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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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I

(Acts whose publication is obligatory)

REGULATION (EC) No 1888/2005 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 October 2005

amending Regulation (EC) No 1059/2003 on the establishment of a common classification of territorial units for statistics (NUTS) by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 285(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ([1]),

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ([2]),

Whereas:

(1) Regulation (EC) No 1059/2003 ([3]) constitutes the legal framework for the regional classification in order to enable the collection, compilation and dissemination of harmonised regional statistics in the Community.

(2) All Member States' statistics transmitted to the Commission, which are broken down by territorial units, should use the NUTS classification, where applicable.

(3) It is necessary to adapt the Annexes to Regulation (EC) No 1059/2003 to take into account the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union.

(4) Regulation (EC) No 1059/2003 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1059/2003 is amended as follows:

1. Annex I is amended in accordance with the text shown in Annex I to this Regulation.
2. Annexes II and III are replaced by the text appearing in Annex II and in Annex III to this Regulation.

Article 2

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

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

Done at Strasbourg, 26 October 2005.

For the European Parliament
The President
J. BORRELL FONTELLES

For the Council
The President
D. ALEXANDER

([1]) OJ C 157, 28.6.2005, p. 149.
([2]) Opinion of the European Parliament of 12 April 2005 (not yet published in the Official Journal) and Council Decision of 19 September 2005.
([3]) OJ L 154, 21.6.2003, p. 1.

ANNEX I

Annex I to Regulation (EC) No 1059/2003 is amended as follows:

1. The following table is inserted between BE — BELGIQUE/BELGIË and DK — DANMARK:

'Code	Nuts 1	Nuts 2	Nuts 3
CZ	**ČESKÁ REPUBLIKA**		
CZ0	ČESKÁ REPUBLIKA		
CZ01		Praha	
CZ010			Hlavní město Praha
CZ02		Střední Čechy	
CZ020			Středočeský kraj
CZ03		Jihozápad	
CZ031			Jihočeský kraj
CZ032			Plzeňský kraj
CZ04		Severozápad	
CZ041			Karlovarský kraj
CZ042			Ústecký kraj
CZ05		Severovýchod	
CZ051			Liberecký kraj
CZ052			Královéhradecký kraj
CZ053			Pardubický kraj
CZ06		Jihovýchod	
CZ061			Vysočina
CZ062			Jihomoravský kraj
CZ07		Střední Morava	
CZ071			Olomoucký kraj
CZ072			Zlínský kraj
CZ08		Moravskoslezsko	
CZ080			Moravskoslezský kraj
CZZ	EXTRA-REGIO		
CZZZ		Extra-Regio	
CZZZZ			Extra-Regio'

2. The following table is inserted between DE — DEUTSCHLAND and GR — ΕΛΛΑΔΑ (Ellada):

'Code	Nuts 1	Nuts 2	Nuts 3
EE	**EESTI**		
EE0	EESTI		
EE00		Eesti	
EE001			Põhja-Eesti
EE004			Lääne-Eesti
EE006			Kesk-Eesti
EE007			Kirde-Eesti
EE008			Lõuna-Eesti
EEZ	EXTRA-REGIO		
EEZZ		Extra-Regio	
EEZZZ			Extra-Regio'

3. The following table is inserted between IT — ITALIA and LU — LUXEMBOURG (GRAND-DUCHÉ):

'Code	Nuts 1	Nuts 2	Nuts 3
CY	**ΚΥΠΡΟΣ/KIBRIS**		
CY0	ΚΥΠΡΟΣ/KIBRIS		
CY00		Κύπρος/Kıbrıs	
CY000			Κύπρος/Kıbrıs
CYZ	EXTRA-REGIO		
CYZZ		Extra-Regio	
CYZZZ			Extra-Regio
LV	**LATVIJA**		
LV0	LATVIJA		
LV00		Latvija	
LV003			Kurzeme
LV005			Latgale
LV006			Rīga
LV007			Pierīga
LV008			Vidzeme
LV009			Zemgale
LVZ	EXTRA-REGIO		
LVZZ		Extra-Regio	
LVZZZ			Extra-Regio
LT	**LIETUVA**		
LT0	LIETUVA		
LT00		Lietuva	
LT001			Alytaus apskritis
LT002			Kauno apskritis
LT003			Klaipėdos apskritis
LT004			Marijampolės apskritis
LT005			Panevėžio apskritis
LT006			Šiaulių apskritis
LT007			Tauragės apskritis
LT008			Telšių apskritis
LT009			Utenos apskritis
LT00A			Vilniaus apskritis
LTZ	EXTRA-REGIO		
LTZZ		Extra-Regio	
LTZZZ			Extra-Regio'

4. The following table is inserted between LU — LUXEMBOURG (GRAND-DUCHÉ) and NL — NEDERLAND:

'Code	Nuts 1	Nuts 2	Nuts 3
HU	**MAGYARORSZÁG**		
HU1	KÖZÉP-MAGYARORSZÁG		
HU10		Közép-Magyarország	
HU101			Budapest
HU102			Pest
HU2	DUNÁNTÚL		
HU21		Közép-Dunántúl	
HU211			Fejér
HU212			Komárom-Esztergom
HU213			Veszprém
HU22		Nyugat-Dunántúl	
HU221			Győr-Moson-Sopron
HU222			Vas
HU223			Zala
HU23		Dél-Dunántúl	
HU231			Baranya
HU232			Somogy
HU233			Tolna
HU3	ALFÖLD ÉS ÉSZAK		
HU31		Észak-Magyarország	
HU311			Borsod-Abaúj-Zemplén
HU312			Heves
HU313			Nógrád
HU32		Észak-Alföld	
HU321			Hajdú-Bihar
HU322			Jász-Nagykun-Szolnok
HU323			Szabolcs-Szatmár-Bereg
HU33		Dél-Alföld	
HU331			Bács-Kiskun
HU332			Békés
HU333			Csongrád
HUZ	EXTRA-REGIO		
HUZZ		Extra-Regio	
HUZZZ			Extra-Regio
MT	**MALTA**		
MT0	MALTA		
MT00		Malta	
MT001			Malta
MT002			Gozo and Comino/Għawdex u Kemmuna
MTZ	EXTRA-REGIO		
MTZZ		Extra-Regio	
MTZZZ			Extra-Regio'

5. The following table is inserted between AT — ÖSTERREICH and PT — PORTUGAL:

'Code	Nuts 1	Nuts 2	Nuts 3
PL	POLSKA		
PL1	CENTRALNY		
PL11		Łódzkie	
PL111			Łódzki
PL112			Piotrkowsko-skierniewicki
PL113			Miasto Łódź
PL12		Mazowieckie	
PL121			Ciechanowsko-płocki
PL122			Ostrołęcko-siedlecki
PL124			Radomski
PL126			Warszawski
PL127			Miasto Warszawa
PL2	POŁUDNIOWY		
PL21		Małopolskie	
PL211			Krakowsko-tarnowski
PL212			Nowosądecki
PL213			Miasto Kraków
PL22		Śląskie	
PL224			Częstochowski
PL225			Bielsko-bialski
PL226			Centralny śląski
PL227			Rybnicko-jastrzębski
PL3	WSCHODNI		
PL31		Lubelskie	
PL311			Bialskopodlaski
PL312			Chełmsko-zamojski
PL313			Lubelski
PL32		Podkarpackie	
PL321			Rzeszowsko-tarnobrzeski
PL322			Krośnieńsko-przemyski
PL33		Świętokrzyskie	
PL330			Świętokrzyski
PL34		Podlaskie	
PL341			Białostocko-suwalski
PL342			Łomżyński

'Code	Nuts 1	Nuts 2	Nuts 3
PL4	PÓŁNOCNO-ZACHODNI		
PL41		Wielkopolskie	
PL411			Pilski
PL412			Poznański
PL413			Kaliski
PL414			Koniński
PL415			Miasto Poznań
PL42		Zachodniopomorskie	
PL421			Szczeciński
PL422			Koszaliński
PL43		Lubuskie	
PL431			Gorzowski
PL432			Zielonogórski
PL5	POŁUDNIOWO-ZACHODNI		
PL51		Dolnośląskie	
PL511			Jeleniogórsko-wałbrzyski
PL512			Legnicki
PL513			Wrocławski
PL514			Miasto Wrocław
PL52		Opolskie	
PL520			Opolski
PL6	PÓŁNOCNY		
PL61		Kujawsko-pomorskie	
PL611			Bydgoski
PL612			Toruńsko-włocławski
PL62		Warmińsko-mazurskie	
PL621			Elbląski
PL622			Olsztyński
PL623			Ełcki
PL63		Pomorskie	
PL631			Słupski
PL632			Gdański
PL633			Gdańsk-Gdynia-Sopot
PLZ	EXTRA-REGIO		
PLZZ		Extra-Regio	
PLZZZ			Extra-Regio'

6. The following table is inserted between PT — PORTUGAL and FI — SUOMI/FINLAND:

'Code	Nuts 1	Nuts 2	Nuts 3
SI	**SLOVENIJA**		
SI0	SLOVENIJA		
SI00		Slovenija	
SI001			Pomurska
SI002			Podravska
SI003			Koroška
SI004			Savinjska
SI005			Zasavska
SI006			Spodnjeposavska
SI009			Gorenjska
SI00A			Notranjsko-kraška
SI00B			Goriška
SI00C			Obalno-kraška
SI00D			Jugovzhodna Slovenija
SI00E			Osrednjeslovenska
SIZ	EXTRA-REGIO		
SIZZ		Extra-Regio	
SIZZZ			Extra-Regio
SK	**SLOVENSKÁ REPUBLIKA**		
SK0	SLOVENSKÁ REPUBLIKA		
SK01		Bratislavský kraj	
SK010			Bratislavský kraj
SK02		Západné Slovensko	
SK021			Trnavský kraj
SK022			Trenčiansky kraj
SK023			Nitriansky kraj
SK03		Stredné Slovensko	
SK031			Žilinský kraj
SK032			Banskobystrický kraj
SK04		Východné Slovensko	
SK041			Prešovský kraj
SK042			Košický kraj
SKZ	EXTRA-REGIO		
SKZZ		Extra-Regio	
SKZZZ			Extra-Regio'

ANNEX II

'ANNEX II

Existing administrative units

At NUTS level 1 for Belgium "Gewesten/Régions", for Germany "Länder", for Portugal "Continente", "Região dos Açores" and "Região da Madeira", and for the United Kingdom: Scotland, Wales, Northern Ireland and the Government Office Regions of England.

At NUTS level 2 for Belgium "Provincies/Provinces", for Germany "Regierungsbezirke", for Greece "periferies", for Spain "comunidades y ciudades autónomas", for France "régions", for Ireland "regions", for Italy "regioni", for the Netherlands "provincies", for Austria "Länder" and for Poland "województwa".

At NUTS level 3 for Belgium "arrondissementen/arrondissements", for the Czech Republic "Kraje", for Denmark "Amtskommuner", for Germany "Kreise/kreisfreie Städte", for Greece "nomoi", for Spain "provincias", for France "départements", for Ireland "regional authority regions", for Italy "provincie", for Lithuania "Apskritis", for Hungary "megyék", for the Slovak Republic "Kraje", for Sweden "län" and for Finland "maakunnat/landskap".'

ANNEX III

'ANNEX III

Smaller administrative units

For Belgium "Gemeenten/Communes", for the Czech Republic "Obce", for Denmark "Kommuner", for Germany "Gemeinden", for Estonia "Vald, Linn", for Greece "Dimoi/Koinotites", for Spain "Municipios", for France "Communes", for Ireland "counties or county boroughs", for Italy "Comuni", for Cyprus "Δήμοι/κοινότητες (Dimoi/koinotites)", for Latvia "Pilsētas, novadi, pagasti", for Lithuania "Seniūnija", for Luxembourg "Communes", for Hungary "Települések", for Malta "Lokalitajiet", for the Netherlands "Gemeenten", for Austria "Gemeinden", for Poland "Gminy, miasta", for Portugal "Freguesias", for Slovenia "Občina", for the Slovak Republic "Obce", for Finland "Kunnat/Kommuner", for Sweden "Kommuner" and for the United Kingdom "Wards".'

REGULATION (EC) No 1889/2005 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 October 2005

on controls of cash entering or leaving the Community

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 95 and 135 thereof,

Having regard to the proposal from the Commission [1],

After consulting the European Economic and Social Committee,

Acting in accordance with the procedure referred to in Article 251 of the Treaty [2],

Whereas:

(1) One of the Community's tasks is to promote harmonious, balanced and sustainable development of economic activities throughout the Community by establishing a common market and an economic and monetary union. To that end the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured.

(2) The introduction of the proceeds of illegal activities into the financial system and their investment after laundering are detrimental to sound and sustainable economic development. Accordingly, Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering [3] introduced a Community mechanism to prevent money laundering by monitoring transactions through credit and financial institutions and certain types of professions. As there is a risk that the application of that mechanism will lead to an increase in cash movements for illicit purposes, Directive 91/308/EEC should be supplemented by a control system on cash entering or leaving the Community.

(3) At present such control systems are applied by only a few Member States, acting under national legislation. The disparities in legislation are detrimental to the proper functioning of the internal market. The basic elements should therefore be harmonised at Community level to ensure an equivalent level of control on movements of cash crossing the borders of the Community. Such harmonisation should not, however, affect the possibility for Member States to apply, in accordance with the existing provisions of the Treaty, national controls on movements of cash within the Community.

(4) Account should also be taken of complementary activities carried out in other international fora, in particular those of the Financial Action Task Force on Money Laundering (FATF), which was established by the G7 Summit held in Paris in 1989. Special Recommendation IX of 22 October 2004 of the FATF calls on governments to take measures to detect physical cash movements, including a declaration system or other disclosure obligation.

