

The Gruffalo

Working from Home



The Gruffalos stayed in the Gruffalo cave.



AML & KYC Leaders

The objective of establishing AML & KYC Leaders Group is to provide a central forum for AML & KYC professionals to explore and understand how to transform and improve the AML & KYC industry.

With extensive inefficiency and growing costs currently associated with operating AML & KYC processes, this Group will provide a range of information, ideas, research, thought-leadership, lessons learnt and debate on how to change and improve the AML & KYC industry and build a better future for anything related to AML & KYC operations.

Overall, the Group aims to provide AML & KYC leaders with insights and tools to help improve their own existing operations and as a Group drive the AML & KYC industry forwards.

<https://www.lysisgroup.com/webinars>

Impact of coronavirus on 'our world'

A brief update

- Scope of briefing
- Movement restrictions
- Delays in implementation of EU and UK initiatives
- Delays in consultation exercises
- ***No changes in emphasis on compliance/AML***
- Impact on the Transition Period and leaving the EU

FATF and EBA statements

FATF Statement : Combating Illicit Financing

31 March 2020

Remain vigilant

- Malicious/fraudulent cybercrime
- Fundraising for fake charities
- Medical scams
- Opportunities for terrorist financing

FATF Statement : Combating Illicit Financing

31 March 2020

Digital onboarding/SDD

- Increasingly important due to lack of face-to-face contact
- Use FinTech with care to manage these issues
- **FATF Guidance on Digital ID**
- Where appropriate use SDD to adapt to the current environment applying an RBA

FATF Statement : Combating Illicit Financing

31 March 2020

Delivery of aid through Not for Profit Organisations [NPOs]

- Flexible approach to ensure speedy delivery of funds through legitimate and transparent channels
- Ensure funds reach legitimate intended recipient

FATF Statement : Combating Illicit Financing

31 March 2020

Ongoing outreach and advice

- Supervisors and others to provide guidance to the private sector
- Importance of the reporting of fraud
- Share good practices

<http://www.fatf-gafi.org/publications/fatfgeneral/documents/statement-covid-19.html>

EBA Statement : COVID-19 Pandemic

Mitigation of Financial Risk

31 March 2020

‘The EBA reminds [firms] that it remains important to continue to put in place and maintain effective systems and controls to ensure that the EU’s financial system ...

... is not abused for [ML/TF] purposes ...’

This EBA statement is a timely reminder of the EBA’s new role in the EU as a ‘supervisor of supervisors’

https://eba.europa.eu/sites/default/documents/files/document_library/News%20and%20Press/Press%20Room/Press%20Releases/2020/EBA%20provides%20additional%20clarity%20on%20measures%20to%20mitigate%20the%20impact%20of%20COVID-19%20on%20the%20EU%20banking%20sector/Statement%20on%20actions%20to%20mitigate%20financial%20crime%20risks%20in%20the%20COVID-19%20pandemic.pdf

EBA Statement : COVID-19 Pandemic

Mitigation of Financial Risk

31 March 2020

Supervisors are reminded

- Financial crime remains *unacceptable notwithstanding the crisis*
- To share information, set expectations for firms
- Adapt supervisory tools to ensure compliance by firms
- To work with FIUs to identify *new financial crime typologies*
- Continued *transaction monitoring* to detect unexpected financial flows
- To stress the need to *report suspicious activity* [SARs]



Agenda

Current and future landscape for bank AML/CFT supervision in the EU and UK

- *Current environment*
- *Recent changes effective 1 January 2020*
- *Proposed changes*

Current and future landscape for bank AML supervision in the EU and UK

Current Environment

- Financial Action Task Force [FATF]
- EU and UK regulatory framework
- Directives > Transposition > Regulations
- National Competent Authorities > local supervision
- EU level guidelines > The Risk Factor Guidelines
- UK guidance > Joint Money Laundering Steering Group
- Other UK guidance

Current and future landscape for bank AML supervision in the EU and UK

Current Environment

International Framework

Financial Action Task Force [FATF]

- 1989 founded in Paris by G-7 and EC plus eight countries
- 200 countries and jurisdictions
- FATF Recommendations [2019] Interpretative Notes
- FATF Special Recommendations
- Establishes the risk-based approach
- Basis for EU AML regulation

Current and future landscape for bank AML supervision in the EU and UK

Current Environment

EU regulatory framework

- Directives
- Democratic control, the trilogue
- Fourth and fifth money laundering directive
- Transposition
- Member State supervision *national competent authorities*
- Regulations
- EU level guidelines > *The Risk Factor Guidelines*

Current and future landscape for bank AML supervision in the EU and UK

Current Environment

European Supervisory Authorities

The EU has three European Supervisory Authorities [ESAs] which issue sector specific guidance but do not supervise NCAs or individual firms:

- European Banking Authority [EBA]
- European Insurance and Occupational Pension Authority [EIOPA]
- European Securities and Markets Authority [ESMA]

The ESAs both collectively and individually issue guidance which supervisors in all Member States are to incorporate in transposed domestic AML rules.

