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Rt Hon Mel Stride MP
Chair
Treasury Select Committee
House of Commons
London
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11 April 2020

Our Ref: SA200304E

Dear Mr Stride

RE: <u>Our work on Anti-Money Laundering</u>

During the Committee's pre-confirmation hearing on 4 March, Andrew Bailey was asked about the action the Financial Conduct Authority (FCA) has taken against individual firms found to have breached money laundering regulations during his time as Chief Executive. He promised that the FCA would write to the Committee to provide details of our enforcement action against individual firms, and to set out the work the FCA has done to combat money laundering more broadly, including through the work of the Office for Professional Body Anti-Money Laundering Supervision (OPBAS).

Fighting financial crime by ensuring firms have effective Anti-Money Laundering (AML) controls has been and continues to be a high priority for the Financial Conduct Authority (FCA). The size and global nature of the UK financial industry mean that both money laundering, and the criminality that creates the need to launder money, present significant risks to the UK. Since 2016, we have evolved and adapted our regulatory approach to meet these challenges. We have also deepened our partnerships with government, law enforcement and regulators to strengthen the UK's defences against money laundering.

As one of the UK's three statutory AML supervisors under the Money Laundering, Terrorist Financing and Transfer of Funds (Information of the Payer) Regulations 2017 (MLRs), we deploy our supervisory tools in a risk-based and proportionate way, focusing our resource on identifying and responding to the areas and firms that pose the greatest money laundering risk. This work is carried out by over 700 supervisors supported by a department of over 50 AML specialists dealing with the highest priority and complex issues.

This letter outlines our approach to AML; the work of the Office for Professional Body Anti-Money Laundering Supervision (OPBAS); and provides details on enforcement cases where we have imposed financial penalties on firms for having inadequate AML systems and controls.

A data and intelligence led approach to supervision

Effective use of data and intelligence is key to our supervision of over 19,500 firms that are subject to the MLRs. In 2016, we introduced our annual financial crime data return, a comprehensive survey that gathers information on AML controls from over 2,000 firms. We now obtain better quality and consistent comparable AML data, so we can identify risk more accurately and target our regular programme of supervisory visits effectively. In November 2018, we published the first year of trends from this data return to support firms in their identification of AML risks across their businesses.

Monitoring improvements in firms' AML controls over time is one indicator of whether the potential harm to consumers and the integrity of markets has reduced. In 2018/2019 alone, we undertook 60 early interventions, which included applying several business restrictions on firms as a tool for mitigating weak AML controls. While we have identified some improvements in anti-money laundering controls amongst larger firms, the picture remains mixed. The pace of technological change and volume of cross-border transactions widens the scope for money laundering to occur in different areas of the financial system. Our published multi-firm assessment reviews have examined how money laundering risks manifest in specialist sectors such as investment management (2017); e-money (2018) and capital markets (2019). These reviews are crucial in identifying failings that require us to take further action but also help us to identify good practice we can promote to raise standards.

Financial Action Taskforce Assessment of the UK AML Regime

In 2018, the findings of the Financial Action Task Force's (FATF) mutual evaluation showed that the UK, as a whole, has the strongest overall AML/CTF regime of over 60 countries assessed to date. In particular, FATF praised the UK's understanding of risk, response to terrorist financing and its targeted financial sanctions regime.

In terms of the FCA, FATF positively recognised the recent expansion of our supervisory focus and asked us to consider how to ensure appropriate intensity of supervision for all the different categories of the population we supervise, from low risk to high risk firms. In response to this we are enhancing our supervisory approach to ensure the greatest impact across the range of firms we supervise. We will do this through greater use of intelligence and data which will allow us to better identify and target our resources at firms where there is the greatest risk of money laundering.

Responding to our expanding remit

Adapting our approach is also necessary when dealing with our expanding remit. In January 2020, the FCA became the AML and counter-terrorist financing (CTF) supervisor of cryptoassets businesses under the amended MLRs. While our responsibility under this regime is limited to AML/CTF registration supervision, it is an evolving and technologically complex sector and we have needed to develop new tools, harness specialist skills and dedicated resource to embed the new regime.

Supporting industry-led innovation

While technology can increase the scope of money laundering taking place, it can also positively contribute to the detection and disruption of illicit money flows where traditional methods of transaction monitoring are less efficient or effective. In July 2017, we commissioned and published a report about how new technologies are being used to streamline AML compliance. We are working with other parts of the public sector in the UK, and with international standard setters such as FATF, to minimise regulatory barriers to innovation.

In May 2019, we held a Global 'TechSprint' with international regulatory colleagues attending, to look at how innovation can support the increase of detection and prevention rates in financial crime, including money laundering. The event attracted 600 attendees from over 100 firms spanning 16 countries. These efforts are also supported by the FCA's regulatory Sandbox (launched in 2016) which provides a safe space where businesses can test innovative products in a live environment, and where a number of applications relate to new methods for customer due diligence or transaction monitoring.

