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European Commission's Proposal for a new EU AML/CFT Authority- A step forward to combat the existing inadequacies

(European criminal law)

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Abstract:

On 20.07.2021 the European Commission issued the Proposal for a Regulation of the European Parliament and the Council establishing the Authority for Anti- Money Laundering and Countering the Financing of Terrorism. The establishment of a new Authority appeared necessary in the aftermath of a number of cases of alleged money laundering with cross- border elements in July 2019 at EU credit institutions. The proposal for the establishment of a new Authority is based on 114 TFEU and it shall have legal personality in the form of decentralized agency. The new Authority shall be the centerpiece of an integrated AML/CFT supervisory system along with national authorities.

Its main scope is to prevent money laundering and terrorism financing in the Union by enhancing supervision and improving cooperation between FIUs and supervisory authorities. The Authority shall supervise the riskiest cross- border financial sector obliged entities aiming at closing loopholes to cross border supervision. The coordination of national supervisory authorities shall also be its main goal, in order to increase effectiveness and establish common high quality supervisory standards.

The tasks and powers of the new Authority shall be described in Articles 5 to 44 according to the abovementioned proposal and include supervision of high risk obliged entities, periodic review of financial supervisors ensuring they have resources to perform their tasks, coordination of peer reviews of supervisory standards and practices and requests for investigation of possible breaches of obliged entities. The Authority shall provide advice and input to the Commission and co- legislators on many aspects of AML/CFT policy and support the Union's policy on third countries regarding ML/TF threats from outside the Union. This paper seeks to present the Authority and underline the significance of bringing under the same institutional roof different stage and elements for countering effectively money laundering and terrorist financing.

Keywords:

Anti-money laundering, counter terrorism financing, supervisors, obliged entities, Authority

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I. Introduction

The financial supervisors in the EU and money laundering is a cat and mouse game that has been playing for long. The problem is that money laundering brings immediately to mind some rich oligarchs but in reality in the majority of the cases, the most perfectly venerable credit institutions are involved. Nevertheless their supervision is appeared weak and ineffective.

Following the above, on June 2021 the European Commission issued the 2021/0240 (COD) document, the Proposal for a Regulation of the European Parliament and of the Council establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) 10940/2010, (EU) 1095/2010. The proposal for the creation of the new Authority is part of an ambitious package for the reinforcement of EU's anti-money laundering and countering the financing of terrorism (AML/CFT) rules that aims to boost the european fight against money laundering and terrorism financing. This contribution pursues to present the structure, the tasks and the powers of the new Authority and underline the significance of bringing under the same institutional roof different stage and elements for countering effectively money laundering and terrorist financing.

The establishment of a new Authority appeared necessary in the aftermath of a number of cases of alleged money laundering with cross- border elements² and an inconsistent approach of the competent authorities that took place in July 2019 at EU credit institutions. Although the existing legal AML framework has been improved through many adjustments it is still obvious that the current framework is applied with divergency. As a result there are some structural problems to prevent the abuse of financial system for illegitimate purposes. The AML supervisors in the Member States were free in significant extent to choose their institutional set- up and procedures according to the current AML legislation. As a result, until the above proposal there was no European authority responsible for AML supervision of obliged entities. On the other hand, according to the to the principle of procedural autonomy the framework governing the AML prevention and supervision of obliged entities is established in EU level and on the same time the national legal system of each Member State is responsible to choose the procedures of legal actions in order to safeguard the protection of rights according to EU law³. Therefore each Member State applied the EU law differently⁴ creating a patchwork of national supervisors⁵ and significant deficiencies in the AML systems of credit and financial institutions. After the Commission's review of many relevant cases of deficiencies, resulted in an analysis that there are mainly four types of drawbacks identified to all institutions. First of all there are ineffective and non-compliant AML systems and controls, governance inadequacies, uneven risk taking and risk management and oversight of AML/CFT policies.

