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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN CENTRAL BANK, THE ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

Strengthening the Union framework for prudential and anti-money laundering supervision for financial institutions

1. INTRODUCTION

The Union's financial system is underpinned by a strong regulatory and supervisory framework that was fundamentally overhauled in recent years in order to safeguard the safety and soundness of institutions operating in the financial sector and the stability of the financial system. The reinforced framework now provides for a Banking Union, which is in the process of being completed.[1] The first two pillars of the Banking Union have been successfully established, placing the banking system within the participating Member States under the common responsibility of a Single Supervisory Mechanism and a Single Resolution Mechanism, underpinned by a single rulebook for the Union as a whole. To support convergent and effective financial supervision throughout the Union the Commission has also put forward legislative proposals to reinforce the mandates and governance of the European Supervisory Authorities.[2] These proposals are central to the Capital Markets Union and need to be adopted quickly.

A strong and credible system to detect and fight money-laundering and terrorist financing is an essential part of this framework and a well-functioning Banking and Capital Markets Unions. While the current system has been significantly enhanced in recent years, rapid legislative and non-legislative actions are needed in order to address a number of identified shortcomings.

The Union's framework for anti-money laundering and combating the financing of terrorism[3] has been considerably strengthened through the adoption of the fourth Anti-Money Laundering Directive,[4] in line with international standards.[5] The fifth Anti-Money Laundering Directive,[6] which entered into force in July 2018 for transposition by 10 January 2020, will bring further major improvements. It goes beyond international standards and includes measures to enhance transparency on beneficial ownership, it reinforces the framework for the assessment of high-risk third countries, addresses risks related to anonymous prepaid cards and virtual currencies, and contains rules on cooperation between anti-money laundering and prudential supervisors.

Despite this strengthened legislative framework, several recent cases of money laundering in European banks have given rise to concerns that gaps remain in the Union's supervisory framework. In particular, there is no clear articulation between the prudential and anti-money laundering rules for financial institutions. The Commission also has concerns about delayed

[1] See Communication to the European Parliament, the Council, the European Central Bank, the European Economic And Social Committee and the Committee of the Regions on completing the Banking Union - COM(2017) 592 final; Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions Completing the Capital Markets Union by 2019 - time to accelerate delivery - COM/2018/0114 final.

[2] COM(2017) 536 final.

[3] References to anti-money laundering in this Communication should be understood as encompassing also references to combating financing terrorism.

[4] Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC .

[5] The Financial Action Task Force is the international standard setter on money laundering and its recommendations are followed by all its Members.

[6] Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU.

supervisory reactions and shortcomings with respect to cooperation and information sharing – both at domestic level, between prudential and anti-money laundering authorities, and across borders, between authorities in different Member States or in third countries[7].

While these cases concern only a very small part of the Union's financial system, they have an impact on its reputation and the Union must take quick and decisive action to address the shortcomings identified and to further reduce risks in the Union's financial system stemming from money laundering and terrorist financing activities.

These concerns have been echoed by the other Union institutions. In the European Parliament, several hearings have been organised in response to the recent scandals, whilst in the Council, the issue has been raised by Finance Ministers, most recently by Eurogroup President Centeno, in his letter of 25 June 2018 to the President of the European Council, Tusk.[8] The Franco-German Meseberg declaration and roadmap issued on 19 June 2018 also highlights this issue.[9]

As an initial response, in May 2018, the Commission invited the Chairpersons of the European Supervisory Authorities, the Chairperson of the Anti-Money Laundering Committee of the European Supervisory Authorities and the Chairperson of the Supervisory Board of the European Central Bank, to establish a Joint Working Group to initiate a collective reflection on ways of improving the current framework for cooperation between anti-money laundering and prudential supervisors.

Against that background, this Communication, together with the accompanying legislative proposal, sets out the necessary steps to further enhance the supervision of financial institutions in the Union for purposes of combating money laundering and terrorist financing. Decisive action by all authorities concerned will further promote the integrity of the Union's financial system and of the Banking Union in particular, contribute to financial stability and further reduce financial crime in the Union.

