

Financial Crime Newsletter

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Welcome to the first *Financial Crime Newsletter* from the Financial Conduct Authority (FCA). I am delighted to launch this debut issue – I hope it offers insights you find helpful.

Since the inception of the FCA, it has been a particularly busy time for us. We have published the findings of a significant piece of thematic work, hosted our annual financial crime conference, and continued with our credible deterrence strategy, taking regulatory action against EFG Private Bank for financial crime failings. We have published a report that sets out for the first time our obligations on anti-money laundering, approach to discharging those responsibilities, and the trends and emerging risks in money laundering that we are seeing in the firms we regulate.

Tackling financial crime is a key part of our remit, a responsibility we took over from the Financial Services Authority in April. Financial crime informs all aspects of our work, from our scrutiny of new authorisation applications to our day-to-day supervision of financial firms. We look at risks ranging from fraud and money laundering to data security breaches and violations of asset freezes: it is an exciting area, and if industry and regulator work together to get this right, we can together do a lot to make United Kingdom a more hostile place for criminals who would exploit you and your customers.

Please let us know if you find this newsletter useful. I am keen to hear what you'd like to see in future editions. I want this to be a helpful resource and your feedback will certainly help: please email james.london@fca.org.uk

Contents

Financial Crime Conference	P2
New report: our 'concern' about money laundering and terrorist financing risks in trade finance	P2
Blowing the whistle	P2
EFG Private Bank fined £4.2m	P2
Financial crime and the FCA: your questions answered	P3
International update: Financial Action Task Force	P3
New European anti-money laundering legislation	P4
New investment fraud trends	P4

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Financial Crime Conference

We held our financial crime conference on 1 July at the Brewery in London. We really valued engaging with industry, and would like to thank all the speakers for their time and input. Below are a few highlights and key themes from the day:

- The FCA will work in partnership with our law enforcement partners and with other regulators.
- The FCA is closely involved formulating policy, both in the UK and internationally.
- The FCA wants to see more accountability at Board level for financial crime issues.
- Firms should use their AML resources effectively to address the highest risks, rather than focusing on demonstrating mechanistic compliance.

New report: our concern about money laundering and terrorist financing risks in trade finance

In June we published a report on how banks in the UK are managing financial crime risks in their trade finance business. We found that banks had generally developed effective controls to ensure they were not dealing with sanctioned individuals and entities. However, policies, procedures and controls to counter money laundering risk were usually weak, and most had inadequate systems and controls over dual use goods.

In particular:

- There was an inconsistent approach to risk assessment and only a few banks had conducted a specific trade finance money laundering risk assessment.
- About half the banks had no clear policy or procedures for dealing with trade-based money laundering risks.
- Most banks in our sample did not demonstrate that they had

considered money laundering risk when processing specific transactions.

- Most banks failed to produce management information on financial crime risks in the trade finance business, making it difficult to see how firms' senior management could provide effective oversight.
- Several banks had not developed specific financial crime training for relevant staff, resulting in staff failing to either make appropriate enquiries or to escalate potentially suspicious transactions.

Overall, the report concluded that most banks in the sample are not taking adequate measures to mitigate the risk of money laundering and terrorist financing in their trade finance business. Where banks fell short of our regulatory requirements, we have highlighted the areas where they need to improve, and draw your attention to good and poor practices.

Blowing the whistle

Have you seen worrying behaviour in a firm we regulate? Disclosures from whistleblowers are a vital source of information for us; we receive about 4,000 every year. Our whistleblowing line is happy to be contacted by anyone who is concerned about poor practices in a firm we supervise.

We treat everyone who contacts the whistleblowing service in confidence and take care to protect their identity. People making disclosures are also protected legally: the Public Interest Disclosure Act protects someone making a protected disclosure from discrimination.

Our whistleblowing line is manned by experts able to guide anyone with concerns: they can be contacted on 020 7066 9200 or whistle@fca.org.uk. More details are on our webpages: www.fca.org.uk/site-info/contact/whistleblowing

EFG Private Bank fined £4.2m

In April 2013 we fined EFG Private Bank £4.2m for failures in its anti-money laundering controls. We found EFG had not fully put its anti-money laundering policies into practice. The bank had performed due diligence checks on many customers that revealed significant money laundering risks, including criminal charges such as corruption and money laundering. However, the bank had insufficient records of steps senior management had taken to mitigate those risks.

Financial crime and the FCA: your questions answered

What is the FCA responsible for?

We have a legal duty to consider the importance of minimising the risk of firms being used for financial crime. We look at measures firms take to monitor, detect and prevent financial crime. Many of the firms we regulate are subject to the Money Laundering Regulations 2007: we also have a duty to oversee the steps they take to meet these requirements.

How does the Prudential Regulation Authority fit in?

The PRA is interested in financial crimes like fraud and money laundering that can damage the

financial health of banks, building societies and insurers, but it is the FCA that is responsible for working with firms to fight financial crime.

