

# Impact of anti-money laundering legislation in the United Kingdom and European Union

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**Abstract:** Money laundering is itself a crime. Dealing in large amount of cash is illegal and dangerous. Due to rapid developments in communication, technology, electronic transfer money can be move anywhere in the world with speed and ease. This makes the task of combating money-laundering more urgent than ever. An increased attention is recently given to the money laundering and the ways to combat it since the leak of Panama Papers and Paradise Papers in 2016. According to International Compliance Association Money laundering (ICA) ‘‘Money laundering is the generic term used to describe the process by which criminals disguise the original ownership and control of the proceeds of criminal conduct by making such proceeds appear to have derived from a legitimate source’’. Money laundering is often applied to money earned from criminal activities such as drug smuggling, bribery, illegal arms sales and human trafficking. Several European countries and authorities have recently started to adopt and legalise an increasingly aggressive rules against money laundering concerning both people doing such activities and institutions facilitate them. These efforts are perhaps more apparent in the UK, which is seeking to shed an emerging image as a repository for dirty money. In 26 June 2017, the EU member states were forced to implement the 4MLD. Application of anti-money laundering laws and regulations has greatly affected financial and law institutions in the UK and EU. The aim of this research article is to explain the content of of Anti Money Laundering legislation in the UK and the EU and to examine the impact of such legislation on the society.

**Keywords:** Money laundering, financial crimes, legalisation, United Kingdom, European Union.

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## 1. Introduction

Rapid developments in financial information, technology and communication allow money to move anywhere in the world with speed and ease. This makes the task of combating money-laundering more urgent than ever (UNODC,2019). Money laundering is an illegal activity carried out

by criminals which occurs outside of the normal range of economic and financial statistics. Along with some other aspects of underground economic activity, rough estimates have been put forward to give some sense of the scale of the problem. The United Nations Office on Drugs and Crime (UNODC) conducted a study to determine the magnitude of illicit funds generated by drug trafficking and organised crimes and to investigate

to what extent these funds are laundered. The report estimates that in 2009, criminal proceeds amounted to 3.6% of global GDP, with 2.7% (or USD 1.6 trillion) being laundered. The IMF estimates that two to five per cent of the global GDP – \$590 billion to \$1.5 trillion – is laundered every year. Globally, banks and other financial institutions have been required to put in place specific arrangements to prevent and detect money laundering and the criminal activity that underlies it (Dennis, 2015).

The leak of Panama Papers and Paradise Papers in 2016 has increased the attention given to the money laundering and its implications on the society. In this regard, several countries started to explore new ways to fight money laundering. For example, the European Parliament established several investigation committees aiming to handle all the cases of individuals and/or companies neglecting rules of money laundering, tax avoidance or tax evasion. Money laundering is the process of granting a perception of being legitimate and legal to a particular source of an overwhelmingly acquired wealth and property suspected to have come from a criminal act (House of Lords, 2009). Such money is usually earned from criminal activities such as drug smuggling, bribery, illegal arms sales and human trafficking (Levi, 2002). Although money laundering is different from other financial crimes including tax evasion and terrorist financing, it is always related to these crimes. Money laundering is extremely prominent with regards to the disguise of criminal issues as the fundamental prerequisites for this is simply the camouflage purposes via covering of the genuine source of the money, the aggregate expert and control of the criminal over the money and the limit of the proprietor to change the type and properties of the money (House of Lords, 2009). For example, the money laundering volume in the UK is expected to be more than 15 billion pounds annually. The most disturbing matter for the European government recently is the growing unexplained and undetected money which could be easily used to establish terroristic activities and organized crimes (HM Treasury, 2007). There was a significant debate concerning the anti-money laundering (AML) regulations recently issued in the UK (Dun & Bradstreet, 2009). However, it is agreed that the main aim of these regulations and other regulations in the EU is to secure national protection against terrorist activities and crimes within and outside

Europe. The United States were the first to issue their own AML legislation. In 1991, the EU members published the first version of their own regulations before releasing the final AML Regulations in 2007 (Dun & Bradstreet, 2009). Nevertheless, the question still remains on whether the UK and EU legislation of AML regulations are effective in achieving their aims to put an end for money laundering in Europe as well as limiting organized crimes and financing terrorism, despite all these developments and initiatives to battle against quite a number of money laundering cases.

