

HMT puts UK's AML/CFT regime in the spotlight

AT A GLANCE

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What's new?

- On 22 July 2021, HMT released a [Call for Evidence](#) to review the UK's AML/CFT regulatory and supervisory regimes.
- Under Action 33 of the Economic Crime plan, HMT committed to look at the overall effectiveness of the regimes, whether key elements are operating as intended, and the structure of the supervisory regime.
- A [Consultation Paper](#) was also published which proposes a set of amendments to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations (MLRs 2017), to ensure the UK continues to meet international standards.

What does this mean?

- The Call for Evidence is broken down into three review areas: systemic, regulatory and supervisory.
- **Systemic:** HMT considers the effectiveness of the current regime, as well as its scope, and whether the existing powers of and approach to enforcement are appropriate. HMT questions whether the publication of National Strategic Priorities (in addition to the National Risk Assessment) would help firms to understand the risks.
- **Regulatory:** The Call for Evidence considers whether certain aspects of the regulations are effective. For example, do firms struggle to understand the risks sufficiently to be able to apply a risk-based approach effectively? Have the rules relating to due diligence become too prescriptive? HMT also asks what part supervisors can play to make the risk-based approach more effective.
- Views are sought on other regulatory issues such as the impact of current rules on innovation, supervisors' role in monitoring SARs, and whether the current guidance regime is appropriate.
- **Supervisory:** The Call for Evidence also aims to assess the effectiveness of the UK's current supervisory regime, including the structure of supervision, and whether there are any sectors or types of businesses not covered by a designated supervisor.
- The Consultation addresses a number of proposed changes to the current regime, including exempting Account Information Service Providers (AISPs), Payment Initiation Service Providers (PISPs), Bill Payment, telecom, digital and IT service providers from the scope of the MLRs as they can be considered low risk.

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- Other proposals include:
 - Aligning the definition of activities that make a person a credit and financial institution as set out in regulation 10 of the MLRs, with the FSMA and defined terms under the Regulated Activities Order.
 - Providing supervisors with powers of access to the content of SARs.
 - Expanding the requirements of the MLRs to cover proliferation financing (to align with FATF).
 - Aligning the beneficial ownership discrepancy reporting obligation to obligations around ongoing CDD.
 - Providing greater powers to the FCA in relation to supervision (information gathering) and enforcement for Annex 1 firms.
- The consultation also includes proposals for the implementation of the FATF Recommendation 16 (the so called “travel rule”) for crypto asset firms. The travel rule requires countries to ensure that financial institutions send and record information on the originator and beneficiary of a wire transfer, and that this information remains with the transfer or related message throughout the payment chain.
- The proposed travel rule implementation for crypto asset firms will broadly be in line with the approach already taken for credit institutions in the Fund Transfer Regulation, with some practical changes such as in relation to the value threshold. While the level of information required will be dependent on the value of the transaction, to reduce bad actors from making many transactions below the threshold, firms will be required to provide full disclosure for linked transactions.

What do firms need to do?

- Both the Call for Evidence and Consultation Paper have deadlines for response of 14th October 2021.
- Firms will need to consider the implications of proposals for their business, in particular, crypto asset firms and those firms that could be impacted by the proposed scope changes.
- Any of the proposals set out in the Consultation that are adopted (subject to the Call for Evidence or further internal consideration) will be taken forward through focused secondary legislation due to be laid in Spring 2022 (SI 2022).
- HMT is committed to publishing a report into its full review by no later than 26 June 2022.

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