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Link'n Learn

Anti-money laundering

Leading Business Advisors

Contacts

Niall O'Farrell
Manager – ERS
Deloitte & Touche Ireland
E: nofarrell@deloitte.ie
T: +353 1 407 4740

Scott Geddes
Senior Manager– Audit
Deloitte UK
E: sgeddes@deloitte.co.uk
T: +44 20 7303 8150

Aisling Costello
Senior Manager – Investment
Management Advisory
Deloitte & Touche Ireland
E: acostello@deloitte.ie
T: +353 1 417 2834

Agenda

1. Overview of developments on AML & financial crime over last 12 months
2. The 4th EU Money Laundering Directive
3. Expected major effects on Irish legislation
4. Focus of Irish regulator on AML
5. UK perspective on the 4th EU Money Laundering Directive
6. 4th Directive – building on solid foundations
7. Focus of the UK regulator on AML
8. Next steps for Funds and Administrators

Overview of developments on AML/financial crime over last 12 months

According to a recent report on the research findings from an independent survey of the investment management industry by SWIFT, regulation, automation and financial crime are the top priorities for investment managers for 2015.

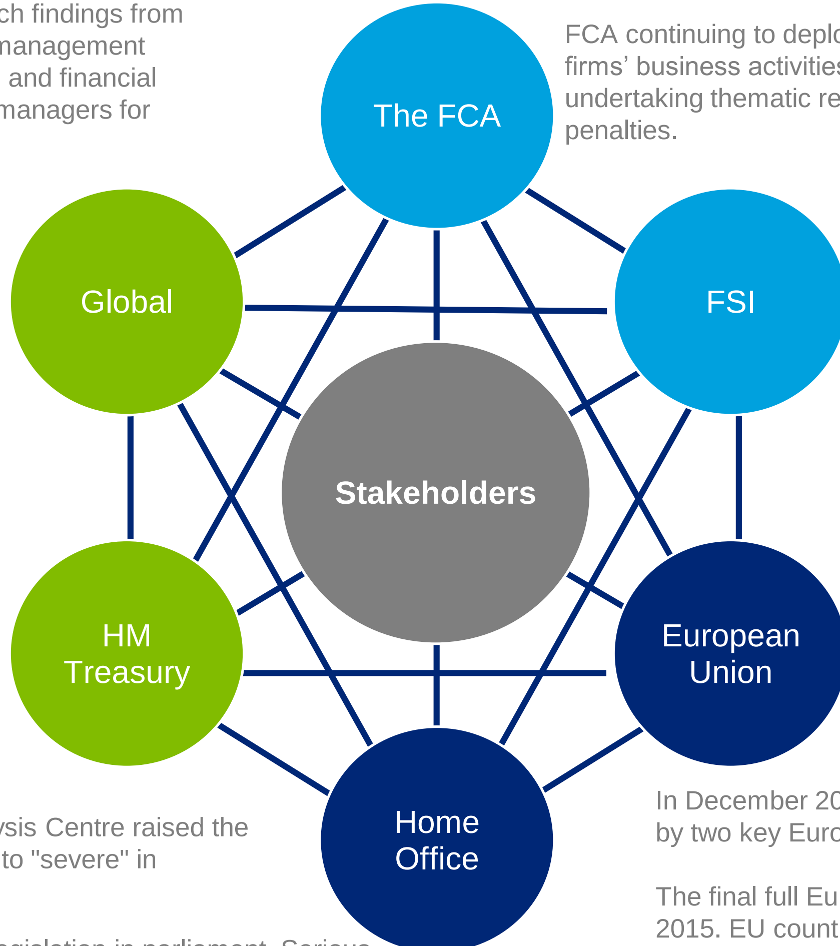
In the report, investment managers highlighted significant pressures and operational challenges resulting from KYC, AML and sanctions screening requirements.

Since March 2014, HM Treasury has introduced targeted sanctions against individuals (asset freezes and travel bans); and sectors (financial, energy, extractive industries, defence, technology), in relation to the Russia – Ukraine crisis.

Implementing European Council Regulations, which expanded in scope.

In August 2014, the Joint Terrorism Analysis Centre raised the UK's terror threat level from "substantial" to "severe" in response to conflicts in Iraq and Syria.

Currently three key associated pieces of legislation in parliament. Serious Crime Bill (HoC), Modern Slavery Bill (HoC) and Counter-Terrorism and Security Bill (Royal Assent).



