

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the use of the financial system for the purpose of money laundering and terrorist financing (Text with EEA relevance) (repealed)

CHAPTER III

REPORTING OBLIGATIONS

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.

Status: This is the original version (as it was originally adopted).

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.](#)