It has to be stressed that any disintegration and inadequacies in the implementation of the legal framework in an integrated market creates significant risks to the coherence and the soundness of the Union's financial system. Therefore it is important to ensure prompt and consistent measures for the effective implementation of the AML/CTF legislation especially by the designated authorities such as supervisors and Financial Intelligence Units⁶

II. Chapter 1- Legal nature of the Authority

In the light of the above considerations, the Commission proposed the creation of the new Authority that aims to fight the existing inadequacies and address the shortcomings of the supervisory authorities by supervising directly the high-risk obliged entities, while indirectly oversee the remaining entities. The proposal for the establishment of a new Authority is based on 114 TFEU and it shall be a body with legal personality in the form

² Report from the Commission on the assessment of recent alleged money laundering cases involving EU credit institutions (COM/2019/373), and other reports,

https://ec.europa.eu/info/sites/default/files/report_assessing_recent_alleged_money-laundering_cases_involving_eu_credit_institutions.pdf (accessed on 08.04 2022)

³ CJEC, Case 33/76 Rewe-Zentralfinanz eG and Rewe-Zentral AG v Landwirtschaftskammer für das Saarland [1976] EU: C:1976:188, para. 5.

⁴ Melissa Van den Broek, Preventing money laundering: A legal study on the effectiveness of supervision in the European Union (Eleven International Publishing, Den Haag, 2015), p.35

⁵ European Parliament (2019), PE 614.496, pp. 1-2.

⁶ Communication from the Commission - Towards better implementation of the EU's anti-money laundering and countering the financing of terrorism framework (COM/2019/360 final), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019DC0360&from=EN>

of an decentralized agency. Currently there are established over 30 decentralized agencies in the EU. They are unconnected to the EU institutions and their establishment is set for an indefinite period. Their main roles are the contribution to the implementation of EU policies and the assistance to cooperation between the EU and national governments. The tools they use to meet their goals are technical and specialist expertise and know-how from both the EU institutions and national authorities⁷. A significant number of European Union agencies have been created in recent years across Europe. Over the years they have served many purposes such as promotion of transnational regulatory networks, sharing information on best practices and channel for member state governments and they are established on many sectors ranging from the internal market to economic and social regulation⁸. Mainly they have achieved the division of tasks in the EU by undertaking some regulatory tasks, becoming essential parts of the policy-making and implementation activities of Commission departments.⁹ Their practical importance is increased because their function is not limited to an institutional phenomenon but they are also used as a method of policy delivery. The European Union (EU) ‘agencification’ mechanism is considered successful. Accordingly, their functional and normative significance has become central in the institutional discourse.¹⁰

However, it is stressed that in the legal basis of 114 TFEU are not included more specific issues such as respecting the principal of institutional balance that should be kept in mind when establishing a European supervisory authority. This principal according to article 13 (2) TEU is interpreted by the Court of Justice of the European Union as the balance of powers of the institutional structure of the European Union. This means that an EU supervisory authority could not have discretionary decisioning role or policy making choices but its competences should be described thoroughly by secondary law ultimate competences left for the European institutions.

Therefore the provision of AML supervisory competences to an EU agency by the European institutions may be successful providing that there is no final transfer of responsibility. Any decision making responsibility should be evidence based providing procedural guarantees and should be established on a technical factual assessment¹¹.

The new Authority shall be the centerpiece of an integrated AML/CFT supervisory system along with the national authorities. This newly created decentralized agency of the Union shall be funded partly from the EU budget and partly from fees levied from obliged entities.

III. Chapter 2- Structure and governing bodies

The Authority’s structure and its governing bodies are the following: First of all the general board that is comprised by the chair of the authority and the heads of supervisory authorities of obliged entities in each member state both with a right to vote and one representative of the commission without the right to vote¹². The general board under its supervisory composition is a decision making body and it is also providing its advise and opinion on draft decisions of the executive board. It also oversees joint analysis with one or several FIUs between member states and ratifies the draft regulatory and implementing technical standards that would be referred below, opinions, recommendations guidelines and decisions in order to achieve harmonization of the AML legislation. Furthermore it shall deliver an opinion regarding the draft decisions of the executive board on priority issues, ratifies and publish its Rules of Procedure and exercises also some appointing authority powers over the Chair and five permanent members of the executive board¹³.

