NEWS

February 14, 2020

European Supervisors Instructed to Challenge Banks More Frequently

By Gabriel Vedrenne

The European Banking Authority has advised national governments to more thoroughly vet the data they receive from financial institutions in a report that sources interviewed by *ACAMS moneylaundering.com* said paves the way for harsher examinations.

Inadequate cooperation with domestic and foreign authorities, a piecemeal approach that fails to differentiate between institutions of different type, size and risk profile, and penalties that lack the punch required to deter future misconduct have led to uneven, often substandard anti-money laundering supervision across the European Union, the regulator concluded this month in the 25-page report.

The recent adoption of stronger laws and regulations against financial crime did not protect the EU from exposure to a series of large-scale money laundering scandals in the past few years, prompting the EBA in April 2018 to begin reviewing the efficacy of AML oversight by the bloc's then-28 nations.

Its findings, released Feb. 5, describe national supervisors as too deferential to the financial services industry and advise them to more frequently challenge banks on their answers to questionnaires or during remote and on-site inspections. The report covers a total of seven supervisory agencies from five countries.

The EBA found during the review that most of those agencies relied on banks' own assessments of their AML programs to determine whether or not they were effective.

"Less thought appeared to have been given to whether banks' self-assessment was reliable, and most competent authorities who used this approach had not put in place controls to systematically identify where the outcomes [differed] from the competent authority's own view," the report concluded.

Supervised institutions must provide details like the nature and complexity of their products and services, corporate governance arrangements, delivery channels, but also data as varied as the share of clients classified as politically exposed persons, the number of suspicious transaction reports sent to public authorities, or the settings of their automated detection systems.

"The issue is not the case of being worried about supervisors relying on a bank's own data, but overreliance on the bank's assessment of that data without robustly challenging it on its methodology," said Peter Oakes, former director of enforcement and AML at the Central Bank of Ireland.

One agency explained to the EBA that they did not review one bank's risk assessment because they did not view themselves as qualified.

"The statement of authorities not being competent to assess risk assessments of banks as comprehensive or sensible is concerning, especially since these authorities are also involved in national risk assessments," Thomas Altenbach, former compliance director at Deutsche Bank, told *moneylaundering.com*.

The report consequently invites supervisors to challenge more frequently the banks' data, policies, and procedures by using "consistency and veracity checks" and asking more questions.

This approach should lead to more intrusive and assertive risk-based supervision and better, more thorough examinations, said Oakes, now an independent consultant in Dublin.

"A more critical stance" is clearly on the menu, especially in Germany where the authorities' track record is muddy, said Altenbach, now an attorney with Act Legal in Frankfurt.

More questions, larger penalties

Financial institutions should also incur much larger penalties for violations, according to the EBA, which characterized the current range of punitive measures as "not proportionate, effective or dissuasive" enough.

Most penalties are so weak that "banks in these EU member states told the review team that they factored these fines in as a cost of doing business," according to the EBA.

Supervisors also frequently fail to follow-up with the banks they fine for serious compliance breaches, with the result that some banks never take the necessary remedial steps, the report found.

As a result, the EBA advised supervisors to adopt "a wider range of supervisory measures" and to draw their inspiration from their counterparts in other countries.

The European authority provided the example of a supervisor who imposed heavier fines under the Capital requirements directive after determining that the sanctions regime under the anti-money laundering directive was not commensurate with the scale of the breach.

“These reports are important because they provide competent authorities with a type of benchmark where they learn through the EBA of good practices at peers,” Oakes said, adding that these lessons can subsequently inspire an update of their own supervisory practices.

Contact Gabriel Vedrenne at gvedrenne@acams.org

Topics :	Anti-money laundering , Counterterrorist Financing
Source:	European Union
Document Date:	February 14, 2020