NEWS

August 19, 2022

AML Cases Reached New Heights in Britain in 2021, Varied Across Europe

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The U.K. Financial Conduct Authority logged its most prolific year to date in terms of enforcement in 2021, issuing seven financial crime-related penalties for a record total value of nearly £480 million, up from zero cases in 2019 and two for £353,000 in 2020.

Claire Lipworth, former chief criminal counsel at the FCA, told *ACAMS moneylaundering.com* that in public pronouncements and supervisory interactions, the agency focused on whether firms had employed an effective "three lines of defense" model against financial crime, undertook meaningful risk assessments, and ensured their senior managers grasped their institution's vulnerabilities to illicit finance and how to mitigate them.

"That includes things like responsibility for sign off for high-risk situations and customers, awareness of business-wide anti-money laundering risk and a good understanding of what the controls are across different parts of the business," said Lipworth, now a partner at the Hogan Lovells law firm in London.

In July, the FCA ordered retail banks to review their AML programs for any shortcomings (https://www.moneylaundering.com/news/uk-regulator-instructs-retail-banks-to-review-compliance-controls/) related to due diligence, risk assessment, internal reporting and other compliance processes.

Four months earlier, the regulator announced charges against NatWest (https://www.moneylaundering.com/news/uk-regulator-files-criminal-proceedings-against-natwest/) for AML breaches that allowed a U.K. jeweler at the center of an alleged money-laundering operation to deposit £264 million in cash and £365 million overall from 2012 to 2016. The case marked the first in which the FCA had targeted a bank with criminal prosecution for violating AML rules.

NatWest pleaded guilty to the offenses in October and two months later a court in London fined the bank a record £265 million (https://www.moneylaundering.com/news/natwest-hit-with-record-uk-fine-after-pleading-guilty-to-aml-breaches/), with the presiding judge highlighting the institution's failure to properly escalate and respond to red flags of potentially illicit financial activity associated with the now-defunct jewelry business, Fowler Oldfield.

"It's an important landmark because it shows that in appropriate cases the FCA will consider pursuing a criminal prosecution under the money laundering regulations," said Lipworth. "But I don't think we will see this particular fact pattern very often, and it is likely that prosecution will be very much the exception rather than the rule."

In October 2021, the FCA joined U.S. regulators and prosecutors in ordering Credit Suisse to pay $475 million (https://www.moneylaundering.com/news/credit-suisse-pays-475-million-for-mozambique-compliance-collapse/) for compliance-related failures that allowed three former bankers for the Zurich-based lender to facilitate a $2 billion loan fraud and money laundering scheme against Mozambique in exchange for millions of dollars of kickbacks.

The bank also wrote off $200 million of debt for the African country as part of the settlement.

In November 2021, the agency ordered Sunrise Brokers to pay nearly £650,000 (https://www.moneylaundering.com/news/cum-ex-compliance-failures-come-back-to-haunt-british-brokerage/) after the securities firm handled tens of billions of pounds of trades linked to the "cum-ex" scandal, a large-scale tax fraud in Europe. Six months earlier, in May 2021, the regulator fined another London-based brokerage, Sapien Capital, £178,000 for cum-ex-related violations.

Moneylaundering.com reported that month that the FCA had begun severely restricting and even halting the operations of companies (https://www.moneylaundering.com/news/uk-regulator-deploys-powerful-rarely-used-measure-against-aml-failures/) believed to have serious gaps in their AML controls.

The following month, four days after securing a penalty against NatWest, the FCA ended the year by fining HSBC, Britain's largest lender, £64 million (https://www.moneylaundering.com/news/8-years-of-transaction-screening-failures-trigger-64-million-penalty-against-hsbc/) for allowing significant transaction-monitoring failures to persist from 2010 to 2018 despite several internal warnings and regulatory scrutiny.

Just as in previous years, the Gambling Commission ended 2021 as Britain's most prolific enforcer of AML rules after finalizing 13 penalties for a combined £21 million, led by its extraction of £6 million from Casumo, an online casino (https://www.moneylaundering.com/news/exclusive-to-combat-gambling-epidemic-britain-turns-to-aml-rulebook/), for violating AML rules and failing to meet expectations of social responsibility.

Andrew Cotton, director of betting and gaming matters at the Ince law firm in London, told *moneylaundering.com* that the Gambling Commission also placed more scrutiny on senior managers at penalized companies.

