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ANTI-MONEY LAUNDERING

Financier Worldwide canvasses the opinions of leading professionals around the world on the latest trends in anti-money laundering.





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Q. Could you provide an insight into recent trends shaping financial crime in Switzerland? How great a risk does financial crime, such as money laundering, now pose to companies?

A: Switzerland is a leading global cross-border wealth management hub for private clients. This makes it particularly exposed and vulnerable to financial crime and money laundering. In November 2020, the Swiss Financial Market Supervisory Authority (FINMA) published its annual Risk Monitor, which provides an overview of what it believes are the most important risks currently facing Swiss financial institutions (FIs), and money laundering continues to feature heavily. Owing to shrinking profit margins, FIs may pursue relationships with profitable new clients from high-risk emerging-market countries where there is a serious threat of corruption. Many recent global corruption and AML scandals have all had links to Switzerland and its banking system. The numerous violations of anti-money laundering (AML) regulations by FIs and other gatekeepers in the wake of these scandals show that the risks involved in the cross-border wealth management

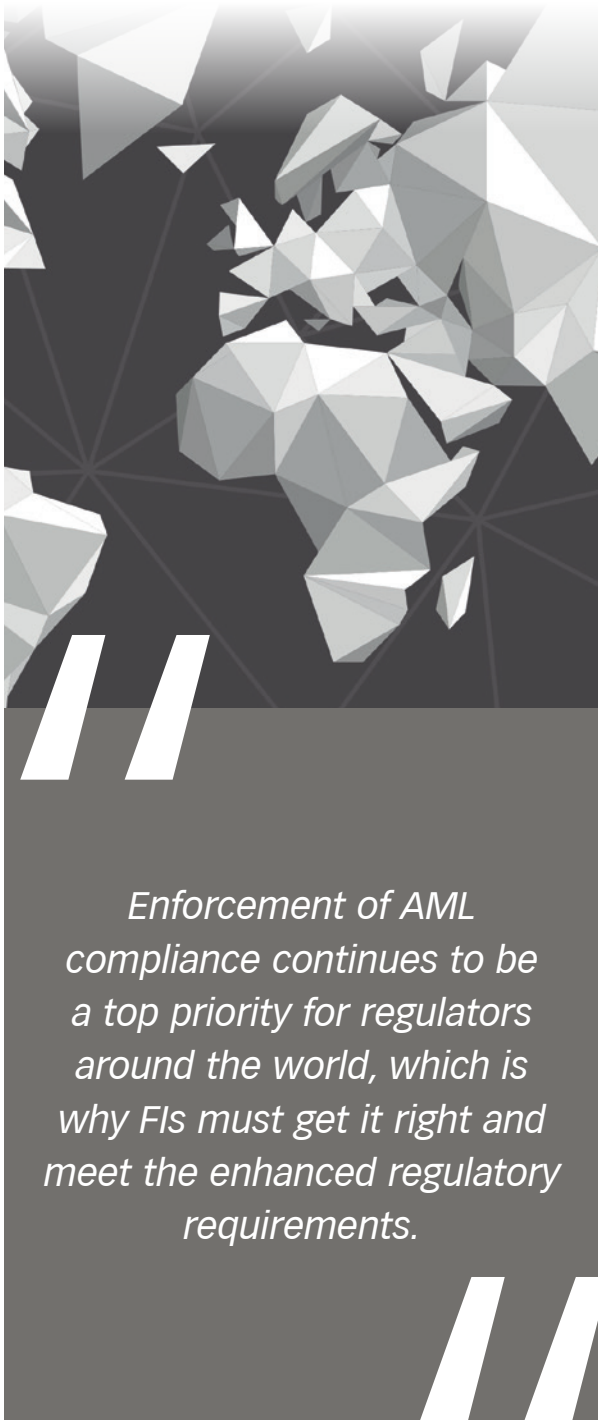
business remain high. In addition to the traditional AML risks, FIs also face emerging risks in the area of blockchain technology and in relation to digital assets.

Q. In your experience, what are the main types of financial crime that organisations are encountering? What are the typical sources of such risks?

A: Financial flows associated with corruption and embezzlement can not only be linked to just private clients, who often qualify as politically exposed persons (PEPs), but also to state or quasi-state organisations and sovereign wealth funds. Money laundering risks are increased further by complex structures that impair transparency when it comes to identifying the beneficial owners of the assets concerned. These structures include domiciliary companies, fiduciary relationships and insurance wrappers.

Q. What legal and regulatory initiatives are set to have a significant bearing on this issue in Switzerland? How would you describe the nature and extent of the demands being placed on companies to help reduce financial crime?