January 2015, Tracey McDermott appointed Director of Supervision and Authorisations. New Head of Financial Crime Division appointed.

FCA continuing to deploy a range of regulatory and supervisory tools: limiting firms' business activities, instructing the appointment of a skilled person, undertaking thematic reviews, requiring attestations, enforcement, financial penalties.

Firms have continued to invest heavily, both Capex and Opex, on the design, build, enhancement and repair of financial crime compliance arrangements.

Many have considered their risk-based approach to underwrite or inform uplift of existing frameworks. In some cases this has been to defend against action taken by regulators claiming shortfalls in systems and controls.

Shift toward proactive assessment and rather than reactionary – invest now and prevent the fine.

In December 2014, the 4MLD of the European Union was endorsed by two key European Parliament committees.

The final full European Parliament vote will be held in March/April 2015. EU countries must implement the changes within two years (2017).

Key changes relate to PEPs, risk-based approach and centralised registers of beneficial owners.

The 4th EU Anti Money Laundering Directive

Background and context

The Third EU Anti Money Laundering Directive issued in 2005

Transposed into local legislation over subsequent number of years, which drastically changed the approach to AML/CFT around the EU

Elements of the Third Directive regarded as vague and non-prescriptive, making a consistent approach more difficult to achieve

FATF issued framework recommendations and guidelines in 2012 to strengthen international standards

Fourth EU AML Directive to be issued in response to this in 2015, with a lead time of 2 years for transposition to local legislation

Objectives of the Fourth EU AML Directive

- In order to remove ambiguities and improve consistency of AML/CFT rules across jurisdictions, Fourth Directive to be issued
- More clearly define obliged entity (designated persons) and competent authority requirements
- Assist in achieving standardised Anti-Money Laundering and Counter Terrorism Financing across EU Member States
- Counteract terrorist financing through improved adherence to obligations
- Increase the focus of obliged entities to threats of AML/CTF

Anticipated Key Changes

1. **Risk Based Approach**
2. **Customer Monitoring**
   - CDD – Rationale for Customer Risk Classification
   - Evidence of Ongoing Monitoring
3. **Identification of Ownership**
   - Requirement on Legal Persons to maintain evidence of Beneficial Owner
   - Expansion of PEP definition to domestic investors
4. **Data Protection Considerations**
   - Compliance with Data Protection Laws
   - Retention of closed accounts customer information
5. **New Definitions**
   - Assessment of Jurisdiction Risk
   - Expansion of employee AML/CFT responsibility

Expected Effects on Irish Legislation

Impact

1 Risk Based Approach

- ✓ Member State requirement to evidence that appropriate steps have been taken to identify, assess, understand and mitigate AML/CTF risk
  - ➢ National Risk Assessment
- ✓ Obliged Entity requirement to evidence risk assessment will be more explicit in new Directive
  - ➢ Specific factors to be included e.g. customer, product, geography, channel i.e. bringing these FATF guidelines into legislation

2 CDD and Ongoing Monitoring

CDD:

- ✓ Minimum factors for consideration when applying Simplified CDD, and requirement to evidence rationale for applying SCDD
- ✓ More prescriptive requirements for applying Enhanced CDD and factors for consideration as higher risk

Ongoing Monitoring:

- ✓ More prescriptive requirements for conducting and keeping risk assessments up-to-date
- ✓ Requirement to evidence rationale for assignment of risk rating

Impact

3 Beneficial Owners & PEPs

Beneficial Ownership:

- ✓ Explicit requirement for legal persons to hold accurate and current information in relation to beneficial ownership of that legal person
- ✓ Provision of accurate information to obliged entities and competent authorities on request

PEPs:

- ✓ Definition of PEPs to be extended to include domestic PEPs
- ✓ Requirement to monitor persons ceasing to be PEPs for additional 6 months, i.e. for a total of at least 18 months

4 Senior Management & Third Party Equivalence

Senior Management:

- ✓ Definition of Senior Management to be introduced as employees/officers with specific knowledge of institutions exposure to AML/CTF risk, as well as sufficient seniority
- ✓ Clarity that Senior Management definition will not be restricted to members of the Board of Directors

Third Party Equivalence:

- ✓ Rescindment of the "white list" of equivalent jurisdictions for AML/CFT jurisdictions outside of the EU.
- ✓ Requirement for risk assessment to be conducted on countries outside of EU for AML/CFT purposes

