IN-DEPTH ANALYSIS

European Parliament

Money laundering - Recent cases from a EU banking supervisory perspective

KEY FINDINGS

This briefing (1) provides some insight into recent cases of breaches or alleged breaches of anti-money laundering (AML) rules by SSM supervised banks and (2) discusses which indicators may point to a potential money laundering problem. The briefing also outlines (3) the respective roles of European and national authorities in applying AML legislation that have been further specified in the 5th AML Directive adopted by the EP Plenary on 19 April.

1. Recent cases of breaches or alleged breaches of AML rules

While ABLV Bank AS (case 1) was directly supervised by the ECB as a "significant institution", Verso Bank in Estonia (case 2) and Pilatus Bank in Malta (case 3) are "less significant institutions" supervised by national competent authorities (Malta Financial Services Authority and Finantsinspektsioon in Estonia) as part of the Single Supervisory Mechanism (SSM). The branch of Danske Bank in Estonia (case 4) is supervised by the Danish and the Estonian supervisor, having different responsibilities.

Case 1: Liquidation of directly supervised ABLV in Latvia

> The Latvian ABLV Bank, with a balance sheet size of EUR 3.6 billion (ABLV facts & Figures of Q3 2017) way below the ECB's size-related threshold for direct supervision of EUR 30 billion, was still directly supervised as of the three largest credit institutions in Latvia in terms of asset base (ranking seventh in terms of loans). Though the published financial information indicates that the bank was well capitalized and profitable, the shareholders of ABLV decided at an extraordinary meeting on 26 February 2018 to voluntary liquidate the bank as a result of the following events: In 12 February 2018, the Financial Crimes Enforcement Network (FinCEN) at the US Treasury proposed to ban ABLV from having a correspondence account in the United

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States due to money laundering concerns (see Box 1 below with excerpts taken from the proposal's reasoning), raising severe doubts about the soundness of the bank's business model. FinCEN invited comments on all aspects of the proposed rule to be made within 60 days. After the FinCEN statement, clients started pulling out deposits from ABLV, which eventually resulted in an acute liquidity shortage;

- On 18 February 2018, the Latvian banking supervisor - the Financial and Capital Market Commission - imposed a temporary restriction on payments, following the ECB's respective instruction, in order to allow for a stabilisation of ABLV's financial situation. On 23 February 2018, the ECB declared that ABLV Bank – as well as its subsidiary in Luxembourg – was failing or likely to fail due to the significant deterioration of its liquidity situation, and was to be wound up under the insolvency laws of Latvia and Luxembourg;
- On 24 February 2018, the Single Resolution Board (SRB) decided that it would not take resolution action;
- On 9 March 2018, the Luxembourg Commercial Court, however, decided to refuse the request to place the subsidiary in Luxembourg – ABLV Bank Luxembourg, S.A. – in liquidation. That entity shall now be sold to new investors.

Box 1: Excerpts **from the Department of the Treasury's Proposal** of Special Measure Against ABLV Bank, AS as a Financial Institution of Primary Money Laundering Concern

II. Summary of Notice of Proposed Rulemaking

This NPRM [notice of proposed rulemaking] sets forth (i) FinCEN's finding that ABLV Bank, AS (ABLV), a commercial bank located in Riga, Latvia, is a foreign financial institution of primary money laundering concern pursuant to Section 311, and (ii) FinCEN's proposal of a prohibition under the fifth special measure on the opening or maintaining in the United States of a correspondent account for, or on behalf of, ABLV. As described more fully below, FinCEN has reasonable grounds to believe that ABLV executives, shareholders, and employees have institutionalized money laundering as a pillar of the bank's business practices. As described in further detail below, ABLV management permits the bank and its employees to orchestrate and engage in money laundering schemes; solicits the high-risk shell company activity that enables the bank and its customers to launder funds; maintains inadequate controls over high-risk shell company accounts; and seeks to obstruct enforcement of Latvian anti-money laundering and combating the financing of terrorism (AML/CFT) rules in order to protect these business practices [...]

