

Original Research Article

Anti-Money Laundering System: Evidence from Italian Banks

ABSTRACT

Aims: This paper aims at testing the spreading of an anti-money laundering (AML) system composed of elements that we believe to be important for the efficiency of such system: a specific training of the staff; the correct use of the information useful for the control of the anti-money laundering risk; and the impact of regulatory changes on the way banks fight money laundering.

Study design: Research based on a questionnaire.

Place and Duration of Study: Italy, between September 2012 and September 2013.

Methodology: To assess the efficiency level of anti-money laundering system, we propose a survey addressed to AML officers of the Italian banking groups: 75 questionnaires were sent; 46 replies, with a number of participants exceeding the 60 percent of the total.

Results: This paper identifies the necessary interventions and corrective measures to strengthen the safeguards against money laundering giving voice to those people who are daily engaged in countering money laundering offence.

Keywords: *Anti-money laundering (AML) system; Italian banks; AML officers; anti-money laundering tools.*

1. INTRODUCTION

Constantly increased by illegal conducts responsible for dangerous distortions in the economic cycle, the activities of money laundering and terrorism financing continue to represent a serious threat to the economic systems around the world. In Italy, the money laundering flows reached the alarming amount of about EUR 2.6 billion in 2012; in the same period, properties and financial assets for about EUR 140 million were seized [1, p. 32]. The potential exposure of the Italian banking system to financial crimes, connected to the nature of the operations carried out and to the central role of banks in the national payment system, has identified banks as the main targets of the anti-money laundering (ALM) regulations. The Legislative Decree 231/2007, which permitted the implementation of the "Third Money Laundering Directive" (2005/60/EC)¹ into Italian legislation, represents the main anti-money laundering set of rules. Despite several corrective measures and changes to regulations over time (the Legislative Decree 169/2012 is one of the most important), the Dlgs 231/2007 has consistently maintained adherence to the guidelines contained in the supranational

¹ On 5 February 2013, the European Commission adopted the proposal of the "Fourth Money Laundering Directive", which will replace the 2005/60/EC. The proposal aims to "improve the clarity and uniformity of standards in all Member States, to extend its scope to deal with new threats and vulnerabilities, to promote high standards to combat money laundering, to strengthen cooperation between the different financial intelligence units" [2, p. 1212].

32 legislation: "on the one hand, the protection of the system integrity and fair practice; on the
33 other, the proportionality of the obligations with respect to the risk of money laundering" [3,
34 p. 10]. In order to protect the legal economy from the risk of money laundering, it is
35 important, in addition to the compliance with the specific legislation, to look for behavior
36 patterns focused on the continuous commitment to combating such crime and fed by the
37 effective use of internal expertise. For the proper functioning of the anti-money laundering
38 system, it is therefore necessary the joint action of competent authorities, operators and
39 scientific community, working together for the promotion of ever more advanced forms of
40 cooperation in finding solutions to prevent and contrast money laundering. Banks in
41 particular should pay close attention to the implementation of their anti-money laundering
42 system. In accordance with the above-mentioned considerations, our paper aims:

43 1. to outline an ideal anti-money laundering model with specific reference to the
44 organisational and cultural issues. In particular, we try to identify the main constituent
45 elements of this model: the training of personnel and the operational impacts; the use of the
46 information useful for controlling the anti-money laundering risk; and the impact the
47 regulatory changes produce on the way banks combat money laundering;

48 2. to assess the consolidation of such cultural model through the sending of a questionnaire
49 to the Italian banking groups, in order to collect information and data about the sections
50 referred to the model.

51 Therefore, the main contribution of our paper is to propose a testing methodology through
52 the direct involvement of the banking industry.

53 In more details, the remainder of the paper is organized as follows. In section 2 we review
54 the literature on the anti-money laundering issues; section 3 focuses on the survey method
55 (questionnaire structure and sample); in section 4 we present the results of the survey; in
56 section 5 we point out some final comments.

57 2. EVIDENCE FROM LITERATURE

58
59 The distortive effect of money laundering has progressively reached an intensity of systemic
60 relevance too, and it exposes the legal economy to changes in competitive dynamics and
61 mechanisms of resources allocation, capable of undermining the stability of the entire
62 economic system [4]. The internationalization of money laundering is now an established
63 reality. The dimensions of this phenomenon cross national boundaries, thus requiring higher
64 standards of cooperation between countries that are dealing with a common enemy: the
65 "shared strategy at international level to contrast money laundering, inverting the principle
66 *pecunia non olet*, that had traditionally characterized the activity of brokers, traders, and
67 even entire countries (fiscal paradises), aims to transform these operators from potential
68 instruments for recycling to an integral part of the same preventing system, imposing on
69 them a series of obligations to cooperate with competent authorities" [4, p. 5]. It is not
70 surprising, therefore, that major institutions and international organisations - such as the
71 International Monetary Fund, the European Union, the Bank of International Settlement and
72 the United Nations - have progressively included in their agenda the topic of money
73 laundering control, in order to achieve a shared modus to address the problem, analyzing
74 more closely the actions of recyclers and trying to understand the techniques of the
75 introduction of illicit proceeds in the economic system, all with the aim of formulating
76 common contrast policies able to commit, with the same intensity, the various national
77 systems [6].
78