Setting clear expectations

Ensuring we set out very clear expectations and then hold firms to account is integral to improving AML controls in banks. In 2017/18 and 2020, we consulted on our revised guidance which took account of changes to UK laws under the Fourth and Fifth Money Laundering Directive. In 2017, we also published guidance on how firms that fall under our AML supervisory scope should treat customers who meet the definition of a politically exposed person (PEP). In 2016, we hosted the FCA's Financial Crime Conference attended by over 400 industry practitioners. Since 2017, we have spoken to over 400 small firms (including payment institutions) to discuss the management of AML risks within their sector as part of a targeted 'awareness-raising' campaign. These discussions have given us a valuable window into the challenges smaller firms face as well as identify the firms and sectors where we need to probe further.

Setting clear expectations are also important when addressing the challenges of de-risking. Our message has been clear from the start that effective money-laundering risk management should not result in wholesale de-risking and we continue to work together with industry, overseas regulators and international bodies on this important global issue. In 2018, we partnered with the industry trade body, UK Finance, to develop a set of principles to improve how banks communicate, treat customers fairly and make proportionate decisions when exiting customers. We also served on the Financial Stability Board's Remittances Taskforce and also supported their work on the decline of correspondent banking. We have also worked with FATF and the Anti-Money Laundering Expert Group of the Basel Committee to address de-risking in correspondent banking through the application of standards in a more proportionate way.

Deepening FCA partnerships

Combatting money laundering requires a multi-agency effort. Over the last few years, a priority has been to ensure our work contributes to the UK's overall effort to combat economic crime. We share the view of Government that a coordinated public and private approach is central to the fight against financial crime. In 2018, we became a founding partner of the National Economic Crime Centre (NECC), committing resources including the secondment of a number of our staff. I also sit on the Economic Crime Strategic Board, overseen by the Chancellor and Home Secretary, to provide oversight of the economic crime threat and provide a coordinated response.

Since 2019, we have worked closely with Government on the UK's Economic Crime Plan. We are also supporting work led by the Home Office on reforming the Suspicious Activity Reporting Regime, and developing strategies for better reporting, analysis and information sharing. We continue to sit on the management board of the Joint Money Laundering Intelligence Taskforce (JMLIT), a partnership between law enforcement and the financial sector to exchange intelligence and information relating to money laundering and wider economic crime.

OPBAS: ensuring consistently high standards of AML supervision by PBSs

The 22 Professional Body Supervisors (PBSs) responsible for AML supervision for the accounting and legal sectors are the first-line supervisory defence against money laundering in the UK. They are named in Schedule 1 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs).[1] Their members cover a range of services including accountancy, audit, bookkeeping, legal and notarial. The PBSs' members vary in size, scale and resource and in 2018 they accounted for 2.5% of the UK's GDP, contributing over £51 billion to the UK economy.[2]

The Government established the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) in January 2018 as part of a wider package of reforms to strengthen the AML supervisory regime in the United Kingdom. OPBAS is housed within the FCA and closely supervises professional body supervisors to ensure they meet the high standards expected of an anti-money laundering supervisor, as well as to facilitate collaboration between professional body anti-money laundering supervisors, statutory supervisors, and law enforcement. OPBAS has two key objectives: first, to ensure a consistently high standard of AML supervision by the PBSs; and second, to facilitate information and intelligence sharing amongst the PBSs, statutory supervisors - including HM Revenue & Customs (HMRC), the FCA and the Gambling Commission, the NECC, National Crime Agency (NCA) and law enforcement agencies.

In 2019, OPBAS published its first annual supervisory assessment of efforts made by PBSs to combat money laundering in the UK.[3] Assessments of each of the 22 PBSs looked at the 8 key areas set out in the OPBAS Sourcebook for professional body anti-money laundering supervisors: Governance, Risk-Based Approach, Supervision, Information Sharing between Supervisors and Public Authorities, Information and Guidance for Members, Staff Competence and Training, Enforcement and Record keeping and Quality Assurance. These are based on the requirements in the MLRs.

OPBAS asked each PBS to develop an AML strategy to address in full any weaknesses identified after those supervisory assessments. OPBAS has said publicly that timely and effective implementation is required and that it will take appropriate and proportionate action if that is not the case. Taking action can include requiring a PBS to appoint a skilled person, issuing a direction in writing to a PBS, publishing a statement censuring a PBS or recommending to the Treasury that a PBS be removed from Schedule 1 to the Money Laundering Regulations 2017. OPBAS received all requested AML strategy plans and continues to closely monitor these strategies. It will take action where appropriate and proportionate, including issuing directions and other enforcement action. The second annual supervisory assessment report was published on 19 March 2020; it provides an update on the progress made by PBSs in supervising the MLRs.[4]

OPBAS: Facilitating intelligence sharing

To help facilitate information and intelligence sharing, OPBAS established two new Intelligence Sharing Expert Working Groups (ISEWGs), in conjunction with the NECC. The ISEWGs are loosely based on the existing JMLIT model used by the banks and are globally pioneering in public-private intelligence sharing forums for the legal and accountancy professions.

