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International Regulatory Newsletter

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Introduction

Mayer Brown and Pegasystems welcome you to the International Regulatory Newsletter, which we hope will keep you informed of relevant onboarding and account maintenance developments in the financial services sector, such as those related to know-your-customer (KYC) and customer due diligence requirements, anti-money laundering (AML) and countering the financing of terrorism (CFT) standards, and suitability and appropriateness rules.

The International Regulatory Newsletter provides an overview of topical developments, updates and news stories from around the financial world that may be of interest to you. In this edition, we highlight developments from the European Union, the United Kingdom, the United States, and Hong Kong, as well as other news stories that are global in scope. The overviews are arranged geographically and with the most recent developments appearing at the beginning of each section.

For more information on any of the topics mentioned herein, feel free to contact our editors, Nicolette Kost De Sevres (nkostdesevres@mayerbrown.com) and Bradley A. Cohen (bacohen@mayerbrown.com). Your feedback is important to us as we aim to provide a valuable resource to all of our readers. If you have any comments or suggestions for future issues, we would be very glad to hear from you.



Global

FATF publishes amended procedures for its fourth round of AML/CFT mutual evaluations and assessments

On July 25, 2019, the Financial Action Task Force (FATF) [published](#) its amended *Procedures for the FATF Fourth Round of AML/CFT Mutual Evaluations* (the "Procedures"). The FATF is conducting a fourth round of mutual evaluations for its members based on the FATF Recommendations (2012), and the Methodology for Assessing Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems (2013), as amended. The Procedures provide an overview of the scope, principles and objectives for the fourth round of mutual evaluations and detail the procedures and steps in the evaluation process.

The fourth round of mutual evaluations will involve the following two inter-related components: (1) the technical compliance component will examine whether the necessary laws and regulations are in force and effect, and whether the associated AML/CFT institutional framework is established; and (2) the effectiveness component will assess whether the AML/CFT systems are operating, and the extent to which the country is achieving the defined set of outcomes.

The Procedures describe the general principles and objectives that govern FATF mutual evaluations, as well as AML/CFT assessments conducted by the FATF-Style Regional Bodies (FSRBs), IMF or World Bank. These principles and objectives are designed to: (1) produce objective and accurate reports of a high standard in a timely way; (2) ensure a level playing field exists,

whereby mutual evaluation reports are consistent, particularly with respect to the findings, recommendations and ratings; (3) ensure transparency and equality of treatment for all countries assessed; and (4) seek to ensure that all relevant organizations and bodies (e.g., FATF, IMF, World Bank) have equivalent evaluation and assessment exercises that are of a high standard. Other principles and objectives include being clear and transparent, encouraging the implementation of higher standards, identifying and promote good and effective practices, and alerting governments and the private sector to areas that need strengthening.

FATF publishes "universal" consolidated processes and procedures for mutual evaluations and follow-up

On July 25, 2019, the FATF [published](#) its Consolidated Processes and Procedures for Mutual Evaluations and Follow-Up ("Universal Procedures"). The Universal Procedures, which are based on the *Procedures for the FATF Fourth Round of AML/CFT Evaluations*, set out the core elements that form the basis for the evaluations conducted by all assessment bodies. The Universal Procedures address several aspects of the mutual evaluation and follow-up processes, including preparing for and carrying out the on-site visit. The FATF recommends that assessment bodies assess their evaluation procedures against the Universal Procedures when periodically reviewing their evaluation procedures to identify ongoing challenges.



European Union

European Parliament urges European Commission to apply transparent process in formulating revised AML/CFT 'blacklist'

On September 19, 2019, the European Parliament [published](#) a resolution on the state of implementation of AML legislation in the EU ("AML Resolution"). Among other points made in the AML Resolution, the European Parliament urges the European Commission to apply a "transparent" process when formulating its so-called 'blacklist' of third countries with strategic deficiencies in their AML/CFT frameworks. The AML/CFT 'blacklist' is required under the EU's Anti-Money Laundering Directive, and EU banks must carry out enhanced due diligence on customers and financial institutions from jurisdictions on the 'blacklist.'

As recalled in the AML Resolution, earlier this year, the European Council and Parliament rejected amendments to the AML/CFT 'blacklist' on grounds that the proposals were not established in a transparent manner and did not afford affected countries with an opportunity to be heard. In proposing the amendments, the European Commission was seeking to replace the current version of the 'blacklist,' which has been in place since July 2018. Accordingly, the European Parliament calls on the European Commission to ensure a "transparent process with clear and concrete benchmarks" for jurisdictions which pledge to implement reforms in order to avoid being listed. The AML Resolution also calls on the European Commission to publish its initial and final assessments of the countries listed on the 'blacklist,' as well as the benchmarks applied, in an

effort to permit public scrutiny of its decision-making process.