2. WHY EU ACTION IS NECESSARY

The EU has a strong legal framework in place for preventing and fighting money laundering and terrorist financing. It transposes the international standards of the Financial Action Task Force but also provides for additional safeguards to ensure a safe and well-functioning EU financial system. A cornerstone of this anti-money laundering framework is that financial institutions as well as other entities are required to put in place internal systems to identify and assess money laundering risks related to their business and to manage those risks. The supervisory framework for combating money laundering and terrorist financing is contained in a single instrument, the Anti-Money Laundering Directive, that also applies to a number of

[7] These cases took place before transposition of the Fifth Anti Money Laundering Directive, which will improve cooperation and information sharing between all relevant authorities.

[8] "…there is agreement on the importance of enhancing the current monitoring of the implementation of Anti-Money Laundering measures. As a first step, the institutions will prepare a report in July. Based on this, and in close cooperation with the National Competent Authorities, there should be agreement on further measures by end 2018, possibly as part of an Action Plan."

[9] "For anti-money laundering, we need a set of substantive core criteria which reliably measure the money-laundering-risks that exist in the banking sector. In addition, we need a robust monitoring process reporting on the effective implementation of these criteria. Both, criteria and monitoring process, should be developed by December 2018 by European Institutions, including SSM, and Member States, with France and Germany providing common input. It is essential that such process is not only of formal nature, but materially reduces risks stemming from anti-money laundering-non-compliance."

actors outside the financial services sector. Supervision of compliance with anti-money laundering legislation follows a national approach, based on host country supervision, with only minimum harmonisation of supervisory competences, and no harmonisation of the powers of the supervisory authorities.

The task of reducing money-laundering risks in financial institutions is separate from, but closely connected, to the task of prudential supervisors, to ensure financial institutions' safety and soundness and the stability of the financial system at large. This task is carried out based on the Union's prudential framework for financial institutions, which consists of a number of legislative instruments across different financial services sectors.[10] Prudential supervisory powers are extensively harmonised and responsibilities principally assigned to the home country authority. In the case of banks, since the establishment of the Single Supervisory Mechanism supervisory powers in the Member States participating in the Banking Union are shared between the European Central Bank and national competent authorities.

This current framework involves different authorities across jurisdictions, with different supervisory tasks, powers and responsibilities. To be effective, those authorities must cooperate closely. The Fifth Anti-Money Laundering Directive will remove obstacles to cooperation between anti-money laundering and prudential supervisors, including with the European Central Bank.[11] However, further steps are necessary to ensure effective supervisory cooperation, especially where financial institutions operate across borders.

a) Supervision of compliance with the Anti-Money Laundering Directive

The Anti-Money Laundering Directive is based on minimum harmonisation. It consists of high-level principles and some detailed guidance for supervisors. This leaves discretion for Member States for implementation, and has led to differing national supervisory practices. There is currently no mandatory mechanism or detailed guidance to ensure the ongoing and structured cooperation between anti-money laundering and prudential supervisors of financial institutions that operate on a cross-border basis, and there is scope for discretion as to what information is shared, and when. The scope of powers for anti-money laundering supervisors is not specified in detail.[12] Moreover, coordination with third countries remains fragmented.

b) Consideration of anti-money laundering aspects by prudential supervisors, including the European Central Bank in its supervisory capacity

There are clear links between anti-money laundering and prudential supervision: Failure to address money laundering and terrorist financing risks can have detrimental effects on the financial soundness of individual institutions, the integrity of the internal market, as well as

[10] These legislative instruments include Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (Capital Requirements Directive); Directive 2014/65 of 15 May 2014 on markets in financial instruments (MiFID); Directive (EU) 2009/138 of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).