III. Background on Latvia's Non-Resident Deposit Sector and ABLV Bank

1. Latvia's Non-Resident Deposit Banking Sector

Due to geography, linguistic profile, and a stable and developed banking system, Latvia serves as a financial bridge between the Commonwealth of Independent States (CIS),7 European Union (EU) and U.S. financial systems. While it lacks a legal framework that formally separates domestic banking business and non-resident banking, most Latvian banks conduct the majority of their business in either domestic retail/commercial banking or non-resident banking services, not both. Non-resident banking in Latvia allows offshore companies, including shell companies, to hold accounts and transact through Latvian banks. CIS-based actors often transfer their capital via Latvia, frequently through complex and interconnected legal structures, to various banking locales in order to reduce scrutiny of transactions and lower the transactions' risk rating. [...] The Latvian banking system's reliance on NRD funds for capital exposes it to increased illicit finance risk.

- The Latvian Finance Ministry has recently agreed technical assistance from the U.S. Treasury Department for the country's financial intelligence unit following meetings with U.S. officials in Washington.

Case 2: Liquidation of Versobank in Estonia

The Estonian Versobank AS - a less significant bank within the meaning of the SSM Regulation - was not directly supervised by the ECB, but by the national supervisor Finantsinspektsionoon. Founded in 1999, Versobank AS had a balance sheet of 294 million EUR by end 2017. Its main shareholder is UKRSELHOSPROM PCF LLC (offices in Dnipropetrovsk in Ukraine), with ownership of 85.26% of shares. Its Public Interim Report (IV Quarter 2017) indicated a good financial performance.

- On 8 February 2018, Finantsinspektsioon submitted an application to the ECB to withdraw the authorisation of Versobank AS due to "serious and long-lasting breaches of legal requirements, particularly concerning the prevention of money laundering and combating the financing of terrorism" according to Finantsinspektsioon's statements. These breaches were uncovered by Finantsinspektsioon as part of on-site inspections carried out in 2015-2017. The "*breaches were systemic and long-lasting, and the bank did not fully eliminate them even after the intervention of Finantsinspektsioon*";
- On 26 March 2018, the ECB decided to withdraw the authorisation of Versobank, as proposed by Finantsinspektsioon;
- On the same date, following the withdrawal of the authorisation, all transactions and operations of Versobank AS and all payouts to depositors and other creditors were immediately suspended.

Finantsinspektsioon filed an application to the court for compulsory dissolution and the appointment of liquidators.

Case 3: Pilatus Bank in Malta

Pilatus Bank is a less significant institution prudentially supervised by the Malta Financial Services Authority. Pilatus Bank is authorised since 2014 as a credit institution providing private and corporate banking services to high net-worth individuals and financial institutions. In 2016 its total assets amounted to 309 million EUR.

On 20 March 2018, Mr Ali Sadr Hasheminejad, Pilatus Bank's former Chairman (and more recently non-Executive Director), has been indicted in the United States of America "*for his alleged involvement in a scheme to evade U.S. economic sanctions against Iran, to defraud the U.S., and to commit money laundering and bank fraud*". Further to this indictment, the Malta Financial Services Authority (MFSA) took the following steps:

- On 21 March 2018, the MFSA issued an order to remove Mr Ali Sadr Hasheminejad, with immediate effect, from the position of director of the Bank and any executive roles that he holds within the Bank and suspend the exercise of his voting rights as shareholder of the Bank;
- On 22 March, the MFSA appointed Mr Lawrence Connell as a 'Competent Person' to take charge of all the assets of Pilatus Bank Limited and assume control of the Bank's banking and

investment services business. The MFSA also issued a Directive directing the Bank not to dispose, liquidate, transfer or otherwise deal with clients' assets and monies.

In its public statement on 2 April in relation to Pilatus Bank, the MFSA stressed that "*it has undertaken various supervisory steps as required, closely reviewing and monitoring the Bank, in accordance with its supervisory responsibilities and subjecting it to numerous examinations including on-site inspections regarding prudential issues related to the Bank and on-site anti-money laundering and combating the financing of terrorism (AML/CFT) examinations conducted jointly with the FIAU* [Financial Intelligence Analysis Unit] [...] *A comprehensive and in-depth compliance examination of the bank's operations has been and continues to be underway*".