European Parliament approves new rules enhancing the role of the European Banking Authority in the area of anti-money laundering

On September 5, 2019, the European Parliament's Committee on Economic and Monetary Affairs (ECON) [discussed](#) with the Chair of the European Banking Authority (EBA) the state of AML legislation in the European Union, including recent money laundering scandals involving European financial institutions. The ECON members and the EBA chair discussed lessons learned and possible ways forward from these recent scandals.

The ECON Committee also released a briefing paper containing an in-depth analysis of the EU's AML/CFT supervisory and regulatory framework (the "Briefing Paper"). Among other things, the Briefing Paper:

1. outlines the EU supervisory architecture and the respective roles of European and national authorities in applying AML legislation (e.g., 5th AML Directive)
2. details proposals to further improve the EU's AML supervisory and regulatory frameworks, including the European Commission's September 12, 2018 communication, and recently adopted changes to the European Supervisory Authority (ESA) Regulation; and

3. presents several potential additional reforms to further integrate the EU's AML supervisory architecture.

The new, tougher rules are intended to ensure that national regulators consistently enforce AML regulations across the EU's single market.

European Commission adopts Communication and four reports aimed at improving implementation of EU's AML/CFT framework

On July 24, 2019, the European Commission [adopted](#) a [Communication](#) to the European Parliament and the Council towards better implementation of the EU's AML/CFT framework, as well as four accompanying reports. The Communication stresses the need for full implementation of EU AML/CFT rules while emphasizing that several structural shortcomings in the framework remain unaddressed. It was accompanied by the following four reports, which assess risks and identify areas of improvement:

1. Supranational risk assessment of the money laundering and terrorist financing risks affecting the EU.
2. Report assessing the framework for Financial Intelligence Units' (FIUs) cooperation with third countries and obstacles and opportunities to enhance cooperation between FIUs within the EU.
3. Report assessing the conditions and the technical specifications and procedures for ensuring secure and efficient interconnection of central bank account registers and data retrieval system.
4. Report assessing recent alleged money-laundering cases involving EU credit institutions.

The Communication and accompanying reports are intended to serve as a basis for future policy discussions on how to strengthen the EU's AML/CFT framework.

EBA publishes opinion on communications to supervised entities regarding money laundering and terrorist financing risks

On July 24, 2019, the European Banking Authority (EBA) [published](#) an opinion to prudential supervisors that are competent authorities that highlights the importance of money laundering and terrorist financing risks in the prudential context (the "Opinion"). The goal of the Opinion is to communicate a common message to relevant supervised entities on the importance of these risks across the EU's single market. In the Opinion, the EBA "invites prudential supervisors to communicate to institutions' management bodies and senior management the expectation that the prudential supervisors are aware of, and act upon, money laundering and terrorist financing risks that may have an impact on an institution's safety and soundness." The Opinion also invites prudential supervisors to alert institutions regarding concerns related to money laundering and terrorist financing, particularly those stemming from AML/CFT authorities' assessments.



United Kingdom

UK government publishes Economic Crime Plan for 2019 through 2022 setting forth strategic priorities for combatting economic crime

On July 12, 2019, the UK government [published](#) its *Economic Crime Plan, 2019 to 2022* (the “Plan”), which sets forth seven strategic priorities for combatting economic crime, as agreed to in January 2019 by the Economic Crime Strategic Board, the newly-established ministerial-level public-private board responsible for setting the UK’s strategic priorities and allocating resources for combatting economic crime. The seven strategic priorities are described below:

1. Develop a better understanding of the threat posed by economic crime and our performance in combatting economic crime
2. Pursue better information sharing between public and private sectors to combat economic crime
3. Ensure that law enforcement and the judicial system have effective powers, procedures and tools to combat economic crime
4. Strengthen the capabilities of law enforcement, the justice system and private sector to detect, deter and disrupt such crime
5. Build greater resilience to economic crime by improving economic crime risk management and the risk-based approach to supervision
6. Improve our systems for transparency of ownership of legal entities and arrangements

7. Deliver an ambitious international strategy to enhance security, prosperity and the UK’s global influence

The Plan represents a change in the UK’s response to economic crime and builds on the commitments made in the UK’s *2016 Anti-Money Laundering and Counter-Terrorist Financing Action Plan*, *2017 Anti-Corruption Strategy* and *2018 Serious and Organised Crime Strategy*. The Plan seeks to provide a “collective articulation of the action being taken by the public and private sectors” to help prevent the UK from being abused for economic crime.

HM Treasury publishes its seventh annual report on AML/CFT supervisory activity from 2017-2018

On July 8, 2019, the HM Treasury [published](#) its AML/CFT supervision report 2017-2018 (the “Report”). The Report details AML/CTF supervisory activity in 2017-18 (the financial year during which the UK implemented the Money Laundering Regulations 2017) based on the annual returns from AML/CTF supervisors. The Report is divided up into the following chapters: (1) Chapter 2 outlines the methodology HM Treasury used to develop the Report, (2) Chapter 3 covers supervisor’s supervisory activities, and (3) Chapter 4 discusses supervisors’ promotion and enforcement of compliance with the AML/CTF standards among their supervised population.



