Changing mindsets, driving progress

Alvarez & Marsal Middle East assesses how the GCC countries progressing in the fight against money laundering.

Members of the Gulf Cooperation Council ("GCC") include a few of the wealthiest countries in the world and are actively pushing to be amongst the most economically developed. But legal and regulatory systems across the GCC are still being developed as the government progresses. International economies have a keen interest in witnessing the progress made by the GCC countries due to the region's strategic location on top of energy reserves.

Lately, the regulatory area where the GCC has received the most attention is their Anti-Money Laundering/Counter Financing of Terrorism ("AML/CFT") regimes. The Financial Action Task Force ("FATF"), the international standard setter, has reviewed the AML/CFT regulatory framework in three of the six GCC countries over the last three years (KSA, Bahrain and UAE) and plans to review the remaining in the coming three years.

Overall, each country does have an operational AML/CFT regulatory framework in place with regulations, regulator supervision and a national risk assessment ("NRA") in place. But the extent to how requirements comply with international standards varies from country to country.

When assessed by most international risk assessments, GCC countries are predominately considered as medium risk when it comes to AML. Most pervasive is the lack of prosecutions of ML offences when the level of risk in the GCC is considered. Also, the number of Suspicious Transaction Reports ("STR") filed with local Financial Intelligence Units ("FIU") is very low for the regional risk. STRs from Designated Non-Financial Businesses and Professions ("DNFBP") practically don't exist.

Government FIUs are also undercapitalised and understaffed and knowledge of sanctions requirements and ML/FT risks varies between countries.

THE UAE STEPPING UP ITS AML MEASURES

The UAE is the most recent GCC country to be reviewed by FATF, in 2019, with the Evaluation Report released in April of 2020. According to that report, the UAE has made significant improvements to its legislation and its regulatory framework for combatting anti-money laundering and financial terrorism but those improvements were too new for reviewers to see evidence of effectiveness on the ground. The UAE is working to put itself more in a leader seat in combating money laundering and terrorism financing.

Last year, the Emirate had launched a new anti-money laundering system (goAML) which was developed by the United Nations Office on Drugs and Crime (UNODC) for use by the UAE Central Bank's Financial Intelligence Unit (FIU). The platform facilitates the receipt, analysis, and dissemination of illicit transactions and activity to law enforcement authorities in the UAE.

The government is also working with companies in high-risk sectors, such as the trade of precious metals and real estate were overwhelmingly non-compliant and putting measures in place. Banks are also being pushed to digitisation because of increasing competition from non-traditional entrants.

However, other issues were also observed. KYC and client due diligence (CDD) standards were found to be inconsistent, STR quality was variable and there is a lack of understanding of complex legal structures and how they can be used to conceal ultimate entity ownership. The UAE has 39 commercial free zones, which are essentially offshore jurisdictions. Free zones had inconsistent AML / CFT regulations, an incoherent understanding of requirements and minimal supervision from regulatory authorities regarding ML/FT. This was not the most positive outcome for the UAE but FATF officials recognised the commitment by the UAE government to improve in the near future.

THE GCC REGULATORY LANDSCAPE

All GCC countries have AML/CFT regulatory frameworks in place but they can be split into two classes based on how well they comply with international standards. The most compliant are KSA, Bahrain and the UAE. The three less compliant are Kuwait, Oman and Qatar. It is no coincidence that the most compliant countries have had the most recent FATF reviews as countries tend to update regulations as a review approach. But what really sets countries apart is their understanding of their unique risks and how that understanding translates into mitigation through legislation and enforcement.

Kingdom of Saudi Arabia

KSA has the most developed AML regulatory environment, as close to international standard compliance as there is in the region. In its 2018 FATF review the country was praised for its solid understanding of its ML/TF risks that resulted in appropriate legislation. Other observations were that KSA had in place an ownership register for companies, high inter-agency coordination and cooperation, intensive supervision of high-risk sectors and regulators assisted DNFBPs in effectively developing their AML/CFT controls.

Bahrain

Bahrain also received relatively high praise in its 2018 FATF review. Like, KSA, it was praised for its understanding of ML/TF risks facing the country. The FIU's was praised for its own effective legal framework, which allowed it to initiate investigations into ML offences and work side by side with law enforcement.

Bahrain's customs officials were also noted for an advanced understanding of sanctions evasion and proliferation risk. Uniquely, Bahrain had high marks for cooperation with the international community.

Oman

Oman is scheduled for a FAT review in 2021 but already updated its AML law in 2016. Oman has in place a national committee for combatting money laundering and terrorist financing and has a completely independent FIU. The country's public prosecutor also has wide power to investigate ML offences.

Kuwait

In 2013, Kuwait was placed on a list of "monitored" countries by FATF for its weak AML regulatory environment. Currently, Kuwait does have AML requirements in its banking and financial services laws and an NRA. Kuwait's northern border with Iraq is another issue, as Kuwait is a common

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staging point for smuggling through Iraq to Iran.

It was removed from the FATF list in 2015 but it is still developing its system of regulations. Kuwait is working through an action plan to fully comply with FATF. Kuwait is due a review from FATF in 2022.

Qatar

Qatar is expecting a FATF review in 2021. In 2019, after cutting diplomatic ties with three GCC neighbors, Qatar updated its AML/CFT law to bring the country in line with international standards. The law applies to FIs as well as DNFBPs, it offers a broader definition of predicate ML/TF offenses, forms a national AML Committee and requires risk assessments using a risk-based approach for all regulated entities. The Qatar Financial Center, who has their own regulatory authority also updated its regulations to be closer aligned with international standards.

WHAT IS LIKELY TO CHANGE IN THE GCC IN THE IMMEDIATE FUTURE?

With coming FATF reviews in three Gulf states over the next few years, the GCC can expect to see a harder push from regulators in those countries for DNFBPs and FIs to further develop AML/CFT controls.

GCC regulators have responded with a change in mindset. Previously, the approach was often focused on improving ease of doing business for the many foreign individuals and companies attracted to the region. Now regulators understand that banks under their purview must know more about their customers and the source of funds.

There is no indication that pressure from the international community will slow on GCC states to build out their AML/CFT regimes. FIs and DNFBPs can only expect to receive more scrutiny from regulators for the foreseeable future and need to prepare themselves with action plans and knowledgeable personnel in management to drive improvement.

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