Financial Law Review

No. 23 (3)/2021

UNIVERSITY OF GDAŃSK • MASARYK UNIVERSITY • PAVEL JOZEF ŠAFÁRIK UNIVERSITY • UNIVERSITY OF VORONEZH
http://www.ejournals.eu/FLR

MAREK BOČÁNEK*

AML/CFT APPROACHES TO TAX EVASION IN PAYMENT INSTITUTIONS

Abstract

This article focuses on the issue of tax evasion and approach of compliance officers in payment institutions thereto. As tax evasion represents a phenomenon that remains attractive globally and certain percentage of economic activities will still remain connected to such illegal acting, it's necessary that attention will be paid to it.

The primary aim of this article is to identify and define effective methods of compliance officers or departments in relation to their clients or their transactions where certain elements or aspects of tax evasion activities can be detected, in particular based on the obligations vested in national acts, covered by the 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 (hereinafter referred to only as the "AML Directive").

Hypothesis of this article will test the statement that compliance department applies adequate methodology and properly worded questions may differentiate between clients that are putting their efforts into money laundering, in particular tax evasion, and clients with legal intentions.

First part of this article will describe existing legal framework covering the area of money laundering where the method of analysis, synthesis and descriptive method will be applied. Second part of this article focuses on respective approaches to different tax evasion efforts with the main methods of

* Mgr. Marek Bočánek is Phd student, department of financial law and economics, Masaryk University, Czech Republic. Author specializes in capital markets, payments and virtual currencies. Contact email: 107940@mail.muni.cz, ORCID: 0000-0002-5866-8703.

deduction, synthesis and empirical research. Certain element of comparative analysis will be applied as well.

Weakness of this topic is the insufficiency of expert literature for this area when majority of sources come mainly from the publishing of international organisations and partially from the monographies of different authors covering this area only in a form of a side topic. Based on this fact, this work is mostly based on sources from international organisations as from monographies.

Key words: tax evasion, AML/CFT, money laundering, compliance, due diligence, identification, proof of funds, proof of wealth.

JEL Classification: K34

1. Introduction

Tax evasion is inextricably linked to the issue of money laundering and, within payment institutions, this is a matter which the Compliance Department must address on a daily basis.

Naturally, tax evasion is a phenomenon that will probably never cease to attract people and a certain percentage of business activities will continue to be linked in certain forms of tax evasion. However, the fact that vast majority of activities will have to be performed through transactions using standard banking system allows their control by reaching the aforementioned compliance departments, representing a relatively new element within banks. Over the last 20 years, banks and their compliance departments they have developed procedures to approach the controls for suspicious clients or their transactions. This means a due diligence based on the nature of clients (individuals, entities), their ownership structure, as well as the goods/service provided or geographical elements.

Therefore, the objective of this work will be to identify effective methods of compliance department in relation to its clients and their transactions with certain signs of tax evasion, in order to meet mandatory obligations under the Czech Act 253/2008 Coll., on certain measures against money laundering and financing of terrorism (hereinafter referred to as the "AML Act").

The hypothesis that this work will test is the statement that compliance department with an adequate methodology and correctly defined questions can distinguish clients intending to undertake money laundering, especially tax evasion, from clients with legal intentions.

In the first chapter, describing the anti-money laundering regulation, the descriptive method and the method of analysis will be used, while in the second chapter, describing various approaches to tax evasion efforts, the descriptive method, deduction and synthesis will be applied.

The weak point of this topic is the insufficiency of professional literature in this area where most of the sources appear mainly in publications of international organizations or remain fragmented in works of various authors who often describe this area in their work only as a secondary additional topic. For this reason, this work is based mainly on the publications of organizations rather than the monographs themselves.

2. Anti-Money Laundering Regulation

The Czech **AML Act** itself is currently based on **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 (hereinafter referred to only as the "**5th AML Directive**"). Naturally, we will not find a specific mention of tax evasion because the act covers a broader concept of money laundering, which includes tax evasion, having the goal to achieve the legalization of untaxed income by integrating it into the financial system without a suspicious trace of previous transfers.

