



## CEPS- ECRI TASK FORCE

# Anti-Money Laundering in the EU

Ensuring effective and efficient cross-border cooperation and mutual trust: Time to get serious

## Prospectus

### Introduction

Notwithstanding years of actions, tackling money laundering effectively remains a big challenge. Several high-profile cases in recent years indicate that we have not come closer to a solution, on the contrary. Anti-Money Laundering (AML) has revealed a weakness of the European framework, which malign actors seek to exploit. There is freedom of movement for services, capital, people within the EU, but the authorities governing these freedoms do not necessarily cooperate sufficiently, or act according to the same principles in their combat against money laundering, leaving many mazes or opportunities for arbitrage.

Seen from a banks and payment institutions perspective, tackling money laundering sits at the intersection of all the challenges they face today. It is foremost about maintaining trust of clients, and requires to handle payment systems, technology, data analytics effectively and efficiently, and to integrate it in the compliance function. It may affect different models of banks, retail and wholesale, or challengers, the payment providers, in different ways, but it all affects them in their core business. But an effective AML programme is a form of competitive advantage, which is why large retail banks have large AML departments.

Seen from a regulatory and supervisory perspective, a similar intersection of issues applies. Dealing with money laundering spans across several policy areas, and requires dealing with a variety of authorities, from the supervisors, to tax authorities, justice departments and data protection bodies. This challenge is multiplied at EU and international levels.

Seen from the user's perspective, it covers tax evasion, money laundering, and financing of major crime such as terrorist financing and dealing with human trafficking.

AML has been high on the EU's agenda for the last 25 years, with 4 updates of the initial 1992 directive already, but recent events seem to indicate we are still far away from a good solution in an increasingly complex and internationalising environment. Obviously, an effective system will never be watertight. As systems become more powerful, through the use of algorithms for example, so do possibilities to evade controls, through slicing of payments via a variety of payment transmitters. Calls for a revision of the architecture are growing louder, but a real solution will require much more.

Hence, this task force aims to contribute to an effective and efficient AML framework and to make policy recommendations to policy makers and firms on the subjects.

## Key Issues for discussion in the task force

The major AML issues in the EU can be divided into three distinct areas: effective governance, sound risk management, and changing capabilities. Some consider it is simply a question of reforming the EU AML supervisory architecture, but the answer is much more complex and nuanced than that. AML deterrence in the EU requires better governance, but improving the structure of European authorities alone will not keep organised crime and other members of the dark economy awake at night unless it is allied to action, commitment and improvements in capability.

### Effective governance

The question can be raised whether the objective of AML is sufficiently **coordinated across the EU**. Yet without clarity of vision, mission and modus operandi, it is difficult to see how progress can be achieved.

- Effective governance of money laundering is hampered by the **diversity in types of laundering**, and the variety of possible channels. This results in a lack of clarity about the actors involved, at EU and at international level. The EU co-ordination body for AML is the European Commission, though certain monitoring and supervisory functions are carried out by the European Central Bank and the European Banking Authority. There are information sharing arrangements between national member state authorities.
- Suspicious transactions are reported to local Financial Intelligence Units. In cross-border cases, Europol is in charge of coordinating investigations. Instruments such as the European Arrest Warrant, and soon the European public prosecutor have been created, but the **effectiveness of FIUs varies wildly across the EU**.

At **international level**, several groups are operational. 15 EU member states (plus the European Commission) are members of the Financial Action Task Force (FATF) to combat money laundering. The remaining 13 member states are members of Moneyval, a 28-state European FATF equivalent that includes countries such as the Caucasus states, Russia and Ukraine. The Egmont Group is the large international organisation of 159 financial intelligence units, representing the operational arm of AML/CFT deterrence to complement the strategic arm of the FATF.