[11] The fifth Anti-Money Laundering Directive seeks to remove obstacles and improve the exchange of information between anti-money laundering and prudential supervisors, and calls for their cooperation to the greatest extent possible. In addition, where an FIU carries out an analysis and detects a suspicion, it is obliged to disseminate the information to the relevant competent authorities, which might include the prudential supervisor.

[12] The Anti-Money Laundering Directive refers to "enhanced supervisory powers".

on financial stability. Therefore, prudential legislation requires supervisors of financial institutions to consider anti-money laundering related aspects throughout their work.[13]

However, in practice, supervisors are subject to differently transposed national rules, as prudential requirements in legislation have not been supplemented with harmonised guidance. Furthermore, despite a clear competence for licence withdrawal in cases of serious breaches of anti-money laundering rules, enshrined in both the prudential and anti-money laundering frameworks, there is insufficient clarity about the conditions under which authorisations can be withdrawn. Cooperation between prudential authorities and anti-money laundering supervisors is also largely dependent on the good faith and willingness of the relevant authorities.[14]

In the Banking Union, the European Central Bank is not in charge of ensuring compliance with rules set out in the Anti-Money Laundering Directive. However, the European Central Bank, in its supervisory capacity, is tasked with the direct supervision of significant institutions and is therefore faced with the abovementioned challenges. Additional challenges stem from its obligation to apply and rely, for the prudential aspects relevant to money laundering supervision, on national legislation transposing EU Directives in all Member States participating in the Single Supervisory Mechanism. Divergent national transposition in the Banking Union leads to important differences with regard to the information that the European Central Bank may obtain, the possibilities to approach national Financial Intelligence Units or anti-money laundering authorities, as well as to the supervisory tools available, depending on the home country of the bank concerned.

Moreover, the European Central Bank, in its supervisory capacity, is also entrusted with certain competences[15] over less significant institutions in the Banking Union, including certain assessments of anti-money laundering related risks. When exercising this competence, the European Central Bank must rely on input from both national prudential supervisors and anti-money laundering supervisors, the scope of which may substantially differ across jurisdictions.

c) The role played by the European Supervisory Authorities

The European Supervisory Authorities[16] are specifically mandated in their founding Regulations to ensure that the Union's prudential rules and its anti-money laundering framework is applied consistently, efficiently and effectively. Moreover, the Anti-Money Laundering Directive empowers the European Supervisory Authorities to promote

[13] Prudential supervisors are required to factor in anti-money laundering related aspects when granting authorisations, when assessing acquisitions of qualifying holdings or conducting fit and proper assessments, in the ordinary course of supervision as part of the on-going assessment of risks to which a financial institution may be exposed, and in cases of withdrawal of an authorisation due to a serious breach of national anti-money laundering provisions.

[14] The prudential framework does not provide for explicit cooperation obligations between prudential and anti-money laundering supervisors that would enable timely and regular input of anti-money laundering related findings into prudential assessments, nor is there any obligation on prudential supervisors to notify their anti-money laundering counterparts or the Financial Intelligence Units (FIUs) should they uncover evidence of money laundering or terrorist financing in the entities they supervise.

[15] The European Central Bank is in charge of authorisation, licence withdrawal and the assessment of qualifying holdings acquisitions vis-à-vis less significant institutions.

[16] European Banking Authority, European Securities and Markets Authority, European Insurance and Occupational Pensions Authority.

convergence in anti-money laundering supervision on specific aspects, by issuing guidelines and preparing draft regulatory technical standards.

Most of the work of these authorities on anti-money laundering takes place within the Anti-Money Laundering Committee, a sub-committee of the Joint Committee, which brings together anti-money laundering supervisors. Cross-sector rules that fall within the competence of several European Supervisory Authorities must be adopted by all the relevant Boards of Supervisors. In practice, the European Banking Authority is the most active on anti-money laundering issues and its work is not confined to the joint actions.[17]

Anti-money laundering is just one of many tasks of the European Supervisory Authorities and it is therefore in competition for resources. Furthermore, the cumbersome and lengthy process underpinning decision-making in the Joint Committee, combined with the different degrees of prioritisation of anti-money laundering issues by the three authorities have until now rendered their role rather limited.