A joint ad-hoc delegation of two Committees of the European Parliament (LIBE and PANA) went to Malta from 30 November until 1 December 2017 to investigate alleged money laundering issues, and summarised its findings in relation to Pilatus Bank in its mission report as follows:

- "*FIAU carried out an onsite-visit to Pilatus Bank between 15-22 March 2016, which resulted in a compliance report in April 2016 raising many concerns including alleged breaches of the Maltese legislation against money laundering*" ,
- "*Pilatus Bank contested the content of the compliance report and hired KPMG to do an audit of the Bank's compliance with money laundering obligations*". A second visit was conducted on 8 and 10 August; the result was that "*all was clarified with some concerns*".
- "*In September 2016, the FIAU certified in a letter to Pilatus Bank its compliance with anti-money laundering obligations*".

Case 4: Danske Bank's branch in Estonia

Danske Bank is a Danish Bank not supervised by the SSM, as Denmark is not part of the Banking Union. Its branch in Estonia, however, is supervised by Estonia's Financial Supervisory Authority (Finantsinpektsioon) as a "host supervisor" in accordance with the Capital Requirements Directive (CRD). Responsibility for prudential supervision, including internal control systems, lies with the home supervisor[1]. For money laundering purposes, on the other hand, the competent authorities of a host Member State retains full responsibility, as explained in box 2 below.

Further to allegations from the press on 26 February 20018 that lax controls in Danske Bank's Estonian operations led to potential money laundering, the Finantsinpektsioon explained the following:

- On 27 February 2018, Finantsinspektsioon stated that it would look at whether Danske knowingly withheld information during a series of on-site inspections it conducted at its Estonian branch in 2014 and emphasised that "*possibly misleading the financial supervisory*

[1] Nevertheless, the "competent authorities of the host Member State has the power to carry out, on a case-by-case basis, on the spot checks and inspections of the activities carried out by branches of institutions on their territory [...] where they consider it relevant for reasons of stability of the financial system in the host Member State" (CRD Article 52). Findings of those investigations shall be sent to the home competent authorities.

institution in supervision proceedings is a serious violation, if Danske bank had additional information on this client but did not disclose it during the on-site inspection";

- As part of the investigations carried out in 2014, Finantsinspektsioon found "*large-scale, long-lasting systemic violations of anti-money laundering rules in the Estonian branch of the Danish credit institution*". In 2015, Finantsinspektsioon required the bank to target these violations more effectively. "*As a result, the bank stopped providing services to non-residents in the volumes and format seen previously*".
- Estonia's Finantsinspektsioon informed the Danish Finanstilsynet about intention to carry out on-site inspection and the results of the inspection
- On 21 March 2016, the Danish Finanstilsynet published a report on the results of the inspection carried out in the Danske Bank Group regarding the implementation of money laundering and terrorist financing prevention measures.

Regarding the cooperation with the Danish Authorities, Finanstilsynet emphasised the limits of the supervisory framework as follows: "*Under European Union law, supervision of Danish credit institutions, including their internal control systems as whole, is the responsibility of respective Danish authorities. The Estonian financial supervisory institution has limited responsibility concerning incoming branches of European Union credit institutions operating in Estonia. Finantsinspektsioon exercised its responsibilities and by its actions terminated the significant money-laundering risks stemming from the Estonian branch of Danske Bank in 2014/2015. The Danish financial supervisory institution has been informed of this*".

Box 2: Responsibilities of host and home supervisor under the 4th AML Directive

Responsibilities of the competent authorities of the home Member State

"*Where an obliged entity operates establishments in another Member State [...], the competent authority of the home Member State should be responsible for supervising the obliged entity's application of group-wide AML/CFT policies and procedures. This could involve on-site visits in establishments based in another Member State. The competent authority of the home Member State should cooperate closely with the competent authority of the host Member State and should inform the latter of any issues that could affect their assessment of the establishment's compliance with the host AML/CFT rules*".