(5) Accordingly, cash carried by any natural person entering or leaving the Community should be subject to the principle of obligatory declaration. This principle would enable the customs authorities to gather information on such cash movements and, where appropriate, transmit that information to other authorities. Customs authorities are present at the borders of the Community, where controls are most effective, and some have already built up practical experience in the matter. Use should be made of Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters [4]. This mutual assistance should ensure both the correct application of cash controls and the transmission of information that might help to achieve the objectives of Directive 91/308/EEC.

(6) In view of its preventive purpose and deterrent character, the obligation to declare should be fulfilled upon entering or leaving the Community. However, in order to focus the authorities' action on significant movements of cash, only those movements of EUR 10 000 or more should be subject to such an obligation. Also, it should be specified that the obligation to declare applies to the natural person carrying the cash, regardless of whether that person is the owner.

(7) Use should be made of a common standard for the information to be provided. This will enable competent authorities to exchange information more easily.

[1] OJ C 227 E, 24.9.2002, p. 574.

[2] Opinion of the European Parliament of 15 May 2003 (OJ C 67 E, 17.3.2004, p. 259), Council Common Position of 17 February 2005 (OJ C 144 E, 14.6.2005, p. 1), Position of the European Parliament of 8 June 2005 and Council Decision of 12 July 2005.

[3] OJ L 166, 28.6.1991, p. 77. Directive as amended by Directive 2001/97/EC of the European Parliament and of the Council (OJ L 344, 28.12.2001, p. 76).

[4] OJ L 82, 22.3.1997, p. 1. Regulation as amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

(8) It is desirable to establish the definitions needed for a uniform interpretation of this Regulation.

(9) Information gathered under this Regulation by the competent authorities should be passed on to the authorities referred to in Article 6(1) of Directive 91/308/EEC.

(10) 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 [1] and 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 [2] apply to the processing of personal data by the competent authorities of the Member States pursuant to this Regulation.

(11) Where there are indications that the sums of cash are related to any illegal activity, associated with the movement of cash, as referred to in Directive 91/308/EEC, information gathered under this Regulation by the competent authorities may be passed on to competent authorities in other Member States and/or to the Commission. Similarly, provision should be made for certain information to be transmitted whenever there are indications of cash movements involving sums lower than the threshold laid down in this Regulation.

(12) Competent authorities should be vested with the powers needed to exercise effective control on movements of cash.

(13) The powers of the competent authorities should be supplemented by an obligation on the Member States to lay down penalties. However, penalties should be imposed only for failure to make a declaration in accordance with this Regulation.

(14) Since the objective of this Regulation cannot be sufficiently achieved by the Member States and can therefore, by reason of the transnational scale of money laundering in the internal market, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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 that objective.

(15) This Regulation respects the fundamental rights and observes the principles recognised in Article 6(2) of the Treaty on European Union and reflected in the Charter of Fundamental Rights of the European Union, in particular in Article 8 thereof,

HAVE ADOPTED THIS REGULATION:

Article 1

Objective

1. This Regulation complements the provisions of Directive 91/308/EEC concerning transactions through financial and credit institutions and certain professions by laying down harmonised rules for the control, by the competent authorities, of cash entering or leaving the Community.

2. This Regulation shall be without prejudice to national measures to control cash movements within the Community, where such measures are taken in accordance with Article 58 of the Treaty.

Article 2

Definitions

For the purposes of this Regulation:

1. 'competent authorities' means the customs authorities of the Member States or any other authorities empowered by Member States to apply this Regulation;

2. 'cash' means:

   (a) bearer-negotiable instruments including monetary instruments in bearer form such as travellers cheques, negotiable instruments (including cheques, promissory notes and money orders) that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery and incomplete instruments (including cheques, promissory notes and money orders) signed, but with the payee's name omitted;

   (b) currency (banknotes and coins that are in circulation as a medium of exchange).

Article 3

Obligation to declare

1. Any natural person entering or leaving the Community and carrying cash of a value of EUR 10 000 or more shall declare that sum to the competent authorities of the Member State through which he is entering or leaving the Community in accordance with this Regulation. The obligation to declare shall not have been fulfilled if the information provided is incorrect or incomplete.

[1] OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).
[2] OJ L 8, 12.1.2001, p. 1.

2. The declaration referred to in paragraph 1 shall contain details of:

(a) the declarant, including full name, date and place of birth and nationality;

(b) the owner of the cash;

(c) the intended recipient of the cash;

(d) the amount and nature of the cash;

(e) the provenance and intended use of the cash;

(f) the transport route;

(g) the means of transport.

3. Information shall be provided in writing, orally or electronically, to be determined by the Member State referred to in paragraph 1. However, where the declarant so requests, he shall be entitled to provide the information in writing. Where a written declaration has been lodged, an endorsed copy shall be delivered to the declarant upon request.

Article 4

Powers of the competent authorities

1. In order to check compliance with the obligation to declare laid down in Article 3, officials of the competent authorities shall be empowered, in accordance with the conditions laid down under national legislation, to carry out controls on natural persons, their baggage and their means of transport.

2. In the event of failure to comply with the obligation to declare laid down in Article 3, cash may be detained by administrative decision in accordance with the conditions laid down under national legislation.

Article 5

Recording and processing of information

1. The information obtained under Article 3 and/or Article 4 shall be recorded and processed by the competent authorities of the Member State referred to in Article 3(1) and shall be made available to the authorities referred to in Article 6(1) of Directive 91/308/EEC of that Member State.

2. Where it appears from the controls provided for in Article 4 that a natural person is entering or leaving the Community with sums of cash lower than the threshold fixed in Article 3 and where there are indications of illegal activities associated with the movement of cash, as referred to in Directive 91/308/EEC, that information, the full name, date and place of birth and nationality of that person and details of the means of transport used may also be recorded and processed by the competent authorities of the Member State referred to in Article 3(1) and be made available to the authorities referred to in Article 6(1) of Directive 91/308/EEC of that Member State.

Article 6

Exchange of information

1. Where there are indications that the sums of cash are related to any illegal activity associated with the movement of cash, as referred to in Directive 91/308/EEC, the information obtained through the declaration provided for in Article 3 or the controls provided for in Article 4 may be transmitted to competent authorities in other Member States.

Regulation (EC) No 515/97 shall apply *mutatis mutandis*.

2. Where there are indications that the sums of cash involve the proceeds of fraud or any other illegal activity adversely affecting the financial interests of the Community, the information shall also be transmitted to the Commission.

Article 7

Exchange of information with third countries

In the framework of mutual administrative assistance, the information obtained under this Regulation may be communicated by Member States or by the Commission to a third country, subject to the consent of the competent authorities which obtained the information pursuant to Article 3 and/or Article 4 and to compliance with the relevant national and Community provisions on the transfer of personal data to third countries. Member States shall notify the Commission of such exchanges of information where particularly relevant for the implementation of this Regulation.

Article 8

Duty of professional secrecy

All information which is by nature confidential or which is provided on a confidential basis shall be covered by the duty of professional secrecy. It shall not be disclosed by the competent authorities without the express permission of the person or authority providing it. The communication of information shall, however, be permitted where the competent authorities are obliged to do so pursuant to the provisions in force, particularly in connection with legal proceedings. Any disclosure or communication of information shall fully comply with prevailing data protection provisions, in particular Directive 95/46/EC and Regulation (EC) No 45/2001.

Article 9

Penalties

1. Each Member State shall introduce penalties to apply in the event of failure to comply with the obligation to declare laid down in Article 3. Such penalties shall be effective, proportionate and dissuasive.

2. By 15 June 2007, Member States shall notify the Commission of the penalties applicable in the event of failure to comply with the obligation to declare laid down in Article 3.

Article 10

Evaluation

The Commission shall submit to the European Parliament and the Council a report on the application of this Regulation four years after its entry into force.

Article 11

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 15 June 2007.

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

Done at Strasbourg, 26 October 2005.

For the European Parliament
The President
J. BORRELL FONTELLES

For the Council
The President
D. ALEXANDER

DIRECTIVE 2005/59/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 October 2005

amending for the 28th time Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (toluene and trichlorobenzene)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ([1]),

Acting in accordance with the procedure laid down in Article 251 of the Treaty ([2]),

Whereas:

(1) The risks presented to man and the environment by toluene and trichlorobenzene (TCB) have been assessed under Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances ([3]). The risk evaluation identified a need to limit those risks, and the Scientific Committee on Toxicity, Ecotoxicity and the Environment (CSTEE) confirmed that conclusion.

(2) Commission Recommendation 2004/394/EC of 29 April 2004 on the results of the risk evaluation and the risk reduction strategies for the substances: acetonitrile; acrylamide; acrylonitrile; acrylic acid; butadiene; hydrogen fluoride; hydrogen peroxide; methacrylic acid; methyl methacrylate; toluene; trichlorobenzene ([4]), adopted within the framework of Regulation (EEC) No 793/93, contains a strategy for limiting risks of toluene and TCB, recommending restrictions to limit the risks from certain uses of these substances.

(3) In order to protect human health and the environment, it therefore appears necessary that the placing on the market and the use of toluene and TCB should be restricted.

(4) The aim of this Directive is to introduce harmonising measures with regard to toluene and TCB, which have as their object the proper functioning of the internal market whilst ensuring a high level of protection of human health and of the environment, as required by Article 95 of the Treaty.

(5) This Directive is to apply without prejudice to Community legislation laying down minimum requirements for the protection of workers, contained in Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work ([5]), and individual directives based thereon, in particular Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (14th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) ([6]) and Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) ([7]).

(6) Directive 76/769/EEC ([8]) should be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 76/769/EEC shall be amended as set out in the Annex to this Directive.

([1]) OJ C 120, 20.5.2005, p. 6.
([2]) Opinion of the European Parliament of 13 April 2005 (not yet published in the Official Journal) and Council Decision of 19 September 2005.
([3]) OJ L 84, 5.4.1993, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).
([4]) OJ L 144, 30.4.2004, p. 72. Corrected version in OJ L 199, 7.6.2004, p. 41.
([5]) OJ L 183, 29.6.1989, p. 1. Directive as amended by Regulation (EC) No 1882/2003.
([6]) OJ L 131, 5.5.1998, p. 11.
([7]) OJ L 158, 30.4.2004, p. 50. Corrected version in OJ L 229, 29.6.2004, p. 23.
([8]) OJ L 262, 27.9.1976, p. 201. Directive as last amended by Commission Directive 2004/98/EC (OJ L 305, 1.10.2004, p. 63).

Article 2

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive before 15 December 2006. They shall forthwith inform the Commission thereof.

They shall apply these measures from 15 June 2007.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive, together with a table showing how the provisions of this Directive correspond to the national provisions adopted.

Article 3

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Strasbourg, 26 October 2005.

For the European Parliament	*For the Council*
The President	*The President*
J. BORRELL FONTELLES	D. ALEXANDER

ANNEX

The following points are added to Annex I of Directive 76/769/EEC:

'48. Toluene CAS No 108-88-3	May not be placed on the market or used as a substance or constituent of preparations in a concentration equal to or higher than 0,1 % by mass in adhesives and spray paints intended for sale to the general public.
49. Trichlorobenzene CAS No 120-82-1	May not be placed on the market or used as a substance or constituent of preparations in a concentration equal to or higher than 0,1 % by mass for all uses except — as an intermediate of synthesis, or — as a process solvent in closed chemical applications for chlorination reactions, or — in the manufacture of 1,3,5 — trinitro — 2,4,6 — triaminobenzene (TATB)'

DIRECTIVE 2005/60/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 October 2005

on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 47(2), first and third sentences, and Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee [1],

Having regard to the opinion of the European Central Bank [2],

Acting in accordance with the procedure laid down in Article 251 of the Treaty [3],

Whereas:

(1) Massive flows of dirty money can damage the stability and reputation of the financial sector and threaten the single market, and terrorism shakes the very foundations of our society. In addition to the criminal law approach, a preventive effort via the financial system can produce results.

(2) The soundness, integrity and stability of credit and financial institutions and confidence in the financial system as a whole could be seriously jeopardised by the efforts of criminals and their associates either to disguise the origin of criminal proceeds or to channel lawful or unlawful money for terrorist purposes. In order to avoid Member States' adopting measures to protect their financial systems which could be inconsistent with the functioning of the internal market and with the prescriptions of the rule of law and Community public policy, Community action in this area is necessary.

(3) In order to facilitate their criminal activities, money launderers and terrorist financers could try to take advantage of the freedom of capital movements and the freedom to supply financial services which the integrated financial area entails, if certain coordinating measures are not adopted at Community level.

(4) In order to respond to these concerns in the field of money laundering, Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering [4] was adopted. It required Member States to prohibit money laundering and to oblige the financial sector, comprising credit institutions and a wide range of other financial institutions, to identify their customers, keep appropriate records, establish internal procedures to train staff and guard against money laundering and to report any indications of money laundering to the competent authorities.

(5) Money laundering and terrorist financing are frequently carried out in an international context. Measures adopted solely at national or even Community level, without taking account of international coordination and cooperation, would have very limited effects. The measures adopted by the Community in this field should therefore be consistent with other action undertaken in other international fora. The Community action should continue to take particular account of the Recommendations of the Financial Action Task Force (hereinafter referred to as the FATF), which constitutes the foremost international body active in the fight against money laundering and terrorist financing. Since the FATF Recommendations were substantially revised and expanded in 2003, this Directive should be in line with that new international standard.

(6) The General Agreement on Trade in Services (GATS) allows Members to adopt measures necessary to protect public morals and prevent fraud and adopt measures for prudential reasons, including for ensuring the stability and integrity of the financial system.

(7) Although initially limited to drugs offences, there has been a trend in recent years towards a much wider definition of money laundering based on a broader range of predicate offences. A wider range of predicate offences facilitates the reporting of suspicious transactions and international cooperation in this area. Therefore, the definition of serious crime should be brought into line with the definition of serious crime in Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime [5].

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[1] Opinion delivered on 11 May 2005 (not yet published in the Official Journal).

[2] OJ C 40, 17.2.2005, p. 9.

[3] Opinion of the European Parliament of 26 May 2005 (not yet published in the Official Journal) and Council Decision of 19 September 2005.

