

#### GRC COVID-19 UPDATE - MAY 12th, 2020

A little more than two months ago COVID-19 hit the world stronger than we ever expected. The world has changed forever. In this newsletter we provide an overview of the latest developments in the financial sector around dealing with COVID-19 and its effects, as well as the responses of (inter-)national supervisors in the financial sector. RSM has developed several webcasts showing businesses the way on how to weather the storm. You can follow the link for these webcasts as copied in the announcement below.

Now that COVID-19 appears to lead to an increased level of money laundering and terrorist financing risks, the timing of the announcement of the EBA on the launch of an AML/CFT action plan seems just about perfect. On the 7th of May, the EBA welcomed the EU Commission's action plan on antimoney laundering and counter terrorist financing (AML/CFT) and emphasizes to stand ready to support the considerations of the EU Commission through the consultation.

The EBA previously stated six areas to be addressed in the fight against financial economic crime. The EU Commission focused in its action plan on these six areas. These six areas include: (i) guidelines to foster a common understanding of the risk-based approach to AML/CFT, (ii) risk-based supervision guidelines to set out how competent authorities should assess the ML/TF risk, (iii) a draft regulatory technical standard on the application of a group-wide AML/CFT policy and procedure in third countries in order to establish a more harmonized approach in tackling ML/TF risks in third countries (iv) move to a greater harmonization of the EU's legal AML/CFT framework, in order to eliminate the national differences, (v) EU rules on authorization to rely on national transpositions and interpretations and (vi) provide EBA with the right powers and sufficient resources to take action where necessary to support the correct application of standards and guidelines.

### FATF publishes a paper regarding COVID-19 related terrorist financing and money laundering risks (4th May)

The world is currently focusing on fighting the COVID–19 pandemic. It also affects the ability of the government and private sector to implement anti–money laundering and counter terrorist financing obligations. This includes supervision, regulation and policy, reporting suspicious transactions and international cooperation. This undoubtedly results in criminals circumventing customer due diligence, an increase of abuse of online financial services, the use of virtual assets to move or hide illegal funds, abuse of the economic stimulating measures in order to launder illicit proceeds and abuse of domestic and international financial assistance and emergency financing.

In order to provide guidance on how to implement measures to respond to the arising risks because of the COVID-19 outbreak, the Financial Action Task Force (FATF) published a paper, providing examples of such responses.

This paper includes, amongst others:

- Domestic coordination to assess the impact of COVID-19 on AML/CFT risks and systems;
- · Strengthened communication with the private sector;
- Encouraging the full use of a risk-based approach to customer due diligence;
- · Supporting electronic and digital payment options.





# The Financial Intelligence Unit (FIU-nl) provided further guidance on different methods on financial economic crime which arise from the undertaken "corona-measures" by the government (14th April)

The Dutch government has introduced an emergency package of measures, in order to compensate a part of the economic damage caused by the COVID-19 pandemic. However, these measures also create opportunities for various methods of financial economic crime. For example deliberate abuse of the measures introduced by the government to compensate for the financial consequences of the pandemic.

As may be concluded from statements released by the Dutch government, the government is aware of the risks of fraud or scams with the "financial corona compensations". This may also bring changes in the current methods of money laundering.

#### FIU-nl has shared an information sheet with institutions

obliged to report. Pursuant to the Wwft 2018, institutions are required to report unusual transactions to FIU–nl. This information sheet may provide institutions with reporting obligation with further guidance on identifying these (new) risks due to the corona emergency measures.

## EBA provides further guidance with respect to use of flexibility in relation to COVID-19 and calls for extra attention to risks (22nd April)

Following up on the statements of EBA of 12th, 25th, 31st of March and 2nd of April, EBA provides further clarity on the way flexibility will guide supervisory approaches. This will include the relation to market risks, the Supervisory Review and Evaluation Process (SREP), digital operational resilience and ICT risk and securitization. Furthermore, EBA emphasizes that supervisors and financial institutions should pay extra attention to the key risks in the aforementioned areas.

EBA proposes to adjust the capital impact, by amending its standard on prudent valuation. EBA also proposes to

introduce the use of the 66% aggregation factor, to be applied until the 31st of December, 2020. EBA also acknowledges the operational challenges for banks with respect to the area of reporting. Therefore, EBA intends to delay the reporting for the first FRTB–SA figures to September 2021. Lastly, EBA stresses the flexibility of supervisors with respect to the prudential requirements being available to competent authorities for banks, using internal VaR models.

