

Horizon scanner

Financial Crime and Cyber-Security



RISK RATING

Potential impact



US withdrawal from Iranian Joint Comprehensive Plan of Action (“JCPOA”) and the imposition of wind-down provisions for non-US entities

On 9 May 2018, the US withdrew from the JCPOA and announced that US sanctions against Iran will be re-imposed.

US secondary sanctions which were in place prior to the JCPOA, impacting non-US financial institutions, came back into effect on 5 November 2018. Additionally on 5 November 2018, OFAC moved persons identified as meeting the definition of the terms “Government of Iran” or an “Iranian financial institution” from the List of Persons Blocked Solely Pursuant to E.O. 13599 to the SDN List.

In response, the EU has made certain amendments to the Blocking Regulation to provide protection for EU entities which wish to engage in business with Iran. These amendments came into force on 7 August 2018.

At the meeting of the Joint Commission of the JCPOA on 6 July, all remaining parties to JCPOA, including the UK, reiterated their commitment to the full implementation of the nuclear deal.

The UK Government has provided guidance for British businesses on doing business in Iran.

Ongoing

Compliance with both US sanctions and the EU Blocking Regulation should be closely monitored.

Eversheds Sutherland article on US withdrawal

Eversheds Sutherland article on the Blocking Regulation

EU Press Release

UK Government Guidance on Business in Iran



FCA consultation on changes to the Financial Crime Guide (“FCG”)

The FCA is proposing to add a chapter on insider dealing and market manipulation to the FCG and also make a number of general changes as a result of recent regulatory changes to ensure the guide remains up to date.

Autumn 2018

The Consultation was open from 27 March to 28 June 2018, and the finalised guidance will be available in Autumn 2018.

Eversheds Sutherland comment

Consultation process

The Financial Action Task Force (FATF) UK mutual evaluation – 2018

FATF conducts reviews of each member on an on-going basis to assess financial crime prevention measures against the FATF recommendations. The aim of the review is to assess the UK’s AML regime and to identify any areas of improvement.

On-going

The UK onsite visit was anticipated to take place in early 2018. A plenary discussion is overdue, having been anticipated in October 2018.

Global assessment calendar



Immediate impact



Short term impact



Medium term impact



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<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 measures apply to EU persons and EU based companies. They are limited to the territory of Crimea and Sevastopol.</p>	Already in force	On 18 June 2018, the EU Council extended the restrictive measures on economic relations with Crimea and Sevastopol by another year until 23 June 2019. We expect the restrictions to be further extended.	EU press release
<p>Sectoral and Financial Sanctions Against Russia</p> <p>EU sectoral sanctions against Russia have now been in place since July 2014 and have been amended and extended on a number of occasions. 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. The economic sanctions have now been extended until 31 January 2019.</p>	Already in force	On 5 July 2018, the economic sanctions were extended until 31 January 2019.	EU Council press release



Immediate impact



Short term impact



Medium term impact



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<p>Asset recovery action plan</p> <p>In 2016, the Home Office committed to publish an asset recovery action plan in response to a Public Accounts Committee. The asset recovery plan will set out how the UK is responding to the challenges involved in improving the recovery of the proceeds of crime. While the UK's performance in asset recovery has been broadly stable, the government strives to be more ambitious in tackling criminal finances and the action plan will outline a new approach to asset recovery. In particular, the plan will seek to develop more effective ways of calculating the value of the wider benefits of financial investigation and make this information available to the public.</p>	Watching brief	The asset recovery action plan is due to be published later this year. We recommend monitoring the position.	Home Office Asset Recovery Statistics - Response and Fact Sheet
<p>OFAC extends Belarus sanctions relief for 6 months</p> <p>On 26 April 2018, OFAC issued General Licence 2E, which authorises certain transactions with certain entities which were previously designated pursuant to Executive Order 13405.</p> <p>The general licence authorises transactions with certain designated entities and has been extended until 25 October 2019 under General Licence 2F, issued on 24 October 2018. The licence does not authorise the unblocking of assets.</p>	Already in force	The general licence remains in effect until 25 October 2019.	Belarus General License 2F



