

Public-Private Partnerships in Anti Money Laundering and Counter Financing Terrorism

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Abstract

The possibility of public-private cooperation has long been raised in the fight against money laundering and terrorist financing. It is a commonly used structure in many sectors around the world, so it was only a matter of time before this cost-effective and innovative solution, would be introduced in the fight against money laundering and terrorist financing. Several experts have already addressed this possibility, but no study has yet been carried out in Hungary. The aim of my research is twofold. One is to pioneer the linking of these two professional sectors, and the other is to present the European Union's efforts in this direction. I will briefly present the alternative of public-private cooperation in the fight against money laundering and terrorist financing, then I will explore the scientific positions with an international perspective, summarize the benefits and challenges, and finally I will give a professional opinion on the expected implementation.

Keywords: Public Private Partnership (PPP), AML/CFT, AMLA, FATF, European Commission

1. What is Public Private Partnership² (PPP)?

The Public Private Partnership (PPP) scheme is based on the recognition, typical of the social rule of law worldwide, that public authorities do not wish to finance the public tasks they are constitutionally entitled to perform from a single budget, nor are they able to finance the investment, service improvements and infrastructure development necessary to fulfil their tasks from their own revenue. In such cases, the public sector will involve private capital in the implementation of facilities and the service capacities of the private sector in those tasks that can be legally outsourced from the public sector.

From the definitions developed by some experts, the following common features can be identified for the different PPP schemes:

- an atypical partnership between the public and private sectors, based on a contract

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² Public Private Partnership (PPP) – is a new form of public service delivery in which the state involves the private sector in the design, construction, maintenance, financing and operation of the facilities, institutions and equipment needed to deliver public services, in a complex partnership. In the classic private PPP system, this is done by a single company or group. The public actor or end-user recovers the value of the investment, the costs of operation and services in the form of an availability payment to the operator.

- typically involves long-term cooperation,
- the private partner contributes to the performance of public tasks by providing financial resources and know-how³ in return for which
- receives an availability payment from the public partner or directly from the users of the service provided⁴.

The PPP concept aims to create a higher level of added value through the perfection, expertise, higher innovative capacity and management power of the private sector, with the so-called winners being not only the contracting parties but all stakeholders, including members of society. The private sector can also invest in certain areas of public operations, investing in long-term predictable projects, and the public sector can deliver high quality services to its citizens in a cost-effective way. A not insignificant aspect is that these projects create a multiplier effect⁵ at macroeconomic level. At the same time, it is essential for successful implementation and operation that the contract properly defines the allocation of responsibilities and risks. Each contracting party should only take on risks that it can bear and manage properly in its own operations.

There are several subtypes depending on the degree of responsibility and risk sharing. Among the PPP schemes, the so-called Buy-Build-Operate⁶ (BBO), according to international terminology, can be used in the fight against money laundering and terrorist financing. The difference is that the state does not sell the asset used to perform its tasks, but the private company develops a new state-of-the-art asset and then continues to operate it in order to use it quickly, innovatively and efficiently.

The PPP scheme is a common method of application around the world. It was only a matter of time before it was used in international action against money laundering and terrorist financing. The European Commission also intends to strengthen the mutual cooperation between the public and private sectors through the establishment of the soon to be set up European Supervisory Super Authority, the AMLA⁷. A similar project between the private and public sectors is already in place in the UK, which is also home to PPPs, creating an unity of purpose within the sector. The Joint Money Laundering Steering Group⁸ (JMLSG) is a private sector body made up of the leading trade associations in the UK financial services sector. It carries out oversight activities and

³ Know-how – In Hungary, Act LIV of 2018 introduced the concept of "know-how" as applied to proprietary knowledge. Accordingly, know-how is a form of trade secret recorded in an identifiable manner. The law highlights that it can be technical, economic, organisational knowledge, a solution with such content, or a combination of these. A trade secret is any secret knowledge of pecuniary value relating to an economic activity which is not readily accessible or not generally known and which the holder (owner) has an interest in keeping secret or in treating as such. In this approach, therefore, know-how is knowledge of identifiable value relating to an economic activity which is kept secret.

