

July 9, 2020

Ms. Ylva Johansson  
Commissioner for Home Affairs  
European Commission  
Rue de la Loi 200  
1049 Brussels  
Belgium



Dear Ms. Johansson:

## **RE: Inception Impact Assessment - Stronger Mandate for Europol**

The Institute of International Finance (the “IIF”) would like to take this opportunity to offer its feedback regarding the Inception Impact Assessment by the European Commission (the “Commission”) on a stronger mandate for Europol (the “Assessment”).<sup>1</sup> We greatly appreciate the work of the Commission in offering a roadmap for consultation on areas it intends to address in new proposals.

In October 2019, we stressed in a letter to the Commission and other bodies of the European Union (“EU” or the “Union”) the urgent need to ensure that all relevant authorities effectively and consistently address the risks arising from money laundering and terrorist financing and cooperate to share information that will help safeguard international finance against illicit use.<sup>2</sup> A more coordinated framework in the EU for implementation and oversight of measures used in combating threats to the integrity of the financial system is imperative.<sup>3</sup>

Europol plays an essential role in the EU’s framework for anti-money laundering and countering the financing of terrorism (“AML/CFT”). We welcome the Commission’s close attention to strengthening the operational capacity of Europol and, in particular, addressing limitations inherent in the sharing of information on financial crime related matters across law enforcement, regulators and Financial Intelligence Units (“FIU”) – both within the EU and with third countries – and with the private sector. We particularly welcome your comments at the recent launch of the European Financial and Economic Crime Centre (EFECC) within Europol which considered the importance of sharing information with financial institutions and referenced that the Commission is considering how it could be easier for Europol to

---

<sup>1</sup> European Commission, *Inception Impact Assessment, Europol Regulation*, May 14, 2020

<sup>2</sup> IIF, *RE: Communication from the Commission to the European Parliament and the Council towards better implementation of the European Union’s anti-money laundering and countering the financing of terrorism framework*, October 2019.

For further information on these issues, please also see: IIF/Deloitte, *The Global Framework for Fighting Financial Crime: Enhancing Effectiveness and Improving Outcomes*, October 2019: <https://www.iif.com/Publications/ID/3606/The-Global-Framework-for-Fighting-Financial-Crime-Enhancing-Effectiveness-Improving-Outcomes>

<sup>3</sup> The IIF also very much looks forward to providing comments on the European Union Action Plan for a comprehensive Union policy on preventing money laundering and terrorist financing, in which we will also reflect on a number of the issues raised in this letter: European Commission, *COMMUNICATION FROM THE COMMISSION on an Action Plan for a comprehensive Union policy on preventing money laundering and terrorist financing*, 7 May 2020.

interact with the private sector.<sup>4</sup> We note similar conclusions were reached by the Council of the European Union in December 2019.<sup>5</sup>

As you continue your work, we would like to emphasize the support of the financial services industry for further action on two key areas in relation to the Assessment: 1. Improving financial crime information sharing; and 2. Enhancing public/private sector cooperation at Europol. Action on both issues will substantially assist Europol in its core mission of supporting its member states in preventing and combating all forms of serious international and organized crime and terrorism.

1. *Improving financial crime information sharing*: The Commission should explore legal and regulatory gateways which allow for the sharing of information between Europol, member state and third country FIUs and the private sector, in both directions. Such exchange is important to the proper functioning of AML/ CFT and other financial crime prevention policies which fulfil the goal of protecting global finance from criminal incursion. Information sharing is also critical in addressing specific threats that arise from terrorism and proliferation finance. Without adequate insights by financial institutions, law enforcement, and intelligence agencies into the funding of these activities, efforts to stop terrorists and rogue states from inflicting further damage globally will be inhibited.<sup>6</sup>

More broadly, we have encouraged the Commission to adopt provisions which allow for the sharing of critical financial crime data – including Suspicious Activity Reports (“SAR”) and associated underlying information – across borders enterprise-wide, between entities in different group enterprises, between enterprises and governments, and between governments – in both directions. This should also address issues whereby such information can be adequately shared outside the Union and vice versa, when relevant.<sup>7</sup>

The balance between data privacy/data protection and the sharing of financial crime information is also essential. The Commission should examine ways to provide legal certainty on the sharing of financial crime related data in connection with applicable privacy laws and should mandate the formal cooperation between data privacy authorities and AML/CFT authorities to ensure the compatibility of AML/CFT requirements with data protection and privacy rules and other similar provisions (e.g., data security/localization) as laid out in FATF Recommendation 2.<sup>8</sup> The Commission should also take into account socially important topics such as profiling when considering the balance between privacy and data exchange.

