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ΔΙΠΛΩΜΑΤΙΚΗ ΕΡΓΑΣΙΑ

''The Challenges ahead for the Audit, the Risk Management and the Compliance functions in the Banking System, following the stricter regulatory framework in the Anti-Money Laundering area.''

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Scope of the Thesis

Investigation Subject

In 1996, the International Monetary Fund estimated that two to five percent of the worldwide global economy involved laundered money. According the World Bank, the cross – border flow of the global proceeds from criminal activities, corruption and tax evasion are estimated at between 1 trillion and 1,6 trillion USD per year. Taking under consideration, that the Banking System is the main channel, through profits from criminal activities become legitimate, the State and Audit Authorities, legislate laws and regulations, in which Bank should show the stricter compliance. The basic directions apply to the measurement and identification of the relative risks, the compliance and reporting program and the control of the adequacy and effectiveness of the ensurement valves. Following these, the subject of the thesis will be, the investigation of the minimum relative demands (legal-supervisor) and the optimum way of enactment and application, respectively, of the most effective procedures from the Banking System.

Resources

According to the international bibliography-Journalism the attempts to organize a well-based AML system began at the early 1980's. Basic source of information, among others, there will be:

- **Financial Action Task Force on Money Laundering (FATF)** which was formed in 1989 by the G7 countries as an intergovernmental policy – making body. As of 2014 its membership consists of 36 countries and Greece is one of them. FATF has developed 40 recommendations and another 9 special recommendations regarding terrorist financing. On a second stage, FATF began a process to publicly identify countries that were deficient in their AML laws and international cooperation ("name and shame" process).
- **European Union (EU**) which has published several relevant directives and is currently negotiating a new 4th one, which toughens –up AML rules and it will change the nature of AML compliance across the EU. The intention is to move to a risk based and evidence based approach to identifying and managing ML than a box – ticking approach to compliance. The relevant Draft Directive has, however, raised concerns among experts in financial services.
- **Basel Committee (BC)** which first issued in Dec.1988 the paper "prevention of criminal use of the banking system for the purpose of money laundering". In JAN, 2014 issued a new one under the title "sound mgt. of risks related to money laundering and financing of terrorism", in order to describe how banks should include ML and FT risks within their overall risk management. The Committee stated that the later should be read in conjunction with a number of related papers including, among others, "the internal audit function in banks", "compliance and the compliance function in banks".
- **Bank of Greece (BoG)** which, as the respective Supervisory Authority of Greece has legislated a relative frame. This frame has endorsed the relative Community legislation, which is concerted with the 40 recommendations of the FATF. Through the 2577.06 Act of Director, the basic guidelines have been given, regarding the Internal Audit System of Financial Institutes.
- **Greek Legislation,** which includes Laws 3691/2008, 3875/2010 and 3932/2011. These laws, have also endorsed the EC guidelines.
- **Financial Intelligence Unit (Greece)** which was created as the National Authority against Money Laundering with the 3691/08 law. Under its competence fall the analysis, investigation and elaboration of suspicious transactions which are submitted by people of legal or public certainty. It is a member of the Egmont Group of FIUS, which is an informal network, established for the stimulation of international cooperation.

Analysis

From the analysis of the available information it becomes obvious the importance that the national community gives to the fight against money laundering and the continuous efforts of the Authorities to legislate suitable frames to repulse this from occurring in the Banking Sector. This framework seems that will become even more demanding in the future. The first approaches are relevant with the illegal incomes from common crime (drug trafficking, human trafficking, extortion, illegal gambling etc.) but there were quickly enriched with corruption and tax evasion. The latest sub matters and especially that of the tax evasion became of major concern in our country. This is highlighted at the latest reports of the IMF (5/2011, 12/2012 και 2/2014) in special case studies that tax evasion and corruption in tax administration played a determinant role in the financial crisis that Greece is facing. Following these the subject of the IAT will be focused on the application of relative rules and guidelines in Greece and the corresponding demands which occur for the domestic Banking System and the "defensive lines", those of the Risk Management, Compliance and Internal Audit functions. Especially:

- **Legislation – Regulatory framework.** Elaboration on the legal-supervisory frame, so that the minimum related obligations could be identified. Application of the Principles of Corporate Governance in the Banking Sector.
- **Risk identification – measurement – management procedures.** Worldwide, AML risk assessment is not required by law or regulation but it is a regulatory expectation. Risk assessment is not an easy task. Usually, banks make decisions that are risk based, but they do so without considering the consequences, because they accept the risk associated with that activity. In order to build and maintain a robust AML risk management strategy a bank has to answer the questions "who we are, what we offer, where and to whom we offer it and how we deliver it". In other words, it has to conduct risk assessment of its products, services, lines of business and review and update their assessments periodically, so to adjust for new and emerging risk and regulatory changes.
- **Compliance function – AML compliance program.** There are 4 minimum pillars for the relevant program. 1. Policies, procedures and internal controls 2.Designation of Compliance Officer 3.Training for appropriate employees 4.Independent testing. The aforementioned pillars consist the base for the development of an AML program but o robust one must be tailored to the nature of the business activity and the particular profile of risks the bank encounters.
- **Internal Audit function.** The third – and final – line of defense which provides reasonable assurance that the AML program is working. Testing AML is a challenging issue because Internal Audit covers a variety of business units, so a bank's management may not have "the whole picture". In order to fulfill the obligations it has to build sound and comprehensive risk based audit plans and to engage sufficiently trained staff. Finally, although internal audit must operate independently and provide unbiased recommendations, a culture of cooperation among the relevant units may be useful.

Table of Acronyms

	Anti-Money laundering / Countering the Financing of Terrorism
CDD	Customer Due Diligence
CFT	Countering the financing of terrorism
DNFBP	Designated Non-Financial Business or Profession
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
ML	Money Laundering
MOU	Memorandum of Understanding
NPO	Non-Profit Organization
R	Recommendation
RBA	Risk-Based Approach
SRB	Self-Regulating Bodies
STR	Suspicious Transaction Report
TF	Terrorist Financing
UN	United Nations
BC	Basel Committee
EU	European Union
EC	European Commission
IMF	International Monetary Fund
BoG	Bank of Greece

Introduction

Money Laundering: *"Money laundering and the financing of terrorism are financial crimes with economic effects. They can threaten the stability of a country's financial sector or its external stability more generally. Effective anti-money laundering and combating the financing of terrorism regimes are essential to protect the integrity of markets and of the global financial framework as they help mitigate the factors that facilitate financial abuse. Action to prevent and combat money laundering and terrorist financing thus responds not only to a moral imperative, but also to an economic need."*
– Min Zhu, Deputy Managing Director of the IMF

Rapid developments in financial information, technology and communication allow money to move anywhere in the world with speed and ease. This makes the task of combating money-laundering more urgent than ever.

The deeper "dirty money" gets into the international banking system, the more difficult it is to identify its origin. Because of the clandestine nature of money-laundering, it is difficult to estimate the total amount of money that goes through the laundry cycle.

The estimated amount of money laundered globally in one year is 2 - 5% of global GDP, or $800 billion - $2 trillion in current US dollars. Though the margin between those figures is huge, even the lower estimate underlines the seriousness of the problem governments have pledged to address (United Nations Office on Drugs and Crime1).

There have been a number of developments in the international financial system during recent decades that have made the three F's-finding, freezing and forfeiting of criminally derived income and assets-all the more difficult. These are the "dollarization" (i.e. the use of the United States dollar in transactions) of black markets, the general trend towards financial deregulation, the progress of the Euro-market and the proliferation of financial secrecy havens.

Fuelled by advances in technology and communications, the financial infrastructure has developed into a perpetually operating global system in which "megabyte money" [2] can move anywhere in the world with speed and ease *(United Nations Office on Drugs and Crime[3])*.

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[1] *United Nations Office on Drugs and Crime official site has general guidance and publications about money laundering.*

[2] *"Megabyte Money": As a general definition, megabyte money is described as money in the form of symbols on computer screens.*

[3] *The 1968 United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances is the first legal instrument to embody money- laundering aspect.*

Money Laundering Sphere

What is?

