

# Commission Proposes Better Access of Law Enforcement to Financial Information



## News

**Thomas Wahl**

On 17 April 2018, the Commission proposed another piece of legislation that supplements the current anti-money laundering legal framework. By means of a Directive, the Commission wishes to introduce uniform EU-wide rules, so that designated law enforcement authorities of the Member States can directly access centralized national bank account registries or data retrieval systems (COM(2018) 213).

The fourth and fifth Anti-Money Laundering Directives (AMLDs) establish centralized bank account registries (with information on all bank accounts in a given country) or data retrieval systems to which Financial Intelligence Units (FIUs) and anti-money laundering authorities have access. The AMLDs do not, however, regulate how other law enforcement authorities competent in preventing, detecting, investigating, and prosecuting criminal offences can use this information. Under the current system, law enforcement authorities usually send blanket requests to all financial institutions in their respective Member State or requests via intermediaries in order to obtain bank account information.

The new EU law would oblige Member States to empower their competent law enforcement authorities, such as the police, prosecution services, tax authorities or anti-corruption authorities, to access and retrieve information from said databases. The proposal foresees that the law enforcement authorities have access to limited information, however, namely that which is strictly necessary to identify which banks a person holds bank accounts in (e.g., owner's name and date of birth, bank account number). Access to the contents of the bank accounts or details on transactions is not possible. The latter information must then be subsequently requested from the financial institution.

The proposal includes other "safeguards" to restrict the access to information, among them:

- The search must prevent or support a criminal investigation concerning a "serious criminal offence;" reference is made in this context to the list of offences for which Europol is competent (cf. Regulation (EU) 2016/794);
- Access is only granted to persons within the competent authority specifically designated and authorized to make the query;
- Searches are only possible on a case-by-case basis, thus excluding controls by routine;
- Access and search by the competent law enforcement authorities must be monitored by means of the assessment logs.

In addition, the proposal also provides for a better, more efficient cooperation between FIUs and law enforcement. The Commission intends to remove current obstacles that FIUs face when cooperating with

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law enforcement authorities. According to the proposal, law enforcement authorities can request information from FIUs and *vice versa*. An exhaustive list of criminal offences is further provided for each authority to exchange information on a case-by-case basis. The proposal also continues to set deadlines within which information has to be exchanged.

Europol is also integrated into the search and exchange system. The agency will be granted indirect access to bank account registries through its national units. Within the limits of Europol's responsibilities, and justified only on a case-by-case basis, Member States must ensure that Europol national units and FIUs reply to Europol requests related to bank account information and financial analysis carried out by Europol.

The central provisions described above are supplemented by additional ones related to the processing of personal data.

The new legal framework was [presented as part of a series of measures](#) that strive to further build up the so-called Security Union (see also news on "[Security Union](#)").

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