Immediate impact



Short term impact



Medium term impact



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<p>European Union extends Myanmar arms embargo</p> <p>On 26 April, the Council of the European Union extended the existing embargo on arms and equipment that can be used for internal repression in relation to Myanmar for one year. In addition, it prohibited 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. 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>	Already in force	The embargoes will remain in effect until 26 April 2019	EU extends Myanmar arms embargo
<p>The Information Commissioner's Office ("ICO") updates guidance on password policies</p> <p>Although the GDPR does not say anything specific about passwords, they are a commonly-used "appropriate technical and organisational measure" to ensure that personal data is processed securely. The ICO states that a good password system should have the following characteristics: first, it should be as difficult as possible for attackers to access stored passwords in a useable form; and secondly, it should protect against attackers trying to brute force or guess a valid password and username combination.</p>	Already in force	We would recommend reviewing the ICO's guidance to ensure that you comply.	ICO Guidance



Immediate impact



Short term impact



Medium term impact



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<p>United Nations lifts sanctions against Eritrea</p> <p>The United Nations has imposed sanctions against Eritrea, including an arms embargo, travel ban, assets freeze and targeted sanctions, since 2009. On 14 November 2018 the Security Council lifted those sanctions and commended the Eritrean government's efforts towards peace, stability and reconciliation in the region.</p> <p>Eritrea is still subject to UK sanctions, including transit control for Category B goods (test, inspection and production equipment) under the Export Control Order 2008 (SI 2008/3231) and financial sanctions under the Eritrea (Asset-Freezing) Regulations 2012.</p>	<p>Already in force</p>	<p>The UK sanctions against Eritrea have not yet been lifted. We would recommend monitoring the position.</p>	<p>UN Press Release</p> <p>UK Government guidance on embargoes and sanctions on Eritrea</p>
<p>The ICO brought its first prosecution under the Computer Misuse Act</p> <p>A motor industry employee has been sentenced to six months in prison in a prosecution brought by the ICO. The employee accessed thousands of customer records containing personal data without permission, using his colleague's log-in details, and continued to do so when he started a new job at a different organisation.</p> <p>The ICO usually prosecutes cases such as this under the Data Protection Act 1998 or 2018, but, in appropriate cases, it can prosecute under other legislation to reflect the nature and extent of the offending and for the sentencing Court to have a wider range of penalties available.</p>	<p>Watching brief</p>	<p>The ICO has prosecuted an individual under legislation which carries a prison sentence for the first time.</p>	<p>ICO Press Release</p>



Immediate impact



Short term impact



Medium term impact



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<p>Privacy and Electronic Communications (Amendment) Regulations 2018 to give the ICO the power to fine directors for breach of direct marketing rules</p> <p>On 16 November 2018, the government laid draft regulations amending the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) ("PECR"). The amendments will enable the ICO to fine directors of a company up to £500,000 for the use of automated calling systems and / or unsolicited direct marketing in breach of PECR, in addition to their power to fine companies up to £500,000.</p> <p>Directors will be held liable where they have consented to or connived in the breach, or where the breach is attributable to any neglect on their part.</p>	17 December 2018	These regulations come into force on 17 December 2018. We would recommend monitoring the position.	<p>Privacy and Electronic Communications (Amendment) Regulations 2018</p> <p>Privacy and Electronic Communications (EC Directive) Regulations 2003</p>
<p>FCA Launches Further Consultation on Approach to Brexit</p> <p>The Financial Conduct Authority (FCA) has launched a further consultation on its approach to the UK's exit from the EU. The consultation paper sets out additional proposals on how the FCA will amend its Handbook and EU deprived binding technical standards (BTS) if the approach to non-Handbook guidance and to forms which appear in the FCA handbook. The deadline for comments is 21 December 2018.</p>	21 December 2018	The deadline for comments is 21 December 2018. We would recommend monitoring the position.	FCA launches further consultations ahead of the UK's exit from the EU