Governance is not just about architecture, however, but also about ‘battle rhythm’:

- The gestation periods of EU legal and policy measures are far too long. In relation to AMLD 4, for example, the ‘flash to bang’ time (carrying out policy development within FATF to implementation of the associated Directive) was well over a decade. This is far too long in relation to deterrence of money laundering, a problem that will be exacerbated by the need to respond to the explosive growth of cybercrime;
- The mutual inspection cycle is also around a decade long. With virtually all EU businesses subject to so much annual control and monitoring, why should this concept not apply in AML deterrence at governmental level? There is currently no annual assessment of EU member state performance against the AMLD.

### Risk Management

No Key Performance Indicators (KPIs) have been set by the FATF or Moneyval, and member states are not even collecting figures on the underlying offences in a co-ordinated manner, yet this is vital for effective policy development and for combatting money laundering and its predicate offences. The FATF has developed some indicators (known as “Immediate Outcomes”), but these are not the same as KPIs related to the predicate offences. An assessment of what really needs to be measured and how this should be reported is urgently required.

In order to reduce compliance burdens and increase effectiveness, the concept of risk-based deterrence has been introduced. Although highly attractive conceptually, the risk-based system has been hindered since it has become the regulator deciding what the risk is, rather than firms performing their own risk function, with regulators checking that the risk process works and that the firm is developing its risk assessment skills. This initiative needs to become less *dirigiste* to succeed. In assessing how deterrence should work, many regulators have latched on to a principle of three lines of defence. This concept of defence as applied to financial institutions has i) customer-facing staff as the front line, ii) compliance, and iii) audit. This concept is outmoded, ineffective and encourages the wrong mentality in crime fighting, but how can this best be improved?

### Capability

Training of law enforcement in how financial systems work is generally below what it could be. Virtually all law enforcement officers are given some financial investigation training, but this is not the same as sufficient instruction in the operation of financial systems so that they have a chance of recognising egregious behaviour, apprehending the perpetrators and securing the necessary evidence. Some kind of specialisation is needed, properly trained and supported, in all countries. Commitment currently ranges from Financial Investigation Units consisting of just one law enforcement officer (who may be seconded to other criminal investigations such as violent offences against people), to specialist financial police like the Guardia di Finanza with a force of around 70,000 persons. Banks are held accountable for non-compliance, yet at the same time authorities in some member states sometimes appear unwilling to undertake even small law enforcement projects. What should be done to improve and converge law enforcement activities across member states?

AML compliance has become very demanding, but financial institutions have little choice as it affects their core business, trust. Digital technologies can help a lot in helping to detect suspicious transactions. Yet money laundering deterrence is a human issue and programming errors can increase costs dramatically, as battles to reduce false positives have shown.

There is a growing international desire to take real effective action to reduce the scourge of money laundering and its underlying offences, noting the reports the European Commission launched in July 2019.<sup>1</sup> Six member states have also called for a European supervisory mechanism to prevent money laundering and terrorist financing.<sup>2</sup>

## Main objectives

Against this fast-evolving backdrop, CEPS and ECRI are setting up a Task Force aimed at contributing to the policy debate with concrete proposals on how to make the fight against money laundering more effective and efficient. The Task Force will provide a discussion forum for key international experts, stakeholders from EU and national institutions, practitioners and private sector representatives to address money laundering deterrence issues related to the European and international initiatives from a multidisciplinary perspective.

The following issues and options will be under consideration:

### Governance

- How should the EU develop clarity of vision and mission in AML? EU processes need to have an impact on the underlying threats, or there is no point introducing them.
- Is a new AML authority needed within the EU at policy co-ordination level? How should it interact with other entities, such as, for example, Europol?
- How do we co-ordinate between EU member states, EEA member states, and non-EU/EEA states, at all levels, and with similar bodies in related areas, such as ENISA?
- How can cross-border co-operation be improved, at all levels, including data collection, intelligence generation, policymaking, investigation, information exchange, prosecution, etc.?
- How can the interaction between the public and private sector bodies responsible for executing the AML requirements be improved?