Impact

5 Data Protection & Record Keeping

Data Protection:

- ✓ Requirement for consideration of Data Protection requirements for sharing customer information in AML/CFT procedures
- ✓ Clarity around application of AML/CFT rules for subsidiaries in third countries where legislation is deficient or non-equivalent

Record Keeping:

- ✓ Requirement to delete personal data 5 years after business relationship has come to an end (maximum of 10 years if greater period of retention required by Member State)

Additional Obligations

Competent Authority:

- Incorporate new directive requirements into legislation
- Perform a National Risk Assessment
- Provide guidance for adoption for obliged entities
- Assist with cooperation of Finance Intelligence Units on an international platform

Obliged Entity:

- Review risk classifications
- Maintain records to high quality standard that would stand up under CBI scrutiny
- Update procedures and systems to assist compliance with the new regulation requirements

Focus of Irish Regulator on AML

CBI Expected Actions

Actions:

- Over 80 inspections to date
- Large pillar banks and international banks recently inspected
- Large entities fined and reprimanded in recent years
- Thematic Letter to be issued in Q2 2015 by Central Bank of Ireland

Focus:

- Positioning of AML/CFT in the organisation
- Resources deployed
- Identification and mitigation of risks
- Alignment of business processes
- Decisive actions taken promptly where required
- Monitoring and management of compliance with policies and procedures
- Ability of firm to demonstrate compliance

AML CEO Letter

Focus:

- AML compliance framework with strong board and senior management oversight and understanding
- Risk evaluation, mitigation and implementation – board responsibilities
- Failures in policies and procedures – on-going oversight by board
- Training
- CDD – existing customers
- CDD – Verification before or as soon as possible after business relationship
- CDD – bringing relationship to an end
- CDD – applying SCDD inappropriately
- Third party reliance - must meet all requirements
- STR – “as soon as practicable”

UK perspective on the 4th EU Money Laundering Directive

UK perspective on the 4th EU Money Laundering Directive

Public central register of beneficial owners

- Companies will need to transmit up-to-date information to a central public register accessible by regulators and regulated entities
- Data on trusts will be more restricted

EDD on foreign and domestic PEPs

- EDD will now also be required for domestic PEPs
- Identify domestic PEPs, revise policies/procedures to apply EDD and obtain senior management approval

Employee screening requirements

- Proposed requirements for business to have policies, procedures and controls for employee screening
- Businesses that do not currently screen employees will have to invest time and resources to create a verification process

Risk assessments prior to Simplified Client Due Diligence

- Fewer blanket exemptions that allow for simplified CDD in certain situations
- Simplified CDD allowed only where satisfied the specific customer/transaction is low risk

New data protection requirements for customer data

- Limitations on how long customer data can be held
- Businesses will have to review what data they hold and for how long to ensure compliance

Reduction in high value dealer (HVD) threshold

- Proposal to reduce HVD threshold from 15,000 to 7,500 euros for a single value cash transaction (e.g., sale of a car)

4th Directive – building on solid foundations?

