



THE EU'S FIGHT AGAINST FINANCIAL CRIME: DIVING INTO THE ANTI-MONEY LAUNDERING ACTION PLAN

Summary of a webinar discussion that took place on 10 June 2020. The webinar was hosted by Accountancy Europe in collaboration with Transparency International and the European Contact Group.

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INTRODUCTION

Money laundering is both a serious crime in itself and an enabler of other serious crimes. By disguising the origin of money that has been obtained illegally, criminals are able to fund further activities that are harmful to society. These activities include terrorism, human trafficking, weapons smuggling and high-value frauds.

The estimated amount of 'dirty money' that is laundered every year is equivalent to [between 2% and 5% of global GDP](#), according to the United Nations. This has significant implications for both civil society and economic development. [Money laundering encourages crime and corruption](#), undermines financial institutions, distorts trade and capital flows, and diverts resources away from the real economy.

THE EU RESPONSE

The European Union (EU) plays a significant role in the global response to money laundering, by supporting initiatives such as the [Financial Action Task Force \(FATF\)](#). It has also established its own [legal framework on anti-money laundering and countering the financing of terrorism \(AML/CFT\)](#) to prevent the misuse of its financial system. This framework includes the Fourth and Fifth Anti-Money Laundering Directives, which were respectively implemented in June 2017 and January 2020. A sixth directive is due to be implemented in June 2021.



While it has continually strengthened its framework, the EU believes it can do more to mitigate risks relating to money laundering and terrorist financing. There is a growing consensus in Europe around the need to address the major divergences in how the framework is applied by different member states, as well as the serious weaknesses in how the rules are enforced.

In December 2019, the [European Council](#) confirmed that strengthening the AML/CFT rules was a strategic priority for the EU and it asked the European Commission to explore possible options for reform. The European Commission subsequently issued its [Action Plan for a comprehensive Union policy on preventing money laundering and terrorist financing](#) in May 2020.

The contents of this Action Plan, and how it can be made to work effectively, were the subject of a webinar that took place on 10 June 2020. The webinar was hosted by Accountancy Europe, in collaboration with Transparency International and the European Contact Group, a public policy group that represents the six largest accountancy networks.

The event was chaired by Olivier Boutellis-Taft, CEO of Accountancy Europe, and featured the following speakers:

Raluca Pruna – Head of the Financial Crime Unit at the European Commission’s Directorate General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA)

Sébastien de Brouwer - Chief Policy Officer at the European Banking Federation (EBF)

Angela Foyle – Head of Economic Crime at BDO LLP UK and chair of Accountancy Europe’s anti-money laundering working group

Helge Olsson – Partner in EY’s Financial Services Assurance practice, based in Germany

Maíra Martini – Research and Policy Expert on Corrupt Money Flows at Transparency International



SIX PILLARS OF THE ACTION PLAN

Raluca Pruna introduced the Commission's Action Plan, which consists of six pillars:

1. Ensuring the effective implementation of the existing EU AML/CFT framework.

This pillar emphasises the effective implementation and enforcement of current rules, particularly the Fourth and Fifth Anti-Money Laundering Directives.

2. Establishing an EU single rule book on AML/CFT.

Different member states transpose the existing directives in different ways, leading to fragmentation in the way the rules are applied. The Commission is therefore proposing to establish a set of more harmonised rules that take the form of a Regulation.

3. Bringing about EU-level AML/CFT supervision.

The EU recognises that it lacks "sufficiently effective arrangements" to handle cross-border AML/CFT crimes. The Commission is therefore looking to create an EU-level AML/CFT supervisory system that will integrate and supplement existing national authorities to ensure the harmonised application and enforcement of AML/CFT rules across the EU.

4. Establishing a support and cooperation mechanism for financial intelligence units (FIUs).

The Action Plan proposes a coordination and support mechanism that will help FIUs to collaborate on the basis of common standards and tools, undertake joint analysis, and exchange information that will support the identification of trends and risks in relation to money laundering.

5. Enforcing Union-level criminal law provisions and information exchange.

The European Commission already funds the Anti-Money Laundering Operational Network (AMON), which connects law enforcement authorities. It wants AMON's work enhanced and promoted, with extra budget provided to the network. The Commission also supports public-private partnerships as a means of sharing information between law enforcement authorities, FIUs and the private sector.



6. Strengthening the international dimension of the EU AML/CFT framework.

The Commission actively contributes to the work of the FATF and remains committed to implementing FATF standards and to promoting compliance globally. Nevertheless, as part of its new, comprehensive approach towards AML/CFT, the EU wants to play a more prominent role in setting international standards.

RESPONSE TO THE ACTION PLAN

The Action Plan was welcomed by all the speakers on the webinar, who agreed that collaboration and cooperation are key to combating money laundering and terrorist financing. All participants in the financial ecosystem need to play their part – including accounting and audit firms, banks, legislators and regulators. "It's very important to form alliances and partnerships," said Accountancy Europe's Olivier Boutellis-Taft.

There is a strong requirement for greater harmonization of the existing AML/CFT rules to address divergences in how the rules are applied. Furthermore, it is critical that the Fourth and Fifth Anti-Money Laundering Directives are properly implemented by all member states. Not only will full implementation reduce the amount of criminal activity within member states, it will help the EU to address cross-border crimes. "We all know that the criminals will not stop at borders, nor stop at European borders either," said EY's Helge Olsson.

