

Abstract

On February 16, 2012, the Financial Action Task Force (FATF)¹ released press information related to the new INTERNATIONAL STANDARDS ON COMBATING MONEY LAUNDERING AND THE FINANCING OF TERRORISM & PROLIFERATION, the so called “FATF recommendations”². Among the mayor changes, the press release enumerates the expansion of “the scope of money laundering predicate offences by including tax crimes”.

This thesis elaborates solutions to problems people with practical experience within the Anti Money Laundering (AML)/Countering the Financing of Terrorism (CFT)-system might face if and when they have to deal with tax crime as predicate offence to Money Laundering (ML). While doing so, the analysis starts on the global level, then continues at the continental level in Europe and ends up by looking at different national levels in Europe and abroad.

On the global level, the FATF has to consider whether the FATF recommendations can be implemented in compliance with the constitution of the countries concerned, i.e. all countries. On the European level, the EU has to consider whether the wording of the directive implementing the FATF recommendations in the EU is clear enough to avoid national legislation that differs too much from each other. On the national level, the countries implementing FATF recommendations and EU directives have to consider whether the national legislation and regulation is easy to be applied by the private and the public sector.

All three institutional levels should be trying to avoid unwanted consequences of the implementation of FATF recommendation 3 (the definition of the money laundering offence), like under- or over-reporting, weakening the existing AML/CFT-regime resource-wise both in the private and in the public sector, de-incentivising service providers from motivating their clients to file a voluntary disclosure, de-motivating compliance officers and client relationship managers by too large a variety of different national implementations or unequal risks attached to different markets, or over-motivating financial institutions to push their clients into waiving unnecessarily their legal rights. All these topics will be addressed in this thesis.

¹ The FATF was established by the G-7 Summit that was held in Paris in 1989, and is not part of the Organisation of Economic Co-operation and Development (OECD) as it is often falsely explained, due to the fact that the FATF has its offices in a building of the OECD in Paris and shares other infrastructure like IT.

² The FATF recommendations are available from <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html> (accessed on April 3, 2016), as well as related material like [FATF Guidance and Best Practices](#), [FATF Methodology for assessing with the FATF Recommendations and the effectiveness of AML/CFT systems](#), and [Procedures for the FATF's fourth round of AML/CFT mutual evaluations](#).