Supranational risk assessment on money laundering and terrorist financing (SNRA)

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Disclaimer

This presentation represents the views of the author only. It may not represent an official position of the European Commission.

Action plan TF - two strands of actions

Action Plan on TF published on 2 February 2016 (COM(2016)50)

- SHORT TERM ACTIONS: Tracing terrorists and preventing them from moving funds or other assets;

- MID- TERM ACTIONS: Disrupting the sources of revenue used by terrorist organisations, by targeting their capacity to raise funds

In a nutshell…

The SNRA is a tool of the Commission which is required under EU law to understand risks and elaborate policies with a view to address identified risks of money laundering and terrorist financing.

European Commission

Why a supranational risk assessment?

FATF recommendations
and
4th AML Directive

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European Commission

What is a supranational risk assessment in the EU context?

Legal mandate of 4th AML Directive

Article 6 of Directive (EU) 849/2015

COM has two specific tasks to conduct:

1/ COM shall conduct an assessment of the ML/TF risks affecting the EU internal market and relating to cross-border activities: **identification, analysis and evaluation of these risks**

2/ COM shall **make recommendations** to Member States on the measures suitable to address those risks on a "comply or explain" basis.

⇨ **Key action of the Commission Action Plan on Countering Terrorist Financing**

Article 6 of Directive (EU) 849/2015

- Scope: the risk assessment covers at least:
  - **areas that are at greatest risks;**
  - **risks associated with each relevant sector;**
  - **most widespread means used by criminals,**
  - **Specifically address gambling (article 2.1 (f))**

- Risk assessment published within 2 years after the adoption of the Directive (June 2017). Update every 2 years.

- Support from:
  - **European Supervisory Authorities (ESAS) (joint opinion)**
  - **Involvement of MS experts in AML/CFT, FIUs representatives and other competent EU bodies (Europol, ESAs).**

Scoping of the SNRA:

- **Scope in**: scope in line with the legal basis

- 2 Phases:
  - **1) Risk identification and analysis (MS/Agencies/DGs)**
  - **2) Risk management (COM)**

- Substantial issues:
  - **Need to cover existing and emerging risks**
  - **Focus on "supranational risks" affecting the internal market**
  - **Use of information sources (reports, NRA, intel)**
  - **Scope out: it is not a mere compilation of NRAs**

Scoping – sectors covered

- Sectors covered by 4AMLD:
  - (1) credit institutions;
  - (2) financial institutions;
  - (3) the following natural or legal persons:
  - (a) auditors, external accountants and tax advisors;
  - (b) notaries and other independent legal professionals, when they participate in certain activities;
  - (c) trust or company service providers;
  - (d) estate agents;
  - (e) traders in goods (payment in cash >EUR 10 000);
  - (f) providers of gambling services;

- Other Sectors/products at risk not yet included in 4AMLD (e.g. virtual currencies, crowdfunding, cash, gold, NPOs)

What is a "risk"?

A risk = the ability of a threat to exploit a vulnerability of a sector

- E.g.: ability of organised crime to launder proceeds of drug trafficking by using deposit accounts in credit and financial institutions.
- E.g.: ability of terrorists to collect and transfer funds by using virtual currencies
- E.g.: ability of terrorists to collect funds through consumer credit by using forged documents

How to measure?

- **Threat**: intent + capability

- **Vulnerability**:

1. Inherent risk exposure
   - **Product:** speediness or anonymity of transactions, delivery channels, volume of transactions, cash involvement, management of new technologies/payment methods
   - **Customer:** high-risk customers, management of BO risks
   - **Geographical risk:** high-risk areas, size of CB transactions
2. Awareness of the risk/vulnerability
   - **Awareness by the sector**; organisational framework
   - **Awareness by competent authorities**; LEA capacity to counter ML/TF
   - **FIU detection** and analysis
3. Legal framework and controls in place
   - Existing **legal framework**
   - **Effectiveness of controls** in place by operators: CDD, internal controls, reporting of STRs
   - Domestic and international **cooperation** between AML authorities

Methodology: 5 steps

STEP 1: identification of the risks

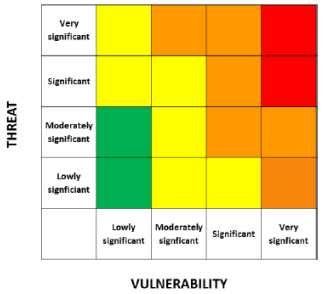
STEP 2: assessment of the threats

STEP 3: assessment of the vulnerabilities

STEP 4: Combination to identify the level of risks

STEP 5: Identification of mitigating measures

⇨ **Specific workstream for TF**



Output - deliverables

- **COM report (including mitigating actions such as new policy initiatives and recommendations to MS)**
- **Staff Working Document ("public SNRA")**
- **In case of need, confidential part (confidential annexes)**

Process overview

Phase 1–Risk identification/analysis

Phase 2–Risk management

1. Identify risks (modi operandi)
2. Assess the threat (crime/terr.)
3. Assess the vulnerability (sectors)
4. Analyse the level of risk (2X3)
5. Manage the risk (mitigation)
6. Formal adoption of COM report

Oct-Dec 2015

March-April 2016

May-July 2016

Sept-Nov 2016

Dec-Feb 2017

Mar-June 2017

CONSULTATION

CONSULTATION

Focus...

- **Known risks:**
  - ➢ **Banking/credit sector, MVTS, prepaid cards,...**
- **Emerging risks:**
  - ➢ **Virtual currencies, crowdfunding...**
- **Relevance of transparency of Beneficial ownership for TF**
- **Specific threat represented by Hawala**

Challenges so far from TF perspective…

- Learning exercise
- Need for a common terminology
- Need for a holistic approach (different worlds to meet!)
- Security arrangements (clearance)
- Issue of statistics (quantitative)
- Issue of expert judgement (qualitative)
- Specificity of TF vs ML (e.g. fraud)
- MVTS/hawala
- Risk analysis vs. risk management
- Follow up ("risk management" and update)

Thank you for your attention

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