

Horizon scanner

Financial crime and cyber security



RISK RATING

Potential impact



Legal issue/risk	When?	What's next	Supporting information
<p>Restrictive Measures Against Russia in response to the illegal annexation of Crimea and Sevastopol</p> <p>Since March 2014, the EU has progressively imposed restrictive measures against Russia in response to the illegal annexation of Crimea and Sevastopol.</p> <p>These restrictive measures include an import ban on goods from Crimea and Sevastopol; restrictions on trade and investment related to certain economic sectors and infrastructure projects; a prohibition to supply tourism services in Crimea or Sevastopol; and an export ban for certain goods and technologies.</p> <p>The EU considers Russia's continued annexation of Crimea and Sevastopol to be illegal and will continue to extend these measures absent any change on the part of Russia which appears unlikely in the short term.</p>	23 June 2020	<p>On 20 June 2019, the EU Council extended the restrictive measures on economic relations with Crimea and Sevastopol by another year until 23 June 2020. We expect the restrictions to be further extended.</p>	<p>Restrictive Measures Against Russia in relations with Crimea and Sevastopol</p>
<p>Sectoral and Financial Sanctions Against Russia</p> <p>EU sectoral sanctions against Russia have been in place since July 2014 and have been amended and extended on a number of occasions. The restrictive measures: limit access to EU primary and secondary capital markets for certain Russian banks and companies; impose an export and import ban on trade in arms; establish an export ban for dual-use goods for military use or military end users in Russia; and curtail Russian access to certain sensitive technologies and services that can be used for oil production and exploration.</p> <p>The decision as to whether to maintain or lift sanctions is linked to whether Russia fully implements the Minsk agreements which were designed to bring peace to Ukraine. Recent press on the subject suggests this situation is unlikely to improve in the short term.</p>	31 July 2020	<p>On 19 December 2019, the European Council prolonged the economic sanctions targeting specific sectors of the Russian economy until 31 July 2020.</p>	<p>Sectoral and Financial Sanctions against Russia</p>



Legal issue/risk

When?

What's next

Supporting information

The Joint Money Laundering Steering Group (JMLSG) consultation on Pooled Client Accounts (PCA)

The JMLSG guidance is approved guidance which assists the financial sector with AML and CTF compliance. This consultation relates to proposed additional guidance regarding PCAs. The new proposed guidance is short and is unlikely to give rise to any surprises. It stresses the importance of measures to establish and document the purpose of PCAs whilst noting the specific risks which PCA's give rise to.

Key elements of the proposed guidance include:

- points to consider for PCA risk assessment;
- practical considerations such as ensuring the customer provides confirmation that upon request it will provide information and documentation regarding the identity of the owners of the funds held in a PCA; and
- specific issues around the application of CDD

10 June 2020

The consultation is open until 10 June 2020.

We advise to monitor the position and ensure the new guidance is reflected in AML policies and procedures where appropriate.

[JMLSG Consultation](#)



EBA: consultation on revised guideline on money laundering (ML) and terrorist financing (TF) risk factors

The EBA has issued a public consultation on revised ML risk factors guidelines which are intended to provide guidance on adjusting customer due diligence (“CDD”) measures to mitigate ML/TF risk and to set out factors regulated institutions should consider when assessing customer and transaction risk.

The guidelines set out factors that institutions should consider when assessing the ML/TF risk associated with a business relationship or occasional transaction. In addition, they provide guidance on how financial institutions can adjust their customer due diligence measures to mitigate the ML/TF risk they have identified. Finally, they support competent authorities’ AML/CFT supervision efforts when assessing the adequacy of firms’ risk assessments and AML/CFT policies and procedures.

Key changes proposed to the guidance include (i) new guidance on compliance with the provisions on enhanced customer due diligence related to high-risk third countries; (ii) additional details on TF risk factors; (iii) the use of innovative solutions to identify and verify customers’ identity; (iv) setting clear regulatory expectations of firms’ business-wide and individual ML/TF risk assessments; and (v) the provision of new sectoral guidelines for crowdfunding platforms, corporate finance, payment initiation services providers (PISPs) and account information service providers (AISPs) and for firms providing activities of currency exchanges offices.

