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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Delegations will find attached document C(2023) 5552 final.

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Encl.: C(2023) 5552 final



Brussels, 18.8.2023  
C(2023) 5552 final

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 18.8.2023**

**amending Delegated Regulation (EU) 2016/1675 to add Cameroon and Vietnam to the  
list of high-risk third countries**

(Text with EEA relevance)

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE DELEGATED ACT

Under Article 9(1) of Directive (EU) 2015/849<sup>1</sup>, third-country jurisdictions which have strategic deficiencies in their anti-money laundering / countering the financing of terrorism (AML/CFT) regimes that pose significant threats to the financial system of the European Union ('high-risk third countries') must be identified to protect the proper functioning of the internal market. Article 9(2) empowers the Commission to adopt delegated acts to identify those high-risk third countries, considering strategic deficiencies, and lays down the criteria on which the Commission's assessment is to be based. The delegated acts must be adopted within 1 month after the identification of the strategic deficiencies. Article 18a of Directive (EU) 2015/849 obliges Member States to require obliged entities to apply enhanced customer due diligence measures when establishing business relationships or carrying out transactions involving high-risk third countries identified by the Commission.

On 14 July 2016, the Commission adopted Delegated Regulation (EU) 2016/1675, which identified third countries that have strategic deficiencies in their AML/CFT regimes that pose significant threats to the financial system of the EU. This Delegated Regulation was subsequently amended by Delegated Regulation (EU) 2018/105, Delegated Regulation (EU) 2018/212, Delegated Regulation (EU) 2018/1467, Delegated Regulation (EU) 2020/855, Delegated Regulation (EU) 2021/37, Delegated Regulation (EU) 2022/229, Delegated Regulation (EU) 2023/410 and Delegated Regulation (EU) 2023/1219.

The Commission published a revised methodology for identifying high-risk third countries on 7 May 2020<sup>2</sup>. The main new elements are an increased interaction with the Financial Action Task Force (FATF) listing process, strengthened engagement with third countries, and reinforced consultation of the Member States and the European Parliament.

The FATF has updated its list of 'Jurisdictions under Increased Monitoring' since the last amendments to Delegated Regulation (EU) 2016/1675. At its plenary meeting between 21-23 June 2023, the FATF added two third-country jurisdictions to its list: Cameroon and Vietnam.

It is necessary to continue to update the Delegated Regulation considering information from international organisations and standard setters in the field of AML/CFT, such as FATF public statements, mutual evaluation or detailed assessment reports, and published follow-up reports. The changing nature of money laundering and terrorist-financing threats, which are facilitated by the constant development of technology and the means at the disposal of criminals, requires quick and continuous adaptation of the legal framework on high-risk third countries to efficiently address existing risks and prevent new ones. Considering the extent to which financial systems are integrated, the internal market would be exposed to serious risks

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<sup>1</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

<sup>2</sup> Commission staff working document on a methodology for identifying high-risk third countries under Directive (EU) 2015/849, SWD(2020) 99 final.

of money laundering and terrorism financing if the EU were not to add jurisdictions identified by the FATF to the EU list.

Delegated Regulation (EU) 2016/1675 should therefore be amended by adding third-country jurisdictions which have been identified as having strategic deficiencies on the basis of the criteria laid down in Directive (EU) 2015/849.

### **Addition to the list of Delegated Regulation (EU) 2016/1675**

The Commission has taken into account relevant information from international organisations and standard setters in the field of AML/CFT in line with Article 9(4) of Directive (EU) 2015/849. This information includes recent FATF public statements, the FATF list of ‘Jurisdictions under Increased Monitoring’, FATF reports of the International Cooperation Review Group, and mutual evaluation reports carried out by the FATF and the FATF-style regional bodies (FSRBs) in relation to strategic deficiencies of individual third countries.

In particular, the Commission considers that Cameroon and Vietnam have strategic deficiencies in their respective AML/CFT regimes. The Commission has also taken into account the fact that these countries were identified in the FATF list of ‘Jurisdictions under Increased Monitoring’ in June 2023.

The Commission therefore considers that Cameroon and Vietnam meet the criteria set in Article 9(2) of Directive (EU) 2015/849. These countries should therefore be added to the list in Delegated Regulation (EU) 2016/1675 of third-country jurisdictions with strategic deficiencies in their AML/CFT regimes that pose significant threats to the financial system of the EU.