Immediate impact



Short term impact



Medium term impact



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<p>Consultation on Guidance for Scope and Application of GDPR</p> <p>The European Data Protection Board (EDPB) has launched a consultation on its draft guidance on the territorial scope and application of the General Data Protection Regulation, Regulation (EU) 2016/679 (the GDPR). The consultation aims to determine whether GDPR applies for controllers and processors established outside of the EU. The closing date is 18 January 2019.</p>	18 January 2019	The consultation closes on 18 January 2019. We would recommend monitoring the position.	Guidelines 3/2018 on the territorial scope of the GDPR (Article 3)
<p>Money Laundering and Transfer of Funds (Information) (Amendment) (EU Exit) Regulations 2018</p> <p>The EU Withdrawal Act 2018 (EUWA) repeals the European Communities Act 1972 on the day the UK leaves the EU and converts into UK domestic law the existing body of directly applicable EU law. The purpose of EUWA is to provide a functioning statute book on the day the UK leaves the EU. EUWA will not take effect on 29 March 2019 if the UK and the EU agree an implementation period.</p> <p>EUWA will amend the Money Laundering Regulations, the EU Funds Transfers Regulations and Oversight of Professional Body Anti-Money Laundering and Counter Terrorist Financing Supervision Regulations 2017 so as to ensure the legislation continues to operate effectively once the UK is no longer a member of the EU. Changes include removal of references to EU institutions and an equalisation of the regulatory treatment of EEA Member States and third countries.</p>	29 March 2019	The Regulations will take effect on 29 March 2019 if the UK leaves the EU without agreeing on an implementation period following withdrawal. We would recommend monitoring the position.	Draft Money Laundering and Transfer of Funds (Information) (Amendment) (EU Exit) Regulations 2018 HM Government Guidance



Immediate impact



Short term impact



Medium term impact



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<p>Provisions from the Sanctions and Anti-Money Laundering Act ("SAML A") 2018 came into force</p> <p>SAML A is enabling legislation to allow the UK to impose economic and other sanctions and money laundering regulations, after its departure from the EU.</p> <p>On 21 November 2018, the Sanctions and Anti-Money Laundering Act 2018 (Commencement No. 1) Regulations 2018 (SI 2018/2013) were made, 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 – 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, which is thought to be on or before 30 March 2019.</p>	30 March 2019	The remaining provisions of SAML A 2018 will be brought into force once the UK withdraws from the EU.	<p>Sanctions and Anti-Money Laundering Act 2018</p> <p>Sanctions and Anti-Money Laundering Act 2018 (Commencement No. 1) Regulations 2018</p>
<p>House of Lords Select Committee appointed to review Bribery Act 2010</p> <p>The Committee was formally appointed on 17 May 2018 and is due to release a report by the end of March 2019.</p> <p>The report will focus on: the extent to which the Bribery Act has led to stricter prosecutions of corrupt conduct, a higher conviction rate and/or a reduction in such conduct; and the impact the Act has upon business and in particular small and medium enterprises.</p> <p>The Select Committee on the Bribery Act 2010 has heard evidence from various parties, including NHS Counter Fraud, Lord Leveson, Lord Advocate, the City of London Police, the Serious Fraud Office, the Financial Conduct Authority and witnesses, including Laura Dunseath, a Principal Associate in Eversheds Sutherland's Corporate Crime and Investigations team.</p>	31 March 2019	The report will be released by the end of March 2019	<p>Parliament press release</p> <p>Bribery Act 2010 Select Committee Home Page</p>