### Risk Management

- What key performance indicators (KPIs) should be adopted relating to the underlying criminal threats that AML laws are intended to impact? These need to be thought through, rather than being adopted purely as they are an existing measure and/or are easy to measure (such as the number of suspicious activity reports filed with law enforcement). The right metrics are needed to combat the threat. Data collection techniques in this area are also in need of improvement. What is the best way to do this?
- How far should EU firms be able to develop and use their own risk-based systems to improve effectiveness?
- How can an effective cost-benefit analysis of the existing and proposed new measures be carried out?
- What are the most active, co-ordinated defences that can be adopted, rather than the current static 'three lines of defence' model with all its attendant difficulties?

### Capability

- How can the skills level of both the authorities as well as the private sector be improved and kept up to date?
- What are appropriate levels and types of funding and support of law enforcement, particularly of undercover operations and IT systems, enabling law enforcement to follow the money trail from commission of crimes?
- How do we best use resources so that the financial sector and others are not wasting time, money and effort on compliance activities that have little impact on the underlying predicate crimes?

## Organisation and Methodology

The CEPS-ECRI Task Force will ensure a venue for a structured closed-doors dialogue involving high-level policymakers, academics, business representatives EU agency representatives, legal practitioners including judges, prosecutors and defence lawyers based in the EU, as well as key experts from the intelligence and investigation sectors. The dialogue will be informed by the findings of the independent research conducted by CEPS and other relevant institutions cooperating in anti-money laundering across the EU.

### Governance of the Task Force

The **Chairperson, Eero Heinäluoma** is a Member of the European Parliament, ECON Committee, and former Minister of Finance. He was invited by CEPS and will chair the meetings and moderate the discussions.

The **Rapporteurs** will set the agenda for the meetings, follow-up on the discussions, conduct the research and draft the final report, in close cooperation with the chair.

The **Task Force** members – a group of stakeholders, industry representatives and observers (academics, policymakers, regulators, supervisory authorities, consumer/investor associations, etc.) – will steer the research agenda of the meetings and actively participate in the discussion and, together with the chairman, review the final report and comment on the list of recommendations.

All participants (except for the special guests) are required to attend (or designate another person) at least two (2) out of the three (3) closed-door meetings and will be invited to the public event dedicated to the launch of the final report. The roles are described in detail in the **Annex**.

### Chairman



**Eero Heinäluoma** is a Member of the European Parliament and member of its ECON Committee since May 2019, and former Minister of Finance (2005-2007) and Deputy Prime Minister of Finland. He is a former chairman of the Finnish Social Democratic Party and was Speaker of the Parliament of Finland (2011-2015). Before that, Heinäluoma held various posts in the Central Organisation of Finnish Trade Unions (SAK) from 1983 to 2003. He was a director in SAK from 2000 to 2003.

### Rapporteurs



**Richard Parlour** is an experienced international financial markets lawyer. He runs Financial Markets Law International, a law firm focusing on financial markets, and making compliance profitable. He advises on compliance transformation for financial markets and their participants, including deterrence of financial crime and enhanced due diligence. Parlour has been part of the UK's money laundering experts group and was appointed the UK expert on a European Commission anti-corruption project.



**Karel Lannoo** has been Chief Executive of CEPS since 2000, Europe's leading independent European think tank, ranked among the top ten think tanks in the world. He manages a staff of 70 people. He is also General Manager of ECRI He is an Independent Director of BME (Bolsas y Mercados Españolas), the listed company that manages the Spanish securities markets (2006-18) and is a member of foundation boards and advisory councils. He has published several books on capital markets, MiFID, and the financial crisis, the most recent of which is *The Great Financial Plumbing, From Northern Rock to Banking Union*, 2015. He is also the author of many op-eds and articles published by CEPS or in international newspapers and

reviews. Karel is a regular speaker in hearings for national and international institutions (the European Commission, European Parliament, etc.) and at international conferences and executive learning courses.

## Meetings and timeline

Based on the research agenda outlined in this prospectus, CEPS and ECRI will organise three meetings that will be held under the Chatham House Rule and be closed to the press.