Here, it's worth to mention that the AML Act follows the 5th AML Directive and to coverage of this topic is identical in both of the legal rules. Therefore, any general statements related to the AML Act apply also to its fundamental document, the 5th AML Directive.

The AML Act states a general obligation to identify and perform due diligence (sec. 7 of the AML Act) on the client, where the task of compliance department is to identify both individuals and legal entities and subject them (most often mainly due to the volume of transactions) to due diligence, i.e., to know whether the transfer between sender to recipient meets the nature of legal activity and if it makes sense from a tax point of view. If we take a closer look at sec. 9 par. 2 of the AML Act, due diligence includes obtaining and evaluation of information about the purpose and nature of the transaction, identifying the beneficial owner, ownership and management structure of the client (in case of legal entity or trust), reviewing the sources of funds business relationship is related to.

Here, in relation to the above, the practice demonstrates several problematic categories identified within the due diligence of clients. Most often, tax evasion occurs in connection with private banking, companies established for private investment purposes, so-called shell or shelf companies, fictitious invoicing, affiliated companies, complicated ownership structures and money laundering based on distribution activities.

The intergovernmental organization Financial Action Task Force (hereinafter referred to only as the "**FATF**") has classified tax evasion within its category of "predicate offenses", which means that it forms part of a more serious crime, in this case of money laundering. For this reason, the FATF does not comment directly on tax offenses, but introduces standards for money laundering prevention that also prevent tax evasion.

The Organization for Economic Co-operation and Development (hereinafter referred to only as the "**OECD**") draws attention to the important role played in this regard by professionals involved in setting up complex systems for tax evasion, collectively referred to as "professional enablers." However, so far only developed countries applied certain rules related specifically to the secondary participation of experts, such as Law No. 2018-898 of 23 October 2018 of the French Republic, imposing a fine on intermediaries who facilitate major tax offenses. The sanction is set at 50% of the income from such a service, but does not fall below the value of €10,000.

Overall, however, we do not see frequent cases of prosecution of these professions (in practice, these are often legal advisers, lawyers, tax advisers, accountants), however, the 5th AML Directive counted on their assistance in money laundering and extended the categories of obliged persons in point (3) of Article 2 (1) by:

"Auditors, external accountants and tax advisors, and any other person that undertakes to provide, directly or by means of other persons to which that person is related, material aid, assistance or advice on tax matters as principal business or professional activity".

We can see the transposition in sec. 2 of the AML Act, especially in art. e), f), g), h), where the obliged persons performing the identification and due diligence of the client are defined. This also shifts the responsibility arising of the prevention of money laundering to these persons. In simple words, if such obliged persons knew or should have known that their client planned to carry out money laundering in relation to tax evasion, they are obliged to identify such activity as a suspicious transaction under sec. 6 and report it to the Financial Intelligence Unit according to the procedure set out in sec. 18 of the AML Act. Inter alia, they have obligations to keep records for the purpose of possible tracing of details of transaction 10 years after its execution (sec. 16 Retention of information and sec. 29b Retention of data on the beneficial owner).

It is also worth noting the introduction of obligations based on the United States Foreign Account Tax Compliance Act (hereinafter referred to only as the "**FATCA**"), which introduced the obligation to report foreign account balances of all U.S. persons (U.S. person is an official legal term used by the act, including specific categories), as defined in chapter 22 of the U.S. Federal Code, § 6010. This category includes any U.S. citizen or alien, admitted for permanent residence in the United States, any corporation, partnership or other organization organized under the laws of the United States.

Shifting to the automatic exchange of information about balances on foreign accounts of residents reached its global regulation in a form of adoption of the so-called Common Reporting Standard (CRS), where we can see a similar approach of its lawmakers as it was in case of the FATCA regulation. Based on it, participating jurisdictions are obliged to obtain information from financial institutions under their jurisdiction and to pass such information to the relevant jurisdictions these clients are residents of.

