
AFME Discussion paper: Enhancements of the EU's legal framework to strengthen the fight against money laundering and terrorism financing

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Following a series of recent high-profile money laundering scandals involving banks in Europe, anti money laundering (AML) and countering the financing of terrorism (CFT) is high on the agendas of the European regulators and is now positioned as a matter of internal security/financial stability¹.

AML/CFT is also treated with the utmost priority by AFME members, who represent a broad array of European and global participants in the wholesale financial markets such as pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants.

The purpose of this discussion paper is to aid thinking on possible enhancements of the EU's legal framework and areas of work to strengthen the EU's fight against money laundering and terrorism financing.

AFME believes that a comprehensive, harmonised and robust AML/CFT regulatory and supervisory framework is indispensable in an effective fight against financial crime in the EU.

The importance of Public-Private Partnerships (PPPs):

In AFME's view the most effective way to prevent financial crime in Europe is better cooperation and information sharing between financial institutions, supervisory authorities and law enforcement both within and across Member States. In short, Europe needs to develop a public-private ecosystem to prevent financial crime.

Examples of public-private partnerships have already been developing in Europe, such as Europol's Financial Intelligence Public Private Partnership (EFIPPP), the first transnational financial information sharing mechanism in the field of AML/CFT², the Joint Money Laundering Intelligence Taskforce³ (JMLIT) in the UK, the Transaction Monitoring Netherlands⁴ (Transactie Monitoring Nederland - TMNL), and the Anti Financial Crime Alliance (AFCA) launched by the BaFin in Germany.⁵

These initiatives have shown the importance of intelligence-sharing in fighting financial crime and are being adopted by more Member States which is a positive development that should be strongly encouraged at the EU level.

In addition, bank-to-bank information sharing should also be facilitated in line with Recital 46 of the 5th Anti Money Laundering Directive (AMLD5) '*(...) it is important to allow credit and financial institutions to exchange information not only between group members, but also with other credit and financial institutions, with due regard to data protection rules as set out in national law*'⁶.

¹ [Speech by Yves Mersch](#), 15 November 2019

² [Europol Financial Intelligence Public Private Partnership](#)

³ [Joint Money Laundering Intelligence Taskforce](#)

⁴ [Transactie Monitoring Nederland](#)

⁵ [Anti Financial Crime Alliance](#)

⁶ Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (Text with EEA relevance): <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32018L0843>

We believe that it would be helpful to clarify the actual or perceived legal obstacles to sharing information. We believe that precise and common understanding of the GDPR provisions in this space would enhance information sharing for the purpose of tackling financial crime.

Towards a maximum harmonisation approach:

AFME believes that moving towards a maximum harmonisation approach, including the possibility to replace (part of) the current Directive by a Regulation, is the best path forward. The discretionary powers of Member States that currently exist while transposing the AML directive into national laws have the potential to lead to different rules at national level.

Reducing the scope for regulatory arbitrage in the AML/CFT space could be achieved by a more harmonised approach from the Member States. This would further enable European financial institutions to operate with uniform AML/CFT policies, procedures and controls, and thereby use their resources more efficiently in the fight against financial crime, for example in the practical implementation of customer due diligence measures.

A proper assessment of the topics to be covered in a review of the current regulatory framework should be conducted, and attention should be given to creating a level playing-field and providing legal certainty. For instance, having an EU level Companies Register that all parties can rely on would be a useful and practical addition to the AML landscape.

We also believe that the use of technology that could improve the efficiency of the client onboarding process should be encouraged at the EU level. It would be useful to consult on potential solutions which could support the centralised collection of information electronically.

AML/ CFT supervision in Europe:

AFME welcomes the steps already taken at EU level to further harmonise the EU AML/CFT supervisory framework and notably the enhanced role conferred on the European Banking Authority (EBA).

Regardless of which entity has the AML/CFT oversight responsibilities in the future, its relationships with national law enforcement authorities, local supervisors and banks should be clearly defined at the outset. AFME believes that efficient coordination of AML/CFT supervisory actions would ensure the promotion and enforcement of fully harmonised standards. It would also allow for sharing of best practices and national experiences.

We would also like to stress the importance of ensuring high quality and consistent risk-based AML/CFT supervision, seamless information exchange and optimal cooperation between all financial supervisory authorities, as highlighted by the European Commission in its July 2019 package, backed up with enforcement action as appropriate.

Coordination mechanisms for Financial Intelligence Units (FIUs):

AFME recommends that the need to create a support and coordination mechanism for FIUs is addressed, as highlighted in the European Commission's roadmap⁷ (February 2020) and the package (July 2019).

In order to resolve the shortcomings identified by the Commission, AFME believes that the function of national FIUs should be harmonised and clarified so that they can provide, and receive, operational data on a clear legal basis. In order to avoid duplication, further thoughts should be given on how to interconnect national FIUs.

Proper use of technology could be key in this space. For example, a single system could help to gather data in a secure central repository, analyse the information and allow for the effective and targeted sharing of information between Member States.

⁷ [European Commission's Roadmap](#)

Continued dialogue

AFME welcomes the opportunity to work with the European Commission, European Parliament, EBA and other European Supervisory Authorities, and with national supervisors, in finding the most efficient and workable way to better address money laundering and terrorist financing threats that the financial institutions are currently facing.

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