79 Even the scientific community, in recent years, has shown a greater interest in the field of
80 the economics of financial crimes, proposing methodologies and theoretical models for
81 assessing the economic importance of such criminal activities. Despite the variety and the
82 heterogeneity of contributions, it is possible to identify some lines of research. A first one
83 includes studies proposing approaches based on the integration of traditional measures to
84 prevent and combat money laundering with theories, models and techniques usually used in
85 other contexts. Among the latest studies, some of them promote the integration between the
86 Customer Relationship Management (CRM) system and the anti-money laundering system,
87 considering the customer behaviour analysis and the customer background investigation
88 (related to CRM systems) an important contribution for increasing the staff capacity to
89 identify potentially risky situations and, therefore, to improve the quality of the notifications of
90 suspicious transactions [7]. Other studies examine the use of incentive-based approaches to
91 assess the effectiveness of anti-money laundering regulations; they point out discouraging
92 results with reference to the presence of information asymmetries among the addressees of
93 the normative [8]. A more advanced version of the Game Theory, used for combating money
94 laundering, allows the identification of the endogenous aspects of the fight against such
95 crime, giving a key role to cooperation between banks and their employees [9]. It is possible
96 to include in this line of research also those studies that propose models to estimate the flow
97 of illicit proceeds in circulation; these contributions propose models, such as the gravity
98 model - widely used in international trade theory - with the purpose to create a scale of
99 money laundering, useful as a basis for successive measurements at the macroeconomic
100 level [10]. There are also studies based on cash in-flow models on current accounts; they
101 define indicators to assess the level of dissemination of illicit traffics and other crimes related
102 to laundering [11]. Other studies propose a model to support the anti-money laundering
103 activities, based on the traditional decision-making process, that is a new and flexible multi-
104 agent AML system prototype, with smart agents with their own autonomy, reactivity and
105 proactivity [13].

106
107 The studies that analyze money laundering issues with particular reference to the
108 technological progress that inevitably influences the activity of the addressees of money
109 laundering regulations, especially financial institutions, represent another line of research. It
110 includes the studies which consider the increase of the exposure to money laundering
111 offences, as a consequence of the use of prepaid cards, electronic fund transfers and
112 payment services via mobile phones [14,15,16]. We mention also the studies aimed at
113 setting up a new framework for the prevention of money laundering through the mapping of
114 Control for Information and Related Technology in banks, giving a key role to the internal
115 information system for the documents production, the customer database management, the
116 identification of offence of fraud, etc. [17].

117
118 Furthermore, there are several studies considering the money laundering issues from a
119 purely legal point of view, often analyzing the regulatory framework related to specific
120 national regulations [3,18,19,20,21]; or others offering an assessment of the program to
121 combat money laundering and terrorist financing, until it can be regarded as a "regime for
122 financial integrity" [22]. On the contrary, the studies carried out with the direct involvement of
123 operators engaged in combating money laundering (especially banks, as the ones of the
124 main addressees of regulations) are not so frequent. Such studies are based on surveys or
125 other qualitative methodologies which permit to analyze the difficulties and challenges the
126 fight against money laundering asks for. Among these contributions, there are those
127 focusing on the role of Money Laundering Reporting Officers (MLROs) in commercial banks,
128 by highlighting the importance of proper training of such people, often not so able to manage
129 risky situations because of the lack of specific skills [23,24]. Others studies carried out with
130 the involvement of operators consider the contribution deriving from different addressees of
131 money laundering regulations, such as lawyers and notaries [25].

Our paper is part of the line of research that investigates the involvement of banks. In particular, we propose a survey to verify the efficiency of a particular implementation of anti-money laundering system in Italian banks, thereby filling a gap in the literature that, to the best of our knowledge, has not sufficiently focused on the study of anti-money laundering system by collecting information/data directly from banks. The aspects we have examined, as pointed out in the next section, concern the ones we consider relevant for the good working of such system: the organisation of ALM training initiatives, the availability and quality of information sources for the proper assessment of the customer risk and the knowledge of the most important steps in the regulatory development. Our findings permit to know the position of banks in relation to their own role in the fight against money laundering and to the support offered by the regulations by means of the competent authorities initiatives.

