred in cash or in anonymous electronic money; or
- (b) has reasonable grounds for suspecting money laundering or terrorist financing.

SECTION 2

Obligations on the payment service provider of the payee

Article 7

Detection of missing information on the payer or the payee

1. The payment service provider of the payee shall implement effective [measures, including effective](#) procedures, to detect whether the fields relating to the information on the payer and the payee in the messaging or payment and settlement system used to effect the transfer of funds have been filled in using characters or inputs admissible in accordance with the conventions of that system.

2. The payment service provider of the payee shall implement effective [measures, including effective](#) procedures, including, where appropriate, *ex-post* monitoring or real-time monitoring, in order to detect whether the following information on the payer or the payee is missing:

- (a) for transfers of funds where the payment service provider of the payer is established in the [British Islands Union](#), the information referred to in Article 5;
- (b) for transfers of funds where the payment service provider of the payer is established outside the [British Islands Union](#), the information referred to in Article 4(1) and (2);
- (c) for batch file transfers where the payment service provider of the payer is established outside the [British Islands Union](#), the information referred to in Article 4(1) and (2) in respect of that batch file transfer.

3. In the case of transfers of funds exceeding EUR 1 000, whether those transfers are carried out in a single transaction or in several transactions which appear to be linked, before crediting the payee's payment account or making the funds available to the payee, the payment service provider of the payee shall verify the [identity of the payee, including the](#)

accuracy of the information on the payee referred to in paragraph 2 of this Article on the basis of documents, data or information obtained from a reliable and independent source, without prejudice to the requirements laid down in Articles 69 and 70 of Directive 2007/64/EC.

4. In the case of transfers of funds not exceeding EUR 1 000 that do not appear to be linked to other transfers of funds which, together with the transfer in question, exceed EUR 1 000, the payment service provider of the payee need not verify the accuracy of the information on the payee, unless the payment service provider of the payee:

- (a) effects the pay-out of the funds in cash or in anonymous electronic money; or
- (b) has reasonable grounds for suspecting money laundering or terrorist financing.

5. Verification as referred to in paragraphs 3 and 4 shall be deemed to have taken place where:

- (a) a payee's identity has been verified ~~in accordance with Article 13 of Directive (EU) 2015/849~~ and the information obtained pursuant to that verification has been stored in accordance with any relevant requirements, in or under the Proceeds of Crime Law including any regulations for the time being in force under section 49 of the Proceeds of Crime Law, relating to the verification of the identity of the payee, and the keeping of information obtained by that verification ~~Article 40 of that Directive~~; or
- (b) the payee is an existing customer and it is appropriate to verify that customer on a risk-sensitive basis, including at times when the relevant circumstances of the customer change ~~Article 14(5) of Directive (EU) 2015/849 applies to the payee.~~

Article 8

Transfers of funds with missing or incomplete information on the payer or the payee

1. The payment service provider of the payee shall implement effective risk-based policies and procedures, including any relevant policies and procedures based on the risk-sensitive basis referred to in or under the Proceeds of Crime Law, including any regulations for the time being in force under section 49 of the Proceeds of Crime Law ~~Article 13 of Directive (EU) 2015/849~~, for determining whether to execute, reject or suspend a transfer of funds lacking the required complete payer and payee information and for taking the appropriate follow-up action.

Where the payment service provider of the payee becomes aware, when receiving transfers of funds, that the information referred to in Article 4(1) or (2), Article 5(1) or Article 6 is missing or incomplete or has not been filled in using characters or inputs admissible in accordance with the conventions of the messaging or payment and settlement system as referred to in Article 7(1), the payment service provider of the payee shall reject the transfer or ask for the required information on the payer and the payee before or after crediting the payee's payment account or making the funds available to the payee, on a risk-sensitive basis.

2. Where a payment service provider repeatedly fails to provide the required information on the payer or the payee, the payment service provider of the payee shall take steps, which may initially include the issuing of warnings and setting of deadlines, before either rejecting any future transfers of funds from that payment service provider, or restricting or terminating its business relationship with that payment service provider.

The payment service provider of the payee shall report that failure, and the steps taken, to the [Commission as the](#) competent authority responsible for monitoring compliance with anti-money laundering and counter terrorist financing provisions.

Article 9

Assessment and reporting

The payment service provider of the payee shall take into account missing or incomplete information on the payer or the payee as a factor when assessing whether a transfer of funds, or any related transaction, is suspicious and whether it is to be reported to the Financial Intelligence [Service Unit \(FIU\)](#) in accordance with [Part I of the Disclosure Law and Part III of the Terrorism Law Directive \(EU\) 2015/849](#).

SECTION 3

Obligations on intermediary payment service providers

Article 10

Retention of information on the payer and the payee with the transfer

Intermediary payment service providers shall ensure that all the information received on the payer and the payee that accompanies a transfer of funds is retained with the transfer.