⁴ Commission Green Paper on public-private partnerships and Community law on public procurement and concessions COM(2004) 327 final, points 1 and 2.

Source: <https://eur-lex.europa.eu/legal-content/HU/TXT/HTML/?uri=CELEX:52004DC0374&from=ES>.

⁵ The multiplier effect is a kind of multiplying effect. The investment multiplier shows how many units of investment per unit of investment in the economy result in total income growth. The diffusion of experience accumulated through projects (some model-value implementation) is called the multiplier effect. The multiplier effect can further increase the net impact of a project.

⁶ BBO – This is a common use of PPP schemes in the UK and the US in areas where the acquisition of information is sufficient for the public sector to perform its functions. More detailed information: <https://ppp.worldbank.org/public-private-partnership/ppp-process>

⁷ AMLA – Anti Money Laundering Authority Source: <https://www.consilium.europa.eu/hu/press/press-releases/2023/12/13/anti-money-laundering-council-and-parliament-agree-to-create-new-authority/>

⁸ Source: <https://www.jmlsg.org.uk/>

issues guidance approved by HM Treasury as part of its anti-money laundering and counter-terrorist financing functions⁹. It maintains a public database of the activities it carries out and publishes the results of its audits with the approval of the Treasury¹⁰. In Hungary, there is no standardisation of the supervisory activities, nor of the guides. The legislator has divided the supervisory bodies into activities according to Article 5 of Act LIII of 2017 on the Prevention and Combating of Money Laundering and Terrorist Financing (Pmt.)¹¹.

Different supervisors have issued their own guidelines according to their own interpretation of the law. More on this I will write in another research paper.

2. The key role of public-private relations today

The policy ideas behind PPPs and their legal consequences can be seen in past examples. Few people are aware that in Hungary, between 2006 and 2012, more than 300 public-private PPP projects were implemented. The Palace of Arts was the first such project, but there have also been motorways, public cultural and public institutions such as schools, colleges, hospitals, court buildings and even two prisons currently operating in this way. These have been contracted on atypical contracts lasting 20-35 years. Although these investments do not have a so-called good reputation in our country, they are still used today in Europe and around the world as a well-established scheme, in many forms of PPP cooperation. This is because, with the right contract, a good relationship based on mutual trust can be established between the parties concerned along well-defined interests. It is also important to note that these investments are predictable in the long term from an investment point of view and that they achieve significant development objectives.

The idea of public-private partnerships in the fight against money laundering and terrorist financing reflects the idea that the implementation of AML/CFT¹² obligations

⁹ Source: <https://www.jmlsg.org.uk/joint-money-laundering-steering-group-jmlsg/about-us/what-we-do/>

¹⁰ Source: <https://www.jmlsg.org.uk/latest-news/jmlsg-publishes-revisions-5/>

¹¹ Pmt. § 5 – For the purposes of this Act, a supervisory body is defined in § 1 (1)

a) a) to e) and, with regard to the service providers and persons specified in Article 1(1b), the MNB (hereinafter referred to as the "Supervisory Authority"), acting in its capacity as the supervisory authority of the financial intermediary system;

b) in relation to the service providers specified in point (i), the Authority for the Supervision of Regulated Activities;

c) in relation to the service providers defined in point (g), the Hungarian Chamber of Auditors;

d) in relation to the service providers specified in point (l), in accordance with the different provisions applicable to lawyers, chamber legal advisers and notaries under this Act:

(da) in the case of lawyers and chamber legal advisers, the chamber of which the lawyer or chamber legal adviser is a member (hereinafter referred to as the 'regional chamber of lawyers');

(db) in the case of notaries, the chamber of which the notary is a member (hereinafter referred to as the 'regional chamber of notaries');