Immediate impact



Short term impact



Medium term impact



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<p>The European Council has approved rules for the free flow of non-personal data within the EU</p> <p>On 9 November 2018, the European Council adopted the reform that will remove barriers to the free movement of non-personal data within the EU. The new rules are designed to strengthen the data economy and the development of emerging technologies such as artificial intelligence. The reform bans localisation restrictions imposed by member states on the geographical location for storing or processing non-personal data, unless justified on grounds of public security.</p> <p>The Final act was signed on 14 November and is awaiting publication in the Official Journal.</p>	Watching brief	The Regulation has now been approved and signed by the European Council and Parliament and is awaiting publication in the Official Journal. It will be directly applicable in all Member States six months after its publication. We would recommend monitoring the position.	<p>EU Regulation on a framework for the free flow of non-personal data in the EU</p> <p>European Parliament / Legislative Observatory</p>
<p>Government announces new Serious and Organised Crime Strategy</p> <p>New measures in the strategy include:</p> <ul style="list-style-type: none"> – additional investment in the multi-agency National Economic Crime Centre (NECC) which is now operational – establishing a new national tasking framework for law enforcement – establishing a new network of overseas policy specialists <p>The strategy is to be supported by funding of at least £48 million in 2019 to 2020 to bolster law enforcement capabilities to tackle illicit finance.</p>	Watching brief	We recommend monitoring the position.	<p>Serious and Organised Crime Strategy</p> <p>UK Government press release</p>



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<p>UK Treasury Committee Sets Sights on Virtual Currency</p> <p>On 22 February 2018, the UK's Treasury Select Committee announced that it was launching an inquiry into the position of virtual currencies and distributed ledger technology ("DLT"). As well as examining the impact of DLT on financial institutions it also proposed to look at potential changes to regulation in this space. It looked at the potential risks that digital currencies could generate for consumers, businesses, and governments, including those relating to volatility, money laundering, and cyber-crime. A report on crypto-assets was published on 19 September 2018 setting out the Treasury Select Committee's findings and recommendations, including greater regulation of crypto-assets and associated activities by extending the definition of "activities" under the Regulated Activities Order to include, at a minimum, the issuance of ICOs and the provision of crypto exchange services.</p> <p>The FCA, as part of the Cryptoasset Taskforce led by Her Majesty's Treasury (HMT), published a report on cryptoassets on 29 October 2018. The report sets out next steps to be taken by HMT, the FCA and the Bank of England, including to consult on guidance and regulation of cryptoassets and to transpose the EU 5th MLD and broaden the scope of AML / CTF regulation further.</p>	Watching brief	The Crypto-asset report was published on 19 September 2018. The Treasury Committee is awaiting the Government's response. We recommend monitoring the position.	<p>Digital Currencies Inquiry</p> <p>Treasury Select Committee Crypto-assets report</p> <p>FCA Cryptoasset Taskforce Report</p>
<p>UK Treasury Committee launches economic crime inquiry</p> <p>On 29 March 2018, the UK Treasury Committee launched an economic crime inquiry.</p> <p>The inquiry will have two strands: one looking at the anti-money laundering and sanctions regime in the UK; and the other considering economic crime as it affects consumers as well as the effectiveness of financial institutions in combatting economic crime.</p> <p>The Committee will look at the scale of money laundering, terrorist financing and sanctions violations in the UK as well as at fraud and how the rise of online banking and payments has potentially exposed consumers to greater risk of fraudulent activity.</p>	Watching Brief	The inquiry is on-going. The deadline for submitting written evidence to the inquiry has now passed and the Committee is now hearing oral evidence. We recommend monitoring the position.	Economic Crime Inquiry