As we can see above, based on the mandatory transposition of the 5th AML Directive, the Czech AML Act maintains contact with current events and also contains the most modern elements of regulation, such as the inclusion of professions into the category of obliged persons (a factor that is missing for example in the Bank Secrecy Act of the United States), coverage of cryptocurrencies (or crypto-assets according to the newly proposed EU legislation in this area, the so-called proposal for a “Markets in Crypto-Assets” regulation). The complementary activity of the Financial Intelligence Unit by its publishing of methodical guidelines can’t be neglected too.

On the contrary, the USA PATRIOT Act, which provides a more systematic approach for compliance department, could be an inspiration not only for the Czech Republic, but for the regulation of the entire European Union. There is a categorization of procedures, which is completely lacking in European regulation, when the 5th AML Directive as well as national regulations cover these obligations in general, however, their fragmentation within the regulation does not help an easy orientation within the obligations. The second aspect of the USA PATRIOT Act is, for example, the definition of certain terms that are completely missing in the European legislation, such as private banking, which makes it easier to penalize, or authorizes public authority in relation to correspondent accounts of banks involved in money laundering (both defined in sec. 312 of the USA PATRIOT Act (31 U.S.C. 5318(i)).

3. Tax evasion methods and approaches of compliance departments – identification of clients

Although this applies to a broader interpretation of obliged persons, we will focus on payment institutions, which are one of the most extensive. When onboarding a client, the compliance department is always obliged to identify the client on the basis of the submitted documents. Since tax evasion is primarily a matter for legal entities to larger extent, we will focus on them in the examples.

Within the category of legal entities, the first warning signal is a **complicated ownership structure**, where it is difficult to trace the beneficial owner. As beneficial owners ("controlling persons" under the CRS or "ultimate beneficial owners" within the terminology of FATCA) have become a central concept of current legislation and standards for the prevention of tax evasion, it is practically impossible for the compliance department to leave this question neglected. However, there are often two basic problems.

The first issue is the purposeful establishment of a compliance department from persons lacking adequate knowledge, where the liability stays with persons who do not possess sufficient qualification. An example is the case of Thriftway Food Mart (legal form of Money Service Business) from 2016, when a company was penalized for intentional misconduct and breach of obligations under the Bank Secrecy Act (forming the base of AML/CFT rules of the United States with the USA PATRIOT Act). The compliance officer was either insufficiently knowledgeable or voluntarily ignored his responsibilities in terms of identification and due diligence of clients, as well as in terms of mandatory reporting and record keeping. An interesting is that in this case the compliance officer was penalized as an individual, what is a difference compared to the European environment, where we could see penalization of individuals practically only in the extensive case of Danske Bank money laundering.

The second case is a non-transparent ownership structure where the beneficial owner cannot be traced. Today, it is not uncommon for real owners to hide behind structures of multiple legal entities. If this is the case and compliance department officers face insufficient cooperation from the potential client, it is not possible to start cooperation in such a case, because the obligations under the AML regulations are not fulfilled. However, an unpleasant practice is often the shifting of responsibility to the director, who is often under pressure from the owners of such payment institution to accept a client with higher risk, in particular for profitability reasons.