(e) in relation to the service providers referred to in points (j), (k), (p) and (q), the trade authority;

(f) in relation to the service providers defined in points (f), (h), (n), (o) and (r), the authority acting as a 'Financial Intelligence Unit' (hereinafter referred to as FIU);

(g) in relation to the service providers referred to in point (m), the Office under the Act on Fiduciaries and the Rules Governing their Activities (hereinafter referred to as the "Office")

¹² AML/CFT – Anti Money Laundering and Counter Financing Terrorism

by private entities and the enforcement of these obligations by supervisory authorities is in practice often characterised by compliance with formal rules rather than by the desire to prevent and deter crime effectively. However, this is a misguided approach, as the idea behind the public-private partnership is that the current framework could be improved if the flow of information in both directions were faster and more efficient. An example could be when a major customer due diligence needs to be done by the public authority having more information and sharing it, even in the form of partial information, with the private sector concerned, who can then achieve a more accurate result in terms of AML/CFT compliance. In other words, in a "partnership", both parties involved take a proper approach to a case, and do not just carry out formal obligations based on the minimum legal requirements. One of the tasks of AMLA,¹³ the EU authority that the European Commission wants to set up, will be to monitor how closely and effectively the public and private sectors have been involved in a case. This can obviously be achieved by encouraging a shared sense of purpose based on the common interests of public and private sector representatives.

AML/CFT tasks consist of a number of key elements, such as customer due diligence, risk rating, whistleblowing where necessary, analysis by the Financial Intelligence Unit (FIU) and ultimately criminal investigations. It consists of a wide range of technical, organisational and human resources activities. This implies that closer cooperation between the public and private sectors can take place at different stages. In practice, public-private partnerships are often - and some would argue most often - characterised by a desire for formal compliance with AML/CFT requirements by private bodies and enforcement of requirements by supervisory authorities, rather than a desire for prevention or effective prevention and deterrence of crime. This is because the obliged organisations seek to act formally and to demonstrate that they have taken reasonable steps to comply with the law in order to be penalised for any non-compliance.

Developing a PPP framework is not just about creating mechanisms to complement other elements of the current architecture. Rather, it is about adapting current legislation to implement CDD¹⁴ obligations more effectively, based on practical examples. Similar considerations apply to the other primary role of information sharing, namely to support ongoing investigations. The role of public-private information sharing in ongoing investigations in particular highlights a number of unanswered questions in the relationship between criminal procedural laws and the laws providing for AML/CFT. Where informal practices of information sharing in support of ongoing criminal investigations are developed, PPPs may be an example of such practices that work well in parallel and, in addition to prosecutorial measures¹⁵.

¹³ A new EU authority to combat money laundering and terrorist financing, based on a proposal put forward by the European Commission in July 2021. This was part of a legislative package aimed at implementing the EU's 2020 Action Plan for a comprehensive policy to prevent money laundering and terrorist financing. The AMLA would be the centre of an integrated system, consisting of the Authority itself and national authorities with AML/CFT supervisory mandates. It would also support EU Financial Intelligence Units (FIUs) and establish a cooperation mechanism between them. It will be headquartered in Frankfurt and will become operational in 2025.

¹⁴ CDD – Customer Due Diligence

Source: <https://airontrust.hu/aml-penzmosas-terroizmus-jogi-fogalmak/>.

¹⁵ B. Vogel, *Opportunities and limitations of public-private partnerships against money laundering and terrorist financing*, Euclid, 2022/04, pp. 52-60. Source: <https://eucrim.eu/articles/potentials-and-limits-of-public-private-partnerships-against-money-laundering-and-terrorism-financing/#docx-to-html-fn16>.

