Council of the European Union

Brussels, 30 July 2021
(OR. en)

Interinstitutional File:
2021/0250 (COD)

10289/21
ADD 4

EF 226
ECOFIN 663
DROIPEN 121
ENFOPOL 258
CT 94
FISC 109
COTER 84
CODEC 1003

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SEC(2021) 391 final
Subject:	REGULATORY SCRUTINY BOARD OPINION Anti-money Laundering Package

Delegations will find attached document SEC(2021) 391 final.

Encl.: SEC(2021) 391 final

EUROPEAN COMMISSION

4/12/2020

SEC(2021) 391

REGULATORY SCRUTINY BOARD OPINION

Anti-money Laundering Package

{COM(2021) 420-423}
{SWD(2021) 190-191}

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Anti-money laundering package

Overall opinion: POSITIVE

(A) Policy context

Money laundering is the processing of criminal monetary transactions in order to appear legitimate. The EU has been combating money laundering and terrorist financing for thirty years. During this time, the EU's regulatory framework has evolved significantly. There have also been international recommendations from the Financial Action Task Force (FATF). Between 0.7 and 1.3% of EU GDP is estimated to involve suspect financial activity. However, only a minor share is detected and only 1% of assets are confiscated.

The Commission revised the anti-money laundering (AML) framework in 2018. However, recent high-profile cases led to an action plan in May 2020, which proposed further action. This impact assessment aims to increase the effectiveness of rules, supervision and enforcement. It will also extend the scope of activities covered.

(B) Summary of findings

The Board notes the useful additional information provided in advance of the meeting and commitments to make changes to the report.

The Board gives a positive opinion. The Board also considers that the report should further improve with respect to the following aspects:

(1) The main body of the report does not present the available political choices pertaining to certain implementing options.

(2) The report does not sufficiently assess compliance costs and the simplification aspects of the initiative.

(3) The report is not clear enough about how 'future proof' the preferred option is.

(C) What to improve

(1) The report should better present the political choices related to certain implementing options developed in the annex (e.g. strengthening the international dimension, interconnection of bank account registers for AML and law enforcement authorities, cash

This opinion concerns a draft impact assessment which may differ from the final version.

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limits). Available implementing choices should be briefly introduced in the main body of the report, while keeping the substantive analysis in the annexes. The latter should be presented in a more structured way, around the problems, options and their impacts, clearly indicating the preferred way forward.

(2) The report should more clearly present the envisaged simplification measures (REFIT) and the overall impacts on compliance costs. This should involve a better identification of costs and differentiation according to type of remunerators. Costs (and benefits) should be quantified to the extent possible and summarised in Annex 3.

(3) The report should more clearly assess the evolving nature of money laundering techniques and how this will challenge the flexibility of the AML framework. The report could highlight how risk scenarios will be updated and how this will direct the scope and depth of supervision. The report should clarify who will be responsible for the updates and the development of the risk assessment tools.

(4) The policy context could be improved by stressing more clearly the distinction between prevention and enforcement. The report should clarify how better prevention can help law enforcers focus on the most relevant cases and build better cases.

(5) The report should clarify to what extent it follows the advice of the European Banking Authority and the recommendations of the FATF.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG may proceed with the initiative.

The DG must take these recommendations into account before launching the interservice consultation.

Full title	The package of Commission legislative proposals regarding Anti-Money Laundering and Countering of Financing of Terrorism (AML/CFT), and law enforcement
Reference number	PLAN/2020/7886 PLAN/2020/7907 PLAN/2020/7908 PLAN/2020/7909
Submitted to RSB on	04 November 2020
Date of RSB meeting	02 December 2020

ANNEX – Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

SUMMARY OF COSTS AND BENEFITS

Increased effectiveness of AML/CFT rules, consistent supervision across the internal market and efficient exchange of information among FIUs is the main objective of the initiative. This should reduce the quantity of illicit funds which are laundered or used to finance terrorism, either through greater detection or deterrence.

OBJECTIVE 1 – STRENGTHEN EU ANTI-MONEY LAUNDERING RULES, ENHANCE THEIR CLARITY AND ENSURE CONSISTENCY WITH INTERNATIONAL STANDARDS

Preferred Option – Ensure a greater level of harmonisation in the rules that apply to entities subject to AML/ CFT obligations and the powers and obligations of supervisors and FIUs.

