



■ **INDEPTH FEATURE** Reprint February 2021

# ANTI-MONEY LAUNDERING

Financier Worldwide canvasses the opinions of leading professionals around the world on the latest trends in anti-money laundering.





## *FTI Consulting*

### *Respondents*



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Miles Harrison is a consultant in the financial services practice at FTI Consulting, where he advises a range of governments and financial institutions on complex regulatory, operational and financial crime concerns globally. In Malta, he has worked extensively with the regulatory and enforcement community to investigate suspicious activity and optimise financial crime supervision, with a focus on preventing money laundering, corruption, terrorist financing and sanctions evasion, as well as governance and prudential weaknesses.

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Federica Taccogna is a senior managing director in the financial services team within the financial and litigation consulting segment at FTI Consulting. She is based in London. Having previously held senior risk and compliance positions in industry, including head of controls, head of operational risk and head of compliance, Ms Taccogna now supports a broad range of financial services institutions and regulators globally advising on, investigating and remediating regulatory and financial crime, in particular money laundering and terrorist financing, and governance and control concerns.

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**Q. Could you provide an insight into recent trends shaping financial crime in Malta? How great a risk does financial crime, such as money laundering, now pose to companies?**

**A:** It is no secret that Malta's rise as a financial centre has faced headwinds in recent years due to financial crime concerns that have exploited the jurisdiction's favourable business climate. In response, authorities have prioritised improving the jurisdiction's understanding of the problem, including by issuing new guidance and conducting more investigations. Although trending toward a more sophisticated understanding means that regulators and firms have a stronger chance of identifying money laundering and other illicit typologies, it does not necessarily lead to a reduction in criminal activity. Much like other jurisdictions, financial crime continues to evolve in volume and complexity, particularly in areas known to present a higher degree of risk, such as banking, corporate service providers, cryptocurrencies – the island awarded its first virtual assets licence in November 2020 – e-money, gaming firms and payment service providers.

In recognising the true scale and interconnected nature of the prudential and financial crime risks facing the jurisdiction, though, Malta has begun to pursue more aggressive enforcement action.

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**Q. In your experience, what are the main types of financial crime that organisations encounter? What are the typical sources of such risks?**

**A:** Malta's geographic location and economic and cultural ties to Europe, Africa, the Middle East and Asia present a unique set of opportunities, including for financial crime. As a result, Malta-based firms encounter a wide spectrum of illicit activity, ranging from foreign organised crime involved in bribery, corruption, fraud and money laundering to high-risk, high-net-worth individuals who seek to take advantage of Malta's tax environment and citizenship-by-investment scheme, some of whom have adverse media and, in some cases, a criminal record. Malta's institutions are often exposed to a high ratio of non-resident customers and large volumes of transactions facilitated by payment service providers and prepaid

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card providers, thereby creating a more fertile end-to-end environment for money laundering. The jurisdiction's large shipping sector also raises the level of sanctions-related risk, particularly when it comes to Russia, Libya and the Middle East.

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**Q. What legal and regulatory initiatives are set to have a significant bearing on this issue in Malta? How would you describe the nature and extent of the demands being placed on companies to help reduce financial crime?**

**A:** Malta is constantly improving its legal and regulatory framework to combat financial crime. The Malta Financial Services Authority (MFSA), in tandem with the Financial Intelligence Analysis Unit (FIAU), are set to expand the scope of their routine visits and investigations, leading to an increase in enforcement action for violations of the Implementing Procedures (IPs), Prevention of Money Laundering Act (PMLA) and Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR). Importantly, the FIAU has continued to improve the IPs based on the identification

of new typologies and by engaging the private sector. Collectively, these actions mean that the demands on firms are greater, but also clearer. Nevertheless, some firms in Malta struggle to implement the procedures in practice due to the fact that the market for compliance resources is expensive and requires skills that are not readily available locally. At the European level, we also note a number of developments that are set to affect the legal and regulatory landscape in Malta. From June 2021, the 6th Anti-Money Laundering Directive will come into effect, harmonising the list of predicate offences, expanding the definition of money laundering, introducing criminal liability for legal persons and improving information-sharing channels.