Money laundering is the process of transforming the proceeds of crime into ostensibly legitimate money or other assets (IMF). However, in a number of legal and regulatory systems, the term money laundering has become conflated with other forms of financial crime, and sometimes used more generally to include misuse of the financial system (involving things such as securities, digital currencies, credit cards, and traditional currency), including terrorism financing and evasion of international sanctions. Most anti-money laundering laws openly conflate money laundering (which is concerned with source of funds) with terrorism financing (which is concerned with destination of funds) when regulating the financial system (Wikipedia).

Money obtained from certain crimes, such as extortion, insider trading, drug trafficking and illegal gambling is "dirty". It needs to be cleaned to appear to have been derived from legal activities so that banks and other financial institutions will deal with it without suspicion. Money can be laundered by many methods, which vary in complexity and sophistication.

Different countries may or may not treat payments in breach of international sanctions as money laundering. Some jurisdictions differentiate these for definition purposes, and others do not. Some jurisdictions define money laundering as obfuscating sources of money, either intentionally or by merely using financial systems or services that do not identify or track sources or destinations.

Other jurisdictions define money laundering to include money from activity that would have been a crime in that jurisdiction, even if it were legal where the actual conduct occurred. This broad brush of applying the term "money laundering" to merely incidental, extraterritorial, or simply privacy-seeking behaviors has led some to label it "financial thought crime".

Many regulatory and governmental authorities issue estimates each year for the amount of money laundered, either worldwide or within their national economy. In 1996, the International Monetary Fund estimated that two to five percent of the worldwide global economy involved laundered money. The Financial Action Task Force on Money Laundering (FATF), an intergovernmental body set up to combat money laundering, stated, "Overall, it is absolutely impossible to produce a reliable estimate of the amount of money laundered and therefore the FATF does not publish any figures in this regard." Academic commentators have likewise been unable to estimate the volume of money with any degree of assurance. Various estimates of the scale of global money laundering are sometimes repeated often enough to make some people regard them as factual—but no researcher has overcome the inherent difficulty of measuring an actively concealed practice (*Wikipedia*).

The processes by which criminally derived property may be laundered are extensive. Though criminal money may be successfully laundered without the assistance of the financial sector, the reality is that hundreds of billions of dollars of criminally derived money is laundered through financial institutions, annually. The nature of the services and products offered by the financial services industry (namely managing, controlling and possessing money and property belonging to others) means that it is vulnerable to abuse by money launderers (*ICA*)[4].

[4] *"International Compliance Association established in 2001 is the leading global provider of professional certificated qualifications and training in anti-money laundering (AML)", as Bill Howarth (ICA Life President) states.*

How is the offence of money laundering committed?

Money laundering offences have similar characteristics globally. There are two key elements to a money laundering offence according to ICA:

1. The necessary act of laundering itself i.e. the provision of financial services; and

2. A requisite degree of knowledge or suspicion (either subjective or objective) relating to the source of the funds or the conduct of a client.

The act of laundering is committed in circumstances where a person is engaged in an arrangement (i.e. by providing a service or product) and that arrangement involves the proceeds of crime. These arrangements include a wide variety of business relationships e.g. banking, fiduciary and investment management.

The requisite degree of knowledge or suspicion will depend upon the specific offence but will usually be present where the person providing the arrangement, service or product knows suspects or has reasonable grounds to suspect that the property involved in the arrangement represents the proceeds of crime. In some cases the offence may also be committed where a person knows or suspects that the person with whom he or she is dealing is engaged in or has benefited from criminal conduct.

Are all crimes capable of predicating money laundering?

Different jurisdictions define crime predicating the offence of money laundering in different ways. Generally the differences between the definitions may be summarized as follows:

1. Differences in the degree of severity of crime regarded as sufficient to predicate an offence of money laundering. For example in some jurisdictions it is defined as being any crime that would be punishable by one or more year's imprisonment. In other jurisdictions the necessary punishment may be three or five years imprisonment; or

2. Differences in the requirement for the crime to be recognized both in the country where it took place and by the laws of the jurisdiction where the laundering activity takes place or simply a requirement for the conduct to be regarded as a crime in the country where the laundering activity takes place irrespective of how that conduct is treated in the country where it took place.

In practice almost all serious crimes, including, drug trafficking, terrorism, fraud, robbery, prostitution, illegal gambling, arms trafficking, bribery and corruption are capable of predicating money laundering offences in most jurisdictions (ICA).

Can Fiscal Offences such as tax evasion predicate Money Laundering?

The answer depends upon the definition of crime contained within the money laundering legislation of a particular jurisdiction. At the International Compliance Association believe that tax evasion and other fiscal offences are treated as predicate money laundering crimes in most of the world most effectively regulated jurisdictions.

Why is money laundering illegal?

The objective of the criminalization of money laundering is to take the profit out of crime. The rationale for the creation of the offence is that it is wrong for individuals and organizations to assist criminals to benefit from the proceeds of their criminal activity or to facilitate the commission of such crimes by providing financial services to them.

How is money laundered?

The processes are extensive. Generally speaking, money is laundered whenever a person or business deals in any way with another person's benefit from crime. That can occur in a countless number of diverse ways. Traditionally money laundering has been described as a process which takes place in three distinct stages. Placement stage, layering stage and Integration stage.

The placement stage represents the initial entry of the "dirty" cash or proceeds of crime into the financial system. Generally, this stage serves two purposes: (a) it relieves the criminal of holding and guarding large amounts of bulky of cash; and (b) it places the money into the legitimate financial system *(ICA)*. It is during the placement stage that money launderers are the most vulnerable to being caught. This is due to the fact that placing large amounts of money (cash) into the legitimate financial system may raise suspicions of officials.

The placement of the proceeds of crime can be done in a number of ways. For example, cash could be packed into a suitcase and smuggled to a country, or the launderer could use "smurfs"[5] to defeat reporting threshold laws and avoid suspicion (ABCS Inc). Some other common methods include:

Loan Repayment	Repayment of loans or credit cards with illegal proceeds
Gambling	Purchase of gambling chips or placing bets on sporting events
Currency Smuggling	The physical movement of illegal currency or monetary instruments over the border
Currency Exchanges	Purchasing foreign money with illegal funds through foreign currency exchanges
Blending Funds	**Using a legitimate cash focused business to co-mingle dirty funds with the day's legitimate sales receipts**

[5] *ABCS Inc uses the word "smurfs" to describe the many individuals that take part in Money Laundering process.*

This environment has resulted in a situation where officials in these jurisdictions are either unwilling due to regulations, or refuse to cooperate in requests for assistance during international money laundering investigations.

To combat this and other international impediments to effective money laundering investigations, many like-minded countries have met to develop, coordinate, and share model legislation, multilateral agreements, trends & intelligence, and other information. For example, such international watchdogs as the Financial Action Task Force (FATF) evolved out of these discussions *(ABCS Inc).*

The Layering stage is the substantive stage of the process in which the property is 'washed' and its ownership and source is disguised *(FATF 2012)*.

After placement comes the layering stage (sometimes referred to as structuring). The layering stage is the most complex and often entails the international movement of the funds. The primary purpose of this stage is to separate the illicit money from its source. This is done by the sophisticated layering of financial transactions that obscure the audit trail and sever the link with the original crime.

During this stage, for example, the money launderers may begin by moving funds electronically from one country to another, then divide them into investments placed in advanced financial options or overseas markets; constantly moving them to elude detection; each time, exploiting loopholes or discrepancies in legislation and taking advantage of delays in judicial or police cooperation *(ABCS Inc)*.

Integration is the final stage at which the 'laundered' property is re-introduced into the legitimate economy.

The final stage of the money laundering process is termed the integration stage. It is at the integration stage where the money is returned to the criminal from what seem to be legitimate sources. Having been placed initially as cash and layered through a number of financial transactions, the criminal proceeds are now fully integrated into the financial system and can be used for any purpose.

There are many different ways in which the laundered money can be integrated back with the criminal; however, the major objective at this stage is to reunite the money with the criminal in a manner that does not draw attention and appears to result from a legitimate source. For example, the purchases of property, art work, jewellery, or high-end automobiles are common ways for the launderer to enjoy their illegal profits without necessarily drawing attention to them *(ABCS Inc)*.

This three staged definition of money laundering is highly simplistic. The reality is that the so called stages often overlap and in some cases, for example in cases of financial crimes, there is no requirement for the proceeds of crime to be 'placed'.