3. METHODOLOGY

Our survey is divided into three sections, representing the aspects that we consider crucial to qualify an anti-money laundering system as effective. The survey is based on a questionnaire sent to the AML officers (if present, as an alternative to the compliance function) of the Italian banking groups, during the last few months of 2012 and the first months of 2013. While 75 questionnaires were sent to banks, 46 replies were received; so the number of participants exceeds 60 percent of the total.

The questionnaire consists of three sections, each one dedicated to specific items of analysis. The first Section is about "Training and operational impacts". The items here included permit to achieve an overview of the technical and organisational aspects related to anti-money laundering training activities managed by the banks of the sample. With reference to this area, questions concern the scheduling of training initiatives, the origin of trainers (in-house or external), the teaching methods used in the courses, the provision of methods for the assessment of the level of learning of the personnel and of techniques for monitoring the impacts produced by the training activities on practices, in terms of changes in the operators behaviour, during ordinary tasks, and in potentially risky situations.

The second Section, named "Use of Information", permits to know the opinion about the informative supports at their disposal for the fulfilment of AML requirements. In this case, the questionnaire requires to assess the quality of information used for the correct customer risk determination and of the supporting role of competent authorities, often representing the sources of such information.

The Section "Regulatory development: focus on the Legislative Decree 169/2012" is the last one and it aims to highlight how the banks of the sample address one of the most important corrective measures. The purpose is to identify any potential obstacle to the requirements fulfillment. In this final part, the objective is to assess the awareness of operators with respect to the continuous evolution of the AML regulations. We decided to focus on the amendments introduced by the Decree 169/2012 in order to understand, on the basis of the direct experience of banks operators, the eventual presence of doubts and difficulties of interpretation of the rules, considering they have been already subject of clarification by the competent authorities.

4. ANTI-MONEY LAUNDERING SYSTEM IN THE BANKING SECTOR: EVIDENCE FROM ITALY

4.1 Section "Training and operational impacts"

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4.1.1 Training

188 According to the Italian regulations (Legislative Decree 231/2007; Legislative Decree
189 151/2009 and subsequent modifications), all the banking groups of the sample state to
190 arrange ALM training of personnel. There are just a few cases where banks specify also the
191 contents of training, such as:

- 192 • The relevant regulations
- 193 • The processes connected to different event types (fraud; usury; tax offences; credit
194 cards; etc.)
- 195 • The instruments for fighting Money Laundering (Diagnostic Relevant Anomalies;
196 Cash Controls; Warning Indicators).

197 Concerning the teaching method used for training, almost all the groups (91%) use “taught
198 lessons with the use of slides”. The percentage is almost reduced by half, though remaining
199 relevant (48%), for the option “e-learning through internal network” and it is very low (13%)
200 for the solution “e-learning through external services”. In general, the trend is to prefer the
201 telematic approach – considered not so effective in any event by some banks – for
202 transferring the basic concepts (such as the regulations in force) and to prefer more
203 interactive approaches (traditionally achieved by lessons) for the deepening of subjects with
204 a more operational and procedural nature.

205 The importance of training for the dissemination of a real anti-money laundering culture
206 within the organisation is further illustrated by the comments provided by one of the
207 institutions. In particular, the Anti-Money Laundering Function of a banking group has
208 undertaken some initiatives in order to provide the opportune information for the anti-money
209 laundering compliance process. The subsidiaries have been in fact involved in different
210 areas in order to strengthen the controls for combating money laundering (Box 1).

211 Box 1. Requests to subsidiaries by the Anti-Money Laundering Function (AMLF)

- Tax Identification Number Compulsory for relationships with non-residents (Law Decree 78/2010 as converted by Law 122/2010): the AMLF asked the subsidiaries to acquire the tax number regarding the relationships for which it had not been yet acquired.

- Capital companies: the AMLF sent to subsidiaries a list of capital companies for which there was the need to apply enhanced customer due diligence measures. It concerned companies that, even if did not present overdrafts, they had registered relevant movements on the current account in the last 12 months. After the controls, the subsidiaries had to decide to forward a notification of suspicious transaction or to close the procedure.

- Controls on entities established in risk areas for the presence of organised crime: the AMLF sent to subsidiaries a list of capital companies established in areas with high presence of organised crime, also indicating the connected names (legal representative, beneficial owner) resident in such areas. Subsidiaries must carry out all necessary checks in order to exclude that the bank maintains relations with entities directly or indirectly associated with criminal phenomena. The initiative derives from a measure of the Ministry of the Interior that lists, for each province, the offences signalling the presence of organised crime. The Ministerial Order contains a synthetic indicator, constructed on the basis of the presence of typical offences (such as association with a mafia organisation) and other offences signalling

a criminal organisation (mafia-type killings and extortions). The presence of such offences highlights the control of the area by criminality: banks must relate the customer due diligence measure to the associated risk (risk-based approach – Article 20, Legislative Decree 231/2007); one of the criteria for the risk assessment is “the geographical area of residence or office of the customer or counterpart”.