[4] OJ L 166, 28.6.1991, p. 77. Directive as amended by Directive 2001/97/EC of the European Parliament and of the Council (OJ L 344, 28.12.2001, p. 76).

[5] OJ L 182, 5.7.2001, p. 1.

(8) Furthermore, the misuse of the financial system to channel criminal or even clean money to terrorist purposes poses a clear risk to the integrity, proper functioning, reputation and stability of the financial system. Accordingly, the preventive measures of this Directive should cover not only the manipulation of money derived from crime but also the collection of money or property for terrorist purposes.

(9) Directive 91/308/EEC, though imposing a customer identification obligation, contained relatively little detail on the relevant procedures. In view of the crucial importance of this aspect of the prevention of money laundering and terrorist financing, it is appropriate, in accordance with the new international standards, to introduce more specific and detailed provisions relating to the identification of the customer and of any beneficial owner and the verification of their identity. To that end a precise definition of 'beneficial owner' is essential. Where the individual beneficiaries of a legal entity or arrangement such as a foundation or trust are yet to be determined, and it is therefore impossible to identify an individual as the beneficial owner, it would suffice to identify the class of persons intended to be the beneficiaries of the foundation or trust. This requirement should not include the identification of the individuals within that class of persons.

(10) The institutions and persons covered by this Directive should, in conformity with this Directive, identify and verify the identity of the beneficial owner. To fulfil this requirement, it should be left to those institutions and persons whether they make use of public records of beneficial owners, ask their clients for relevant data or obtain the information otherwise, taking into account the fact that the extent of such customer due diligence measures relates to the risk of money laundering and terrorist financing, which depends on the type of customer, business relationship, product or transaction.

(11) Credit agreements in which the credit account serves exclusively to settle the loan and the repayment of the loan is effected from an account which was opened in the name of the customer with a credit institution covered by this Directive pursuant to Article 8(1)(a) to (c) should generally be considered as an example of types of less risky transactions.

(12) To the extent that the providers of the property of a legal entity or arrangement have significant control over the use of the property they should be identified as a beneficial owner.

(13) Trust relationships are widely used in commercial products as an internationally recognised feature of the comprehensively supervised wholesale financial markets. An obligation to identify the beneficial owner does not arise from the fact alone that there is a trust relationship in this particular case.

(14) This Directive should also apply to those activities of the institutions and persons covered hereunder which are performed on the Internet.

(15) As the tightening of controls in the financial sector has prompted money launderers and terrorist financers to seek alternative methods for concealing the origin of the proceeds of crime and as such channels can be used for terrorist financing, the anti-money laundering and anti-terrorist financing obligations should cover life insurance intermediaries and trust and company service providers.

(16) Entities already falling under the legal responsibility of an insurance undertaking, and therefore falling within the scope of this Directive, should not be included within the category of insurance intermediary.

(17) Acting as a company director or secretary does not of itself make someone a trust and company service provider. For that reason, the definition covers only those persons that act as a company director or secretary for a third party and by way of business.

(18) The use of large cash payments has repeatedly proven to be very vulnerable to money laundering and terrorist financing. Therefore, in those Member States that allow cash payments above the established threshold, all natural or legal persons trading in goods by way of business should be covered by this Directive when accepting such cash payments. Dealers in high-value goods, such as precious stones or metals, or works of art, and auctioneers are in any event covered by this Directive to the extent that payments to them are made in cash in an amount of EUR 15 000 or more. To ensure effective monitoring of compliance with this Directive by that potentially wide group of institutions and persons, Member States may focus their monitoring activities in particular on those natural and legal persons trading in goods that are exposed to a relatively high risk of money laundering or terrorist financing, in accordance with the principle of risk-based supervision. In view of the different situations in the various Member States, Member States may decide to adopt stricter provisions, in order to properly address the risk involved with large cash payments.

(19) Directive 91/308/EEC brought notaries and other independent legal professionals within the scope of the Community anti-money laundering regime; this coverage should be maintained unchanged in this Directive; these legal professionals, as defined by the Member States, are subject to the provisions of this Directive when participating in financial or corporate transactions, including providing tax advice, where there is the greatest risk of the services of those legal professionals being misused for the purpose of laundering the proceeds of criminal activity or for the purpose of terrorist financing.

(20) Where independent members of professions providing legal advice which are legally recognised and controlled, such as lawyers, are ascertaining the legal position of a client or representing a client in legal proceedings, it would not be appropriate under this Directive to put those legal professionals in respect of these activities under an obligation to report suspicions of money laundering or terrorist financing. There must be exemptions from any obligation to report information obtained either before, during or after judicial proceedings, or in the course of ascertaining the legal position for a client. Thus, legal advice shall remain subject to the obligation of professional secrecy unless the legal counsellor is taking part in money laundering or terrorist financing, the legal advice is provided for money laundering or terrorist financing purposes or the lawyer knows that the client is seeking legal advice for money laundering or terrorist financing purposes.

(21) Directly comparable services need to be treated in the same manner when provided by any of the professionals covered by this Directive. In order to ensure the respect of the rights laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Treaty on European Union, in the case of auditors, external accountants and tax advisors, who, in some Member States, may defend or represent a client in the context of judicial proceedings or ascertain a client's legal position, the information they obtain in the performance of those tasks should not be subject to the reporting obligations in accordance with this Directive.

(22) It should be recognised that the risk of money laundering and terrorist financing is not the same in every case. In line with a risk-based approach, the principle should be introduced into Community legislation that simplified customer due diligence is allowed in appropriate cases.

(23) The derogation concerning the identification of beneficial owners of pooled accounts held by notaries or other independent legal professionals should be without prejudice to the obligations that those notaries or other independent legal professionals have pursuant to this Directive. Those obligations include the need for such notaries or other independent legal professionals themselves to identify the beneficial owners of the pooled accounts held by them.

(24) Equally, Community legislation should recognise that certain situations present a greater risk of money laundering or terrorist financing. Although the identity and business profile of all customers should be established, there are cases where particularly rigorous customer identification and verification procedures are required.

(25) This is particularly true of business relationships with individuals holding, or having held, important public positions, particularly those from countries where corruption is widespread. Such relationships may expose the financial sector in particular to significant reputational and/or legal risks. The international effort to combat corruption also justifies the need to pay special attention to such cases and to apply the complete normal customer due diligence measures in respect of domestic politically exposed persons or enhanced customer due diligence measures in respect of politically exposed persons residing in another Member State or in a third country.

(26) Obtaining approval from senior management for establishing business relationships should not imply obtaining approval from the board of directors but from the immediate higher level of the hierarchy of the person seeking such approval.

(27) In order to avoid repeated customer identification procedures, leading to delays and inefficiency in business, it is appropriate, subject to suitable safeguards, to allow customers to be introduced whose identification has been carried out elsewhere. Where an institution or person covered by this Directive relies on a third party, the ultimate responsibility for the customer due diligence procedure remains with the institution or person to whom the customer is introduced. The third party, or introducer, also retains his own responsibility for all the requirements in this Directive, including the requirement to report suspicious transactions and maintain records, to the extent that he has a relationship with the customer that is covered by this Directive.

(28) In the case of agency or outsourcing relationships on a contractual basis between institutions or persons covered by this Directive and external natural or legal persons not covered hereby, any anti-money laundering and anti-terrorist financing obligations for those agents or outsourcing service providers as part of the institutions or persons covered by this Directive, may only arise from contract and not from this Directive. The responsibility for complying with this Directive should remain with the institution or person covered hereby.

(29) Suspicious transactions should be reported to the financial intelligence unit (FIU), which serves as a national centre for receiving, analysing and disseminating to the competent authorities suspicious transaction reports and other information regarding potential money laundering or terrorist financing. This should not compel Member States to change their existing reporting systems where the reporting is done through a public prosecutor or other law enforcement authorities, as long as the information is forwarded promptly and unfiltered to FIUs, allowing them to conduct their business properly, including international cooperation with other FIUs.

(30) By way of derogation from the general prohibition on executing suspicious transactions, the institutions and persons covered by this Directive may execute suspicious transactions before informing the competent authorities, where refraining from the execution thereof is impossible or likely to frustrate efforts to pursue the beneficiaries of a suspected money laundering or terrorist financing operation. This, however, should be without prejudice to the international obligations accepted by the Member States to freeze without delay funds or other assets of terrorists, terrorist organisations or those who finance terrorism, in accordance with the relevant United Nations Security Council resolutions.

(31) Where a Member State decides to make use of the exemptions provided for in Article 23(2), it may allow or require the self-regulatory body representing the persons referred to therein not to transmit to the FIU any information obtained from those persons in the circumstances referred to in that Article.

(32) There has been a number of cases of employees who report their suspicions of money laundering being subjected to threats or hostile action. Although this Directive cannot interfere with Member States' judicial procedures, this is a crucial issue for the effectiveness of the anti-money laundering and anti-terrorist financing system. Member States should be aware of this problem and should do whatever they can to protect employees from such threats or hostile action.

(33) Disclosure of information as referred to in Article 28 should be in accordance with the rules on transfer of personal data to third countries as laid down in 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 [1]. Moreover, Article 28 cannot interfere with national data protection and professional secrecy legislation.

(34) Persons who merely convert paper documents into electronic data and are acting under a contract with a credit institution or a financial institution do not fall within the scope of this Directive, nor does any natural or legal person that provides credit or financial institutions solely with a message or other support systems for transmitting funds or with clearing and settlement systems.

(35) Money laundering and terrorist financing are international problems and the effort to combat them should be global. Where Community credit and financial institutions have branches and subsidiaries located in third countries where the legislation in this area is deficient, they should, in order to avoid the application of very different standards within an institution or group of institutions, apply the Community standard or notify the competent authorities of the home Member State if this application is impossible.

(36) It is important that credit and financial institutions should be able to respond rapidly to requests for information on whether they maintain business relationships with named persons. For the purpose of identifying such business relationships in order to be able to provide that information quickly, credit and financial institutions should have effective systems in place which are commensurate with the size and nature of their business. In particular it would be appropriate for credit institutions and larger financial institutions to have electronic systems at their disposal. This provision is of particular importance in the context of procedures leading to measures such as the freezing or seizing of assets (including terrorist assets), pursuant to applicable national or Community legislation with a view to combating terrorism.

[1] OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

(37) This Directive establishes detailed rules for customer due diligence, including enhanced customer due diligence for high-risk customers or business relationships, such as appropriate procedures to determine whether a person is a politically exposed person, and certain additional, more detailed requirements, such as the existence of compliance management procedures and policies. All these requirements are to be met by each of the institutions and persons covered by this Directive, while Member States are expected to tailor the detailed implementation of those provisions to the particularities of the various professions and to the differences in scale and size of the institutions and persons covered by this Directive.

(38) In order to ensure that the institutions and others subject to Community legislation in this field remain committed, feedback should, where practicable, be made available to them on the usefulness and follow-up of the reports they present. To make this possible, and to be able to review the effectiveness of their systems to combat money laundering and terrorist financing Member States should keep and improve the relevant statistics.

(39) When registering or licensing a currency exchange office, a trust and company service provider or a casino nationally, competent authorities should ensure that the persons who effectively direct or will direct the business of such entities and the beneficial owners of such entities are fit and proper persons. The criteria for determining whether or not a person is fit and proper should be established in conformity with national law. As a minimum, such criteria should reflect the need to protect such entities from being misused by their managers or beneficial owners for criminal purposes.

(40) Taking into account the international character of money laundering and terrorist financing, coordination and cooperation between FIUs as referred to in Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information [1], including the establishment of an EU FIU-net, should be encouraged to the greatest possible extent. To that end, the Commission should lend such assistance as may be needed to facilitate such coordination, including financial assistance.

(41) The importance of combating money laundering and terrorist financing should lead Member States to lay down effective, proportionate and dissuasive penalties in national law for failure to respect the national provisions adopted pursuant to this Directive. Provision should be made for penalties in respect of natural and legal persons. Since legal persons are often involved in complex money laundering or terrorist financing operations, sanctions should also be adjusted in line with the activity carried on by legal persons.

(42) Natural persons exercising any of the activities referred to in Article 2(1)(3)(a) and (b) within the structure of a legal person, but on an independent basis, should be independently responsible for compliance with the provisions of this Directive, with the exception of Article 35.

(43) Clarification of the technical aspects of the rules laid down in this Directive may be necessary to ensure an effective and sufficiently consistent implementation of this Directive, taking into account the different financial instruments, professions and risks in the different Member States and the technical developments in the fight against money laundering and terrorist financing. The Commission should accordingly be empowered to adopt implementing measures, such as certain criteria for identifying low and high risk situations in which simplified due diligence could suffice or enhanced due diligence would be appropriate, provided that they do not modify the essential elements of this Directive and provided that the Commission acts in accordance with the principles set out herein, after consulting the Committee on the Prevention of Money Laundering and Terrorist Financing.

(44) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [2]. To that end a new Committee on the Prevention of Money Laundering and Terrorist Financing, replacing the Money Laundering Contact Committee set up by Directive 91/308/EEC, should be established.

(45) In view of the very substantial amendments that would need to be made to Directive 91/308/EEC, it should be repealed for reasons of clarity.

(46) Since the objective of this Directive, namely the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

[1] OJ L 271, 24.10.2000, p. 4.

[2] OJ L 184, 17.7.1999, p. 23.

(47) In exercising its implementing powers in accordance with this Directive, the Commission should respect the following principles: the need for high levels of transparency and consultation with institutions and persons covered by this Directive and with the European Parliament and the Council; the need to ensure that competent authorities will be able to ensure compliance with the rules consistently; the balance of costs and benefits to institutions and persons covered by this Directive on a long-term basis in any implementing measures; the need to respect the necessary flexibility in the application of the implementing measures in accordance with a risk-sensitive approach; the need to ensure coherence with other Community legislation in this area; the need to protect the Community, its Member States and their citizens from the consequences of money laundering and terrorist financing.