Responsibilities of the competent authorities of the host Member State

"*Where an obliged entity operates establishments in another Member State [...], the competent authority of the host Member State retains responsibility for enforcing the establishment's compliance with AML/CFT rules, including, where appropriate, by carrying out onsite inspections and offsite monitoring and by taking appropriate and proportionate measures to address serious infringements of those requirements. The competent authority of the host Member State should cooperate closely with the competent authority of the home Member State and should inform the latter of any issues that could affect its assessment of the obliged entity's application of group AML/CFT policies and procedures. In order to remove serious infringements of AML/CFT rules that require immediate remedies, the competent authority of the host Member State should be able to apply appropriate and proportionate temporary remedial measures, applicable under similar circumstances to obliged entities under their competence, to address such serious failings, where appropriate, with the assistance of, or in cooperation with, the competent authority of the home Member State*"

Source: Recitals 52 and 53 of Directive 2015/849

2. Indicators that could point to money laundering problems

A robust assessment whether a bank may be involved in some kind of money laundering activity can only be based on detailed information at transaction level; it is exactly that sort of information that supervisory or law enforcement authorities will seek to obtain in the course of targeted on-site inspections.

Supervisory key indicators (Non-Performing Loans ("NPL"), capital rations, liquidity ratios, leverage ratios) do not seem fit-for-purpose to reliably flag potential money laundering activities (see table 1 below). However, other indicators (such as ownership concentration, the share of non-resident clients, and the share of non-euro deposits, and loan-to-deposit ratio) are more likely to possibly point to money laundering problems, even if they have clear limitations as well.

Supervisory key indicators

When it comes to the identification of money laundering activities, the financial key indicators that are usually gauged at bank entity level to assess its financial soundness and compliance with regulatory requirements are not very telling:

In fact, those two banks that have recently been officially accused of money laundering, ABLV and Versobank, would have both indicated to be in good financial health when assessed against those key financial indicators (see table 1):

Table 1: Supervisory key financial indicators, in comparison

Key Financial Indicator	ABLV (at 31/12/2017)	Versobank (at 31/12/2017)	In comparison: Weighted average of directly supervised banks (as 30/09/2017)
CET1 ratio[2]	16.3%	17.6%	13.7%
Total capital ratio	21.1%	26.5%	17.2%
NPL ratio	3.4%*	0.5% **	6.5%
Leverage ratio[3]	7.9%	7.8%	5.3%
Loan-to-Deposit ratio	39.4%	19%	122.3%

Sources, if not explicitly indicated otherwise: ABLV Public Quarterly Report Jan-Dec 2017, Versobank Public Interim Report IV Quarter 2017, ECB Supervisory Banking Statistics; leverage ratio and loan-to-deposit ratio for ABLV based on own calculation; leverage ratio for Versobank based on transitional definition.

* Amounts past due for more than 90 days and impaired loans, as percentage of the loan portfolio, according to the ABLV annual report 2016, at group level.

** Share of non-performing loans, with 90 days past due, of the gross loan portfolio, according to the Public Interim Report for the second Quarter 2017.

The loan-to-deposit ratios of both banks are very low and witness an intense deposit taking without a corresponding lending activity.

[2] CET1 ratio (Core Equity Tier 1) is the key Basel 3 capital indicator enshrined in EU legislation in the Capital Requirements Regulation. The minimum CET1 ratio is set at 4,5%.

[3] The leverage ratio is the capital measure (CET1) divided by the exposure measure. Basel 3 minimum requirement is set at 3%.

Other indicators

Other indicators could therefore be more telling (e.g. based on public information available as concerns recent cases), even though they are by no means sufficient - neither isolated nor combined - to reliably spot systematic money laundering activities[4].

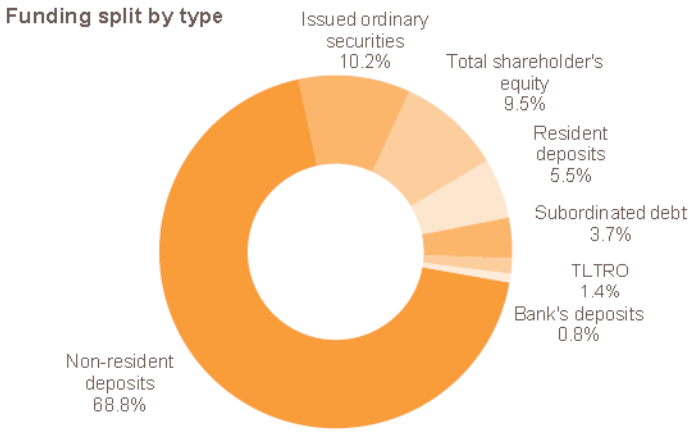
The first feature that ABLV and Versobank had in common is the very **high ownership concentration**:

- In case of ABLV, the bank's controlling interest was held by the bank's Chief Executive Officer and the bank's Chairman of the Council (combined they held 87% of the shares with voting rights), the rest was held by other closely related shareholders (management and employees), but there was no free float of shares or outside shareholders;
- In case of Versobank, the main share of the bank was owned by Cyprus Popular Bank until March 2012, thereafter Ukrainian investors became the main shareholders, and more than 85% of the shares were then held by the Ukrainian agro-industrial company UKRSELHOSPROM.

A second common feature of those two banks was that a very large part of their deposit base came from by **non-resident clients**.

- In case of Versobank, the interim financial report shows the geographical concentration of financial liabilities: At the end of 2017, 83% of the bank's liabilities to customers were owed to non-resident clients outside of Estonia;
- In case of ABLV, that information is not disclosed in the bank's quarterly report but in a presentation to investors, according to which 69% of the bank's total funding - including equity - stemmed from deposits of non-residential clients (see figure 1). That figure is even higher when compared only to the deposit base: At the end of June 2017, 84% of the total deposits placed at ABLV came from clients whose beneficiaries are residents in the Russian Commonwealth CIS.

Figure 1: ABLV Bank Funding split by type (at 30 Sept. 2017)



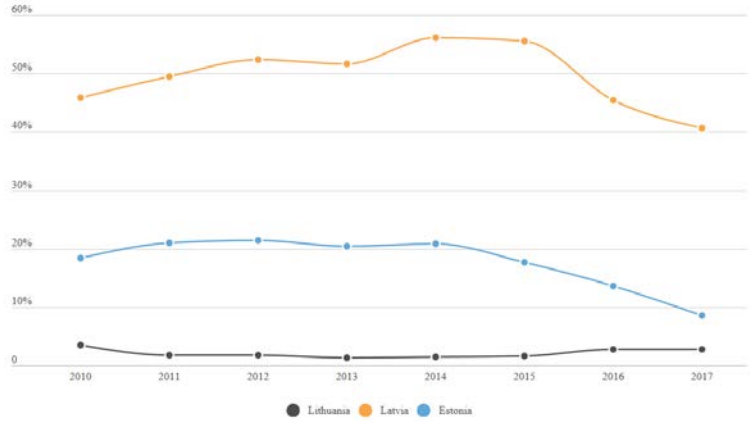
[4] Indicators that banks can use at the transaction level are of course different and go into much more detail; the Belgian authority in charge of AML (CTIF) has, for example, published an interesting guidance/list with related indicators at transaction level in that respect.

Source: ABLV Facts & Figures of September 30, 2017, p. 10

The Estonian banking supervisor analysed the share of deposits by non-resident companies and household clients in the three Baltic States. In Lithuania, the share of non-resident deposits in bank deposits only accounts for 2.8% and is hence rather negligible, whereas it plays on average a bigger role in Estonia and in particular in Latvia. At the peak in 2014, 56% of all the deposits in Latvian banks were deposits of non-residents, that share had fallen to 41% by 2017. The share of deposits in Estonia held by foreign non-financial sector companies and households has been declining steadily, and it fell from a peak of 21% in 2012 to 8.5% by 2017 (see chart 1).

Compared to the averages at national level, the share of non-resident deposits was still higher in case of ABLV and much higher in case of Versobank.

Chart 1: The share of non-resident deposits from households and non-financial sector corporates in the Baltic States (2010-2017)



Source: Eesti Pank

The third common feature of ABLV and Versobank finally was the large share of **deposits made in non-euro currencies:**

- in case of Versobank, more than one third of its deposits was made in US dollars (see display of the currency position at 31/12/2017 in the interim report);
- in case of ABLV, deposits made in USD apparently exceeded even 60% of the total deposit base at the end of 2016, according to the latest full annual report available (on average, the share of US dollar deposits in Latvian banks amounted to just over 30% at the end of 2016, according to the statistical information provided by the Latvian supervisor; according to the statistics of the Estonian supervisor, the share of US dollar deposits was on average amounting to just 11% in Estonian banks at that time).