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<p>EU Directive on countering money laundering by criminal law</p> <p>The European Commission proposed a Directive requiring Member States to criminalise money laundering. 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. The Directive sets out minimum rules concerning the definition of money laundering, identify specific predicate offences and will set minimum rules for appropriate sanctions. The legislative proposal was published on 21 December 2016 and preliminary agreement on new rules was reached on 30 May 2018. On 7 June 2018 the EU issued a press release noting that informal agreement between Parliament and Council negotiators was 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.</p>	Watching brief	On 11 October 2018, the Act was adopted by Council and the Final Act was signed on 23 October 2018. The Act is currently awaiting publication in the Official Journal. Once the directive has been published, Member States will have 24 months to transpose it into national law.	<p>Press release from EU</p> <p>Legislative Proposal</p> <p>European Parliament/Legislative Observatory</p>
<p>5th Money Laundering Directive ("5th MLD")</p> <p>In July 2016, the European Commission proposed a further directive to amend the 4th MLD and further enhance the AML framework across the EU.</p> <p>After extensive discussion, EU authorities reached a political agreement on the 5th MLD on 18 December 2017. The European Council published a final compromise text on 19 December 2017 and the final text was published in the Official Journal on 19 June 2018.</p> <p>The 5th MLD is now in force as Directive (EU) 2018/843.</p> <p>The 5th MLD, among other matters:</p> <ul style="list-style-type: none"> – enhances powers of financial intelligence units across the EU – addresses risks associated with the use of virtual currencies by bringing providers of exchange services into scope – refines EDD requirements for high risk jurisdictions – requires Member States and the EU to publish lists of prominent public functions, to assist in the identification of PEPs 	Watching brief	<p>The European Council adopted the 5th MLD on 14 May 2018.</p> <p>The final text of the 5th MLD was published on 19 June 2018 in the Official Journal and is now in force. Member States have until 10 January 2020 to transpose it into national law.</p> <p>Directive (EU) 2018/843 has not yet been implemented into UK Law. The UK Government has confirmed that, as the transposition deadline falls within the Implementation Period, the UK will transpose the Directive.</p>	<p>European Parliament / Legislative Observatory</p> <p>Provisional Text adopted</p> <p>UK Government's statement on plans to transpose 5th MLD</p>



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<p>Corporate tax avoidance</p> <p>On 25 May 2018, the European Council adopted rules aimed at boosting transparency in order to tackle aggressive cross-border tax planning.</p> <p>The new Directive is designed to prevent corporate tax avoidance. It will require intermediaries such as tax advisors, accountants and lawyers that design and promote tax planning schemes to report the schemes that are considered as potentially aggressive. Member States will be required to exchange the information they receive through a centralised database and will be obliged to impose penalties on intermediaries that do not comply with transparency measures.</p>	31 December 2019	Member states will have until 31 December 2019 to transpose the Directive into national laws and regulations. The new reporting requirements will apply from 1 January 2020	<p>Corporate tax avoidance</p> <p>Draft Directive</p>
<p>Cutting the sources of income for Jihadists - targeting the financing of terrorism.</p> <p>On 1 March 2018, the European Parliament made a number of recommendations on cutting sources of income for terrorists. These recommendations include:</p> <ul style="list-style-type: none"> – calling on Members States' intelligence agencies to improve co-ordination and co-operation by setting up a stable European counter-terrorism financial intelligence platform – calling on Member States to step up the monitoring of suspicious organisations engaged in illicit trade, smuggling, counterfeiting and fraudulent practices – calling on Member States to take legislative action to guarantee that banks monitor pre-paid cards closely to ensure they can only be re-loaded via bank transfer and personally identifiable accounts – calling on Member States to make necessary provisions to full facilitate the opening of a bank account to all those present in their territory – stressing the need to put an end to any type of tax haven that facilitates money laundering, tax avoidance and tax evasion – calling for the EU to step up the application of sanctions on those that in any way make economic resources available to ISIS/Daesh, Al-Qaeda or other terrorist groups – calling on Member States to provide oversight and regulation of informal money transfer systems such as Hawala 	Watching brief	The European Parliament has now made a number of recommendations to the EU Council, Commission and the European External Action Service. We would recommend monitoring the position.	European Parliament / Legislative Observatory