Establishing FATF

In response to mounting concern over money laundering, the Financial Action Task Force on money laundering (FATF) was established by the G-7 Summit in Paris in 1989 to develop a co-ordinated international response. One of the first tasks of the FATF was to develop Recommendations[6], 40 in all, which set out the measures national governments should take to implement effective anti-money laundering programmers[7].

How much money is laundered per year?

According to FATF by its very nature, money laundering is an illegal activity carried out by criminals which occurs outside of the normal range of economic and financial statistics. Along with some other aspects of underground economic activity, rough estimates have been put forward to give some sense of the scale of the problem.

The United Nations Office on Drugs and Crime (UNODC) conducted a study to determine the magnitudes of illicit funds generated by drug trafficking and organized crimes and to investigate to what extent these funds are laundered. The report estimates that in 2009, criminal proceeds amounted to 3.6% of global GDP, with 2.7% (or USD 1.6 trillion) being laundered *(FATF 2013)*.

This falls within the widely quoted estimate by the International Monetary Fund, who stated in 1998 that the aggregate size of money laundering in the world could be somewhere between two and five percent of the world's gross domestic product. Using 1998 statistics, these percentages would indicate that money laundering ranged between USD 590 billion and USD 1.5 trillion. At the time, the lower figure was roughly equivalent to the value of the total output of an economy the size of Spain.

However, the above estimates should be treated with caution. They are intended to give an estimate of the magnitude of money laundering. Due to the illegal nature of the transactions, precise statistics are not available and it is therefore impossible to produce a definitive estimate of the amount of money that is globally laundered every year. The FATF therefore does not publish any figures in this regard.

Where does money laundering occur?

As money laundering is a consequence of almost all profit generating crime, it can occur practically anywhere in the world. Generally, money launderers tend to seek out countries or sectors in which there is a low risk of detection due to weak or ineffective anti-money laundering programs. Because the objective of money laundering is to get the illegal funds back to the individual who generated them, launderers usually prefer to move funds through stable financial systems.

Money laundering activity may also be concentrated geographically according to the stage the laundered funds have reached. At the placement stage, for example, the funds are usually processed relatively close to the under-lying activity; often, but not in every case, in the country where the funds originate.

With the layering phase, the launderer might choose an offshore financial centre, a large regional business centre, or a world banking centre – any location that provides an

[6] *In April 1990, FATF issued a set of 40 Recommendations for improving national legal systems, enhancing the role of the financial sector and intensifying cooperation in the fight against money laundering.*

[7] *The FATF Recommendations were designed to combat money laundering and terrorist financing but when effectively implemented they can also help combat corruption.*

adequate financial or business infrastructure. At this stage, the laundered funds may also only transit bank accounts at various locations where this can be done without leaving traces of their source or ultimate destination.

Finally, at the integration phase, launderers might choose to invest laundered funds in still other locations if they were generated in unstable economies or locations offering limited investment opportunities *(FATF 2013)*.

How does money laundering affect business?

The integrity of the banking and financial services marketplace depends heavily on the perception that it functions within a framework of high legal, professional and ethical standards. A reputation for integrity is the one of the most valuable assets of a financial institution.

If funds from criminal activity can be easily processed through a particular institution – either because its employees or directors have been bribed or because the institution turns a blind eye to the criminal nature of such funds – the institution could be drawn into active complicity with criminals and become part of the criminal network itself. Evidence of such complicity will have a damaging effect on the attitudes of other financial intermediaries and of regulatory authorities, as well as ordinary customers.

As for the potential negative macroeconomic consequences of unchecked money laundering, one can cite inexplicable changes in money demand, prudential risks to bank soundness, contamination effects on legal financial transactions, and increased volatility of international capital flows and exchange rates due to unanticipated cross-border asset transfers. Also, as it rewards corruption and crime, successful money laundering damages the integrity of the entire society and undermines democracy and the rule of the law *(FATF 2013).*

What influence does money laundering have on economic development?

Launderers are continuously looking for new routes for laundering their funds. Economies with growing or developing financial centers, but inadequate controls are particularly vulnerable as established financial centre countries implement comprehensive anti-money laundering regimes.

Differences between national anti-money laundering systems will be exploited by launderers, who tend to move their networks to countries and financial systems with weak or ineffective countermeasures.

Some might argue that developing economies cannot afford to be too selective about the sources of capital they attract. But postponing action is dangerous. The more it is deferred, the more entrenched organized crime can become.

As with the damaged integrity of an individual financial institution, there is a damping effect on foreign direct investment when a country's commercial and financial sectors are perceived to be subject to the control and influence of organized crime. Fighting money laundering and terrorist financing is therefore a part of creating a business friendly environment which is a precondition for lasting economic development *(FATF 2013).*

What is the connection with society at large?

The possible social and political costs of money laundering, if left unchecked or dealt with ineffectively, are serious. Organized crime can infiltrate financial institutions, acquire control of large sectors of the economy through investment, or offer bribes to public officials and indeed governments.

The IMF[8] is especially concerned about the possible consequences money laundering, terrorist financing, and related crimes have on the integrity and stability of the financial sector and the broader economy. These activities can undermine the integrity and stability of financial institutions and systems, discourage foreign investment, and distort international capital flows. They may have negative consequences for a country's financial stability and macroeconomic performance, resulting in welfare losses, draining resources from more productive economic activities, and even have destabilizing spillover effects on the economies of other countries. In an increasingly interconnected world, the negative effects of these activities are global, and their impact on the financial integrity and stability of countries is widely recognized *(IMF Factsheet 2015).*

The economic and political influence of criminal organisations can weaken the social fabric, collective ethical standards, and ultimately the democratic institutions of society. In countries transitioning to democratic systems, this criminal influence can undermine the transition. Most fundamentally, money laundering is inextricably linked to the underlying criminal activity that generated it. Laundering enables criminal activity to continue *(FATF 2012).*

How does fighting money laundering help fight crime?

According to FATF Money laundering is a threat to the good functioning of a financial system; however, it can also be the Achilles heel of criminal activity.

In law enforcement investigations into organized criminal activity, it is often the connections made through financial transaction records that allow hidden assets to be located and that establish the identity of the criminals and the criminal organization responsible.

When criminal funds are derived from robbery, extortion, embezzlement or fraud, a money laundering investigation is frequently the only way to locate the stolen funds and restore them to the victims.

Most importantly, however, targeting the money laundering aspect of criminal activity and depriving the criminal of his ill-gotten gains means hitting him where he is vulnerable. Without a usable profit, the criminal activity will not continue.

What should individual governments be doing about it?

A great deal can be done to fight money laundering, and, indeed, many governments have already established comprehensive anti-money laundering regimes. These regimes aim to increase awareness of the phenomenon – both within the government and the private business sector – and then to provide the necessary legal or regulatory tools to the authorities charged with combating the problem.

Some of these tools include making the act of money laundering a crime; giving investigative agencies the authority to trace, seize and ultimately confiscate criminally derived assets; and building the necessary framework for permitting the agencies involved to exchange information among themselves and with counterparts in other countries.

It is critically important that governments include all relevant voices in developing a national anti-money laundering program. They should, for example, bring law enforcement and financial regulatory authorities together with the private sector to enable financial institutions to play a role in dealing with the problem. This means, among other things, involving the relevant authorities in establishing financial transaction reporting systems, customer identification, record keeping standards and a means for verifying compliance *(FATF 2013).*

[8] IMF was conceived at a UN conference in Bretton Woods, New Hampshire, United States in July 1944.

Should governments with measures in place still be concerned?

Money launderers have shown themselves through time to be extremely imaginative in creating new schemes to circumvent a particular government's countermeasures. A national system must be flexible enough to be able to detect and respond to new money laundering schemes.

Anti-money laundering measures often force launderers to move to parts of the economy with weak or ineffective measures to deal with the problem. Again, a national system must be flexible enough to be able to extend countermeasures to new areas of its own economy. Finally, national governments need to work with other jurisdictions to ensure that launderers are not able to continue to operate merely by moving to another location in which money laundering is tolerated *(FATF).*

What about multilateral initiatives?

Large-scale money laundering schemes invariably contain cross-border elements. Since money laundering is an international problem, international co-operation is a critical necessity in the fight against it. A number of initiatives have been established for dealing with the problem at the international level.