- Verification of Beneficial Owners for ONLUS: the AMLF sent to subsidiaries a list of ONLUS for which there is the need to verify the correct signalling of the beneficial owner. The declaration of the existence of a beneficial owner means that the ONLUS has been created and managed on the interests of one or more persons, in contradiction with the statute. If there is a suspicion that the ONLUS is simply an entity intended to satisfy specific interests, as confirmed by the transcription of the beneficial owner, the relationship must be stopped and the notification of suspicious transaction must be evaluated. So, subsidiaries must contact the legal representative of the ONLUS; ask for the statute, if not acquired at the time of opening of the relationship; verify the legal representative's powers (instrument of appointment and check of assigned powers); acquire the declaration of non-existence of the beneficial owner or terminate the relations; the eventual registration of the beneficial owner must be communicated to AMLF by e-mail.

- “Cash-for-gold” sector: the AMLF provided to subsidiaries details about the procedures to follow in the case of customers working in the “Cash-for-gold” sector. The “Cash-for-gold” boom needs a careful analysis of risks and opportunities associated with the relations with such customers, in order to avoid negative impacts on bank's reputation. Everyone knows that this sector is very connected with criminal organisations: it is used as vehicle for money laundering and exorbitant lending. To that end, at the time of opening of relations detailed checks on the applicant party and the corporate structure must be carried out. It is necessary to request the ordinary documentation and the authorisation issued by the police headquarters, with the indication of the names of the persons who physically perform the activity: the authorized persons and the bank's counterpart must be the same. During the initial phase of the relation the risk factors to monitor are the following: place of birth and place of residence; province of the eventual company's office. Also the customer's activity must be carefully monitored verifying the transfers payers (typically the traders in investment in gold, obliged to a registration in a specific register managed by the Bank of Italy) and all the other credit transfers (cash and cheque). The subsidiaries must normally check and, at a quarterly frequency at least, verify if changes in the corporate structure exist; if yes, it is necessary to ask for the police headquarters' authorisation and carry out new checks, on the basis of the above-mentioned procedure.

212

213 The professional resources devoted to the training of personnel are exclusively internal for
214 39% of the sample, and both in-house and external for 44%. These are the most frequent
215 answers referred to the origin of trainers. The decision to use in-house expertise (Anti-
216 Money Laundering Officer in primis and, more seldom, Compliance and members of the
217 Board of Directors and the Audit Board) or external expertise (such as financial police and
218 judiciary officers) mainly depends on the contents of training. Some banks for example state
219 that in the case of general matters (such as the regulatory framework) trainers are external;
220 instead for more specific issues (operational and procedural subjects) trainers are in-house.
221 Finally other banks explain the decision to use external expertise, that is the need to ensure
222 the information transfer without the influence of the single bank's characteristics; this is
223 particularly true for more sensitive issues, such as the notification of suspicious transactions.

224 In the case of training in class, the frequency is mainly annual and the activities are nearly
 225 always planned. Only a few banking groups state longer intervals (once every two or three
 226 years at least) and only 9% of the sample does not plan the training activities; often a
 227 specific training plan, formulated in cooperation with the Human Resources Unit, is
 228 mentioned. On the contrary, the e-learning training tends to have a not planned frequency,
 229 as it is generally proposed when relevant regulations changes exist and/or relevant
 230 adjustments of the practices are necessary. For the most part of the sample (74%) the
 231 training programmes are supported by supplementary teaching materials, such as files
 232 prepared by trainers, placed at the service of participants and also of subsidiaries.
 233 Traditional lessons are often integrated with analysis of case studies, comments in the
 234 specialised press and distribution of reviews of regulations. The use of analogue material is
 235 little (22%) and the use of specialist publications is even more little (13%); only some banks
 236 refer to specific references, available in printed form and/or electronic form.

237 Only 13% of the sample does not verify the levels of learning of the personnel; one institution
 238 has planned to start such verification in the nearest future. There is not a big difference
 239 between the banks that verify the levels of learning only if the verification is provided for in
 240 the training programme (40%) and the banks that always verify them (47%). The most
 241 diffuse technique of verification is certainly the questionnaire or test. Sometimes, final tests
 242 for e-learning training programmes are provided; on this subject one institution states that
 243 the final test failure prevents from validating the training activity. The same bank states that
 244 for traditional lessons also admission tests are provided; this institution underlines the
 245 general importance of verification testing on personnel expertise (knowledge and
 246 experience) as tool for the assessment of individual training needs.

247 The percentages of opposite answers about the existence of assessment techniques of
 248 trainers at the end of courses are not so different: affirmative answers ("yes, always") for
 249 48% and negative answers ("no, never") for 35%. In the case of lessons, the assessment is
 250 expressed through questionnaires, intended both to understand many aspects of the training
 251 activity, such as the teaching and the supporting materials adequacy, and to provide useful
 252 suggestions for next training initiatives.

