

AML Update





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AML Drivers

- International decision makers
 - G20
 - OECD
 - FATF
- International power-houses
 - Wolfsberg
 - IOSCO/BIS/IAIS
- The European Union
 - Commission
- Domestic forces
 - Treasury
 - FSA
 - JMLSG

International decision-makers



- G20
 - Has other fish to fry
 - General commitment to tackling money laundering and corruption
- OECD
 - Little recent independent action
 - Previous focus on tax and money laundering

International Decision Makers - FATF

- FATF October Update
 - Call to apply countermeasures – Iran
 - Consideration of risks – North Korea
 - New jurisdictions posing risks
 - Bangladesh, Ghana, Honduras, Philippines, Tanzania, Venezuela, Vietnam
 - Jurisdictions previously identified and making some progress (not enough!)
 - Angola, Antigua and Barbuda, Bolivia, Ecuador, Ethiopia, Greece, Indonesia, Kenya, Morocco, Myanmar, Nepal, Nigeria, Pakistan, Paraguay, Philippines, Sao Tome and Principe, Sri Lanka, Sudan, Syria, Thailand, Trinidad and Tobago, Turkey, Turkmenistan, Ukraine, Yemen
 - Jurisdictions previously identified and adequately addressed problems
 - Qatar, Azerbaijan

FATF 2 - reports

- Review of standards
 - 40 standards and 9 terrorist financing recommendations
 - 3rd round of mutual evaluations to be complete by Feb 2011
 - Consultation (respond by 7 Jan) on whether standards
 - Maintain stability
 - Are fair
 - Address new threats, deficiencies and loopholes
 - 1st phase: Risk based approach, CDD and reliance on third parties
 - to concentrate more on effective implementation
 - Interpretative note on RBA – for regulators and firms
 - More certainty on
 - Reliance on third parties
 - Tax crimes as predicate offence

International Power-Houses

- Wolfsberg Group
- 2009 follow-up statement to its 2003 paper on AML screening, monitoring and searching.
 - Real-time payment screening
 - Before execution where link to embargoes or sanctions
 - Transaction monitoring frameworks
 - After execution - align to the risks of business model
 - Client screening
 - Initial onboarding stage and later
 - Retroactive searches
 - may be appropriate eg for ongoing DD as well as in response to requests.

The European Union

- European Commission
 - Study to look into operation of MLDs launched Jan 2010 (Report by end 2010)
 - Selected issues inc
 - financial activity on an occasional and/or limited basis
 - stricter national measures
 - CDD: RBA and beneficial owners
 - Simplified CDD
 - Enhanced CDD: PEPs and international trade-related transactions
 - Reporting obligations and Protection of employees after reporting
 - Internal organisation
 - Penalties
 - Member States review of the effectiveness of their AML systems
 - Supervision and monitoring

European Union report 2

- Other issues
 - Application to non-financial organisations
 - Use of AML regulation to deal with risks in
 - Real estate, business, corporate, finance scenarios
 - How professional advisers handle risks
- Studies in
 - Selected Member States
 - Selected 3rd countries (inc Switzerland, not inc US and Canada)

Domestic Forces - Treasury

- The MLR Review
 - Carried out late 2009
 - Summary responses published June 2010
 - Thorough review asking about
 - Content
 - Practical application
 - Role of guidance
 - Adequacy of supervision
- What respondents said
 - On effectiveness, proportionality and engagement
 - Deterrent but not insurmountable
 - Little feedback from regulators to show costs of compliance are worth it

The MLR Review contd...

- Risk based approach
 - Large firms like it, small ones don't
 - Some elements do not allow for RBA eg PEPs and EDD
 - Problems with fitting RBA to AML with prescriptive approach to sanctions
 - Can be hard to apply at junior customer service level
- Scope and definitions
 - Generally OK, but need for some clarification
 - Agency and outsourcing
 - Inclusion of eg exchanges
- Reliance on others
 - Many uneasy so much duplication
 - More guidance on permitted reliance

The MLR Review contd....