International organizations, such as the United Nations or the Bank for International Settlements, took some initial steps at the end of the 1980s to address the problem. Following the creation of the FATF in 1989, regional groupings – the European Union, Council of Europe, and Organization of American States, to name just a few – established anti-money laundering standards for their member countries. The Caribbean, Asia, Europe and southern Africa have created regional anti-money laundering task force-like organizations, and similar groupings are planned for western Africa and Latin America in the coming years *(FATF)*[9],[10].

[9] On 12/10/2013 FATF and G20 Anti-Corruption Working Group jointly convened an Experts' Meeting on Corruption. (The first FATF Experts Meeting was held in February 2011 under the Mexican FATF Presidency).

[10] In the Final Communiqué between FATF and G20 in Moscow (19-20 July 2013), G20 Finance Ministers and Central Bank Governors once again reinforced FATF's work in combating money laundering and terrorist financing.

Anti-Money Laundering

Anti-Money Laundering is a set of procedures, laws or regulations designed to stop the practice of generating income through illegal actions. In most cases money launderers hide their actions through a series of steps that make it look like money coming from illegal or unethical sources was earned legitimately (Investopedia).

Though anti-money-laundering laws cover only a relatively limited number of transactions and criminal behaviors, their implications are extremely far reaching. An example of AML regulations are those that require institutions issuing credit or allowing customers open accounts to complete a number of due-diligence procedures to ensure that these institutions are not aiding in money-laundering activities. The onus to perform these procedures is on the institutions, not the criminals or the government.

Regardless of the difficulty in measurement, the amount of money laundered each year is in the billions (US dollars) and poses a significant policy concern for governments. As a result, governments and international bodies have undertaken efforts to deter, prevent, and apprehend money launderers. Financial institutions have likewise undertaken efforts to prevent and detect transactions involving dirty money, both as a result of government requirements and to avoid the reputational risk involved. Issues relating to money laundering have existed as long as there have been large scale criminal enterprises.

Modern anti-money laundering laws have developed along with the modern War on Drugs. In more recent times anti-money laundering legislation is seen as adjunct to the financial crime of terrorist financing in that both crimes usually involve the transmission of funds through the financial system (although money laundering relates to where the money has come from, and terrorist financing relating to where the money is going to).

The challenge for the AML/CFT framework is to ensure that the EU rules – and their enforcement – keep pace with evolving trends, developments in technology and the seemingly limitless ingenuity of criminals to exploit any gaps or loopholes in the system. The EU has in the past been at the forefront of the fight against money laundering and has set high standards for its framework. However, while that framework is designed to keep the system safe from criminal infiltration, there are unfortunately still many cases of money laundering (both in the EU and across the globe) which provide evidence that the problem of money laundering continues to plague the financial system27: it is a fair assumption that the cases identified represent only the tip of a very large iceberg. According to the October 2011 United Nations Office on Drugs and Crime (UNODC) study 28, the amount of funds intercepted by law enforcement is estimated to amount to less than 1% of the total funds laundered and actual seizures amounted to less than 0.2%29. Assessing the extent to which countries' AML/CFT regimes may or may not be effective in safeguarding the system from money laundering or terrorist financing is complex.

Some systems may encounter very low levels of corruption, and thus face reduced pressures to combat the problem. Other countries may be effective in facing up to ML/TF threats by having in place robust preventive and dissuasive measures which ensure that the number of cases of money laundering remains low. On the other hand, it may also be the case that countries faced with high risks of money laundering, but which have in place and weak preventive and enforcement systems, will be less able to identify and catch money laundering activity. Such considerations mean that any attempt to establish a link between non- or poor compliance with AML rules and higher incidences of recorded ML/TF cases will always remain problematic and can be misleading *(Deloitte Touché Tohmatsu, 2009).*

Anti-Money Laundering Legislation Problems

Problem 1: the existing rules are inconsistent with the recently revised International AML/CFT standards

AML/CFT standards are agreed internationally and all EU Member States undergo a rigorous assessment process to ensure that their national legislation is in compliance30. In February 2012, new international standards were adopted by the FATF which are intended to enable national authorities to take more effective action against money laundering and terrorist financing at all levels – from the identification of bank customers opening an account through to investigation, prosecution and forfeiture of assets.

Problem 2*:* the existing EU rules are differently applied across Member States leading to reduced legal certainty.

In addition to the issues identified under Problem Driver 1, a number of areas have been identified41 during the Commission's review process where the current EU rules result in inconsistent implementation. Such deficiencies cause uncertainties for businesses – especially those needing to ensure compliance in a cross-border context – and may impact on the effectiveness of the overall system to combat AML/CFT risks

Problem 3*:* Inadequacies and loopholes with respect to the current EU rules.

Both the Commission's review process and the revised FATF standards have identified inadequacies in the current framework. Under Problem Driver 3, the focus is on vulnerabilities or inadequacies which extend beyond those addressed by the revision of the international standards, but which appear important to address in an EU context *(Deloitte Touché Tohmatsu 2009)*[11].

[11] *The above problems are described in a Commission Staff Working Document Executive Summary of the Impact Assessment, accompanying a Proposal for a Directive of the European Parliament and the Council, on the prevention of the use of the financial system for the purpose of money laundering (Eur-Lex Access to European Union Law 2013).*

The World against ML

Council of Europe

<u>The Council of Europe's actions against money laundering and financing of terrorism</u>

The Council of Europe was the first international organization which emphasized the importance of taking measures to be used for combating the dangers of money laundering with respect to democracy and the rule of law.

In 1977, the Council of Europe's European Committee on Crime Problems (CDPC) decided to establish a select committee of experts to look into the "serious problems raised in many countries by the illicit transfer of funds of criminal origin frequently used for the perpetration of further crime". The work of this committee resulted in 1980 with the adoption by the Council of Europe's Committee of Ministers of a Recommendation on measures against the transfer and safekeeping of funds of criminal origin which includes a package of measures for developing a comprehensive anti-money laundering program.

Further work on the confiscation of the proceeds of drug trafficking was carried out through the activities of the Co-operation Group to Combat Drug Abuse and Illicit Trafficking in Drugs (known as the Pompidou Group) .

In September 1990, Ministers adopted the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime (ETS 141).

The aim of this Convention is to facilitate international co-operation and mutual assistance in investigating crime and tracking down, seizing and confiscating the proceeds thereof. The Convention is intended to assist States in attaining a similar degree of efficiency even in the absence of full legislative harmony. This Convention has been ratified by all Council of Europe member states, which makes it a particularly useful tool for international cooperation due to its various provisions on mutual assistance. Furthermore, it is opened also to countries which are not members of the organization.

"The Strasbourg Convention" remains a landmark treaty which forms an important cornerstone of anti-money laundering standards. It has been widely ratified: to date, 48 States are Party to this treaty, including all 47 Council of Europe member States and one non-member state (Australia).

In 2003, the Council of Europe decided to update and widen the Strasbourg Convention to take into account the fact that not only could terrorism be financed through money laundering from criminal activity, but also through legitimate activities. This process was completed in 2005 with the adoption on 3 May of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198). This new convention is the first international treaty covering both the prevention and the control of money laundering and the financing of terrorism. The text addresses the fact that quick access to financial information or information on assets held by criminal organizations, including terrorist groups, is the key to successful preventive and repressive measures, and, ultimately, is the best way to stop them. The convention includes a mechanism to ensure the proper implementation by parties of its provisions, which has become operational in 2009 (Conference of the Parties to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198)).

European regulatory framework

History of the European Union Anti-Money Laundering and Financing of Terrorism Directives. The escalation in money laundering and terrorist financing has led to heightened awareness of the potential effects of money laundering. This also led the European Union to enact its First Directive to combat money laundering in 1991 (Council Directive 91/308/EEC). However, it was not until recently that these measures impacted upon lawyers, through the Third Anti-Money Laundering and Financing of Terrorism Directive (Commission Directive 2006/70/EC). The European Union Anti-Money Laundering and Financing of Terrorism Directives are designed to protect the financial system and other vulnerable professions, such as lawyers, from being misused for money laundering and financing of terrorism purposes. Also, the creation of the Single Market assists, not only to legitimate business, but it also provides increased opportunities for money laundering and the funding of further crime.

Anti-Money Laundering Directives

First Directive

Council Directive of 10 June 1991 on the prevention of the use of the financial system for the purpose of money laundering (91/308/EEC).