6 July 2020

The consultation will close on 6 July 2020.

[EBA Consultation](#)

We advise to monitor the position to identify when the finalised guideline will be issued.



New National Risk Assessment on money laundering, terrorist financing and proliferation financing

The UK conducted its second national risk assessment of money laundering and terrorist financing in 2017. It was expected that a new risk assessment would be conducted in July 2020 however, further information regarding this is limited and we expect given the COVID-19 situation that the risk assessment may be delayed.

1 August 2020

We recommend monitoring the position and amend the internal risk assessments accordingly.

[New National Risk Assessment on money laundering, terrorist financing and proliferation financing](#)



Legal issue/risk	When?	What's next	Supporting information
<p>EU policy on high-risk third countries</p> <p>Under the Fourth Anti-Money Laundering Directive (4MLD), the EU is required to establish a list of high-risk third countries with strategic deficiencies in their AML/CTF regimes.</p> <p>On 7 May 2020, the European Commission adopted a new <u>delegated regulation in relation to third countries which have strategic deficiencies in their AML/CTF regimes</u> that pose significant threats to the financial system of the Union ('high-risk third countries'). The fact that a country is included on the EU's high-risk list does not trigger economic or diplomatic sanctions, but will operate instead to require additional KYC measures to be taken by regulated businesses subject to MLR 2017.</p> <p>The new list is not yet in force, citing in the delegated regulation <i>'the very exceptional and unpredictable situation arising from the COVID-19 pandemic which has an impact at global scale and is very likely to lead to disruptions in the proper functioning of economic operators and competent authorities alike'</i> the Commission has given some additional time to allow for effective implementation and, as such, the new list does not formally apply until 1 October 2020</p> <p>All businesses caught by MLR 2017 will have to apply enhanced due diligence measures on customers and transactions involving the countries on the new list. Regulated businesses can continue working from the previous version of the high risk list in the short term, but will need to begin to update policies and procedures to reflect the new list. Brexit uncertainty continues to make it difficult to predict with complete certainty the stance the UK will take towards the list, although we do expect adoption of the list in due course.</p>	<p>1 October 2020</p>	<p>The Directive was published on 7 May 2020, however, the new list does not formally apply until 1 October 2020.</p> <p>We would recommend monitoring the position.</p>	<p>EU policy on high-risk third countries</p>



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Short-term impact



On the horizon

Legal issue/risk	When?	What's next	Supporting information
<p>6th Money Laundering Directive ("6th MLD")</p> <p>On 11 October 2018, the Council of the European Union formally adopted the 6th MLD to strengthen and advance the fight against money laundering. The Directive introduces new criminal law provisions to disrupt and block access by criminals to financial resources, including those used for terrorist activities.</p> <p>The new rules include: EU-wide definitions of money laundering offences; EU-wide minimum penalties; and new additional sanctions, such as barring those convicted of money laundering from running for public office, holding a position of public servant, and/or excluding them from access to public funding.</p> <p>We anticipate that changes to UK legislation will be minimal as existing legislation already deals with some of the 6th MLD requirements.</p>	<p>3 December 2020</p>	<p>On 11 October 2018, the Act was adopted by the Council and the Final Act was signed on 23 October 2018. The 6th MLD was published in the Official Journal of the EU on 12 November 2018 and came into force on the twentieth day following its publication. All EU countries are expected to bring into force the laws and administrative provisions necessary to comply with 6MLD by 3 December 2020.</p> <p>Although the UK has left the EU and the transition period will end on 31 December 2020, we expect the Government to comply with the 6th MLD in any event.</p>	<p>6th Money Laundering Directive ("6th MLD")</p> <p>New EU rules to thwart money laundering and terrorist financing</p>



