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VIEWS

BUILDING AN EFFECTIVE ANTI-MONEY LAUNDERING ECOSYSTEM

From reactive to proactive risk management

Money laundering has devastating consequences for our economy and society. It is critical to ensure that the fight against it is effective. Our publication *Building an effective anti-money laundering ecosystem* presents recommendations to better implement the existing anti-money laundering/combating the financing of terrorism (AML/CFT) legislation. This aligns with the European Commission's (EC) proposals on AML/CFT to ensure that the current legislative environment works effectively.

Every player has their respective roles and responsibilities in the AML ecosystem. It is important that each actor plays their part appropriately. Cooperation between obliged entities (OEs), supervisors and policy makers is key to achieve effective AML risk mitigation.

Who are the obliged entities?

OEs are grouped in financial entities such as banks and insurers and non-financial such as auditors, external accountants and tax advisors, notaries, lawyers and other legal professionals, trust or company service providers, estate agents, providers of gambling services.

They are required by the EU AML legislation to have in place policies, controls and procedures designed to assess and mitigate ML/TF risks. They are also expected to consider risk factors related to e.g. their customers, products, services, transactions, geographic area.

To ensure a more effective fight against money laundering (ML) and terrorist financing (TF), we explore the roles of: i) **non-financial OEs -including accountants-** ii) **supervisors** and **policy makers** and propose recommendations on upgrading their role in relation to AML. These recommendations should be considered in a proportionate way and in line with the entity's size, capabilities and risk profile.

FROM REACTIVE TO PROACTIVE AND PREVENTIVE AML RISK MANAGEMENT

We propose 3 key actions for OEs to shift from a reactive to proactive stance:

1. STRENGTHEN FURTHER RISK-BASED SYSTEMS AND CONTROLS

- implement controls in proportion with the risks – the controls should be more extensive where a business assesses its activities as high risk
- assess the need for simplified or enhanced customer due diligence (CDD) - the CDD's aim is not simply to establish the person's identity or entity's existence but to understand the risks that the client may pose
- manage risk appetite in line with risk tolerance - OEs need to assess whether they have the capacity to deal with the risks identified before onboarding a client

2. BETTER RECOGNISE AND MITIGATE MONEY LAUNDERING RISKS

- ensure AML training for staff - effective AML training should provide understanding of the regulatory requirements and their importance to the OE's business
- understand the sector specific risks - each sector may pose different risks and red flags may vary
- promote collaboration - OEs can improve their risk awareness through discussion with other actors of the AML ecosystem

3. LEVERAGE TECHNOLOGY FOR EFFICIENCY

- use technology for client onboarding and in Know Your Client (KYC) procedures
- integrate digital tools in everyday business

STRENGTHEN AML THROUGH IMPROVED GOVERNANCE

AML needs to be integrated in the OE's governance structures and its risk management. This can also allow an OE to be proactive on AML risks and ensure ongoing monitoring, reporting and oversight. We propose recommendations for boards and management to help them better understand their ML risk exposure and key vulnerabilities:

RECOMMENDATIONS FOR THE BOARD

- build a strong AML culture
- create an escalation process to allow employee reporting non-compliance with AML regulation
- ensure proportionate AML risk management

RECOMMENDATIONS FOR MANAGEMENT

- 1st line of defence: ensure that those engaged in the business operations understand their ML/TF risks and their obligations in respect of managing these risks
- 2nd line of defence: regularly reassess whether the control processes are efficient and effective to manage ML risks
- 3rd line of defence: ensure that the audit scope and methodology are appropriate to the risk profile and that the frequency of such audits is also based on risk

REINFORCE THE REGULATORY AND SUPERVISORY FRAMEWORK

RECOMMENDATIONS FOR SUPERVISORS AND POLICYMAKERS

Supervision and regulation need to be modernised as well to ensure the AML ecosystem functions properly. To further reinforce the regulatory and supervisory framework we recommend for supervisors and policymakers to:

Enhance cooperation amongst member states

Information and knowledge sharing between national supervisory authorities is critical for the AML system to be effective. Member states should also ensure OEs have sufficient access to information. This could be achieved through data sharing and inter-operable systems.

Facilitate collaboration between the private and public sector

National actors should overcome the 'taboo' of cooperating with the private sector to combat financial crime. Enhanced cooperation between OEs and authorities can better inform and improve understanding of the common threats.

This practice is not well-established for all OEs, especially in the non-financial sector. These partnerships should be cross-sector, involving financial institutions as well as other private-sector organisations and law enforcement agencies.

Review the interaction between AML and the General Data Protection Regulation (GDPR)

The GDPR's impact on the AML legislation needs to be reviewed. There is a perceived inherent conflict of interest between preventing ML/TF and data protection linked to the GDPR. AML and CFT rules encourage to gather and analyse as much data as possible to identify patterns and criminals, whereas the GDPR aims to restrict personal data use on a large scale.

Consider sector specific divergencies

The legislation needs to be better adapted for OEs in the non-financial sector. The rules should acknowledge there are different types of OEs and identify and target the factors to consider.

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