

Client: Crowell & Moring Yellow News
Source: The Times (Main)
Date: 24 January 2019
Page: 55
Reach: 417368
Size: 450cm2
Value: 13716

Yellow News...

The new blitz on white-collar crime

A board that includes the chancellor promises to tackle fraud, bribery and money laundering, writes **Edward Fennell**

As if they didn't have enough on their plates right now, Philip Hammond, the chancellor, and Sajid Javid, the home secretary, took time last week to jointly chair the first meeting of the new Economic Crime Strategic Board (ECSB), which aims to spearhead the war on financial crime.

While some critics see the board as window-dressing to disguise a lack of resources in battling an increasing volume of fraud, bribery, corruption and money laundering, others say that it marks a significant step up in the government's determination to get to grips with a growing threat to business and individuals alike, which is thought to cost more than £14 billion a year.

"Having two prominent cabinet ministers on the board sends out a signal that the government is now taking financial crime seriously at the highest levels," says John Binns of BCL Solicitors. "It's definitely a notch-up in commitment and is a new and interesting approach. It says that the government wants to improve the level of co-operation between all parties involved."

The board's creation marks an important step in taking a public-private partnership (PPP) approach to the problem. It follows, explains Ruth Paley of Eversheds Sutherland, the creation last year of a multi-agency National Economic Crime Centre within the National Crime Agency (NCA) that is designed to work closely with the private sector.

The ECSB will have an oversight role of the broad national policy by "setting priorities, directing resources and scrutinising performance against the economic crime threat". There are representatives of solicitors, accountants and estate agents, plus chief executives from the banking institutions Barclays, Lloyds and Santander. In other words, it is a mobi-

lisation of all the key players who have a stake in reducing financial crime.

Yet, however well intended, there are questions about the effectiveness of these new arrangements. "The sugges-

tion that these PPPs, with their diverse membership and wide range of participants, will be able to come up with a 'single set of priorities' which are anything other than very high-level feels ambitious," Paley says.

Nonetheless, Stephen Gentle of Simmons & Simmons is encouraged by the PPP approach and points out that it is now being imitated internationally. "It's all about disruption by having access to the data by which to identify misconduct," he says. Chris Stott of Ropes & Gray adds that financial service institutions accept that they and their staff represent the first line of defence against money laundering.

This approach is embodied by the suspicious activity reports (SARs) regime — a mandatory "see it, say it, sorted" approach to spotting potential money laundering. The problem is that, in its present form, SARs is generating an unmanageable volume of data.

In 2016 Keith Vaz, MP, who was the chairman of the home affairs select committee at the time, said that the SARs system was so overloaded that it had become "completely ineffective". Designed to manage 20,000 reports annually, it was having to deal with 20 times that number — and it still does. "It is like trying to find a needle in a haystack identifying the cases that really matter," Binns says.

Investigations are taking place into how the SARs system can be streamlined. But the risk-averse culture within the community of money-laundering officers encourages the reporting of anything that might raise suspicions.

"Although these reports are restricted to 8,000 characters they can entail very complex cases of potential money laundering," says Jonah Anderson of White & Case. "The NCA staff are competent and bright, but they cannot cope with this level of reports. We need to reform the regime so as to focus on identifying usable intelligence."

An improvement that Gentle would welcome is the relieving of pressure on money-laundering officers so that they could use more discretion in making their reports. "I would remove the threat of criminal liability from money-laundering officers," he says. "What we need is a more joined-up approach."

Paul Feldberg of Jenner & Block agrees. "Making the reports more focused and ensuring the information they provide is used to properly tackle money laundering should be one of the ECSB's key objectives," he says.

However, money laundering is by no means the only big issue on the ECSB's agenda. After the collapse of the case against three Tesco directors for fraud and false accounting, Neil O'May of Norton Rose Fulbright reflects on what he considers the Serious Fraud Office's "very poor" performance in such matters, with its conviction rate standing at about 50 per cent. "It should be 80 to 90 per cent," he says, adding that questions must be asked about the quality of its investigations. "But it is all fixable. It just needs a culture change and much better leadership."

On that theme Robert Weekes of Crowell & Moring contrasts the UK's performance with that of law enforcement in the US. "The UK needs to follow the American example," he says. "The style is more aggressive and very quick and effective and that's because it is properly staffed and well-resourced."

Perhaps that is the message that the ECSB should now take seriously.



Client: Crowell & Moring Yellow News
Source: The Times (Main)
Date: 24 January 2019
Page: 55
Reach: 417368
Size: 450cm2
Value: 13716

Yellow News...



The Economic Crime Strategic Board includes bankers, accountants and lawyers