What does 'financial crime' encompass?

Here are some examples of types of financial crime we look at, alongside questions we might ask ourselves when visiting a firm to probe these issues:

- **Data security:** "Are controls in place to protect customers' personal data falling into the wrong hands?"
- **Money laundering:** "Are checks to identify customers in line with the requirements of the Money Laundering Regulations and the guidance of the Joint Money Laundering Steering Group?"
- **Terrorist financing:** "Can a business respond to information requests from the authorities in good time?"
- **Bribery and corruption:** "What is done to prevent staff or agents paying or receiving bribes to secure business?"
- **Fraud:** "Are steps taken to ensure customers are not exposed to exploitation by fraudsters?"
- **Sanctions breaches:** "What is a firm doing to make sure it does not do business with people and organisations subject to asset freezes?"
- **Where can I find out more about the FCA's expectations?**

International update: Financial Action Task Force

The Financial Action Task Force (FATF) recently held its June Plenary. The FATF adopted a series of guidance and best practices papers on:

- Politically Exposed Persons;
- New Payment Products and Services;
- Targeted Financial Sanctions related to Terrorist Financing; and
- Financial Provisions related to the Proliferation of Weapons of Mass Destruction.

These papers, addressed to national authorities and the private sector, set out issues the FATF considers important for the effective implementation of the revised Recommendations. Future papers will include a series

of updated guidance on the risk-based approach to AML/TF.

The FATF also adopted a number of typology reports, including a study on the money laundering and terrorist financing (ML/TF) vulnerabilities of legal professionals, and updated its list of high-risk jurisdictions.

Finally, the FATF progressed its work on preparing for the fourth round of mutual evaluations, which is due to start next year. The FATF agreed a template for mutual evaluation reports and is looking to finalise its work on mutual evaluation processes and procedures in October. The UK is likely to be assessed in 2016.

More information, including links to the documents referred to above, can be found on the FATF's [website](#).

Our publication *Financial crime: a guide for firms* gives more detail, as well as self-assessment questions and examples of good and poor practice we have identified. The guidance produced by the [Joint Money Laundering Steering Group](#) remains firms' main source of information on the practical steps they can take to meet their legal obligations for preventing money laundering and the finance of terrorism.

New European anti-money laundering legislation

The European Commission has published a proposal for a new anti-money laundering Directive. The proposed Fourth Money Laundering Directive (4MLD) provides a common European basis for implementing the revised Financial Action Task Force (FATF) Recommendations. It also strengthens the risk-based approach to anti-money laundering and countering the finance of terrorism (AML/CTF) and aims to ensure the consistent application of rules across Member States.

4MLD proposes to delegate the responsibility for shaping important parts of Europe's AML/CTF regime to the European Supervisory Authorities (ESAs). The ESAs are asked to:

- Draft guidelines on key aspects of the Customer Due Diligence process, administrative sanctions and the risk-based approach to supervision. Guidelines are not binding, but national supervisors will be expected to 'comply or explain'.

- Draft regulatory technical standards on central contact points (a single point of contact for overseeing the AML/CTF compliance of agents of payments institutions and e-money institutions based in another country) and the measures firms should take where a third country's legislation does not permit the application of equivalent AML/CTF measures. Technical standards, once adopted by the Commission, are directly applicable in Member States.

- Provide an opinion on the ML/TF risks facing the European internal market. Opinions are not binding nor enforceable but may provide the basis for further action.
- Collect, analyse and disseminate information, including in relation to non-equivalent third countries.

The proposed 4MLD requires these instruments to be delivered within

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two years of the Directive coming into force in late 2015. If adopted, this Directive will be transposed into UK legislation through new Money Laundering Regulations.

We are working with colleagues in Government and across the EU to create a proportionate and effective European AML/CTF regime.

Here is the [proposal](#) for a Directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

New investment fraud trends

Over the years, we have seen rogue schemes offering handsome returns from investments in everything from wine to llama farms. The sums involved are large: we estimate share sale frauds alone cost the public about £200m every year. A recent trend is for high-pressure sales tactics being used to push dubious investments related to carbon credits and rare earth metals. The fraudster's basic approach is the same, but the 'gimmick' used to gain investors' attention changes, often drawing on a plausible-sounding topical issue like, in the case of carbon credit trading, clean energy. Banks and building societies seeking to detect fraudsters using their services, or exploiting their customers, will wish to stay on top of these trends.

Many firms promoting these investments are believed to have previously been involved in selling other high-risk and unregulated products. People who invest in a firm that is not authorised by the FCA will not have access to the Financial Ombudsman Service or Financial Services Compensation Scheme if things go wrong, and, all too often, can lose all their money. Firms can help spread these messages to their customers. We advise the public to search our list of [unauthorised firms and individuals](#) who should be avoided, and visit our [investment scams webpages](#) for further information about steps to take to keep your savings safe.