3. A STRATEGY FOR SEAMLESS SUPERVISORY COOPERATION

The adoption of the fifth Anti-Money Laundering Directive is an important step towards strengthening the framework. Fighting effectively against financial crime, including tax crime, needs proper implementation of the new rules and stronger coordination between the different authorities.

However, it is necessary to set out a broader strategy designed to ensure that the supervision of financial institutions and markets is effective and robust when it comes to addressing challenges stemming from money-laundering and terrorist financing. Preservation of financial stability is a common objective of the anti-money laundering and prudential frameworks, which implies the need not only to establish a clear delineation of the tasks of the different authorities, but also a coordinated and mutually reinforcing use of the full range of powers at their disposal and a smooth exchange and structured flow of relevant information.

The proposed strategy is based on the analysis carried out by the abovementioned Joint Working Group convened by the Commission. It includes short-term legislative and non-legislative initiatives, combined with more ambitious long-term objectives, which should enhance the interaction between the anti-money laundering and prudential frameworks step by step.

3.1. SHORT TERM LEGISLATIVE INITIATIVES

A number of issues must be addressed urgently through amendments to legislation. Several key amendments, which could bring major improvements to the supervisory framework of anti-money laundering risks and thus contribute to risk reduction in the financial sector, could be considered already in ongoing legislative negotiations.

[17] For example, the European Banking Authority has published its own "Opinion on the application of customer due diligence measures to asylum seekers' to foster a common approach to providing asylum seekers with access to payments accounts;" the European Banking Authority is an active member of the Basel Committee's Anti-Money Laundering Expert Group; and the European Banking Authority is in the process of launching its own reviews of anti-money laundering supervisors with a view to strengthening the effectiveness of anti-money laundering supervision of banks.

3.2.1 Enhancing the prudential framework for banks - Changes to the Capital Requirements Directive

While the fifth Anti-Money Laundering Directive strengthens requirements on cooperation between various domestic authorities and improves cross-border cooperation, certain provisions in sectoral legislation, and in particular the Capital Requirements Directive, may inadvertently impact cooperation on anti-money laundering matters. In particular, its strict confidentiality regime in combination with the absence of a clear obligation for prudential supervisors to cooperate with the relevant anti-money laundering authorities and bodies, are problematic.

In this context, the European Parliament has tabled two relevant amendments to the November 2016 Commission proposal to amend the Capital Requirements Directive (part of the Risk Reduction Package), concerning information exchange and the duty of cooperation between prudential and anti-money laundering authorities and bodies. The Commission strongly supports improved information exchange and a duty of cooperation between prudential and anti-money laundering authorities and bodies:

- In the context of enhancing information exchange requirements, all relevant authorities and bodies that receive, analyse and process information related to anti-money laundering should be explicitly covered by confidentiality waivers;

- With respect to the duty of cooperation, all relevant authorities should have the possibility to refer disagreements on cooperation and exchange of information to the European Banking Authority. The European Banking Authority could also be entrusted with an explicit mandate to specify the modalities of cooperation and information exchange, particularly in relation to cross-border groups and in the context of identifying breaches of anti-money laundering rules.

3.2.2 Strengthening supervisory convergence – a reinforced proposal on the European Supervisory Authorities' Review

Under the current legislative framework, the European Supervisory Authorities already contribute to the monitoring of anti-money laundering risks and have a series of powers that they are encouraged to use fully in order to step-up their contribution to the fight against money laundering and terrorist financing. However, bolder steps need to be taken to ensure that anti-money laundering risks are systematically, effectively and consistently incorporated into supervisory strategies and practices of all relevant authorities. The European Banking Authority will play a key role in achieving this.

The Commission's proposal of September 2017 revising the European Supervisory Authorities' founding regulations intends to strengthen the capacity of the European Supervisory Authorities to ensure convergent and effective financial supervision by enhancing their mandates, introducing a more independent and effective governance system and giving the European Supervisory Authorities a more adequate funding mechanism to fulfil their tasks. The Commission **encourages the co-legislators to reach a quick agreement on this proposal**.