⁷ Official website of the European Union, Types of institutions and bodies, https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/types-institutions-and-bodies_en

⁸ Chiti Ed., Decentralized Implementation European Agencies, in Robert Schütze and Takis Tridimas, Oxford Principles Of European Union Law: The European Union Legal Order: Volume I, 2018, Published to Oxford Scholarship Online: March 2021

⁹ Morten Egeberg, Jarle Trondal & Nina M. Vestlund, The quest for order: unravelling the relationship between the European Commission and European Union agencies, Journal of European Public Policy Volume 22, 2015 - Issue 5, Pages 609-629

¹⁰ Chiti Ed., Decentralized Implementation European Agencies, in Robert Schütze and Takis Tridimas, Oxford Principles Of European Union Law: The European Union Legal Order: Volume I, 2018, Published to Oxford Scholarship Online: March 2021

¹¹ CJEC, Cases 9/56 and 10/56 Meroni & Co., Industrie Metallurgiche SpA v High Authority of the European Coal and Steel Community [1958] EU:C:1958:7, English special edition 1957-1958 00133, p. 152

¹² European Commission, COM (2021) 421 final, p.67, Article 46

¹³ European Commission, COM (2021) 421 final, p.69, Article 49

The second body, the executive board is consisting of the Chair of the Authority, five full-time members that would be chosen following an open selection procedure and a representative of the Commission when the executive board executes all of its tasks except decision making regarding the internal structure of the Authority¹⁴. The Authority is represented by the president who is responsible for preparing the projects of the general board and the executive board along with preparing the daily agenda assembling and sharing all the meetings and submitting the issues for decision making¹⁵.

The executive board has the responsibility for the overall programming and the execution of all the duties of the Authority and the issuance of all its decisions including those addressed to selected obliged entities and to individual public authorities except those taken by the general board. Furthermore the duties of the executive board include the approval of the annual program and the budget of the Authority and exercising of all the other relevant activities. The board is also evaluating and approving the consolidated annual activity report of the Authority including an overview of the execution of its duties. On the same time it is the decision making body regarding the establishment of the internal structures of the Authority and for any relevant modification. The executive board has the responsibility to implement the single programming document, a paper containing multiannual and annual programming conducted after the consultation of the Commission (for annual programming) and the European Commission (for multiannual programming). However, the finalization of the programming document is subject to the final adoption of the general budget and if necessary it might be modified accordingly¹⁶.

The anti- fraud strategy that should be equitable to fraud risks and the adoption of its rules of procedure and rules to avoid and manage conflicts of interest regarding its members are also responsibilities of the executive board. It exercises the recruitment procedures for the servants of the Authority, concludes the contracts of employment and approves the relevant implementing rules to put into force the staff regulation and the conditions of employment. It is also responsible for the selection of the vice-president of the Authority among its voting members. The recruiting responsibilities of the executive board include the appointment of the executive director and removal when necessary and also the appointment of the accounting officer who may be the accounting officer of the Commission but is subject to an obligation for total independence in the his/her tasks. In case of an internal or external audit report, evaluation and OLAF investigations the board is in charge for the adequate follow- up procedures¹⁷.