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<p>FinTech Action Plan</p> <p>On 8 March 2018, the European Commission unveiled an Action Plan on how to harness the opportunities presented by technology-enabled innovation in financial services (FinTech).</p> <p>The Action Plan envisages enabling the financial sector to make use of the rapid advances in new technologies such as blockchain, artificial intelligence and cloud services. It also seeks to make the markets safer and easier to access for new players.</p> <p>The Action Plan sets out 23 steps, including:</p> <ul style="list-style-type: none"> – hosting an EU FinTech Laboratory (“the EU FinTech Lab”). The EU FinTech Lab met for the first time on 20 June 2018 and focused on outsourcing to cloud in the banking and insurance sectors – the Commission has already created an EU Blockchain Observatory and Forum reporting on the challenges and opportunities of crypto assets and a strategy on distributed ledger technology and blockchain – a consultation on the digitisation of information published by listed companies in Europe – workshops to improve information-sharing when it comes to cybersecurity – the commission will also present a blueprint with best practices on regulatory sandboxes based on guidance from European Supervisory Authorities 	Watching brief	We recommend monitoring the position to see how the Action Plan will develop.	FinTech Action Plan



Immediate impact



Short term impact



Medium term impact



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<p>EU proposal for new EU wide cyber-security measures</p> <p>In September 2017, the EU Commission proposed a set of measures to enhance cyber-security in the EU. This includes a proposed Regulation, a European Cyber-security Research and Competence Centre, a blueprint for how Europe and Member States can respond quickly, operationally and in unison when a large-scale cyber-attack strikes, more solidarity, stronger cyber defence capabilities and enhanced international cooperation.</p> <p>The proposed Regulation sets out:</p> <ol style="list-style-type: none"> 1. the objectives, tasks and organisational aspects of the European Agency for Network and Information Security ("ENISA"), which will include assisting Member States in dealing with cyber-attacks and helping implement the Security of Network and Information Systems Directive. ENISA was set up in 2004 but its current mandate only lasts until 2020. The Regulation would give it a permanent mandate; and 2. the framework for establishment of an EU wide cyber-security certification scheme to ensure that ICT products and services are cyber secure. <p>In addition, the Commission also proposes a Directive to combat fraud and the counterfeiting of non-cash means of payment, by expanding the scope of offences related to information systems to all payment transactions, including those made through virtual currencies.</p>	<p>Watching brief</p>	<p>The proposal was published on 13 September 2017 and is currently awaiting its first reading in Parliament.</p>	<p>Legislative Observatory</p>
<p>Criminal Fraud (Private Prosecutions) Bill 2017-19</p> <p>This Bill makes provision about private prosecutions in cases of suspected criminal fraud in certain circumstances; and for connected purposes.</p> <p>The Bill was first presented to Parliament on 5 September 2017 and is a Private Member's Bill, as such, information about its contents are limited at present.</p>	<p>Watching Brief</p>	<p>The Bill had its second reading in the House of Commons on 23 November 2018.</p>	<p>Criminal Fraud (Private Prosecutions) Bill 2017-19</p>



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<p>The European Commission is proposing a new law to strengthen whistle-blower protection across the EU.</p> <p>The European Commission is proposing a new law to strengthen whistle-blower protection across the EU. The proposal was put forward on 23 April 2018 and will guarantee a high level of protection for whistle-blowers who report breaches of EU law by setting new EU wide standards.</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>	Watching Brief	The proposal requires approval from EU Member States and the European Parliament before it can become law. The proposal is currently awaiting committee decision.	<p>Whistleblower protection: Commission sets new, EU-wide rules</p> <p>Proposal for a Directive on the protection of persons reporting on breaches</p> <p>European Parliament / Legislative Observatory</p>
<p>Combating fraud and counterfeiting of non-cash means of payment</p> <p>On 9 March 2018, the European Council adopted its position on a Directive on combating fraud and counterfeiting of non-cash means of payment.</p> <p>The new Directive 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>	Watching Brief	The proposed directive is awaiting its first reading in Parliament. Once the European Parliament has defined its position, negotiations will start with a view of reaching an agreement as soon as possible.	<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>