Immediate impact



Short-term impact



On the horizon

Legal issue/risk	When?	What's next	Supporting information
<p>Restrictive Measures against Democratic Republic of the Congo</p> <p>The UN Security Council imposed assets freeze and travel restrictions on persons acting in violation of the UN arms embargo imposed in 2003. Subsequent Resolutions extended the scope of the restrictions to certain other malign actors in respect of ongoing conflicts in the region. The EU continues to impose these financial restrictions and certain third countries have also aligned themselves with this declaration.</p> <p>On 9 December 2019, the Council adopted Decision (CFSP) 2019/2109^{LI} renewing the sanctions for a further year, until 12 December 2020.</p>	<p>12 December 2020</p>	<p>We expect these restrictions to continue to be extended.</p>	<p>Declaration by the High Representative on behalf of the EU on the alignment of certain third countries concerning restrictive measures against the Democratic Republic of the Congo</p>



Immediate impact



Short-term impact



On the horizon

Legal issue/risk	When?	What's next	Supporting information
<p>Sanctions Policy in the event of a no deal Brexit</p> <p>At the end of the transition period (31 December 2020), the UK will be free to alter the extent to which the EU sanctions program is applicable in the UK.</p> <p>This may lead to a divergence from existing sanctions which have applied in the UK and which have been directly transposed from EU Regulation.</p>	<p>From 11pm on 31 December 2020</p>	<p>After the transition period, financial institutions will need to:</p> <ol style="list-style-type: none"> 1. check new legislation and ensure compliance with its requirements; 2. read the sanctions regime guidance (which can be found here) and ensure policies and procedure reflect this; and 3. not assume all aspects of the existing EU sanctions will be exactly the same. <p>Additional information regarding the transition period can be found here.</p> <p>Look out for further guidance to be published by the Foreign & Commonwealth Office at the end of the transition period.</p>	<p>Sanctions Policy after 31 December 2020</p>



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Short-term impact



On the horizon

Legal issue/risk	When?	What's next	Supporting information
<p>EU Directive on countering money laundering by criminal law</p> <p>Whilst many Member States have already criminalised money laundering, the Directive proposes to harmonise money laundering offences and sanctions as currently there are differences across the EU. This sets out minimum rules concerning the definition of money laundering, identifying specific predicate offences, and appropriate sanctions. The legislative proposal was published on 21 December 2016 and preliminary agreement on the new rules was reached on 30 May 2018. On 7 June 2018, the EU issued a press release noting that an informal agreement between Parliament and Council negotiators had been reached. The Directive was approved by Parliament at its first reading, adopted by Council on 11 October 2018, and the Final Act was signed on 23 October 2018. It was published in the Official Journal on 12 November 2018.</p>	<p>December 2020</p>	<p>Member States must transpose the Directive by 03 December 2020. Denmark, Ireland the UK are not bound by it.</p> <p>The Commission must also provide an implementation report to the European Parliament and to the Council by 03 December 2022.</p>	<p>Press release from EU</p> <p>Legislative Proposal</p> <p>European Parliament/Legislative Observatory</p>