As will be noted from the title of the First Directive, the initial concern of the Council Directive was that credit and financial institutions could and would be used to launder the proceeds of criminal activities, jeopardizing the whole financial system. The Directive was enacted in response to growing concerns that the developing financial system could be used for criminal purposes and it recognized the possible susceptibility of professionals to money laundering activities.

The First Directive provided the initial framework for the subsequent Second and Third Directives. It established key preventative measures such as customer/client identification, record-keeping and central methods of reporting suspicious transactions. It was passed to ensure a universal approach was adopted by Member States to combat the problem of money laundering, thus protecting the EU Single Market.

The First Directive requirements stated that:

Due diligence checks must be carried out by all credit and financial institutions before entering into any business relationship or before conducting any transaction over a certain threshold;

All collated identification documents, evidence and existing records collected as part of the due diligence checks must be kept for at least five years by credit and financial institutions;

There must be close international co-operation and harmonization between credit and financial institutions and their supervisory authorities and the establishment of a mandatory central system of reporting;

The confidentiality rules regarding customer information should be toned down in relation to disclosing suspected money laundering offences to the authorities; and

Special protection should be afforded to credit and financial institutions, their employees and their directors who have to breach confidentiality rules in order to make the disclosure.

However, the First Directive failed to extend the provisions of the Directive to combat this possible threat.

Second Directive

Directive 2001/97/EC of the European Parliament and of the Council of the European Union of 4 December 2001.

The Second Directive amended and updated the First Directive on the prevention of the use of the financial system for the purpose of money laundering. The aim of the Second Directive was to refine the existing provisions created by the First Directive and to plug the gaps in the legislation highlighted by the 40 recommendations, suggested by the Financial Action Task Force (FATF). Such provisions were consequently adopted.

The European Council felt this was a necessary step to take as the First Directive did not adequately establish which Member State's authorities should receive details of suspicious transactions where the credit or financial institution had branches in various jurisdictions.

The Second Directive adopted a broader definition of money laundering, taking into account underlying offences such as corruption and thus expanding the predicate offences. The Second Directive also clarified that currency exchange offices, money transmitters and investment firms were included within the scope of the directive as they were susceptible to money laundering transactions. In addition, the Second Directive added the authority to identify, trace, freeze, seize and confiscate any property and proceeds linked to criminal activities.

Moving on from the First Directive, the Second Directive touched upon the possibility of the Directive becoming applicable to lawyers participating in financial or corporate transactions. The proposition to extend the provisions of the Directive to the legal profession was met with fierce opposition by the European Parliament. It was due to fears that it would encroach on client confidentiality rules and could potentially violate the integrity of court proceedings.

A compromise was reached and the scope of the Second Directive was not extended to cover professionals, such as lawyers. Thus, lawyers were exempt from reporting information received in the course of defending or representing a client.

Current European Union Anti-Money Laundering and Financing of Terrorism Directive

Third Directive

Commission Directive 2006/70/EC of 1 August 2006.

The Third Directive took into account the FATF's revised anti-money laundering and counters terrorist financing standards of 2003. Its introduction can be seen as a culmination of the sudden realization of the susceptibility of Designated Non-Financial Businesses and Professions such as lawyers to the furtherance of money laundering transactions and the changing political and economic circumstances in the wake of September 11 and the Madrid Bombings.

Since its implementation, the Third Directive has tightened the European Union's anti-money laundering regime. Professionals such as lawyers were finally included within the scope of the Directive. In fact, the Third Directive makes the regime applicable to lawyers, notaries, accountants, real estate agents, casinos and encompassing trust and company services, exceeding €15,000. It also included measures against the financing of terrorism.

The Third Directive implements:

The application of the Directive in relation to non-financial businesses and professions including lawyers;

Enhanced customer due diligence measures for politically exposed persons (persons holding a public office such as judges) and their immediate families or close associates;

Simplified customer due diligence procedures for low-risk transactions (Member State assessed) involving public authorities or public bodies if their identity and activities are publicly available, transparent and certain and on-going monitoring of such transactions.

The deadline for transposing the Third Directive into national law was 15 December 2007. The information contained on this website details which jurisdictions have transposed the Directive, and to what extent.

The final text of the Fourth EU Money Laundering Directive has been published (adopted by European Council in April 2015). This is expected to become EU law by May after which member states will have 2 years to implement into domestic law. The Federation of European Accountants (FEE) has published two information papers on the new directive.

Legislation in force

Directive 2005/60/EC on preventing the use of the financial system for money laundering and financing terrorism (3rd Anti-Money Laundering Directive) – seeks to protect credit and financial institutions against these risks.

Regulation (EC) No 1781/2006 on information on the payer accompanying transfers of funds – makes fund transfers more transparent, thereby helping law enforcement authorities to track down terrorists and criminals[12]. Commission Directive 2006/70/EC sets out measures to implement Directive 2005/60/EC as regards: the definition of “politically exposed persons”the technical criteria for “simplified customer due diligence procedures”, and exemption on the grounds that a given financial activity is occasional or very limited in scope. In September 2005 and February 2006 the Commission published two working documents related to this directive inviting the public to send their comments[13].

Consequences of non-implementation

Under European Union Law, each Member State is responsible for the implementation of European Community law within its own legal system. The European Commission has the responsibility of ensuring that all Member States correctly apply Community law. The Commission has various powers to combat non-compliance. The Commission may take whatever action it deems appropriate.

There is a first phase, the pre-litigation administrative phase. Here the Member State is given the opportunity to voluntarily conform to the requirements of the legislation before the Commission sends a formal letter of notice, requiring the Member State to comply with the application of Community law within a given time limit. The second phase involves a reasoned opinion by the Commission setting out the Commission’s position on the infringement, how and why it feels that the Member State has failed to fulfill one or more Community law obligations and to determine the subject matter of any action, once again requiring the Member State to stop the infringing act or omission within a given time limit.

Where a Member State proceeds to fail to comply with Community law or its obligations hereunder, the Commission has the power to refer the matter to the European Court of Justice (ECJ) (Article 226 of the EC Treaty). This is regarded as the final phase, and is generally only used as a last resort. It is a discretionary power; the Commission has the power to decide whether or not to proceed/ commence with infringement proceedings and to refer the matter to the ECJ.

In October 2008, the Commission decided to refer Belgium, Ireland, Spain and Sweden to the ECJ for their continuing failure to implement the Third Directive. Rulings by the ECJ are binding on all EU Member States. Interestingly, if Belgium, Ireland, Spain and Sweden do not comply with any judgment passed down by the ECJ, the Commission has the power to refer the matter, once again to the ECJ (Article 228 of the EC Treaty). This referral will also contain a recommendation for a financial penalty to be imposed on the Member State, based on the seriousness of the infringement, the duration of the

[12] *More information on Regulation (EC) No 1781/2006.*

[13] *FATF International Standards on Combating money laundering and financing terrorism (February 2012)*

infringement and the need to ensure that the penalty itself will be a deterrent to further infringements.

Non-EU country equivalence

Under Article 11(4) of Directive 2005/60/EC, EU countries must inform each other, the EU supervisory authorities and the Commission whenever they believe a non-EU country meets anti-money laundering/CFTs standards equivalent to those of the EU. Such equivalence is necessary to make it possible to apply some of the directive's rules on issues such as simplified due diligence.

In the context of this obligation and to coordinate their approach on equivalence, EU countries have agreed a list of equivalent non-EU countries, which will be regularly assessed. It was established in accordance with a Common Understanding agreed by the EU countries on the procedure and criteria for the recognition of equivalence of non-EU countries.

The Commission has agreed to publish this list on its website. However, assessing non-EU country equivalence remains the prerogative of individual EU countries. Under Directive 2005/60/EC, the Commission has no mandate to establish a binding "positive" list of equivalent non-EU countries.

The Financial Action Task Force

The Financial Action Task Force (FATF) is an inter-governmental body whose purpose is the development and promotion of national and international policies to combat money laundering and terrorist financing. Its 40 Recommendations are backed by mutual evaluations of its member countries. Countries which are not members of FATF may be members of a FATF-style regional body.

For convenience, the ICAEW has extracted those Recommendations that apply to professional accountancy firms into a single document.