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[1] http://www.legislation.gov.uk/uksi/2017/692/schedule/1/made
[2] https://www.fca.org.uk/publication/opbas/themes-2018-opbas-anti-money-laundering-supervisory-assessments.pdf
[3] See footnote 2
[4] https://www.fca.org.uk/news/press-releases/opbas-publishes-report-progress-and-themes-2019

There is an ISEWG for each sector (legal and accountancy) with members consisting of PBSs, NECC, HMRC, the FCA and OPBAS. Both ISEWGs have agreed Terms of Reference[5] which are published on the OPBAS section of the FCA website.

The ISEWGs have been in operation for just over a year and have delivered significant improvements in the collaborative working relationships, engagement and trust between PBSs, statutory AML supervisors and law enforcement. One of the main benefits from the ISEWGs has been a more consistent flow of high-quality information and intelligence sharing in both sectors and increased Suspicious Activity Reports (SARs) reporting. OPBAS expects the impact of the ISEWGs to continue to grow throughout 2020 as the work of the groups is adopted by and embedded in the member organisations.

OPBAS has also hosted regional workshops in Scotland and Northern Ireland, for PBSs with an AML supervisory remit over firms based in these regions, including law enforcement agencies and the UK Financial Intelligence Unit. This provided an opportunity for PBSs to discuss region-specific AML risks and responses and reinforce relationships with local partners.

Enforcement activity

Our money laundering investigations aim to strengthen the UK financial system and make it inhospitable to people who abuse it by laundering the proceeds of crime. During Andrew Bailey's time as Chief Executive, the FCA imposed fines totalling £334,540,148 on firms and individuals for failures relating to AML systems and controls. This included the following outcomes:

- Last year, we fined Standard Chartered Bank £102,163,200 for Anti-Money Laundering (AML) breaches in two higher risk areas of its business.[6] This followed investigations into two areas of Standard Chartered's business identified by the bank as higher risk: its UK Wholesale Bank Correspondent Banking business and its branches in the United Arab Emirates (UAE). We found serious and sustained shortcomings in Standard Chartered's AML controls relating to customer due diligence and ongoing monitoring. Standard Chartered failed to establish and maintain risk-sensitive policies and procedures, and failed to ensure its UAE branches applied UK equivalent AML and counter-terrorist financing controls.

- In January 2017, we fined Deutsche Bank £163,076,224 for failing to maintain an adequate AML control framework by failing to properly oversee the formation of new customer relationships and the booking of global business in the UK.[7] As a consequence of its inadequate AML control framework, Deutsche Bank was used by unidentified customers to transfer approximately $10 billion, of unknown origin, from Russia to offshore bank accounts in a manner that was highly suggestive of financial crime.

- In June 2018, we fined Canara Bank £896,100 for failing to manage the risk of money laundering and failing to take sufficient steps to remedy identified weakness in its AML systems.[8] We also restricted Canara Bank from accepting deposits from new customers for 147 days. Specifically, we found that Canara failed to maintain adequate systems and controls to manage the risk of money laundering. These failures were systemic and affected almost all levels of its business and governance structure.

- In October 2016, we fined Sonali Bank (UK) Limited £3,250,600, and restricted it from accepting deposits from new customers for 168 days, for serious and systemic weakness at almost all levels of its AML control and governance structure.[9]

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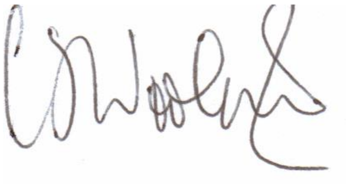
[5] https://www.fca.org.uk/publication/opbas/accountancy-sector-isewg-terms-of-reference.pdf
[6] https://www.fca.org.uk/publication/decision-notices/standard-chartered-bank-2019.pdf
[7] https://www.fca.org.uk/publication/final-notices/deutsche-bank-2017.pdf
[8] https://www.fca.org.uk/publication/final-notices/canara-bank-2018.pdf
[9] https://www.fca.org.uk/publication/final-notices/sonali-bank-uk-limited-2016.pdf

It is worth noting that we have many cases where we are investigating suspected breaches of the various Money Laundering Regulations that might give rise to either criminal or civil proceedings – so-called dual track investigations. We envisage proceeding to charge in the most egregious cases, giving effect to the full intention of the Money Laundering Regulations which provides for criminal prosecutions.

I hope that this is helpful.

Yours sincerely



Christopher Woolard
Interim Chief Executive