Article 11

Detection of missing information on the payer or the payee

1. The intermediary payment service provider shall implement effective [measures, including effective](#) procedures, to detect whether the fields relating to the information on the payer and the payee in the messaging or payment and settlement system used to effect the transfer of funds have been filled in using characters or inputs admissible in accordance with the conventions of that system.
2. The intermediary payment service provider shall implement effective [measures, including effective](#) procedures, [which are consistent with straight-through processing](#), including, where appropriate, *ex-post* monitoring or real-time monitoring, in order to detect whether the following information on the payer or the payee is missing:
 - (a) for transfers of funds where the payment service providers of the payer and the payee are established in the [British Islands Union](#), the information referred to in Article 5;
 - (b) for transfers of funds where the payment service provider of the payer or of the payee is established outside the [British Islands Union](#), the information referred to in Article 4(1) and (2);
 - (c) for batch file transfers where the payment service provider of the payer or of the payee is established outside the [British Islands Union](#), the information referred to in Article 4(1) and (2) in respect of that batch file transfer.

Article 12

Transfers of funds with missing information on the payer or the payee

1. The intermediary payment service provider shall establish effective risk-based [policies and](#) procedures for determining whether to execute, reject or suspend a transfer of funds lacking the required payer and payee information and for taking the appropriate follow up action.

Where the intermediary payment service provider becomes aware, when receiving transfers of funds, that the information referred to in Article 4(1) or (2), Article 5(1) or Article 6 is missing or has not been filled in using characters or inputs admissible in accordance with the conventions of the messaging or payment and settlement system as referred to in Article 7(1) it shall reject the transfer or ask for the required information on the payer and the payee before or after the transmission of the transfer of funds, on a risk-sensitive basis.

2. Where a payment service provider repeatedly fails to provide the required information on the payer or the payee, the intermediary payment service provider shall take steps, which may initially include the issuing of warnings and setting of deadlines, before either rejecting any future transfers of funds from that payment service provider, or restricting or terminating its business relationship with that payment service provider.

The intermediary payment service provider shall report that failure, and the steps taken, to the [Commission as the](#) competent authority responsible for monitoring compliance with anti-money laundering and counter terrorist financing provisions.

Article 13

Assessment and reporting

The intermediary payment service provider shall take into account missing information on the payer or the payee as a factor when assessing whether a transfer of funds, or any related transaction, is suspicious, and whether it is to be reported to the [Financial Intelligence Service](#)—in accordance with [Part I of the Disclosure Law and Part III of the Terrorism Law Directive \(EU\) 2015/849](#).

CHAPTER III

INFORMATION, DATA PROTECTION AND RECORD-RETENTION

Article 14

Provision of information

Payment service providers shall respond fully and without delay, ~~including by means of a central contact point in accordance with Article 45(9) of Directive (EU) 2015/849, where such a contact point has been appointed,~~ and in accordance with the procedural requirements laid down in the national law of ~~the Member State~~ Alderney in which they are established, to enquiries exclusively from the authorities responsible for preventing and combating money laundering or terrorist financing ([construed so as to include the Commission, the Guernsey Border Agency \(including the Financial Intelligence Service\)](#)) of ~~that Member State~~ Alderney concerning the information required under this Regulation.

Article 15

Data protection

1. The processing of personal data under this Regulation is subject to ~~Directive 95/46/EC, as transposed into national law~~ the Data Protection (Bailiwick of Guernsey) Law, 2001. ~~Personal data that is processed pursuant to this Regulation by the Commission or by the ESAs is subject to Regulation (EC) No 45/2001.~~
2. Personal data shall be processed by payment service providers on the basis of this Regulation only for the purposes of the prevention of money laundering and terrorist financing and shall not be further processed in a way that is incompatible with those purposes. The processing of personal data on the basis of this Regulation for commercial purposes shall be prohibited.
3. Payment service providers shall provide new clients with the information required pursuant to ~~Article 10 of Directive 95/46/EC~~ the Data Protection (Bailiwick of Guernsey) Law, 2001 before establishing a business relationship or carrying out an occasional transaction. That information shall, in particular, include a general notice concerning the legal obligations of payment service providers under this Regulation when processing personal data for the purposes of the prevention of money laundering and terrorist financing.
4. Payment service providers shall ensure that the confidentiality of the data processed is respected.

