FCA publish its Anti-Money Laundering Report for 2017/18

The FCA has published its 2017/18 Anti-Money Laundering annual report. The article outlines the main findings from the report and draws out the FCA's key messages.

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Introduction

The FCA has published its 2017/18 Anti-Money Laundering annual (AML) report. The FCA emphasised that AML and financial crime risk remain a key priority. It also noted that across the regulated sector, firms' AML controls were improving and they saw good senior management engagement. However, it also identified serious deficiencies in AML controls particularly in London branches of smaller overseas banks where one of the most regular failings was the application of Enhanced Due Diligence (EDD), a topic we dealt with recently in our commentary on the Canara Bank Final Notice.

Supervision

The FCA's risk-based approach to AML supervision is informed principally by the National Risk Assessment but also by the financial crime data returns filed annually by firms. We wrote in March 2018 regarding the importance of the data returns as a trigger for supervisory inspections. The FCA confirmed that the data returns were being used to focus on higher risk firms (referable to the jurisdictions in which they operate and customer base) and is targeting those firms for proactive inspection.

The AML report confirmed that the second-round review of firms involved in the Systematic AML Programme (the SAMLP) is now taking place of which three have been completed. It is clear that improvements to AML controls have been made but weaknesses have been identified with firms': AML risk assessments (which were not sufficiently inclusive of risk factors); record-keeping; and anti-bribery and corruption controls, which appear to have been de-prioritised in favour of AML controls.

The FCA has said that outside the 14 firms that form the SAMLP, it aims to visit 150 other high-risk firms on a four-year cycle of AML inspections. Some serious deficiencies have been identified in some firms, mostly smaller London branches of overseas banks with:

- EDD application, particularly identifying and monitoring PEPs and other high-risk customers
- training for customer-facing staff on AML risks, and
- internal testing of the effectiveness of AML controls both by compliance staff and internal audit.

Enforcement

The FCA confirmed that it is currently investigating 75 firms and individuals for AML issues. An unspecified number of these are criminal investigations under the 2017 Money Laundering Regulations. The increase in AML investigations reflects the broader approach of the FCA in opening investigations earlier and more quickly as set out in their March 2018 approach to enforcement document (for further commentary see here).

Key messages

- AML controls but also other financial crime controls particularly ABC controls, will remain a major focus for the FCA next year (and beyond). We expect further enforcement activity for serious deficiencies. In isolated, aggravated cases where firms may facilitate money laundering, we expect that criminal proceedings will be considered.

- Appropriately identifying the risks associated with higher risk customers and applying appropriate controls is, in our experience, the single most challenging aspect for firms when designing robust AML controls. The FCA expects firms, at a minimum, to prioritise the identification of their inherent high-risk customers and create a framework to control and monitor these risks.

- The London branches of overseas firms are a particular focus for FCA supervision given the FCA's views that some of these firms are inherently higher risk, may lack independence of leadership and decision-making and weak AML systems and controls. Appropriate client EDD frameworks (including record-keeping of decisions taken in relation to higher risk customers and PEPs), effective processes designed for the London market and training of staff to understand UK AML risks were a key theme for the FCA during inspections.