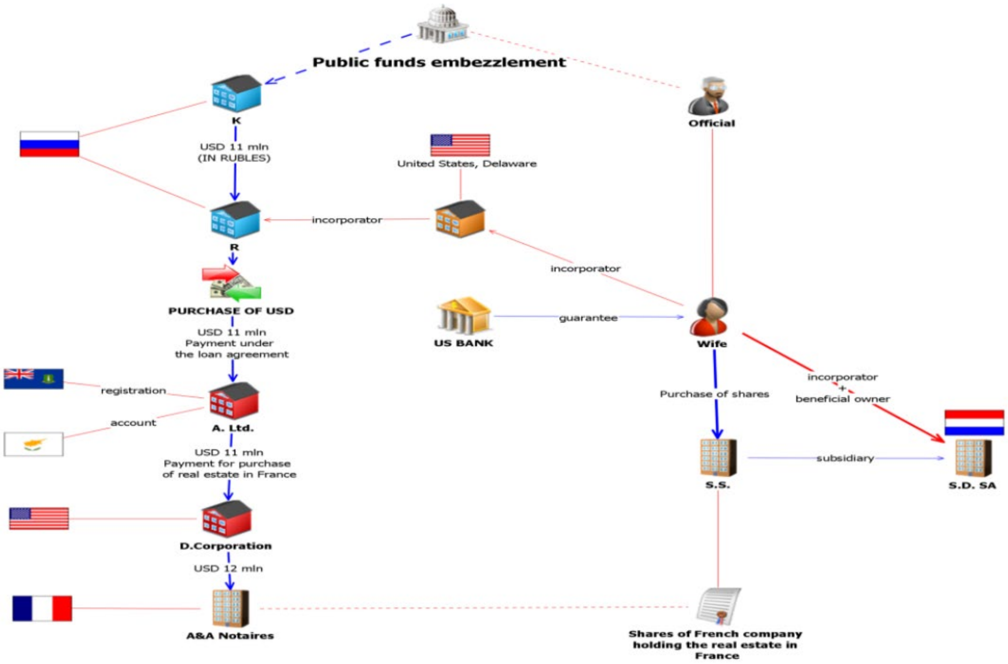
The last deficiency in such a case is usually an insufficient training of employees of compliance department and their lack of knowledge in relation to their obligations arising of the AML Act. An example is the case from the USA in 2016, when FinCEN and OCC took action against Gibraltar Private Bank and Trust Company. The OCC fined the company $2.5 million and FinCEN $4 million for failing to organize and conduct adequate training for its employees to improve their qualifications to comply with AML regulations. Therefore, their practices were inadequate to detect money laundering.

Nowadays, this should be avoided by the first approval of the leading persons, however, even here we can detect a "gap" in the Czech environment. Unfortunately, a frequent circumvention of these obligations is obtaining a permit / license from the Czech National Bank and the subsequent change of directors and compliance officers with a mere notification obligation (without a real second due diligence by the National Bank). This shortcoming of our regulation has not been eliminated by this day and is most often abused in case of small-scale electronic money issuers or small-scale payment institutions.

This problem is also related to the issue of so-called **shell companies**, which usually come with a complicated and sophisticated purpose-built ownership structures. Shell companies were defined in the FATF publication from 2014 as “a company that was established and does not have any significant operations, nor related assets.” It is necessary to distinguish it from the term “**shelf companies**”, which Czech environment knows as “**ready-made**” companies and which are logically often also shell companies, but ready to be purchased and for a quick change of owners. It is defined by the Basel Institute as a company that was created, left inactive and stored in a "shelf," hence its nickname (shelf).

A demonstrative example of a system of shell companies, established for the purpose of creation of a complicated structure, hide beneficial owners and allow tax evasion is one of Russia's so-called "laundromats." Following a successful embezzlement of RUB300 million, company K transferred the funds to the account of company R in Delaware, owned by a wife of suspicious Russian individual (also a politically exposed person). On the same day, Company R transferred $ 11 million (following a currency exchange) in a form of an interest-free loan to Company A in the British Virgin Islands, having an account with a Cypriot bank. Subsequent transfer was directed to Company D in the United States for the purchase of real estate in France. Information from the Luxembourg financial authority pointed to the fact that one of the US banks acted as guarantor for the wife of above-mentioned Russian politician in case of the purchase of shares in a French company, otherwise the owner of the real estate in subject.

Scheme 1. Scheme of Russian money laundering and tax evasion



Source: FATF

There are, of course, more of such examples and it is not necessary to repeat different cases of an identical or similar system. What is important to find out for compliance in these cases is the following:

1. Who are the beneficial owners?
2. Does the company exist? And if it exists, does it carry out any activity or does it exclusively use its account for a single purpose?
3. Where does it have a real office or from where is it controlled and by what person?
4. Who controls company's account?
5. Is it offshore?
6. Is it connected to a politically exposed person?

This is only a basic summary of questions that must be answered in such cases in order for the compliance department to be able to get a full picture of company's activities and to be able to assume the nature of transactions executed through accounts with respective payment institution.

