



FINANSTILSYNET

THE FINANCIAL SUPERVISORY
AUTHORITY OF NORWAY

Anti Money Laundering - The road to effectiveness

Thursday, 29 November 2012

Reykjavik, Iceland

Special Adviser RUNE GRUNDEKJØN

RÁÐSTEFNA UM VARNIR GEGN PENINGAÞVÆTTI

Arion banki Borgartúni 19, fimmtudaginn 29. nóv. kl. 12.15 - 16.00

Dagskrá

- 12.15 Léttur hádegisverður**
- 13.00 Ráðstefna sett**
Guðjón Rúnarsson, framkvæmdarstjóri SFF
- 13.10 Hlutverk og áherslur FME í baráttunni gegn peningabætti**
Unnur Gunnarsdóttir, forstjóri FME
- 13.30 Samstarf ríkis og einkaaðila um varnir gegn peningabætti í Noregi**
Hans-Jacob Anonsen, sérfræðingur í vörnun gegn peningabætti hjá Finansnæringens Fellesorganisasjon (FNO), sem eru systursamtök SFF í Noregi
- 14.00 Varnir gegn peningabætti – leiðin til skilvirkni**
Rune Grundekjøn, sérfræðingur hjá norska fjármálaeftirlitinu
- 14.30 Kaffihlé**
- 15.00 Raunhæf dæmi frá DNB banka**
Tor Ivar Mysen, sérfræðingur í efnahagsbrotum og vörnum gegn peningabætti hjá DNB banka í Noregi
- 15.40 Starfsemi peningabættisskrifstofu**
Óskar Þórmundsson yfirlögregluþjónn og Logi Kjartansson, lögfræðingur frá peningabættisskrifstofu Ríkislögreglustjóra
- 16.00 Ráðstefnuslit**

Fundarstjóri: Hákon Már Pétursson, regluvörður Arion banka

Vinsamlegast skráið ykkur með því að senda póst á sff@sff.is fyrir 27. nóvember. Ráðstefnan, sem fer fram á Íslensku og ensku, er öllum opin og aðgangur er ókeypis.

Agenda

- Introduction
- FATFs new 40 – on the road to effectiveness
- Effectiveness

Finanstilsynet supervises entities in these areas:

- Banking and finance
- Insurance and pensions
- Securities market
incl. market conduct / prospectuses / financial reporting (IFRS)
- Auditing
- External accounting
- Real estate agencies
- Debt collection agencies
- ICT and payment systems in the financial sector

About Finanstilsynet

Supervision of the financial market

Finanstilsynet is an independent government agency that builds on laws and decisions emanating from the Parliament (Stortinget), the Government and the Ministry of Finance and on international standards for financial supervision and regulation.

FATF: Norwegian president

In July 2012, **Mr. Bjørn Skogstad Aamo** became President of the FATF. He succeeded Mr. Giancarlo Del Bufalo of Italy.

Bjørn S. Aamo is Special Adviser in the Ministry of Finance, Norway. Mr. Aamo was Director General of the FSA of Norway (Finanstilsynet) from 1993 to 2011. In this capacity he was active in European and global supervisory organisations on banking and insurance.



Iceland and Norway, Rio de Janeiro

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- WGEI meeting one week in Luxembourg in December 2012
- FATF plenary meeting February 2013
- Rating

Effectiveness

- 4th round of FATF Assessments will place much stronger emphasis on *effective implementation* of revised FATF Standards (in the 3rd round effectiveness was assessed in an inconsistent manner).
- Developing an approach to assess effectiveness:
 - Based on objectives linked to protecting the integrity and security of financial systems from ML/TF risks.
 - Countries assessed on how effectively they have mitigated the risks.
 - Effective implementation separate and complementary to technical compliance.

Main Changes of standards (from february 2012):

- High-level policy principles largely unchanged; a number of new requirements is introduced.
- Most of the changes are technical in nature.
- Considerable expansion of the text of the Standards in order to clarify concepts and obligations.
- A new structure:
 - From 40 + 9 Recommendations and Special Recommendations to 40 Recommendations (9 SRs on terrorist financing merged into revised 40 general Recommendations).
 - More “logical” order with 7 new sections.