1. A **first meeting** will be organised on 23 January 2020 to compose the group, set the agenda for the task force, identify the main challenges. It will review the actions undertaken at EU and national level to combat ML and see what lays ahead;
2. A **second meeting** will be organised in March 2020 to focus on the actions of financial institutions to tackle ML, the impact of technological developments and the interaction between different policy objectives;
3. A **third meeting** will take place in May 2020 of to discuss a first draft of the final report and potential policy recommendations.

Participation is limited to members of the Task Force, observers and selected invitees. The Chairperson will make sure that multiple interests are represented and taken into account. A detailed agenda will be distributed prior to each meeting. Each meeting will consist of several sessions (opening address, panel debates, presentations, roundtable discussions, wrap-up). Post-meeting reports will be prepared and circulated. Based on these discussions and its own independent research, CEPS and ECRI will publish a final report drafted by the Rapporteurs. Additional launch events will be organised.

## Call for participation

Participation in the Task Force is subject to a fee to cover organisational expenses. CEPS and ECRI Members are entitled to a discounted fee while non-members (with a commercial interest) pay the full fee.

The fee covers:

- The research carried out by CEPS and ECRI for the purpose of this task force;
- Organisational, logistical and other costs of all meetings;
- Web access and documentation;
- Editing and printing of the final report;
- Launch of the final report in Brussels at a public event;
- Press release and communications of final report;
- Three printed copies of the final report per member (mailing included);
- Distribution of the final report to key stakeholders in the industry and among policy circles.

| Fee Structure (+21% VAT if applicable) |                                      |
|----------------------------------------|--------------------------------------|
| CEPS and ECRI Member s                 | € 1,000*                             |
| Non-members                            | € 5,000**                            |
| European Institutions & Agencies       | Free of charge (upon request)        |
| Academics and civil society            | € 300 (per meeting and upon request) |

\* Members can participate with up to two representatives per meeting.

\*\* Discount available if non-members decide to join CEPS membership, namely the participation in the task force at the reduced rate (€1000) and a first year of CEPS membership at a preferential rate (€12,000). More information about CEPS membership is available [here](#).

For further questions, please do not hesitate to contact: Beatriz Pozo ([beatriz.pozo@ceps.eu](mailto:beatriz.pozo@ceps.eu)).

## References

<sup>1</sup> Reports from the European Commission:

- [Towards better implementation of the EU's anti-money laundering and countering the financing of terrorism framework](#), 27 July 2019.
- [On the assessment of the risk of money laundering and terrorist financing affecting the internal market and relating to cross-border activities](#), 27 July 2019.
- [European Commission staff working document accompanying the document \(annex\)](#). Report from the European Commission on the assessment of the risk of money laundering and terrorist financing affecting the internal market and relating to cross-border activities, 27 July 2019.
- [On the interconnection of national centralised automated mechanisms \(central registries or central electronic data retrieval systems\) of the Member States on bank accounts](#), 2019
- [On the assessment of recent alleged money laundering cases involving EU credit institutions](#), 27 July 2019
- [Assessing the framework for cooperation between Financial Intelligence Units](#), 27 July 2019.

<sup>2</sup> Towards a European Supervisory Mechanism for ML/FT, Joint position paper by the Ministers of Finance of France, Germany, Italy, Latvia, The Netherlands and Spain, 8 November 2019, available from: <https://www.rijksoverheid.nl/documenten/kamerstukken/2019/11/08/position-paper>