If the compliance department does not perform due diligence in relation to the above, based on the questions mentioned, it is the failure of such payment institution and the compliance officer shall be personally liable under the new regulation of the 5th AML

Directive may also be liable as a natural person. Naturally, directors also have fiduciary responsibility for the management of the company due to their function.

Another issue is a relatively new area related to the **affiliated legal entities** under global holding structures or with separate ownership, but with a real control over the same entities. **Transfer pricing** is the main point related to this issue. This is an application of the arms' length principle on the back of which we can see the demonstration of the fundamental principle of equality (non-discrimination).

OECD offers guidance on this issue in its February 2020 publication, setting out cases on the basis of which it is possible to distinguish breaches of arms' length rules by identifying intercompany loans, business and financial relationships, contractual terms, functional analysis, instruments, circumstances, business strategies, etc.

There are several models on which entities operate globally. Either it involves the use of complete offshore structures, which are currently already approachable by different methodologies of financial authorities in developed countries, or it involves the use of more modern structures providing some "loss for coverage" e.g., in a form of payment of dividend taxes, but by evading corporate income tax. In such a case, the holding company pretends to be an investment company whose owners pay dividend tax in its country, however, the holding company is in an offshore country where corporate income tax remains zero or stays at marginal levels. Such a company owns another offshore company that generates the main profit and also does not pay corporate income taxes (or very low and beneficial ones). Here, logically, the question of double taxation comes into play, opening two levels of questioning. The first is the establishment of a company that is naturally in an offshore country. The second is the so-called "place of management," which the company must prove in the given country in order to avoid the transfer of tax domicile to the country of beneficial owners. According to Article 5 (5) of the Model OECD Double Taxation Treaty (the actual place of management (also found in the Communication of the Ministry of Finance of the Czech Republic File No. 251/122 867/2000 with a more detailed specification) means the place where "the decisions necessary for the performance of the industrial or commercial activities of the undertaking are made as a whole and which cannot be changed at lower levels of management."

Apart from offshore countries such as the Seychelles, the Cayman Islands, Belize, Mauritius, the British Virgin Islands, etc., also Malta and Cyprus have become popular jurisdictions in Europe. **Malta**, based on a refund system that allows a refund of 6/7 of 35% of the paid income tax for a corporate income tax if the entity is owned by foreign residents, thus effectively allowing owners to reduce the tax to 4.17% in the end. Consequently, given the fact that Malta already has double taxation treaties concluded with European countries under a set-off system, the final taxation will depend on the tax domicile of the beneficial owner. It was not unusual that the 7% dividend tax rate in Slovakia attracted companies to look for nominee shareholders for example from the Slovak Republic, when in comparison with the Czech Republic with 15% the difference was striking.

The second model took advantage of the tax system of **Cyprus**, which became particularly attractive to IT companies, whose corporate tax rate falls below 5% as part of a successful combination of exemptions with the consequent advantage of applying the exemption method under double taxation treaties. The basis for the exemption method is that the country of residence of taxpayer does not subject certain income earned in the country, where the profit was made, to any taxation.

In this case, compliance department is obliged to ask questions about the beneficial owners, who remain behind the whole structure controlling it, and carefully consider whether the company's executives do not act only as appointed nominees. In these cases, it is recommended to request a source of wealth from the owners of the companies, who could act suspiciously as nominees, if there was an adequate income in their tax returns. In these cases, compliance performs due diligence with the use of **tax returns** and **bank statements** of owners. However, the issues raised above for shell companies should not be neglected (and apply too) so that compliance staff remains confident that the company is not trying to take advantage of these structures for tax evasion.

4. Tax evasion methods and approaches of compliance departments – due diligence of clients

Another important obligation for compliance department is the due diligence of client. These are cases when a risky client is being onboarded based on his status (politically exposed person, non-resident), geography (sanctioned country or a country with significant deficiencies in its AML/CFT regulation) or from the perspective of goods or services offered by such client (e.g., electronic money institutions, capital markets institutions, cryptocurrencies) or the cases of existing clients and due diligence related to their transactions within the process of ongoing monitoring.