Risk-Based Approach (RBA)

- Risk-based approach vs. rules-based approach
- Basic principles of the RBA
 - Higher-risk → FIs must apply enhanced due diligence.
 - Lower-risk → FIs may apply simplified due diligence.
 - The scope of FATF standards is risk-sensitive (possible exemptions for low-risk activities; required extension to additional high-risk activities).
- Objectives of a risk-based approach:
 - focus on higher risk for more effective implementation
 - more efficient allocation of resources

Risk-Based Approach (RBA)

Risk assessment

- Countries are explicitly required to identify, assess and understand their ML/TF risks.
- Financial institutions and designated non-financial professions required to identify and assess their ML/TF risks.
- Risk assessment is the basis of any effective risk-based AML/CFT regime – in particular for allocating law enforcement resources or applying additional safeguards to the highest-risk areas.
- Risk assessment does not mean a single document: FATF is developing guidance on national risk assessment.

Money Laundering & Confiscation

- The scope of predicate offences to money laundering is expanded to include tax crimes:
 - An additional *designated category of offences*: tax crimes (related to direct taxes and indirect taxes).
 - It is left to each country to define serious tax crimes.
 - Key consequence: transactions related to the laundering of the proceeds of tax crimes will have to be reported as suspicious transactions.
- Clarification that smuggling includes customs and excise duties and taxes.

Customer Due Diligence (CDD) (R.10)

- Core CDD requirements have not changed.
- Greater specificity on the measures to be taken in order to identify and verify the beneficial ownership of customers that are legal persons or arrangements, and the beneficiaries of life insurance policies.
- Additional examples on risk-based CDD:
 - Examples of lower & higher ML/TF risk factors for customers, products and countries;
 - Clarification of what are simplified or enhanced CDD measures.

Preventive Measures

Money or value transfer services (MVTs) (R.14)

- A specific recommendation is maintained (now R.14).
- Broadly the same requirements as for financial institutions; but
- A new requirement for countries to take action to identify and sanction unlicensed or unregistered MVTs operators.
- Additional requirements have been added to enhance the transparency of cross-border **wire transfers**.

Beneficial Ownership

Objectives of the revision

- Problems identified in the 3rd round of evaluations, with inconsistent evaluation and low levels of compliance.
- Caused by lack of clarity about the requirements and how to implement them.
- The principles in the two recommendations remain unchanged: authorities should have timely access to beneficial ownership information.
- New, detailed interpretive notes aim at providing clarity and specificity about the practical steps that should be taken by countries.

Beneficial ownership

Legal persons (e.g. companies) (R. 24)

- **Basic information:**
 - Companies should be registered;
 - Companies & Registries should obtain and record basic information.
- **Beneficial ownership information – Countries either:**
 - Proactively hold beneficial ownership information in company registries or by companies, or
 - Use existing information to determine who the beneficial owner is when needed.
- Additional specific requirements for international cooperation, to address cross-border ownership.

Competent authorities

- Highlight the specificity of the Financial intelligence units, **FIUs**, and its key contribution to the operational value chain: analysis.
- Provide for potential broadening of demand for FIU analytical products but allow safeguards for FIU information to remain.
- Are forward looking, but flexible as far as clarifying the functions that an FIU should have.
- When conducting investigations of ML, TF and predicate offences, competent authorities should be able to ask for all relevant information held by the FIU.

International cooperation

International instruments (R. 36)

- Countries are encouraged to ratify and implement relevant international conventions, such as the Council of Europe Convention on Cybercrime.

Mutual legal assistance and extradition (R. 37-9)

- Clarification of the obligations for countries to have clear and efficient processes to facilitate the execution of MLA requests in a timely manner.
- Strengthened requirements for countries to have arrangements for sharing confiscated assets; and to assist with requests based on foreign non conviction based confiscation orders in certain circumstances.
- Countries are required to render MLA notwithstanding the absence of dual criminality when assistance does not involve coercive actions.

FATF 4th Round of mutual evaluations

- Scheduled to start in the 4th quarter of 2013.
- Further work by FATF required by that time:
 - Preparing to assess countries compliance with the revised standards:
 - Review the assessment methodology.
 - Revise the procedures for evaluations.
 - Prepare countries and assessors.