253 **4.1.2 Operational impacts**

254 As regards the issues considered most crucial in the expertise transfer process, from the
 255 training to practices, the options "customer due diligence measures", "identification of the
 256 beneficial owner" and "notification of suspicious transactions" have been equally selected
 257 (multiple-choice questions): all of them in fact stand at around 50%. In other words, these
 258 are the three areas the sample gives great relevance in terms of possible gap between
 259 "theory and practice". The issue referred to "monitoring of correct use of cash, cheque and
 260 savings books" has been completely excluded: no banking group selected it. Hereinafter
 261 some interesting comments made by banks:

- 262 • Notwithstanding the importance of the issues related to the customer due diligence
 263 and the beneficial owner, sometimes notifications of suspicious transactions are not
 264 so compliant with the regulations' purpose.
- 265 • The identification of the beneficial owner represents one of the most complex and
 266 controversial matters introduced by the Legislative Decree 231/2007.
- 267 • Some operators tend to notify transactions about which indeed they do not have
 268 deepened the analysis.

269 • Among the customer due diligence requirements, “the constant check during the
270 relationship” is the most difficult in terms of implementation by both subsidiaries and
271 management. It represents a pillar of the cultural process the institution has
272 developed in order to control the money laundering risk and at the same time it is an
273 area to which the Anti-Money Laundering Function pays special attention, also
274 through specific training programmes.

275 • The notification of suspicious transactions, characterized by a significant degree of
276 discretion, is not adequately supported in terms of operational and IT procedures.

277 The share of institutions that has not implemented verification tests of the impacts of training
278 in terms of changes in practices is small (13%). This percentage would probably decrease,
279 as some banks state they have provided for such implementation by the end of the year.
280 Some of the remaining banks point out they do not carry out specific checks, at getting
281 feedback of the training activities, but control on practices by the Anti-Money Laundering
282 Function and/or the Compliance Function respecting the specific competences. Other
283 institutions state that is not a matter of specific formalised mechanisms, but they are
284 measures at monitoring the activity of the units concerned; generally it is possible to observe
285 improvements in performance, thanks to the received instructions. A bank finally underlines
286 that the feedback from the Anti-Money Laundering Function is useful not only for controlling,
287 but also for identifying possible critical areas to overcome through further training.

288 Changes in practices are mainly recognised indirectly, by observing the activities (70%). The
289 direct recognition, through talks, is less frequent (17%); sometimes operators are contacted
290 only if weaknesses in a certain activity emerge.

291 The last questions are focused on the intention to understand the level of effectiveness
292 (obviously, in the opinion of the questionnaire compiler) of:

293 • the general connection between training and changes made to the different
294 activities;

295 • more in detail, the relation between changes to activities and the main areas of the
296 anti-money laundering compliance process.

297 On the first point, the “satisfactory” opinion prevails (61%), indicating a positive impact of
298 training in terms of performance improvement and greater personnel awareness of different
299 issues: on this subject a bank states that “After the training courses the requests of
300 clarifications to the Anti-Money Laundering Function are more relating and they indicate a
301 greater awareness of such matters”.

302 The good level of effectiveness assigned to the training project in general is confirmed also
303 for the single activities (the results are shown in the Table 1).

304 **Table 1. Opinions on the effectiveness of the link between changes to practices and**
305 **specific areas in the anti-money laundering process (absolute values)***

Areas concerning anti-money laundering	Answers from the banking groups				
	Entirely satisfactory	Very satisfactory	Satisfactory	Barely satisfactory	No changes

Proper distinction between the identification procedure and the customer classification procedure	0	12	24	6	2
Proper procedure of request and archiving of documents acceptable for fulfilling the customer due diligence requirements	0	4	30	8	2
Proper distinction between continuing relation and occasional transaction	2	10	24	2	6
Proper search in data sources made available by Authorities for the determination of the customer risk	0	10	20	8	6
Proper use of the notification of suspicious transactions	0	8	28	2	6
Monitoring on the proper use of cash and cheque	0	10	30	0	4
Proper identification of the beneficial owner	0	10	28	4	2

306 **Two groups did not answer.*

307 It is the opinion “satisfactory” that always shows the greatest concentration of the answers
308 from banks. These results, certainly positive, at the same time show that the anti-money
309 laundering process must make even more progress: the opinion “entirely satisfactory” has
310 never been expressed, except for one area. In other words, operators often recognize how
311 important are the objectives achieved so far, but they underline the necessity to improve
312 further the know-how transfer to subsidiaries; this is important in order to create and/or
313 strengthen a real anti-money laundering culture within the entire organisation. This is true in
314 general for all the areas we investigated. At the same time for some of them banks point out
315 a stage of development in progress, still characterized by inefficiencies more or less severe;
316 for others instead they recognize a good progress. The Table 2 shows the principal
317 observations for each activity.