In consultation with members of the accounting profession, FATF has also issued Risk Based Approach Guidance for Accountants and a report on Virtual Currencies and AML Risks.

European requirements

The European Federation of Accountants (FEE) has a Money Laundering Task Force, which coordinates AML policy for the profession across Europe, including lobbying the European Commission and FATF.

Global View of Anti-Money Laundering

AML in the United Kingdom

Since POCA and 2003 Regulations there have been further legislative developments in the UK, the key elements of which are:

- Serious Organized Crime and Police Act 2005.
- The Terrorism Act 2006.
- The Proceeds of Crime Act 2002 and Money Laundering Regulations 2003 (amendment) order 2006.
- The 4th Money Laundering Directive.
- The Money Laundering Regulations 2007 Statutory Instrument 2007 no 2157 - Financial Services.

ICAEW welcomed the 2007 regulations which were developed through consultation and have been successful in avoiding any additional gold plating of the European requirements.

The 2007 regulations strengthen the enforcement of the anti-money laundering (AML) legislation, by requiring all firms providing accountancy services (as well as related services, such as tax advice, trust or company services, audit or insolvency) to be monitored for compliance by either one of the professional bodies listed in the regulations or HMRC.

Besides supervision requirements the main implications of the regulations were that from 15th December 2007 firms needed to: **1**) Have a risk assessment in place, and conduct their client due diligence on the basis of that assessment. **2**) Conduct more rigorous due diligence for all higher risk clients, including (specifically) public officials from outside the EU (Politically Exposed Persons or PEPs) and in relation to remote client services (where no physical meeting with the client takes place), **3**) Have evidence of identity in place for all clients, even those which have been on the books for many years.

A summary of the developments between the second interim guidance for accountants issued by the CCAB in 2003 and Tech 07/07 (the post exposure draft but pre approval version of the CCAB guidance) was been developed as a technical release to assist ICAEW members with implementation. A further table tracking the changes resulting from the approval process is available.

ICAEW has been instrumental in developing guidance for the accountancy sector and continues to work with other accounting bodies, the FSA, Treasury and HMRC to ensure minimal duplication in respect of monitoring of firms for anti-money laundering purposes. In addition ICAEW representatives sit on a number of Treasury, Home Office and Serious Organized Crime Agency consultation panels.

AML in the USA

The United States of America has strict federal AML systems and procedures requirements on banks and certain other financial institutions, which tend to have extra-territorial effect, through requirements for US banks to control their relationships with correspondent and shell banks. As at September 2014 the AML procedures requirements of the US Patriot Act do not apply to non-financial institutions including accounting firms and law firms. Nor are these institutions required to file SAR's.

Basel Committee

The Basel Committee is a group of bank supervisory authorities from 27 countries. They coordinate supervisory matters to improve the quality of banking supervision worldwide. The group is headquartered in Basel, Switzerland, where it meets three or four times a year.

The Committee has issued new guidelines designed to help banks address the risks related to money laundering and financing of terrorism. The same guidelines could also help other types of businesses with their compliance programs. The guidelines address risk monitoring, properly training staff and giving compliance personnel the authority needed to detect suspicious transactions.

Some of the essential components of sound money laundering (ML) and financing of terrorism (FT) risk management program described in the new guidelines are:

- A comprehensive risk assessment that evaluates all of the inherent and residual risk factors present in a country, within an industry sector, product line and among its business relationships, including delivery channels.
- The board of directors should approve and oversee the bank's policies for risk, risk management and compliance to ensure they are sufficient to meet the bank's ML and FT risks.
- The board of directors and senior management should appoint a qualified chief Anti-Money Laundering and Finance of Terrorism Officer who will have overall responsibility for the ML/FT function. This person should possess the stature within the bank such that issues raised by this senior officer will receive the necessary attention from the board, management and all business lines.
- To ensure conflicts of interest are avoided, the Chief ML/FT Officer should not have business-line responsibilities, data-protection duties or serve as part of internal audit.
- Banks should recognize that the first line of defense in identifying and controlling risks is front-office staff and customer-facing personnel. There should be internal procedures this staff can use to detect and report suspicious transactions.

- Internal audit should independently evaluate the risk management program and controls of the bank by examining ML/FT policies in terms of their adequacy, the effectiveness of the bank staff in implementing them and the training of staff in them.
- The goal of the guidelines is to provide for the overall safety of the international financial system. As the Committee points out, though, these best practices will protect the reputations of the banks and save them the cost of regulatory penalties for having inadequate policies and controls. Those are objectives every business can appreciate.

Prudent management of these risks, together with effective supervisory oversight, is critical in protecting the safety and soundness of banks as well as the integrity of the financial system. Failure to manage these risks can expose banks to serious reputational, operational, compliance and other risks.

These guidelines are consistent with the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation issued by the Financial Action Task Force (FATF) in 2012 and supplement their goals and objectives. The risk management guidelines published today includes cross-references to FATF standards to help banks comply with national requirements based on those standards[14].

Greek Anti-Money Laundering Status and Legislation

FATF Status

Greece is not on the FATF List of Countries that has been identified as having strategic AML deficiencies.

Compliance with FATF Recommendations

The FATF has approved and published the follow-up report for Greece. Greece was originally placed in the regular follow-up process as a result of partially compliant and non compliant ratings in certain of the Core and Key Recommendations in its mutual evaluation report of June 2007. Greece has taken sufficient action to address these deficiencies and has therefore been taken off the regular follow-up process. Henceforth Greece will report back to the Plenary on any further improvements to its AML/CFT regime on a biennial basis.

US Department of State Money laundering assessment (INCSR)

Greece was deemed a Jurisdiction of Primary Concern by the US Department of State 2014 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows:

<u>Perceived Risks:</u>

Greece is a regional financial center for the Balkans, as well as a bridge between Europe and the Middle East. Official corruption, the presence of organized crime, and a large informal economy make the country vulnerable to money laundering and terrorist financing. Greek law enforcement proceedings show that Greece is vulnerable to narcotics trafficking, trafficking in persons and illegal immigration, prostitution, smuggling

[14] *The guidelines supersede two previously-issued Basel Committee publications: Customer due diligence for banks (October 2001) and Consolidated KYC management (October 2004).*

of cigarettes and other contraband, serious fraud or theft, illicit gaming activities, and large scale tax evasion.

Evidence suggests financial crimes have increased in recent years and criminal organizations, some with links to terrorist groups, are increasingly trying to use the Greek banking system to launder illicit proceeds. Criminally-derived proceeds historically are most commonly invested in real estate, the lottery, and the stock market. Criminal organizations from southeastern Europe, the Balkans, Georgia, and Russia are responsible for a large percentage of the crime that generates illicit funds. The widespread use of cash facilitates a gray economy as well as tax evasion, although the government is trying to crack down on both trends. Due to the large informal economy, it is difficult to determine the value of goods smuggled into the country, including whether any of the smuggled goods are funded by narcotic or other illicit proceeds. There is increasing evidence that domestic terrorist groups are involved with drug trafficking.

Greece has three free trade zones (FTZs), located at the Heraklion, Piraeus, and Thessaloniki port areas. Goods of foreign origin may be brought into the FTZs without payment of customs duties or other taxes and remain free of all duties and taxes if subsequently transshipped or re-exported. Similarly, documents pertaining to the receipt, storage, or transfer of goods within the FTZs are free from stamp taxes. The FTZs also may be used for repacking, sorting, and re-labeling operations. Assembly and manufacture of goods are carried out on a small scale in the Thessaloniki Free Zone. These FTZs may pose vulnerabilities for trade-based and other money laundering operations.

Sanctions:

There are no international sanctions currently in force against this country.

Bribery & Corruption[15]

GREECE	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	43
World Governance Indicator – Control of Corruption	56

Investment Climate - Executive Summary (US State Department)

Greece continues to present a challenging climate for investment, both foreign and domestic. The government has made progress in carrying out widespread economic reforms. Many of these reforms aim to simplify the investment framework, and the government is aggressively seeking to attract foreign investment to drive the country's long-term economic recovery.

Greece's rapid fiscal consolidation, improved labor cost competitiveness, and continued membership in the Euro area have contributed to an improvement in investor sentiment in 2013-2014. Hedge funds, followed by traditional investors, began to return to

[15] FATF Follow-Up Report (2014) about Greece after the evaluation on FATF Core Recommendations in June 2007.