Both ABLV and Versobank therefore had relatively higher deposits in non-euro currencies than their national competitors.

3. Allocation of supervisory responsibilities

Compliance with AML rules involves:

(i) National competent authorities that may include/involve the prudential supervisor in accordance with national transposition of the AML Directives;

(ii) The ECB/SSM as a prudential supervisor along the lines described below ; and

(iii) The European Supervisory Authorities (ESAs)[5] tasked with supervisory convergence.

National competent authorities

The responsibility for anti-money laundering supervision primarily falls on national competent authorities designated by Member States.

By way of example, in Malta, the responsibility for the prevention of money laundering lies primarily with the designated national agency, the Financial Intelligence Analysis Unit (FIAU). The Malta Financial Services Authorities (MFSA), on the other hand, which regulates and supervises the conduct of the financial services industry, for example carries out on-site examinations, and assists and cooperates with the FIAU in the fulfilment of its responsibilities. The MFSA is considered to be an "agent of the FIAU". The MFSA is required by law to disclose to the FIAU any facts or information that could be related to money laundering of which it became aware during the course of its supervisory functions, and the FIAU may request the MFSA to provide it with additional information, including information on specific person who may not be in compliance with the requirements.

In general terms, the November 2016 European Supervisory Authorities' guidelines[6] on risk-based supervision place particular emphasis on information collected by prudential supervisors, including the SSM in the Banking Union:

- "*Where relevant information is held by other competent authorities either at home or abroad, competent authorities should take steps to ensure that gateways make possible the exchange of that information, and that this information can be exchanged in a timely manner. This also applies to information held by the European Central Bank through the Single Supervisory Mechanism*";
- "*This information may originate from the overall prudential and/or conduct supervision and take into account, where relevant, prudential information obtained in the context of the Single Supervisory Mechanism. However, it may be appropriate to collect such information specifically if it is not already held on the competent authorities' records*".

In practice, the cooperation between authorities has been described by the Chair of the ECB's Supervisory Board, Mrs Nouy at the 26 March 2018 ECON hearing, as "*very much depending on the good will of national authorities*".

At the same hearing, Danièle Nouy very much welcomed the "*5th Anti Money Laundering Directive that will clarify the fact that there can be exchanges of information between national competent authorities and the SSM*", which is "*not explicit so far*". In particular, that Directive sets out (see box 3) that AML authorities and prudential supervisors have to conclude an agreement on the practical modalities for their exchange of information.

While lifting legal impediments to the exchange of information between national AML competent authorities and prudential supervisors, the 5th AML subjects the exchange of information with

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[5] The European Banking Authority (EBA), the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA).

[6] These guidelines set out the characteristics of a risk-based approach to anti-money laundering and countering the financing of terrorism (AML/CFT) supervision and the steps competent authorities should take when conducting supervision on a risk-sensitive basis as required by Article 48(10) of Directive (EU) 2015/849.

competent authorities in other Member States, including the European Central Bank (SSM) to confidentiality requirements (see box 3).

Box 3: The 5th Anti Money Laundering Directive

Commission adopted a proposal to amend Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing on 5 July 2016. Pursuant to the inter-institutional agreement reached on 20 December 2017, the European Parliament adopted the 5th AML Directive on 19 April.

In terms of information exchange, the 5th AML Directive lays down the following framework:

> National prudential competent authorities and the European Central Bank (as banking supervisor in the Banking Union) shall conclude, with the support of the European Supervisory Authorities, an **agreement on the practical modalities for exchange of information**;

> For **information exchange from banking supervisor to AML authorities**, professional secrecy obligations under CRD Article 56 shall not preclude the exchange of information with AML competent authorities;

> For information exchanges from AML competent authorities to banking supervisor, Article 57a of the 5th AML Directive makes a distinction between information exchange between i) authorities in the same Member State and ii) **across Member States** including the European Central Bank (SSM). For the former (i.e. across Member State), that exchange of information shall be **subject to the conditions of professional secrecy**, i.e. "confidential information which [AML competent authorities] receive in the course of their duties under this Directive may be disclosed only in summary or aggregate form, such that individual credit and financial institutions cannot be identified, without prejudice to cases covered by criminal law".