2. *Enhance Public/Private Sector Cooperation at Europol*: At the center of an intelligence-led financial crime model which emphasizes entities, networks and behaviors sits the public-private partnership (“PPP”). Not only are PPPs an important first step in the ability to deliver operational benefits and efficiency gains, but they can also provide a framework to build the relationships and

---

<sup>4</sup> Europol, *Europol Launches European Financial and Economic Crime Center*, June 5, 2020 <https://www.europol.europa.eu/newsroom/news/europol-launches-european-financial-and-economic-crime-centre>

<sup>5</sup> Council of the European Union, *Outcome of Proceedings*, 2 December 2019: <https://data.consilium.europa.eu/doc/document/ST-14745-2019-INIT/en/pdf>

<sup>6</sup> For further information on these issues, please also see: IIF/Deloitte, *The Global Framework for Fighting Financial Crime: Enhancing Effectiveness and Improving Outcomes*, October 2019: <https://www.iif.com/Publications/ID/3606/The-Global-Framework-for-Fighting-Financial-Crime-Enhancing-Effectiveness-Improving-Outcomes>

<sup>7</sup> IIF, *RE: Communication from the Commission to the European Parliament and the Council towards better implementation of the European Union’s anti-money laundering and countering the financing of terrorism framework*, October 2019.

<sup>8</sup> FATF, *The FATF Recommendations*, Updated June 2019

dialogue between stakeholders to help coordinate and catalyze coherent reform of the wider financial crime risk management system.<sup>9</sup>

When considering a stronger mandate for Europol, the Commission should consider ways to enhance the work of the Europol Financial Intelligence Public Private Partnership (“EFIPPP”).<sup>10</sup> EFIPPP is the first truly multilateral PPP between 13 FIUs and 24 international institutions (with those numbers continually expanding) with participation across the EU and with the United States and Australia. EFIPPP is meant to provide an effective, operationally focused environment for cooperation and information exchange between Europol, law enforcement authorities, FIUs and other competent authorities, as well as regulated financial services entities, with the support of their representative bodies, under applicable law. It seeks to improve vertical and horizontal communication and to play a role as a strategic preventive arm of the AML/CFT regime across the globe.

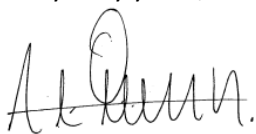
Though EFIPPP has been very successful in bringing together diverse international stakeholders in dialogue on sharing strategic level information (typologies and geographic indicators, for example), in many cases it has been prevented from effective sharing on tactical level information (underlying case data). The Commission should address this gap when reviewing the Europol mandate to allow for that tactical level exchange to occur between EFIPPP members – both public and private – to address operational challenges in tackling cross-border financial crime.

More broadly, we have also encouraged the Commission to promote a more effective financial crime risk management regime by proactively supporting the creation of domestic/multilateral PPPs. This should be done through public sector review of legal/regulatory barriers to information sharing (as noted above) and enacting enhanced, measurable and enforceable guidance on information exchange for national FIUs, financial institutions and law enforcement that will improve the exchange of both strategic and tactical information. Coordination with countries outside the Union should also be prioritized in this area. Consideration should also be given to how payment service providers can contribute to the work of PPPs like the EFIPPP to mitigate the financial crime risks arising from new payment methods.

The IIF, and private sector more generally, greatly values the robust and constructive continuing cooperation with Europol. The agency is a vital component in the collective international fight against illicit finance. We strongly encourage the Commission to further enhance the agency’s mandate through active reform of its information sharing capacity to help it remain at the heart of effective law enforcement and private sector cooperation across the Union and beyond.

Thank you for taking into consideration our comments. If you have any questions, please contact me or Matthew Ekberg at [mekberg@iif.com](mailto:mekberg@iif.com).

Very truly yours,



Andrés Portilla

---

<sup>9</sup> For further information on these issues, please also see: IIF/Deloitte, *The Global Framework for Fighting Financial Crime: Enhancing Effectiveness and Improving Outcomes*, October 2019: <https://www.iif.com/Publications/ID/3606/The-Global-Framework-for-Fighting-Financial-Crime-Enhancing-Effectiveness-Improving-Outcomes>

<sup>10</sup> The concept of EFIPP was originally formed in October 2017 at a High-Level Forum of the Law Enforcement, Regulatory and Banking Sectors convened by Europol and the IIF.