### 1.1 Objectives of Research

The aim of this research article is to explain the content of Anti Money Laundering legislation in the UK and the EU and to examine the impact of such legislation on the society. In particular, this research proposal will carefully examine the impact of AML Regulations in the UK and the EU. Whether the legislation significantly addressed the problem on terrorism and organized crime financing? This paper will also discuss the impact of the AML Law on businesses communities. Lastly the research paper will examine very crucial question whether the law set certain important limitations among businesses which served as a barrier for business entities to function well.

### 1.2 Method

This research is based on normative legal research method or doctrinal research. This research is concerned with the study that lays law as a norm system building. The norms of the system consist of the principles, norms, and roles of legislation, court decisions, agreement, and doctrines. Also, it is said that normative legal research is a process to find out the rule of law, legal principles, and legal doctrines that give an answer to the legal problems that we face.

### 1.3 Significance of the Study

In order to display its goal of limiting the cases of terrorism and organized crimes within and outside Europe the EU government decided to transform the existing Anti-Money Laundering Regulations into a law. Nevertheless, there are certain issues that the government has to face in the implementation of this law as the same law managed to increase the cost and efforts required from the private sector like the private-owned businesses in their compliance with this new

law on anti-money laundering. New law will be involving the businesses and the private sector on the newly implemented and legislated anti-money laundering law.

## 2. Result and Discussion

### 2.1 Anti Money Laundering legislation in the UK

Several European countries and authorities have recently started to adopt and legalise an increasingly aggressive rules against money laundering concerning both people doing such activities and institutions facilitate them. They adopt tough US-style approaches to investigate money laundering cases. These efforts are perhaps more apparent in the UK, which is seeking to shed an emerging image as a repository for dirty money (Vlcek, 2008). In 2016, the UK published the Anti-Corruption Strategy 2017 to 2022 during the Anti-Corruption Summit held in the UK. Several strategies and plans aiming to achieve the priorities announced in this summit was announced. These plans include, for example, set up a public register containing all the ownership information of foreign companies bid on UK central government contracts and/or own or buy properties in the UK. A Ministerial Economic Crime Strategic Board (MECSB) will be established to supervise the progress achieved towards the specified priorities and the established plans. MECSB will be also responsible for aligning align funding with developing capability on economic crime. Moreover, Office for Professional Body Anti-Money Laundering Supervision (OPBAS) is a new regulator set up by the government to strengthen the UK's AML supervisory regime. It is sitting within the heart of the Financial Conduct Authority. The main function of OPBAS is to supervise the performance of more than 20 accountancy and legal professional in the UK.

On the other hand, several significant legislative measures have been established in the UK taking the lead in this aspect. For example, on 30 September 2017, the Criminal Finances Act (CFA) came into force. The main aim of the different measures explained by CFA is to enable UK's to tackle money laundering and tax evasion, prevent the financing of terrorism and recover the proceeds of crime. Significant changes to the laws of AML in the UK was proposed by CFA and new corporate criminal offences for failure

to prevent the facilitation of tax evasion were introduced.

### 2.2 AML legislation in the EU

In 26 June 2017, the EU member states were forced to implement the 4th Money Laundering Directive (4MLD). Since then, significant changes have been made to the AML laws in the UK and all the members of the EU in 2017. The Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017 has come into action to implement the 4MLD in the UK. According to the 4MLD, Member States shall ensure that corporate and other legal entities incorporated within their territory are required to obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held. Such information should be held on a central register accessible to competent authorities. Furthermore, they are required to carry out a national risk assessment of its exposure to money laundering and terrorist financing. Risk assessments must be documented, kept up to date and made available to the competent authorities and to each other member state.