When the EU's anti-money laundering regime was introduced, it was criticised by many as an intrusion into fundamental rights to privacy. However, experience has led some scholars to point out that customer due diligence obligations imply the mass retention of financial data. The term data retention is generally defined as "*the collection and storage of personal data for unspecified purposes in case they are needed for an as yet unspecified future use*"¹⁶. I believe that data retention can be basically divided into two parts. Firstly, mainly private actors are legally obliged to keep most of the data for a certain period of time. The second section contains the legal provisions that allow public authorities to access this data. Article 13(40) of the European Union's Anti-Money Laundering Directive obliges organisations to retain personal financial data¹⁷.

While there is an obvious need to retain data in the fight against money laundering and terrorist financing, public authorities may also have access to such data for other reasons, such as the investigation of a crime. In Hungary, access to AML/CFT data for the purpose of detecting a crime is not authorised for investigative authorities by the Pmt. but by Act XC of 2017 on Criminal Procedure. Access to AML/CFT data for supervisory authorities and FIU is provided for in the Pmt. Thus, according to Article 70 of the Pmt, the supervisory authorities shall closely cooperate with each other - the FIU, the investigating authority, the prosecution and the court - as well as with supervisory authorities in other Member States or third countries. However, in my experience, this is not sufficiently exploited. I believe that this provision should probably be extended to include cooperation with the private sector, which is obliged to collect and store data.

3. PPP in AML/CFT/CPF¹⁸

As the previous chapter points out, the use of PPPs is common in international examples and there is an alternative in the fight against money laundering and terrorist financing. The fight against money laundering and counter terrorist financing, including the fight against proliferation¹⁹ (AML/CFT/CPF), requires strategic cooperation efforts between public authorities and the relevant service sector. Task-sharing between private sector institutions and public sector bodies such as law enforcement, supervisory or regulatory authorities can be key in the area of AML/CFT/CPF. Policy makers should also take into account the professional suggestions of stakeholders when drafting legislation, as it is on the basis of the gaps identified in practice that proper codification and prominent implementation results can be achieved. The sharing of information and proper interpretation of the rules with stakeholders has a major impact on the success of the fight against financial crime, including money laundering and terrorist

¹⁶ M. Albers, *Data Retention in Germany*, in M. Zubik, J. Podkowik és R. Rybski (Edit.), *European Constitutional Courts to Data Retention Laws*, 2021, p. 117.

¹⁷ Directive (EU) 2018/843 of the European Parliament and of the Council (fifth amendment: 30 May 2018) amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing and amending Directives 2009/138/EC and 2013/36/EU, OJ L 156, 19.06.2018, pp. 43. Source: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32018L0843>.

¹⁸ AML/CFT/CPF – Anti-Money Laundering/Combating The Financing of Terrorism/Countering Proliferation Financing of Weapons of Mass Destruction.

¹⁹ Proliferation – Combating the financing of proliferation of weapons of mass destruction.

financing. At present, it is much less in the interest of duty-holders to make additional efforts to detect and screen a problematic customer relationship, especially if they do not ultimately lead to the detection of criminal activity and are therefore not properly assessed.

Information sharing is key to promoting financial transparency and protecting the integrity of the financial system. Financial institutions and the relevant competent authorities need to have timely and up-to-date information, analysis and data in order to prevent the commission of financial crimes, including money laundering, terrorist financing and proliferation financing (ML/TF/PF), in a timely manner. This is important not only on the basis of the recommendations of the international organisations set up to combat the proliferation of ML/TF/PF, but also because it is in the national economic interest of each State to have an effective system in place.

Dr. Marcus Pleyer, Chairman of the Financial Action Task Force²⁰ (FATF), the largest international body, in the fight against money laundering and terrorist financing, also mentioned the potential aspect of public-private cooperation in his speech at the Organization for Security and Co-operation in Europe (OSCE) Chairmanship 2020 Counter-Terrorism Conference, saying, *"I cannot stress enough the importance of public-private partnerships in the fight against money laundering and terrorist financing. Many of us in Europe, the Americas and the Asia-Pacific region have witnessed a number of large-scale terrorist attacks over the past few years. Building trust between the public and private sectors, building trust between the private sectors, is essential in the fight against money laundering and terrorist financing. Public-private partnerships need to be established before money laundering and terrorist financing can occur, and therefore need to be investigated"*²¹.