The role of the executive director is also very important in the structure of the Authority. He/she is a temporary agent of the Authority with managerial duties and has the obligation to remain independent from any government or other body¹⁸. The tasks of the executive director are the daily management of the Authority while she/he targets to guarantee equal gender representation within the Authority. The main responsibilities of the executive director are the implementation of the decisions of the executive board, preparation and application of the programming document, drafting an unified annual report regarding the activities of the Authority and an action plan according to the conclusions of internal or external audit reports and evaluations and investigations by the European Anti-fraud Office (OLAF). The implementation of the annual work program of the Authority is also one of her/his tasks. In addition the executive director is in charge of the duty to safeguard the financial interests of the Union by implementing preventive measures and drafting a strategy against fraud corruption and other illegal activities. The financial responsibilities of the executive director include drafting the financial rules applicable, estimation of revenues and expenditures and implementation of the budget of the Authority and report regarding all activities of the Authority with a separate section on financial and administrative issues¹⁹. In general the executive director ensures that the Authority is functional by taking all the necessary measures.

The last body that forms part of the Authority's structure is the administrative board of review that is established in order to conduct internal administrative audits of the decisions of the Authority regarding its supervisory powers, administrative pecuniary sanctions or periodic penalty payments that might be imposed²⁰.

¹⁴ European Commission, COM (2021) 421 final, p.70, Article 52

¹⁵ European Commission, COM (2021) 421 final, p.74, Article 57

¹⁶ European Commission, COM (2021) 421 final, p.73, Article 54

¹⁷ European Commission, COM (2021) 421 final, p.71, Article 53

¹⁸ European Commission, COM (2021) 421 final, p.75, Article 58

¹⁹ European Commission, COM (2021) 421 final, p.75, Article 59

²⁰ European Commission, COM (2021) 421 final, p.77, Article 60

The members of the above body are appointed by the general board and have the obligation to remain independent and act in the public interest²¹.

IV. Chapter 3- Tasks and powers of the new Authority

Before describing thoroughly the tasks and powers of the new Authority it is emphasized that its main scope is to prevent money laundering and terrorism financing in the Union by enhancing supervision and improving cooperation between FIUs and supervisory authorities. The role of the new Authority is not to substitute the national supervisors regarding to all obliged entities²² but to outline their exercise of tasks and powers²³.

Furthermore, the Authority shall supervise some of the riskiest cross- border financial sector obliged entities aiming at closing loopholes to cross border supervision. It is adopted a risk- based approach, according to which the focus of the supervision should be on the riskiest business models, products and entities as described by the risk assessment of the Commission, each Member State and obliged entities²⁴. The coordination of national supervisory authorities shall also be one of its main goals, in order to increase effectiveness and establish common high quality supervisory standards. Another key responsibility of the Authority is the improvement of exchange of information and cooperation between FUI.

The tasks and powers of the new Authority shall be described in Articles 5 to 44 according to the abovementioned proposal and include among others supervision of high risk obliged entities, periodic review of financial supervisors ensuring that they have resources to perform their tasks, coordination of peer reviews of supervisory standards and practices and requests for investigation of possible breaches of obliged entities. The Authority shall provide advice and input to the Commission and co- legislators on many aspects of AML/CFT policy and support the Union's policy on third countries regarding ML/TF threats from outside the Union.

In more detail, the tasks of the Authority regarding the money laundering and terrorist financing as described in article 5 of the Proposal for a Regulation establishing the Authority for Anti-Money Laundering and Counting the Financing of Terrorism are divided in five categories depending to whom it may concern meaning to the internal market, the selected entities, financial and non- financial supervisors and FIUs.

First of all, the tasks of the Authority regarding the internal market are monitoring of emerging developments not only across the internal market but also in third countries and the assessment of threats, vulnerabilities and risks regarding money laundering and terrorism financing. Furthermore, the Authority is in charge of the collection of information resulting from its supervisory activities and the establishment of a central AML/CFT database, in relation to the identified weaknesses when implementing AML/CFT rules, by obliged entities, risk exposures, penalties imposed, remedial actions and also the analysis of the relevant information. Some extremely important duties of the Authority is monitoring and supporting of the application of assets freezing as well as the reinforcement of the cooperation and exchange of information between obliged entities and public authorities with a view to evolve a common understanding of the money laundering and terrorism financing risks and threats for the internal market²⁵.

