

EU Council Releases Anti-Money Laundering Action Plan

IN SHORT

The Situation: In response to recent cases of money laundering in European banks, the European Union has released an action plan to reinforce its recently proposed anti-money laundering ("AML") and Countering Financing of Terrorism ("CFT") mandate.

The Result: The plan is intended encourage greater collaboration among Member States, a consistent application of common guidelines, and an expectation that regulators will play a more substantial role in monitoring AML/CFT breaches.

Looking Ahead: The European Central Bank is expected to conclude a memorandum of understanding with all relevant AML/CFT authorities soon.

The European Union is continuing to push ahead with its ambitions to strengthen its AML and CFT regime. Following numerous high-profile breaches across the continent, policymakers are keen to address inconsistencies among Member States and create a more harmonized regime.

The Action Plan

The European Council has adopted a practical [action plan](#) to shore up the existing regime. The plan outlines immediate and long-term nonlegislative steps targeted at improving the success and efficiency of the existing regime. While most of the changes are directly targeted at supervisors and national competent authorities ("NCAs"), firms they regulate will be directly affected when AML and CFT risks are factored into the prudential supervisory process. For this purpose, the European Central Bank is expected to conclude a memorandum of understanding with all relevant AML/CFT authorities soon.

As such, the action plan demonstrates a commitment to provide for greater collaboration among different national authorities, a consistent application of common guidelines for supervisors, and an expectation that traditional prudential regulators will play a bigger role in monitoring AML breaches. The European supervisory authorities' ("ESAs") [Risk-Based Supervision Guidelines](#) will be expanded to include guidance on best practices for the imposition of administrative sanctions in case of breach of AML/CFT rules.

AML's Integration into Prudential Supervision

A priority expressed in the plan is the incorporation of AML and CTF concerns into the processes of prudential regulators. Policymakers are eager to deliver a more holistic approach to supervision in which these authorities remain vigilant of such activity, rather than sticking to their traditional capital risk-based remits. With the European Banking Authority currently conducting a "post mortem" of recent breaches and putting together common guidance for prudential regulators on how to achieve this goal, the action plan calls for greater collaboration between AML/CFT



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supervisors and their prudential counterparts in the near future.

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Exchange of Information and Skills

NCA and ESAs are making a major commitment to improving the exchange of information. Regulators across the European Union intend to work more closely together, and twinning programs and staff secondments will aim to build working relationships among different national and international authorities. ESAs will review the processes of NCAs with a view to maintaining more consistent standards across Member States.



The plan suggests that these reviews must be more stringent if they are to equalize standards. If successful, this could enable supervisors to move with greater cohesion and efficiency in multijurisdictional investigations, potentially clearing the way for quicker reviews and enforcements action.

Clarification

The plan also recognizes the need for clarification on a number of issues, most notably the withdrawal of authorization. In this respect, ESAs will need to clarify the degree of discretion supervisors can operate on, how the Capital Requirements Directive should be interpreted, and how the option of license withdrawal in the event of a serious breach can be consistently considered across the entire European Union. On these issues, the plan has set regulators a tight deadline, and they are expected to report back by mid-2019

In addition, the plan got further backing by the recently endorsed [Banking Reform Package](#) that would add to the CRD an objective to enhance the cooperation and exchange of information between prudential supervisors, financial intelligence units, and AML/CFT authorities. It would also strengthen the AML dimension in the relevant prudential tools on authorization, fit, and proper checks, and the supervisory review and evaluation process.

THREE KEY TAKEAWAYS

1. In response to the Action Plan, regulated entities in Member States should be prepared for more granular reviews of AML processes by prudential authorities in connection with their ongoing supervision as well as in the areas of authorizations, reviews, fit, and proper tests of management and risk evaluations.
2. As the Action Plan is implemented, firms should note that time frames for multijurisdictional reviews could be shortened. New channels for sharing not just information, but also supervisory techniques, are set to be introduced.
3. AML/CFT is on the top of the European Union's policy agenda, and the contemplated review of the sanctioning framework for breaches of AML/CFT rules is likely to result in an expansion of the catalogue of available administrative sanctions.



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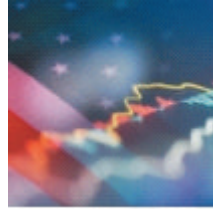
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