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Remarks by the Director General, Financial Conduct At the International Fraud Prevention Conference 2021

21 April 2021 Speech

The permanent eye of vigilance – combatting fraud, money laundering and terrorism finance

Good morning, and thank you for inviting me to speak at this year's Conference. I will focus my remarks today on the intersection between fraud prevention and the national and international Anti-Money Laundering/Countering the Financing of Terrorism frameworks. I will outline the role of the Central Bank in these frameworks, and how we work with fellow stakeholders across the system. And I will detail our views on the European Commission's broad ranging AML Action Plan, which will have a critical bearing on the fight against money laundering.

Two sides of the same coin

Fraud is a predicate crime for money laundering since it involves the use of deception or dishonesty to generate illegal proceeds. The laundering of the proceeds of crime is in turn a key enabler of most serious and organised crime. Effective AML/CFT regimes are essential to protect the integrity of the global financial system. They are key to making the laundering of the proceeds of the crime more difficult, thereby limiting the ability of criminals to gain access to "legitimised" criminal proceeds. Financial crime and the flow of illicit funds contribute to and sustain serious societal harm, including drug dealing, terrorism, and modern slavery. Financial crime also threatens financial stability and confidence in the integrity of the financial system. I am very much of the view that in the fight against financial crime, combatting fraud and money laundering are two sides of the same coin.

The Central Bank is the competent authority in Ireland for ensuring the effective monitoring of credit and financial institutions' compliance with their AML/CFT obligations. We are responsible for supervising approximately 10,000 firms across a wide variety of sectors, from large retail and commercial banks and funds to payment remitters and retail intermediaries. With such a diverse cohort of firms to supervise, we must by necessity apply a risk-based approach to supervision, with those firms presenting the highest risk receiving a proportionately higher level of oversight than those with a lower risk profile.

Our aim is to ensure that credit and financial institutions have put in place effective measures to prevent money laundering and terrorist financing, thereby preventing criminals gaining access to the proceeds of their criminal activities. I should take a moment to make an important point in this regard. The Central Bank is not responsible for undertaking investigations into suspected money laundering or terrorist financing, which is the role of An Garda Síochána. If during the course of supervisory activity we form a suspicion that money laundering has occurred, we are of course obliged to - and do - report such suspicions to the Gardaí for further investigation. The Central Bank acts in unison with a broad coalition of actors in Ireland's efforts to combat money laundering and terrorist financing. To this end, we engage and work regularly and constructively with other component parts of the system, such as the Gardaí and the Director of Public Prosecutions.

The eye of vigilance and single supervision

Such engagement, cooperation and collaboration – at national and international level – is imperative in what will be a permanent fight. It was Thomas Jefferson who said – in the context of the US republic, government and judiciary – "let the eye of vigilance never be closed".¹ This is how we must view the fight. The recent pronouncement by David Lewis of the Financial Action Task Force that everyone is doing badly in the fight against money laundering and terrorist financing highlights the sheer scale of the challenge faced by regulators and law enforcement alike.² All is not lost however. As David went on to say, "most (countries) now have the tools to do the job" and national efforts are going in the right direction – even if there is still a distance to travel.

The recent publication of the European Commission's broad ranging AML Action Plan provides particular grounds for optimism. The Action Plan marks a move towards a more coordinated and cross-border focus on the fight against money-laundering and terrorist financing. While there is no doubt that achieving all that is in the Action Plan is an ambitious goal, it is beholden on all of us involved in the fight to be brave and ambitious in order to deliver for society as a whole. The Action Plan, if implemented effectively, has great potential to strengthen our collective defences against money laundering and terrorist financing and to deliver measurable improvements in the European AML/CFT Framework.

The Action Plan includes a proposal for a reinforced single rulebook. While current EU AML rules are far-reaching and comprehensive in nature, there is clear evidence that the effectiveness of these rules is undermined by their inconsistent application across the Union. In my view, the development of a single rulebook by means of a directly applicable Regulation will result in greater consistency and deliver much needed regulatory clarity to, and a level playing field for, businesses that operate across the Union.