However, when it comes to the role of these Authorities in the area of anti-money laundering, further changes are necessary to achieve a more effective system. In order to ensure high quality anti-money laundering supervision and effective coordination among different

authorities across all Member States, anti-money laundering responsibilities across the financial sector must be entrusted specifically to one of the European Supervisory Authorities, namely the European Banking Authority. Its mandate must be more explicit and comprehensive, accompanied by a clear set of tasks, corresponding powers and adequate resources. Therefore, the Commission has today amended its existing proposal amending the European Supervisory Authorities' founding regulations, with the objective of reinforcing the anti-money laundering mandate in four ways.

i. Optimising the use of expertise and resources dedicated to anti-money laundering related tasks

It is proposed that the resources and expertise currently scattered across the three European Supervisory Authorities and the Joint Committee's dedicated subcommittee be centralised at the European Banking Authority and given a more robust support structure. Concentration at the European Banking Authority is appropriate, as in the banking sector money laundering and terrorist financing risks are most likely to have systemic impact.

Involvement and an appropriate level of representation of all national anti-money laundering supervisors responsible for all financial sector entities concerned should be ensured for anti-money laundering-related regulatory tasks, such as the drafting of binding technical standards, guidelines and recommendations. For these purposes, the current Joint Committee's Anti-Money Laundering Committee should be transformed into a Standing Committee of the European Banking Authority. It should be composed of the heads of all national anti-money laundering supervisory authorities, similar to the Resolution Committee established pursuant to Article 127 of the Banking Recovery and Resolution Directive.[18]

ii. Clarifying the scope and content of the anti-money laundering related tasks

In light of the horizontal nature of anti-money laundering concerns, it is proposed that the European Banking Authority's anti-money laundering related tasks be specified in more detail in the founding regulation, as is already the case with respect to tasks related to consumer protection.[19] The European Banking Authority will get specific competences in the area of anti-money laundering, whereas the Joint Committee will deal with cross-sectoral aspects related to anti-money laundering tasks, which require the expertise of the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority. The European Banking Authority's centralised anti-money laundering related tasks would cover those obliged entities referred to in the Anti-Money Laundering Directive that also fall within the scope of the Regulations on the European Supervisory Authorities, as well as the supervisory authorities of such institutions.

iii. Reinforcing the tools for carrying out the anti-money laundering related tasks

For the specific anti-money laundering related tasks, a series of measures are proposed in order to ensure that anti-money laundering work is more efficient, effective and prioritised:

- Building on the independent reviews contained in the original Commission proposal, the Commission considers that the European Banking Authority should carry out **periodic independent reviews** on anti-money laundering issues, with expert input from the proposed Anti-Money Laundering Standing Committee. The specific format and scope of

[18] Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms.
[19] Article 9 of the European Banking Authority Regulation.

each individual review could be tailored to address any needs or issues in anti-money laundering supervision at a particular point in time or in a forward-looking way[20];

- Where a review reveals serious shortcomings in the identification, assessment or addressing of risks of money-laundering and terrorism financing, the Authority should **inform the European Parliament, the Council and the Commission**;

- For the purposes of fulfilling its anti-money laundering related tasks, the European Banking Authority should become the **data-hub** on anti-money laundering supervision in the Union, and therefore should be able to collect all the necessary information and data pertaining to anti-money laundering issues, from anti-money laundering as well as prudential supervisory authorities, which should include confidential data relating to specific money laundering cases, as well as any money laundering-related findings in individual fit and proper assessments;

- The European Banking Authority should also regularly carry out a **risk assessment exercise** to test strategies and resources in the context of the most important emerging money laundering risks, and should reflect these findings in the opinion that it is obliged to deliver for the purpose of the bi-annual supranational risk assessment, carried out by the Commission pursuant to the Anti-Money Laundering Directive;