## REGISTRATION FORM

### CEPS-ECRI Task Force: Anti-Money Laundering in the EU

| Person attending the meetings                                                                                                                                                                                                                              |             |                                                                              |          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|------------------------------------------------------------------------------|----------|
| Title:                                                                                                                                                                                                                                                     | First name: | Last name:                                                                   |          |
| Job title:                                                                                                                                                                                                                                                 |             |                                                                              |          |
| E-mail:                                                                                                                                                                                                                                                    |             | Telephone:                                                                   |          |
| Company / Institution                                                                                                                                                                                                                                      |             |                                                                              |          |
| Company / Institution name:                                                                                                                                                                                                                                |             |                                                                              |          |
| Postal address:                                                                                                                                                                                                                                            |             |                                                                              |          |
|                                                                                                                                                                                                                                                            | Postcode:   | City:                                                                        | Country: |
| Contact Person:                                                                                                                                                                                                                                            |             |                                                                              |          |
| E-mail:                                                                                                                                                                                                                                                    |             | Telephone:                                                                   |          |
| Billing information                                                                                                                                                                                                                                        |             |                                                                              |          |
| Tax register number (VAT for Europe):                                                                                                                                                                                                                      |             |                                                                              |          |
| Your reference, Customer Purchase Order No. or Cost Code N:                                                                                                                                                                                                |             |                                                                              |          |
| Department:                                                                                                                                                                                                                                                |             |                                                                              |          |
| Postal address:                                                                                                                                                                                                                                            |             |                                                                              |          |
|                                                                                                                                                                                                                                                            | Postcode:   | City:                                                                        | Country: |
| Contact person:                                                                                                                                                                                                                                            |             |                                                                              |          |
| CEPS and ECRI Members – check the applicable fee (+21% VAT)                                                                                                                                                                                                |             |                                                                              |          |
| <input type="checkbox"/> CEPS and ECRI Corporate Member   EUR 1,000                                                                                                                                                                                        |             |                                                                              |          |
| Non-members - check the applicable box (+21% VAT)                                                                                                                                                                                                          |             |                                                                              |          |
| <input type="checkbox"/> Full Fee   EUR 5,000                                                                                                                                                                                                              |             | <input type="checkbox"/> My company is interested in becoming a CEPS Member* |          |
| Date:                                                                                                                                                                                                                                                      |             | Signature:                                                                   |          |
| <b>Return to:</b> Beatriz Pozo   beatriz.pozo@ceps.eu   +32 2 229 39 87 / Centre for European Policy Studies / 1 Place du Congrès / 1000 Brussels / Belgium                                                                                                |             |                                                                              |          |
| <b>More information:</b> If you would like to become a member or need more information, please contact Karel Lannoo, CEPS CEO at klannoo@ceps.eu +32 2 229 3965 or Diana Musteata, Corporate Relations, CEPS at diana.musteata@ceps.eu or +32 2 229 39 34. |             |                                                                              |          |

\*Discounted fees for this Task Force will be considered for non-members if they decide to become CEPS Members.



## ANNEX

### Principles and Guidelines for the Task Force

This appendix offers guidance to members of the Task Force and other parties wishing to understand the functioning of the initiative and the drafting process of the final report. Task Forces represent structured dialogues among industry representatives, policymakers, academics and other relevant stakeholders who discuss topics in dedicated meetings. The final report is the result of the research carried out independently by CEPS Rapporteurs.

### Participants

The **Chairman** is an expert appointed by CEPS to steer the dialogue during meetings and advise as to the general conduct of the activities of the Group.

The **Rapporteurs** are CEPS researchers who organise the Group, conduct the research independently and draft the final report.

The **members** are any individuals, such as academics, policymakers, regulators, supervisors, representatives of commercial companies, trade associations, consumer interests' groups, investors' associations, who participate in the activities of the Task Force in a personal capacity. They must have expertise in the topics discussed and provide input to the discussions through presentations and relevant material for the final report.

#### 1. The role of the Task Force members

The Task Force members will:

- Steer the research agenda of the meetings and the content of the active discussions;
- Contribute to meetings with active input, including targeted presentations;
- Support the research of the Rapporteurs and comment on the various drafts of the reports, including the possibility to produce written contributions (subject to the Rapporteurs' approval and editing);
- Ensure that the research behind the final report adheres to the highest standards;
- Have access to all the documents and presentation made during the meetings;
- Contribute to the recommendations that will be discussed and added to the final report.