Under the current European framework, each individual Member State is responsible for the manner in which AML/CFT rules are supervised and enforced in their jurisdiction. The inconsistency that this framework facilitates results in gaps and loopholes in the European framework, which are exploited by criminals. The establishment of a single European AML/CFT Supervisor will deliver a consistent application of the rules and eliminate gaps that can be exploited by criminals.

An issue which has generated much discussion recently is the scope of such an EU level supervisor. My view is that in line with the risk-based approach to AML/CFT supervision, an EU level supervisor should target those entities that pose the greatest money laundering and terrorist financing threat to the Union, and therefore in the first instance should focus on the financial sector. However, the non-financial sector, or DNFPBs³ have consistently been called out by FATF for weaknesses in their AML/CFT frameworks and it is also very apparent that the supervision of the non-financial sector in many member states is less than satisfactory. Therefore, it would make sense to carefully analyse the means by which EU level supervision could, eventually, encompass the non-financial sector too.

There are two other aspects of the Action Plan which in my view have the potential to change the AML/CFT landscape – the proposal to create a support and coordination mechanism for financial intelligence units (FIUs); and the proposals to issue guidance on the establishment of public private partnerships.

Supporting and coordinating financial intelligence units

On FIUs, the central purpose of the AML/CFT framework is to provide credible and meaningful information on suspicious financial transactions to law enforcement, and it is the role of FIUs across the Union to receive, analyse and disseminate what are known as suspicious transactions or suspicious activity reports.

FIUs therefore occupy a central position in the coalition of actors responsible in the fight against money laundering and terrorist financing. Despite the fact that 4AMLD set out a mechanism to facilitate FIUs to cooperate with each other “to the greatest extent possible”, hurdles to the FIUs’ ability to share data with each other remain. Furthermore, FIUs have been found to be lacking the necessary tools to effectively process and analyse suspicious transaction reports (STRs), and joint analysis of STRs with a cross-border element is very limited. At the heart of the Commission’s proposal is the establishment of a coordination and support mechanism for the collection and distribution of financial intelligence across all member states, which will enable law enforcement to more easily identify transnational laundering schemes and rapidly share information across borders. Given the global nature of the financial crime networks, any initiatives that will support cross-border co-operation and information sharing amongst law enforcement authorities is to be welcomed. If borders are not a barrier to criminals, they must not be a barrier to effective global criminal investigations either.

Any discussion on improving the cooperation between FIUs in different member states cannot ignore the fact that the greater the quality, accuracy, and timeliness of STRs, the greater the value they provide to the detection, deterrence and disruption of criminal and terrorist activity. A lack of feedback to private sector firms on the quality of their reports has been identified as a key reason for the poor quality of STRs in recent years. Worryingly, it would appear that up to 80% or 90% of suspicious reporting is of no immediate value to active law enforcement investigations⁴ (RUSI). These figures underscore need the urgent need for improvements in the quality of STR reporting. This brings me to the final aspect of the AML Action Plan that I wish to highlight – public private partnerships.

Public private partnerships

The ever-evolving and clandestine nature of money laundering and terrorist financing can only be combatted by harnessing the capabilities, resources, and experience of both the public and private sectors. No one agency, public or private, has the information or intelligence necessary to combat money laundering and terrorist financing. In order to be effective, public and private organisations alike require a legislative basis providing powers and necessary gateways to facilitate the sharing and use of intelligence and information. Bringing together organisations through public-private partnerships, with a sound legislative basis, will allow for the joint analysis of intelligence and information held by different organisations and importantly the sharing of information that would otherwise be considered confidential. The Commission’s plan to issue guidance on the role of public-private partnerships in order to facilitate the sharing of financial intelligence by the private sector with FIUs and law enforcement is therefore very welcome.