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A: In 2016, the Financial Action Task Force (FATF) Mutual Report identified a range of weaknesses in Switzerland's AML framework. As a result, Switzerland is engaged in an enhanced follow-up procedure. To exit this procedure, it started to implement several changes to its AML framework. For instance, FINMA revised its Anti-Money Laundering Ordinance (AMLO-FINMA), which came into force on 1 January 2020 and was adjusted on 1 January 2021 to implement changes from the new Financial Services Act (FinSA) and the Financial Institutions Act (FinIA). The amended AMLO-FINMA sets out in more detail the requirements for global monitoring of AML risks. It also specifies the risk management measures which must be put in place if domiciliary companies or complex structures are used or if there are links to high-risk countries. To meet the FATF requirements, the Swiss Anti-Money-Laundering Act (AMLA) is currently under revision. The revised AMLA is expected to enter into force 1 January 2022 at the earliest. The proposed draft stipulates the explicit duty of FIs to check the details of the beneficial owner and to perform regular risk-based reviews of whether the client documentation is



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up to date. Further, advisory services including foundation, acquisition, disposal, administration and funding of domiciliary companies with registered offices in Switzerland or abroad and trusts will be subject to the AMLA requirements. At the same time, due diligence, auditing and reporting obligations for ‘advisers’ shall be introduced.

Q. In the wake of enforcement action, do companies need to proactively review and revise their practices?

A: Enforcement of AML compliance continues to be a top priority for regulators around the world, which is why FIs must get it right and meet the enhanced regulatory requirements. Both FINMA and the self-regulatory organisations seek to prevent money laundering. In recent years, both FINMA and prosecutors investigated several cases where FIs domiciled in Switzerland breached regulatory and criminal laws in their handling of certain client relationships. During FINMA’s investigations at several Swiss banks, it discovered systemic failures to comply with due diligence requirements under AMLA, as well as violations of AML

reporting requirements. FINMA imposed various mitigation measures. One bank was even prohibited from conducting major acquisitions that would lead to a significant increase in operating risks or in its organisational complexity until it is once again fully compliant. While FINMA stated that it has most recently and in general observed higher standards of compliance with the legal obligations to combat money laundering, FIs should assess and enhance the robustness of their AML framework and training on an ongoing basis.

Q. How important has technology become in the fight against financial crime? How are innovative AML solutions being used to enhance systems and processes?

A: The implementation of IT-based solutions, such as sophisticated transaction-monitoring systems or the use of smart data analytics tools is best practice and assists FIs to better detect, manage and prevent risks arising from potentially suspicious transactions. Innovative technology helps connect the dots, for example the huge volumes of data across domains, to provide

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compliance specialists with more complete and targeted information, rather than restricting monitoring to individual transactions or clients. FIs should correctly embed the AML tools within their relevant day-to-day activities to enhance the efficiency of their AML capabilities and to allow them to swiftly detect unusual behaviour and identify red flags. FIs should also deploy more data-driven validation of machine learning models to increase trust in currently used algorithms and enable the development and acceptance of advanced surveillance systems. Also, clients need to be onboarded and screened efficiently while complying with the AML regulations. IT-supported risk assessments and approvals, such as for PEPs or other high-risk relationships, significantly speed up compliance with AML regulations.

Q. Once a company suspects or confirms it has fallen victim to financial crime, what initial action should it take?

A: The AMLA specifies the procedures an FI must follow if it suspects assets might be tainted. The provisions governing special duties of due diligence, as outlined in Article 6 of the AMLA, require FIs

to clarify the economic background and purpose of a transaction or business relationship if it appears unusual or suspicious. The investigations carried out must be documented to enable third parties to reach a well-founded judgement on the transaction or business relationship and establish whether it complies with AMLA. ‘Reasonable suspicion’ exists when the results of these clarifications fail to refute the suspicion that the assets are linked with a crime. The FI must report such business relationships to the Swiss Money Laundering Report Office, under Article 9 AMLA – reporting duty. If it is unclear whether a report must be filed, the FI may still do so – reporting right.

Q. What essential advice would you offer to companies looking to improve the way they manage financial crime risk? How much of a challenge is it to tailor new innovations to a company’s operational realities?

A: An FI’s AML framework must be adapted in line with its risk appetite, product portfolio and geographical coverage. FIs need to improve their surveillance and mitigation systems



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continuously and in a holistic way. Given the major changes in the compliance and regulatory landscape and the resulting long-term impact on FIs, incremental adjustments will not be enough. FIs should design a new approach that integrates operational and compliance risk programmes. These programmes should be coordinated and follow a consistent standard and single platform. Integrated reporting and analytics provide compliance and management with a constructive, single view of risk. Products and channels are continually assessed from multiple perspectives and adjustments are made when needed. Further, compliance processes are subject to continuous improvement. Finally, the combined analysis of structured and unstructured data is forward-looking and shapes the compliance agenda for upcoming risk assessments, monitoring and other framework components. □

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