In my opinion, this strengthens prevention, which means that Mr President could not have been thinking of an investigation in the classic sense, as an official criminal investigation to uncover a crime, but of effective action based on preventive measures, analysis and the discovery of data to prevent so-called dirty money from being laundered or a financial crime from being committed. At the same time, the dual purpose of AML/CFT should not be forgotten, namely to support law enforcement authorities in investigating relevant crimes and to support obligated persons in preventing ML/TF/PF.

The FATF has published an international standard entitled *"FATF Recommendations 2012"*²², which in its February 2023 amendment already contains definitions and standards for the exchange of confidential information to the private sector, as follows:

- Information sharing between the public and private sectors through PPPs with the cooperation of stakeholders enhances the effectiveness of AML/CFT/CPF

²⁰ The Financial Action Task Force (FATF) is an international organisation established in 1989. The so-called *"Forty Recommendations"*, which were drafted in 1992, are soft-law regulations, i.e. they have been used as a guideline for the drafting of other international anti-money laundering documents, such as the European Union's anti-money laundering guidelines. Several EU Member States (and, as an organisation, the European Commission) are members of the international panel. The FATF Forty Recommendations provide guidance for the development of both criminal and non-criminal preventive legislation.

²¹ Conclusion of the speech by FATF President Dr Marcus Pleyer at the OSCE conference *"Strengthening public-private partnerships to limit logistical and financial support to terrorists and vulnerable targets"*, 15.09.2020. Source: <https://www.fatf-gafi.org/en/publications/Fatfgeneral/2020-osce-counter-terrorism-conference.html>.

²² Source: <https://www.fatf-gafi.org/en/documents/publicandprivatesectorpartnershipinfightingfinancialcrime.html>.

measures by facilitating a comprehensive overview of financial transactions and customer behaviour.

- Through such partnerships, sharing often takes place in a secure environment, allowing the private sector to conduct additional data mining, operational analysis and due diligence to fill any intelligence gaps.
- These PPPs allow information to be shared between oversight bodies and FIUs, law enforcement agencies, private sector monitoring participants and international partners.

The exchange of information must of course also comply with other rules, such as the obligations under the GDPR.²³ The European Commission (the Commission) has taken a position on this issue, taking into account the standards issued by the FATF, and has published Guidelines on EU rules for public-private partnerships in the prevention of money laundering and terrorist financing, which have been sent to all Member States for comments.

In the light of the comments received, the Commission has published its Action Plan 2020/C 164/06 on a comprehensive EU policy on the prevention of money laundering and terrorist financing²⁴. This Action Plan outlines how the Commission intends to achieve these objectives based on the following six pillars:

- Ensuring the effective implementation of the existing EU framework to combat money laundering and terrorist financing;
- Establishing a single EU rulebook to combat money laundering and terrorist financing;
- Implement the EU-wide supervision of the fight against money laundering and terrorist financing;
- establishing a support and cooperation mechanism for financial intelligence units;
- enforcement of criminal law provisions and exchange of information at EU level;
- strengthening the international dimension of the EU framework for combating money laundering and terrorist financing²⁵.

Based on the initiatives taken by the FATF and the Commission, it is certain that public-private sector cooperation and closer links will be established in the near future.

4. Public and private sector participants in AML/CFT

Public-private partnerships should be encouraged as much as possible in the context of better use of financial intelligence. In many cases, the nature of the information and its untimely exchange can limit the results of analysis, detection and prevention. Of course, such sharing must also respect data protection legislation, as I have already mentioned. In the application of PPP, the participants in the exchange of information between law enforcement authorities, financial information units and the private sector may take different forms. However, the use of certain types of PPPs should be

²³ GDPR – General Data Protection Regulation

²⁴ Source: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13152-Preventing-money-laundering-and-terrorist-financing-EU-rules-on-public-private-partnerships-PPPs_en.

