



"Fighting money laundering and terrorist financing: the role of accountants and finance professionals"

CONFERENCE REPORT

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On 18 November 2015, CCAB - the collective forum of accountancy bodies bringing together ICAEW, ACCA, ICAS, CIPFA and Chartered Accountants Ireland - organised a conference in Brussels called "**Fighting money laundering and terrorist financing: the role of accountants and finance professionals**". The event brought together experts from across Europe to discuss the issues likely to arise around the implementation of the Fourth Anti-Money Laundering Directive, the role of accountants and finance professionals and to reflect on the way forward. The debate focused on the importance of greater professional scepticism and transparency. Money laundering and terrorist financing deprive economies of capital and governments of revenue, distort fair competition in business transactions, betray the trust of stakeholders, and, as the recent Paris events demonstrate, can also lead to tragic human losses in European Capitals.

Speakers included: Anthony Harbinson, Chair of the AML task force of CCAB; Krišjānis Kariņš MEP; Marianne Carrubba, Policy Analyst, DG Justice, European Commission; Carl Dolan, Director, Transparency International – EU office; Carolin Gardner, Policy Expert Anti-Money Laundering, European Banking Authority; Kris Meskens, Secretary General, Belgian Financial Intelligence Processing Unit; and David Stevens, CCAB AML Working Group.

The debate revealed that:

- The cornerstone to effectively fighting money laundering and combating the financing of terrorism ('CFT') throughout Europe - and worldwide - is transparency. Panelists acknowledged the move towards a more integrated EU AML framework, including elements of supranational risk assessment and a new approach to transparency on beneficial ownership and high risk third countries. Such measures should provide the EU with a more comprehensive picture of the money laundering and terrorist financing risks facing the internal market. Member states will have to implement appropriate measures on a 'comply or explain' basis following Commission recommendations.
- The European Banking Authority is also playing an important role in fostering a common understanding of the risk-based approach to the European AML/CFT regime.
- However, some commentators suggested that although the EU has good legislation on the books, it has until now too often been let down by a lack of enforcement or appropriate supervision. The need for information sharing as well as the lack of good cost/benefit analysis behind AML was also clearly highlighted.
- The accounting profession has a particular public interest role and needs to work with governments and law enforcement agencies to help improve the quality and quantity of AML reports and reporting. Rather than settling for cultures of compliance we should be encouraging cultures of integrity.
- Furthermore discussions revealed a clear need for a holistic approach to financial crime.

Main highlights:

Anthony Harbinson, Chair AML task force CCAB

- As a professionally qualified accountant, the issue of anti-money laundering matters to me a great deal. I admit this is a tough job for all involved, and the awful events in Paris, as well as the current terrorist threat, tragically further highlight the importance of the fight against illegal money flows.
- We need to be one step ahead of the criminals involved in corruption and terrorism; in an ideal world we would be 10 steps ahead. We need clear water between Us and Them to stop this abuse.
- Money laundering has very real and harmful effects on communities – not only does it reward people who commit crime but it encourages further criminal and anti-social activity of all kinds. If these are to be stopped, then we need to stop the flow of money from nefarious means.
- The role of accountants in the anti-money laundering regime is a major issue. Every single body, including CCAB, would agree that transparency is important. Many accountancy bodies are very keen in protecting the term 'Accountant'.
- There is a concern that there are many unregulated people calling themselves accountants. Sometimes even our own former members who have been removed from our individual bodies don't stop operating as practicing accountants, after being found guilty of corrupt practices, because there is no regulation of the term.
- Grand corruption is a big issue, however we shouldn't ignore that in some cases terrorists are using very small amounts of money. It is not just the grand corruption that we need to worry about.
- One of the best places to start cultural change is schools - instilling the sense of right or wrong is crucial. In 2007 ACCA changed its syllabus by putting in a module on ethics.
- The most important thing about codes of ethics is to live up to the spirit, as well as the letter. You need a regime that punishes the people that transgress, and you have to set the tone from the top.
- Generally, whistleblowers don't get the protection that they should.

Krišjānis Kariņš, MEP

- The regaining of independence in Latvia meant re-establishing democratic institutions, banking systems and private ownership. In 1990s this was a big challenge.
- The criminal world is quick to respond whereas law-making is a slow process. This gives criminals the opportunity to plan out their activities and adapt it to the legislative changes accordingly. Elected politicians have a responsibility to create a legal framework which is beneficial to society as a whole.
- MEPs working on the AML package looked into what was missing in the initial European Commission proposal. One of the problems was finding the real person behind business transactions. This led to the idea of the European-wide register of beneficial ownership, which will for the first time oblige EU member states to keep central registers of information on the ultimate "beneficial" owners of corporate and other legal entities, as well as trusts. This will help the fight in tracing where the funds are coming from and where they are going. It will not solve all the problems, but it means that criminal activity will become more difficult, more dangerous and more risky.

