

# Commission Brings AML Regulation Into Play



**Thomas Wahl**

**News**

On 24 July 2019, the Commission published a report on recent alleged money laundering cases involving EU credit institutions (COM(2019) 373 final). This report is the Commission's response to requests from the European Parliament and the Council to carry out a thorough review of whether there are structural flaws in the regulatory and supervisory framework – against the background of a number of recent money laundering incidents involving European banks.

The report analyses possible shortcomings in relation to the credit institutions' AML/CFT defence systems and the reaction of public authorities to the events. As regards credit institutions, the report identified four broad categories into which shortcomings may be grouped:

- Ineffective or lack of compliance with the legal requirements for anti-money laundering/countering the financing of terrorism systems and controls;
- Governance failures in relation to anti-money laundering/countering the financing of terrorism;
- Misalignments between risk appetite and risk management;
- Negligence of anti-money laundering/countering the financing of terrorism group policies.

The analysis of the reactions of bank institutions led to the following main results:

- Substantial failures to comply with core requirements of the Anti-Money Laundering Directive, such as risk assessment, customer due diligence, and reporting of suspicious transactions/ activities to FIUs;
- AML/CFT compliance deficiencies;
- Risky businesses pursued without establishing commensurate controls and risk management;
- Lack of consistent compliance and control process policies;

On the positive side, thanks to the gradual development of the AML/CFT legal framework in the past several years, many of the credit institutions reviewed have taken substantial measures to improve their compliance systems.

As regards the public side, the report found that supervisory reaction varied greatly in terms of timing, intensity, and measures taken. Major factors that hampered an effective reaction include:

- Attribution of different degrees of priority and resource allocation to AML-/CFT-related activities; often, supervision was not carried out frequently enough;
- Sometimes, lack of relevant experience and available tools;
- Too much focus on the AML framework of the host Member State, without paying requisite attention to cross-border dimensions, particularly when bank groups were supervised;

## **AUTHOR**

**Thomas Wahl**

Senior Researcher  
Max Planck Institute for the  
Study of Crime, Security and  
Law

ISSN: 1862-6947

<https://euclid.eu>



- The division of responsibilities led to ineffective cooperation between anti-money laundering authorities, prudential authorities, Financial Intelligence Units, and law enforcement authorities;
- Cooperation with third-country AML/CFT authorities and enforcement authorities proved difficult in some cases.

Notwithstanding, the report stresses that several improvements were made, especially during the last two years. They include targeted amendments of the relevant legal framework, particularly with respect to the prudential framework and enforcement through the European Banking Authority. Many authorities have been or are being reorganised and are acquiring additional resources and new expertise.

The Commission concludes that some of the shortcomings have been or will shortly be addressed by changes in the regulatory framework. Many structural problems remain, however, and the EU needs to address them. These problems are mainly based on regulatory and supervisory fragmentation in the AML/CFT area. Therefore, the Commission recommends the following:

- Appropriately attributing the tasks of the various relevant authorities involved in the fight against money laundering and terrorist financing;
- Cooperating with key third countries in a more structure and systematic way, ensuring concerted positions in said cooperation;
- Considering further harmonisation of the AML/CFT rules, in particular turning the AML Directive into a Regulation that would create directly applicable rules in the entire Union;
- Conferring specific anti-money laundering supervisory tasks to a Union body in order to ensure high-quality and consistent anti-money laundering supervision, seamless information exchange, and optimal cooperation between all relevant authorities in the Union.

The incoming Commission is expected to take up these rather long-term options and enhance future discussions with the relevant stakeholders and political institutions.

---

## About eucrim

eucrim is the leading journal which regularly informs about current developments in European criminal and “criministrative” law.

All news items are freely accessible at: <https://eucrim.eu/news/>

Stay informed by emailing to [eucrim-subscribe@csl.mpg.de](mailto:eucrim-subscribe@csl.mpg.de) to receive alerts for new releases of issues.

The project is co-financed by the Union Anti-Fraud Programme (UAFP), managed by the European Anti-Fraud Office (OLAF).



**Co-funded by  
the European Union**