In order to achieve a better understanding of the paper it is important to provide some definitions of terms discussed below. A "selected obliged entity" is considered a credit institution, a financial institution or a group of credit or financial institutions at the highest level of consolidation in the European Union²⁶. The Authority has the direct supervision of the selected obliged entities and its tasks include to ensure group- wide compliance according to the obligations applicable pursuant to the relevant legal framework regarding AML/CFT. It has also the obligation to conduct audits and evaluations on individual entity and in group wide level in order to identify possible vulnerabilities in the applied procedures strategies and arrangements aiming to diminish the risks related to money laundering and terrorist financing. The Authority takes also part in group wide supervisions. With a

²¹ European Commission, COM (2021) 421 final, p.77, Article 61

²² European Commission, C(2020) 2800 final, p. 8.

²³ Pieter Van Cleynenbreugel, 'La supervision financière au sein de l'Union européenne et de la zone euro après la crise: un ' cadre juridique toujours en pleine évolution ' ', in: L'observateur de Bruxelles (N° 111, Bruxelles, 2018), p. 26.

²⁴ European Commission, Report on the assessment of the risk of money laundering and terrorist financing affecting the internal market and relating to cross-border activities (COM(2019) 370 final), p. 2-4.

²⁵ European Commission, COM (2021) 421 final, p.32, Article 5

²⁶ European Commission, COM (2021) 421 final, p.31, Article 2

view to assess the above risks and vulnerabilities of the obliged entities the Authority develops and maintains an updated system²⁷. The AML supervision by an EU agency such as the Authority is significant in order to reach the policy goals and safeguard the integrity and stability of the internal market²⁸.

Where a selected obliged entity is not complied to the requirements of European and national legislation regarding AML/FT and the relevant issues or there are evidence of non-compliance or appear strategies, procedures and regulations that do not ensure management of the relevant risks, the Authority might exercise the following powers²⁹. First of all the Authority can demand the application of the relevant legal and procedural framework, a plan to rebuild compliance with supervisory requirements and application of a specific policy or dealing of clients and transactions. Furthermore, the Authority may request the restriction of any business activity that can pose excessive risks for money laundering and terrorism financing and also the implementation of measures to reduce the above risks in the activities, products and systems of obliged entities. Changes in the governance structure, provision of any data or any information necessary and submission of any document might also be required. When an individual client, transaction or activity pose high risks more specific requirements might be imposed and also the revocation of the license of the selected obliged entities might be proposed to the authority that granted it³⁰. The Authority may impose more strict measures to selected obliged entities such as administrative pecuniary sanctions or periodic penalty payments³¹, that are enforceable³² but prior to the imposition of any measure they have the opportunity be heard before the executive board³³. The imposition of the above penalties can be disclosed to the public unless this disclosure causes significant damage to the entities involved³⁴.

As non-financial supervisors are considered supervisors in charge of obliged entities other than credit and financial institutions³⁵. Subsequently, the tasks of the Authority with regard to financial and non-financial supervisors are the following: For the first one are: maintaining an updated list of financial supervisors in the Union and for the second keeping the same updated list for non-financial supervisors. Conducting periodic reviews in order to secure that all financial and non-financial supervisors have sufficient resources and powers to exercise their duties regarding AML/CTF and following specific request of financial and non-financial supervisors may provide them assistance.