- Europe is a relatively safe place to keep your money: it has the rule of law. European governments cannot simply take your money away, and there are elaborate procedures in place to issue arrest warrants. By adopting new legislation, transferring illegally funds will become more difficult. We did not want legislation that would make our lives difficult; what we wanted was legislation that will make criminals' lives difficult.
- The consultation on Guidelines on risk based supervision will close in January 2016.

Marianne Carrubba, Policy Analyst, DG Justice, European Commission

- The 4th AML Directive (AMLD) is still a minimum harmonization directive which recognises the risk based approach as an overarching principle of the AML requirements -and thus a flexible approach on customer due diligence ('CDD') implementation. However, some more elements of a consistent and harmonised European approach towards AML/CFT have been introduced.
- There are three elements that demonstrate the European approach: (a) supranational risk assessment: (b) the approach to high risk third countries; and (c) beneficial ownership transparency.
- The supranational risk assessment: the EU will benefit from a comprehensive picture of the AML/CTF risks facing the internal market. Member states will have to implement adequate CDD measures following Commission recommendations according to a "comply or explain" approach.
- EU approach on high risk third countries: the European Commission will publish a list of third countries which present some deficiencies in their AML/CFT regime. The Commission will take into account the lists established by the Financial Action Task Force (FATF), but can also use other sources of information to designate countries that are not listed by FATF. This list will impose the implementation of coordinated and enhanced CDD.
- EU approach on beneficial ownership transparency: EU requirements go further than FATF ones by imposing the establishment of central registers at national level. The interconnection of these national registers by June 2019 will strengthen EU cooperation to fight against opaque structures. The aim of the registers is to speed up the identification of the beneficial owner identity and to have more secure way to agree on business relationships.
- The AMLD also has a provision on whistleblowers that protects persons who disclose information. Member states will have to ensure sure this person is not subjected to hostile actions or discrimination.

Carolyn Gardner, Policy Expert Anti-Money Laundering, European Banking Authority

- The EBA is one of the three European Supervisory Authorities. It has the power to draft technical standards, issue guidelines and opinions. In the AMLD framework EBA, together with ESMA and EIOPA, is responsible for drafting two technical standards.
- The EBA issues guidelines, either where it has been mandated or on its own initiative when there is a gap in the market or when there is no level playing field across the EU. In the AML Directive and Regulation EBA together with ESMA and EIOPA, has four mandates to issue guidelines: Articles 17, 18(4) and 48(10) of Directive, article 25 of Regulation.

- When EBA issues guidelines, competent authorities in all member states have a legal duty to do everything they can to comply, they have to notify of the intention to do so, and if they decide not to apply the guidelines, they have to explain (ie “comply or explain” principle). Guidelines are powerful tools and they are not prepared in isolation – EBA works with competent authorities in all member states to agree on a text that is then put out for a consultation.
- The [publication of the guidelines](#) under the AMLD was prioritised because it goes to the core of Europe’s AML regime. The EBA is trying to create a common understanding across the EU of what the risk based approach entails and how it should be applied. There are still different views across the EU about how to establish a proportionate and effective risk based European anti-money laundering regime. The aim is to facilitate the adoption of a sensible risk based approach that delivers the intended results.
- The aim of the Guidelines on Risk-Factors is to provide credit and financial institutions with the tools they need to make informed, risk-based and proportionate decisions on the effective management of individual business relationships and occasional transactions.
- The Guidelines on Risk-Based Supervision specify the characteristics of a risk-based approach to AML/CFT supervision and set out what competent authorities should do to ensure that their allocation of supervisory resources is commensurate to the level of AML/CFT risk associated with credit and financial institutions in their sector. The guidelines focus on individual business relationships – recognising that risk varies; it is all about case-by-case approach.
- A joint opinion on the ML/TF risk affecting the EU’s financial market will be issued by December 2016. It will focus on the extent to which financial institutions’ AML/CFT systems are adequate and their strengths and weaknesses.
- As regards to changing culture, both the tone from the top and the tone from the middle appear to be making a difference in the financial services sector. This includes senior management accountability, training tailored to professional realities, incentive structures, and leading by example.
- As regards to regulatory sanctions, it is important to remember that public enforcement action is only the tip of the iceberg. There is a lot going on behind the scenes, a lot of intervention happening by regulators. The role of regulators is not to put companies out of business, but to help them comply with legal obligations. It is too harsh to say that enforcement doesn’t work.

Carl Dolan, Director, Transparency International-EU office

- When we talk about corruption, we talk about *grand* corruption rather than petty corruption, such as paying of small bribes to police officers. Transparency International has been running a campaign called [Unmask the corrupt](#), attempting to expose how grand corruption happens frequently all around the world with impunity. At the moment Transparency International is running a contest where members of the public are invited to nominate their least favourite corrupt person.
- In 2011 alone, according to Global Financial Integrity figures, the developing world lost 946 billion dollars from tax evasion and corruption. The flows appear to be getting bigger , by about 10% each year.
- You can't hope to tackle corruption without having an effective anti-money laundering regime: sound legislation, thorough implementation and effective enforcement and supervision.
- We have reasonably good legislation in place which has been improved by the provisions of the 4th AMLD. However too often we are let down by enforcement and supervision.