Assessment: Two different tracks

- Technical compliance assessment
- Effectiveness assessment compliance
 - Objective-based (how well are defined outcomes achieved?)
 - Hierarchy of defined outcomes

Infiltration or penetration by organised crime groups into banks or other financial institutions

- Organised crime is increasing.
- Organised crime is becoming more violent.
- Criminals are involved in extensive intelligence activity.
- Criminal organisations are infiltrating the business community.
- We have had cases where criminals have infiltrated banks in order to cooperate with criminals outside the bank.
This is based on information/cooperation with the police, and internal Risk Assessments.
- Terrorist organisations may operate from both inside and outside of the institutions.

Supervisory instruments

– penetration and abuse by terrorist groups

- On-site inspections (regular and without warning)
- Off-site supervision: economic reporting from the industry
- Macroeconomic surveillance (and surveillance of other trends)
- Development and simplification of regulations
- International cooperation
- Information, communication and technology
- Organisational development, management and administration

Supervision and Regulation

Using an intermediary for criminal purposes is not just limited to money laundering activities:

- It strikes to the very heart of banking activities.
- Important to prevent the dishonest intermediaries.



Supervision and Regulation

Inspections and visits:

- Off-site visit
- On-site visit
- Important tool
- Many countries have ML/TF on the agenda during all the on-site visits.
- In addition inspections focusing solely on ML/TF.



Supervision and Regulation

On-site visits:

- How to choose the institutions subject to inspection
- Prior to the visit
- The team from the supervisory authority
- The spot checks
- How much in detail?
- The communication with the bank:
 - written and oral
 - The right level, Board, AML officer etc

Guidelines and Feedback

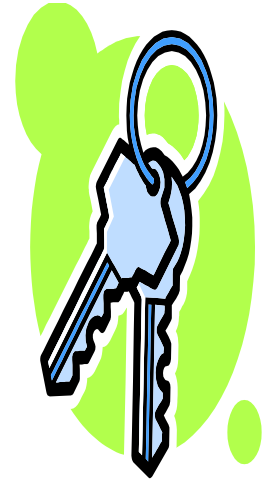
From the mutual evaluation reports:

- Private sector asking for more specific and tailored guidelines.
- Some countries have no guidelines at all.
- Lack of guidelines in main areas-
- Lack of feedback in time-
- The relationship between guidelines from the Regulator and guidelines from the FIU-

Guidelines and Feedback

The importance of guidelines and feedback:

- Information
- Learning and training elements
- Motivation for the private sector
- Avoid wrong practice
- We all need feedback
- The supervisor should not go into every single detail – the risk based approach.
- The institutions are responsible for their own activities – not handle it over to the supervisor.



Guidelines and Feedback

From FATFs report on Australia:

«During assessment discussions the private sector generally indicated that it did not receive adequate feedback on STRs filed.»

Sanctions

- It is important to have in mind the purpose with the sanction regime – make the system work.
- Can be different from country to country.
- Based on international standards and national traditions.

Sanctions

Question for the
conference:

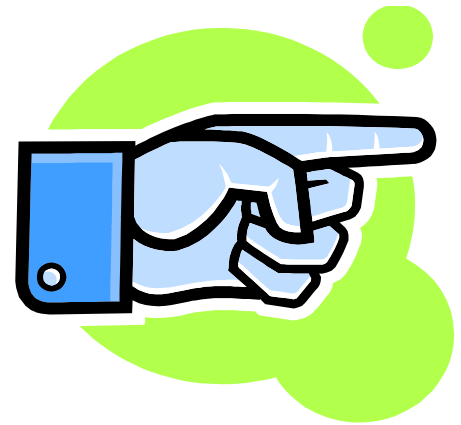
- How is it possible to both cooperate with the private sector and use sanctions at the same time?



Sanctions

Example on sanctions
from the supervisory
authority according:

- Written warnings



- Cooperation within the private sector
- The same enemy
- The possibilities according to the law – do not only see the limitations

Cooperation among competent authorities

The cooperation between public and private sector is very important:

- **The same team – but different roles**

Thank you!

rune.grundekjon@finanstilsynet.no

www.finanstilsynet.no

www.hvitvasking.no

FATF: <http://www.fatf-gafi.org/>