Ms Raluca Alexandra Pruna
Head of Unit
European Commission
DG for Financial Stability, Financial Services and Capital Markets Union
Unit Financial Crime

Submitted online

Subject: **The role of the profession to step up the fight against money laundering**

Dear Ms Pruna,

The fight against money laundering and financial crime is a constant race against criminals. The accountancy profession acknowledges the need to look deeper into the areas that require improvement and address any possible wrongdoings. We welcome the inclusion of AML/CFT in the European Commission's strategic priorities.

We would like to propose concrete solutions on how the accountancy profession can further contribute to the fight against money laundering. We outline below a number of suggestions that we would be happy to discuss further with you.

How the profession (accountants/auditors) can step up the fight against money laundering

All professional accountants and auditors are bound by EU regulations, local regulations and the International Ethics Standards Board for Accountants (IESBA) Code of Ethics and have obligations to i) comply with laws and regulations and ii) report where they come across actual or suspected money laundering or terrorist financing.

In specific, the role of the auditor in fighting financial crime involves: i) alerting company's management of incidents of fraud or non-compliance with relevant laws and regulations, which the auditor may decide to communicate in the audit report ii) reporting incidents of financial crime to appropriate competent authorities, suspicions of transactions linked to money laundering and terrorist financing and breaches of relevant laws and regulations.

There are very few cases in which the auditor is required to be involved in AML compliance (e.g. in case of financial institutions in some Member States). Overall, there seems to be a lot of unclarity on the auditors' role in AML which is further exacerbated by the diverse AML practices applied by Member States.

We would like to propose an enhanced role for the accountancy profession in fighting money laundering by performing compliance assurance. We propose to start applying this to financial institutions and then gradually expand to non-financial ones. We provide more information below.

Some authorities already use skilled persons, like auditors, to help them with monitoring compliance by performing 'compliance assurance'. This could be the most fruitful area where properly qualified auditors could make a cost-effective additional contribution to the fight against ML/TF.

Such compliance monitoring support to the AML authority would be entirely separate from the audit of the financial statements. For example, Switzerland is one of the countries with a regulatory audit concept where AML needs to be assessed frequently (annually or multiyear plan). The Swiss regulator (FINMA) defines a detailed work program which needs to be completed by the audit firm and involves design and operating effectiveness assessment. Areas to be assessed include entity's organisation, client identification, business relationships with increased risks, Politically Exposed Person (PEP), transaction monitoring, reporting duties, sanctions.

In addition, there is a practice followed already by a number of EU Member States in the case of financial institutions. Indicatively, Austria, Germany and Luxembourg involve auditors in an independent audit of a bank's policies, controls and procedures to mitigate money laundering. The report of such an audit is produced for regulatory purposes and goes directly to the national competent authority. This is carried out in addition to the statutory audit of financial statements of the bank on which there is a public report.

Clarity on the accountancy profession's role and responsibility in the fight against ML/TF is key to understanding its added value and avoid expectation gaps. Importantly, we should not neglect that company's management has a principal responsibility to detect its own wrongdoings, as the primary detection mechanism. Accountants and auditors can support in monitoring compliance – by gathering relevant information, assessing the procedures, testing controls and coming to an assurance conclusion. The conclusion would refer to the adequacy of the systems and controls. The profession could also help regulators improve their regulation and supervision through a feedback loop.

Such compliance monitoring support would help the obliged entity to improve its AML/CFT systems and controls. It could also help AML authorities to understand better how their regulation and supervision is working. To monitor compliance with the greatest positive impact requires fully leveraging technology. The best insight into gaps and weaknesses comes from interrogating large data sets (e.g. as many transactions as possible). AML authorities employing private sector accountants in this way would allow those authorities to access current multi-disciplinary skills and technologies without having to keep them maintained inhouse – hence, it could be more cost-effective.

It is important to highlight that the compliance monitoring work referred to above is not a forensic investigation and it is neither about finding every incident.

Any changes in this area should also ensure that role and accountability of the principal actors in the AML/CFT ecosystem (e.g. the obliged entity and the supervisor) are clear. Instances of actual or suspected ML/TF need to be reported by the obliged entity, the accountant or the financial statement auditor, if they come across them.

How obliged entities can step up their role in the fight against money laundering

Obliged entities need to continue to strengthen their systems and controls using a risk-based approach, fully leveraging technology where they can.

Particularly for those outside the financial services sector, there is scope for enhancing requirements on corporate governance and reporting in EU law as follows:

- Clarifying management responsibilities with additional risk management and risk reporting obligations such as establishing a system to prevent and detect ML/TF and reporting significant ML/TF risks to relevant authorities.
- Designating to the (Supervisory) Board/Audit Committee oversight responsibilities for management's responsibility to establish an AML/CFT system their risk reporting to AML/CFT authorities.

In this regard, standards for appropriate governance and controls would be helpful – organisations like the Committee of Sponsoring Organizations of the Treadway Commission (COSO) or the International Organisation for Standardisation (ISO) could play a useful role here.

Harmonise the definitions of obliged entity

To enhance the above responsibilities, there is a need for more consistency in determining who the obliged entity is. For example, in Germany, outside the financial sector an obliged entity is identified based on personal professional qualifications of an individual i.e. not entity specific. This obligation is extended to every business partner without distinction. This causes issues as many differently qualified persons work together across the board, some of whom are subject to the obligations, others are not. In the UK, this obligation encompasses both persons and entities based on activities they carry out.

Publicly available non-financial information

We would also like to flag the importance of transparency and access to information on companies' activities. In one of our recent positions, we indicate that including non-financial information in the publicly available annual management report could help improve the connectivity between financial and non-financial information (NFI). This would also inform the stakeholders to the fullest extent about a company's performance, risks, future development and impact on the environment and society. Non-financial risks involve also risks linked to money laundering. More transparency on non-financial risks can better prevent potential links to money laundering.

We hope that you will find our proposals useful and would be happy to discuss this further with you.

Sincerely,

Olivier Boutellis-Taft

Chief Executive

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