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The government's anti-money laundering and counter-terrorist financing effort

1. Introduction and conclusion

1.1. Purpose and conclusion

1. This report concerns the government's anti-money laundering and counter-terrorist financing effort. Rigsrevisionen initiated the study in December 2018 at the request of the Danish Public Accounts Committee, cf. appendix 1 to the report.

2. The Danish Anti-Money Laundering Act imposes an obligation on approx. 20,000 Danish legal persons and companies operating within specific lines of business (the obliged entities) to have measures in place to prevent that they are being used for money-laundering activities and financing of terrorism. This means, among other things, that the obliged entities have a duty to notify the Money Laundering Secretariat (Danish financial intelligence unit), set up under the Danish State Prosecutor for Serious Economic and International Crime, of suspicious transactions that may be linked to money laundering or financing of terrorism. In recent years, the Money Laundering Secretariat has received an increasing number of suspicious transaction reports.

According to the supervisory regime established as part of the government's anti-money laundering and counter-terrorist financing effort, authorities under the Ministry of Business, Industry and Financial Affairs and the Ministry of Taxation are required to oversee that obliged entities adhere to the requirements of the Anti-Money Laundering Act and operate in accordance herewith to avoid being used for money-laundering and financing of terrorism. The suspicious transaction reports filed by the obliged entities to the Money Laundering Secretariat are analysed and provide the basis for the secretariat's assessment of whether the information should be disseminated to other relevant authorities. Last, the law enforcing authorities under the Ministry of Justice, such as the police districts, the Danish Security and Intelligence Service and other units under the State Prosecutor for Serious Economic and International Crime, make the information useful and determine whether the information can provide the basis for launching investigations into possible criminal offences. Other authorities like, for instance, the Danish Tax Agency under the Ministry of Taxation, must assess whether the information provides a basis for an administrative legal decision. The fact that the authorities and the obliged entities are all links in a chain of efforts to counter money laundering and financing of terrorism, is a characteristic feature of the government effort, and means that the success of the effort depends on the effectiveness of each individual link of the chain.

Obligated entities

These include bankers, mortgage-credit institutes, lawyers, auditors, estate agents and gambling operators, cf. The Danish Anti-Money Laundering Act.

Financial Action Task Force (FATF)

The FATF is an inter-governmental body. Its purpose is to develop and promote measures for fighting money laundering and financing of terrorism. The FATF was established in 1989 and currently has a membership of 38, including the EU member states. Denmark has been a member since 1991.

The FATF adopts standards on measures against money laundering and financing of terrorism that the members have committed to observing.

3. In August 2017, the Financial Action Task Force (FATF) published an extensive evaluation of the anti-money laundering and counter-terrorist financing measures taken in Denmark. The evaluation found that Denmark did not adequately meet the prevailing international standards in a number of areas. Since then various political agreements and several amendments made to the Anti-Money Laundering Act have aimed to make the Danish measures more effective.

4. The purpose of the study is to assess whether the anti-laundering and counter-terrorist financing effort made by the Ministry of Business, Industry and Financial Affairs, the Ministry of Justice and the Ministry of Taxation has been effective. The report answers the following questions:

- Have the Ministry of Business, Industry and Financial Affairs, the Ministry of Justice and the Ministry of Taxation supported the obliged entities in their effort to detect and notify the Money Laundering Secretariat of suspicious transactions that could be linked to money laundering and financing of terrorism?
- Has the Money Laundering Secretariat under the State Prosecutor for Serious Economic and International Crimes adequately used the suspicious transaction reports filed by the obliged entities when disseminating information?
- Have the relevant authorities provided feedback to the obliged entities about the use made of the disseminated information, in order to ensure a targeted effort?



Main conclusion

It is Rigsrevisionen's assessment that the Ministry of Business, Industry and Financial Affairs, the Ministry of Justice and the Ministry of Taxation's overall anti-money laundering and counter-terrorist financing effort has been ineffective, and that particularly the effort of the Ministry of Justice has been inadequate. This is considered very unsatisfactory by Rigsrevisionen.

The authorities and the obliged entities are links in a chain of effort to counter money laundering and financing of terrorism, which means that the success of the effort depends on the effectiveness of each individual link of the chain. The study found that all links of the chain showed signs of weaknesses. As a result, the suspicious transaction reports filed by the obliged entities have not been adequately exploited, which entails a risk that the authorities have not to the widest possible extent fought money laundering and financing of terrorism.