- We need to ask whether the actions of the accounting profession have been adequate to the risks. The UK government has assessed accountancy service providers to be among the highest risk actors in money laundering second to banks. At the same time we know that front line reporting by the accounting profession of potentially corrupt transactions is very low in comparison with other actors. We know that banks are responsible for over 90 percent of suspicious activity reports, whereas the comparable figure for the accounting profession is about 5%.
- It is not just about the quantity, but also about the quality of these reports.
- There are number of concerns on the enforcement side. The UK government reports that there is more lenient approach in the accounting sector. Only 12 percent of enforcement actions resulted in an expulsion or fine, which is rather disappointing compared to enforcement by the public sector or legal professions.
- The issue could be low levels of awareness about ethical obligations within the profession. One of the solutions could be education.
- The reason we want a public database of beneficial owners of companies is because we believe it will improve the quality of the data.
- You have to look behind simple statistics about enforcement and structures that prevent corruption. There are a number of structural issues that prevent high profile corruption cases to be brought to justice, for example legislation on statutes of limitations for criminal cases, lack of resources and political interference in police and judicial processes.

Kris Meskens, Secretary General, Belgian Financial Intelligence Processing Unit

- Belgium has anti-money laundering legislation in place since 1993 (Law 11/01/1993). The country is now transposing the 4th AMLD. The new law is expected to be ready by June/July 2016.
- As regards to the role of the accountant and finance professional in the preventive AML system, the first important element is “Know Your Customer” (KYC) – identification and verification of identification. It is important to know not only the name, the origin, but also the nature of the business. The Belgian system has a good understanding of the importance of this part.
- The other part is “declaring reports”. Belgium has chosen the subjective activity reporting system – most of the time we receive suspicious activity reports. Accountants and financial professionals have to understand that what we want from them is reporting of atypical activities and facts about their customers.
- Since 2011 Belgium has a Norm HREB for accountants, fiscal consultants and auditors (Norm 04/02/2011) on how to interpret and to understand the AML legislation in a uniform way. In this way accounting professionals are getting more acquainted and getting closer to our unit.
- With the 4th AMLD, the national legislation will obviously go further in the direction of a risk based approach. We also have client acceptance provision where every finance professional has to take into account the client’s business activity by putting it in categories of risks.
- It is essential that we broaden our ways of putting information out. The 4th AMLD goes in that direction; hopefully Belgian policy makers will be able to follow and gives us the possibility to give information not only to law enforcement authorities, but also to the most concerned party.

David Stevens, CCAB AML Working Group

- Accountants hold important positions within the organisations; therefore it is absolutely vital to maintain the public trust.
- Accountancy is arguably the most complex and diverse of all regulated sectors. Accountants across Europe have a vast range of regulations that dictate the types of services that can be provided by accountants. There is possibly no common understanding what constitutes accounting services. All these nuances and variety create a need for a tailored supervisory. Professional accounting bodies have a wide range of mechanisms at their disposal.
- Any organisation that has responsibilities under AML legislation should be subjected to a code of ethics.
- A lot of work of accountants is investigative; therefore there is a lot of value in our intelligence that we can provide. One of the challenges we have in terms of suspicious activity reports is that we often face ourselves with a model that is very much geared towards transaction monitoring rather than activity. Accountants would form the suspicions based on a pattern of behaviour rather than a specific transaction with the red flag because often we are not involved in directly processing transactions. This means we form suspicions in very different ways.
- Collection and sharing of information is an absolute priority.
- The CCAB report called [Coming out in the Wash](#) highlights lack of cost-benefit analysis which we need for efficient allocation of resources. It is also essential for the risk based approach.
- We need more evidence of a good financial deterrent in form of successful asset confiscations – it is something quantifiable and measurable.
- We have to ask whether the AML regime is designed to catch every single instance of economic crime, or the most serious.
- Regulators and professionals want the same thing. We need to be better at sharing our experience and information for the betterment of the regime. We have to remember that we are not just here to tick the box but to prevent crime and terror.
- The way that codes of ethics apply shouldn't vary depending on whether the individual member is in business or practice. The value of ethical approach is that it is based on method of thinking that goes beyond simple compliance. Rather than aiming for a culture of compliance we should be aiming for a culture of integrity.
- Changing a culture can possibly take a generation. Accountancy profession has a track record of having a principles based approach to ethics. The challenge is to translate that into mechanisms and systems within an organisation. Simply having code of ethics won't do, you need disciplinary procedures to back it up. Having an open culture is extremely important, as well as training and monitoring the training. A huge part of all of this is the tone at the top.

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PO Box 433 Moorgate Place London EC2R 6EA

United Kingdom

www.ccab.org.uk



Consultative Committee of Accountancy Bodies

ICAEW | ACCA | CIPFA | ICAS |
Chartered Accountants Ireland

tel: +44 (0)20 7920 8100
fax: +44 (0)20 7920 8783
email: admin@ccab.org.uk
web: www.ccab.org.uk

PO Box 433
Chartered Accountants' Hall
Moorgate Place
London EC2P 2BJ

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