²⁵ Source: <https://net.jogtar.hu/jogszabaly?docid=a20k0058.com>.

clarified and enhanced in order to improve information sharing. This should be done at Commission level, given the differences in legal frameworks and practical arrangements between Member States.

Standards and guidelines are available for PPPs on how to share best practices, in particular on antitrust rules, data protection safeguards and restrictions, and guarantees of fundamental rights. The EU rules on combating money laundering and terrorist financing are not intended to prevent access to legitimate financial services, but it is necessary to create the possibility for rules on combating money laundering and terrorist financing to be properly linked to the legislation regulating the financial sector and other designated non-financial businesses and professions. To this end, the following proposal can be made:

a. For Financial institutions (FIs)

- Provide fast and real-time information and data to FIU and Law Enforcement Agencies (LEA), as well as other authorities, to assist in the prompt detection of possible ML/TF/PF.
- Establish a harmonised system of professional bodies, given their knowledge of customer behaviour and their role as financial intermediaries.
- Identify suspicious activities and issue suspicious information, send transaction reports (STRs) to FIUs in real time and, in a digitised manner.

b. For Designated Non-financial Businesses and Professions (DNFBPs)

- Identification and recognition of businesses and/or activities that are used exclusively to conceal the original form of payments and/or to create other complex legal structures or transactions ML/TF/PF activities. These include lawyers, notaries, tax advisors, accountants and bookkeepers, and real estate transaction businesses.

5. The advantages of PPP in the fight against ML/TF/PF

Public and private sector institutions can be both sources and targets of information flows. The use of data highlights the benefits of an ongoing dialogue between the public and private sectors. The effectiveness of the work of FIUs depends to a large extent on the timing of the reporting, its data content and the multi-directional analytical work. As an experienced analyst, I know that notifications requiring immediate action and investigative work do not always happen at the same time, as official investigations involve the collection of more information, while notifications are unidirectional. Indeed, in many cases DNFBPs unintentionally - or intentionally - do not report to the FIU.

In Hungary, the FIU's Analytical Department is part of the Anti-Money Laundering and Counter-Terrorist Financing Bureau within the National Tax and Customs Administration²⁶. It is not an investigative authority, nor does it perform intelligence gathering, crime prevention or crime detection functions. It only carries out operational and strategic analysis and evaluation activities in accordance with the provisions of

²⁶ Source: <https://pei.nav.gov.hu/elemzo-ertekelo-tevekenysegi/elemzo-ertekelo-tevekenysegi>.

the Money Laundering and Terrorist Financing Act and, where appropriate, forwards the information processed for the purposes of combating money laundering and terrorist financing to the investigating authority, the prosecution, the national security services, the National Tax and Customs Administration body responsible for crime prevention and detection, other FIUs abroad or Europol. However, it is important to stress that in the course of its official activities, the FIU has the right and the obligation to initiate proceedings on the basis of existing information, and may also provide information for other proceedings already in progress. If it receives reports of money laundering activities from service providers, it will investigate them under its own responsibility, carry out an analysis, collect additional data and, on the basis of the results of the analysis, forward the case to the appropriate bodies for law enforcement purposes. The analytical activity is detailed below:

- Improving the quality of reporting and entering additional information into the database;
- Increased sharing of information and knowledge on existing ML/TF/PF typologies;
- Increase the level of expertise and knowledge of all partners and DNFBPs;
- Increased and continuous communication with relevant disciplines.
- Identification of new and emerging risks;
- Improving the quality and use of suspicious activity reporting;
- Improving cooperation and more constructive relations between public authorities and regulated entities;
- Increased risk awareness in the private sector, including the development of guidance documents;
- Improving channels for the exchange of financial information between operational authorities and reporting organisations;
- Strengthen the existing anti-money laundering and counter-terrorist financing framework and make codification proposals.