In the period from 2016 to 2018, the Money Laundering Secretariat received well over 79,000 suspicious transaction reports from the obliged entities and disseminated information from approx. 16,000 of these suspicious transaction reports to the police, the State Prosecutor for Economic and Serious International Crimes, the Danish Security and Intelligence Service and the Danish Tax Agency. The study shows that this information formed part of and led to approx. 150 criminal convictions, approx. 70 non-convictions and approx. 150 pending cases. In addition, the Danish Tax Agency collected tax revenues of approx. DKK 610 million in 2017 and 2018 pertaining to cases that included information from the suspicious transaction reports filed by the obliged entities. Besides, the suspicious transaction reports provide input for the development of strategic analyses and national risk assessments, and they provide the police and the Danish Security and Intelligence Service with overall knowledge of criminal offences in the area.

The three ministries have not adequately supported the obliged entities in their efforts to detect and notify the Money Laundering Secretariat of transactions that could be linked to money laundering and financing of terrorism

In the opinion of the FATF, the national risk assessments, which constitute an essential element in the obliged entities and supervisory authorities' organisation of anti-money laundering and counter-terrorist financing activities, have not in 2017 met international standards. An updated money laundering risk assessment was not published until April 2019, while a terrorist financing risk assessment is expected to be made available early in 2020.

Rigsrevisionen finds that the supervisory authorities' control and guidelines concerning the measures taken by the obliged entities to fight money laundering and financing of terrorism have been inadequate. For instance, the Danish Financial Supervisory Authority and the Danish Business Authority have each checked 3 % of their entities in the period from 2016 to 2018. Moreover, the selection of entities for control has only to a limited extent been based on a systematic assessment of each individual entity in terms of its risk of being used for money laundering and financing of terrorism. The Danish Business Authority has not worked out any written, sector specific guidelines

Conclusive and inconclusive criminal judgments

A conclusive criminal judgment is either a court conviction (resulting in a prison sentence or penalty), or a penalty imposed out of court.

An inconclusive judgment results in either an acquittal or a dismissal of the charge.

to the Anti-Money Laundering Act, and the Danish Financial Supervisory Authority and the Danish Gambling Authority did not complete their written guidelines until, respectively, 18 and 24 months after the adoption of the act. The obliged entities have therefore been in a poor position to organise a risk-based approach, as they have been required to by law since 2017.

The Money Laundering Secretariat has not adequately used the suspicious transaction reports filed by the obliged entities when disseminating information

Rigsrevisionen finds that the model applied by the Money Laundering Secretariat for screening of suspicious transaction reports is simple and flawed, which entail a risk that not all relevant suspicious transaction reports are selected for manual examination. This risk is exacerbated by the fact that the secretariat does not know which suspicious transaction reports the screening model has selected for closer examination and which suspicious transaction reports the model has overlooked.

It is Rigsrevisionen's assessment that the Money Laundering Secretariat, being a critical link in the chain of efforts, has not adequately used its unique access to identify and find evidence of connections between possible money laundering and underlying criminal activity. The Money Laundering Secretariat has instead focused on supporting the police in their ongoing work. The study found that in the period from 2016 to 2018, the secretariat had only on three occasions worked out specific proposals to launch investigation of cases that potentially involved extensive money laundering. This in spite of an assessment made by the secretariat, which indicated a potential to work out more proposals. Two-thirds of the information disseminated to the police concerned ongoing investigations by the police, and only one-third pertained to new cases.

The relevant authorities have not adequately provided feedback to the obliged entities about the use made of the disseminated information, in order to ensure a targeted effort

The police and State Prosecutor for Economic and Serious International Crimes have not provided the feedback and statistics they are required to according to the directive and the circular issued by the Ministry of Justice. Moreover, the police lack sufficient overview of what has happened to the disseminated information they have received from the Money Laundering Secretariat, as they have been unable to trace 22%. The Danish Security and Intelligence Service has not kept records of or provided feedback to the obliged entities on the use of the disseminated information. The Ministry of Justice has informed Rigsrevisionen that the ministry will look into the possibility of ordering the Danish Security and Intelligence Service to do so. Since 2017, the Danish Tax Agency has kept records of controls carried out based on information disseminated by the Money Laundering Secretariat. However, due to the special duty of non-disclosure imposed on the agency, the agency has only provided summary feedback to the relevant entities.

As a result, the feedback provided by the Money Laundering Secretariat to the obliged entities has been incomplete. Nor has the secretariat been able to use its statutory authority and fully comply with the requirements included in the explanatory notes to the Anti-Money Laundering Act concerning its duty to provide feedback to the obliged entities on the status of cases reported.