(48) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. Nothing in this Directive should be interpreted or implemented in a manner that is inconsistent with the European Convention on Human Rights,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

1. Member States shall ensure that money laundering and terrorist financing are prohibited.

2. For the purposes of this Directive, the following conduct, when committed intentionally, shall be regarded as money laundering:

(a) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his action;

(b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;

(c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity;

(d) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing points.

3. Money laundering shall be regarded as such even where the activities which generated the property to be laundered were carried out in the territory of another Member State or in that of a third country.

4. For the purposes of this Directive, 'terrorist financing' means the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences within the meaning of Articles 1 to 4 of Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism ([1]).

5. Knowledge, intent or purpose required as an element of the activities mentioned in paragraphs 2 and 4 may be inferred from objective factual circumstances.

Article 2

1. This Directive shall apply to:

(1) credit institutions;

(2) financial institutions;

(3) the following legal or natural persons acting in the exercise of their professional activities:

(a) auditors, external accountants and tax advisors;

(b) notaries and other independent legal professionals, when they participate, whether by acting on behalf of and for their client in any financial or real estate transaction, or by assisting in the planning or execution of transactions for their client concerning the:

(i) buying and selling of real property or business entities;

(ii) managing of client money, securities or other assets;

([1]) OJ L 164, 22.6.2002, p. 3.

(iii) opening or management of bank, savings or securities accounts;

(iv) organisation of contributions necessary for the creation, operation or management of companies;

(v) creation, operation or management of trusts, companies or similar structures;

(c) trust or company service providers not already covered under points (a) or (b);

(d) real estate agents;

(e) other natural or legal persons trading in goods, only to the extent that payments are made in cash in an amount of EUR 15 000 or more, whether the transaction is executed in a single operation or in several operations which appear to be linked;

(f) casinos.

2. Member States may decide that legal and natural persons who engage in a financial activity on an occasional or very limited basis and where there is little risk of money laundering or terrorist financing occurring do not fall within the scope of Article 3(1) or (2).

Article 3

For the purposes of this Directive the following definitions shall apply:

(1) 'credit institution' means a credit institution, as defined in the first subparagraph of Article 1(1) of Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions ([1]), including branches within the meaning of Article 1(3) of that Directive located in the Community of credit institutions having their head offices inside or outside the Community;

(2) 'financial institution' means:

(a) an undertaking other than a credit institution which carries out one or more of the operations included in points 2 to 12 and 14 of Annex I to Directive 2000/12/EC, including the activities of currency exchange offices (bureaux de change) and of money transmission or remittance offices;

(b) an insurance company duly authorised in accordance with Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance ([2]), insofar as it carries out activities covered by that Directive;

(c) an investment firm as defined in point 1 of Article 4(1) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments ([3]);

(d) a collective investment undertaking marketing its units or shares;

(e) an insurance intermediary as defined in Article 2(5) of Directive 2002/92/EC of the European Parliament and of the Council of 9 December 2002 on insurance mediation ([4]), with the exception of intermediaries as mentioned in Article 2(7) of that Directive, when they act in respect of life insurance and other investment related services;

(f) branches, when located in the Community, of financial institutions as referred to in points (a) to (e), whose head offices are inside or outside the Community;

(3) 'property' means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments in any form including electronic or digital, evidencing title to or an interest in such assets;

(4) 'criminal activity' means any kind of criminal involvement in the commission of a serious crime;

(5) 'serious crimes' means, at least:

(a) acts as defined in Articles 1 to 4 of Framework Decision 2002/475/JHA;

(b) any of the offences defined in Article 3(1)(a) of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances;

(c) the activities of criminal organisations as defined in Article 1 of Council Joint Action 98/733/JHA of 21 December 1998 on making it a criminal offence to participate in a criminal organisation in the Member States of the European Union ([5]);

(d) fraud, at least serious, as defined in Article 1(1) and Article 2 of the Convention on the Protection of the European Communities' Financial Interests ([6]);

(e) corruption;

(f) all offences which are punishable by deprivation of liberty or a detention order for a maximum of more than one year or, as regards those States which have a minimum threshold for offences in their legal system, all offences punishable by deprivation of liberty or a detention order for a minimum of more than six months;

([1]) OJ L 126, 26.5.2000, p. 1. Directive as last amended by Directive 2005/1/EC (OJ L 79, 24.3.2005, p. 9).
([2]) OJ L 345, 19.12.2002, p. 1. Directive as last amended by Directive 2005/1/EC.
([3]) OJ L 145, 30.4.2004, p. 1.
([4]) OJ L 9, 15.1.2003, p. 3.
([5]) OJ L 351, 29.12.1998, p. 1.
([6]) OJ C 316, 27.11.1995, p. 49.

(6) 'beneficial owner' means the natural person(s) who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards; a percentage of 25 % plus one share shall be deemed sufficient to meet this criterion;

(ii) the natural person(s) who otherwise exercises control over the management of a legal entity:

(b) in the case of legal entities, such as foundations, and legal arrangements, such as trusts, which administer and distribute funds:

(i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 % or more of the property of a legal arrangement or entity;

(ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;

(iii) the natural person(s) who exercises control over 25 % or more of the property of a legal arrangement or entity;

(7) 'trust and company service providers' means any natural or legal person which by way of business provides any of the following services to third parties:

(a) forming companies or other legal persons;

(b) acting as or arranging for another person to act as a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;

(c) providing a registered office, business address, correspondence or administrative address and other related services for a company, a partnership or any other legal person or arrangement;

(d) acting as or arranging for another person to act as a trustee of an express trust or a similar legal arrangement;

(e) acting as or arranging for another person to act as a nominee shareholder for another person other than a company listed on a regulated market that is subject to disclosure requirements in conformity with Community legislation or subject to equivalent international standards;

(8) 'politically exposed persons' means natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons;

(9) 'business relationship' means a business, professional or commercial relationship which is connected with the professional activities of the institutions and persons covered by this Directive and which is expected, at the time when the contact is established, to have an element of duration;

(10) 'shell bank' means a credit institution, or an institution engaged in equivalent activities, incorporated in a jurisdiction in which it has no physical presence, involving meaningful mind and management, and which is unaffiliated with a regulated financial group.

Article 4

1. Member States shall ensure that the provisions of this Directive are extended in whole or in part to professions and to categories of undertakings, other than the institutions and persons referred to in Article 2(1), which engage in activities which are particularly likely to be used for money laundering or terrorist financing purposes.

2. Where a Member State decides to extend the provisions of this Directive to professions and to categories of undertakings other than those referred to in Article 2(1), it shall inform the Commission thereof.

Article 5

The Member States may adopt or retain in force stricter provisions in the field covered by this Directive to prevent money laundering and terrorist financing.

CHAPTER II

CUSTOMER DUE DILIGENCE

SECTION 1

General provisions

Article 6

Member States shall prohibit their credit and financial institutions from keeping anonymous accounts or anonymous passbooks. By way of derogation from Article 9(6), Member States shall in all cases require that the owners and beneficiaries of existing anonymous accounts or anonymous passbooks be made the subject of customer due diligence measures as soon as possible and in any event before such accounts or passbooks are used in any way.

Article 7

The institutions and persons covered by this Directive shall apply customer due diligence measures in the following cases:

(a) when establishing a business relationship;

(b) when carrying out occasional transactions amounting to EUR 15 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;

(c) when there is a suspicion of money laundering or terrorist financing, regardless of any derogation, exemption or threshold;

(d) when there are doubts about the veracity or adequacy of previously obtained customer identification data.

Article 8

1. Customer due diligence measures shall comprise:

(a) identifying the customer and verifying the customer's identity on the basis of documents, data or information obtained from a reliable and independent source;

(b) identifying, where applicable, the beneficial owner and taking risk-based and adequate measures to verify his identity so that the institution or person covered by this Directive is satisfied that it knows who the beneficial owner is, including, as regards legal persons, trusts and similar legal arrangements, taking risk-based and adequate measures to understand the ownership and control structure of the customer;

(c) obtaining information on the purpose and intended nature of the business relationship;

(d) conducting ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's or person's knowledge of the customer, the business and risk profile, including, where necessary, the source of funds and ensuring that the documents, data or information held are kept up-to-date.

2. The institutions and persons covered by this Directive shall apply each of the customer due diligence requirements set out in paragraph 1, but may determine the extent of such measures on a risk-sensitive basis depending on the type of customer, business relationship, product or transaction. The institutions and persons covered by this Directive shall be able to demonstrate to the competent authorities mentioned in Article 37, including self-regulatory bodies, that the extent of the measures is appropriate in view of the risks of money laundering and terrorist financing.

Article 9

1. Member States shall require that the verification of the identity of the customer and the beneficial owner takes place before the establishment of a business relationship or the carrying-out of the transaction.

2. By way of derogation from paragraph 1, Member States may allow the verification of the identity of the customer and the beneficial owner to be completed during the establishment of a business relationship if this is necessary not to interrupt the normal conduct of business and where there is little risk of money laundering or terrorist financing occurring. In such situations these procedures shall be completed as soon as practicable after the initial contact.

3. By way of derogation from paragraphs 1 and 2, Member States may, in relation to life insurance business, allow the verification of the identity of the beneficiary under the policy to take place after the business relationship has been established. In that case, verification shall take place at or before the time of payout or at or before the time the beneficiary intends to exercise rights vested under the policy.

4. By way of derogation from paragraphs 1 and 2, Member States may allow the opening of a bank account provided that there are adequate safeguards in place to ensure that transactions are not carried out by the customer or on its behalf until full compliance with the aforementioned provisions is obtained.

5. Member States shall require that, where the institution or person concerned is unable to comply with points (a), (b) and (c) of Article 8(1), it may not carry out a transaction through a bank account, establish a business relationship or carry out the transaction, or shall terminate the business relationship, and shall consider making a report to the financial intelligence unit (FIU) in accordance with Article 22 in relation to the customer.

Member States shall not be obliged to apply the previous subparagraph in situations when notaries, independent legal professionals, auditors, external accountants and tax advisors are in the course of ascertaining the legal position for their client or performing their task of defending or representing that client in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings.

6. Member States shall require that institutions and persons covered by this Directive apply the customer due diligence procedures not only to all new customers but also at appropriate times to existing customers on a risk-sensitive basis.

Article 10

1. Member States shall require that all casino customers be identified and their identity verified if they purchase or exchange gambling chips with a value of EUR 2 000 or more.

2. Casinos subject to State supervision shall be deemed in any event to have satisfied the customer due diligence requirements if they register, identify and verify the identity of their customers immediately on or before entry, regardless of the amount of gambling chips purchased.

SECTION 2

Simplified customer due diligence

Article 11

1. By way of derogation from Articles 7(a), (b) and (d), 8 and 9(1), the institutions and persons covered by this Directive shall not be subject to the requirements provided for in those Articles where the customer is a credit or financial institution covered by this Directive, or a credit or financial institution situated in a third country which imposes requirements equivalent to those laid down in this Directive and supervised for compliance with those requirements.

2. By way of derogation from Articles 7(a), (b) and (d), 8 and 9(1) Member States may allow the institutions and persons covered by this Directive not to apply customer due diligence in respect of:

(a) listed companies whose securities are admitted to trading on a regulated market within the meaning of Directive 2004/39/EC in one or more Member States and listed companies from third countries which are subject to disclosure requirements consistent with Community legislation;

(b) beneficial owners of pooled accounts held by notaries and other independent legal professionals from the Member States, or from third countries provided that they are subject to requirements to combat money laundering or terrorist financing consistent with international standards and are supervised for compliance with those requirements and provided that the information on the identity of the beneficial owner is available, on request, to the institutions that act as depository institutions for the pooled accounts;

(c) domestic public authorities,

or in respect of any other customer representing a low risk of money laundering or terrorist financing which meets the technical criteria established in accordance with Article 40(1)(b).

3. In the cases mentioned in paragraphs 1 and 2, institutions and persons covered by this Directive shall in any case gather sufficient information to establish if the customer qualifies for an exemption as mentioned in these paragraphs.

4. The Member States shall inform each other and the Commission of cases where they consider that a third country meets the conditions laid down in paragraphs 1 or 2 or in other situations which meet the technical criteria established in accordance with Article 40(1)(b).

5. By way of derogation from Articles 7(a), (b) and (d), 8 and 9(1), Member States may allow the institutions and persons covered by this Directive not to apply customer due diligence in respect of:

(a) life insurance policies where the annual premium is no more than EUR 1 000 or the single premium is no more than EUR 2 500;

(b) insurance policies for pension schemes if there is no surrender clause and the policy cannot be used as collateral;

(c) a pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme;

(d) electronic money, as defined in Article 1(3)(b) of Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions ([1]), where, if the device cannot be recharged, the maximum amount stored in the device is no more than EUR 150, or where, if the device can be recharged, a limit of EUR 2 500 is imposed on the total amount transacted in a calendar year, except when an amount of EUR 1 000 or more is redeemed in that same calendar year by the bearer as referred to in Article 3 of Directive 2000/46/EC,

or in respect of any other product or transaction representing a low risk of money laundering or terrorist financing which meets the technical criteria established in accordance with Article 40(1)(b).

Article 12

Where the Commission adopts a decision pursuant to Article 40(4), the Member States shall prohibit the institutions and persons covered by this Directive from applying simplified due diligence to credit and financial institutions or listed companies from the third country concerned or other entities following from situations which meet the technical criteria established in accordance with Article 40(1)(b).

SECTION 3

Enhanced customer due diligence

Article 13

1. Member States shall require the institutions and persons covered by this Directive to apply, on a risk-sensitive basis, enhanced customer due diligence measures, in addition to the measures referred to in Articles 7, 8 and 9(6), in situations which by their nature can present a higher risk of money laundering or terrorist financing, and at least in the situations set out in paragraphs 2, 3, 4 and in other situations representing a high risk of money laundering or terrorist financing which meet the technical criteria established in accordance with Article 40(1)(c).