Current and future landscape for bank AML supervision in the EU and UK

Current Environment

UK regulatory framework

Financial Conduct Authority, OPBAS

- Transposition
- Money Laundering Regulations 2017 *no consolidated amended version available publicly*
- Joint Money Laundering Steering Group
- Statutory basis, approved by HMT, compliance bible
- Office for Professional Body AML Supervisors [OPBAS]
- Other UK guidance, FCA PEP guidance, HMRC

Current and future landscape for bank AML supervision in the EU and UK

Recent Changes *effective 1 January 2020*

- Changes to the **European Supervisory Authorities**
- ESA > EBA > ESMA > EIOPA : identical regulations
- **Equivalence** [Article 33] [House of Lords review]
- New role for the EBA 'supervisor of supervisors'
- **Convergence**
- EBA revision of **The Risk Factor Guidelines**
- UK onshoring process

Current and future landscape for bank AML supervision in the EU and UK

European Banking Authority [EBA] : scope of its new role

'Supervisor of supervisors'

- Prompted by recent egregious conduct of Danske Bank
- No operational powers, remains with domestic supervisors
- Contact with domestic AML supervisors, *lessons learnt*
- Holds domestic AML supervisors to account
- Published a lengthy fact sheet and work plan
- The EBA has a statutory objective of seeking *convergence* of supervisory rules and practice.

Current and future landscape for bank AML supervision in the EU and UK

European Banking Authority [EBA] : scope of its new role

Revision of The Risk Factor Guidelines

- The EBA has (in consultation with EIOPA and ESMA) has published a draft of an extensive revision of the Guidelines
- The review takes account of the amended directive
- A public consultation period ends on **6 July 2020** (delayed)
- A public meeting in Paris on **15 May 2020** (also delayed) will now take place by conference call

Current and future landscape for bank AML supervision in the EU and UK

United Kingdom

Context remains the future relationship between the EU and the UK

Financial Services Future Regulatory Framework 10 March 2020

'... the institutional architecture for UK financial services regulation remains appropriate ...'

FSFRF principal initiative is the *Grid*

Financial Services Bill

House of Lords financial affairs sub-committee

UK goal is to cooperate and engage in a global context

Current and future landscape for bank AML supervision in the EU and UK

European Union : Proposed Changes

- Formation of a new EU-27 AML supervisor
- Rationale for its formation: *position paper from France, Germany, Italy, the Netherlands, Spain and Latvia 12 November 2019*
- More than the EBA role > actual direction not just advice
- Potentially a brand-new EU agency or an upscaled EBA
- Funded by a levy on firms
- Ambit (perhaps) to include all 'obliged entities'
- UK leaving the EU and the new regulatory framework

Current and future landscape for bank AML supervision in the EU and UK

EU and UK negotiating positions on financial services

European Union

- Equivalence frameworks will be unilateral so preserving EU ***'regulatory and supervisory autonomy'***
- Lack of interest in trading supervisory and substantive issues

United Kingdom

- Commitment to the FMI, investors and consumer protection
- Legally binding obligations
- The ***'same rules provides a strong basis ...'***

Current and future landscape for bank AML supervision in the EU and UK

Equivalence

UK position

- '[on 31 December 2020] ... the UK and EU will start from a position of regulatory alignment ...'

27 February 2020 HM Treasury to the Commission

EU position

- '[we] will reach out to [you] soon to collect evidence about the UK frameworks applying after the transition period, in line with our existing practice on equivalence assessments.'

13 March 2020 Commission to HM Treasury

Goal of 30 June 2020

Current and future landscape for bank AML supervision in the EU and UK

Context

Patchy transposition of fourth money laundering directive

- Commission takes preliminary action against those Member States who have yet to implement changes to the directive (due **10 January 2020**)
- Lack of progress of 63 per cent. of Member States to set up a register of beneficial ownership available to the public

Conflicting goals

- Equivalence
- Convergence

... and Divergence

Current and future landscape for bank AML supervision in the EU and UK

UK-EU Relationship in Financial Services

Proposals for inclusion in the 'white paper' on the forthcoming financial services bill House of Lords financial affairs sub-committee 27 March 2020

- Firmly in an international context
- EU 'equivalence' regime is a patchwork
- UK adoption of the acquis on **31 December 2020**
- Divergence is unavoidable, rule book alignment, UK not a rule taker
- Financial stability, the FMI
- Culture: common law/civil law systems, *no 'bonfire of regulation'*
- Cliff edge withdrawals
- Regulatory diplomacy