### 2.3 The Impact of AML Legislation in the UK and the EU

In general, the main aim of the European government is to identify the current situation of money laundering and the relation between the situation and organized crime and/or terrorism activities. This will be achieved via adoption of various legal measures and criminalization of money laundering in order to confiscate, seize and identify assets and capital produced in crimes (Dun & Bradstreet, 2009). However, significant negative impacts and disadvantages were still manifested as the results of the AML legislation in the UK and the EU despite this great motivation and positive goal in accomplishing this task. For example, the responsibility placed on the private sector businesses to detect, report and/or prevent money laundering acts they encounter is significantly increased (Dun & Bradstreet, 2009).

According to Dun & Bradstreet (2009), several financial and law institutions were further affected by the new AML Law in the UK and EU. This could be attributed to the new limitations set on business transactions involving high value goods. For instance, in order to avoid the risk of legal accountability, all

business transaction higher than €15,000 has to abide certain rules. That is private business in these cases will be required to evaluate their customers (partners) and/or any person or group of individuals they are engaging in transactions aiming to identify the risk with that person. The Customer Due Diligence Measures (CDD) are clearly stated in the recent UK and EU's legislated AML Law (House of Lords, 2009). CDD states that private business owners must conduct the following regulatory actions and policies when it comes to the establishment of business relationships:

- The identification and verification of the consumer identity based on accurate reliable and online based data.
- The identification of the origin of the owner as well as the verification of his or her identity based on the control and ownership of the assets used in the transaction.
- The obtainment of the object and information with regard to the business transaction and the establishment of the business relationship.
- direct and close monitoring of the business transactions in order to highlight and control possible risks that may be involved within the transaction process.

#### 2.4. What's Next for the UK AML Regime?

On 19 April 2018, the European Parliament voted to adopt the proposed Fifth Money Laundering Directive (2016/0208(COD)) (MLD5).

EU Member States have until 10 January 2020 to implement MLD5 into their national legislation. Since the implementation date falls within the anticipated transitional period of the UK's exit from the EU, it is widely assumed that the UK will implement MLD5. MLD5 takes the form of a minimum harmonising Directive, which means that it sets minimum EU-wide standards that the UK could, if it chooses, go beyond (Jaan & Rebecca). A number of new provisions are introduced to address the ever-changing economic crime landscape and allow law enforcement authorities to keep pace! The revised directive address five key issues (Kingsley, 2018):

- i. ensuring a high level of safeguards for financial flows from high-risk third countries;
- ii. enhancing the powers of EU Financial Intelligence Units and facilitating their cooperation;
- iii. ensuring centralised national bank and payment account registers or central data retrieval systems in all Member States;
- iv. tackling terrorist financing risks linked to virtual currencies; and
- v. tackling risks linked to anonymous pre-paid instruments (e.g. pre-paid cards).

#### 3. Conclusion

The UK is one of the most effective countries in application and activation of anti-money laundering laws and regulations. All the EU Member States was forced to implement the 4th Money Laundering Directive (4MLD) since 26 June 2017. Application of anti-money laundering laws and regulations has greatly affected financial and law institutions in the UK and EU, in addition to the effect of Customer Due Diligence Measures on private business owners. In UK Money laundering legislation has had a major impact upon business and individuals in terms of cost and time to set up systems and in the inconvenience faced by people struggling to find adequate identification to prove to their banks or solicitors who they are, often when they have been customers for years. The British Bankers Association estimate that its members are collectively spending at least £5 billion annually on core financial crime compliance (Home office, 2016). The response to the 4MLD too is generally positive. The Electronic Money Association responded that "overall the AML regime is workable" although There is some frustration over the investment put into combating financial crime by the public sector however, when the private sector's compliance requirements are increasing. Law enforcement resources and ability to address industry concerns could be improved significantly.

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