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Regulatory News Alert

AML/CFT: ESAs establish supervisory colleges to improve cooperation between competent authorities

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Context and objectives

The fifth European Anti-Money Laundering Directive (Directive (EU) 2018/843 or AMLD 5) requires Member States to not unreasonably restrict or prohibit the exchange of information and/or cooperation between competent authorities for anti-money laundering/combating the financing of terrorism (AML/CFT) supervision purposes.

However, if the AMLD 5 clarifies the **legal basis for supervisory cooperation and information exchange** in different EU Member States, it does not establish a dedicated operational framework to support supervisory cooperation or information exchange.

Therefore, the **three European Supervisory Authorities (ESAs) have now issued guidelines** to create a common supervisory framework. It aims to link the dots from a supervisory angle to ensure that supervisors coordinate their work.

The so-called **AML/CFT colleges guidelines** are intended to clarify the practical modalities of supervisory cooperation and information exchange and to harmonize the way supervisors should cooperate to support **effective oversight of cross-border groups** from an AML/CFT perspective as well as from a more general prudential perspective.

AML/CFT supervisory colleges

One central element to achieving the aforementioned objectives is the establishment of **AML/CFT supervisory colleges**, which will provide a permanent structure for cooperation and information exchange between supervisors from different Member States and third countries that are responsible for the AML/CFT supervision of the same firm that operates on a cross-border basis.

Briefly, the new guidelines set out:

- The **rules governing the establishment and operation** of the AML/CFT supervisory colleges and structuring the **exchange of information** between AML/CFT and prudential supervisors under certain conditions to be met

- The **process for bilateral exchanges** of information between competent authorities for the case that the conditions for setting up an AML/CFT college are not met.

More specifically, the guidelines require that supervisors establish an AML/CFT supervisory college in situations **where a firm operates in more than three Member States** whereby branches are counted as separate operational establishments. The AML/CFT supervisory college should bring together all AML/CFT supervisors of the same firm, as well as other relevant parties such as prudential supervisors and AML/CFT supervisors from third countries. This way, the ESAs want to ensure that all supervisors have **access to comprehensive information about the firm** and use it to inform their risk assessment and supervisory approach. The supervisors will establish AML/CFT supervisory colleges for all firms, cross-border and EU establishments in their country, on a risk-based approach. As practical consequences, one may expect more supervisory presence in the file coming from different angles (visits, the results from the Supervisory Review and Evaluation Process—SREP, or supervisory reporting) and potentially from multi-disciplinary origins (EU, third countries).

Timeline

The guidelines are addressed to competent authorities and shall **apply from 10 January 2020**.

However, as the establishment of an AML/CFT college may take some time and could be resource intensive, the guidelines provide for a **transitional period**. Within the **first two years of application** of the guidelines, the **AML/CFT colleges should gradually be established**. Thereby, colleges for firms that pose high money laundering (ML) or terrorism financing (TF) risks shall be prioritized. In addition, the supervisors have time until the end of the transitional period to conduct the first meeting of the college—unless the firm has been deemed to pose a high ML/TF risk, in which case the meeting shall take place as soon as possible.

How can Deloitte help?

Deloitte's advisory specialists and dedicated services can help you design and implement your business strategy in light of the evolution of regulatory frameworks and market trends.

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