The ECB (Single Supervisory Mechanism)

Recital 28 of the SSM Regulation makes it clear that the prevention of the use of the financial system for the purpose of money laundering and terrorist financing lies with national authorities. In the context of the ABLV case, the ECB published a public statement on 22 February 2018 in order to highlight that "*Breaches of anti-money laundering can be symptomatic of more deeply rooted governance deficiencies within a bank but the ECB does not have the investigative powers to uncover such deficiencies. This is the task of national anti-money laundering authorities. Only when such breaches have been established by the relevant national authority can the ECB take these facts into consideration for the purposes of its own tasks*".

At the 26 March 2018 ECON hearing, Danièle Nouy further explained during the exchange of views with Members of the Parliament that the "*ECB takes the breaches [of anti-money laundering rules] as a given" and uses those breaches for action under Pillar 2 or to withdraw an authorisation, but "supervisory tools are not fit for tracking money laundering practices*".

At the same time, in a letter dated 13 July 2017, the Chair of the Supervisory Board had also stressed that "*the ECB has identified conduct risk - which includes compliance with anti-money laundering laws - as one of the key risks for the area banking system. At bank-specific level, identifying such risks feeds into the ECB's annual Supervisory Review and Evaluation Process (SREP), which may result in additional*

capital or liquidity requirements, or supervisory measures, as appropriate". Supervisory measures may include e.g. closing down a business line.

That letter mentions additional supervisory tools, namely:

- The assessment of the influence of qualified shareholders on the sound management of the institution (in particular for significant institutions);
- The withdrawal of banking licences (Article 14(5) of the SSM Regulation), for anti-money laundering reasons[7];
- As well as the assessment of board members' and key function holders' suitability for the job ("fit and proper assessments").

The European Supervisory Authorities (ESAs)

AML is part of the ESAs' mandate as laid down in the ESA Founding Regulations. ESAs - the European Banking Authority, the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA) - involve the authorities competent for ensuring compliance with AML Directives. This means that the ESAs may carry out a broad range of supervisory actions ((i.e. guidelines, breach of Union law, action in emergency situations, settlement of disagreements, college of supervisors, peer review, coordination function, collection of information, common supervisory culture) within the scope of AML Directives.

The ESAs are particularly involved in "*facilitating and fostering the co-operation of competent AML/CFT authorities across the EU*" and developing guidelines and opinions. In particular, Article 6(5) of Directive (EU) 2015/849 requires the ESAs to issue a joint opinion on the risks of money laundering and terrorist financing affecting the Union's financial sector. In its February 2017 joint opinion, the ESAs have emphasised that "*more has to be done to ensure that the* Union's *AML/CFT defences are*

Box 4: ECB's public statements in relation to a possible new EU supervisory architecture

In an interview in March 2017, Danièle Nouy emphasised that whether money laundering and financing of terrorism should be supervised centrally, is a "*decision for politicians and legislators to make*", but the Single Supervisory Mechanism cannot take on such responsibility for the following reason: "*we already have many tasks which require our full attention. Moreover, we already work closely with the 19 national competent authorities that undertake banking supervision for the countries of the euro area. [...] As anti-money laundering is not necessarily located in the NCAs or NCBs, it would mean having additional "partners" within the SSM, which would add complexity*".

At the 26 March ECON Committee hearing, reacting at the ABLV case, Danièle Nouy called for an EU agency to be set up to police anti-money laundering rules: "*we need an European institution that is implementing in a thorough, deep, consistent fashion this legislation in the Euro area [...] We need to change the situation. It's not sustainable to stay in that situation*". Of particular concern were "*countries that are not equipped with enough staff and enough expertise*".

[7] According to the CRD Article 18(1), an authorisation may be withdrawn where a credit institution commits one of the breaches referred to in Article 67(1), which includes the circumstance whereby « an institution is found liable for a serious breach of the national provisions adopted pursuant to Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

effective. This is particularly important as Member States move towards a more risk-based AML/CFT regime that presupposes a level of ML/TF risk awareness and management expertise that this Opinion suggests does not yet exist in all firms and all sectors".

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