2. Where the customer has not been physically present for identification purposes, Member States shall require those institutions and persons to take specific and adequate measures to compensate for the higher risk, for example by applying one or more of the following measures:

(a) ensuring that the customer's identity is established by additional documents, data or information;

(b) supplementary measures to verify or certify the documents supplied, or requiring confirmatory certification by a credit or financial institution covered by this Directive;

(c) ensuring that the first payment of the operations is carried out through an account opened in the customer's name with a credit institution.

3. In respect of cross-frontier correspondent banking relationships with respondent institutions from third countries, Member States shall require their credit institutions to:

(a) gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision;

(b) assess the respondent institution's anti-money laundering and anti-terrorist financing controls;

(c) obtain approval from senior management before establishing new correspondent banking relationships;

(d) document the respective responsibilities of each institution;

(e) with respect to payable-through accounts, be satisfied that the respondent credit institution has verified the identity of and performed ongoing due diligence on the customers having direct access to accounts of the correspondent and that it is able to provide relevant customer due diligence data to the correspondent institution, upon request.

4. In respect of transactions or business relationships with politically exposed persons residing in another Member State or in a third country, Member States shall require those institutions and persons covered by this Directive to:

(a) have appropriate risk-based procedures to determine whether the customer is a politically exposed person;

(b) have senior management approval for establishing business relationships with such customers;

(c) take adequate measures to establish the source of wealth and source of funds that are involved in the business relationship or transaction;

(d) conduct enhanced ongoing monitoring of the business relationship.

([1]) OJ L 275, 27.10.2000, p. 39.

5. Member States shall prohibit credit institutions from entering into or continuing a correspondent banking relationship with a shell bank and shall require that credit institutions take appropriate measures to ensure that they do not engage in or continue correspondent banking relationships with a bank that is known to permit its accounts to be used by a shell bank.

6. Member States shall ensure that the institutions and persons covered by this Directive pay special attention to any money laundering or terrorist financing threat that may arise from products or transactions that might favour anonymity, and take measures, if needed, to prevent their use for money laundering or terrorist financing purposes.

SECTION 4

Performance by third parties

Article 14

Member States may permit the institutions and persons covered by this Directive to rely on third parties to meet the requirements laid down in Article 8(1)(a) to (c). However, the ultimate responsibility for meeting those requirements shall remain with the institution or person covered by this Directive which relies on the third party.

Article 15

1. Where a Member State permits credit and financial institutions referred to in Article 2(1)(1) or (2) situated in its territory to be relied on as a third party domestically, that Member State shall in any case permit institutions and persons referred to in Article 2(1) situated in its territory to recognise and accept, in accordance with the provisions laid down in Article 14, the outcome of the customer due diligence requirements laid down in Article 8(1)(a) to (c), carried out in accordance with this Directive by an institution referred to in Article 2(1)(1) or (2) in another Member State, with the exception of currency exchange offices and money transmission or remittance offices, and meeting the requirements laid down in Articles 16 and 18, even if the documents or data on which these requirements have been based are different to those required in the Member State to which the customer is being referred.

2. Where a Member State permits currency exchange offices and money transmission or remittance offices referred to in Article 3(2)(a) situated in its territory to be relied on as a third party domestically, that Member State shall in any case permit them to recognise and accept, in accordance with Article 14, the outcome of the customer due diligence requirements laid down in Article 8(1)(a) to (c), carried out in accordance with this Directive by the same category of institution in another Member State and meeting the requirements laid down in Articles 16 and 18, even if the documents or data on which these requirements have been based are different to those required in the Member State to which the customer is being referred.

3. Where a Member State permits persons referred to in Article 2(1)(3)(a) to (c) situated in its territory to be relied on as a third party domestically, that Member State shall in any case permit them to recognise and accept, in accordance with Article 14, the outcome of the customer due diligence requirements laid down in Article 8(1)(a) to (c), carried out in accordance with this Directive by a person referred to in Article 2(1)(3)(a) to (c) in another Member State and meeting the requirements laid down in Articles 16 and 18, even if the documents or data on which these requirements have been based are different to those required in the Member State to which the customer is being referred.

Article 16

1. For the purposes of this Section, 'third parties' shall mean institutions and persons who are listed in Article 2, or equivalent institutions and persons situated in a third country, who meet the following requirements:

(a) they are subject to mandatory professional registration, recognised by law;

(b) they apply customer due diligence requirements and record keeping requirements as laid down or equivalent to those laid down in this Directive and their compliance with the requirements of this Directive is supervised in accordance with Section 2 of Chapter V, or they are situated in a third country which imposes equivalent requirements to those laid down in this Directive.

2. Member States shall inform each other and the Commission of cases where they consider that a third country meets the conditions laid down in paragraph 1(b).

Article 17

Where the Commission adopts a decision pursuant to Article 40(4), Member States shall prohibit the institutions and persons covered by this Directive from relying on third parties from the third country concerned to meet the requirements laid down in Article 8(1)(a) to (c).

Article 18

1. Third parties shall make information requested in accordance with the requirements laid down in Article 8(1)(a) to (c) immediately available to the institution or person covered by this Directive to which the customer is being referred.

2. Relevant copies of identification and verification data and other relevant documentation on the identity of the customer or the beneficial owner shall immediately be forwarded, on request, by the third party to the institution or person covered by this Directive to which the customer is being referred.

Article 19

This Section shall not apply to outsourcing or agency relationships where, on the basis of a contractual arrangement, the outsourcing service provider or agent is to be regarded as part of the institution or person covered by this Directive.

CHAPTER III

REPORTING OBLIGATIONS

SECTION 1

General provisions

Article 20

Member States shall require that the institutions and persons covered by this Directive pay special attention to any activity which they regard as particularly likely, by its nature, to be related to money laundering or terrorist financing and in particular complex or unusually large transactions and all unusual patterns of transactions which have no apparent economic or visible lawful purpose.

Article 21

1. Each Member State shall establish a FIU in order effectively to combat money laundering and terrorist financing.

2. That FIU shall be established as a central national unit. It shall be responsible for receiving (and to the extent permitted, requesting), analysing and disseminating to the competent authorities, disclosures of information which concern potential money laundering, potential terrorist financing or are required by national legislation or regulation. It shall be provided with adequate resources in order to fulfil its tasks.

3. Member States shall ensure that the FIU has access, directly or indirectly, on a timely basis, to the financial, administrative and law enforcement information that it requires to properly fulfil its tasks.

Article 22

1. Member States shall require the institutions and persons covered by this Directive, and where applicable their directors and employees, to cooperate fully:

(a) by promptly informing the FIU, on their own initiative, where the institution or person covered by this Directive knows, suspects or has reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed or attempted;

(b) by promptly furnishing the FIU, at its request, with all necessary information, in accordance with the procedures established by the applicable legislation.

2. The information referred to in paragraph 1 shall be forwarded to the FIU of the Member State in whose territory the institution or person forwarding the information is situated. The person or persons designated in accordance with the procedures provided for in Article 34 shall normally forward the information.

Article 23

1. By way of derogation from Article 22(1), Member States may, in the case of the persons referred to in Article 2(1)(3)(a) and (b), designate an appropriate self-regulatory body of the profession concerned as the authority to be informed in the first instance in place of the FIU. Without prejudice to paragraph 2, the designated self-regulatory body shall in such cases forward the information to the FIU promptly and unfiltered.

2. Member States shall not be obliged to apply the obligations laid down in Article 22(1) to notaries, independent legal professionals, auditors, external accountants and tax advisors with regard to information they receive from or obtain on one of their clients, in the course of ascertaining the legal position for their client or performing their task of defending or representing that client in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings, whether such information is received or obtained before, during or after such proceedings.

Article 24

1. Member States shall require the institutions and persons covered by this Directive to refrain from carrying out transactions which they know or suspect to be related to money laundering or terrorist financing until they have completed the necessary action in accordance with Article 22(1)(a). In conformity with the legislation of the Member States, instructions may be given not to carry out the transaction.

2. Where such a transaction is suspected of giving rise to money laundering or terrorist financing and where to refrain in such manner is impossible or is likely to frustrate efforts to pursue the beneficiaries of a suspected money laundering or terrorist financing operation, the institutions and persons concerned shall inform the FIU immediately afterwards.

Article 25

1. Member States shall ensure that if, in the course of inspections carried out in the institutions and persons covered by this Directive by the competent authorities referred to in Article 37, or in any other way, those authorities discover facts that could be related to money laundering or terrorist financing, they shall promptly inform the FIU.

2. Member States shall ensure that supervisory bodies empowered by law or regulation to oversee the stock, foreign exchange and financial derivatives markets inform the FIU if they discover facts that could be related to money laundering or terrorist financing.

Article 26

The disclosure in good faith as foreseen in Articles 22(1) and 23 by an institution or person covered by this Directive or by an employee or director of such an institution or person of the information referred to in Articles 22 and 23 shall not constitute a breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not involve the institution or person or its directors or employees in liability of any kind.

Article 27

Member States shall take all appropriate measures in order to protect employees of the institutions or persons covered by this Directive who report suspicions of money laundering or terrorist financing either internally or to the FIU from being exposed to threats or hostile action.

SECTION 2

Prohibition of disclosure

Article 28

1. The institutions and persons covered by this Directive and their directors and employees shall not disclose to the customer concerned or to other third persons the fact that information has been transmitted in accordance with Articles 22 and 23 or that a money laundering or terrorist financing investigation is being or may be carried out.

2. The prohibition laid down in paragraph 1 shall not include disclosure to the competent authorities referred to in Article 37, including the self-regulatory bodies, or disclosure for law enforcement purposes.

3. The prohibition laid down in paragraph 1 shall not prevent disclosure between institutions from Member States, or from third countries provided that they meet the conditions laid down in Article 11(1), belonging to the same group as defined by Article 2(12) of Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate ([1]).

4. The prohibition laid down in paragraph 1 shall not prevent disclosure between persons referred to in Article 2(1)(3)(a) and (b) from Member States, or from third countries which impose requirements equivalent to those laid down in this Directive, who perform their professional activities, whether as employees or not, within the same legal person or a network. For the purposes of this Article, a 'network' means the larger structure to which the person belongs and which shares common ownership, management or compliance control.

5. For institutions or persons referred to in Article 2(1)(1), (2) and (3)(a) and (b) in cases related to the same customer and the same transaction involving two or more institutions or persons, the prohibition laid down in paragraph 1 shall not prevent disclosure between the relevant institutions or persons provided that they are situated in a Member State, or in a third country which imposes requirements equivalent to those laid down in this Directive, and that they are from the same professional category and are subject to equivalent obligations as regards professional secrecy and personal data protection. The information exchanged shall be used exclusively for the purposes of the prevention of money laundering and terrorist financing.

6. Where the persons referred to in Article 2(1)(3)(a) and (b) seek to dissuade a client from engaging in illegal activity, this shall not constitute a disclosure within the meaning of the paragraph 1.

7. The Member States shall inform each other and the Commission of cases where they consider that a third country meets the conditions laid down in paragraphs 3, 4 or 5.

Article 29

Where the Commission adopts a decision pursuant to Article 40(4), the Member States shall prohibit the disclosure between institutions and persons covered by this Directive and institutions and persons from the third country concerned.

([1]) OJ L 35, 11.2.2003, p. 1.

CHAPTER IV

RECORD KEEPING AND STATISTICAL DATA

Article 30

Member States shall require the institutions and persons covered by this Directive to keep the following documents and information for use in any investigation into, or analysis of, possible money laundering or terrorist financing by the FIU or by other competent authorities in accordance with national law:

(a) in the case of the customer due diligence, a copy or the references of the evidence required, for a period of at least five years after the business relationship with their customer has ended;

(b) in the case of business relationships and transactions, the supporting evidence and records, consisting of the original documents or copies admissible in court proceedings under the applicable national legislation for a period of at least five years following the carrying-out of the transactions or the end of the business relationship.

Article 31

1. Member States shall require the credit and financial institutions covered by this Directive to apply, where applicable, in their branches and majority-owned subsidiaries located in third countries measures at least equivalent to those laid down in this Directive with regard to customer due diligence and record keeping.

Where the legislation of the third country does not permit application of such equivalent measures, the Member States shall require the credit and financial institutions concerned to inform the competent authorities of the relevant home Member State accordingly.

2. Member States and the Commission shall inform each other of cases where the legislation of the third country does not permit application of the measures required under the first subparagraph of paragraph 1 and coordinated action could be taken to pursue a solution.

3. Member States shall require that, where the legislation of the third country does not permit application of the measures required under the first subparagraph of paragraph 1, credit or financial institutions take additional measures to effectively handle the risk of money laundering or terrorist financing.

Article 32

Member States shall require that their credit and financial institutions have systems in place that enable them to respond fully and rapidly to enquiries from the FIU, or from other authorities, in accordance with their national law, as to whether they maintain or have maintained during the previous five years a business relationship with specified natural or legal persons and on the nature of that relationship.

Article 33

1. Member States shall ensure that they are able to review the effectiveness of their systems to combat money laundering or terrorist financing by maintaining comprehensive statistics on matters relevant to the effectiveness of such systems.

2. Such statistics shall as a minimum cover the number of suspicious transaction reports made to the FIU, the follow-up given to these reports and indicate on an annual basis the number of cases investigated, the number of persons prosecuted, the number of persons convicted for money laundering or terrorist financing offences and how much property has been frozen, seized or confiscated.

3. Member States shall ensure that a consolidated review of these statistical reports is published.

CHAPTER V

ENFORCEMENT MEASURES

SECTION 1

Internal procedures, training and feedback

Article 34

1. Member States shall require that the institutions and persons covered by this Directive establish adequate and appropriate policies and procedures of customer due diligence, reporting, record keeping, internal control, risk assessment, risk management, compliance management and communication in order to forestall and prevent operations related to money laundering or terrorist financing.

2. Member States shall require that credit and financial institutions covered by this Directive communicate relevant policies and procedures where applicable to branches and majority-owned subsidiaries in third countries.

Article 35

1. Member States shall require that the institutions and persons covered by this Directive take appropriate measures so that their relevant employees are aware of the provisions in force on the basis of this Directive.

