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 (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2016/1675

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(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[(1)], and in particular Article 9(2) thereof,

Whereas:

(1) The Union must ensure efficient protection mechanisms for the whole of the internal market, with a view to increase legal certainty for economic operators and stakeholders in general in their relationships with third-country jurisdictions. The integrity of financial markets and the proper functioning of the internal market as a whole are seriously threatened by jurisdictions with strategic deficiencies in their national anti-money-laundering and terrorism-financing frameworks. Those jurisdictions that have in place deficient legal and institutional frameworks with poor standards for controlling money flows pose significant threats to the financial system of the Union.

(2) All Union obliged entities under Directive (EU) 2015/849 should apply enhanced due diligence measures in their relationship to natural persons or legal entities established in high-risk third countries, thereby ensuring equivalent requirements for market participants across the Union.

(3) Article 9 of Directive (EU) 2015/849 lays down the criteria on which the Commission's assessment is to be based and empowers the Commission to identify high-risk third countries taking into account those criteria.

(4) The identification of high-risk third countries must be based on a clear and objective assessment which focuses on a jurisdiction's compliance with the criteria laid down in Directive (EU) 2015/849 regarding its legal and institutional anti-money-laundering and countering the financing of terrorism (AML/CFT) framework, the

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powers and procedures of its competent authorities for the purposes of combating money laundering and terrorist financing and the effectiveness of the anti-money-laundering and countering the financing of terrorism (AML/CFT) system in addressing money laundering or terrorist financing risks of the third country.

(5) All findings upon which the Commission's decision to include a jurisdiction in the list of high-risk third countries is to be based should be documented by robust, verifiable and up-to-date information.

(6) It is essential that the Commission fully acknowledges relevant work already undertaken at international level for identifying high-risk third countries, in particular that of the Financial Action Task Force ('FATF'). With a view to ensuring the integrity of the global financial system, it is of the highest importance that the list of third countries laid down at Union level is closely aligned, as appropriate, with those lists agreed internationally. By promoting a global approach at international level, the Union contributes to enhancing the financial integrity worldwide and better protecting the international financial system from high-risk countries. Such a global approach serves to achieve equivalent conditions for obliged entities and avoid any disruptive effect on the international financial system.

(7) In line with the criteria set out in Directive (EU) 2015/849, the Commission took into account all available expert assessments of factors that contribute to making a country or jurisdiction particularly vulnerable to money laundering, terrorist financing or other illicit financial activity. In particular, the Commission took into account, as appropriate, the most recent FATF Public Statement, FATF documents (Improving Global AML/CFT Compliance: ongoing process), FATF reports on International Cooperation Review, and the mutual evaluations report carried out by FATF and FATF-Style Regional Bodies in relation to the risks posed by individual third countries in line with Article 9(4) of Directive (EU) 2015/849.

(8) 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/from the EU, as well as the degree of market opening, it is hence considered that any AML/CFT threat posed to the international financial system also represents a threat for the EU financial system.

(9) In accordance with the latest relevant information, the Commission's analysis has concluded that Afghanistan, Bosnia and Herzegovina, Guyana, Iraq, Lao PDR, Syria, Uganda, Vanuatu and Yemen 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. Those countries have provided a written high-level political commitment to address the identified deficiencies and have developed an action plan with FATF, which would allow the requirements laid down in Directive (EU) 2015/849 to be met.

(10) In accordance with the latest relevant information, the Commission's analysis has similarly concluded that Iran should be considered a third-country jurisdiction which has strategic deficiencies in its AML/CFT regimes that pose significant threats to the financial system of the Union. This country, identified by FATF Public Statement, has

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provided a high-level political commitment to address the identified deficiencies, and has decided to seek technical assistance in the implementation of the FATF Action Plan which would allow the requirements laid down in Directive (EU) 2015/849 to be met.

(11) In accordance with the latest relevant information, the Commission's analysis has similarly concluded that the Democratic People's Republic of Korea (DPRK) should be considered third-country jurisdiction which has strategic deficiencies in its AML/CFT regime that pose significant threats to the financial system of the Union. This country, identified by FATF Public Statement, presents ongoing and substantial money-laundering and terrorist-financing risks, having repeatedly failed to address the identified deficiencies.

(12) It is essential that the Commission extends an invitation to third-country jurisdictions identified as high-risk to fully cooperate with the Commission and international bodies with a view to agreeing and effectively implementing measures for correcting the strategic deficiencies in their anti-money laundering and terrorism financing regimes.

(13) It is of the utmost importance that the Commission conducts a permanent monitoring of developments in the assessment of legal and institutional frameworks in place in third countries, the powers and procedures of competent authorities, and the effectiveness of their AML/CFT regimes with a view to updating the list of high-risk third countries with strategic deficiencies,

HAS ADOPTED THIS REGULATION:

Article 1

The list of third-country jurisdictions which have strategic deficiencies in their anti-money laundering and countering the financing of terrorism regimes that pose significant threats to the financial system of the Union (‘high-risk third countries’) is laid down in the Annex.

Article 2

This Regulation shall enter into force on the third 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 the Member States in accordance with the Treaties.