- Finally, the capacity of the European Banking Authority to enforce anti-money laundering rules should be strengthened, including in the context of its powers related to breaches of Union law or binding mediation. Therefore, it should where necessary be able to **request national supervisors to investigate cases** where financial sector operators are alleged to have breached their obligations under the Anti-Money Laundering Directive. Moreover, where the Authority takes decisions under the existing procedures on breaches of law or binding mediation, and a national authority does not comply with these decisions, the Authority should under certain conditions be able to **adopt decisions directly addressed to financial sector operators**, requiring them to comply with their legal obligations not only under directly applicable Union law, but also as provided in national legislation transposing Directives or exercising options granted to Member States in Union law.

These tools would allow a comprehensive and up-to-date analysis of the strengths and weaknesses in supervision, as well as providing a view on emerging money-laundering threats and trends that may have cross-border effects.

iv. Strengthening the coordination role of the European Banking Authority for international anti-money laundering related issues

Finally, it is proposed to endow the European Banking Authority with a clear responsibility as regards the coordination of material anti-money laundering-related supervisory issues at international level. The European Banking Authority should in particular take a leading role

[20] In addition to comprehensive reviews of each competent authority, the European Banking Authority may choose to conduct thematic or in-depth reviews covering selected issues, reviews of compliance with certain regulatory requirements, reviews of practical supervisory processes across a few selected authorities, or other form of reviews related to pertinent issues.

in coordinating cooperation with relevant third-country authorities in cases entailing a cross-border dimension.

3.2. SHORT-TERM NON-LEGISLATIVE MEASURES

To address immediately some of the practical hurdles hampering appropriate cooperation, pro-active concerted measures by the competent authorities are warranted. The European Supervisory Authorities, as well as the European Central Bank acting in its supervisory capacity, should use their existing powers to enhance the current implementation of the framework.

Actions by the European Supervisory Authorities

Measures should first focus on the anti-money laundering related aspects in the banking sector, given the particular relevance of anti-money laundering for banks, and the potential systemic implications for the European banking sector. The European Banking Authority is encouraged to assume a leading role, to initiate the measures described below, to share its expertise and to coordinate work with the European Securities and Markets Authority and the European Insurance and Occupational Pensions Authority.

- The European Banking Authority is invited to undertake first a **stock-taking exercise** allowing an overall identification of the various anti-money laundering issues relevant from a prudential perspective, as well as a mapping at Union level of existing practices of factoring anti-money laundering aspects into prudential supervision. The stock-taking should also outline the characteristics of cooperation arrangements between prudential and anti-money laundering authorities and bodies, both intra-Member State and cross-border. This should lead to identifying best supervisory practices, as well as potential deficiencies.

- On the basis of the stock-taking exercise, the European Banking Authority is invited to adopt **common guidance** supporting the Union's prudential supervisors in appropriately and consistently accounting for money-laundering and terrorist financing risks in their activities. In particular, the Authority should use existing mandates for issuing guidelines and draft technical standards to specify how prudential supervisors should integrate anti-money laundering aspects into their various tools.[21] The guidance should emphasise ways of improving cooperation throughout all phases of the supervisory process.

- The European Banking Authority is also invited to **analyse the impact of the different approaches behind the distribution of competences** in prudential supervision (i.e. home country control, consolidated supervision) and anti-money laundering supervision (i.e. host country control, information exchange). This should guide prudential supervisors of cross-border groups in identifying the relevant counterparties in the anti-money laundering framework.

- On the anti-money laundering side, the European Banking Authority, in coordination with the other two European Supervisory Authorities where relevant, is invited to closely **monitor the implementation of the Risk-Based Supervision Joint**

Guidelines, to follow-up on the recommendations made in the Commission's 2017 Supranational Risk Assessment[22]. The European Supervisory Authorities should highlight, in the forthcoming joint opinion on money laundering and terrorism financing risks in the Union,[23] financial sector strategic aspects of anti-money laundering and the related findings, including possible ways to address identified shortcomings, if any.