There are already existing examples of public private partnership operating effectively in many jurisdictions. Ireland’s Joint Intelligence Group (or “JIG”) is an effective mechanism for sharing information between financial institutions and law enforcement. I welcome the recommendations of the Hamilton Review Group and note that a number of bodies on the group are represented at this conference and will speak to its work. As such, I don’t propose to detail it here. However, a key element of the Review Group’s recommendations is harnessing the potential of a cross-sectoral partnership-based model in tackling these types of crime. One recommendation that speaks particularly to this approach is the establishment of an Advisory Council against Economic Crime and Corruption. Its membership is to consist of “[...] senior persons drawn from the public service, commercial, industrial and financial bodies, as well as persons representing the interests of consumers and workers and bodies with an expertise in anti-corruption activities”.⁵ The Advisory Council will provide proposals to Government on strategic and policy approaches, and will also enhance cooperation between public and private sector stakeholders.

Firm to firm knowledge-sharing

Effective cooperation between FIUs, and public private partnerships between law enforcement and industry, are undoubtedly important pieces of the puzzle. An equally important but potentially more challenging aspect of this nexus is information-sharing between market participants. The inability of market participants to share real-time financial crime information with each other is a gap in the system that is actively exploited by criminals.

As pointed out by the Institute of International Finance in its recent response to the EU Commission's AML Action Plan⁶ the legal limitations imposed on the sharing of financial crime information sharing "*are entirely at odds with the realities of criminal operations, which are not bound by – and indeed actively exploit – international borders to evade civil and criminal sanctions*". Providing a legislative basis for the sharing of information between financial institutions has been suggested by the European Banking Authority in its response to the EU Commission's Call for Advice.

The development of Privacy Enhancing Technologies - e.g. a financial institution verifying the encrypted data of another financial institution using homomorphic encryption and/or zero-knowledge proof technologies - could enable financial institutions to verify certain types of information with each other, without compromising the security or confidentiality of the underlying data. Such technologies should be further explored.

The right tools can make a major difference

In conclusion, history has taught us that no system is entirely "future proof" and vigilance and innovation are constantly required. Everyone will be well aware of the fact that since the first AML Directive was enacted in 1991, the legislative landscape has continuously developed in line with our awareness and understanding of the ML/TF risks. This process of evolution will need to continue beyond the implementation of the Action Plan – it will necessarily be a process of constant evolution.

All of you will know the ancient Greek myth of Sisyphus, constantly having to push the boulder up the hill, only to see it roll back again. I've heard it said that countering money laundering and terrorist financing is, in effect, a Sisyphian task - but that is to suggest no progress is possible, when in reality, the right tools and the right amounts of cooperation and collaboration will bring us a very long way indeed. If Sisyphus had modern tools, and the support of others, the task would have been imminently achievable.

We must view AML/CFT through such a prism. No Action Plan or piece of legislation can contemplate every ML/TF risk or close every loophole – we know that. We can't wipe out financial crime – any more than we can wipe out car theft, shop lifting or burglary. But what we can do, and hopefully what the Action Plan will enable us to do, is to become as effective as possible at greatly reducing its prevalence and impact.

Thank you.

¹See: <https://founders.archives.gov/documents/Jefferson/98-01-02-1900>

²Interview with the International Consortium of Investigative Journalists. See: <https://www.icij.org/investigations/panama-papers/everyone-is-doing-badly-anti-money-laundering-czar-warns/>

³https://rusi.org/sites/default/files/201710_rusi_the_role_of_fisps_in_the_disruption_of_crime_maxwell_artingstall_web_4.2.pdf

⁴Designated non-financial businesses and professions. Examples include but are not limited to lawyers and accountants, casinos, real estate agents and dealers in precious metals and stones.

⁵http://www.justice.ie/en/JELR/Hamilton_Review_Group_Report.pdf/Files/Hamilton_Review_Group_Report.pdf

⁶<https://www.iif.com/Portals/0/Files/content/Regulatory/Financial%20Crime%20Report.pdf>