These measures shall include participation of their relevant employees in special ongoing training programmes to help them recognise operations which may be related to money laundering or terrorist financing and to instruct them as to how to proceed in such cases.

Where a natural person falling within any of the categories listed in Article 2(1)(3) performs his professional activities as an employee of a legal person, the obligations in this Section shall apply to that legal person rather than to the natural person.

2. Member States shall ensure that the institutions and persons covered by this Directive have access to up-to-date information on the practices of money launderers and terrorist financers and on indications leading to the recognition of suspicious transactions.

3. Member States shall ensure that, wherever practicable, timely feedback on the effectiveness of and follow-up to reports of suspected money laundering or terrorist financing is provided.

SECTION 2

Supervision

Article 36

1. Member States shall provide that currency exchange offices and trust and company service providers shall be licensed or registered and casinos be licensed in order to operate their business legally. Without prejudice to future Community legislation, Member States shall provide that money transmission or remittance offices shall be licensed or registered in order to operate their business legally.

2. Member States shall require competent authorities to refuse licensing or registration of the entities referred to in paragraph 1 if they are not satisfied that the persons who effectively direct or will direct the business of such entities or the beneficial owners of such entities are fit and proper persons.

Article 37

1. Member States shall require the competent authorities at least to effectively monitor and to take the necessary measures with a view to ensuring compliance with the requirements of this Directive by all the institutions and persons covered by this Directive.

2. Member States shall ensure that the competent authorities have adequate powers, including the power to compel the production of any information that is relevant to monitoring compliance and perform checks, and have adequate resources to perform their functions.

3. In the case of credit and financial institutions and casinos, competent authorities shall have enhanced supervisory powers, notably the possibility to conduct on-site inspections.

4. In the case of the natural and legal persons referred to in Article 2(1)(3)(a) to (e), Member States may allow the functions referred to in paragraph 1 to be performed on a risk-sensitive basis.

5. In the case of the persons referred to in Article 2(1)(3)(a) and (b), Member States may allow the functions referred to in paragraph 1 to be performed by self-regulatory bodies, provided that they comply with paragraph 2.

SECTION 3

Cooperation

Article 38

The Commission shall lend such assistance as may be needed to facilitate coordination, including the exchange of information between FIUs within the Community.

SECTION 4

Penalties

Article 39

1. Member States shall ensure that natural and legal persons covered by this Directive can be held liable for infringements of the national provisions adopted pursuant to this Directive. The penalties must be effective, proportionate and dissuasive.

2. Without prejudice to the right of Member States to impose criminal penalties, Member States shall ensure, in conformity with their national law, that the appropriate administrative measures can be taken or administrative sanctions can be imposed against credit and financial institutions for infringements of the national provisions adopted pursuant to this Directive. Member States shall ensure that these measures or sanctions are effective, proportionate and dissuasive.

3. In the case of legal persons, Member States shall ensure that at least they can be held liable for infringements referred to in paragraph 1 which are committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

(a) a power of representation of the legal person;

(b) an authority to take decisions on behalf of the legal person, or

(c) an authority to exercise control within the legal person.

4. In addition to the cases already provided for in paragraph 3, Member States shall ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 3 has made possible the commission of the infringements referred to in paragraph 1 for the benefit of a legal person by a person under its authority.

CHAPTER VI

IMPLEMENTING MEASURES

Article 40

1. In order to take account of technical developments in the fight against money laundering or terrorist financing and to ensure uniform implementation of this Directive, the Commission may, in accordance with the procedure referred to in Article 41(2), adopt the following implementing measures:

(a) clarification of the technical aspects of the definitions in Article 3(2)(a) and (d), (6), (7), (8), (9) and (10);

(b) establishment of technical criteria for assessing whether situations represent a low risk of money laundering or terrorist financing as referred to in Article 11(2) and (5);

(c) establishment of technical criteria for assessing whether situations represent a high risk of money laundering or terrorist financing as referred to in Article 13;

(d) establishment of technical criteria for assessing whether, in accordance with Article 2(2), it is justified not to apply this Directive to certain legal or natural persons carrying out a financial activity on an occasional or very limited basis.

2. In any event, the Commission shall adopt the first implementing measures to give effect to paragraphs 1(b) and 1(d) by 15 June 2006.

3. The Commission shall, in accordance with the procedure referred to in Article 41(2), adapt the amounts referred to in Articles 2(1)(3)(e), 7(b), 10(1) and 11(5)(a) and (d) taking into account Community legislation, economic developments and changes in international standards.

4. Where the Commission finds that a third country does not meet the conditions laid down in Article 11(1) or (2), Article 28(3), (4) or (5), or in the measures established in accordance with paragraph 1(b) of this Article or in Article 16(1)(b), or that the legislation of that third country does not permit application of the measures required under the first subparagraph of Article 31(1), it shall adopt a decision so stating in accordance with the procedure referred to in Article 41(2).

Article 41

1. The Commission shall be assisted by a Committee on the Prevention of Money Laundering and Terrorist Financing, hereinafter 'the Committee'.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof and provided that the implementing measures adopted in accordance with this procedure do not modify the essential provisions of this Directive.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its Rules of Procedure.

4. Without prejudice to the implementing measures already adopted, the implementation of the provisions of this Directive concerning the adoption of technical rules and decisions in accordance with the procedure referred to in paragraph 2 shall be suspended four years after the entry into force of this Directive. On a proposal from the Commission, the European Parliament and the Council may renew the provisions concerned in accordance with the procedure laid down in Article 251 of the Treaty and, to that end, shall review them prior to the expiry of the four-year period.

CHAPTER VII

FINAL PROVISIONS

Article 42

By 15 December 2009, and at least at three-yearly intervals thereafter, the Commission shall draw up a report on the implementation of this Directive and submit it to the European Parliament and the Council. For the first such report, the Commission shall include a specific examination of the treatment of lawyers and other independent legal professionals.

Article 43

By 15 December 2010, the Commission shall present a report to the European Parliament and to the Council on the threshold percentages in Article 3(6), paying particular attention to the possible expediency and consequences of a reduction of the percentage in points (a)(i), (b)(i) and (b)(iii) of Article 3(6) from 25 % to 20 %. On the basis of the report the Commission may submit a proposal for amendments to this Directive.

Article 44

Directive 91/308/EEC is hereby repealed.

References made to the repealed Directive shall be construed as being made to this Directive and should be read in accordance with the correlation table set out in the Annex.

Article 45

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 15 December 2007. They shall forthwith communicate to the Commission the text of those provisions together with a table showing how the provisions of this Directive correspond to the national provisions adopted.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 46

This Directive shall enter into force on the 20th day after its publication in the *Official Journal of the European Union*.

Article 47

This Directive is addressed to the Member States.

Done at Strasbourg, 26 October 2005.

For the European Parliament	*For the Council*
The President	*The President*
J. BORRELL FONTELLES	D. ALEXANDER

ANNEX

CORRELATION TABLE

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Article 1(2)(b)	Article 1(C) second point
Article 1(2)(c)	Article 1(C) third point
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Article 3(2)(d)	Article 1(B)(4)
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Article 3(2)(f)	Article 1(B), second paragraph
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Article 3(5)(b)	Article 1(E), first indent

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DIRECTIVE 2005/66/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 October 2005

relating to the use of frontal protection systems on motor vehicles and amending Council Directive 70/156/EEC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ([1]),

Acting in accordance with the procedure laid down in Article 251 of the Treaty ([2]),

Whereas:

(1) Systems providing additional frontal protection for motor vehicles have been increasingly used in recent years. Some of these systems constitute a risk to the safety of pedestrians and other road users in the event of a collision. Measures are therefore required in order to safeguard the public against such risks.

(2) Frontal protection systems can be provided as original equipment fitted to a vehicle or marketed as separate technical units. The technical requirements for the type approval of motor vehicles with regard to any frontal protection systems that might be fitted to the vehicle should be harmonised in order to prevent the adoption of requirements that vary from one Member State to another and to ensure the proper functioning of the internal market. For the same reasons, it is necessary to harmonise the technical requirements for the type approval of frontal protection systems as separate technical units within the meaning of Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers ([3]).

(3) It is necessary to control the use of frontal protection systems and to establish the test, construction and installation requirements to be complied with by any frontal protection system either supplied as original equipment fitted to a vehicle or placed on the market as a separate technical unit. Tests should require that frontal protection systems are designed in a way that improves pedestrian safety and reduces the number of injuries.

(4) These requirements should also be regarded in the context of the protection of pedestrians and other vulnerable road users and with reference to Directive 2003/102/EC of the European Parliament and of the Council of 17 November 2003 relating to the protection of pedestrians and other vulnerable road users before and in the event of a collision with a motor vehicle ([4]). The present Directive should be reviewed in the light of further research and experience gained during the first four years of its application.

(5) This Directive is one of the separate Directives within the framework of the EC type-approval procedure established by Directive 70/156/EEC.

(6) The Commission should monitor the impact of this Directive and report to the European Parliament and the Council. If it is deemed necessary to achieve further improvements in pedestrian protection, the Commission should make proposals to amend this Directive in accordance with technical progress.

(7) It is recognised, however, that certain vehicles included in the scope of this Directive, and to which frontal protection systems may be fitted, will not be subject to Directive 2003/102/EC. For such vehicles it is considered that the upper leg test requirements of this Directive may be technically unfeasible. To facilitate an improvement in pedestrian safety, with respect to head injury, it may be necessary to allow alternative requirements for the upper leg test, for application to those vehicles only, whilst ensuring that the installation of any frontal protection system does not increase the risk of leg injury to pedestrians or other vulnerable road users.

(8) The measures necessary for the implementation of this Directive and for its adaptation to scientific and technical progress should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ([5]).

([1]) OJ C 112, 30.4.2004, p. 18.

([2]) Opinion of the European Parliament of 26 May 2005 (not yet published in the Official Journal) and Council Decision of 11 October 2005.

([3]) OJ L 42, 23.2.1970, p. 1. Directive as last amended by Commission Directive 2005/49/EC (OJ L 194, 26.7.2005, p. 12).

([4]) OJ L 321, 6.12.2003, p. 15.

([5]) OJ L 184, 17.7.1999, p. 23.

(9) Since the objective of this Directive, namely to promote the safety of pedestrians and other vulnerable road users through laying down technical requirements for the type-approval of motor vehicles as regards frontal protection systems, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve this objective.

(10) This Directive is part of the European road safety action programme and may be supplemented by national measures to prohibit or restrict the use of frontal protection systems already on the market before its entry into force.

(11) Directive 70/156/EEC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter

The purpose of this Directive is to improve pedestrian and vehicle safety through passive measures. It lays down technical requirements for the type-approval of motor vehicles as regards frontal protection systems supplied as original equipment fitted to vehicles or as separate technical units.

Article 2

Definitions

For the purposes of this Directive the following definitions and the definitions in Annex I, paragraph 1, shall apply:

1. 'vehicle' means any motor vehicle of class M_1 as defined in Article 2 of Directive 70/156/EEC and in Annex II thereto, of a total permissible mass not exceeding 3,5 tonnes and any motor vehicle of class N_1 as defined in Article 2 of Directive 70/156/EEC and in Annex II thereto;

2. 'separate technical unit' means any separate technical unit within the meaning of Article 2 of Directive 70/156/EEC and intended for installation and use on one or more types of vehicles.

Article 3

Type-approval provisions

1. With effect from 25 August 2006, in respect of a new type of vehicle fitted with a frontal protection system which complies with the requirements laid down in Annex I and Annex II, Member States shall not, on grounds relating to frontal protection systems:

(a) refuse to grant EC type-approval or national type-approval;

(b) prohibit registration, sale or entry into service.

2. With effect from 25 August 2006, in respect of a new type of frontal protection system which is made available as a separate technical unit and which complies with the requirements laid down in Annex I and Annex II, Member States shall not:

(a) refuse to grant EC type-approval or national type-approval;

(b) prohibit sale or entry into service.

3. With effect from 25 November 2006, in respect of a new type of vehicle fitted with a frontal protection system, or a new type of frontal protection system supplied as a separate technical unit, which does not comply with the requirements laid down in Annex I and Annex II, Member States shall refuse to grant EC type-approval or national type-approval.

4. With effect from 25 May 2007, in respect of vehicles which do not comply with the requirements laid down in Annex I and Annex II, Member States shall, on grounds relating to frontal protection systems:

(a) consider certificates of conformity which accompany new vehicles in accordance with Directive 70/156/EEC to be no longer valid for the purposes of Article 7(1) of that Directive;

(b) prohibit the registration, sale or entry into service of new vehicles which are not accompanied by a certificate of conformity in accordance with Directive 70/156/EEC.

5. With effect from 25 May 2007, the requirements under Annex I and Annex II relating to frontal protection systems made available as separate technical units, shall apply for the purposes of Article 7(2) of Directive 70/156/EEC.

Article 4

Implementation measures and amendments

1. Detailed technical requirements for the test provisions laid down in paragraph 3 of Annex I shall be adopted by the Commission in accordance with the procedure referred to in Article 13(3) of Directive 70/156/EEC.

2. Amendments necessary for adapting this Directive shall be adopted by the Commission, in accordance with the procedure referred to in Article 13(3) of Directive 70/156/EEC.

Article 5

Review

Not later than 25 August 2010, in the light of technical progress and experience, the Commission shall review the technical provisions of this Directive and, in particular, the conditions for requiring the Upper Legform to Frontal Protection System test, the inclusion of an Adult Headform to Frontal Protection System test and the specification of a Child Headform to Frontal Protection System test. The results of this review will be the subject of a report from the Commission to the European Parliament and the Council.

If, as a result of this review, it is considered appropriate to adapt the technical provisions of this Directive, such adaptation shall be carried out in accordance with the procedure laid down in Article 13(3) of Directive 70/156/EEC.

Article 6

Amendments to Directive 70/156/EEC

Annexes I, III, IV and XI to Directive 70/156/EEC are hereby amended in accordance with Annex III to this Directive.