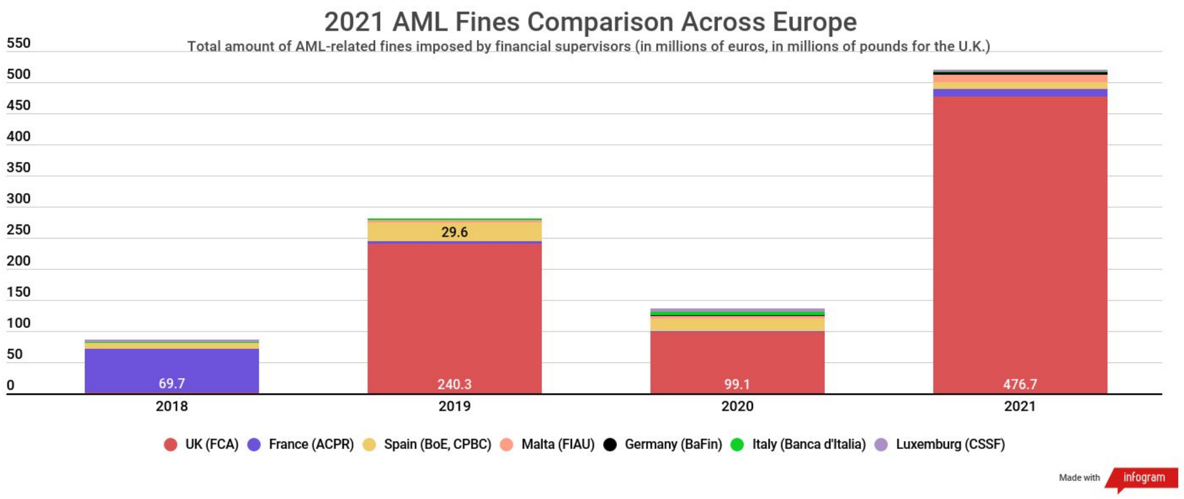
Amid a regulatory investigation in March 2021, for example, five executives of Caesars Entertainment, including the firm's managing director and a senior compliance officer, surrendered their gaming licenses almost a year after the company paid a record £13 million penalty for violating AML rules and social responsibility norms.

“They threatened such action in previous enforcement reports because … many licensees paid the settlement penalties but failed to implement any meaningful improvements,” Cotton said.

Several enforcement cases last year cited failures to update business-wide risk assessments and criticized decisions by gaming platforms to set unreasonably high limits for intervening with problem gamblers.

Other “repeated, fundamental” errors saw employees fail to ask patrons for pay stubs or other records showing legitimate sources of income, a key component of ensuring that gamblers do not wager stolen or illicit funds, said Cotton.

Another interesting development in U.K. enforcement occurred offshore. In February 2021, the Jersey Financial Services Commission disclosed £720,000 in penalties against three local subsidiaries of Societe Generale (https://www.moneylaundering.com/news/with-europe-watching-british-crown-dependency-imposes-record-aml-penalty/) for disregarding prior directives to address “significant and material” AML violations.



U.K. sanctions enforcement waned considerably in 2021.

After assessing its first three penalties ever in 2019 and its largest penalty to date in 2020—against Standard Chartered for £20.5 million—the U.K. Office of Financial Sanctions Implementation issued only one penalty last year, against TransferGo, for £50,000.

Across the North Sea

The Dutch Public Prosecution Service secured Europe's largest AML-related outlay of 2021, from ABN Amro, the third largest bank in the Netherlands, which agreed in April of last year to pay €480 million to resolve longstanding and serious compliance violations. More (https://www.moneylaundering.com/news/abn-amro-finalizes-e480-million-settlement-of-aml-violations/)

The total included a €300 million fine and €180 million disgorgement of profits to resolve accusations that the Amsterdam-based lender failed to remedy AML weaknesses that regulators and the bank's own employees flagged on multiple occasions from 2013 to 2019.

ING paid a record €775 million penalty and disgorgement in 2018 (https://www.moneylaundering.com/news/dutch-prosecutors-assess-record-money-laundering-penalty-against-ing/) for similar violations.

Peter van Leusden, a former investigator with the Dutch Fiscal Information and Investigation Service, told *moneylaundering.com* that the case shows that senior executives and directors must listen to the concerns of knowledgeable staff and move quickly to address them.

