



15 Action points to **fight financial crime cross border**

As a crucial gatekeeper in the financial system, banks must play an important role in upholding the integrity of the banking system, a crucial piece of the fight against financial crime and terrorist financing.

Maintaining this integrity is one of the crucial challenges our sector faces today, and this challenge can only be met by fostering a constructive dialogue with the public sector. We hope recent money-laundering incidents implicating several European Banks will trigger a fundamental rethink of how we fight financial crime.

The financial crisis was the catalyst for the Eurozone's Banking Union. We believe the currently inadequate approach to fighting financial crime requires a strong European answer as well. Financial crime is a cross-border problem, which requires cross-border solutions both at European and global level.

The core of our EU policy recommendations, which are explained in detail in our paper '**the case for further reform of the EU's AML framework**', are:

- *Harmonise the EU legal framework*
- *Europeanise supervision and enforcement*
- *Encourage better execution through facilitating cooperation between gatekeepers*

Overview of Policy Recommendations

Effective EU rules

- 1 Turn the lion's share of the EU AML Directives into an EU Regulation.
- 2 Limit national discretions in that EU Regulation to a bare minimum
 - Pay specific attention to access to the UBO register in this regard and ensure harmonised full access to data by obliged entities throughout the EU.
- 3 Allow banks to rely on UBO data for KYC purposes for low-risk transactions.
- 4 Ensure the scope of entities designated as gate-keeper is technology neutral, in order to avoid regulatory gaps, particularly in light of the emergence of new technologies.
- 5 Empower the European Data Protection Board (EDPB) and EBA to provide clear EU wide guidance on the interaction between EU privacy rules (notably GDPR) and AML techniques, with the specific goal of providing clarity to gatekeepers as to what is allowed in terms of information sharing.
- 6 EU policy makers should write-in risk-based criteria for enhanced or simplified due diligence in the level 1 legislation, in order for the framework to remain risk-based as intended by the legislators.

Effective EU supervision and enforcement

- 7 EU policy makers should set up an independent EU AML supervisor, which would directly supervise the EU's most risky obliged entities.
- 8 Low-risk entities could remain under the scope of the national AML supervisors, respecting the proportionality principle.
- 9 EU policy makers should also consider setting up an EU-wide FIU, which would help overcome the challenges of international cooperation, help build expertise on cross-border crime, and enhance the EU's influence in the world.
- 10 If policy makers pursue a reform of Europol, financial crime with an EU dimension could be considered to become part of a strengthened EU law enforcement capability.
- 11 Policy makers should investigate the potential for the European Public Prosecutor's Office to prosecute financial crime with an EU dimension.
- 12 The EU should stimulate public-public cooperation agreements between stakeholders involved in fighting financial crime (including law enforcement).

Effective EU execution

- 13 EU policy makers should encourage public-private partnerships to fight financial crime, and clarify the conditions for operational data sharing between actors.
- 14 EU law should explicitly allow certain forms of cooperation between gatekeepers where cooperation will improve the gatekeepers' effectiveness. This includes shared KYC and transaction monitoring utilities, as well as the development of 'red flag' high risk clients.
- 15 On top of encouraging cooperation agreements, EU law should also encourage stronger feedback loops between public and private gatekeepers.

Who are we?

The Dutch Banking Association represents the Dutch Banking Industry. Our membership consists of different types of banks, ranging from small and large Dutch lenders to international banks. All our members have a strong footprint in the Netherlands.



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