Cameroon and Vietnam have made written high-level political commitments to address the identified deficiencies and have developed action plans with the FATF for this purpose. The Commission welcomes these commitments and calls on these jurisdictions to complete the implementation of their respective action plans expeditiously and within the proposed time frames. The FATF will closely monitor the implementation of the action plans. Having considered the level of commitment that has been demonstrated in the FATF context, these high-risk third countries are listed in the table in point I of the Annex to Delegated Regulation (EU) 2016/1675 (‘High-risk third countries which have provided a written high-level political commitment to address the identified deficiencies and have developed an action plan with FATF’).

Article 18 of Directive (EU) 2015/849 requires obliged entities in all Member States to apply enhanced customer due diligence measures to manage and mitigate risks appropriately. With respect to business relationships or transactions involving high-risk third countries identified pursuant to Article 9(2) of that Directive, Article 18a sets out the enhanced customer due diligence measures that Member States are to require obliged entities to apply in that context.

## **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

On 20/07/2023, the Commission consulted the Expert Group on Money Laundering and Terrorist Financing on the draft delegated regulation by written procedure.

## **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

This Delegated Regulation amends the Annex to Delegated Regulation (EU) 2016/1675.

The legal effects of the publication of this Delegated Regulation are governed by the basic act, Directive (EU) 2015/849.

As a direct consequence of the adoption of this Delegated Regulation, obliged entities in all Member States are bound to apply enhanced customer due diligence measures in accordance with Article 18a of Directive (EU) 2015/849 with respect to business relationships or transactions involving countries that are included in the Annex to this Delegated Regulation.

Furthermore, Article 155(2) of the Financial Regulation<sup>3</sup> prohibits persons and entities implementing EU funds or budgetary guarantees from entering into new or renewed operations with entities incorporated or established in countries included in this Delegated Regulation under Directive (EU) 2015/849, except when an action is physically implemented in these countries and subject to the absence of other risk factors. Implementing partners must also transpose those requirements into their own contracts with selected financial intermediaries.

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<sup>3</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 18.8.2023**

**amending Delegated Regulation (EU) 2016/1675 to add Cameroon and Vietnam to the list of high-risk third countries**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC<sup>1</sup>, and in particular Article 9(2) thereof,

Whereas:

- (1) The Union is to ensure the effective protection of the integrity and proper functioning of its financial system and the internal market from money laundering and terrorist financing. Directive (EU) 2015/849 therefore provides that the Commission is to identify third-country jurisdictions which have strategic deficiencies in their regimes on anti-money laundering and countering financing of terrorism (AML/CFT) that pose significant threats to the financial system of the Union ('high-risk third countries').
- (2) Commission Delegated Regulation (EU) 2016/1675<sup>2</sup> identifies high-risk third countries with strategic deficiencies.
- (3) Considering the high level of integration of the international financial system, the close connection of market operators, the high volume of cross-border transactions to and from the Union, and the degree of market openness, any AML/CFT threat posed to the international financial system is also a threat to the financial system of the Union.
- (4) Pursuant to Article 9(4) of Directive (EU) 2015/849, the Commission, when identifying high-risk third countries, is to take into account relevant evaluations, assessments or reports drawn up by international organisations and standard setters

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<sup>1</sup> OJ L 141, 5.6.2015, p. 73.

<sup>2</sup> Commission Delegated Regulation (EU) 2016/1675 of 14 July 2016 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies (OJ L 254, 20.9.2016, p. 1).

with competence in the field of preventing money laundering and combating terrorist financing. Such information includes public statements from the Financial Action Task Force (FATF), the FATF list of ‘Jurisdictions under Increased Monitoring’, and FATF reports of the International Cooperation Review Group in relation to the risks posed by individual third countries.