Article 16

Record retention

1. ~~Information on the payer and the payee shall not be retained for longer than strictly necessary.~~ Payment service providers of the payer and of the payee shall retain records of the information referred to in Articles 4 to 7 for a period of at least five years.
2. ~~Upon expiry of the retention period referred to in paragraph 1, payment service providers shall ensure that the personal data is deleted, unless otherwise provided for by national law, which shall determine under which circumstances payment service providers may or shall further retain the data. Member States may allow or require further retention only after they have carried out a thorough assessment of the necessity and proportionality of such further retention, and where they consider it to be justified as necessary for the prevention, detection or investigation of money laundering or terrorist financing. That further retention period shall not exceed five years.~~
3. ~~Where, on 25 June 2015, legal proceedings concerned with the prevention, detection, investigation or prosecution of suspected money laundering or terrorist financing are pending in a Member State, and a payment service provider holds information or documents relating to those pending proceedings, the payment service provider may retain that information or those documents in accordance with national law for a period of five years from 25 June 2015. Member States may, without prejudice to national criminal law on evidence applicable to ongoing criminal investigations and legal proceedings, allow or require the retention of such information or documents for a further period of five years where the necessity and proportionality of such further retention has been established for the prevention, detection, investigation or prosecution of suspected money laundering or terrorist financing.~~

CHAPTER IV SANCTIONS AND MONITORING

Article 17

Administrative sanctions and measures

1. Without prejudice to the right to provide for and impose criminal sanctions, Member States shall lay down the rules on administrative sanctions and measures applicable to breaches of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The sanctions and measures provided for shall be effective, proportionate and dissuasive, ~~and shall be consistent with those laid down in accordance with Chapter VI, Section 4, of Directive (EU) 2015/849.~~

~~Member States~~ Alderney may decide not to lay down rules on administrative sanctions or measures for breach of the provisions of this Regulation which are subject to criminal sanctions in their national law. ~~In that case, Member States shall communicate to the Commission the relevant criminal law provisions.~~

2. ~~Member States~~ Alderney shall ensure that where obligations apply to payment services providers, in the event of a breach of provisions of this Regulation, sanctions or measures can, subject to national law, be applied to the members of the management body and to any other natural person who, under national law, is responsible for the breach.

3. ~~By 26 June 2017, Member States shall notify the rules referred to in paragraph 1 to the Commission and to the Joint Committee of the ESAs. They shall notify the Commission and the Joint Committee of the ESAs without delay of any subsequent amendments thereto.~~

4. In accordance with Article 58(4) of Directive (EU) 2015/849^J, competent authorities (construed so as to include the Commission and the Guernsey Border Agency (including the Financial Intelligence Service)) shall have all the supervisory and investigatory powers that are necessary for the exercise of their functions. ~~In the exercise of their powers to impose administrative sanctions and measures,~~ Competent authorities shall cooperate closely ~~to ensure that those administrative sanctions or measures produce the desired results~~ and coordinate their action when dealing with cross-border cases.

5. ~~Member States~~ Alderney shall ensure that legal persons can be held liable for the breaches of the provisions of this Regulation referred to in Article 18 committed for their benefit by any person acting individually or as part of an organ of that legal person, and having a leading position within the legal person based on any of the following:

- (a) power to represent the legal person;
- (b) authority to take decisions on behalf of the legal person; or
- (c) authority to exercise control within the legal person.

6. ~~Member States~~ Alderney shall also ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 5 of this Article has made it possible to commit a one of the breach of one of the provisions of this Regulation referred to in Article 18 for the benefit of that legal person by a person under its authority.

7. ~~Competent authorities shall exercise their powers to impose administrative sanctions and measures in accordance with this Regulation in any of the following ways:~~

- (a) ~~directly;~~
- (b) ~~in collaboration with other authorities;~~
- (c) ~~under their responsibility by delegation to such other authorities;~~
- (d) ~~by application to the competent judicial authorities.~~

~~In the exercise of their powers to impose administrative sanctions and measures, competent authorities shall cooperate closely in order to ensure that those administrative sanctions or measures produce the desired results and coordinate their action when dealing with cross-border cases.~~

Article 18

Specific provisions

~~Member States shall ensure that their administrative sanctions and measures include at least those laid down by Article 59(2) and (3) of Directive (EU) 2015/849 in the event of the following breaches of this Regulation:~~

- ~~(a) repeated or systematic failure by a payment service provider to include the required information on the payer or the payee, in breach of Article 4, 5 or 6;~~
- ~~(b) repeated, systematic or serious failure by a payment service provider to retain records, in breach of Article 16;~~
- ~~(c) failure by a payment service provider to implement effective risk-based procedures, in breach of Articles 8 or 12;~~
- ~~(d) serious failure by an intermediary payment service provider to comply with Article 11 or 12.~~

Article 19

Publication of sanctions and measures

~~In accordance with Article 60(1), (2) and (3) of Directive (EU) 2015/849, the competent authorities shall publish administrative sanctions and measures imposed in the cases referred to in Articles 17 and 18 of this Regulation without undue delay, including information on the type and nature of the breach and the identity of the persons responsible for it, if necessary and proportionate after a case-by-case evaluation.~~

Article 20

Application of sanctions and measures by the competent authorities

- ~~1. When determining the type of administrative sanctions or measures and the level of administrative pecuniary sanctions, the competent authorities shall take into account all relevant circumstances, including those listed in Article 60(4) of Directive (EU) 2015/849.~~
- ~~2. As regards administrative sanctions and measures imposed in accordance with this Regulation, Article 62 of Directive (EU) 2015/849 shall apply.~~

Article 21

Reporting of breaches

- ~~1. Member States~~ Alderney shall establish effective mechanisms to encourage the reporting to ~~competent authorities~~ the Commission of breaches of this Regulation.