Greece in 2013 to participate in ongoing privatization actions of state assets and to invest in the principal banks. In April 2014, the Greek government issued its first sovereign bond since Greece lost traditional bond market access in 2010. The auction of the five-year €3 billion bond was seven times oversubscribed, 90% of which derived from foreign investors.

At the end of 2013, the public debt reached a high 175.7% of GDP, but it is forecast to stabilize in 2014 and begin to decline as a % of GDP thereafter. In 2014, the economy is forecast to post its first, modest, positive growth rate since 2008. Since 2008, Greece's GDP has shrunk by 25%, and depressed demand, wage and pension cuts, and high unemployment have led to a considerable rise in banks' holdings of non-performing loans. Following recapitalization programs and broad finance sector consolidation in 2012 and 2013, the banking sector's outlook has stabilized; however, the protracted economic crisis led to a sharp contraction in bank lending and investment.

Since July 2012, the country's coalition government has made rapid progress in reducing enormous national fiscal imbalances. At the end of 2013, the general government deficit was 2.1% of GDP. When the cost of debt servicing is excluded from this figure, Greece generated a primary budget surplus of €1.5 billion ($2 billion), approximately 0.8% of GDP. Consistent with the requirements of the EU/IMF bailout program, in force since March 2010, the government has sought to liberalize the labor market, open closed product markets, sell state-owned assets and enterprises to generate revenue and enhance competitiveness, cut public payrolls, reform the tax code, strengthen tax enforcement, and streamline investment procedures. The government established a one-stop-shop investment promotion agency to assist interested foreign investors, recently renamed Enterprise Greece. The government agreed with the EU/IMF to adopt and implement most of the 329 recommendations made by the OECD in November 2013 on improving economic competitiveness.

FURTHER REPORTS

Group of States against corruption (GRECO) publishes third round compliance report on Greece – Conclusions (July 2012)

The information provided by the Greek authorities clearly indicates that the process of implementation of all recommendations issued in the Third Round Evaluation Report is still in its initial stages as regards Theme I and has barely started as regards Theme II. The only positive development relates to the abolition of the special defense of effective regret. Even if this almost complete lack of concrete results may be understandable given the difficult situation in Greece and the fact that the former government only had a limited mandate, it is striking that no progress has been recorded either in respect of the few recommendations that would not necessarily require changing the law. GRECO urges the authorities to do their utmost to give careful consideration to each of the recommendations and to the current report, in order to improve, as far as possible in the current situation, their compliance level.

In view of the above, GRECO therefore concludes that the current very low level of compliance with the recommendations is "globally unsatisfactory" in the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore decides to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report, and asks the head of the Greek delegation to provide a report on the progress in implementing the outstanding recommendations (i.e. recommendations i - viii, x and xi regarding Theme I, and recommendations i - xvi regarding Theme II) as soon as possible, however - at the latest – by 31 December 2012, pursuant to paragraph 2(i) of that rule.

March 2015 - OECD: Greece should tackle not only domestic corruption but also foreign bribery

The risk of Greek companies bribing foreign officials is substantial, but Greece has not given the same priority to fighting foreign bribery as it has to domestic corruption. This sends an unfortunate message that foreign bribery is an acceptable means to win overseas business and improve Greece's economy during an economic crisis. Greece must therefore urgently raise the priority of fighting foreign bribery and explicitly address foreign bribery in its national anti-corruption strategies.

The OECD Working Group on Bribery has just completed its report on Greece's implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and related instruments.

The Working Group made further recommendations to improve Greece's fight against foreign bribery, including:

- Raise awareness of foreign bribery, especially among exporting, shipping, and small- and medium-sized companies.
- Develop and implement a strategy to detect foreign bribery.
- Assess and investigate all credible foreign bribery allegations seriously and without delay.
- Provide prosecutors and investigators with sufficient resources.
- Better protect whistleblowers from retaliation.

The report also notes some positive developments. Greece has reduced duplicate legislative provisions and clarified ambiguities in its foreign bribery offence. The maximum fines for foreign bribery have been raised, though further increases are necessary. The Public Prosecutor against Crimes of Corruption has been given an important role in investigations and prosecutions. Greece has clarified how foreign bribery investigators can obtain information protected by tax secrecy. A new Ministry of Anti-Corruption was created in January 2015. The Working Group will follow up whether and how this Ministry impacts Greece's fight against foreign bribery.

Following the signing of a cooperation agreement on Thursday 12 March 2015, the OECD Secretariat is providing technical assistance to help Greece with the design and implementation of a broad range of structural reforms, including the promotion of a culture of transparency and integrity.

The Working Group on Bribery – made up of the 34 OECD Member countries plus Argentina, Brazil, Bulgaria, Colombia, Latvia, Russia and South Africa – adopted Greece's report in its third phase of monitoring implementation of the OECD Anti-Bribery Convention. The Report lists all of the recommendations of the Working Group to Greece on pages [59-64], and includes an overview of recent enforcement actions and specific legal, policy and institutional features of Greece's framework to fight foreign bribery.

Greece will submit a report in one year on progress made in implementing certain key recommendations. As with other Working Group members, Greece will also submit a written report to the Working Group within two years on steps it has taken to implement the all of the recommendations. This report will be publicly available.

A challenging future

AML/CFT is one of the most important challenges for the financial sector worldwide. The global banking system constitutes the basic channel for financial criminal activities to occur willingly or not. The effective management of it links promptly with the financial stability and the security of its bank and the banking system in general. As it is said in the paper "Sound management of risks related to money laundering and financing of terrorism" that was published on January 2014 by the BC, sound ML/FT risk management has particular relevance to the overall safety and soundness of banks and of the banking system, the primary objective for banking supervision, in that:

- It helps protect the reputation of both banks and national banking systems by preventing and deterring the use of banks to launder illicit proceeds or raise or move funds in support of terrorism and
- It preserves the integrity of the international financial system as well as the work of governments in addressing corruption and in combating the financing of terrorism.

A comprehensive and well documented Risk Assessment should be considered as a key factor. Effective performance of the relevant process creates reliable conclusions, necessary to establish appropriate policies, procedures, processes and systems required to develop AML/CFT compliance program, which is ultimately designed to measure and minimize risks associated with the relevant laws and regulations.

In general all banks must have, incorporate in their corporate governance framework, adequate policies and processes, including strict customer due diligence rules to promote high ethical and professional standards and prevent themselves of being used for criminal activities. In this view, the lines of defense of the banks and in particular, the Compliance, Risk Management and Internal Audit functions play an essential role. Etch one of them, both individually and as a hole, must reapply the way that they approach the issue, so that they can safeguard the Bank. Given the continuously increasing supervisory expectations and the "zero tolerance" status, the aforementioned lines of defense should:

Compliance Unit

"Compliance Risk" is defined by the Basel Committee as the risk of legal or regulatory sanctions, material financial loss, or loss to reputation a bank may suffer as a result of its failure to comply with laws, regulations, rules, related self-regulatory organization standards and code of conduct applicable to its banking activities[16]. Hence, a bank should organize its compliance function and set priorities for the management of its compliance risk.

Duties and Responsibilities

Review the charter and make appropriate amendments, if necessary, in order to ensure that the compliance function is independent and the relevant unit has the responsibility of the fulfillment of the AML duties by the bank, on a group basis (if so). Furthermore, the chief compliance officer has a direct reporting line to senior management and the BoD and potential conflicts of interest must be avoided.

AML governance framework:

Review all existing policies and procedures to make sure that they are in line with the current legislation and regulatory rules. The coverage of the demand of those sectors is the minimum requirement but at the same time must also be covered adequately the Banks risk profile, the variety and complexity of the activities on an Entity Group aspect. Especially if the activities take place in other countries too, where legislation or supervision are not as strict.

[16] Basel Committee Paper "Compliance and the Compliance Function in Banks" April 2015

Framework Monitoring – Updating:

(a) Establish monitoring process to follow up the alteration, external (Legislation-Supervision framework) or internal (new activities, products etc) and make appropriate amendments of the subordinate policies and procedures. The process should be performed on an annual base so to reevaluate inherent risks, identify potential new and improve existing controls or set new.

