

State of the Union 2018: Stronger anti-money laundering supervision for a stable banking and financial sector – Questions and Answers



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The Commission proposed today to further strengthen the supervision of EU financial institutions to better address money-laundering and terrorist financing threats.

While the EU has strong anti-money laundering rules in place, recent cases involving money laundering in some EU banks have raised concerns that those rules are not always supervised and enforced effectively across the EU. This creates risks for the integrity and reputation of the European financial sector, but may also have financial stability implications for specific banks.

As part of the broader efforts to complete Banking Union by risk reduction and risk sharing and develop Capital Markets Union, decisive action must be taken to ensure that anti-money laundering rules are effectively supervised across the EU, and different authorities cooperate closely with each other.

Therefore, the European Commission proposes today to amend the Regulation on the European Banking Authority (EBA) in order to strengthen the EBA's role and give it the necessary tools and resources to ensure effective cooperation and convergence of supervisory standards.

This is part of a broader strategy to strengthen the EU framework for prudential and anti-money laundering supervision for financial institutions, which the Commission is setting out in a Communication. It consists of legislative and non-legislative measures to make anti-money laundering supervision more effective and improve the cooperation between prudential and anti-money laundering supervisors.

These measures will contribute to promoting the integrity of the EU's financial system, ensuring financial stability and protection from financial crime.

What are today's anti-money laundering rules and how do supervisory authorities manage associated risks?

The EU has a [strong legal framework for preventing and fighting money laundering and terrorist financing](#) in place. Financial institutions as well as other entities are required to put in place internal systems to identify, assess and manage money-laundering risks related to their business. The

supervisory framework for combating money laundering is based on the Anti-Money Laundering Directive, which also applies to a number of actors outside the financial services sector. While the rules are set at European level, their enforcement is carried out by national authorities.

The [fifth revision of the Anti-Money Laundering Directive](#) is an important step forward towards a stronger supervision of money-laundering issues in the EU. The Directive sets up a system for better cooperation and exchange of information between money-laundering and prudential supervisors. It also provides for the conclusion of a Memorandum of Understanding between the money laundering supervisors and the European Central Bank for the exchange of information.

Why is additional action on supervision required?

Despite this strengthened legislative framework, several recent cases of money laundering in European banks have given rise to concerns about weaknesses and gaps in the implementation of the legislative framework by the EU's network of different supervisors, in relation to three issues in particular:

- Delayed and insufficient supervisory actions to tackle weaknesses in financial institutions' anti-money laundering risk management;
- shortcomings with respect to cooperation and information sharing both at domestic level, between prudential and anti-money laundering authorities, and between authorities in different Member States;
- lack of common arrangements for the cooperation with third countries in relation to the anti-money laundering supervision of financial institution.

In the EU, the supervision of compliance with anti-money laundering legislation is carried out at national level.

In the Banking Union, the Single Supervisory Mechanism (SSM) is tasked with the direct supervision of significant banks. At the same time, for the prudential aspects relevant to money laundering supervision, it has to apply and rely on national legislation transposing EU Directives in the relevant Member State.

At EU level, the European Supervisory Authorities (the European Banking Authority, the European Securities and Markets Authority, the European Insurance and Occupational Pensions Authority) have the mandate to ensure that the Union's prudential and anti-money laundering rules are applied consistently, efficiently and effectively. However, this is just one of the many tasks these authorities have to carry out. In addition, supervisors are subject to differently transposed national rules, as prudential requirements in legislation have not been supplemented with harmonised guidance.

What changes to the current anti-money laundering framework does the Commission propose?

In order to address the shortcomings identified and further reduce risks in the EU financial system, the Commission proposes, updating its previous proposals on the European Supervisory Authorities, to introduce a set of targeted amendments to the existing legislation on prudential supervision and the regulatory framework of the European Supervisory Authorities.

To ensure high quality anti-money laundering supervision and effective coordination among different authorities across all Member States, anti-money laundering responsibilities in the financial sector will be entrusted specifically to one of the three European Supervisory Authorities, namely the European Banking Authority (EBA), as it is in the banking sector that money-laundering and terrorist financing risks are the most likely to have a systemic impact.

The Commission proposes to clarify the EBA's mandate in the context of anti-money laundering in order to make it more explicit and more comprehensive, accompanied by a clear set of tasks, corresponding powers and adequate resources.

What is the role of the European Banking Authority under the new rules?

On the basis of existing tools and powers of the Authorities, as amended by the pending [proposal to review the European Supervisory Authorities](#), the Commission proposes to give the European Banking Authority (EBA) a more explicit and comprehensive mandate to ensure that risks of money laundering and terrorist financing in the Union's financial system are effectively and consistently incorporated into the supervisory strategies and practices of all relevant authorities.

The amended Regulation will:

- **ensure that breaches of anti-money laundering rules are consistently investigated:** the EBA will be able to request national anti-money laundering supervisors to investigate potential material breaches and to request them to consider targeted actions – such as sanctions;
- provide that the **national anti-money laundering supervisors comply with EU rules and cooperate properly with prudential supervisors.** The EBA's existing powers will be reinforced so that, as a last resort if national authorities do not act, the EBA will be able to address decisions directly to individual financial sector operators;
- enhance **the quality of supervision** through common standards, periodic reviews of national supervisory authorities and risk-assessments;
- enable the collection of information on anti-money laundering risks and

trends and **fostering exchange of such information** between national supervisory authorities (so-called data hubs);

- **facilitate cooperation with non-EU countries** on cross-border cases;
- **establish a new permanent committee** that brings together national anti-money laundering supervisory authorities.

These amendments will bring major improvements to the supervisory framework of anti-money laundering risks and contribute to risk reduction in the financial sector.



How will the three European Supervisory Authorities cooperate on the fight against anti-money laundering and terrorist financing?

A dedicated committee will be established within the EBA to prepare decisions relating to money laundering and terrorist financing measures (comparable to the existing EBA bank resolution committee). It will be composed of heads of national supervisory authorities responsible for ensuring compliance with laws against money laundering and terrorist financing. The EBA will also cooperate closely with the ESMA and the EIOPA in the framework of the existing Joint Committee of the European Supervisory Authorities (ESAs).

How did the Commission prepare this proposal?

In May 2018, the Commission invited the Chairpersons of the European Supervisory Authorities, the Chairperson of the Anti-Money Laundering Committee of the European Supervisory Authorities and the Chairperson of the Supervisory Board of the European Central Bank, to establish a Joint Working Group to initiate a collective reflection on ways of improving the current framework for cooperation between anti-money laundering and prudential supervisors.

How does this link to work on completing the Banking Union?

Money laundering issues create risks for the integrity and reputation of the European financial sector and may have financial stability implications for specific banks. The European Parliament and the Council have therefore indicated that this is a matter for further work as the EU is completing its Banking Union by risk reduction and risk sharing and developing the Capital Markets Union. Anti-money laundering issues are part of the work on Banking Union mandated by the European Council until December, and the European Parliament has proposed relevant amendments in the context of the pending relevant legislative proposals, in particular the Banking Package, proposed by the Commission in November 2016.

What are the next steps?

The proposed legislative amendments should be considered immediately in the ongoing legislative negotiations on the [Commission proposal to review the European Supervisory Authorities' \(ESAs\) Regulations](#), adopted by the Commission in September 2017. The Commission encourages the European Parliament and the Council to reach agreement on these proposals swiftly.