It also conducts periodic evaluations on the above issues and facilitates the functioning of the colleges of financial supervisors in the AML/FT area while assisting to the convergence of supervisory practices and promotion of high supervisory standards in the same area. As colleges of financial supervisors are considered permanent, flexible structures of international banks through which supervisory activities are coordinated. In the European Union area supervisory colleges are not only structures aiming to secure close cooperation and sharing information but they also have a decision-making role, for example joint decisions can be reached regarding an institution's internal model, its risk exposure or its capital base.³⁶

Moreover, the obligations of the Authority regarding the non-financial supervisors are coordination of peer reviews of supervisory standards and practices in the AML/CTF area. In case of breach of the requirements applicable to obliged entities the Authority may request non-financial supervisors to carry out investigation and consider if it is necessary to impose sanctions or remedial actions³⁷. In order to enhance consistency and

²⁷ European Commission, COM (2021) 421 final, p.32 Article 5

²⁸ European Banking Authority, Fact-Sheet: 'Anti-money laundering and countering the financing of terrorism' (DZ-04-20-109-EN-N (02/2020)), p. 1.

²⁹ European Commission, COM (2021) 421 final, p.46 Article 20

³⁰ European Commission, COM (2021) 421 final, p.46 Article 20

³¹ European Commission, COM (2021) 421 final, p.47 &49 Article 21 &22

³² European Commission, COM (2021) 421 final, p.50, Article 24 par.2

³³ European Commission, COM (2021) 421 final, p.49 Article 23

³⁴ European Commission, COM (2021) 421 final, p.50, Article 24 par.2

³⁵ European Commission, COM (2021) 421 final, p.31, Article 2

³⁶ European Central Bank, Banking Supervision, What are supervisory colleges?, 14 July 2016 (updated 12 December 2018) https://www.bankingsupervision.europa.eu/about/ssmexplained/html/supervisory_colleges.en.html (accessed on 24th April 2022)

³⁷ European Commission, COM (2021) 421 final, p.32, Article 5

effectiveness in supervisory outcomes special committees established by the Authority carry out peer reviews of some or all of the activities of non- financial supervisors³⁸.

The financial supervisors may also notify the Authority in case that a non- selected obliged entity is not complied with the necessary requirements and is exposed to money laundering and terrorism financing risks. If the Authority detects any significant breach by a non- selected obliged entity may request its financial supervisors to investigate any possible breaches of the legal framework and consider imposing sanctions according to the applicable legal framework or to apply an individual decision to that entity requesting to comply with the requirements of the European and national legal framework³⁹.

For further details, the Authority with regard to selected obliged entities has supervisory and investigative powers as well as the power to impose administrative pecuniary sanctions and periodic penalty payments. More precisely, the aforementioned supervisory powers enable the Authority to request the provision of information from selected obliged entities and any other natural or legal person relating to them⁴⁰ and also to carry out any necessary investigation over them or any other natural or legal person employed by or belong to them⁴¹, conducting for this reason also any necessary on-site inspection at their business premises⁴². In case that an authorization is necessary in order to conduct an on- site inspection the Authority has the obligation to file an application in the competent national judicial authority⁴³.

The Authority exercises tasks regarding Financial Intelligence Units such as supporting and coordination their activities and provide assistance to ameliorate the cooperation among them. One staff member of the FIU of each Member State may be delegated by the Authority for support in conducting tasks with respect to FIU⁴⁴. In order the FIUs to conduct joint internal and cross- border analysis, the Authority assists to determine and choose the relevant cases, developing suitable methods and procedures towards this direction. In addition, the Authority has the duty to arrange, organize and promote the carrying out of the joint analysis of FIUs and also to facilitates the access of the FIUs to the Information Technology and artificial intelligence services and tools. Another very important duty of the Authority is the development, contribution and promotion of expert knowledge for tracing, analysis and dissemination of suspicious transactions. In addition, it is ensured specialized training and support to FIUs, providing among others financial assistance, whilst it is promoted the interaction of FIUs with obliged entities by offering specialized training. Lastly, the Authority is also in charge of the preparation and coordination of threat evaluations, strategic analysis of money laundering and terrorism financing risks and methods detected by the FIUs⁴⁵.