The speakers believed that the current approach towards supervision is insufficient to address the AML/CFT challenge. Sébastien de Brouwer said that the EBF is in favour of “centralised and coordinated supervision at a European level”. Maíra Martini explained that Transparency International believes there is “no EU body at the moment that is appropriate or fit to take on supervisory responsibilities”. She called for the establishment of an independent body with the power to supervise and sanction both institutions and member states. AML/CFT does not only affect large financial institutions. It is also relevant to smaller organizations, as well as those outside financial services.

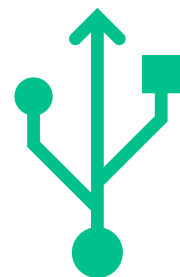


At present, the General Data Protection Regulation (GDPR) is inadvertently hampering the EU’s fight against money-laundering by preventing banks from sharing information with each other and with authorities. Also, while European banks are sending millions of transaction reports to the FIUs every year, only a tiny proportion are ever used as a basis for prosecution. The FIUs do not necessarily have sufficient AML and technology experts to process all the reports they receive, which enables criminals to escape detection.

Accountancy and audit firms are obliged to comply with AML regulations and report when they come across instances of actual or suspected money laundering or terrorist financing. In certain jurisdictions, they provide regulatory compliance assurance around AML policies and procedures although this requirement is not always consistently applied. As statutory auditors, firms are required to analyze the material effects of non-compliance with laws and regulations on a company’s financial statements.

While they make an important contribution to the fight against money laundering and terrorist financing, accountancy and audit firms also face some significant challenges. One is that the standards expected of the profession – in areas such as due diligence – can vary significantly between member states. Another is that firms are having to work with AML rules and reporting requirements that was developed specifically for the banking sector. “We don’t do transactions in the same sense as a bank, so how do we then interpret it?” queried BDO’s Angela Foyle.

Technology advances at a rapid rate, which risks legislators being left behind. As a result, AML/CFT legislation needs to be technologically neutral so that institutions and member states can always make use of the best available tools. Going forward, e-ID may be helpful for conducting client due diligence. Data analytics tools can be used by audit firms, banks and regulators to review large volumes of data for patterns and trends. The banking sector is investing heavily in blockchain, which will improve transparency around transactions. It is also keen to further develop shared utilities that standardise know-your-customer data. Today, the GDPR restricts the efficiency of these utilities.



DG FISMA’s Raluca Pruna said the European Commission had benefited from stakeholder input when drawing up its Action Plan. Looking ahead, she revealed that “the main dilemma is how to deliver on a very ambitious policy approach while remaining realistic”.

SIX RECOMMENDATIONS

The speakers made the following six recommendations to the Commission to support the effective implementation of its Action Plan:

1. Act swiftly to address the gaps and fragmentation in AML/CFT regulation, supervision and enforcement that exist across the EU.

The Fourth and Fifth Anti-Money Laundering Directives have not been effectively implemented in all member states and many missed the January 2020 deadline to establish a public beneficial ownership register. The EU needs to ensure that full implementation of the existing AML/CFT framework is achieved quickly, in line with the spirit of the legislation, and that loopholes are closed. Member states should not be allowed to treat implementation as a ‘tick-box’ exercise that fails to deliver true accountability and transparency.

2. Enhance and harmonise the supervision and enforcement for all parties in the AML/CFT ecosystem.

Enhanced supervision and enforcement are necessary for both obliged financial entities (credit and financial institutions) and designated non-financial businesses and professions (DNFBPs), including auditors, accountants, company service providers, lawyers and real estate agents. There should be coherence between the supervision approaches for both obliged financial entities and DNFBPs, with rules harmonised across member states. There is also scope to consider how authorities might better and more uniformly monitor AML/CFT compliance. This could be partially achieved through the use of skilled professionals, such as accountants, providing regulatory compliance assurance to authorities.

3. Establish EU-level supervision over AML/CFT.

A new independent body should be set up, with direct authority to investigate and sanction institutions of all sizes and in different sectors – not just large financial institutions. It should also have the power to supervise and sanction member states for failing to comply with their supervisory duties. This body will need sufficient funding, skills and resources to perform its role effectively.

4. Remove the barriers that impede collaboration and cooperation.

To combat crime, the AML/CFT ecosystem in Europe needs to be as open as possible. Openness will be achieved through data sharing and interoperable systems. For example, a pan-EU Universal Beneficial Ownership Register would make it easy for parties to access cross-border information on companies. Alternatively, national registers should be interoperable at EU level. There should be a review of how the GDPR and AML frameworks impact on each other to make it easier for banks to exchange information about money laundering with each other, and with the authorities. The feedback loop on suspicious transaction reports must be improved to ensure that submitted reports can inform law enforcement action.

5. Encourage effective public-private partnerships.

Private-public partnerships are crucial to facilitating data sharing and money laundering risk assessments. These partnerships should be cross-sector, involving financial institutions as well as other private-sector organizations and law enforcement agencies. It is essential that these partnerships have strong accountability, governance and transparency mechanisms.

6. Invest in technology.

The FIUs need access to analytical tools that will enable them to more efficiently process large volumes of suspicious transaction reports to identify high-risk transactions and emerging trends. This will enable the authorities to respond quickly to suspected crimes and to undertake more prosecutions, which will act as a deterrent to other criminals.