

AML AND SANCTIONS IN FINANCIAL SERVICES

Our capability and experience

October 2021

 **ADDLESHAW
GODDARD**

MORE IMAGINATION MORE IMPACT



AN AREA OF SIGNIFICANT REGULATORY FOCUS...

Anti-money laundering systems and controls in the financial services sector remain a critical area of focus for UK authorities, particularly the FCA.



The traditional high-risk areas of money laundering remain, including financial services, money service businesses, and cash. However, new methods continue to emerge within these, as criminals adapt to increased restrictions and exploit vulnerabilities in different sectors and emerging technology.

UK National AML/CTF Risk Assessment (2020)



I think it is time that we gave effect to the full intention of the Money-Laundering Regulations which provide for criminal prosecutions. In making poor AML systems and controls potentially a criminal offence, the MLRs are signalling that, in egregious circumstances, MLR failures let down the whole community.

Mark Steward, Director of Enforcement and Market Oversight, FCA, 4 April 2019



Systems and controls that are purposeful, efficient and courageous in identifying suspicious activity are vitally important; system and control failures, on the other hand, provide an invisible, illicit cover for criminals and criminal activity that affects the whole community...

Mark Steward, Director of Enforcement and Market Oversight, FCA, 1 April 2021



We will [...] continue with a targeted litigation strategy to provide legal clarity and protect consumers.

FCA Business Plan 2021-22



We will also take assertive enforcement action where there is serious misconduct.

FCA Business Plan 2021-22

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the number of financial-crime related investigations (other than insider dealing) that FCA had open as at 31 March 2021

(FCA enforcement overview published 15 July 2021)

