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# the Wolfsberg Group

## Effectiveness through Collaboration

This paper expands on a key element of the Wolfsberg Group’s views on developing an effective Anti-Money Laundering/Counter-Terrorism Financing (AML/CTF) programme (The Wolfsberg Factors),<sup>1</sup> which is to engage with the public sector, including law enforcement. This paper specifically focuses on successful engagement through Public-Private Partnerships (PPPs) and is intended to be an introduction to the subject for those who may be less familiar with the principles underpinning PPPs, and the pivotal role that national authorities must play.<sup>2</sup>

Collaboration and dialogue lead to far better outcomes than initiatives pursued in a silo. There is a need in the financial crimes space for a more robust public-private information-sharing system for financial institutions (FIs) to fulfil their obligations better and to assist national authorities in combating financial crime more effectively. FIs are in a unique position to identify customers and activities that may pose money laundering and terrorism financing risks and have built large financial crime compliance programmes to do so. However, FIs typically lack consistent feedback from national authorities on the usefulness of the information that they provide to relevant government agencies (including law enforcement) through reporting and on the financial crime risk areas they should prioritise. FIs also often lack a clear legal framework for permissible information-sharing with government authorities and peer FIs. Without guidance from national authorities on the value of FI reporting, a framework for permissible information-sharing (e.g., through PPPs), and clearly articulated, targeted national priorities, FIs are hampered in their ability to assist law enforcement effectively, which unnecessarily limits their potential

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<sup>1</sup> The Wolfsberg Group (2020), [Developing an Effective AML/CTF Programme](#). See also [The Wolfsberg Statement on Effectiveness](#) and [Demonstrating Effectiveness](#).

<sup>2</sup> The Future of Financial Intelligence Sharing (FFIS) programme, a collaboration between the Royal United Services Institute (RUSI) Center for Financial Crime & Security Studies and NJM Advisory, has published extensively on the subject. See [Thought Leadership - FFIS RESEARCH \(future-fis.com\)](#).

contributions to the safety and security of the communities in which they operate. Thus, while government authorities, industry groups, think tanks, and others have spoken about the widely recognised value of establishing PPPs, this paper focuses on the requirements for creating effective ones, and the pivotal role that national authorities must play in that regard.

### **Communication of National Priorities**

AML/CTF frameworks that provide highly useful information to relevant government agencies are those informed by law enforcement and tailored to national AML/CTF law enforcement priorities (national priorities). Both government and industry increasingly recognise the urgent need for national authorities to establish national priorities so that FIs can focus their AML/CTF efforts and resources on activity of inherently higher value to law enforcement. In countries with multiple law enforcement agencies, it is particularly critical that a single, prioritised, and coordinated set of national priorities be identified by the relevant authorities for use by FIs. Clarity around national AML/CTF enforcement priorities will also provide necessary context for regulators and supervisors to measure an FI's AML/CTF effectiveness.

In March 2021, the Financial Action Task Force (FATF) published *Guidance on Risk-Based Supervision*,<sup>3</sup> which emphasises the need for supervisory authorities to focus their examinations of FIs on the effectiveness of FI financial crimes compliance programmes in addressing those AML/CTF risks that national authorities have identified as enforcement priorities. Similarly, in the U.S., the U.S. Department of the Treasury has published national AML/CTF priorities in accordance with the Anti-Money Laundering Act of 2020 and will subsequently issue regulations that direct FIs on how to address those priorities through their AML/CTF programmes, as well as guide supervisory authorities on how to assess these programmes.

When formulating their national priorities, the Wolfsberg Group (the Group) urges national authorities to resist being over-inclusive. A long list of national priorities is akin to having none at all, as it does not give sufficient direction to allow FIs to align their resources. Similarly, identifying broad offense categories without further prioritisation, is not helpful.<sup>4</sup> In addition to articulating and prioritising well-defined focus areas, national authorities should further arm FIs by sharing, to the extent permissible, specific actionable information and, at a minimum, up-to-date typologies specific to those national priorities. This process of setting national priorities must also recognise that not everything can be a priority and some lower value elements can and should be deprioritised.

### **Essential Elements of Effective Public-Private Partnerships**

PPPs often provide the most direct and impactful opportunity for FIs to collaborate with public sector stakeholders to identify and address financial crime risks. The Group believes that AML/CTF PPPs are most successful when:

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<sup>3</sup> FATF (2021), [Guidance on Risk-Based Supervision](#).

<sup>4</sup> For example, an offence category of "organised crime" is not very helpful given that it encompasses a wide range of offence conduct.

