

UK and EU Anti-Money Laundering Enforcement—Looking Ahead

2 September 2020

In the last few months, the UK and EU have separately outlined major plans that will soon bring a renewed focus to their fight against money laundering. Businesses will need to prioritise ensuring that their anti-money laundering (“AML”) controls are up-to-date and effective, and should be prepared for an increasing number of enquiries and investigations.

UK Economic Crime Levy. HM Treasury is currently consulting on the introduction of a levy paid by entities in the ‘AML-regulated sector’ (including financial services, accounting and law firms) to raise £100 million per year for further government action to combat money laundering.¹ The levy is intended to complement continuing government funding and contribute to a long-term resourcing model to deliver the government’s Economic Crime Plan.²

To put this amount into perspective, it is double the annual core budget of the Serious Fraud Office (“SFO”) and a significant proportion of the Financial Conduct Authority’s (“FCA”) annual budget of about £600 million. The government aims to introduce the levy in the 2022/2023 financial year.

In calculating the amount to be paid by each firm, the government proposes to exempt smaller businesses with UK revenue less than £10.2 million. Businesses above that threshold could pay between £100 and £200 per £1 million of UK revenue.

The levy is intended to be used flexibly, but could initially fund enhancements such as:

- Improving the analysis and use of Suspicious Activity Reports
- Contributing to the costs of the newly-formed National Economic Crime Centre, which coordinates the UK’s operational response to serious and organised economic crime

¹ HM Treasury, ‘Economic crime levy: Funding new government action to tackle money laundering’ (July 2020)

² HM Government, ‘Economic Crime Plan 2019-2022’ (July 2019)

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- Increasing the number of employees in the UK Financial Intelligence Unit within the National Crime Agency by almost 50 per cent; and
 - Increasing the number of law enforcement agencies' financial investigators, who can exercise search, seizure and restraint application powers.

While no specific funding is proposed for the FCA or the SFO at this stage, we expect that the number of AML-related investigations and enforcement actions both agencies take on will increase in the years ahead. Better intelligence gathering and analysis, improved coordination within the UK and with international partners, and increased resources to take follow-up action should lead to larger cases reaching the FCA and SFO—not only in relation to substantive money laundering offences, but also failings in AML controls and predicate money laundering offences such as bribery and fraud. We also expect a significantly greater volume of information requests from other law enforcement authorities.

EU AML Action Plan. Having spent a great deal of effort building a new framework of AML rules in the last five years, the EU has now started to develop a comprehensive approach that over the next 12 months aims to eliminate weak links in its AML regime.³ In particular, this new work is intended to address major differences between member states in applying AML rules and flaws in supervising and enforcing those rules.

The EU's action plan includes:

- Ensuring that the existing AML framework is effectively implemented by member states – dealing with incomplete or defective transposition of EU rules into national laws
- Establishing a single, detailed, EU rule book for AML—dealing with diverging national laws and interpretations of high-level EU Directives, which increase costs for cross-border businesses and create loopholes that can be exploited by criminals
- Creating an EU-level AML supervisor to integrate and supplement work by national agencies – dealing with the uneven effectiveness of AML supervision between member states
- Implementing a coordination and support mechanism for national agencies that receive Suspicious Activity Reports—dealing with inadequate processing and

³ European Commission, 'Communication from the Commission on an Action Plan for a comprehensive Union policy on preventing money laundering and terrorist financing' (May 2020)

analysis of AML reports by national agencies and limited information exchange regarding cross-border money laundering; and

- Investigating and enforcing EU-level criminal law provisions, including through the new European Economic and Financial Crimes Centre and the European Public Prosecutor's Office.

Although these initiatives will have no direct impact on the UK, it is reasonably likely that UK laws will be brought into line with the new EU laws, since the UK's AML rules will continue to mirror existing EU AML rules after the end of the Brexit transition period. It is also possible that the UK could participate in some of the new EU-wide AML programmes as part of its commitment to strengthened international coordination and best practices on AML issues.



Karolos Seeger
Partner, London
+44 20 7786 9042
kseeger@debevoise.com



Aisling Cowell
Associate, London
+44 20 7786 9032
acowell@debevoise.com



Andrew Lee
Associate, London
+44 20 7786 9183
ahwkee@debevoise.com