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## Towards a common AML framework for the EU

On 7 May 2020, the European Commission published an [action plan](#) designed to strengthen the EU's framework for preventing money laundering and terrorist financing. This note provides an overview of the main features of the plan.

### Background

The existing EU anti-money laundering and countering the financing of terrorism (**AML/CFT**) framework is based on high-level EU Directives, which require national legislation in each Member State in order to give them effect. Supervision of compliance is the responsibility of national authorities in the Member States.

A number of high-profile money laundering cases in recent years have exposed some significant weaknesses in the current system, including fragmentation of rules, uneven supervision and limitations in cooperation across the EU. The Commission's new action plan, formed around six pillars, is designed to address these weaknesses.

### Effective application of EU rules

The Commission will seek to ensure that EU AML/CFT rules are effectively implemented and rigorously enforced by Member States. It will propose country-specific recommendations where appropriate and work with Member States to address insufficient staffing in competent authorities and other supervisory shortcomings. The Commission has called upon the European Banking Authority (**EBA**) to make full use of its enhanced powers to investigate whether a national supervisor has breached EU law.

### A Single EU Rulebook

The Commission notes that the lack of detail in the EU Directives results in differing interpretations and divergences in regulatory

For further information on any of the issues discussed in this article please contact:



**Keith Waine**  
DD: + 353 (0)1 673 1822  
[keith.waine@dilloneustace.ie](mailto:keith.waine@dilloneustace.ie)

approach, which undermine the provision of cross-border services and increase costs to firms. EU AML legislation will therefore become more granular and precise. Much of the Directives will be turned into a Regulation (an instrument of EU legislation that takes effect in all Member States without the need for national legislation), including at minimum the requirements relating to the scope of obliged entities, customer due diligence, internal controls, reporting obligations, beneficial ownership registers and central bank account mechanisms.

The new rulebook will also be expanded to address technological innovations and developments in international standards promoted by the Financial Action Task Force (FATF). In particular, the Commission notes that virtual asset service providers not already covered will be brought into scope and that new measures might be adopted to facilitate the use of digital identification and verification of customers.

### **An EU Supervisor**

A central pillar of the new framework will be an EU-wide AML/CFT supervisory system with a central EU supervisor. The Commission views such an integrated system as essential in ensuring a consistent application of the rules across the EU and in enabling the effective management of cross-board AML/CFT incidents.

National authorities will remain in charge of most day-to-day AML/CFT supervision but the EU-level supervisor will have clear powers to oversee and direct national authorities. The EU supervisor may also directly supervise certain entities, e.g. large banks.

The EBA has recently been empowered to coordinate and monitor efforts to strengthen AML/CFT measures across the EU, perhaps making it an obvious candidate to take on the EU supervisor role. However, the EU supervisor will be responsible for AML/CFT supervision across the whole range of financial and non-financial sectors and the EBA's mandate and expertise is limited to certain financial institutions. The Commission therefore notes that a new, dedicated EU AML supervisory body may instead be established. Following an impact assessment of the options, the Commission will publish its proposals in the first quarter of 2021.

### **A coordination and support mechanism for FIUs**

Weaknesses in how national financial intelligence units (FIUs) cooperate have been identified by the Commission and several FIUs were found to be lacking the necessary IT tools to effectively process and analyse suspicious transaction reports. Despite the fact that most suspicious transactions reported to FIUs have a cross-border dimension, joint analysis by FIUs remains limited.

The Commission therefore plans to introduce proposals for an EU coordination and support mechanism for FIUs that will include identification of cross-border suspicious transactions, joint analysis of cross-border cases and identification of trends relevant to assessing money laundering and terrorist financing risks.

### **Enforcing criminal and enhancing information exchange**

The Commission will support initiatives to build capacity at EU level to investigate and prosecute financial crime and to promote information exchange among FIUs, supervisors, law enforcement and customs and tax authorities. It plans to publish guidance on public-private partnerships in order to facilitate information sharing and make better use of financial intelligence, and to consider the data protection issues arising.

### **A stronger role for the EU in setting international standards**

The Commission intends to play a more prominent role in reinforcing global AML/CFT standards and raising them to the level of the EU's own standards, notably in relation to beneficial ownership where the EU has taken a rigorous approach to transparency.

A big part of the role played by the EU internationally will be in identifying countries that pose a specific AML/CFT threat. Alongside the announcement of the action plan, the Commission published a revised methodology for dealing with high-risk countries that have strategic deficiencies in their AML/CFT regimes. It has also proposed a [new list of high-risk countries](#). Notable omissions from the list include Saudi Arabia, Puerto Rico and the US Virgin Islands. (All were included on the draft list issued by the Commission in February 2019, which was rejected by the Council). The new list will now be submitted to the European Parliament and Council for approval and is expected to come into effect on 1 October 2020.

### **Next steps**

Legislative proposals in relation to the single AML/CFT rulebook and the EU-level supervisory regime are due to be published in the first quarter of 2021. In the meantime, the Commission has launched a [public consultation](#), which is open until 29 July 2020.

If you have any queries in relation to the content of this briefing, please contact the writer or your usual contact in Dillon Eustace.

## **DILLON EUSTACE**

#### **Dublin**

33 Sir John Rogerson's Quay, Dublin 2, Ireland. Tel: +353 1 667 0022 Fax: +353 1 667 0042.

#### **Cayman Islands**

Landmark Square, West Bay Road, PO Box 775, Grand Cayman KY1-9006, Cayman Islands. Tel: +1 345 949 0022 Fax: +1 345 945 0042.

#### **New York**

245 Park Avenue, 39th Floor, New York, NY 10167, U.S.A. Tel: +1 212 792 4166 Fax: +1 212 792 4167.

#### **Tokyo**

12th Floor, Yurakucho Itocia Building, 2-7-1 Yurakucho, Chiyoda-ku, Tokyo 100-0006, Japan. Tel: +813 6860 4885 Fax: +813 6860 4501.

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