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On the horizon

Legal issue/risk	When?	What's next?	Supporting information
<p>Venezuela: Council extended the restrictive measures</p> <p>The restrictive measures include an embargo on arms and equipment for internal repression as well as a travel ban and an asset freeze on 15 listed individuals in official positions.</p> <p>The political situation in Venezuela remains unstable and further restrictive measures may be imposed.</p> <p>Enhanced restrictive measures in respect of Venezuela akin to those currently imposed by the US would have particular impact on certain sectors including oil and gas and associated services such as trade finance and insurance.</p>	14 November 2020	We recommend monitoring the position.	Venezuela: Council renews sanctions until 14 November 2020
<p>Provisions from the Sanctions and Anti-Money Laundering Act 2018 (SAML A 2018) came into force</p> <p>On 21 November 2018, the Sanctions and Anti-Money Laundering Act 2018 (Commencement No. 1) Regulations 2018 (SI 2018/2013) were enacted, bringing into force the following provisions from SAML A 2018:</p> <ul style="list-style-type: none"> – Sections 1 to 31; – Sections 33 to 48; – Sections 57 and 68; – Section 59(4) so far as it relates to paragraphs 1 to 7 and sub-paragraphs (1) to (3) of paragraph 8, Schedule 3; and – Schedule 1. <p>The remaining provisions of SAML A 2018, including the repeal of existing legislation relating to sanctions and provisions relating to anti-money laundering, are intended to be brought into force at a later date.</p>	Ongoing	The remaining provisions of SAML A 2018 will be brought into force once the UK withdraws from the EU.	Sanctions and Anti-Money Laundering Act 2018 Sanctions and Anti-Money Laundering Act 2018 (Commencement No. 1) Regulations 2018



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On the horizon

Legal issue/risk	When?	What's next?	Supporting information
<p>Iran: extension of restrictive measures directed against certain people and entity</p> <p>On 7 April 2020, the Council adopted Decision (CFSP) 2020/512 amending Council Decision 2011/235/CFSP.</p> <p>The Council Decision renews the existing restrictive measures for a further twelve months, until 13 April 2021, and amends the list of persons and entities subject to restrictive measures.</p> <p>The restrictive measures include (i) travel bans (ii) asset freezes for specific persons responsible for serious human rights violations in Iran and (iii) restrictive in relation to the sale, supply, transfer and export of certain equipment and software to Iran</p>	<p>13 April 2021</p>	<p>The EU Council extended the restrictive measures against certain individuals for another year, until 13 April 2021.</p>	<p>Iran – extension of restrictive measures directed against certain persons and entities</p>



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Short-term impact



On the horizon

Legal issue/risk	When?	What's next?	Supporting information
<p>Consultation regarding EU Commission's Money Laundering/Terrorist Financing Action Plan</p> <p>The EU Commission has published a new action plan to improve the EU's overall fight against money laundering and terrorist financing with the aim of harmonising EU rules. The Commission also launched a public consultation in parallel to the adoption of this action plan, inviting comment on its proposed steps to achieve a comprehensive Union policy.</p> <p>The consultation is open until 29 July 2020 and views from businesses and service providers that are subject to anti-money laundering and countering the financing of terrorism rules, are welcome</p> <p>The action plan builds on six pillars:</p> <ul style="list-style-type: none"> • Effective implementation of existing rules • A single EU rulebook • EU-level supervision • A support and cooperation mechanism for financial intelligence units • Better use of information to enforce criminal law • A stronger EU in the world 	<p>Early 2021</p>	<p>The Commission intends to deliver on all these actions by early 2021.</p> <p>We recommend monitoring the position.</p>	<p>Action Plan</p> <p>Consultation</p>
<p>OFAC extends Belarus sanctions relief for six months</p> <p>The general licence authorises transactions with certain designated entities and has been extended until 26 April 2021 under General Licence 2G, issued on 22 October 2019. The licence does not authorise the unblocking of assets.</p>	<p>26 April 2021</p>	<p>The general licence remains in effect until 26 April 2021.</p>	<p>OFAC extends Belarus sanctions relief</p>



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On the horizon

Legal issue/risk	When?	What's next?	Supporting information
<p>European Union extends Myanmar arms embargo</p> <p>The embargo prohibits the export of dual-use goods for use by the military and border guard police and imposed restrictions on the export of equipment for monitoring communications that might be used for internal repression. It also prohibits the provision of military training to and military cooperation with the Myanmar Armed Forces. The Council further adopted a legal framework for targeted restrictive measures against certain persons from the Myanmar Armed Forces and the border guard police including travel bans and asset freezes.</p> <p>The EU has a long history of imposing and lifting various restrictive measures in respect of Myanmar in response to concerns of human rights violations. Therefore this program could be subject to change. However, in our view these changes are unlikely to impact global economies.</p>	30 April 2021	The Council will review the restrictive measures in place on Myanmar/Burma on 30 April 2021.	Restrictive measures against Myanmar/Burma extended