(b) At least once a year identify and assess the main compliance risk issues facing the bank and the plans to manage them. Make sure that these plans address any shortfalls related to how effectively existing compliance risks have been managed.

Compliance Program

(a) Develop a risk based annual activity program. Ensure appropriate coverage across businesses. Coordinate with the risk management function.

(b) In case of new products launched or proposed establishment of new types of business or customer relationships, identify, proactively, document and assess associated risks.

(c) Follow up the remediation plans of identified weaknesses.

Human Resources:

The compliance unit should be provided with both sufficient and appropriate resources to execute all responsibilities effectively and play a central and proactive role in the bank's AML/CFT regime. Compliance function staff should have the necessary qualifications experience and professional and personal qualities, a sound understanding of compliance laws, rules and standards and their practical impact on the bank's operations. Asses the adequacy of the staff, both qualitative and quantitative and if needed, hire qualified employees, based on strict criteria.

Training:

Ongoing employee training programs should be in place to ensure staff's high ethical and professional standards and its ability to implement the bank's AML/CFT policies and procedures. The educational program must cover the first line of defense (Business Units, and Custom Units) but also the Unit it self. Moreover has to be complete, easily understandable, marked up, in accordance with the needs of the group (Business units, customer units, new personnel), and also reapplied- filled in along with the developments and be executed with consistency.

Monitoring system:

Develop a monitoring system that is adequate with respect to its size, its activities and complexity as well as the risks present in the bank. The system should be able to provide accurate information for senior management relating to several key aspects.

Information Technology (IT):

Examine if the systems in use cover all accounts of the bank's customers and transactions for the benefit of, or by order of, those customers. The systems must enable the bank to undergo trend analysis of transaction activity and to identify unusual business relationships and transactions.

Group wide (if so):

Develop systems in order to gain a centralized knowledge of information, organized by customer, product across group entities. Parameters set, must reflect local standards but also the bank's own risk situation. In case the host jurisdiction is stricter than the group's, the relevant branch or subsidiary should be allowed to adopt and implement the local requirements.

Reporting:

Establish a sound reporting procedure (a) to inform the BoD, at least once a year, on the bank's management of its compliance risk, so to assist the board to make a safe judgment on whether the bank is managing its compliance risk effectively (b) to report to the BoD or to a committee of it (if any) on any material compliance failure (c) to adequately fulfill the relevant requirements of the Regulator or any combined Authorities for suspicious transactions.

Risk Management Unit

Sound risk management requires the identification and analysis of ML/FT risks present within the bank. In conducting a comprehensive risk assessment to evaluate ML/FT risks, a bank should consider all the relevant inherent and residual risk factors at the country, sector, bank and business relationship level, in order to determine its risk profile and the appropriate level of mitigation to be applied. Furthermore, a bank should develop a thorough understanding of the inherent ML/FT risk present in its customer base, products, delivery channels and services offered and the jurisdictions within its customers do business.

Given that there is a close relationship between compliance risk and certain aspects of operational risk, in case the compliance and the risk management functions are separated (usually) mechanisms should be established requiring close cooperation between them on compliance matters.

Risk identification:

The core responsibility of the risk management function is to identify, assess and measure key risks that the bank is exposed to. The sophistication of bank's risk management should keep in pace with any changes to its risk profile and to external risk environment. In close cooperation with the compliance function identify compliance risk, on a group basis, using all available information and data. The risk assessment's scope should be robust and include the type and complexity of the business, the products and services offered.

Risk control:

Develop a risk control self-assessment process to ensure that the bank and especially the first line of defense (business units, branches) have a thorough understanding of the inherent compliance risk related to their activities and the adequacy of the controls in place to mitigate them.

Reporting:

Inform formally the Risk Committee of the BoD, for the status of the relevant risk, in order to advise the BoD about the current and future risk tolerance/appetite and strategies to implement.

Internal Audit Unit

Internal Audit Unit, as the third and final line of defense, plays an important role in independently evaluating the risk management and controls, and discharges its responsibility to the audit committee of the BoD through periodic evaluations of the effectiveness of compliance with AML/CFT policies and procedures. To meet the current regulatory expectations the Internal Audit Unit should contact comprehensive independent testing of the Bank's AML/CFT program in use, including an assessment of the performance of the first and second lines of defense.

Audit plan:

Develop the annual audit plan on a risk basis and assess, among others, the status of the compliance risk that the bank is exposed to. Assessment's scope should include the type, scale and complexity of the bank's activities, the products sold, high risk customers, jurisdiction exposures, distribution channels, transaction size and volumes compared to past years trends and growth, key organization changes and legislation or regulatory amendments. If needed, include relevant audits on a group – wise basis.

Audit program:

First of all, given that AML compliance is now heavily scrutinized by the regulators, checklists audits are not considered as effective any more. Proper audit programs should cover all relevant aspects, using risk based approach, in order to detect irregularities, before regulators do. Effective audit programs should, at least, cover,

(a) The adequacy of the bank's relevant policies and procedures in addressing identified risks and the effectiveness of bank staff in implementing them.
(b) The effectiveness of compliance oversight and quality control, including parameters of criteria for automatic alerts.
(c) The effectiveness of the bank's training programs.
(d) The effectiveness of the systems (IT) in use.

Audit scope and methodology:

Ensure that the audit scope and methodology are appropriate for the bank's risk profile and that the frequency of such audits is based on risk. In parallel, a robust follow up process to proactively investigate the remediation of the pending issues identified, should be implemented. Validation of actions taken and the aging of the pending issues, should also be under consideration.

Auditing procedures should include re-performance testing, using larger samples in order to adequately represent all risk factors (e.g. higher risk customer types, services and products, business channels used e.tc.).

Human resources - Training:

Staff allocated in compliance audits should are knowledgeable and have a deep understanding of all relevant regulations and laws and proper experience to assess the effectiveness of the processes, procedures and systems in use. Hire the proper staff, using strict criteria, or retain specialists form outside, on an ad hoc basis. Implement an adequate training program using, if needed, outsourced providers.

Conclusion

While the global economy is not as stable as in the past, more challenges are coming to the surface regarding Anti-Money Laundering in the Banking Sector from the aspect of Risk Management. After almost three years of retrenchment the competition for returns and profitability is intensifying. That is leading to bigger risk appetite.

Although that is something explainable and justified in most cases, it will be important for Banking Institutions, to ensure that they have the right risk management structures and processes in place to flourish in a more competent returns-driven environment (SAS Intelligence Unit).

It is true that, the past decade, the Banking Industry has invested heavily in the prevention of AML/CFT. Banks are by far the biggest contributor in preventing money laundering and financing terrorism, always applying the highest standards of AML/CFT in line with Global Standards defined by the FATF. However what the Banking Sector Regrets is that proper tools have not further developed in order to help the banking industry implement these standards. Notably, access to transparent and up-to-date information on company ownership structures through public registers or a list of PEPs would be helpful. In addition, data protection standards should be well defined to minimize inconsistencies with AML/CFT rules (Severine Anciberro, 2013)[17].

Eric L. Lewis (Baach Robinson & Lewis)[18], stated in an interview on financierworldwide.com that: “The real problem is not in the enacting of legislation; it is in the commitment and resources to enforce anti-money laundering laws. Many jurisdictions, particularly those with traditional commitments to bank secrecy, may have laws on the books but do little in terms of proactive enforcement”.

As a conclusion, what we derive is the need to move forward from the reactive responses of the past to proactive responses designed to meet future needs. It will become essential that regulators implement a consistent regulatory approach, but also foster a closer working relationship with the Banking Sector, the industry professionals and every other major part in order to leverage ach others resources, align mutual interests and effectively tackle financial crime.

The way in which financial institutions respond to AML challenges will continue to remain subject to public scrutiny as regulators, investors, and members of the public continue to stress the importance of managing these risks effectively (KPMG 2014).

In this landscape and considering the Regulator’s zero tolerance about bank’s AML/CFT management, Compliance, Risk Mgt and Internal Audit functions have to move forward in order to fulfill their duties. Risk based approaches, information technology systems, efficient programs and adequate training, are the main aspects that will help the aforementioned functions to proactively manage the rising compliance risk.

[17] Séverine Anciberro is Policy Adviser, Executive Director, at the European Banking Federation

[18] Baach Robinson & Lewis is a law Firm in US New York. Eric L. Lewis is a founding partner.

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