"According to the published statement of facts, there appears to have been many warnings, but the board thought it could achieve big changes with small measures," van Leusden, now a consultant with Partner in Compliance in Amstelveen, said. "I thought that after ING alarm bells would start ringing everywhere, but even then they [ABN Amro] waited too long."

A criminal investigation targeting three of ABN Amro's former executives remains open.

De Nederlandsche Bank, the Dutch central bank, disclosed in May 2021 that as of that month, 28 lenders had entered into formal agreements to address systemic compliance failures. DNB further warned at the time that enhancing their compliance function to a sufficient level would require "substantial" investment (https://www.moneylaundering.com/news/dutch-regulator-warns-senior-bankers-maintain-aml-progress/) and the "continuing commitment" of senior managers.

Van Leusden, the former investigator, said that amid pressure from DNB, Dutch financial institutions viewed complying with tax integrity rules and working through large backlogs of incomplete customer due-diligence files ranked as their top priorities in 2021.

"There are still a lot of institutions that don't know their customers well enough, which means they cannot build up a proper risk profile and take the right measures to mitigate those risks," van Leusden said. "Some institutions face quite a battle to catch up."

Into the Baltics

In June 2021, Latvia's Financial and Capital Markets Commission, or FCMC, fined Rietumu Banka a record €6 million for a string of AML violations (https://www.moneylaundering.com/news/latvia-imposes-record-aml-penalty/), several of which stemmed from the lender's subpar efforts and controls for identifying and countering the financial crime-related risk posed by payment services providers at home and abroad.

"We've seen a focus on the initial onboarding of customers, whether risk classifications have been correctly assigned, whether transaction-monitoring alerts have been handled in a timely manner and whether banks have a sufficient number of compliance officers to mitigate risks," said Krisjanis Buss, an attorney with the Cobalt law firm in Riga.

The FCMC ultimately reduced the penalty to €5.3 million after determining that the Riga-based lender made significant investments in compliance upgrades.

Rietumu's penalty falls far below the median value of penalties assessed by other EU national regulators, but dwarfs the FCMC's previous record fine of €3.2 million against the now-defunct ABLV Bank in 2016.

ABLV collapsed in 2018 after U.S. officials took steps to blacklist the lender as a hub of illicit finance, but to varying degrees remained the subject of 190 ongoing criminal investigations (https://www.moneylaundering.com/news/years-after-us-designation-ablv-bank-at-center-of-sprawling-criminal-probe/) as of April 2021, including into senior managers suspected of helping corrupt officials and other criminals launder funds.

ABLV Asset Management incurred a €57,000 fine in March of last year for violating AML rules.

Latvian financial institutions also spent time last year incorporating new guidance issued by the FCMC in 2020 that provided more sector-specific AML advice and encouraged companies to adopt more of a risk-based approach.

The guidance followed several years of stringent rulemakings and intense regulatory pressure as Latvia sought to avoid inclusion on the Financial Action Task Force's global watchlist (https://www.moneylaundering.com/news/latvias-dramatic-aml-overhaul-spared-nation-from-global-gray-list-fiu-chief/) of jurisdictions with weak AML regimes.

"There were a lot of references to a risk-based approach before, but in reality, it was very much a rules-based approach," Buss, the attorney, told *moneylaundering.com*. "Now the framework … is clearer and more coherent for financial institutions to adopt the specific risk-scoring methodology that applies best to them."

The FCMC's greatest supervisory priorities in 2021 consisted of ensuring that senior managers took steps to lead and properly fund efforts to identify, report and prevent attempts to route illicit funds through their financial institutions.

"Management must be involved and able to show there's a culture of compliance within the institution," Buss said. "This is reflected by specific decisions from the management board, showing that it has been involved in solving the problems identified by internal auditors."

The regulator fined Privatbank for the third time in four years in November, ordering the lender to pay €770,000 for violating sanctions and falling fall short of complying with the Baltic nation's rules against financial crime.

Germany and Denmark

After collecting a paltry €155,000 in AML-related penalties in 2020, German AML regulators assessed €4.4 million in fines last year, including a record €4.3 million against online bank N26 for failing to flag suspicious transactions in a timely manner.

Updates to Germany's primary AML legislation, the AMLA, in 2017, not only raised maximum penalties against companies involved in compliance-related violations, but also directed BaFin to post more details of future penalties online.