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On the horizon

Legal issue/risk	When?	What's next?	Supporting information
<p>European Council extended cyber sanction regime until May 2021</p> <p>In May 2019, the EU Council established a legal framework which established the basis on which the EU can impose targeted restrictive measures to respond to cyber-attacks which constitute an external threat to the EU or its member states, which have a significant impact and which originate or are carried out from outside the EU. See Council Regulation (EU) 2019/796</p> <p>Whilst there have been no designations pursuant to the Cyber sanctions regime as of yet, it is important to monitor the position, particularly in light of recent cyber-attacks resulting from the current Global COVID-19 crisis.</p> <p>The EU remains committed to a global, open, stable, peaceful and secure cyberspace and therefore re-iterates the need to strengthen international cooperation in order to promote the rules-based order in this area.</p> <p>The decision to extend the framework for another year comes just a few days after a declaration from the European Union and its Member States on malicious cyber activities which exploit the current coronavirus pandemic that noted the EU's determination to prevent, discourage, deter and respond to malicious cyber activities.</p>	<p>18 May 2021</p>	<p>On 14 May 2020, the EU Council extended for one more year, until 18 May 2021, the restrictive measures framework against cyber-attacks which threaten the EU or its member states.</p>	<p>Council extends cyber sanctions regime until 18 May 2021</p>



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On the horizon

Legal issue/risk	When?	What's next?	Supporting information
<p>Belarus: EU prolongs arms embargo and sanctions against four individuals for one year</p> <p>These measures include an embargo on arms and on equipment that could be used for internal repression, as well as an asset freeze and travel ban against four people designated in connection with the unresolved disappearances of two opposition politicians, one businessman and one journalist in 1999 and in 2000.</p> <p>The Council also prolonged the derogation to the restrictive measures to allow the export of certain equipment.</p> <p>It was announced on 31 March 2020 that the Candidate Countries Republic of North Macedonia, Montenegro and Albania, the country of the Stabilisation and Association Process and potential candidate Bosnia and Herzegovina, and the EFTA countries Liechtenstein and Norway, members of the European Economic Area, as well as Ukraine align themselves with this decision.</p>	<p>28 February 2021</p>	<p>Restrictive measures against Belarus have been extended for one year, until 28 February 2021</p>	<p>Belarus: EU prolongs arms embargo and sanctions against 4 individuals for one year</p> <p>Declaration by the High Representative on behalf of the EU on the alignment of certain countries concerning restrictive measures against Belarus</p>



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On the horizon

Legal issue/risk	When?	What's next?	Supporting information
<p>Combating fraud and counterfeiting of non-cash means of payment</p> <p>Directive (EU) 2019/713 includes provisions on expanding the scope of fraud offences to include transactions through virtual currencies; harmonising the definitions of some online crime offences; introducing minimum level for the highest penalties; clarifying the scope of jurisdiction to ensure cross border frauds are better dealt with; improving EU wide criminal justice cooperation; and improving prevention and awareness-raising to reduce the risk of becoming a victim of fraud.</p>	<p>31 May 2021</p>	<p>The Directive was published in the Official Journal of the European Union on 10 May 2019. Member states have until 31 May 2021 to implement the laws, regulations and administrative provisions necessary to comply with the Directive.</p>	<p>European Parliament/Legislative Observatory</p> <p>Directive on combating fraud and counterfeiting of non-cash means of payment</p> <p>European Council Press Release</p> <p>Directive (EU) 2019/713</p> <p>EU puts in place tighter rules to fight non cash payment fraud</p>