EBA also issued new ICT and security risk management Guidelines, which will provide financial institutions with guidance on how to ensure business continuity, adequate ICT capacity and security risk management.

Lastly, EBA issued further clarity on the prudential application of the definition of default and forbearance powers. EBA also further clarified on the application of EBA Guidelines on legislative and non-legislative moratoria on loan repayments.

### EBA emphasizes that financial institutions should pay extra attention to money laundering (31st March 2020)

The European Banking Authority emphasizes that during the COVID-19 pandemic, financial institutions should pay extra attention to prevent the risks of money laundering and terrorist financing. The past experiences confirm, according to the EBA, that criminals expand their activities in the area of money laundering and terrorist financing in periods of international crisis. Criminals develop new techniques for, amongst others, money laundering. Therefore EBA calls on competent authorities to support credit and financial institutions in their efforts to fight money laundering and terrorist financing.

In this respect, AFM (Dutch Authority of Financial Markets) emphasizes that institutions should pay attention to new methods of money laundering. If necessary, institutions should adopt their systematic integrity risks analysis to these recent developments, in particular with respect to sectors intensively affected by the downturn in the economy.





### European Commission adopts banking package to help facilitate bank lending to households and businesses (28th of April)

With this package, the European Commission ensures that banks can keep on lending money to support the economy and help mitigate the economic impact of the COVID-19 outbreak. Furthermore, there will be made use of the flexibility of EU's banking rules and proposing legislative changes, in order to enable banks to keep the liquidity taps turned on. Together with the European financial sector, the Commission will explore how to develop best practices that could further support businesses and citizens.

### ESMA states that national supervisors will less strictly supervise the financial reporting deadlines for fund managers (9th of April)

Another example of the less strict obligations on reporting deadlines, is this new instruction from ESMA for fund managers. In a normal situation, investment fund managers are obliged to publish annual reports to comply with the European legislative requirements regarding AIF's, UCITS, EuVECAs and EuSEFs and in the case of ICBE's, half-yearly reports. With respect to the exceptional circumstances in line with the COVID-19 pandemic, ESMA proposed that national supervisors should apply the deadline requirements less strictly. AFM decided to follow-up on the statement of ESMA already. AFM expects fund managers to inform AFM as soon as possible in case of any delay. Furthermore, the managers should indicate the reasons of the delay, and if possible provide an estimation of the expected publication date.

### ESMA issues statement on reporting deadlines with respect to MiFID II-rulings (31st of March)

We observe that external supervisors have decided to apply deadline obligations less strictly, given the exceptional circumstances. An example is the <a href="new instruction from ESMA">new instruction from ESMA</a> on <a href="MiFID II-rulings">MiFID II-rulings</a>. With respect to the reporting obligations of RTS 27 and 28, ESMA issued a guideline on the reporting deadlines. This statement and issued deadlines are also endorsed by AFM.

## The Office of Foreign Assets Control (OFAC) emphasizes to communicate concerns with OFAC Compliance related to COVID-19 pandemic (20th of April)

In response to the COVID–19 outbreak, <u>OFAC released a statement that</u> should encourage persons, including financial institutions and other businesses affected by the COVID–19 pandemic, to communicate any concerns with their OFAC compliance related to the pandemic. If the person or business expects any delay in its ability to comply with the deadlines and regulatory requirements as set forth by OFAC, they are expected to communicate this to OFAC as soon as possible.

#### RSM Canada hosts corona webcast video series: insights during uncertainty

RSM understands that these are uncertain times for individuals, communities and businesses as the COVID-19 (coronavirus) outbreak continues to spread around the world. We want to help however by providing information and resources for businesses to weather this storm. We are all in this together.

As part of that effort, RSM is hosting a weekly on-demand webcast series. RSM's goal is to share insights for business leaders to understand the economic impact from this pandemic, how organizations can prepare for the future and how to mitigate risk.

The latest webcasts of RSM regarding corona can be seen on the website of RSM Canada.

#### More information?

In case you have any further questions regarding this article, please feel free to contact <u>Herman Annink</u>, <u>Songul Balaban</u>, <u>Jaap van Dijk</u> or <u>Marlène Jans</u> of the Governance, Risk & Compliance–team of RSM.

The situation around corona is developing and changing every hour. Please find the most up-to-date information about COVID-19 related issues and possible support in <u>our coronavirus-section on our website</u>.