The years that followed have seen the country's Federal Financial Supervisory Authority, BaFin, increasingly seek to "name and shame" institutions caught up in AML infractions, with some success.

"The publications aim at having a discouraging and deterring effect on other market participants," a BaFin official told *moneylaundering.com* on condition of anonymity. "Our goal here is to achieve a preventive impact in general."

But the agency still faces pressure to act in the wake of an evaluation of Germany's AML framework by the Financial Action Task Force, Deutsche Bank's involvement in several high-profile scandals and the collapse of Wirecard and ongoing investigation into several of the payment processor's former executives.

BaFin has hired dozens of additional employees in recent years as well as a new chief, Mark Branson, former head of Switzerland's Finma, who has repeatedly signaled his intent to ramp up AML supervision and enforcement.

"The activities of BaFin have increased tremendously thanks to FATF's review," said Holger Pauco-Dirscherl, an AML consultant in Frankfurt and co-chair of ACAMS' German chapter. "As Germany is coming from a pretty low level of enforcement in comparison to the U.K., Spain or France, any change is significant."

As for last year's record penalty against N26, BaFin's close attention to the case and "very unusual decision " to force the company to overhaul its organizational structure and thus submit to more comprehensive oversight most likely arose from the agency's desire to avoid a repeat of the Wirecard fiasco, Pauco-Dirscherl said.

BaFin for the first time also actively partnered with law enforcement in raiding Deutsche Bank and tasked independent monitors with ensuring that financial institutions targeted with enforcement followed through on their promises to address shortcomings.

AML and sanctions-screening problems at Denmark's Danske Bank, whose correspondent ties to Deutsche Bank played a large role in dragging the German lender into a massive money-laundering scandal in the Baltics, drew condemnation from the Danish Financial Supervisory Authority in the closing months of last year.

In November, the FSA criticized the Copenhagen-based bank, Denmark's largest by assets (https://www.moneylaundering.com/news/sanctions-shortcomings-bring-danske-bank-trouble-at-home/), for not overhauling its compliance program despite its high-profile failure to stop its Estonian branch from handling hundreds of billions of euros of suspicious transactions.

Sweden's own Financial Supervisory Authority warned Danske Bank's local subsidiary the prior month (https://www.moneylaundering.com/news/sweden-censures-danske-bank-for-risk-assessment-failures/) to eliminate serious risk assessment-related deficiencies to avoid an enforcement action.

France

After a very calm year in 2020, enforcement of AML rules by France's Prudential Control and Resolution Authority, or ACPR, returned to normal levels in 2021, a year that saw FATF fully evaluate the country's defenses against financial crime (https://www.moneylaundering.com/news/france-unveils-aml-plan-just-in-time-for-fatf/) for the first time since 2010.

By April 2021, the various AML supervision teams that comprise the agency had been grouped into a single department of 88 examiners to supervise France's 28,000 banks, insurance companies and other financial institutions.

After a year of examinations that primarily focused on insurance companies (https://www.moneylaundering.com/news/revamped-french-regulator-doubles-aml-supervision-of-insurance-sector/), last year's round of onsite visits confirmed that payment services providers, electronic money institutions, crowdfunding platforms and other fintechs also face high exposure to financial crimes, especially fraud.

The examinations found that PSPs and EMIs in particular frequently understaffed their compliance departments and sometimes neglected to adequately vet their customers, verify that their financial patterns align with their declared incomes, and properly estimate and address the risks presented by new products and services.

"In 2021, ACPR monitored the implementation of AML obligations by all entities subject to supervision, but continued to place particular emphasis on the supervision of payment and e-money institutions, especially those relying on numerous agents or distributors," a spokesperson for the regulator told *moneylaundering.com.*

In March of last year, ACPR fined ING's local affiliate €3 million (https://www.moneylaundering.com/news/dutch-banks-aml-violations-trigger-another-penalty-this-time-in-france/) after finding that the Dutch bank's AML program operated below minimum standards.

The regulator then fined Cardif Assurance Vie, the insurance branch of BNP Paribas, €2.5 million (https://www.moneylaundering.com/news/france-fines-bnp-paribas-again-this-time-for-insurance-divisions-aml-violations/) in response to AML violations and other breaches.

MMA, France's largest property and casualty insurance company, landed a €4 million penalty in December (https://www.moneylaundering.com/news/french-supervisor-targets-another-insurance-company-with-large-fine/) after the ACPR identified several significant flaws with the company's efforts to stay onside of sanctions.