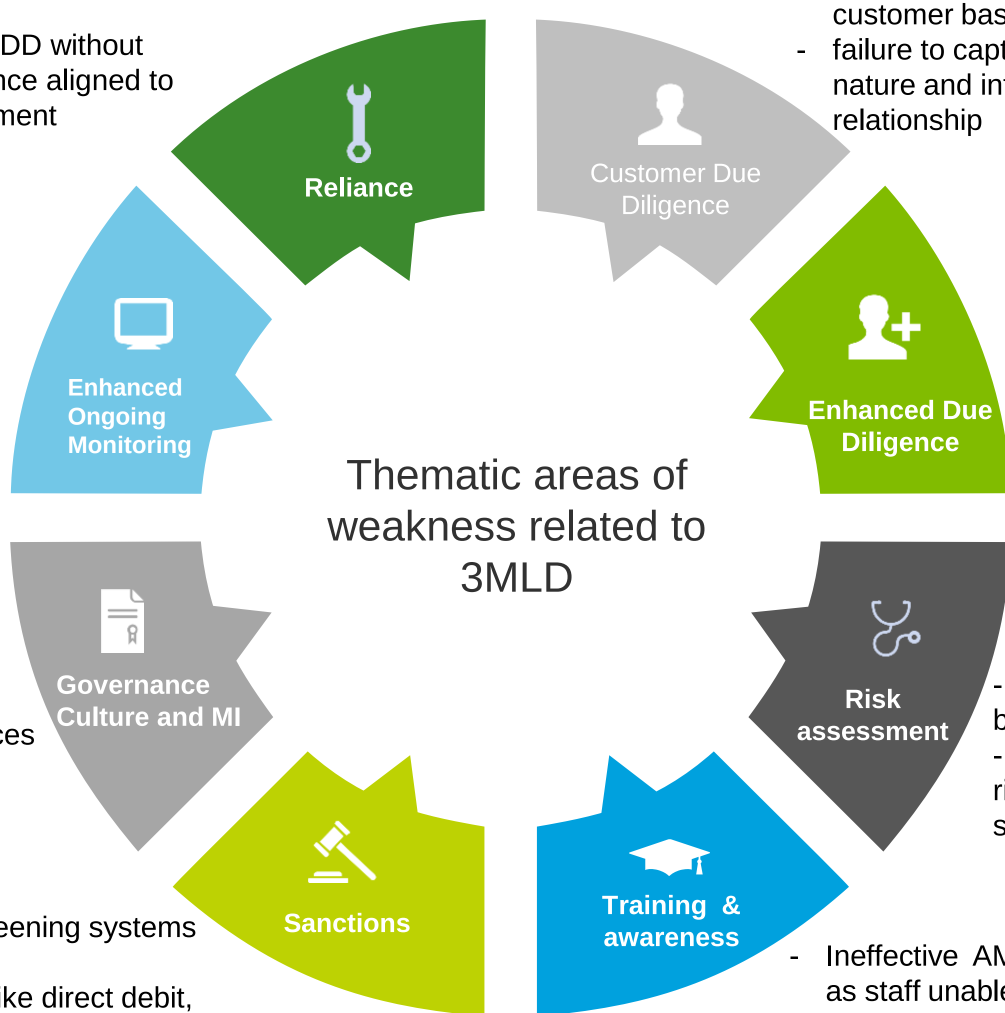
4th Directive – building on solid foundations?

- Outsourcing of CDD and EDD without establishing the due diligence aligned to their customer risk assessment

- Weak in Transaction monitoring standards
- Failure to establish expected account activity leading to poor identification of suspicious transactions
- Periodic review of high-risk relationships either did not exist or was at a very nascent stage

- Inadequate Governance structure
- Inadequate AML resources
- Poor AML culture
- Unclear risk appetite
- Poor quality MI

- Poor understanding of screening systems and fuzzy logic used
- Certain transaction types like direct debit, cheque etc. were not screened
- Lack of oversight in updating sanction lists



- No risk-sensitive PEP screening of existing customer base
- failure to capture adequate information on the nature and intended purpose of the customer relationship

- Poor understanding of how much EDD required
- Unwillingness to request information from prominent PEP customers
- Inadequate means of establishing SOW and SOF
- Failure to determine reputation and supervision quality of correspondent banks

- Inadequate customer and business risk assessment
- Limited understanding of risk associated with product, services, customer base

- Ineffective AML and sanctions training as staff unable to discuss ML 'red flags'
- AML and sanctions knowledge among some MLROs was inadequate