~~Those mechanisms shall include at least those referred to in Article 61(2) of Directive (EU) 2015/849 .~~

2. Payment service providers, in cooperation with the ~~competent authorities~~the Commission, shall establish appropriate internal procedures for their employees, or persons in a comparable position, to report breaches internally through a secure, independent, specific and anonymous channel, proportionate to the nature and size of the payment service provider concerned.

Article 22

Monitoring

1. ~~Member States~~Alderney shall require ~~competent authorities~~the Commission to monitor effectively and to take the measures necessary to ensure compliance with this Regulation and encourage, through effective mechanisms, the reporting of breaches of the provisions of this Regulation to ~~competent authorities~~the Commission.

2. ~~After Member States have notified the rules referred to in paragraph 1 of this Article to the Commission and to the Joint Committee of the ESAs in accordance with Article 17(3), the Commission shall submit a report to the European Parliament and to the Council on the application of Chapter IV, with particular regard to cross-border cases.~~

CHAPTER V IMPLEMENTING POWERS

Article 23

Committee procedure

1. ~~The Commission shall be assisted by the Committee on the Prevention of Money Laundering and Terrorist Financing (the 'Committee'). The Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.~~

2. ~~Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.~~

CHAPTER VI DEROGATIONS

Article 24

Agreements with countries and territories which do not form part of the territory of the Union

1. ~~The Commission may authorise any Member State to conclude an agreement with a third country or with a territory outside the territorial scope of the TEU and the TFEU as referred to in Article 355 TFEU (the 'country or territory concerned'), which contains derogations from this Regulation, in order to allow transfers of funds between that country or territory and the Member State concerned to be treated as transfers of funds within that Member State.~~

~~Such agreements may be authorised only where all of the following conditions are met:~~

~~(a) the country or territory concerned shares a monetary union with the Member State concerned, forms part of the currency area of that Member State or has signed a monetary convention with the Union represented by a Member State;~~

~~(b) payment service providers in the country or territory concerned participate directly or indirectly in payment and settlement systems in that Member State; and~~

~~(c) the country or territory concerned requires payment service providers under its jurisdiction to apply the same rules as those established under this Regulation.~~

~~2. A Member State wishing to conclude an agreement as referred to in paragraph 1 shall submit a request to the Commission and provide it with all the information necessary for the appraisal of the request.~~

~~3. Upon receipt by the Commission of such a request, transfers of funds between that Member State and the country or territory concerned shall be provisionally treated as transfers of funds within that Member State until a decision is reached in accordance with this Article.~~

~~4. If, within two months of receipt of the request, the Commission considers that it does not have all the information necessary for the appraisal of the request, it shall contact the Member State concerned and specify the additional information required.~~

~~5. Within one month of receipt of all the information that it considers to be necessary for the appraisal of the request, the Commission shall notify the requesting Member State accordingly and shall transmit copies of the request to the other Member States.~~

~~6. Within three months of the notification referred to in paragraph 5 of this Article, the Commission shall decide, in accordance with Article 23(2), whether to authorise the Member State concerned to conclude the agreement that is the subject of the request.~~

~~The Commission shall, in any event, adopt a decision as referred to in the first subparagraph within 18 months of receipt of the request.~~

~~7. By 26 March 2017, Member States that have been authorised to conclude agreements with a country or territory concerned pursuant to Commission Implementing Decision 2012/43/EU ⁽²⁰⁾, Commission Decision 2010/259/EU ⁽²¹⁾, Commission Decision 2009/853/EC ⁽²²⁾ or Commission Decision 2008/982/EC ⁽²³⁾ shall provide the Commission with updated information necessary for an appraisal under point (c) of the second subparagraph of paragraph 1.~~

~~Within three months of receipt of such information, the Commission shall examine the information provided to ensure that the country or territory concerned requires payment service providers under its jurisdiction to apply the same rules as those established under this Regulation. If, after such examination, the Commission considers that the condition laid down in point (c) of the second subparagraph of paragraph 1 is no longer met, it shall repeal the relevant Commission Decision or Commission Implementing Decision.~~

Article 25

Guidelines

~~By 26 June 2017, the ESAs shall issue guidelines addressed to the competent authorities and the payment service providers in accordance with Article 16 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010, on measures to be taken in accordance with this Regulation, in particular as regards the implementation of Articles 7, 8, 11 and 12.~~

CHAPTER VII

FINAL PROVISIONS

Article 26

Repeal of Regulation (EC) No 1781/2006

~~Regulation (EC) No 1781/2006 is repealed.~~

~~References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in the Annex.~~

Article 27

Entry into force

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

~~It shall apply from 26 June 2017.~~

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

~~Done at Strasbourg, 20 May 2015.~~

For the European Parliament

The President

M. SCHULZ

For the Council

The President

Z. KALNIŅA-LUKAŠEVICA

⁽¹⁾ [OJ C 166, 12.6.2013, p. 2.](#)

⁽²⁾ [OJ C 271, 19.9.2013, p. 31.](#)

⁽³⁾ Position of the European Parliament of 11 March 2014 (not yet published in the Official Journal) and position of the Council at first reading of 20 April 2015 (not yet published in the Official Journal). Position of the European Parliament of 20 May 2015 (not yet published in the Official Journal).