The Authority is also in charge of the tasks to draft regulatory and implementing technical standards that should be submitted to the commission for adoption. As regulatory and implementing technical standards are considered technical documents that do not imply strategic decisions or policy choices and their content is based on legislative acts. Lastly the Authority publishes guidelines for all supervisor authorities FIUs or all obliged entities and recommendations for supervisory authorities or obliged entities aiming to establish coherent efficient effective supervisory and FIU related policies. The goal is also to safeguard the common uniform and consistent application of the European legal framework. All the above guidelines and recommendations are published following public consultations where potential costs and benefits are analyzed, after their issuance the supervisory authorities should be complied according to their provisions⁴⁶. The European Parliament the Council and the Commission may ask the authority to provide them opinions or technical advice on any issue related to the relevant area of practice.⁴⁷ With view to exercise its duties sufficiently the Authority should pursue to cooperate with European Banking Authority, European Insurance and Occupational Pensions Authority and European

³⁸ European Commission, COM (2021) 421 final, p.55, Article 31

³⁹ European Commission, COM (2021) 421 final, p.54, Article 30

⁴⁰ European Commission, COM (2021) 421 final, p.44, Article 16

⁴¹ European Commission, COM (2021) 421 final, p.44, Article 17

⁴² European Commission, COM (2021) 421 final, p.45, Article 18

⁴³ European Commission, COM (2021) 421 final, p.45, Article 19

⁴⁴ European Commission, COM (2021) 421 final, p.59, Article 35

⁴⁵ European Commission, COM (2021) 421 final, p.32 Article 5

⁴⁶ European Commission, COM (2021) 421 final, p.66, Article 43

⁴⁷ European Commission, COM (2021) 421 final, p.66, Article 44

Securities and Markets Authority also conclude and maintain close cooperation with OLAF, Europol and EPPO and any other AML related Authority not only in European Union but also in third countries⁴⁸.

V. Conclusions

After the overview of the structure and the tasks of the new Authority, one may conclude the following: The ambition of the discussed organization is to ameliorate the total quality of AML/CTF supervisory policies applied in the EU. The above goal is pursued by directly supervising a limited number of the riskiest cross-border financial sector entities and indirectly oversight and coordinate national supervisory authorities concerning both financial and non-financial sector obliged entities according to AML/CTF legal framework. Furthermore, the Authority is aiming to achieve greater efficiency and cooperation between FIUs by implementing common templates for exchange of information and conducting joint analysis with FIUs. All the above objectives target to the efficient detection and prevention of money laundering and terrorism financing.

The stronger supervisory policies intend to lead to deterrence and higher likelihood of detection of the illegal assets. Only with the adequate supervisory inspection it is possible to be applied thoroughly the relevant AML obligations through the private sector⁴⁹. It is evident that the discussed proposal for a regulation is a step forward in the fight against money laundering and terrorism financing. All the above provisions shall address directly the different enforcement approaches of certain Member States, circumvent forum shopping techniques by the obliged entities and allows group-wide consolidated supervision.⁵⁰ In addition the new Authority may undertake in the near future more tasks regarding AML/CFT issues of great significance such as the use of cryptocurrencies and crypto-assets for money laundering and terrorism financing. The Authority might also envisages the supervision of freezing, seizure and confiscation procedures especially in cross border cases but also the management and sharing of seized and confiscated instrumentalities and proceeds of money laundering and terrorism financing. The establishment of a new Authority that is in charge of tasks and powers regarding money laundering and terrorism financing can be the beginning for regulating and addressing all the existing inadequacies.

⁴⁸ European Commission, COM (2021) 421 final, p.85,86, Article 77 and 80

⁴⁹ Benjamin Vogel and Jean-Baptiste Maillart, *National and International Anti-Money Laundering Law: Developing the Architecture of Criminal Justice, Regulation and Data Protection* (Intersentia, Cambridge, 2020), p. 1025.

⁵⁰ Dominik Schlarb, *Rethinking anti-money laundering supervision: The Single Supervisory Mechanism- a model for a European anti-money laundering supervisor?*, *New Journal of European Criminal Law*, 2022, Vol. 0(0), p. 16

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