318 **Table 2. Some comments on the effectiveness of the relation between changes to**
319 **activities and specific area of the anti-money laundering process***

Areas concerning anti-money laundering	Comments from the banking groups
Proper distinction between the identification procedure and the customer classification procedure	<i>No comment.</i>
Proper procedure of request and archiving of documents acceptable for fulfilling the customer due diligence requirements	<i>Responsibility for managing documentation (with particular reference to questionnaires for customer due diligence) has increased. However, the questionnaires are also important for general management purposes, not only related to money laundering.</i>
Proper distinction between continuing relation and occasional transaction	<i>Personnel is helped by the presence of automatic IT systems, useful for an appropriate control. The bank has strictly defined such distinction, removing the possibility of operator discretions.</i>
Proper search in data sources made available by Authorities for the determination of the customer risk	<i>Personnel is helped by the presence of automatic IT systems, useful for an appropriate control. The verification of the presence of the name in the world check increases the awareness of customers, not only for money laundering purposes. The issue is still difficult to understand.</i>
Proper use of the notification of suspicious transactions	<i>Sometimes notifications concern not so important events. The quality of notifications is a little improved. The issue is certainly complex, but quite established. There is a progress in the quality of notifications contents; one key factor is undoubtedly the new internet based system by which it is possible to transfer information more and more complex (as the one about the relations between the parties involved in the notified transaction).</i>
Monitoring on the proper use of cash and cheque	<i>It is a requirement that has registered a measurable decrease of cases over time. The personnel awareness is significantly increased.</i>
Proper identification of the beneficial owner	<i>The ability of assessing complex capital structures is significantly increased. It is a requirement quite heavy, in particular for very complex corporate structures with abroad connections;</i>

in these situations it might be more difficult to collect promptly information useful for verification.

The issue is very debated: there are both difficulties of interpretation of some regulations (entirely new for the Italian framework) and problems of understanding and application to practice.

320 *Two groups did not answer.

321 4.2 Section “Use of information”

322

323 This section is about the information sources banks may use in order to comply with the anti-
324 money laundering requirements. Our main purpose is to understand which is the benefit the
325 banks of the sample assign to the information sources for the assessment of the customer
326 risk, as indispensable condition for the proper application of regulations.

327

328 With reference to the customer risk assessment, the information derivable from the direct
329 contact with the customer is considered important by the majority of banks (87%, some of
330 them – 30% – declare it is indispensable). They also state the presence of a circle
331 informative system involving both the front-office and the back-office on the basis of a
332 collaborative and synergistic approach. The customer is the main source for collecting useful
333 data for a proper due diligence. The direct dialogue allows to approach, to know and to
334 monitor the customer, also considering the warning indicators listed by the Bank of Italy
335 (Measure dated 27/8/2010): e.g. information could be incoherent with the activity actually
336 performed or other than data collected from independent and reliable sources.

337 The opinion about the World Check is positive too: the banks using such database (91%)
338 consider the related information mostly important for the customer risk assessment: the
339 sample considers such information indispensable (9%), very useful (26%) and useful (52%).
340 However, it is important to point out that the World Check must be considered no more than
341 a tool for helping the customer risk assessment. In particular, banks state that for the names
342 included in the database the birth date is not always mentioned; this is a problem for the
343 comparison of biographical data. Expertise and caution in the use of such list must exist, as
344 it is created mainly through the web and no checks on the completeness and correctness of
345 data are carried out.

346 A lot of institutions consider the warning indicators listed by the Bank of Italy important: they
347 are indicated as indispensable (13%), very useful (30%) and useful (57%). These indicators,
348 alerting the operator to the necessity of a targeted analysis, are useful for the assessment of
349 anomalies resulting automatically from the data-processing techniques; such indicators are
350 also an important reference in telling the subsidiaries and the middle-office what to do.
351 Banks agree that such indicators help the notification of suspicious transactions: some
352 banks point out their great importance for the identification of the factors, objective and
353 subjective, that concur to the selection of the transactions to notify as suspicious. However,
354 they are not an exhaustive tool and they must be used considering all the bank's information,
355 but their leading role for a correct assessment process is generally pointed out.

356 The hypothesis of irregular behaviours defined by the Financial Intelligence Unit (FIU) are
357 another tool for helping the notification of suspicious transactions. They complement the
358 above-mentioned indicators and they permit to link specific economic sectors and single
359 phenomena with logical and time sequence of events and behaviours related to criminal
360 activities. Also in this case the opinions are positive, very similar to the previous ones: the

361 information resultant from such hypothesis are considered indispensable (13%), very useful
362 (35%) and useful (52%).

