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2018 – the year in money laundering

Introduction

The last year was a big year in money laundering. The EU deadline for the implementation of the Fourth Money Laundering Directive came and went, with the UK passing its Money Laundering Regulations 2017 just in time, even as other EU nations rushed to catch up. However, the ink hadn't even dried on the bills as the EU reached an agreement on the Fifth Money Laundering Directive late in December 2017, with the final text due to be agreed sometime in 2018.

Dealing with the fallout from the Fourth Directive, preparing for other crucial changes such as the General Data Protection Regulation (GDPR), and the Financial Action Task Force (FATF) review of the UK are all set to ensure that 2018 is as significant a year in money laundering as the last.

January

The end of January is the deadline for trusts to provide information to HM Revenue & Customs on their settlor, trustees and beneficiaries, as well as a statement of their accounts, assets and values. The Money Laundering Regulations 2017 require HMRC to maintain a register of 'taxable relevant trusts', which include any UK or non-UK trust where the trustees are liable to pay any specified UK taxes. This is expected to cover 160,000-170,000 trusts. Unlike the Persons of Significant Control Register, this register will not be open to the public yet.

The Sanctions and Anti-Money Laundering Bill was published last year and began its report stage in the House of Lords on 15 January. The bill is very much a function of Brexit, enabling the UK to impose sanctions and make updates and amendments to the AML regime following the expected withdrawal of the UK from the EU in 2019.

February

The Office for Professional Body Anti-Money Laundering Supervision (OPBAS) began work after the OPBAS Regulations 2018 came into effect on 18 January. Hosted by the Financial Conduct Authority (FCA), the body is geared towards closing loopholes and ironing out differences in how anti-money laundering (AML) guidelines are applied by the myriad of professional bodies overseeing lawyers and accountants.

The new body has the power to censure or remove AML supervisors that do not adhere to standards set out in the 2017 Money Laundering Regulations. OPBAS will be issuing sets of sector-specific AML guidelines. Although increasing standardisation of AML guidance for business sectors may be welcome, there is likely to be a greater onus on keeping up to date with the latest information coming from regulators, as supervisory bodies rush to ensure their AML acts are together.

March

FATF is expected to begin its inspection of the UK's AML regime. A wide-ranging review, set to assess the UK's compliance with FATF Recommendations, it will review the systems and controls in place and evaluate their effectiveness. A mutual evaluation report will then be discussed and adopted at an FATF Plenary session, before being published in December 2018.

April

The French ultimate beneficial ownership (UBO) register will go live. Companies must register their UBO details by 1 April, or face sanctions including six months' imprisonment and a fine of €7,500.

May

In the US, new rules on UBOs will take effect. The United States Financial Crimes Enforcement Network (FinCEN) requires financial institutions operating in the US to process and vet sanctions data, negative news data, corporate associations, individual associations and more on ultimate beneficial owners. Essentially, institutions will need to be able to track the entire relationship from customer to UBO, and all the corporate vehicles in between.

Massive amounts of data will need to be processed and researched for tens of millions of companies worldwide. This tidal wave of data comes at the same time that GDPR will go live in Europe at the end of May.

Anyone dealing with the data of EU citizens will have to comply with a much stricter set of data protection regulations. So it is vital to keep your data protection compliance as up to date as your AML compliance.

June

Under section 26 of the Money Laundering Regulations 2017, a firm must apply to its AML supervisory body for approval of its beneficial owners, officers and managers by 26 June, 2018. The supervisory authority must grant that application unless the person has been convicted of a relevant criminal offence. Continuing to operate without approval beyond 26 June 2018 will be a criminal offence, unless approval has been applied for and yet to be determined.

July

The final text of the [Fifth Money Laundering Directive]() is expected to be formally adopted by the European Council and European Parliament. After publication, implementation will likely take 18 months, either in late 2019 or early 2020. The current text of the agreement approved on 20 December calls for registers of beneficial ownership of companies operating in the EU to be publicly accessible, while registers of trusts will be opened to persons with a legitimate interest.

Further changes outlined in the Fifth Directive include an obligation to apply enhanced due diligence measures to entities or persons in high risk third countries, regulation of cryptocurrencies and wallet providers, and a reduction of the beneficial ownership stake from 25% to 10% in the case of entities that pose a significant money laundering or tax evasion risk.

October

Changes are expected to be announced to the UK SARs regime. October is due to see the completion of a review of suspicious activity reporting by the Home Office and the National Crime Agency (NCA). Firms should be ready to deal with expected changes resulting from the Action Plan that could include greater focus on suspicious individuals and companies, as opposed to transactions, and powers for the NCA to oblige firms to provide further information on SARs and conduct more intelligence-gathering.

December

The European Central Bank will discontinue the production of €500 notes. The UK already ceased handling the denomination in 2010. The note will still remain legal tender and new €100 and €200 notes will be introduced. The €500 note has long been associated with money laundering and tax evasion, and is often favoured by criminals and cash smugglers in part because everyone knows what it looks like, but few have ever seen it. The EU Commission concluded that use of the notes “was a problem for law enforcement authorities due to their high value and low volume.”

The FATF Mutual Evaluation Report of the UK is due to be published, just in time for even more changes expected to come in 2019.

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