

AML remains strategic priority for CBI

Supporting the fight against money laundering is one of the Central Bank's strategic priorities for 2019-2021. MUIREANN REEDY looks at the increase in the number of AML inspections, the Central Bank's AML supervisory priorities and the types of cases which have ended up in enforcement.

Supervisory inspections rise

The Central Bank of Ireland's dedicated Anti-Money Laundering Division is responsible for supervising credit and financial institutions' compliance with their anti-money laundering and countering the financing of terrorism obligations (AML) under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, as amended (the CJA). Since 2017 the AML Division has had a bespoke AML/CFT risk assessment model in place, which means that firms with a higher risk of being exposed to money laundering or terrorist financing activity are subject to more intensive supervisory engagement by that Division than those with a lower AML/CFT risk rating. The number of staff in the AML Division has increased in recent years to support this supervisory engagement model which seems to be reflected in the level of inspection activity. Over twice as many AML inspections took place in 2018 when compared to 2016 (72 in 2018 and 34 in 2016).

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The Central Bank has recently stated that transaction monitoring is one of its key AML supervisory priorities. Although it acknowledged the advantages of automated solutions which are increasingly being used to conduct transaction monitoring, it warned firms against putting 'blind faith' in them. It said firms must ask themselves if the rules and parameters which are put in place to drive such systems are fit for purpose and whether those parameters are reviewed regularly in response to instances of money laundering.



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The Central Bank also confirmed that it carried out a number of IT inspections last year which focused on transaction monitoring and customer due diligence IT systems. As a result of those inspections firms were required to make a number of enhancements to improve the governance and control framework of those systems.

Enforcement

The number of enforcement cases taken for AML breaches has significantly increased, with eight AML related fines having been imposed in the last three years (at end September 2019). In total fines of €12.5 million have been imposed for breaches of the CJA, ranging from €21,000 (in respect of the first ever case taken for an AML breach in 2012) to a fine of €3.325 million which was imposed on a bank in 2016. Nine of the fines resulted from issues which were uncovered during on-site inspections. As the same themes frequently arise in enforcement cases, firms should review the publicity statements which are released after settlements to see if any lessons can be learnt from them.

Recurring themes

Recurring themes in enforcement cases include deficiencies in AML policies and procedures, inadequate training, lack of oversight of AML activities which have been outsourced to another entity and inadequate risk assessments. In terms of policy and procedure breaches, deficiencies which have been identified include a failure to adopt procedures to ensure that the firm's board formally reviews the AML policy and any material updates provided to it, a failure to circulate policies and procedures to front line staff, a lack of clarity in policies over the reporting lines for making suspicious transaction reports and a failure to incorporate a review mechanism into policies and procedures.

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Two seven figure fines on larger institutions have related to poor governance controls over AML activities which had been outsourced. These included a failure to put an outsourcing policy in place in respect of the AML activities which were outsourced, inadequate performance standards and reporting contained in outsourcing policies where AML activities were outsourced and a failure to require the entity to which the activities were outsourced to adhere to the outsourcing firm's policies and legal obligations under the CJA. Several fines have also related to failures by the relevant firms to

consider key risks when carrying out their risk assessments. Although the fines pre-dated the requirement introduced by the amendment to the CJA in November 2018 to carry out a 'business risk assessment,' they were imposed under section 54 of the CJA which requires firms to adopt policies procedures to prevent and detect the commission of money laundering and terrorist financing.

New Guidelines

The Central Bank's recently published 'Anti-Money Laundering and Countering the Financing of Terrorism Guidelines for the Financial Sector' are designed to help credit and financial institutions understand their obligations in relation to AML following the implementation in Ireland of the EU's Fourth Money Laundering Directive.

The Guidelines deal with a range of issues and, usefully, flesh out the Central Bank's expectations in relation to some matters which have previously been the subject of enforcement cases. For example, in respect of

training the Central Bank makes it clear that it expects staff to be given tailored training relevant to their role. The Guidelines also state that enhanced training should be provided to staff who perform key AML roles within a firm e.g. the MLRO or senior management responsible for AML oversight.

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It is also made clear in the Guidelines that firms are expected to have a detailed, documented suite of AML policies in place which is

supplemented by guidance and supporting procedures, that the policies and procedures must accurately reflect operational practices and must be reviewed in a timely manner in response to events or emerging risks. The Central Bank expects the policies to be approved by senior management. Finally, detailed guidance is given on the Central Bank's expectations as regards the business risk assessment and the matters which should be taken into account under the various risk factor headings.

The Central Bank's fight against money laundering and terrorist financing is one of its strategic priorities for the next two years, so we can expect its focus on firms' compliance with the obligations under the CJA to continue. Where firms do not comply with these obligations they can expect enforcement action.

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