363 The opinions expressed about the support of the Authorities to the proper customer risk
364 assessment instead are different: 65% of the sample states it is useful or necessary. The
365 remaining banks think it is little or no useful, because regulations are not so focused on the
366 aspects to analyse, too much principle-based, and without algorithms able for standardising
367 the assessments.

368 For the above-mentioned reasons, many banks (57%) think that the use of the data sources
369 made available by Authorities could have effects on the notification of suspicious
370 transactions. They are considered important also for reporting purposes: in other words,
371 such goals must not be achieved uncritically, by automatic diagnostic methods, but by
372 professional assessments and judgments. Besides, they could increase the awareness of
373 the use of measures for combating money laundering: too often such use derives from the
374 fear of penalties rather than the wish to identify possible risks for the bank.

375 **4.3 Section “Regulatory development: focus on the Legislative Decree** 376 **169/2012”**

377 In this section we focus on the Legislative Decree 169/2012 (“Further Amendments and
378 Supplements to the Legislative Decree 13 August 2010, n. 141”), as one of the most
379 important corrective measures of the Legislative Decree 231/2007. Our purpose is to identify
380 possible obstacles to the compliance with the anti-money laundering requirements.

381 First, we ask for a self-evaluation on the level of knowledge of the Legislative Decree
382 169/2012. Answers are quite balanced: the level of knowledge is scarce (13%), sufficient
383 (22%), good (13%), reasonable (26%), high (22%), very high (4%). Banks add some
384 interesting comments about the monitoring and/or reporting techniques used for promoting
385 the knowledge of new regulations. Some of the mentioned techniques are the following:
386 “Regulatory Observatory” cooperating with the Anti-Money Laundering Function; reporting to
387 subsidiaries; regulatory alert and successive circular and then updating of the Anti-Money
388 Laundering Internal Consolidated Law.

389 The amendments made by the Legislative Decree 169/2012 are differently assessed: very
390 useful (13%), useful (35%), little useful (39%), unhelpful (4%), preventing the compliance
391 with the anti-money laundering requirements (9%). The different answers may be explained
392 by a certain diffidence with regard to a corrective measure that from the start raised
393 interpretation and implementation issues². The result is the same also for the identification
394 of the changes introduced by the 169/2012 considered most critical by the banks. There are
395 some positive observations; one institution for example states that the changes are
396 particularly useful and interesting for strengthening the customer due diligence procedure,
397 because they help the correct knowledge of the customer through various activities with
398 different depth and extension, dependent on the specific money laundering and terrorist
399 financing risk. On the contrary, other banks point out implementation issues and
400 uncertainties due to a lack of a proper assessment of the impacts produced by such
401 changes.

² In order to eliminate the concerns about the regulations, the Anti-Money Laundering Division of the Ministry of Economy and Finance issued the Circular 30/07/2013 “Article 23 of the Legislative Decree 231/2007, as amended by the Legislative Decree 169/2012”; at the present, however, such Circular was not completely resolute.

402 The settlement of the amount due to a customer by means of a transfer to a bank account
403 specified by the customer is the most critical change (61%); afterwards come the repayment
404 of the money, the financial instruments and other financial assets to the customer (43%) and
405 the preventive message accompanying the transfer of funds to the bank account specified
406 by the customer (26%). The most frequent option presents many implementation issues. For
407 example, if the customer has not only cash deposits, but also financial instruments, for
408 refunding them the bank should settle such instruments before executing the credit transfer
409 (according to the article 23 of the Legislative Decree 231/2007, as amended by the
410 Legislative Decree 169/2012). Moreover, the bank could not know the existence of a bank
411 account held by the customer in other institution, or the customer could not have relations
412 with other banks, so that the impossibility of the due diligence could preclude other
413 relationships to him.

414 The question (multiple-choice) permits to specify other crucial aspects. In this regard, an
415 institution states that the obligation to refrain seems to be opposed with the possibility to take
416 advantage of the customer due diligence procedure conducted by other addressees of the
417 231/2007. In order to prevent any repetition of customer due diligence procedures
418 (231/2007, Article 18, subparagraph 1 (a), (b), (c), (d)), institutions could in fact refer to the
419 customer due diligence performed by others. Such requirements must be considered fulfilled
420 when an appropriate statement is provided by one of the addressees of the 231/2007 with
421 which customers have continuing relationships or upon which customers conferred tasks for
422 professional services and for which they have been already personally identified.

423 Besides, more than 40% of the sample excludes that the above-mentioned critical aspects
424 may produce some effects on the notification of suspicious transactions, because it should
425 be driven by the individual sensibility and capacity to identify potentially risky situations. 35%
426 of the sample has a different view: the bank receiving the transfer could prudently notify
427 without the support of a proper analysis.