⁽⁴⁾ Council Regulation (EC) No 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism ([OJ L 344, 28.12.2001, p. 70](#)).

⁽⁵⁾ Council Regulation (EC) No 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al-Qaida network ([OJ L 139, 29.5.2002, p. 9](#)).

⁽⁶⁾ Council Regulation (EU) No 356/2010 of 26 April 2010 imposing certain specific restrictive measures directed against certain natural or legal persons, entities or bodies, in view of the situation in Somalia ([OJ L 105, 27.4.2010, p. 1](#)).

⁽⁷⁾ 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 purpose 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 (see page 73 of this Official Journal).

⁽⁸⁾ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ([OJ L 281, 23.11.1995, p. 31](#)).

⁽⁹⁾ Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC ([OJ L 319, 5.12.2007, p. 1](#)).

⁽¹⁰⁾ Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001 ([OJ L 266, 9.10.2009, p. 11](#)).

(11) Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 ([OJ L 94, 30.3.2012, p. 22](#)).

(12) Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC ([OJ L 331, 15.12.2010, p. 12](#)).

(13) Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC ([OJ L 331, 15.12.2010, p. 48](#)).

(14) Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC ([OJ L 331, 15.12.2010, p. 84](#)).

(15) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers ([OJ L 55, 28.2.2011, p. 13](#)).

(16) Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds ([OJ L 345, 8.12.2006, p. 1](#)).

(17) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ([OJ L 8, 12.1.2001, p. 1](#)).

(18) [OJ C 32, 4.2.2014, p. 9](#).

(19) Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC ([OJ L 267, 10.10.2009, p. 7](#)).

(20) Commission Implementing Decision 2012/43/EU of 25 January 2012 authorising the Kingdom of Denmark to conclude agreements with Greenland and the Faroe Islands for transfers of funds between Denmark and each of these territories to be treated as transfers of funds within Denmark, pursuant to Regulation (EC) No 1781/2006 of the European Parliament and of the Council ([OJ L 24, 27.1.2012, p. 12](#)).

(21) Commission Decision 2010/259/EU of 4 May 2010 authorising the French Republic to conclude an agreement with the Principality of Monaco for transfers of funds between the French Republic and the Principality of Monaco to be treated as transfers of funds within the French Republic, pursuant to Regulation (EC) No 1781/2006 of the European Parliament and of the Council ([OJ L 112, 5.5.2010, p. 23](#)).

(22) Commission Decision 2009/853/EC of 26 November 2009 authorising France to conclude an agreement with Saint-Pierre-et-Miquelon, Mayotte, New Caledonia, French Polynesia and Wallis and Futuna respectively for transfers of funds between France and each of these territories to be treated as transfers of funds within France, pursuant to Regulation (EC) No 1781/2006 of the European Parliament and of the Council ([OJ L 312, 27.11.2009, p. 71](#)).

(23) Commission Decision 2008/982/EC of 8 December 2008 authorising the United Kingdom to conclude an agreement with the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man for transfers of funds between the United Kingdom and each of these territories to be treated as transfers of funds within the United Kingdom, pursuant to Regulation (EC) No 1781/2006 of the European Parliament and of the Council ([OJ L 352, 31.12.2008, p. 34](#)).

ANNEX

CORRELATION TABLE

Regulation (EC) No 1781/2006	This Regulation
Article 1	Article 1
Article 2	Article 3
Article 3	Article 2
Article 4	Article 4(1)
Article 5	Article 4
Article 6	Article 5

Article 7	Article 7
Article 8	Article 7
Article 9	Article 8
Article 10	Article 9
Article 11	Article 16
Article 12	Article 10
—	Article 11
—	Article 12
—	Article 13
Article 13	—
Article 14	Article 15
Article 15	Articles 17 to 22
Article 16	Article 23
Article 17	Article 24
Article 18	—
Article 19	—
—	Article 26
Article 20	Article 27

Additional Endnotes

a

Points (a) to (m) and (o) of Article 3 (Negative Scope) of Directive 2007/64/EC:

- (a) payment transactions made exclusively in cash directly from the payer to the payee, without any intermediary intervention;
- (b) payment transactions from the payer to the payee through a commercial agent authorised to negotiate or conclude the sale or purchase of goods or services on behalf of the payer or the payee;
- (c) professional physical transport of banknotes and coins, including their collection, processing and delivery;
- (d) payment transactions consisting of the non-professional cash collection and delivery within the framework of a non-profit or charitable activity;
- (e) services where cash is provided by the payee to the payer as part of a payment transaction following an explicit request by the payment service user just before the execution of the payment transaction through a payment for the purchase of goods or services;
- (f) money exchange business, that is to say, cash-to-cash operations, where the funds are not held on a payment account;

- (g) payment transactions based on any of the following documents drawn on the payment service provider with a view to placing funds at the disposal of the payee:
- (i) paper cheques in accordance with the Geneva Convention of 19 March 1931 providing a uniform law for cheques;
 - (ii) paper cheques similar to those referred to in point (i) and governed by the laws of Member States which are not party to the Geneva Convention of 19 March 1931 providing a uniform law for cheques;
 - (iii) paper-based drafts in accordance with the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;
 - (iv) paper-based drafts similar to those referred to in point (iii) and governed by the laws of Member States which are not party to the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;
 - (v) paper-based vouchers;
 - (vi) paper-based traveller's cheques; or
 - (vii) paper-based postal money orders as defined by the Universal Postal Union;
- (h) payment transactions carried out within a payment or securities settlement system between settlement agents, central counterparties, clearing houses and/or central banks and other participants of the system, and payment service providers, without prejudice to Article 28:
- (i) payment transactions related to securities asset servicing, including dividends, income or other distributions, or redemption or sale, carried out by persons referred to in point (h) or by investment firms, credit institutions, collective investment undertakings or asset management companies providing investment services and any other entities allowed to have the custody of financial instruments;
 - (j) services provided by technical service providers, which support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and privacy protection services, data and entity authentication, information technology (IT) and communication network provision, provision and maintenance of terminals and devices used for payment services;
 - (k) services based on instruments that can be used to acquire goods or services only in the premises used by the issuer or under a commercial agreement with the issuer either within a limited network of service providers or for a limited range of goods or services;
 - (l) payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services;
 - (m) payment transactions carried out between payment service providers, their agents or branches for their own account;
 - (o) services by providers to withdraw cash by means of automated teller machines acting on behalf of one or more card issuers, which are not a party to the framework contract with the customer withdrawing money from a payment account, on condition that these providers do not conduct other payment services as listed in the Annex.”.

Notes in relation to Endnote (a)

1. Article 28 (Access to payments systems) of Directive 2007/64/EC:

"1. Member States shall ensure that the rules on access of authorised or registered payment service providers that are legal persons to payment systems shall be objective, non-discriminatory and proportionate and that those rules do not inhibit access more than is necessary to safeguard against specific risks such as settlement risk, operational risk and business risk and to protect the financial and operational stability of the payment system.

Payment systems shall impose on payment service providers, on payment service users or on other payment systems none of the following requirements:

- (a) any restrictive rule on effective participation in other payment systems;
- (b) any rule which discriminates between authorised payment service providers or between registered payment service providers in relation to the rights, obligations and entitlements of participants; or
- (c) any restriction on the basis of institutional status.

2. Paragraph 1 shall not apply to:

- (a) payment systems designated under Directive 98/26/EC;
- (b) payment systems composed exclusively of payment service providers belonging to a group composed of entities linked by capital where one of the linked entities enjoys effective control over the other linked entities; or
- (c) payment systems where a sole payment service provider (whether as a single entity or as a group):
 - acts or can act as the payment service provider for both the payer and the payee and is exclusively responsible for the management of the system, and
 - licenses other payment service providers to participate in the system and the latter have no right to negotiate fees between or amongst themselves in relation to the payment system although they may establish their own pricing in relation to payers and payees."

2. The Annex (Payment Services (Definition 3 in Article 4)) to Directive 2007/64/EC:

"PAYMENT SERVICES (DEFINITION 3 IN ARTICLE 4)

1. Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account.
2. Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account.
3. Execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider:
 - execution of direct debits, including one-off direct debits,
 - execution of payment transactions through a payment card or a similar device,
 - execution of credit transfers, including standing orders.
4. Execution of payment transactions where the funds are covered by a credit line for a payment service user:
 - execution of direct debits, including one-off direct debits,
 - execution of payment transactions through a payment card or a similar device,
 - execution of credit transfers, including standing orders.
5. Issuing and/or acquiring of payment instruments

6. Money remittance.

7. Execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator, acting only as an intermediary between the payment service user and the supplier of the goods and services.”.