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**Q. In the wake of enforcement action, do companies need to proactively review and revise their practices?**

**A:** Companies should proactively improve their compliance programmes before the regulator is even at their doorstep – saving them time, cost and reputational damage. If, however, a firm is subject to enforcement action, as in the case of



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several recent examples taken by the MFSA and the FIAU, it may be mandated to conduct a remediation exercise to improve its financial crime controls – that is, if it is not shut down entirely. More sophisticated firms understand that enforcement actions brought by regulators also offer a window of opportunity to proactively assess and improve their financial crime compliance frameworks. These operators recognise that financial crime is an evolving threat – criminals are constantly looking to exploit weaknesses in the entire system – and that it is essential to conduct rigorous testing to evaluate the effectiveness of their compliance programmes.

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**Q. How important has technology become in the fight against financial crime? How are innovative AML solutions being used to enhance systems and processes?**

**A:** There is no doubt that technology is vital in fighting financial crime, but it is also a double-edged sword. As elsewhere, we have seen criminals deliberately exploit technology to forge documents, disaggregate customer data by placing servers in jurisdictions with weak data



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governance laws, and wash billions of euros through complex money laundering schemes using cryptocurrencies and the dark web. At the same time, Malta's investigators, regulators and firms are moving from having fairly simple systems in place to adopting increasingly sophisticated technologies, including artificial intelligence and machine learning, to automate certain screening and transaction monitoring processes. The role of technology should also not be overestimated: this narrative benefits the technology providers that claim to offer one-size-fits-all, silver-bullet solutions. Although techniques such as network analysis and advanced risk-rating models can be helpful from a cost and depth perspective – for instance, identifying anomalies not seen by the naked eye, or reducing the quantity of false positive results – they ultimately serve to complement, not replace, human expertise.

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**Q. Once a company suspects or confirms it has fallen victim to financial crime, what initial action should it take?**

**A:** Malta is in line with the trends that we see in other jurisdictions. Financial

institutions and, increasingly, non-financial firms are investing significant sums of money into compliance to meet regulatory expectations to promptly identify and report suspicious activity. What money alone fails to address, however, is the process of taking stock of how financial crime exploited the institution in the first place, ensuring that failures are remediated and preventing issues from reoccurring. In other words, reporting is only one facet of the response. Instead, it needs to be complemented by exercises such as lookback reviews, continuous staff training, and improvements to processes, procedures and controls. Awareness of the problem has increased and, as a result, firms are taking the initial step to report financial crime – the FIAU has experienced a roughly 400 percent increase in the number of suspicious transaction reports (STRs) submitted over the past four years.

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**Q. What essential advice would you offer to companies looking to improve the way they manage financial crime risk? How much of a challenge is it to tailor new innovations to a company's operational realities?**



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**A:** Our advice to firms in Malta and elsewhere is simple. First, understand the financial crime risks to which you are exposed. This requires constant reflection and evaluation of the risk vectors, as well as appropriate allocation of resources. Second, mitigate the risks identified by designing and evaluating a framework of controls that enable your firm to internalise the letter and spirit of regulation – too often, we have inspected firms in Malta and elsewhere that skipped the ongoing self-evaluation step and viewed their ‘controls’ as a one-time, tick-box exercise. Third, ensure your staff are trained appropriately, across the three lines of defence. Although technology and expertise is available to assist with financial crime compliance, including ongoing monitoring and payment screening, firms with advanced systems may still fail to pass regulatory assessments if staff are unaware of the risks faced. □

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**FTI CONSULTING** is an independent global business advisory firm dedicated to helping organisations manage change, mitigate risk and resolve disputes: financial, legal, operational, political & regulatory, reputational and transactional. Individually, each practice is a leader in its specific field, staffed with experts recognised for the depth of their knowledge and a track record of making an impact. Collectively, FTI Consulting offers a comprehensive suite of services designed to assist clients across the business cycle.

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