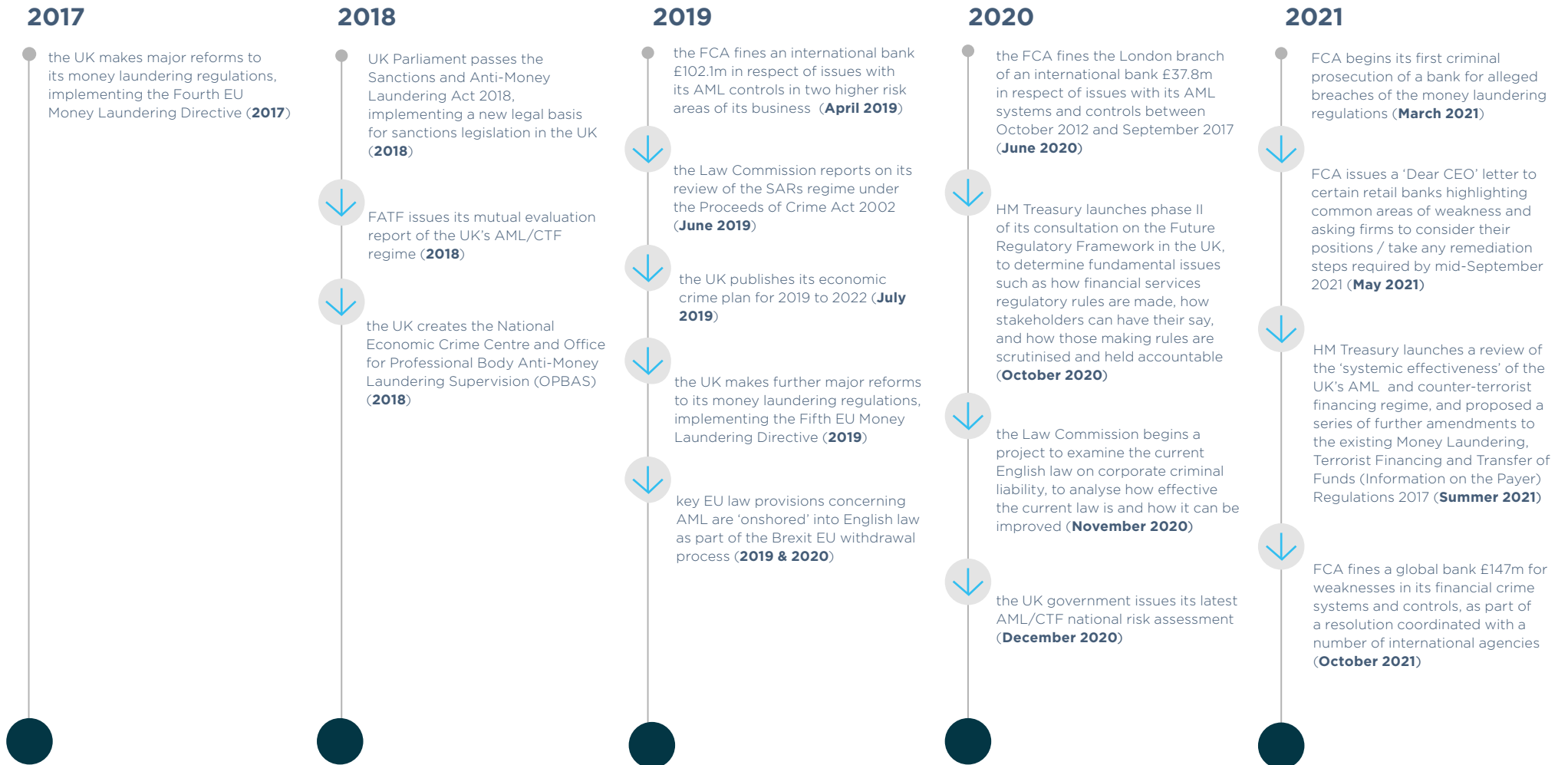
£141m

the size of FCA fines imposed in AML and other financial crime controls cases between 1 Jan 2018 and 30 September 2021



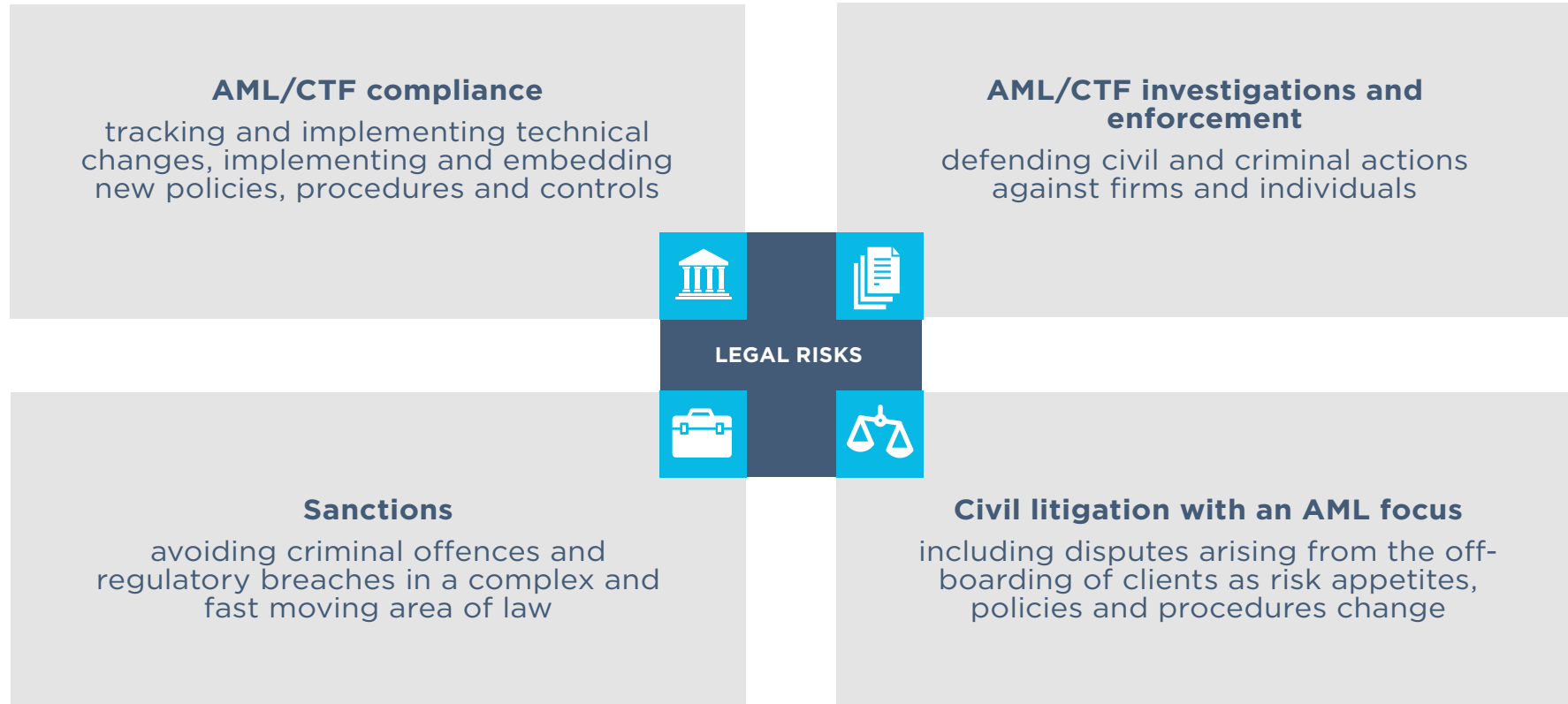
AN AREA OF SIGNIFICANT LEGAL AND REGULATORY CHANGE...

The law and regulation of money laundering is complex and has changed rapidly in the last 5 years:



There are concerns about the complexity and technicality of the legislation, the compliance burden this causes for firms, and the risk of the regime requiring excessive investment in areas of lower risk. Experience shows that enforcement risk can be heightened by persistent regulatory change.