3. Definitions from Article 4 of Directive 2007/64/EC referred to in endnote (a):

- “(4) ‘payment institution’ means a legal person that has been granted authorisation in accordance with Article 10 to provide and execute payment services throughout the Community;
- (5) ‘payment transaction’ means an act, initiated by the payer or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee;
- (6) ‘payment system’ means a funds transfer system with formal and standardised arrangements and common rules for the processing, clearing and/or settlement of payment transactions;
- (7) ‘payer’ means a natural or legal person who holds a payment account and allows a payment order from that payment account, or, where there is no payment account, a natural or legal person who gives a payment order;
- (8) ‘payee’ means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction;
- (9) ‘payment service provider’ means bodies referred to in Article 1(1) and legal and natural persons benefiting from the waiver under Article 26;
- (10) ‘payment service user’ means a natural or legal person making use of a payment service in the capacity of either payer or payee, or both;
- (12) ‘framework contract’ means a payment service contract which governs the future execution of individual and successive payment transactions and which may contain the obligation and conditions for setting up a payment account;
- (13) ‘money remittance’ means a payment service where funds are received from a payer, without any payment accounts being created in the name of the payer or the payee, for the sole purpose of transferring a corresponding amount to a payee or to another payment service provider acting on behalf of the payee, and/or where such funds are received on behalf of and made available to the payee;
- (14) ‘payment account’ means an account held in the name of one or more payment service users which is used for the execution of payment transactions;
- (15) ‘funds’ means banknotes and coins, scriptural money and electronic money as defined in Article 1(3)(b) of Directive 2000/46/EC;
- (16) ‘payment order’ means any instruction by a payer or payee to his payment service provider requesting the execution of a payment transaction;
- (22) ‘agent’ means a natural or legal person which acts on behalf of a payment institution in providing payment services;
- (23) ‘payment instrument’ means any personalised device(s) and/or set of procedures agreed between the payment service user and the payment service provider and used by the payment service user in order to initiate a payment order;

- (28) 'direct debit' means a payment service for debiting a payer's payment account, where a payment transaction is initiated by the payee on the basis of the payer's consent given to the payee, to the payee's payment service provider or to the payer's own payment service provider;
- (29) 'branch' means a place of business other than the head office which is a part of a payment institution, which has no legal personality and which carries out directly some or all of the transactions inherent in the business of a payment institution; all the places of business set up in the same Member State by a payment institution with a head office in another Member State shall be regarded as a single branch;
- (30) 'group' means a group of undertakings, which consists of a parent undertaking, its subsidiaries and the entities in which the parent undertaking or its subsidiaries have a holding as well as undertakings linked to each other by a relationship referred to in Article 12(1) of Directive 83/349/EEC. ”.

b
Article 1(1) (Subject Matter) of Directive 2007/64/EC:

“1(1) This Directive lays down the rules in accordance with which Member States shall distinguish the following six categories of payment service provider:

- (a) credit institutions within the meaning of Article 4(1)(a) of Directive 2006/48/EC,
- (b) electronic money institutions within the meaning of Article 1(3)(a) of Directive 2000/46/EC;
- (c) post office giro institutions which are entitled under national law to provide payment services;
- (d) payment institutions within the meaning of this Directive;
- (e) the European Central Bank and national central banks when not acting in their capacity as monetary authority or other public authorities;
- (f) Member States or their regional or local authorities when not acting in their capacity as public authorities.”.

c
Article 26 (Conditions) of Directive 2007/64/EC:

“1. Notwithstanding Article 13, Member States may waive or allow their competent authorities to waive the application of all or part of the procedure and conditions set out in Sections 1 to 3, with the exception of Articles 20, 22, 23 and 24, and allow natural or legal persons to be entered in the register provided for in Article 13, where:

- (a) the average of the preceding 12 months' total amount of payment transactions executed by the person concerned, including any agent for which it assumes full responsibility, does not exceed EUR 3 million per month. That requirement shall be assessed on the projected total amount of payment transactions in its business plan, unless an adjustment to that plan is required by the competent authorities; and
- (b) none of the natural persons responsible for the management or operation of the business has been convicted of offences relating to money laundering or terrorist financing or other financial crimes.

2. Any natural or legal person registered in accordance with paragraph 1 shall be required to have its head office or place of residence in the Member State in which it actually carries on its business.

3. The persons referred to in paragraph 1 shall be treated as payment institutions, save that Article 10(9) and Article 25 shall not apply to them.

4. Member States may also provide that any natural or legal person registered in accordance with paragraph 1 may engage only in certain activities listed in Article 16.

5. The persons referred to in paragraph 1 shall notify the competent authorities of any change in their situation which is relevant to the conditions specified in that paragraph. Member States shall take the necessary steps to ensure that where the conditions set out in paragraphs 1, 2 and 4 are no longer fulfilled, the persons concerned shall seek authorisation within 30 calendar days in accordance with the procedure laid down in Article 10.