Immediate impact



Short term impact



Medium term impact



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<p>Law Society response to Law Commission consultation on anti-money laundering</p> <p>In December 2017, the Home Office asked the Law Commission to review the anti-money laundering regime in Part 7 of the Proceeds of Crime Act 2002 and the counter-terrorism financing regime in Part 3 of the Terrorism Act 2000. The Law Commission has set out a number of proposals including:</p> <ul style="list-style-type: none"> – statutory guidance on what to look for and a set format for submitting suspicious activity reports – additional detail and record keeping requirements targeted at specific transactions – legal protection for banks which choose to lock into an account the suspected criminal funds but leave the rest of the account open to trade thereby minimising the risk of severe financial loss for those who are the subject of a disclosure – further guidance on a defence of 'reasonable excuse' for not making a suspicious activity report – asking whether commercial organisations, rather than the individual employees, should be liable for failure to prevent a criminal offence when an employee fails to disclose a suspicion <p>The consultation seeks responses on how to ensure banks and businesses provide better information to law enforcement agencies and to concentrate on the most suspicious activity.</p> <p>The Law Society's response included one proposal not mentioned by the Commission: to introduce a reasonable excuse defence for failure to report specific offences on a "de-scoped" list which would contain offences recognised as generating low value intelligence, such as Tree Preservation orders and minor regulatory offences.</p>	Watching brief	The consultation closed on Friday 5 October 2018. We would recommend monitoring the position.	<p>Law Commission public consultation</p> <p>Law Society Press Release</p> <p>Law Commission consultation on the UK Suspicious Activity Reporting (SARs) regime (279kb)</p>



Legal Issue/Risk	When?	What's next?	Supporting information (hyperlinks)
<p>Public Consultation on reforming the law of search warrants</p> <p>The Law Commission launched their public consultation on reforming the law of search warrants on 5 June 2018.</p> <p>The Law Commission has identified a number of problems with the current law including:</p> <p>the sheer number of provisions (175 different powers to issue a search warrant), coupled with their complexity, leads to a confusing legislative landscape</p> <ul style="list-style-type: none"> – there is inconsistency across search warrant provisions and in the procedure for obtaining such a warrant – a large proportion of the legislation (including Police and Criminal Evidence Act 1984) predates the advent of electronic material and risks failing to deal with emerging digital technology and the forms in which criminal activity now takes place <p>The consultation seeks comments on proposals to simplify the law and procedure for obtaining a search warrant as well as modernising the law to ensure it is equipped to deal with current technology.</p>	<p>Watching brief</p>	<p>The consultation ran until 5 September 2018.</p> <p>The Law Commission will then publish a policy development analysing consultation responses, prior to issuing recommendations to the Government.</p>	<p>Law Commission public consultation</p>
<p>Draft Registration of Overseas Entities Bill</p> <p>The draft Registration of Overseas Entities Bill sets out provisions to establish a new beneficial ownership register of overseas entities that own UK property to be maintained by Companies House. Any overseas entity wishing to own land in the UK must identify and register their beneficial owners, along with details of the company itself. Whilst registration is voluntary, failure to do so will result in the overseas entity being unable to register ownership with the Land Registry (meaning they cannot obtain full title). 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>The Government invited views on the draft bill. The consultation closed on 17 September 2018.</p>	<p>Watching brief</p>	<p>The Government consultation on the draft Bill closed on 17 September 2018. We would recommend monitoring the position.</p>	<p>Draft Bill</p> <p>Eversheds Sutherland briefing</p>



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