428 Last questions concern the lack of provision of self-laundering offence in the Italian Criminal
429 Code. The 231/2007 covers, only for the fulfillment of reporting requirements, a broader
430 notion of money laundering than the one relevant to criminal law, that does not provide the
431 penalization of self-laundering offence. For many banks the criminal notion of money
432 laundering and the administrative one should be the same, as hoped for a long time both at
433 national level and international level (see The International Monetary Fund Recommendation
434 dated 2005). 78% of the sample considers the lack of provision of self-laundering offence as
435 highly or averagely critical. The remaining banks state it is little important or totally irrelevant,
436 because in their opinion what the criminal law states would not affect the identification of
437 irregular behaviours.

438 Despite the great consensus on the opinion that the criminal notion should be in line with the
439 administrative one, 52% of the sample does not consider the lack of provision of self-
440 laundering offence as a possible obstacle to the correct use of the notification measure: the
441 notification obligation arises when banks "know, suspect or have reasonable grounds for
442 suspecting" (art. 41, Legislative Decree 231/2007), whether the suspected person of
443 committing money laundering acts addresses, in prosecution terms, both the money
444 laundering acts and the predicate offence.

445 One last point: the average number of notifications sent to the competent Authorities from
446 the beginning of 2011 to the end of 2012 is evenly distributed: 48% up to 50 notifications,
447 52% over 50 with a concentration (39%) for notifications over 100. Banks state there is a
448 greater sensitivity about such matter and there is a wide diffusion of a culture of legality;
449 these aspects must be accompanied by a proper customer selection at the starting time of

relationships. The assessment of the new customer must avoid relations with persons with high risks connected to economic sector, corporate structure, and geographical location. So, it is desirable a greater penetration of anti-money laundering measures at the starting time of relations with customers. In other words, there is a need for a greater integration between commercial policies and risk management. At the same time, the great number of notifications should not derive from the banking operators fear of penalties for mistakes and/or omissions. On the contrary, a greater sensitivity on the money laundering issues should represent the means for a more effective, in terms of quality and timeliness, notification system: fear of penalties often involves notifications for precautionary goals rather than cooperative goals, with the use of assessment criteria not so selective that clog up the system [26].

5. CONCLUSION

In this paper we identified some key components of the anti-money laundering system and we tested its degree of effectiveness and efficiency, broken down into individual components selected by detecting information obtained directly from a sample of Italian banks. The findings on the one hand demonstrate the continued commitment of the banking system in the fight against money laundering, on the other they emphasize both the need for greater support on the part of the competent authorities, which must strengthen the tools and guidelines for effective protection and the existence in the banks of impediments to a better functioning of the anti-money laundering system. In particular, considerable energy is expended by the banks in the training: it is implemented with trainers that differ depending on the topics discussed and the verification of the degree of learning and evaluation of trainers is a widespread practice, as is the test of the effects of training on practice.

However, the banks complain about deficiencies in the information sources available to determine the risk profile of the customer both as the completeness and the correctness of the data, whereas for these reasons require the human control and the technical-professional evaluation by the bank operators. Another critical issue highlighted by the survey covers a number of inconsistencies and discrepancies in the money laundering legislation and the related problems of interpretation and application that the banks must face. Hence the desire for a coherent development of the regulatory framework, which is accompanied by another point of attention: the one concerning the need to promote the further growth of anti-money laundering culture within the banking organisations. It should originate collaborative conduct, not precautionary, as well as improve the ability to identify and combat deviant behavior, with the aim of improving the quality and timeliness of reporting.

Therefore, in view of the problems that emerged, the commitment of the authorities to promote the proper functioning of the anti-money laundering safeguards must be maximum, and every form of fruitful collaboration, every opportunity for dialogue and constructive debate, assumes a fundamental value. On the other hand, the very nature of money laundering, changing and constantly evolving, requires a systematic update of the principals and of skills/expertise and this, in turn, requires the support of the authorities, the promotion of self-evaluation and the comparison with other banking organisations.

This paper identifies the necessary interventions and corrective measures to strengthen the safeguards against money laundering "giving voice" to those who are daily engaged in countering money laundering offence. It is desirable a deepening of our research by extending the sample of banks not only in number but also in nationality, in order to carry out comparisons between banks which are subject to different anti-money laundering regulations and understand whether and to what extent the regulations impact on the behavior of banks.

499 A further purpose is to extend the coverage to additional elements that can affect the
500 collaboration of banks in the notification of suspicious transactions: among these, as
501 indicated in Section 2, Customer Relationship Management and technological innovation.
502 The extension of the banks involved and the profiles of observation of the anti-money
503 laundering system would allow to gather further elements referable to regulatory differences
504 and factors of business management, relevant to the functionality of the systems
505 implemented within the banking industry.

506 **COMPETING INTERESTS**

507
508 Authors have declared that no competing interests exist.
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