- **The PPP receives active participation and sponsorship from senior public sector figures:** Senior-level participation signals clear political support for AML/CTF information-sharing and is more likely to encourage productive sharing of information by key public sector participants, including law enforcement. A similar level of support and sponsorship from FI leadership is equally important to the PPP's success.
- **The PPP meets regularly and has an established structure and membership:** A framework that brings participants together in person or virtually on a regular basis tends to create stronger working relationships and fosters greater trust which in turn promotes stronger, faster, and more effective collaboration. This may be enhanced by co-location of public and private sector staff.
- **The PPP membership is inclusive and multi-disciplinary:** A broad cross-section of financial industry actors (including smaller FIs and FinTechs), relevant national-level law enforcement agencies, key regulators and supervisors, NGOs and academics can enrich the collaboration by contributing insights from their respective vantage points.<sup>5</sup>
- **The PPP focuses on sharing actionable information:** Sharing specific information, including detailed typologies, that can be acted upon is far more valuable than general discussion about high-level typologies that provide little in the way of detail and do not promote or lend themselves to specific actions.<sup>6</sup>
- **The PPP is supported by a legal framework for information-sharing:** A legal framework that permits and recognises information-sharing and collaboration is an essential requirement. Law enforcement, regulators, and supervisors should engage in rule making with national legislative bodies to drive necessary legislation and rules and regulators and supervisors should help the private sector understand the full extent of permissible information-sharing by providing clear guidance for the same. While significant progress has been made in many jurisdictions to improve legal frameworks with regard to public-private information-sharing (be that domestic, cross-border and intra-group), much more work needs to be done. Legally permissible private-private information-sharing is also key for FIs to investigate networks and payment flows effectively, as FIs otherwise have a limited view of relationships and activity.
- **The PPP information-sharing is multi-directional:** The value of AML/CTF collaboration with law enforcement is enhanced significantly when FIs can also share information with each other, when public sector participants do the same, and when PPPs collaborate with each other to the extent permissible. National authorities are in the best position to promote legislation or rule making authorising certain types of sharing or to broker engagement between PPPs in different countries, which can increase the effectiveness of the PPPs individually and collectively.<sup>7</sup>

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<sup>5</sup> The sharing of tactical and law enforcement sensitive intelligence can be limited to carefully vetted sub-groups of the PPP, which can have the advantage of an added layer of trust and commitment.

<sup>6</sup> Where sharing of actionable information is not legally permitted, stakeholders are encouraged to engage with the legislature and other competent authorities to educate on the value of tactical information-sharing for crime-reduction purposes and promote a legal framework that would permit such sharing with appropriate safeguards and controls. In the interim, participants should share whatever information can be shared that has the potential of adding value.

<sup>7</sup> Though certain categories of information often cannot be shared legally between PPPs cross-border, valuable strategic engagement (to include exchanges about typologies, trends, and national enforcement priorities) can take place and have the potential to enrich the participating PPPs.

- **The PPP has mechanisms to track the impact of its work and operation:** The PPP should review its operations and membership to identify any improvements that may be needed to ensure the PPP is addressing the most pertinent threats in a timely and agile manner and has appropriate sector and subject matter coverage. The PPP should also maintain performance metrics, including, but not limited to, the number of SARs or STRs filed, arrests made, funds seized.

An effective PPP can help public and private sector participants enhance their effectiveness in countering money laundering, its associated crimes, and terrorist financing risks and reduce unnecessary and wholesale de-risking. When specific risks and actionable information are shared, and communication between the private and public sectors is strong, the private sector can take a more targeted, and informed approach to risk-management thus protecting the financial system and public from harm. This type of collaboration and communication has the potential to assist FIs in mitigating financial crime risk in a more surgical manner — avoiding the perceived need to limit exposure to entire customer segments, sectors or geographies due to lack of sufficient information about the risk. Such broad de-risking harms legitimate businesses and is inconsistent with the concept of financial inclusion especially if it provides little or no value to law enforcement.

National authorities have a critical role in establishing PPPs and promoting their success. In addition to creating a legal framework for information-sharing, and committing to senior level participation, national authorities can incentivise private sector participation. They can do so by driving legislative “safe harbours” that protect FIs from civil actions when they engage in permissible information-sharing with law enforcement and by quantifying and acknowledging the value to law enforcement of an FI’s information-sharing activities in their assessment of the FI’s AML/CTF programme during regulatory examinations.

## **Conclusion**

The Group urges the public sector to prioritise the establishment and strengthening of empowered PPPs and encourages FIs to participate actively in information-sharing frameworks to foster a more effective AML/CTF regime. This focus on improving the outcomes of collective investments in fighting financial crime will boost the efforts of law enforcement and will increase the effectiveness of AML/CTF programmes – ultimately benefitting public sector participants, private sector stakeholders, and society at large.