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Short-term impact



On the horizon

Legal issue/risk	When?	What's next?	Supporting information
<p>The European Commission is proposing a new law to strengthen whistle-blower protection across the EU</p> <p>The new law aims to establish safe channels for reporting both within an organisation and to public authorities. It will protect whistle-blowers against dismissal, demotion and other forms of retaliation.</p>	<p>2021</p>	<p>On 12 March 2019, the European Parliament and EU Member States reached a provisional agreement on the new whistle-blower rules, encouraging:</p> <ul style="list-style-type: none"> - clear reporting procedures and obligations for employers; - safe reporting channels; and - the prevention of retaliation and effective protection. <p>The final act was signed on 23 October 2019 and published in the Official Journal.</p>	<p>New proposed EU whistleblowing rules</p> <p>Better protection of whistle-blowers: new EU-wide rules to kick in in 2021</p>



Immediate impact



Short-term impact



On the horizon

Legal issue/risk	When?	What's next?	Supporting information
<p>Draft Registration of Overseas Entities Bill</p> <p>The Government published the draft Registration of Overseas Entities Bill in July 2018 providing for the establishment of a register of overseas entities that own UK property to be maintained by Companies Houses and registration requirements for overseas entities wishing to own land in the UK. Once the information is registered, it must be updated annually.</p> <p>The Bill follows the commitment made at the Anti-Corruption Summit in 2016 to establish such a register to assist in combatting money laundering and to achieve greater transparency in the UK property market.</p> <p>Whilst the Bill has not yet been enacted the Government is keen to make the Register operational in 2021.</p>	2021	The Government intends to make the Register operational in 2021.	Draft Registration of Overseas Entities Bill
<p>Review of the Money Laundering Regulations</p> <p>HM Treasury will lead a comprehensive review of the effectiveness and cope of the money laundering regulations and the OPBAS Regulations and publish a report on:</p> <ul style="list-style-type: none"> the impact of the existing regulations; the proportionality of the duties and powers; the effectiveness of enforcement actions; and the interaction with other legislation. 	26 June 2022	The review will commence in 2021, with a report to be delivered by 26 June 2022.	HM Treasury review of the Money Laundering Regulations



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On the horizon

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<p>The European Council presents new rules to facilitate detection of tax fraud in cross-border e-commerce transactions</p> <p>The new rules consist of two legislative texts:</p> <ul style="list-style-type: none"> – amendments to the VAT Directive putting in place requirements on payment service providers to keep records of cross-border payments related to e-commerce. This data will then be made available to national tax authorities under strict conditions, including those related to data protection; and – amendments to a regulation on administrative cooperation in the area of VAT. These amendments set out the details of how national tax authorities will cooperate in this area to detect VAT fraud and control compliance with VAT obligations. <p>The new rules will require payment service providers to transmit payment data electronically to the tax authorities in EU member states.</p> <p>The new record-keeping obligations include the following:</p> <ul style="list-style-type: none"> – records of cross-border payments only are required and domestic payments are out of scope; – records are required only where there are more than 25 payments to the same payee during a calendar quarter; and – records must be retained in electronic format for three years; and <p>The reporting obligation does not apply to the payer's payment services provider if the payer can demonstrate that at least one of the payee's payment services providers is located in the EU.</p>	<p>January 2024</p>	<p>These rules should be formally adopted by the Council without further discussion once the text has undergone legal and linguistic review.</p>	<p>E-Commerce: Council reaches provisional agreement on new rules for exchange of VAT payment data</p>



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On the horizon

Contacts



Zia Ullah
*Partner and Head of Corporate
Crime and Investigations*

T: +44 161 831 8454
ziaullah@
eversheds-sutherland.com



Rebecca Copley
Partner

T: +97 14 38 97 044
rebeccacopley@
eversheds-sutherland.com



Emma Gordon
Partner

T: +44 20 7919 4931
emmagordon@
eversheds-sutherland.com



Steve Smith
Partner

T: +44 20 7919 0616
stevesmith@
eversheds-sutherland.com



Victoria Turner
Senior Associate

T: +44 161 831 8718
victoriaturner@
eversheds-sutherland.com

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