#### 2. The role of the Observers

A group of policymakers, academics, consumer/investors' associations and independent experts may attend Task Force meetings. They will attend in an observer capacity, so they will not be required to provide a contribution (unless agreed otherwise). This group will also include speakers invited by CEPS to provide individual contributions to one or more meetings.

The lists of members of the Task Force and the Observers will be featured in the final report and on the CEPS website. All members attend the meetings in a personal capacity and do not necessarily endorse the recommendations of the final report.

### Objectives of the final report

- The report is meant to contribute to the policy debate by presenting a balanced set of arguments, based on the discussions among participants and internal desk research.
- The report seeks to provide readers with a constructive basis for discussion. The authors will not seek to advance a single position or misrepresent the complexity of any subject matter.
- The report also fulfils an educational purpose, and is therefore drafted in a manner that is easy to understand, with technical jargon fully defined.

### Drafting of the main text

- In the main text, rapporteurs detail the results of the research carried out independently in the framework of the Task Force. This part of the report will refer to the discussions during the meetings but also to available data and literature.

- Scientific literature may be cited in this part of the report. Members are not expected to endorse any reference to this literature. A general disclaimer is inserted to clarify this aspect.
- The conclusions of each section will be clearly presented.

### Use of data

- The final report features data that are considered both relevant and accurate by the Rapporteurs.
- Task Force members are encouraged to contribute with any data or propose any source of data that Rapporteurs consider as relevant.
- Task Force members may question either the relevance or accuracy of any given data. After consultation with the Chairman, the Rapporteurs may decide either to exclude this data or to mention these concerns in the main body of the text.

### Drafting of conclusions and recommendations

- The final report will feature a set of policy recommendations, drawn up by the Rapporteurs, which are meant to reflect the Task Force's discussions during the process. For a recommendation to be featured in the report, enough information needs to have been discussed in the open debates among Task Force members. In all cases, the report will seek to identify the points where there is some sort of common understanding of the issues.
- Both policy recommendations and the content of the final report will be summarised at the beginning of the report in the form of an 'executive summary'.
- Task Force members will be given ample opportunity to review the final report and provide their input on a draft version. Nevertheless, the authors (Rapporteurs) will be solely responsible for the content of the final report.

### Sample disclaimer

*"The findings presented in this Final Report do not necessarily reflect the views of all the members of this Task Force. However, the members were involved during the drafting of the Final Report and provided input to the discussions through presentations and the provision of data and other materials, which have been used in this Final Report. A set of principles has guided the entire drafting process to allow all of the interests represented in the Task Force to be heard. The Rapporteurs are solely responsible for its content and any errors contained therein. The Task Force members, or their respective companies, do not necessarily endorse the conclusions of the Final Report."*

## Centre for European Policy Studies

CEPS is one of Europe's leading think tanks and forums for debate on EU affairs, with an exceptionally strong in-house research capacity and an extensive network of partner institutes throughout the world. CEPS is committed to carrying out state-of-the-art policy research that addresses the challenges facing Europe and maintaining high standards of academic excellence and unqualified independence and impartiality. It provides a forum for discussion among all stakeholders in the European policy process and works to build collaborative networks of researchers, policy-makers and business representatives across Europe.



## European Credit Research Institute

The European Credit Research Institute (ECRI) is an independent, non-profit research institute that develops its expertise from an interdisciplinary team and networks of academic cooperation partners. It was founded in 1999 by a consortium of European banking and financial institutions. ECRI's operations and staff are managed by the Centre for European Policy Studies. ECRI provides in-depth analysis and insight into the structure, evolution and regulation of retail financial services markets in Europe. Through its research activities, publications and conferences, ECRI keeps its members up to date on a variety of topics in the area of retail financial services at the European level, such as consumer credit and housing loans, credit reporting, consumer protection and electronic payments. ECRI also provides a venue for its members to participate in the EU level policy discussion.

For further information, visit the website: [www.ecri.eu](http://www.ecri.eu).