6. This Article shall not be applied in respect of provisions of Directive 2005/60/EC or national anti-money-laundering provisions.”.

d
Article 9 (Optional Exemptions) of Directive 2009/110/EC:

“1. Member States may waive or allow their competent authorities to waive the application of all or part of the procedures and conditions set out in Articles 3, 4, 5 and 7 of this Directive, with the exception of Articles 20, 22, 23 and 24 of Directive 2007/64/EC, and allow legal persons to be entered in the register for electronic money institutions if both of the following requirements are complied with:

- (a) the total business activities generate an average outstanding electronic money that does not exceed a limit set by the Member State but that, in any event, amounts to no more than EUR 5 000 000; and
- (b) none of the natural persons responsible for the management or operation of the business has been convicted of offences relating to money laundering or terrorist financing or other financial crimes.

Where an electronic money institution carries out any of the activities referred to in Article 6(1)(a) that are not linked to the issuance of electronic money or any of the activities referred to in Article 6(1)(b) to (e) and the amount of outstanding electronic money is unknown in advance, the competent authorities shall allow that electronic money institution to apply point (a) of the first subparagraph on the basis of a representative portion assumed to be used for the issuance of electronic money, provided that such a representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the competent authorities. Where an electronic money institution has not completed a sufficiently long period of business, that requirement shall be assessed on the basis of projected outstanding electronic money evidenced by its business plan subject to any adjustment to that plan having been required by the competent authorities.

Member States may also provide for the granting of the optional exemptions under this Article to be subject to an additional requirement of a maximum storage amount on the payment instrument or payment account of the consumer where the electronic money is stored.

A legal person registered in accordance with this paragraph may provide payment services not related to electronic money issued in accordance with this Article only if conditions set out in Article 26 of Directive 2007/64/EC are met.

2. A legal person registered in accordance with paragraph 1 shall be required to have its head office in the Member State in which it actually pursues its business.

3. A legal person registered in accordance with paragraph 1 shall be treated as an electronic money institution. However, Article 10(9) and Article 25 of Directive 2007/64/EC shall not apply to it.

4. Member States may provide for a legal person registered in accordance with paragraph 1 to engage only in some of the activities listed in Article 6(1).

5. A legal person referred to in paragraph 1 shall:

- (a) notify the competent authorities of any change in its situation which is relevant to the conditions specified in paragraph 1; and

(b) at least annually, on date specified by the competent authorities, report on the average outstanding electronic money.

6. Member States shall take the necessary steps to ensure that where the conditions set out in paragraphs 1, 2 and 4 are no longer met, the legal person concerned shall seek authorisation within 30 calendar days in accordance with Article 3. Any such person that has not sought authorisation within that period shall be prohibited, in accordance with Article 10, from issuing electronic money.

7. Member States shall ensure that their competent authorities are sufficiently empowered to verify continued compliance with the requirements laid down in this Article.

8. This Article shall not apply in respect of the provisions of Directive 2005/60/EC or national anti-money-laundering provisions.

9. Where a Member State avails itself of the waiver provided for in paragraph 1, it shall notify the Commission accordingly by 30 April 2011. The Member State shall notify the Commission forthwith of any subsequent change.

In addition, the Member State shall inform the Commission of the number of legal persons concerned and, on an annual basis, of the total amount of outstanding electronic money issued at 31 December of each calendar year, as referred to in paragraph 1.”.

e

See Endnote (a), Note 3 for the text of point (14) of Article 4 of Directive 2007/64/EC.

f

See Endnote (a), Note 3 for the text of point (15) of Article 4 of Directive 2007/64/EC.

g

Point (1) of Article 2 of Regulation (EU) No 260/2012:

“‘credit transfer’ means a national or cross-border payment service for crediting a payee’s payment account with a payment transaction or a series of payment transactions from a payer’s payment account by the PSP which holds the payer’s payment account, based on an instruction given by the payer.”.

h

Point (2) of Article 2 of Regulation (EU) No 260/2012:

“‘direct debit’ means a national or cross-border payment service for debiting a payer’s payment account, where a payment transaction is initiated by the payee on the basis of the payer’s consent.”.

i

See Endnote (a), Note 3 for the text of point (13) of Article 4 of Directive 2007/64/EC.

j

Article 58(4) of Directive (EU) 2015/849:

“58(4) Member States shall ensure that the competent authorities have all the supervisory and investigatory powers that are necessary for the exercise of their functions.”.

k

Article 61(2) of Directive (EU) 2015/849:

“61(2) The mechanisms referred to in paragraph 1 shall include at least:

(a) specific procedures for the receipt of reports on breaches and their follow-up;

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- (b) appropriate protection for employees or persons in a comparable position, of obliged entities who report breaches committed within the obliged entity;
 - (c) appropriate protection for the accused person;
 - (d) protection of personal data concerning both the person who reports the breaches and the natural person who is allegedly responsible for a breach, in compliance with the principles laid down in Directive 95/46/EC;
 - (e) clear rules that ensure that confidentiality is guaranteed in all cases in relation to the person who reports the breaches committed within the obliged entity, unless disclosure is required by national law in the context of further investigations or subsequent judicial proceedings. ”.