In these cases, and in relation to tax evasion, **private banking** has become very popular. It is a special service for more high net worth clients, often including investment, professional legal and tax advisory. It is exactly this service on the basis of which potential tax evasion through a sophisticated designed structure can be established.

In order to prevent these risks, the Wolfsberg Group (group of the largest global banks) has proposed the basic steps that need to be undertaken in order to achieve proper due diligence of private banking and its clients in relation to transactions going therethrough. In addition to the common issues of identification and due diligence, we can also find guidelines and warnings about the necessary minimization of numbered accounts or accounts with assigned names, risks associated with omnibus (sometimes called "collection") accounts, acting on the basis of a power of attorney (strawmen) and other intermediaries (e.g., trusts). The group also draws attention to the need for ongoing monitoring, adequate training and storage of relevant documents.

It is worth noting that there is a **section 312** in the **USA PATRIOT Act** dedicated to private banking (31 U.S.C. 5318(i)), where it qualifies an account as being a "private banking account" only if it exceeds a cumulative deposit of $1 million. However, then it's required for such accounts:

a) determination of the identity of all nominees as well as beneficial owners of accounts,
b) ascertaining whether any person referred to in point a) is a politically exposed person,
c) identifying the origin of funds on the account and the purpose and expected use of the account,
d) monitoring the account to ensure that it will be used in accordance with the information provided, the source of funds and the expected activity.

A similar risk in this area is also posed by **international distribution**, which can pose a risk in particular in the area of **qualification of goods**. Suspicious features, the department must pay attention to in this area, are the very nature of the payment (if paid by a third party without any connection to the transaction), structured deposits on account on a daily basis (sometimes in different branches of the same bank), discrepancies in the description goods or commodities on the invoice with reality, altered letter of credit, the relationship between the parties does not make sense, regular transactions in rounded amounts (i.e., not exactly calculated per item), funds are transferred to an account that goes automatically to a high risk country, the company comes from jurisdictions, where their operation in relation to the goods does not make sense or it is a problem for them to determine the beneficial owners, insufficient supporting documentation for the transaction, etc.

The compliance officer should always be able to respond to all the aspects stated above so that the overall business relationship makes sense and provides a clear picture of the completed transaction.

The last and quite traditional method is related to the above cases and rather complements them. We speak about **fictitious invoicing**, which is common, for example, for vague subjects of activities (e.g., marketing, consulting, etc.). It is a traditional method of money laundering, which also helps tax evasion. If such fictitious invoicing is linked to offshore locations, there is an automatic suspicion that there may be efforts to reduce the tax base that the company should in fact apply. There is also the risk of structures that can be affiliated, and thus the question of transfer pricing, which should correspond to the market.

A common phenomenon in such a case is the application of fictitious expenses, wages, etc. by companies in jurisdictions with higher taxation to jurisdictions with less or none (offshore), where the largest profit is generated and capital is accumulated with zero or marginal corporate income tax. In this case, the compliance officer must always ask the following questions:

1. Which persons are the beneficial owners and aren’t they affiliated entities?
2. Who controls the sender's and recipient's accounts according to the invoice?
3. Does the business relationship make sense in terms of jurisdictions? Isn't the company established in an offshore location just for purpose while such jurisdiction would generally never attract such activity in terms of its capacity?
4. Is the person acting on behalf of beneficiary a qualified person or only a nominee?
5. Are the sender's expenses excessive in relation to his mandatory deductions and tax obligations?

These are purely basic questions that can be extended naturally in relation to a specific business relationship. However, on the basis of them, the compliance department should always be able to explain the specific business relationship and activities on the account sufficiently so that it does not help the crime with its ignorance of crime. Otherwise, the compliance officer would be liable again.

5. Conclusion

This article dealt with current issues of money laundering from the perspective of tax evasion and their prevention by compliance departments in payment institutions. As this is an issue that requires some qualifications and experience, I consider it as necessary for these positions to include at least one person with a legal or economic background due to sophisticated structures created precisely to circumvent standard methodologies.

As it has been demonstrated in the article, in each way it is possible to establish a reasonable procedure and ask the right questions in order to explain the relevant business relationship and its substance, on the basis of which it is possible to fulfill legal obligations under the AML Act subsequently. The hypothesis of this work can therefore be considered as confirmed.