I. Overview of Benefits (total for all provisions) – Preferred Option		
Description	***Amount***	***Comments***
Direct benefits		
Harmonisation of rules that apply to entities subject to AML/ CFT obligations	A detailed and coherent rulebook for entities subject to AML/ CFT requirements across the EU Removal of barriers to the Internal Market Lower compliance costs for cross-border obliged entities Higher legal certainty	Businesses would benefit by the creation of a level playing field as regards rules and obligations applicable to entities subject to AML/ CFT requirements, i.e. CDD and BO obligations. Lower compliance costs over time, in particular for cross-border obliged entities Competent authorities would benefit from an enhanced capacity and more efficient execution of tasks
A consistent beneficial ownership (BO) transparency regime	Improved identification of beneficial owners across the EU	Citizens right to privacy would continue to be ensured through consistent rules on collection and storing of BO information in central registers and the existence of safeguards for accessing this information
Consistent powers and obligations of AML/ CFT supervisors across the EU	Removal of barriers to operating in the Internal Market Higher legal certainty	Supervisors would be granted a minimum set of powers. Such powers would be clear, binding at EU level and allow adequate exercise of supervision for all supervisors Obliged entities would benefit from a consistent definition of the criteria and thresholds for sanctions.
Consistent powers and obligations of FIUs	Better detection of cross-border suspicious transactions	

Indirect benefits		
Greater cooperation among EU AML supervisors and other national competent authorities	Improved application of AML/CFT rules and greater detection of suspicious transactions	
Greater cooperation of EU AML supervisors and national competent authorities with designated EU supervisor		

II. Overview of costs – Preferred option							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Harmonisation rules that apply to entities subject to AML/ CFT obligations	Direct costs			Adjustment costs to the new framework		Adjustment costs through modification of procedures, tools and human resources	
	Indirect costs						

OBJECTIVE 2 – IMPROVE THE EFFECTIVENESS AND CONSISTENCY OF ANTI-MONEY LAUNDERING SUPERVISION

Preferred Option – Direct supervisory powers over selected risky entities in the financial sector subject to AML/ CFT requirements and indirect oversight over all other entities.

I. Overview of Benefits (total for all provisions) – Preferred Option		
Description	***Amount***	***Comments***
Direct benefits		
Direct supervision of selected entities by an EU supervisor and indirect oversight over all other entities	For directly supervised entities, especially cross-border groups, advantage of dealing with one single AML/CFT supervisor.	National supervisors would be relieved of the burden of supervising entities selected for direct EU supervision. Supervised entities would benefit from harmonised EU-level supervision, rather than being subject to divergent national approaches
Indirect benefits		
Indirect supervision and coordination of national AML supervisors	More coherent and harmonised practices among national supervisors	Supervisors would benefit from greater coordination.

II. Overview of costs – Preferred option							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Direct supervision of selected entities by a designated EU supervisor	Direct costs				EU supervision funded through recurrent fees levied on supervised entities		
	Indirect costs					Potential movement of staff from national to a EU supervisor	

OBJECTIVE 3 – INCREASE THE LEVEL OF COOPERATION AND EXCHANGE OF INFORMATION AMONG FINANCIAL INTELLIGENCE UNITS

Preferred Option – The EU FIUs' Platform to become a mechanism as part of the AML Authority, with power to issue guidance and technical standards and to organise joint analyses and training, carry out trends and risk analysis.

I. Overview of Benefits (total for all provisions) – Preferred Option		
Description	***Amount***	***Comments***
Direct benefits		
Coordination and support of EU FIUs through the mechanism	Better information exchange on emerging AML/ CFT risks and trends. Higher level of expertise among staff in national FIUs thanks to intensified exchanges of practices and experiences.	FIUs would benefit from better information exchange by carrying out joint analyses and training. Strong support and coordination of national FIUs through a dedicated Secretariat.
Development of common reporting standards, templates and non-binding guidance	Facilitation and reduced cost of reporting.	Obliged entities benefit from improved feedback. FIUs benefit from better cooperation, more effective information flow, comparable data and operational capacity development through peer reviews.
Indirect benefits		
Development of common reporting standards and templates	Facilitation of cooperation among FIUs.	Cooperation with other competent (non-FIU) authorities enhanced.

II. Overview of costs – Preferred option							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Coordination and support of EU FIUs through the mechanism	Direct costs					Setting up an FIU mechanism within the AML Authority	Operating an FIU mechanism within the AML Authority
	Indirect costs						

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Electronically signed on 04/12/2020 11:24 (UTC+01) in accordance with article 11 of Commission Decision C(2020) 4482

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