- Supervision and guidance
 - JMLSG popular
 - Regulatory response generally poor
 - Lack of guidance on some areas leads to widely differing practices
- Wider concerns
 - Sanctions and CTA prescription
 - POCA consent regime
 - Lack of feedback on reports
 - Criminal vs civil liability tensions still there

Treasury update

- Money Laundering update 10 Nov
 - Based on FATF October declaration:
 - Iran: *“All UK businesses regulated under the Money Laundering Regulations 2007, whether financial institutions or other regulated persons should treat transactions associated with Iran as situations that by their nature can present a higher risk of money laundering or terrorist financing, and which therefore require increased scrutiny, enhanced due diligence, and ongoing monitoring, particularly in the case of correspondent relationships. All other persons authorised by the Financial Services Authority should also take this advice into account in respect of their systems and controls to counter financial crime, and take appropriate actions to minimise the associated risks.”* (plus sanctions Reg)
 - Guidance on other countries as FATF
 - Highlighting unfavourable evaluation of Argentina

Domestic Forces - FSA

- Reviews
 - Small firms financial crime review (May)
 - Good general awareness of requirements – more of AML than others
 - Adequate basic CDD/KYC but poor EDD
 - Problems dealing with higher risk areas
 - Plus poor sanctions and bribery requirements awareness
 - Failure to tailor externally produced programmes
- Enforcement
 - Commitment to address S&C failings through enforcement
 - Fine on Alpari and MLRO
 - Lack of proper CDD at onset of relationship
 - Lack of proper monitoring

Domestic Forces - JMLSG

- Updated Part 1 and 2 late 2009
- Part 1 – mainly Chapter 5 but v little substantial
- Part 2 – mainly
 - Insurance (plus new sector for general insurance)
 - Portfolio management – custody guidance
 - Prime brokerage – more detail
 - Trade finance – more explanations
 - Wholesale market – reordering and more info on more sub-sectors
- Part 3
 - Now in force October 2010:
 - CTA, proliferation finance, sanctions compliance and more
 - But not all “blessed” by Treasury

Conclusions



Firms have to cope with

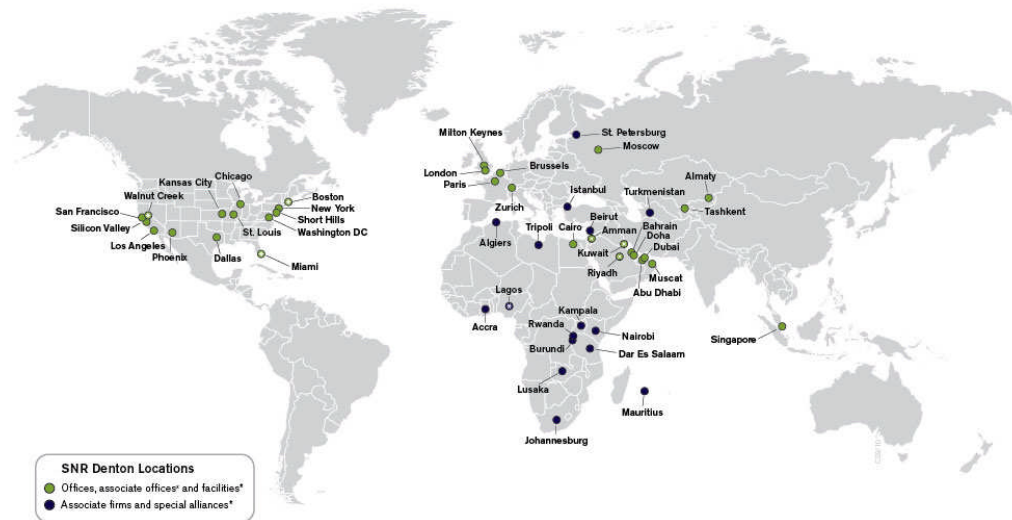
- the strict, criminal liability, no-risk-permitted regime created by UN, EU and domestic sanctions legislation;
- the mirroring domestic regime under the Counter-Terrorism Act;
- criminal liability for offences related to money laundering and terrorist finance under POCA and the Terrorism Act;
- the risk-based approach (with some prescription included) of the MLR; and
- FSA's regulatory expectations under SYSC in respect of all these, but which FSA also expects to address other financial crime risks, such as those arising from bribery and corruption.

Predictions for 2011

- FSA final fling?
 - Commitment to continue tackling financial crime
 - More reviews promised (published early 2011)
 - Correspondent banking
 - High risk customers (inc PEPs)
 - Bank compliance with wire transfer regulation
 - Strong deterrent message
- More enforcement based on systems and controls
- More pressure on understanding tie-in of all financial crime legislation
- No resting on laurels
- Continued push on senior management control
- Bribery Act will complicate things!

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