In the application of the PPP, competent authorities may share information with the private sector to monitor the financial behaviour of suspects and other relevant persons and entities. This typically includes, in particular, sharing the names of targets and possibly other information that may help to make the tracing more effective. This could include, for example, information on contacts or the business activities of the targeted person.

According to expert Dr. Benjamin Vogel, *"a possible solution could be for competent authorities to provide the private entity with information on the profile of the targeted individuals or potential suspects to enable the private entity to conduct targeted and accurate searches of the data records"*²⁷. From an operational point of view, I myself see the authorisation of such targeted searches as positive for two reasons. One is that it allows private bodies to respond to a targeted request for information from an investigating authority without flooding the authority with unstructured and often useless bulk data. The other reason is that it can allow investigating authorities to filter through private data for previously unidentified suspects using offender profiles, which can also make it easier to detect offenders.

²⁷ B. Vogel, *Potentials and Limits of Public-Private Partnerships against Money Laundering and Terrorism Financing*, Eu crim no. 1/2022, Max Planck Institute for the Study of Crime, Security and Law. Source: <https://doi.org/10.30709/eu crim-2022-002>.

6. The challenges of using PPP in AML/CFT:

One of the main obstacles to the implementation of PPP in AML/CFT is ensuring the confidentiality of shared information, especially from the public sector. In many cases, the information disclosed by the public authorities can have a negative impact on intelligence or on the work of those involved in active investigations, as the source of the information may be revealed.

Other challenges and conflicting priorities include:

- In a criminal prosecution, the resources available for investigation are limited on both the public and private sector sides;
- The legal or regulatory framework of the country - loopholes, so to speak - inhibits data sharing, especially cross-border data exchange;
- Disproportionate authority dynamics between the regulator and the regulated;
- In Hungary, the culture of secrecy in the financial system and in the legal profession goes beyond what is legally required and hinders dialogue and thus the sharing of crime prevention information or necessary intelligence;
- Capacity constraints of supervisory and investigative bodies, particularly in human resources and, in the investigation of financial crime;
- Disproportionate gaps and shortcomings between regulatory, authority priorities and the private sector.

Public-private sector information sharing in the context of AML/CFT, including in the context of AML/CFT, has two main objectives: to make the client due diligence process more dynamic - i.e. more efficient - which enhances prevention, and to facilitate ongoing investigations and detections. The two objectives often overlap, of course, as more efficient client due diligence ultimately adds more value to criminal investigations.

7. Opinion

As an EU citizen and anti-money laundering specialist, I believe that the current legal framework in the Member States does not provide an effective basis for Member States to fight transnational financial and economic crime. The current overall regulatory environment in the EU is fertile for illicit financial flows. However, I know from experience that the anti-money laundering authorities in our country are not sufficiently effective in supporting transnational police forces and fighting corruption. And the anti-crime efforts of private sector banks, payment service providers and other obligated entities only do their duty under pressure from the authorities. In my opinion, in order to effectively combat money laundering, terrorist financing and fraud, financial institutions and other obligated entities, as well as FIUs, should be allowed to share detailed information on customers and financial transactions with an independent supervisor, such as the established AMLA, under a clear framework and with a watchful eye. It is clear that the privacy and civil rights of EU and third-country nationals must be protected, but this protection must not extend to covering up illegal acts or criminal activities.

I believe that an effective solution can only be the establishment of high quality EU-level supervision of the fight against money laundering and terrorist financing in order to restore confidence among citizens and the wider international community. The establishment of an EU supervisory system has a higher priority than national

interests. Its functions, competences and relationship with national supervisors can be clearly defined in this EU directive, which is devoid of vested interests, as is the case with OLAF²⁸.

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²⁸ OLAF – European Anti-Fraud Office. Source: https://anti-fraud.ec.europa.eu/index_en.