- (5) Since the latest amendments to Delegated Regulation (EU) 2016/1675, the FATF has updated its list of ‘Jurisdictions under Increased Monitoring’. At its plenary meeting between 21-23 June 2023, the FATF has updated its list of ‘Jurisdictions under Increased Monitoring’ by adding Cameroon and Vietnam to that list. Given those changes, the Commission has conducted an assessment to identify high-risk third countries in accordance with Article 9 of Directive (EU) 2015/849.
- (6) In June 2023, Cameroon made a high-level political commitment to work with the FATF and the *Groupe d’Action Contre le Blanchiment d’Argent en Afrique Centrale* (GABAC), which is its FATF-style regional body (FSRB), to strengthen the effectiveness of its AML/CFT regime. Since the adoption of its mutual evaluation report in October 2021, Cameroon has made progress on some of the actions recommended in the mutual evaluation report by increasing the resources of the financial intelligence unit (FIU) and by building the capacity of investigation authorities and judicial bodies to effectively conduct money laundering/terrorism financing cases. Cameroon will work to implement its FATF action plan: (1) by aligning AML/CFT national strategies and policies with the findings of the national risk assessment and monitoring their implementation, and demonstrating AML/CFT cooperation and coordination between competent authorities; (2) by ensuring risk-based prioritisation of incoming international cooperation requests in line with risks and responding in an effective manner; (3) by enhancing risk-based supervision of banks and implementing effective risk-based supervision for non-bank financial institutions and designated non-financial businesses and professions, and conducting appropriate outreach to high-risk financial institutions and designated non-financial businesses and professions; (4) by maintaining and ensuring timely access by competent authorities to adequate and up-to-date beneficial ownership information on legal persons, and establishing a sanctions regime for violations of transparency obligations applicable to legal persons; (5) by enhancing secure information exchange between the FIU, reporting entities and competent authorities and demonstrating an increase in dissemination of intelligence reports to support operational needs of competent authorities; (6) by demonstrating that authorities are able to conduct a range of money laundering investigations, and prosecute money laundering in line with risks; (7) by implementing policies and procedures for seizing and confiscating proceeds and instrumentalities of crime and managing frozen, seized and confiscated property, and prioritising seizure and confiscation of assets at the border; (8) by demonstrating that terrorism financing investigations and prosecutions are pursued in line with risk; and (9) by demonstrating effective implementation of terrorism financing and proliferation financing targeted financial sanctions (TFS) regimes and implementing a risk-based approach to non-profit organisations without disrupting legitimate non-profit organisation activities. Despite that commitment and progress, Cameroon has not yet fully addressed the concerns that led to Cameroon being added to the FATF’s list of ‘Jurisdictions under Increased Monitoring’. Cameroon should therefore be considered a third-country jurisdiction that has strategic deficiencies in its AML/CFT regime that pose significant threats to the financial system of the Union as referred to in Article 9(1) of Directive (EU) 2015/849.

- (7) In June 2023, Vietnam made a high-level political commitment to work with the FATF and the Asia Pacific Group (APG), which is its FSRB, to strengthen the effectiveness of its AML/CFT regime. Since the adoption of its mutual evaluation report in November 2021, Vietnam has made progress on some of the actions recommended in the mutual evaluation report by joining the Asset Recovery Interagency Network Asia Pacific and by adopting a national action plan on AML/CTF/countering proliferation financing. Vietnam will work to implement its FATF action plan: (1) by increasing risk understanding, domestic coordination and cooperation to combat money laundering/terrorist financing; (2) by enhancing international cooperation; (3) by implementing effective risk-based supervision for financial institutions and designated non-financial businesses and professions; (4) by taking action to regulate virtual assets and virtual asset service providers; (5) by addressing technical compliance deficiencies, including with respect to the money laundering offence, TFS, customer due diligence and suspicious transaction reporting; (6) by conducting outreach activities with the private sector; (7) by establishing a regime that provides competent authorities with adequate, accurate and up-to-date information on beneficial ownership; (8) by ensuring the independence of the FIU and enhancing the quality and quantity of financial intelligence analysis and disseminations; (9) by prioritising parallel financial investigations and demonstrating an increase in the number of money laundering investigations and prosecutions undertaken; and (10) by demonstrating that there is monitoring of financial institutions and designated non-financial businesses and professions for compliance with proliferation financing TFS obligations and that there is cooperation and coordination between authorities to prevent proliferation financing TFS from being evaded. Despite that commitment and progress, Vietnam has not yet fully addressed the concerns that led to Vietnam being added to the FATF's list of 'Jurisdictions under Increased Monitoring'. Vietnam should therefore be considered a third-country jurisdiction that has strategic deficiencies in its AML/CFT regime that pose significant threats to the financial system of the Union as referred to in Article 9(1) of Directive (EU) 2015/849.
- (8) The Commission therefore concludes that Cameroon and Vietnam should be considered third-country jurisdictions which have strategic deficiencies in their AML/CFT regimes that pose significant threats to the financial system of the Union. Cameroon and Vietnam should therefore be added to the table in point I of the Annex to Delegated Regulation (EU) 2016/1675.
- (9) Delegated Regulation (EU) 2016/1675 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

The Annex to Delegated Regulation (EU) 2016/1675 is amended in accordance with the Annex to this Regulation.

#### *Article 2*

This Regulation shall enter into force on the twentieth day following that of 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 Brussels, 18.8.2023

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*