Article 7

Transposition

1. Member States shall adopt and publish, by 25 August 2006 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

They shall apply those provisions from 25 August 2006.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 8

Separate technical units

This Directive shall not affect the Member States' competence to prohibit or to restrict the use of frontal protection systems placed on the market as separate technical units before the entry into force of this Directive.

Article 9

Entry into force

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 10

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 26 October 2005.

For the European Parliament	*For the Council*
The President	*The President*
J. BORRELL FONTELLES	D. ALEXANDER

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Appendix 3: EC-type-approval certificate (vehicle)

Appendix 4: EC-type-approval certificate (separate technical unit)

Appendix 5: Example of EC Type-approval mark

ANNEX III Amendments to Directive 70/156/EEC

ANNEX I

TECHNICAL PROVISIONS

1. DEFINITIONS

For the purposes of this Directive the following definitions shall apply:

1.1. 'Vehicle type' means a category of motor vehicle which, forward of the A-pillars, does not differ in such essential respects as:

(a) the structure,

(b) the main dimensions,

(c) the materials of the outer surfaces of the vehicle,

(d) the component arrangement (external or internal),

(e) the method of fixing a frontal protection system,

in so far as they may be considered to have an effect on the validity of the results of the impact tests prescribed in this Directive.

For the purposes of frontal protection systems to be type-approved as separate technical units, any reference to vehicle may be interpreted as referring to the frame on which the system is mounted for testing and which is intended to represent the front end outer dimensions of the particular vehicle type for which the system is being type-approved;

1.2. 'normal ride attitude' means the vehicle attitude in running order, positioned on the ground, with the tyres inflated to the recommended pressures and the front wheels in the straight-ahead position, with maximum capacity of all fluids necessary for operation of the vehicle, with all standard equipment as provided by the vehicle manufacturer, with a 75 kg mass placed on the driver's seat and a 75 kg mass placed on the front passenger's seat and with the suspension set for a driving speed of 40 km/h or 35 km/h in normal running conditions specified by the manufacturer (especially for vehicles with an active suspension or a device for automatic levelling);

1.3. 'external surface' means the outside of the vehicle, forward of the A-pillars, including the bonnet, the wings, the lighting and light-signalling devices and the visible strengthening components;

1.4. 'radius of curvature' means the radius of the arc of a circle which comes closest to the rounded form of the component under consideration;

1.5. 'extreme outer edge' of the vehicle means, in relation to the sides of the vehicle, the plane parallel to the median longitudinal plane of the vehicle coinciding with its outer lateral edge, and, in relation to the front and rear ends, the perpendicular transverse plane of the vehicle coinciding with its outer front and rear edges, account not being taken of the projection:

(a) of tyres near their point of contact with the ground, and connections for tyre pressure gauges;

(b) of any anti-skid devices which may be mounted on the wheels;

(c) of rear-view mirrors;

(d) of side direction indicator lamps, end outline marker lamps, front and rear position (side) lamps and parking lamps;

(e) in relation to the front and rear ends, of parts mounted on the bumpers, of towing devices and of exhaust pipes;

1.6. 'bumper' means the front, lower, outer structure of the vehicle as type-approved. It includes all structures of the vehicle that are intended to give protection to the vehicle when involved in a low speed frontal collision with another vehicle and also any attachments, such as registration fixing plates, to this structure. It does not include equipment which is fitted to the vehicle following type-approval and intended to provide additional frontal protection for the vehicle;

1.7. 'frontal protection system' means a separate structure or structures, such as a bull bar or a supplementary bumper, which is intended to protect the external surface of the vehicle, above and/or below the original-equipment bumper, from damage in the event of a collision with an object. Structures, with a maximum mass of less than 0,5 kg, intended to protect only the lights, are excluded from this definition;

1.8. 'bonnet leading edge reference line' means the geometric trace of the points of contact between a straight edge 1 000 mm long and the front surface of the bonnet, when the straight edge, held parallel to the vertical longitudinal plane of the car and inclined rearwards by 50° and with the lower end 600 mm above the ground, is traversed across and in contact with the bonnet leading edge. For vehicles having the bonnet top surface inclined at essentially 50°, so that the straight edge makes a continuous contact or multiple contacts rather than a point contact, the reference line is determined with the straight edge inclined rearwards at an angle of 40°. For vehicles of such shape that the bottom end of the straight edge makes first contact, then that contact is taken to be the bonnet leading edge reference line, at that lateral position. For vehicles of such shape that the top end of the straight edge makes first contact, then the geometric trace of 1 000 mm wrap around distance as defined in paragraph 1.13 will be used as the bonnet leading edge reference line at that lateral position. The top edge of the bumper shall also be regarded as the bonnet leading edge for the purposes of this Directive, if it is touched by the straight edge during this procedure;

1.9. 'upper frontal protection system reference line' means the upper limit to significant points of pedestrian contact with the frontal protection system or the vehicle. It is the geometric trace of the uppermost points of contact between a straight edge 700 mm long and the frontal protection system or the vehicle front (whichever is touched), when the straight edge, held parallel to the vertical longitudinal plane of the vehicle and inclined rearwards by 20°, is traversed across the front of the vehicle, while maintaining contact with the ground and with the surface of the frontal protection system or vehicle;

1.10. 'lower frontal protection system reference line' means the lower limit to significant points of pedestrian contact with the frontal protection system or the vehicle. It is the geometric trace of the lowermost points of contact between a straight edge 700 mm long and the frontal protection system, when the straight edge, held parallel to the vertical longitudinal plane of the vehicle and inclined forwards by 25°, is traversed across the front of the vehicle, while maintaining contact with the ground and with the surface of the frontal protection system or the vehicle;

1.11. 'upper frontal protection system height' means the vertical distance between the ground and the upper frontal protection system reference line, defined in paragraph 1.9 with the vehicle positioned in its normal ride attitude.

1.12. 'lower frontal protection system height' means the vertical distance between the ground and the lower frontal protection system reference line, defined in paragraph 1.10 with the vehicle positioned in its normal ride attitude;

1.13. '1 000 mm wrap around distance' means the geometric trace described on the frontal upper surface by one end of a 1 000 mm long flexible tape, when it is held in a vertical fore and aft plane of the car and traversed across the front of the bonnet bumper and frontal protection system. The tape is held taut throughout the operation with one end held in contact with the ground, vertically below the front face of the bumper and the other end held in contact with the frontal upper surface. The vehicle is positioned in the normal ride attitude;

1.14. 'frontal protection system leading edge reference line' means the geometric trace of the points of contact between a straight edge 1 000 mm long and the front surface of the frontal protection system, when the straight edge, held parallel to the vertical longitudinal plane of the car and inclined rearwards by 50°, is traversed across and in contact with the frontal protection system leading edge. For vehicles having the frontal protection system top surface inclined at essentially 50°, so that the straight edge makes a continuous contact or multiple contacts rather than a point contact, the reference line is determined with the straight edge inclined rearwards at an angle of 40°;

1.15. 'Head performance criterion (HPC)' shall be calculated using the expression:

$$HPC = (t_2 - t_1)\left[\frac{1}{t_2 - t_1}\int_{t_1}^{t_2} a\,dt\right]^{2.5}$$

where 'a' is the resultant acceleration at the centre of gravity of the head (m/s^2 as a multiple of 'g', recorded versus time and filtered at a channel frequency class 1 000 Hz; t_1 and t_2 are two times defining the beginning and the end of the relevant recording period for which the value of HPC is a maximum between the first and last instants of contact. Values of HPC for which the time interval (t_1 - t_2) is greater than 15 ms are ignored for the purposes of calculating the maximum value.

2. CONSTRUCTION AND INSTALLATION PROVISIONS

2.1. Frontal protection systems

The following requirements apply equally to frontal protection systems as supplied fitted to new vehicles and to frontal protection systems supplied as separate technical units for fitting to specified vehicles.

However, with the agreement of the competent approval authority, the requirements contained in paragraph 3 can be considered to have been satisfied wholly or in part by any equivalent testing carried out on the frontal protection system pursuant to another type-approval directive.

2.1.1. The components of the frontal protection system shall be so designed that all rigid surfaces which can be contacted by a 100 mm sphere, have a minimum radius of curvature of 5 mm.

2.1.2. The total mass of the frontal protection system, including all brackets and fixings, shall not exceed 1,2 % of the mass of the vehicle for which it is designed, subject to a maximum of 18 kg.

2.1.3. The height of the frontal protection system, when fitted to a vehicle, shall be no more than 50 mm higher at any point than the bonnet leading edge reference line, as defined in paragraph 1.8, measured on a vertical longitudinal plane through the vehicle at that point.

2.1.4. The frontal protection system shall not increase the width of the vehicle to which it is fitted. If the overall width of the frontal protection system is more than 75 % of the width of the vehicle, the ends of the system shall be turned in towards the external surface in order to minimise the risk of fouling. This requirement is considered to be satisfied if either the frontal protection system is recessed or integrated within the bodywork or the end of the system is turned so that it is not contactable by a 100 mm sphere and the gap between the end of the system and the surrounding bodywork does not exceed 20 mm.

2.1.5. Subject to paragraph 2.1.4, the gap between the components of the frontal protection system and the underlying external surface shall not exceed 80 mm. Local discontinuities in the general contour of the underlying body (such as apertures in grilles, air intakes, etc.) shall be ignored.

2.1.6. At any lateral position across the vehicle, in order to preserve the benefits of the vehicle bumper, the longitudinal distance between the most forward part of the bumper and the most forward part of the frontal protection system shall not exceed 50 mm.

2.1.7. The frontal protection system shall not reduce significantly the effectiveness of the bumper. This requirement shall be considered to be satisfied if there are no more than two vertical components and no horizontal components of the frontal protection system overlapping the bumper.

2.1.8. The frontal protection system shall not be inclined forward of the vertical. The top parts of the frontal protection system shall not extend upwards or rearwards (towards the windscreen) more than 50 mm from the bonnet leading edge reference line of the vehicle, as defined in paragraph 1.8, with the frontal protection system removed. Each point of measurement is made on a vertical longitudinal plane through the vehicle through that point.

2.1.9. Conformity with the requirements of other vehicle type-approval directives shall not be compromised by the fitting of a frontal protection system.

2.2. Frontal protection systems that are separate technical units may not be distributed, offered for sale or sold unless accompanied by a list of vehicle types for which the frontal protection system is type approved and clear assembly instructions. The assembly instructions shall contain specific instructions on installation including fixing modes for the vehicles for which the unit has been approved and to enable the approved components to be mounted on that vehicle in a manner that complies with the relevant provisions of paragraph 2.1.

3. TEST PROVISIONS

3.1. In order to be approved, frontal protection systems must pass the following tests:

3.1.1. Lower Legform to Frontal Protection System. The test is performed at an impact speed of 40 km/h. The maximum dynamic knee bending angle shall not exceed 21,0° , the maximum dynamic knee shearing displacement shall not exceed 6,0 mm, and the acceleration measured at the upper end of the tibia shall not exceed 200 g.

3.1.1.1. However, with respect to frontal protection systems approved as separate technical units for use only on specified vehicles of total permissible mass not exceeding 2,5 tonnes which have been type approved before 1 October 2005, or vehicles of total permissible mass exceeding 2,5 tonnes, the provisions of paragraph 3.1.1 may be replaced by the provisions of either paragraph 3.1.1.1.1 or paragraph 3.1.1.1.2.

3.1.1.1.1. The test is performed at an impact speed of 40 km/h. The maximum dynamic knee bending angle shall not exceed 26,0°, the maximum dynamic knee shearing displacement shall not exceed 7,5 mm, and the acceleration measured at the upper end of the tibia shall not exceed 250 g.

3.1.1.1.2. Tests are performed on the vehicle with the frontal protection system fitted and without the frontal protection system fitted at an impact speed of 40 km/h. The two tests shall be performed in equivalent locations as agreed with the relevant test authority. The values for the maximum dynamic knee bending angle, the maximum dynamic knee shearing displacement and the acceleration measured at the upper end of the tibia shall be recorded. In each case the value recorded for the vehicle fitted with the frontal protection system shall not exceed 90 % of the value recorded for the vehicle without the frontal protection system fitted.

3.1.1.2. If the lower frontal protection system height is greater than 500 mm this test must be replaced by the Upper Legform to Frontal Protection System test, as specified in paragraph 3.1.2.

3.1.2. Upper Legform to Frontal Protection System. The test is performed at an impact speed of 40 km/h. The instantaneous sum of the impact forces with respect to time shall not exceed 7,5 kN and the bending moment on the test impactor shall not exceed 510 Nm.

The Upper Legform to Frontal Protection System test shall be carried out if the lower frontal protection system height at the test position is more than 500 mm.

3.1.2.1. However, with respect to frontal protection systems approved as separate technical units for use only on specified vehicles of total permissible mass not exceeding 2,5 tonnes which have been type approved before 1 October 2005, or vehicles of total permissible mass exceeding 2,5 tonnes, the provisions of paragraph 3.1.2 may be replaced by the provisions of either paragraph 3.1.2.1.1 or paragraph 3.1.2.1.2.

3.1.2.1.1. The test is performed at an impact speed of 40 km/h. The instantaneous sum of the impact forces with respect to time shall not exceed 9,4 kN and the bending moment on the test impactor shall not exceed 640 Nm.

3.1.2.1.2. Tests are performed on the vehicle with the frontal protection system fitted and without the frontal protection system fitted at an impact speed of 40 km/h. The two tests shall be performed in equivalent locations as agreed with the relevant test authority. The values for the instantaneous sum of the impact forces and the bending moment on the test impactor shall be recorded. In each case the value recorded for the vehicle fitted with the frontal protection system shall not exceed 90 % of the value recorded for the vehicle without the frontal protection system fitted.

3.1.2.2. If the lower frontal protection system height is less than 500 mm this test is not required.

3.1.3. Upper Legform to Frontal Protection System Leading Edge. The test is performed at an impact speed of up to 40 km/h. The instantaneous sum of the impact forces with respect to time, to the top and the bottom of the impactor, should not exceed a possible target of 5,0 kN and the bending moment on the impactor should not exceed a possible target of 300 Nm. Both results shall be recorded for monitoring purposes only.