- Moreover, the European Supervisory Authorities are invited to **expand the Risk-Based Supervision Joint Guidelines to specify common procedures and methodologies** for the supervision and assessment by anti-money laundering authorities of financial institutions' compliance with anti-money laundering rules. The European Supervisory Authorities are also encouraged to issue substantial guidelines covering in detail the **cooperation and information exchanges** between anti-money laundering and prudential supervisors, and promoting the establishment of anti-money laundering colleges.

- **The European Banking Authority** should play a central role in ensuring compliance with the anti-money laundering framework. It should **undertake stringent reviews of the activities of anti-money laundering authorities**, accompanied by concrete recommendations to these authorities and an effective follow-up mechanism. In this regard, the Commission fully supports the European Banking Authority's recent initiatives on anti-money laundering reviews, as well as its follow-up to the Commission's requests on investigations of breaches of Union law in the field of anti-money laundering and encourages continuous use of these tools by the European Banking Authority for identifying unwarranted supervisory practices.

- With regard to **international aspects of cooperation** in relation to anti-money laundering issues, the Commission supports **a more pro-active role for the European Banking Authority and the establishment of contacts with third country authorities**, in line with its current mandate. It is invited to devise a cooperation strategy with relevant third country authorities, to ensure that the Union interests in the field of anti-money laundering are adequately and consistently taken into account by such authorities.

Action by the European Central Bank in its supervisory capacity

Until now, the European Central Bank has had to rely mainly on the willingness of national anti-money laundering supervisors. It is now a priority that the European Central Bank **concludes with anti-money laundering supervisors a multilateral memorandum of understanding** on exchange of information by 10 January 2019, as required by the fifth Anti-Money Laundering Directive.

It is of great importance that all prudential supervisors **clarify the practical arrangements** that concern incorporation of anti-money laundering related aspects into prudential supervision, taking into account the European Banking Authority's Guidelines. Within the Single Supervisory Mechanism, there is an additional need to **clarify the division of tasks**

[22] Report from the Commission to the European Parliament and the Council on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities - COM(2017) 340 final.
[23] The Joint Opinion is required under Article 6(5) of Directive (EU) 2015/849.

between the European Central Bank and the national competent authorities, which assist the European Central Bank in carrying out its prudential tasks in relation to both significant and less significant institutions.

3.3. CONCLUSIONS AND LONGER TERM OUTLOOK

Deficiencies in the current system can only be addressed if all stakeholders act swiftly and in close concertation. Political commitment from all sides and at all levels will be essential if the strategy set out above is to be successfully implemented.

The Commission therefore calls on the European Parliament and Council to endorse the actions set out in this Communication and to adopt the relevant legislative proposals by early 2019 at the latest, thereby taking a decisive step towards a more resilient system**.**

While national anti-money laundering supervision will remain central in the fight against money-laundering and terrorist financing, there is a need to reflect on whether the current situation, which allows for differently transposed rules in Member States and reflects asymmetries in the distribution of tasks and competences, is conducive to a coherent and viable anti-money laundering supervisory system in the Union. Various options for potential further reforms could be explored. The Commission will reflect on these matters in the context of the Report that it is mandated to deliver under Article 65 of the fifth Anti-Money Laundering Directive.

This Report, taking into account legislative developments in Parliament and Council with regard to the European Supervisory Authorities review, could consider the long-term actions suggested in the Reflection paper developed by the Joint Working Group. In particular, transformation of the Anti-Money Laundering Directive into a Regulation, which would have the potential of setting a harmonised, directly applicable Union regulatory anti-money laundering framework should be considered. Different alternatives could also be envisaged in order to ensure high quality and consistent anti-money laundering supervision, seamless information exchange and optimal cooperation between all relevant authorities in the Union.[24] This may require conferring specific anti-money laundering supervisory tasks to a Union body.

[24] Including those in the field of taxation.