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THE FCA CRACKS DOWN ON FIRMS' AML SYSTEMS

The FCA is continuing its focus on firms' processes, systems and controls for managing the risk of anti-money laundering ("AML"). In its Business Plan for 2014/15, the FCA says that it will continue to assess AML systems and controls in major banks, as well as the individual staff members responsible for those processes. During this year, the FCA is continuing its Systematic Anti-Money Laundering Programme ("SAMLP") assessments of major banks. Currently, the FCA conducts what it calls "deep dive" assessments of four major banks per year. During this process, it conducts detailed testing of the banks' AML processes, systems and controls and extensively interviews the key staff responsible for those AML processes and controls. In its Business Plan for this year, the FCA says that it will extend this to some smaller firms "that might present high levels of money laundering risk". It will also continue with its AML thematic work, the results of which, it will publish.

In the light of the FCA's intensive focus on AML risk, a number of banks and other financial institutions have been tempted to drop certain retail clients, whom they consider to present a higher than usual AML risk; in particular, there has been evidence of firms dropping some foreign retail clients. The FCA has found that there has been a spate of this activity, as firms "de-risk" their business relationships with their clients, in order to avoid the inherent challenges of compliance with the regulations for trickier-to-deal-with clients. However, Tracey McDermott, FCA director of enforcement and financial crime, was critical of this, saying that the FCA "would rarely expect" firms to terminate business relationships in order to avoid risks, as this was unlikely to be the only solution to the problem. She said, "we don't want to end up in a world where the fear of the consequences … will deny people access to legitimate services". Tracey McDermott was speaking at the SWIFT Business Forum on the 29 April, where she contributed to a panel session on fighting financial crime and the strategies for compliance.

Tracey McDermott said that for the majority of banks in the UK, it was "perfectly achievable" to manage the risks involved in taking on such clients, as many of the foreign banks dealt with by those UK banks were already regulated abroad for AML purposes. She queried whether these clients were being dropped to deal with risk, or in fact for competition reasons and said that it was not for regulators to decide on legitimate access to the UK, but that this was a role for governments.

Speaking as part of the same panel at the SWIFT Business Forum, Tracey McDermott also commented on the role of Money Laundering Reporting Officers ("MLROs"). She said significantly, "in smaller firms, the role of the MLRO is a very, very lonely one, with little support. We need this to change". She said that the FCA's thematic reviews had found both good and bad AML practices in firms and that MLROs need more help in dealing with "some of the red flags" that were emerging in firms in relation to AML risks. The FCA would attempt to work with firms wherever possible, but would not hesitate to take tougher action, where necessary: she said, "where we see things are wrong, we will tackle them using tougher tools … occasionally, we will use enforcement action".

It seems inevitable that firms should brace themselves for an increased focus on their AML procedures, systems and controls in the coming months - and MLROs are very much in the spotlight.

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