It is in this respect, however, compliance departments often fail either in terms of insufficient qualifications and experience or due to management pressure to establish a business relationship with the client, despite its non-transparent structure.

The work pointed out that failures or non-compliance are not the result of incorrect or insufficient methodology (which can be considered a satisfactorily developed practice), however, the most common problem of current compliance departments is insufficient educational capacity of individual compliance officers, who are often only trained and do not have legal or economic education while having to cope with a competition of professional advisory to tax optimizing companies. The liability then still stays with the compliance employee.

The regulation within the European Union (5th AML Directive) and its transposition into Czech law (AML Act) can be considered as sufficient for the current situation from a formal legal point of view, especially the permanent extension of the category of obliged persons, the inclusion of new aspects of the economy (crypto-asset business) or traditional, which tend to be subject to money laundering (art trade, precious metals, real estate market).

What I consider to be an important weakness, however, is the lack of enforcement of transparency with regard to beneficial owners. Following the transposition, a register of beneficial owners has been implemented, but in most countries, it is a non-public register. On the one hand it is acceptable that the Czech Republic does not share the legal culture of the Nordic countries, where for example in the Republic of Finland it is standard to expect access to individual tax returns, on the other hand, the transparency of beneficial owners represents the meeting of principle of protection of public interest (it is in the interest of each citizen of the Czech Republic (and analogically for any other) to achieve minimization of the optimization of tax obligations with the subsequent allocation of taxes to public goods from which everyone benefits or which everyone has access to).

Another is the great fragmentation of relevant international organizations operating in this field. We can mention 40 + 9 recommendations of the FATF in the field of money laundering and (the remaining 9) terrorist financing, best practices for the exchange of information established by the Egmont Group, questionnaires for bank clients developed by the Wolfsberg Group (free association of the largest global banks), which include all essential questions to clients (these are really often used in practice). It is also the Basel Committee on Banking Supervision, which brings together G-10 central bank governors and develops standards for client control procedures and required KYC documents, but also the OECD on information exchange of information or the World Bank and the International Monetary Fund, which also set out methodologies and approaches to basic obligations in the area of money laundering. In practice, this has two negative consequences:

1. Banking institutions also require compliance with the standards of international institutions or associations (e.g., the Wolfsberg Group questionnaire, Basel Committee standards), therefore all institutions above and without enforcement powers play a significant role and their standards are necessary in practice for opening accounts and their operations.
2. The complexity of the system requires a much longer period of training for compliance officers due to compliance with the standards of multiple organizations in addition to the legal requirements they have to follow. For this reason, this department is time and money consuming to maintain and is becoming extremely unpopular within financial institutions.

However, this is an area that is constantly evolving with the progress of criminal activities and the reality of the current investigation may not be close to the methods and approaches of the years to come. It is expected that significant profits will continue to attract companies to establish more sophisticated structures in the interest of tax evasion and that payment institutions will have to keep up with them in order to avoid their exposition to the risk of being fined from competent authorities or license suspension.

References

Sojka, V. et al.: Mezinárodní zdanění příjmů: Smlouvy o zamezení dvojího zdanění a zákon o daních z příjmu [International income taxation: double taxation treaties and the Income Tax Act], Prague: Wolters Kluwer, 2017

Legal Acts

Act 253/2008 Coll. of the Czech Republic, on certain measures against money laundering and financing of terrorism (Coll. of acts of the Czech Republic, as amended)

Directive 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 (EUR-Lex, L 156/43, as amended)

LOI n° 2018-898 du 23 octobre 2018 relative à la lutte contre la fraude (Légifrance, CPAE1805937L, as amended).