All told, AML penalties rose in France from €740,000 in 2020 to €13.1 million in 2021, still far below the record €69.7 million collected in 2018.

Switzerland

2021 began brightly enough (https://www.moneylaundering.com/news/julius-baer-executives-punished-for-fifa-pdvsa-violations/) for the Swiss Financial Market Authority, or Finma, which began the year by reprimanding two former managers of Julius Baer for their roles in the lender's handling of bribes tied to world soccer organization FIFA, permanently barring a third from a career in the financial industry and opening proceedings against a fourth.

Swiss judicial authorities ended the year by bagging their first criminal conviction against a bank in December, when the Federal Criminal Court found Falcon Private Bank guilty of laundering hundreds of millions of dollars (https://www.moneylaundering.com/news/swiss-authorities-bag-first-criminal-conviction-against-bank/) in embezzled cash and other illicit funds.

But 2021 was otherwise a placid year for the Alpine nation in terms of publicly known enforcement actions targeting AML- and sanctions-related failures.

In July, Switzerland's Office of the Attorney General officially ended its investigation (https://www.moneylaundering.com/news/switzerland-drops-magnitsky-money-laundering-probe/) into how a large portion of the $230 million bilked from Russian public coffers more than a decade ago as part of a massive tax rebate fraud scheme ended up in Swiss banks.

"Based on its extensive inquiries, the OAG can now confirm that the investigation has not revealed any evidence that would justify charges being bought against anyone in Switzerland," Swiss prosecutors said of their decision to close the inquiry.

All cases related to the Swiss financial services industry's involvement in the corruption scandal at Venezuela's state-owned oil company PDVSA wrapped up by the end of the year, including the Swiss Financial Market Authority's proceedings against two lenders, Banca Zarattini & Co. and CBH Compagnie Bancaire Helvetique.

Finma determined that the two banks "had not sufficiently investigated the economic background of business relationships and transactions with increased risks and had thus seriously violated their duty to conduct due diligence and combat money laundering," the regulator disclosed in an annual report.

All told, Finma investigated around 30 financial institutions suspected of involvement in the scandal and conducted five enforcement proceedings.

Credit Suisse's failures vis-a-vis Mozambique also landed the bank in hot water back home, where Finma censured the lender for "among other things, a serious violation of money laundering reporting obligations."

The regulator's official finding against Credit Suisse did not come with a monetary penalty.

Honorable mentions

AML enforcement nearly doubled in volume in Spain from 2020 to 2021 (https://www.moneylaundering.com/news/spanish-aml-regulators-complete-more-cases-collect-lower-penalties/) but the combined value of penalties dropped by half. A similar narrative played out in Italy (https://www.moneylaundering.com/news/italy-banks-on-cash-reporting-advanced-analytics-to-spot-financial-anomalies/): regulators logged an identical number of cases but total penalties dropped from €5.6 million to €1.4 million from 2020 to 2021.

Despite imposing a record 17 enforcement actions targeting mainly investment firms in 2021, Luxembourg's financial supervisor assessed only €2.8 million in AML-related fines last year after assessing €5.4 million in 2020.

Fines increased in both value and volume in Cyprus and in Malta, where the combined value of AML penalties rose threefold to €12.4 million, including a record €5 million against Pilatus Bank in August.

"There are results, but whether it is right to refer to them as 'good' is questionable," Kenneth Farrugia, director of Malta's Financial Intelligence Analysis Unit, told *moneylaundering.com*. "Ideally, there would be no need to take any enforcement actions whatsoever."

Nevertheless, last year's results confirm that FIAU has become a more effective supervisor and enforcer of AML rules.

But the upward trend in enforcement belies serious legal obstacles now threatening to upend Malta's newly invigorated AML campaign, as the same legislation that gave FIAU more authority to penalize also gave banks a new legal path to fight their penalties in court (https://www.moneylaundering.com/news/maltas-aml-battle-enters-the-courtroom/).

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Topics :	Anti-money laundering , Counterterrorist Financing , Sanctions
Source:	United Kingdom , United Kingdom: Financial Conduct Authority , United Kingdom: HM Treasury , Netherlands , Latvia , Germany , Denmark , France , Switzerland , Spain , Italy , Malta
Document Date:	August 19, 2022