Focus of the UK regulator on AML

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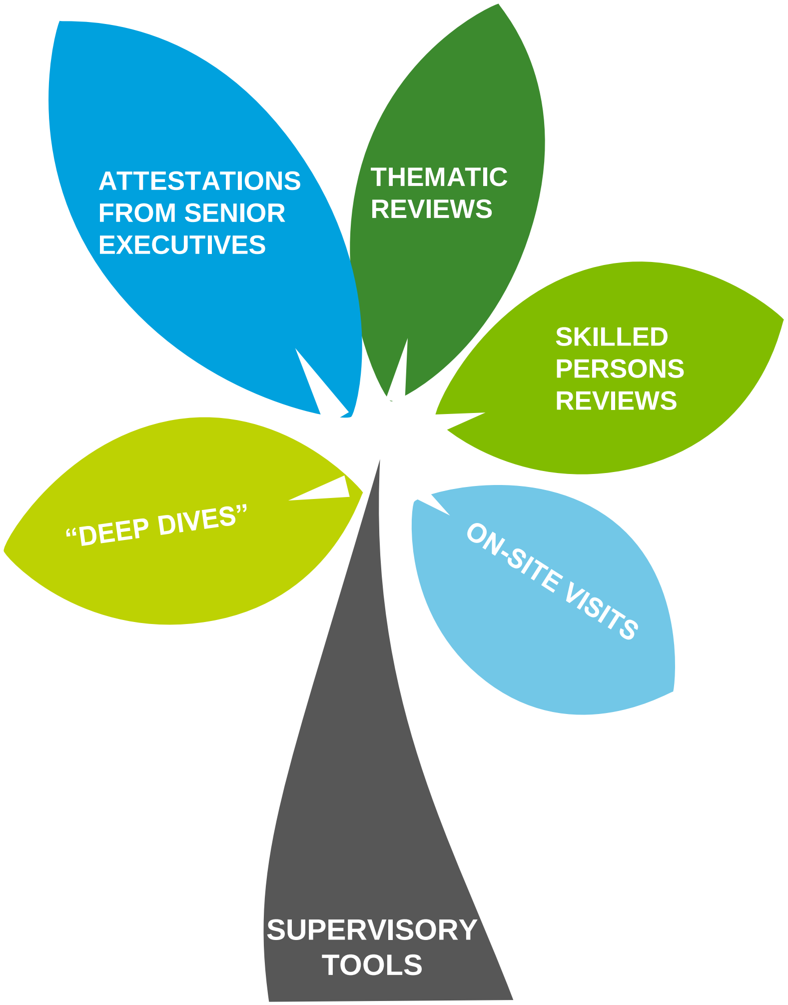


High risk customers

Risk assessment

Transaction monitoring

Ongoing monitoring

Policies and procedures

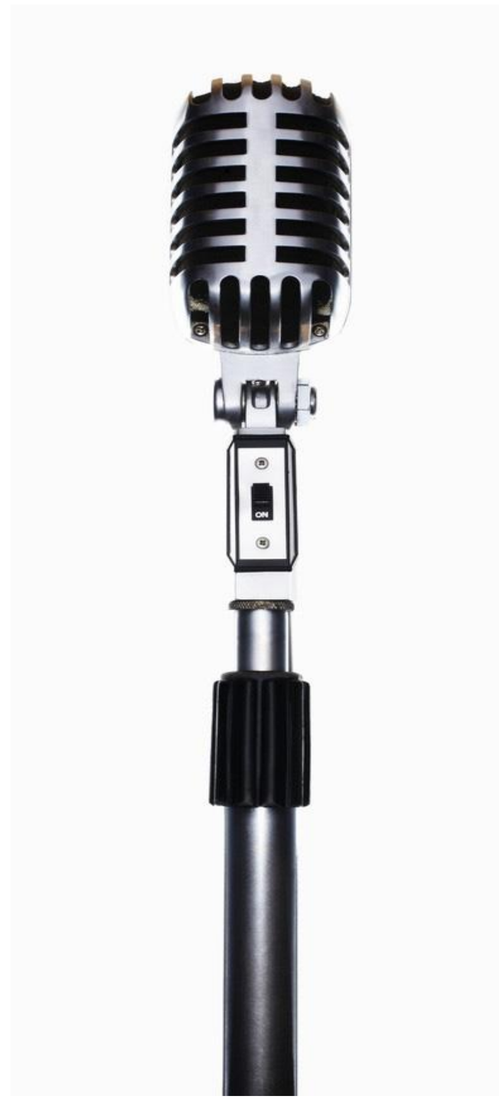
Customer risk

Next steps for investment funds and administrators

Next steps for investment funds and administrators

Health checks	Assess effectiveness of existing practices prior to making any changes or introducing any new arrangements in response to the 4th MLD
Re-asses risks	Reassess risks in relation to financial crime (instituting specific arrangements on the basis of the assessed risks)
Lessons learned	Observe and ingest lessons learned from prior regulatory reports, interventions, good practice guides etc
Verified reliance	Understand areas of reliance on third parties including current oversight arrangements to confirm this meets requirements

Q&A



Link’n Learn webinar – April

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European Fund Distribution

Market overview

EEA region:

- UCITS & PRIPS - KID & KIID
- ELTIF – retail & professional passporting
- AIFMD passport – ‘Commission Delegated Regulation’ & ESMA ‘Call for evidence’

Swiss funds distribution regime