Proposal for a Regulation of the European Parliament and of the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 (EUR-Lex, COM (2020) 593, as amended)

Other Official Documents

European Parliament: Public hearing: Anti-money laundering and tax evasion: Who sets the rules and how?
Available at:
https://www.europarl.europa.eu/cmsdata/112269/Replies_FATF_en.pdf, accessed: 26th August 2021

OECD: Ending the Shell Game: Cracking down on the Professionals who enable Tax and White Collar Crimes,
Available at:
https://www.oecd.org/tax/crime/ending-the-shell-game-cracking-down-on-the-professionals-who-enable-tax-and-white-collar-crimes.pdf, accessed: 26th August 2021

Finanční analytický úřad: Archiv dokumentů FAÚ,
Available at:
https://www.financnianalytickyurad.cz/archiv/dokumenty-archiv.html, accessed: 26th August 2021

Guidance on Transparency and Beneficial Ownership,
Available at:
https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-transparency-beneficial-ownership.pdf, accessed: 26th August 2021

FATF: Concealment of Beneficial Ownership,
Available at:
https://www.fatf-gafi.org/media/fatf/documents/reports/FATF-Egmont-Concealment-beneficial-ownership.pdf accessed: 26th August 2021

OECD: Transfer Pricing Guidance on Financial Transactions,
Available at:
https://www.oecd.org/tax/beps/transfer-pricing-guidance-on-financial-transactions-inclusive-framework-on-beps-actions-4-8-10.pdf, accessed: 26th August 2021

OECD: Articles of the 2017 Model Tax Convention.,
Available at:
https://www.oecd.org/ctp/treaties/articles-model-tax-convention-2017.pdf, accessed: 26th August 2021

Finanční analytický úřad: Guideline on the terms „establishment" and „beneficial owner",
Available at:
https://www.financnisprava.cz/assets/cs/prilohy/ms-prime-dane/FZ_1-2001.pdf, accessed: 26th August 2021

FATF: Jurisdictions under increased monitoring – February 2021,
Available at:
https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-february-2021.html, accessed: 26th August 2021

Wolfsberg Group: Wolfsberg Anti-Money Laundering Principles for Private Banking (2012),

Available at:
https://www.wolfsberg-principles.com/sites/default/files/wb/pdfs/wolfsberg-standards/10.%20Wolfsberg-Private-Banking-Prinicples-May-2012.pdf, accessed: 26th August 2021

FATF: Methodology for Assessing Compliance with the FATF 40 Recommendations and the FATF 9 Special Recommendations,
Available at:
https://www.fatf-gafi.org/media/fatf/documents/reports/methodology.pdf, accessed: 26th August 2021

Egmont Group: Egmont Group of Financial Intelligence Units: Principles for Information Exchange between Financial Intelligence Units,
Available at:
http://216.55.97.163/wp-content/themes/bcb/bdf/int_regulations/egmont/bestpractices.pdf, accessed: 26th August 2021

Wolfsberg Group: Wolfsberg Group Correspondent Banking Due Diligence Questionnaire,
Available at:
https://www.wolfsberg-principles.com/sites/default/files/wb/CBDDQ_V1.3_SC09_.pdf, accessed: 26th August 2021

IMF and World Bank: Enhancing Contributions to Combating Money Laundering: Policy Paper,
Available at:
https://www.imf.org/external/np/ml/2001/eng/042601.PDF, accessed: 26th August 2021

Internet Resources

OECD: What is the CRS?
Available at:
https://www.oecd.org/tax/automatic-exchange/common-reporting-standard/, accessed: 26th August 2021

FinCEN Fines Kentucky MSB and Its Owner/Compliance Officer for Anti-Money Laundering Failures,
Available at:
https://www.fincen.gov/news/news-releases/fincen-fines-kentucky-money-services-business-and-its-ownercompliance-officer, accessed: 26th August 2021

FinCEN Penalizes Florida's Gibraltar Private Bank for Willful Anti-Money Laundering Compliance Violations
Available at:
https://www.fincen.gov/news/news-releases/fincen-penalizes-floridas-gibraltar-private-bank-willful-anti-money-laundering, accessed: 26th August 2021

Basel Institute on Governance: Phyllis Atkinson's quick guide to offshore structures and beneficial ownership
Available at:
https://baselgovernance.org/blog/phyllis-atkinsons-quick-guide-offshore-structures-and-beneficial-ownership, accessed: 26th August 2021