United States

FinCEN launches Global Investigations Division to focus on identifying primary foreign money laundering threats

On August 28, 2019, the Financial Crimes Enforcement Network (FinCEN) [announced](#) that it has launched its Global Investigations Division (GID), which will be “responsible for implementing targeted investigation strategies rooted in FinCEN’s unique authorities under the Bank Secrecy Act (BSA) to combat illicit finance threats and related crimes, both domestically and internationally.” GID builds on the work conducted by FinCEN’s former Office of Special Measures (OSM) and provides FinCEN with one dedicated division focused on utilizing the agency’s Section 311 authority, as well as other information collection authorities, such as the geographic targeting order and foreign financial agency regulation authorities. FinCEN Director Kenneth A. Blanco announced that Matthew Stiglitz, a former Principal Deputy Chief in the Department of Justice’s Criminal Division, will lead GID.

FinCEN and its regulatory partner agencies issue joint statement reiterating risk-focused approach to BSA/AML supervision

On July 22, 2019, FinCEN and other federal banking agencies (including the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency) [issued](#) a *Joint Statement on Risk-Focused Bank Secrecy Act/Anti-Money Laundering Supervision* (the “Joint Statement”). The Joint Statement, which does not establish any new regulatory requirements, details common practices for assessing a bank’s money laundering/terrorist financing profile, which will

assist examiners with scoping and planning examinations and conducting an initial evaluation of the adequacy of BSA/AML compliance programs. The Joint Statement concludes that the extent of examination activities necessary to evaluate a BSA/AML compliance program “generally depends on a bank’s risk profile and the quality of its risk management processes to identify, measure, monitor, and control risks, and to report potential money laundering, terrorist financing, and other illicit financial activity.” The Joint Statement is intended to improve transparency into the risk-focused approach, which enables federal agencies to more closely tailor examination plans and procedures to the unique risk profile of each bank.

FinCEN publishes advisory on the FATF’s updated list of jurisdictions with strategic AML/CFT deficiencies

On July 12, 2019, FinCEN [issued](#) an advisory on the Financial Action Task Force’s (FATF) updated list of jurisdictions with strategic AML/CFT deficiencies. These jurisdictions are outlined in two documents updated by the FATF on June 21, 2019: (1) the “FATF Public Statement,” which identified jurisdictions that are subject to the FATF’s call for countermeasures and/or EDD due to their strategic AML/CFT deficiencies; and (2) “Improving Global AML/CFT Compliance: Ongoing Process,” which identified jurisdictions that the FATF has determined to have strategic AML/CFT deficiencies. The updated list may impact U.S. financial institutions’ obligations and risk-based approaches with respect to the relevant jurisdictions.



Hong Kong

FATF publishes Mutual Evaluation Report assessing the compliance and effectiveness of Hong Kong's AML/CFT regime

On September 4, 2019, the Financial Action Task Force (FATF) [published](#) the Mutual Evaluation Report assessing the compliance and effectiveness of Hong Kong's AML/CFT regime as compared with the FATF Recommendations. In its Mutual Evaluation Report, the FATF concluded that Hong Kong has a strong legal and institutional framework for combatting money laundering and terrorist financing, particularly in the areas of risk identification, law enforcement, asset recovery, counter-terrorist financing and international co-operation. The Mutual Evaluation Report refers to several recent legislative amendments in Hong Kong that have significantly strengthened the country's AML/CFT regime.

The Mutual Evaluation Report of Hong Kong was previously examined by the full FATF membership at the FATF Plenary held in the US from June 19-21, 2019. Prior to its publication, the Hong Kong government published a statement welcoming the results of the Mutual Evaluation Report. With the FATF's Mutual Evaluation Report, Hong Kong becomes the first Asia-Pacific country to have its AML/CFT regime deemed to be compliant and effective overall by the FATF.

Hong Kong Monetary Authority issues circular on the FATF's Mutual Evaluation Report of Hong Kong

On September 4, 2019, the Hong Kong Monetary Authority (HKMA) [issued](#) a Circular informing all authorized institutions about the publication of the FATF's Mutual Evaluation Report of Hong Kong. In the Circular, the HKMA expressed an appreciation for the need to sustain the efforts and positive results for the banking sector and noted the recommendations made in the Mutual Evaluation Report, which will help the HKMA focus its efforts in the coming years. In particular, the HKMA highlighted the following three themes from the FATF's Mutual Evaluation Report: (1) as money laundering and terrorist financing risks continue to evolve, so must the HKMA's understanding and its response; (2) the importance of quality and timeliness in suspicious transaction reporting, for which there is room for improvement, particularly among smaller authorized institutions; and (3) focusing efforts on areas such as information-sharing and using technology to more effectively and efficiently combat money laundering and terrorist financing risks. In the Circular, the HKMA commits to working with the banking sector to follow up on the relevant recommendations in the Mutual Evaluation Report and to continue to strengthening Hong Kong's AML/CFT regime.

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Figure 1: RiskTech Quadrant® for KYC solutions, 2018



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