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State supervision to combat money laundering

–deficient in scope and effectiveness

Summary

Money laundering enables criminals to use their proceeds from crime in the regular economy, and thus poses a threat to the financial system and society at large. Combating money laundering is founded both on a preventive and a criminal regulatory framework. The preventive regulatory framework places demands on companies and other actors (business operators) to take measures to prevent their activities from being exploited for money laundering. In order to ensure that the measures fulfil the requirements imposed by the regulations, it has been made incumbent upon a number of agencies to conduct anti-money laundering supervision. The Swedish National Audit Office (“the Swedish NAO”) considers, however, that anti-money laundering supervision is neither sufficiently effective nor comprehensive to ensure that the measures taken by business operators pose a real obstacle to criminals’ ability to launder money.

The audit shows that the Government’s management of the anti-money laundering supervision system is weak, and that there is no follow-up of the extent to which the supervision effectively helps to limit criminals’ ability to launder money. The Government thus has an inadequate basis for determining whether the allocation of resources and responsibilities within the system is well balanced and whether the agencies’ powers suffice. The audit also shows that there are deficiencies in the effectiveness of anti-money laundering supervision efforts, and that there is a risk of

unjustifiable differential treatment of business operators in different sectors, depending on whether they come under the supervision of Finansinspektionen (the Swedish financial supervisory authority) or that of the county administrative boards.

A stronger strategic basis is needed for the county administrative boards' anti-money laundering supervision

The Swedish NAO determines that the county administrative boards have not systematically analysed how their supervision can reduce, as effectively as possible, the risk of business operators being exploited for money laundering. In other words, it is not clear whether the way in which supervision is conducted in practice leads to the desirable improvements in business operators' compliance. There is also a need for clearer procedures for how incoming tip-offs should be evaluated in relation to the county administrative boards' own selections.

The audit also shows that requirements for monitoring the county administrative boards' anti-money laundering supervision are largely absent, which has meant that the availability and quality of activity statistics are low. This in turn impedes performing a good analysis of the supervision and its results.

Finansinspektionen's supervision reaches few business operators

The Swedish NAO notes that few business operators have been subject to Finansinspektionen's investigations and that there has been a narrow focus on banks. When supervision has been directed at sectors with a large number of small business operators, such as payment service providers and currency exchangers, in most cases the operators have chosen to close down their business upon supervision being initiated. While the fact that operators that fail to fulfil the requirements close down their business could be considered a positive outcome of the supervision, there is a risk of such operators returning in a different form. In that case, there is a risk that the low level of supervision would mean that they could run their business for a long time before coming under scrutiny again.

The Swedish NAO also notes that Finansinspektionen's preparatory process is comprehensive with a view to maintaining good quality assurance. While the advantage of this is that data and decisions are thoroughly elaborated and supported, it also makes processing times longer. The Swedish NAO furthermore assesses that the preparatory process is not apt for managing the large number of small business operators that are active in certain sectors.

Quality deficiencies in the beneficial ownership register and the anti-money laundering register

The Swedish NAO considers that the Swedish Companies Registration Office lacks sufficient powers and tools for maintaining the quality of the beneficial ownership register in the longer term. This is serious because the register is an important tool for enabling business operators to comply with the customer due diligence requirements imposed by legislation. The rapid increase in reports of suspected errors in the register, which in most cases contain very little information, involves time-consuming processing for the Swedish Companies Registration Office. There is also a risk that the latter's investigations of reports of suspected errors will not manage to identify any irregularities in situations in which annual reports and other documents appear to be in order.

In terms of the anti-money laundering register, the Swedish NAO notes that analysis and development efforts have not been prioritised. There are quality deficiencies in the register, entailing that the county administrative boards initiate supervisory cases that must then be dropped when it turns out that the business operator is actually not covered by the Anti-Money Laundering Act. However, neither the Swedish Companies Registration Office nor the county administrative boards have investigated the extent of the quality deficiencies. Better knowledge of the shortcomings in the register would also make efforts to identify unregistered business operators more effective.

Recommendations

The Swedish NAO makes the following recommendations:

To the Government

- Take measures to create a more cohesive system for anti-money laundering supervision and clarify what is expected of the supervisory authorities.
- Improve knowledge of the extent to which anti-money laundering supervision helps to limit possibilities to launder money, for example by requiring more advanced reporting from Finansinspektionen and the county administrative boards on their work with anti-money laundering supervision and its results.
- Take measures to improve the ability of the Swedish Companies Registration Office to maintain the quality of the beneficial ownership register.
- Consider whether further legislative amendments are needed to make it more difficult for business operators to evade supervision by operating outside of the system or by closing down their business and starting it up again.

To the county administrative boards

- Develop a strategy that specifies how anti-money laundering supervision should be devised so that it contributes as effectively as possible to good compliance among different types of business operators.
- Develop follow-up of anti-money laundering supervision efforts and the results it achieves, with a view to providing better information on development and prioritisation needs.

To Finansinspektionen

- Analyse the possibility of increasing the number of investigations, for example by reviewing how the preparatory process can be better adapted to the size of business operators.
- Take additional measures to find business operators acting without authorisation or registration.

To the Swedish Companies Registration Office

- Implement measures in consultation with the county administrative boards to obtain a better picture of the quality level of the anti-money laundering register.
- Ensure that systematic development work is performed for the anti-money laundering register and take measures to identify and remove business operators that it should not include.