3.1.4. Child/Small Adult Headform to Frontal Protection System. The test is performed at an impact speed of 35 km/h using a 3,5 kg headform test impactor for the child/small adult. The headform performance criterion (HPC), calculated from the resultant of the accelerometer time histories, in accordance with paragraph 1.15, shall not exceed 1 000 in all cases.

ANNEX II

ADMINISTRATIVE PROVISIONS FOR TYPE-APPROVAL

1. APPLICATION FOR EC TYPE-APPROVAL

1.1. Application for EC type-approval of a vehicle type in respect of it being fitted with a frontal protection system.

1.1.1. A model of the information document required, pursuant to Article 3(1) of Directive 70/156/EEC, is given in Appendix 1.

1.1.2. A vehicle representative of the type of vehicle, fitted with a frontal protection system, for which the approval is required, shall be submitted to the technical service responsible for type-approval. At the request of the technical service, specific components or samples of materials used shall likewise be submitted.

1.2. Application for EC type-approval in respect of frontal protection systems considered to be separate technical units.

1.2.1. A model of the information document required, pursuant to Article 3(4) of Directive 70/156/EEC, is given in Appendix 2.

1.2.2. One sample of the type of frontal protection system to be approved shall be submitted to the technical service responsible for the type-approval tests. Should the service consider it necessary, it may request further samples. The samples shall be clearly and indelibly marked with the applicant's trade name or mark and the type designation. Provision shall be made for the subsequent compulsory display of the EC type-approval mark.

2. GRANTING OF EC TYPE-APPROVAL

2.1. Models of the EC type-approval certificates, pursuant to Article 4(3) and, if applicable, 4(4) of Directive 70/156/EEC, are provided in:

(a) Appendix 3 for applications referred to in paragraph 1.1,

(b) Appendix 4 for applications referred to in paragraph 1.2.

3. EC TYPE-APPROVAL MARK

3.1. Every frontal protection system conforming to the type approved pursuant to this Directive shall bear an EC type-approval mark.

3.2. This mark shall consist of:

3.2.1. A rectangle surrounding the letter 'e' followed by the distinguishing number or letters of the Member State which has granted type-approval:

1 for Germany

2 for France

3 for Italy

4 for the Netherlands

5 for Sweden

6 for Belgium

9 for Spain

11 for the United Kingdom

12 for Austria

13 for Luxembourg

17 for Finland

18 for Denmark

21 for Portugal

23 for Greece

IRL for Ireland

49 for Cyprus

8 for the Czech Republic

29 for Estonia

7 for Hungary

32 for Latvia

36 for Lithuania

50 for Malta

20 for Poland

27 for the Slovak Republic

26 for Slovenia

3.2.2. In the vicinity of the rectangle the 'base approval number' contained in section 4 of the type-approval number referred to in Annex VII of Directive 70/156/EEC, preceded by the two figures indicating the sequence number assigned to the most recent major technical amendment to this Directive on the date the EC type-approval was granted. In this Directive the sequence number is 01.

An asterisk inserted after the sequence number will indicate that the frontal protection system was approved under the consideration, for the legform impactor test, allowed by paragraph 3.1.1.1 or 3.1.2.1 of Annex I. If this consideration is not granted by the approval authority the asterisk is replaced by a space.

3.3. The EC type-approval mark shall be affixed to the frontal protection system in such a way as to be indelible and clearly legible even when the system is fitted to the vehicle.

3.4. An example of the EC type-approval mark is given in Appendix 5.

Appendix 1

INFORMATION DOCUMENT No […]

Pursuant to Annex I of Council Directive 70/156/EEC relating to EC type-approval of vehicles with respect to the provision of frontal protection systems

The following information, if applicable, must be supplied in triplicate and include a list of contents. Any drawings must be supplied in appropriate scale and in sufficient detail on size A4 or folder of A4 format. Photographs, if any, must show sufficient detail.

If the systems, components or separate technical units make use of specialist materials, information concerning their performance must be supplied.

0. GENERAL

0.1. Make (trade name of manufacturer):

0.2. Type and general commercial description(s):

0.3. Means of identification of type, if marked on the vehicle:

0.3.1. Location of that marking:

0.4. Category of vehicle:

0.5. Name and address of manufacturer:

0.8. Address(es) of assembly plant(s):

1. GENERAL CONSTRUCTION CHARACTERISTICS OF THE VEHICLE

1.1. Photographs and/or drawings of a representative vehicle:

2. MASSES AND DIMENSIONS (in kg and mm)
(Refer to drawings where applicable)

2.8. Technically permissible maximum laden mass stated by the manufacturer (max. and min.):

2.8.1. Distribution of this mass among the axles (max. and min.):

9. BODYWORK

9.1. Type of bodywork:

9.[11]. Frontal protection system

9.[11].1. General arrangement (drawings or photographs) indicating the position and attachment of the frontal protection systems:

9.[11].2. Drawings and/or photographs, where relevant, of air intake grilles, radiator grille, decorative trim, badges, emblems and recesses and any other external projections and parts of the exterior surface which can be regarded as critical (e.g. lighting equipment). If the parts listed in the previous sentence are not critical, for documentation purposes they may be replaced by photographs, accompanied if necessary by dimensional details and/or text:

9.[11].3. Complete details of fittings required and full instructions, including torque requirements, for fitting:

9.[11].4. Drawing of bumpers:

9.[11].5 Drawing of the floor line at the vehicle front end:

Date:

Appendix 2

INFORMATION DOCUMENT No […]

Relating to EC type approval of frontal protection systems as separate technical units (2005/66/EC)

The following information, if applicable, must be supplied in triplicate and include a list of contents. Any drawings must be supplied in appropriate scale and in sufficient detail on size A4 or folder of A4 format. Photographs, if any, must show sufficient detail.

If the systems, components or separate technical units make use of specialist materials, information concerning their performance must be supplied.

0. GENERAL

0.1. Make (trade name of manufacturer):

0.2. Type and general commercial description(s):

0.5. Name and address of manufacturer:

0.7. Location and method of affixing of the EC type-approval mark:

1. DESCRIPTION OF THE DEVICE

1.1. Detailed technical description (including photographs or drawings):

1.2. Assembly and mounting instructions, including required torques:

1.3. Listing of vehicle types to which it may be fitted.

1.4 Any restrictions of use and conditions for fitting:

Appendix 3

(MODEL)

(maximum format: A4 (210 × 297 mm))

EC TYPE-APPROVAL CERTIFICATE

STAMP OF ADMINISTRATION

Communication concerning the

— type-approval

— extension of type-approval

— refusal of type-approval

— withdrawal of type-approval

of a type of a vehicle with frontal protection system fitted with regard to Directive 2005/66/EC.

Type-approval number:

Reason for extension:

SECTION I

0.1. Make (trade name of manufacturer):

0.2. Type and general commercial description(s):

0.3. Means of identification of type if marked on the vehicle:

0.3.1. Location of that marking:

0.4. Category of vehicle:

0.5. Name and address of manufacturer:

0.7. In the case of the frontal protection system, the location and method of the affixing of the EC type-approval mark:

0.8. Address(es) of assembly plant(s):

SECTION II

1. Additional information (where applicable): See Addendum

2. Technical service responsible for carrying out the tests:

3. Date of test report:

4. Number of test report:

5. Remarks (if any): See Addendum

6. Place:

7. Date:

8. Signature:

9. The index to the information package lodged with the approval authority, which may be obtained on request, is attached.

Addendum

to EC type-approval certificate No […]

concerning the type approval of a vehicle with regard to the fitting of a frontal protection system

1. Additional information, if any:
2. Remarks:
3. Annex I, paragraph 3, test results

Test	Values recorded		Pass/fail
Lower Legform to Frontal Protection System — three test positions (where performed)	Bending angle	…… …… Degrees ……	
	Shear displacement	…… …… mm ……	
	Acceleration at tibia	…… …… g ……	
Upper Legform to Frontal Protection System — three test positions (where performed)	Sum of impact forces	…… …… kN ……	
	Bending moment	…… …… Nm ……	
Upper Legform to Frontal Protection System Leading Edge — three test positions (monitoring only)	Sum of impact forces	…… …… kN ……	
	Bending moment	…… …… Nm ……	
Child/Small Adult Headform (3,5 kg) to Frontal Protection System	HPC values (at least three values)	…… …… ……	

Appendix 4

(MODEL)

(maximum format: A4 (210 × 297 mm))

EC TYPE-APPROVAL CERTIFICATE

STAMP OF ADMINISTRATION

Communication concerning the

— type-approval

— extension of type-approval

— refusal of type-approval

— withdrawal of type-approval

of a type of frontal protection system as a separate technical unit with regard to Directive 2005/66/EC.

Type-approval number:

Reason for extension:

SECTION I

0.1. Make (trade name of manufacturer):

0.2. Type and general commercial description(s):

0.3. Means of identification of type if marked on the frontal protection system:

0.3.1. Location of that marking:

0.5. Name and address of manufacturer:

0.7. Location and method of the affixing of the EC type-approval mark:

0.8. Assembly plant address(es):

SECTION II

1. Additional information: See Addendum

2. Technical service responsible for carrying out the tests:

3. Date of test report:

4. Number of test report:

5. Remarks (if any): See Addendum

6. Place:

7. Date:

8. Signature:

9. The index to the information package lodged with the approval authority, which may be obtained on request, is attached.

Addendum

to EC type-approval certificate No […]

concerning the type approval of a frontal protection system with regard to Directive 2005/66/EC

1. Additional information:

1.1. Method of attachment:

1.2. Assembly and mounting instructions:

1.3. List of vehicles on which the frontal protection system may be fitted, any usage restrictions and necessary conditions for fitting:

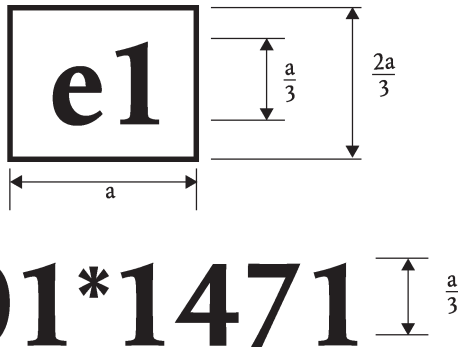
2. Remarks:

3. Annex I, paragraph 3, test results

Test	Values recorded		Pass/fail
Lower Legform to Frontal Protection System — three test positions (where performed)	Bending angle	…… …… Degrees ……	
	Shear displacement	…… …… mm ……	
	Acceleration at tibia	…… …… g ……	
Upper Legform to Frontal Protection System — three test positions (where performed)	Sum of impact forces	…… …… kN ……	
	Bending moment	…… …… Nm ……	
Upper Legform to Frontal Protection System Leading Edge — three test positions (monitoring only)	Sum of impact forces	…… …… kN ……	
	Bending moment	…… …… Nm ……	
Child/Small Adult Headform (3,5 kg) to Frontal Protection System	HPC values (at least three values)	…… …… ……	

Appendix 5

Example of the EC type-approval mark



(a ≥ 12mm)

The device bearing the EC type-approval mark shown above is for a frontal protection system type-approved in Germany (e1) pursuant to this Directive (01) under the base approval number 1471.

The asterisk indicates that the frontal protection system was approved under the consideration, for the legform impactor test, allowed by paragraph 3.1.1.1 or 3.1.2.1 of Annex I. If this consideration is not granted by the approval authority the asterisk is replaced by a space.

ANNEX III

AMENDMENTS TO DIRECTIVE 70/156/EEC

The Annexes to Directive 70/156/EEC shall be amended as follows:

1. In Annex I the following points shall be inserted:

'9.[24]. Frontal protection systems

9.[24].1. A detailed description, including photographs and/or drawings, of the vehicle with respect to the structure, the dimensions, the relevant reference lines and the constituent materials of the frontal protection system and the frontal part of the vehicle shall be provided.

9.[24].2. A detailed description, including photographs and/or drawings, of the method of fitting the frontal protection system to the vehicle shall be provided. This description shall include all bolt dimensions and required torques.'

2. In Annex III, Part I, Section A, the following points shall be inserted:

'9.[24].

9.[24].1. A detailed description, including photographs and/or drawings, of the vehicle with respect to the structure, the dimensions, the relevant reference lines and the constituent materials of the frontal protection system and the frontal part of the vehicle shall be provided.

9.[24].2. A detailed description, including photographs and/or drawings, of the method of fitting the frontal protection system to the vehicle shall be provided. This description shall include all bolt dimensions and required torques.'

3. In Annex IV, Part I, the following item shall be added:

Subject	Directive number	Official Journal reference	Applicability									
			M_1	M_2	M_3	N_1	N_2	N_3	O_1	O_2	O_3	O_4
'[60]. Frontal protection system	2005/66/EC	L 309, 25.11.2005, p. 37.	X (*)	—	—	X	—	—				

(*) Not exceeding 3,5 tonnes total permissible mass.'

4. Annex XI shall be amended as follows:

(a) In Appendix 1, the following item shall be added:

Item	Subject	Directive number	$M_1 \leq 2\,500$ (1) kg	$M_1 > 2\,500$ (1) kg	M_2	M_3
'[60]	Frontal protection system	2005/66/EC	X	X (*)	—	—

(*) Not exceeding 3,5 tonnes total permissible mass.

(b) In Appendix 2, the following item shall be added:

Item	Subject	Directive number	M_1	M_2	M_3	N_1	N_2	N_3	O_1	O_2	O_3	O_4
[60]	Frontal protection system	2005/66/EC	—	—	—	—	—	—	—	—	—	—'

(c) In Appendix 3, the following item shall be added:

Item	Subject	Directive number	M_2	M_3	N_1	N_2	N_3	O_1	O_2	O_3	O_4
'[60]	Frontal protection system	2005/66/EC	—	—	—	—	—	—	—	—	—'