A UNIQUE SET OF LEGAL RISKS TO MANAGE





AML/CTF COMPLIANCE EXPERTISE

- Advising a variety of financial services firms (particularly banks, asset managers and specialist lenders) on their compliance with UK money laundering and counter terrorist finance regulations.
- Advising firms on the implementation of the Fourth and Fifth EU money laundering directives.
- Advising firms on AML and terrorist financing risk assessments and associated policies, procedures and controls.
- Advising on regulatory perimeter issues - in particular the perimeter of the money laundering and counter terrorist finance regulations versus the perimeter of the Financial Services and Markets Act 2000.
- Advising regulated firms and individuals on suspicious activity reporting, requests for defences against money laundering, dealing with the National Crime Agency, and dealing with other regulators and government agencies.
- Providing English law advice on cross-border AML and terrorist financing issues, in particular advising UK-based financial services firms in relation to incidents occurring in their businesses outside the UK.
- Advising firms on their compliance with money laundering-related notices issued by UK regulators, and orders issued by the UK criminal courts, including under the Proceeds of Crime Act 2002.
- Carrying out money laundering-related due diligence in corporate and banking transactions, and helping to structure transactions in a way that is compatible with restrictions on money laundering.



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AML/CTF INVESTIGATIONS AND ENFORCEMENT EXPERTISE

- Advising firms and individuals in internal investigations into alleged money laundering incidents, for example advising a specialist lender on an internal investigation into historical alleged bribery, corruption and money laundering offences.
- Advising firms and individuals under government and regulatory investigation for alleged failures to comply with money laundering and terrorist financing regulations, and other regulatory requirements concerning controls over financial crime.
- Advising firms on money laundering incidents in the context of government and regulatory investigations, where the predicate offences included alleged bribery and corruption, fraud, conspiracy to defraud, false accounting, tax offences, insider dealing and other financial services offences.
- Advising regulated firms on the reporting of AML systems and controls issues to their regulators and the remediation of identified weaknesses.
- Advising firms facing FCA inquiries into alleged unauthorised business / breaches of the regulatory perimeter.



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SANCTIONS EXPERTISE

- We advise on all aspects of international sanctions and trade compliance.
- We advise in particular on the impact of international sanctions programmes, and how to navigate complex issues in a number of challenging jurisdictions, working with local counsel overseas as needed.
- We regularly advise clients on sanctions issues relating to Iran, Russia and North Africa, and more recently we have been helping clients to navigate new US, EU and UK sanctions and trade restrictions arising from political developments in China and Hong Kong. We have also helped clients to navigate the UK's new domestic sanctions regime following Brexit.
- Helping firms to build effective compliance programmes and respond to the impact of new sanctions measures.
- Advising on all aspects of export control regulation, including licensing requirements for controlled military and dual-use equipment and technology.
- Handling internal sanctions investigations and dealing with external regulators.



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EXPERTISE IN CIVIL LITIGATION WITH AN AML FOCUS

- Advising on the full range of disputes between financial services firms and their customers which arise through application of the firm's AML/CTF policies, procedures and controls.
- Handling complaints and litigation (actual and threatened) from customers concerning account and transaction blocking, first and third party fraud, APP fraud and *Quincecare* - type claims.
- Defeating applications for injunctions (for example from banks' customers seeking to prevent a bank from closing an account, or to force it to continue providing a service).
- Dealing with complaints from pre-action stage through (where necessary) to advice in the High Court.



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leading individuals for Banking Litigation, Financial Services: Contentious, Regulatory Investigations and Corporate Crime

(Legal 500 UK 2022)

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leading individuals for sanctions work

(Who's Who Legal: Trade & Customs (International Sanctions) for 2019 and 2020)

One of only two "Leading Firms" for sanctions work

(Who's Who Legal: Trade & Customs (International Sanctions))

“

Always proactive, the team at AG are pragmatic, focussing on the bigger picture relevant to their clients, while having a fantastic handle on the detail.

“

An excellent team to work with; they are great at client management, and are very astute at foreseeing potential problems and dealing with them before they arise.

“

Nichola Peters is extremely impressive, straight-talking and down to earth, with a broad range of experience but particularly strong advising corporates and boards on corporate crime risk.

“

David Pygott is both extraordinarily knowledgeable about financial services regulation and extremely hard-working. He has been instrumental in taking the Addleshaw Goddard team from strength to strength since his arrival and has been involved in some ground-breaking work.

“

Pragmatism, deep understanding of their clients and the issues they face, coupled with depth of expertise make them a joy to deal with.

“

Tremendous knowledge of the financial markets coupled with an extremely efficient approach to dispute resolution, makes this an exceptional team.

“

Michelle de Kluyver is very measured and thoughtful, getting a robust strategy in place and guiding a corporate and its executives to resolution.

“

Richard Clayton: extremely approachable and very knowledgeable about banking disputes. He is a great leader of large teams and achieves great results for his clients. He provides tremendous support to counsel in cases raising difficult points to resolve.

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