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Anti-Money Laundering in Italian Banks

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Authors' contributions

This work was carried out in collaboration between all authors. Author GB contributed to Sections 1, 4.1.1 and 4.2. Author PF contributed to Sections. 4.1.2 and 5. Author MLT contributed to Sections. 2, 3 and 4.3. All authors read and approved the final manuscript.

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ABSTRACT

Aims: This paper focuses on some relevant aspects of a banking anti-money laundering (AML) system (training, information and regulatory development) in order to understand their impact on the enhancement of the customer risk assessment process.
Study Design: Research based on questionnaire.
Place and Duration of Study: Italy, between September 2012 and September 2013.
Methodology: We sent questionnaires to the 75 Italian banking groups listed in the Bank of Italy Register at March 2012. Over 60 per cent of the total participated to the survey.
Results: Training, information and regulatory development represent important points in the AML systems of the banks of the sample. They show a strong commitment in the development of the (Know Your Customer process), in order to fight against money laundering; however weaknesses are still present and improvements are needed.

Keywords: Anti-money laundering system; Italian banks; AML officers; Customer risk.

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1. INTRODUCTION

Constantly increased by illegal conducts responsible for dangerous distortions in the economic cycle, money laundering still represents a serious threat for the global financial system. In Italy, dirty money flows reached the alarming amount of about EUR 2.6 billion in 2012; in the same period, properties and financial assets were seized for about EUR 140 million [1]. These figures show the existence of an imbalanced mix informal economy/legal economy and also indicate a constant expansion of the range of AML predicate-offences. Launderers have more opportunities to clean dirty money, relying on the complexity of detecting this crime in areas apparently far from the financial sector (e.g. crime of mafia association). Furthermore, the potential exposure of the Italian banking system to financial crimes, connected to the nature of financial operations and to the central role of banks in national payment system has identified them as main targets of the Italian AML regulation. The Legislative Decree 231/2007, which permitted the implementation of the "Third Money Laundering Directive" (2005/60/EC)[2] into Italian legislation, represents the main national anti-money laundering set of rules. This Decree reflects the will of the Italian legislators to create a strong AML system. The provisions it contains require that recipients apply a risk-based approach to manage the operations potentially exposed to money laundering risk. In particular, banks must try to reduce this exposure, starting with a thorough customer due diligence and applying, where the relationship with the client requests it, the other provisions of the regulation, such as the proper identification of the beneficial owner, the conscious use of suspicious transaction reporting, and the monitoring of correct use of cash, checks and passbook savings.

Despite several corrective measures and changes to regulations over time, the Legislative Decree 231/2007 has consistently maintained adherence to the guidelines contained in the supranational legislation: “on the one hand, the protection of the system integrity and fair practice; on the other, the proportionality of the obligations with respect to the risk of money laundering” [2]. Legislative Decree 141/2010 fits between the more substantial modifications to the Decree 231/2007. This Decree, in Article 27, amends the articles 11, 40 and 56 of Decree 231/2007, covering: i) the elimination of the distinction between financial intermediaries registered in the General (ex Article 106) and the Special List (ex Article 107); ii) the obligation to transmission by intermediaries listed in Article 11 of Decree 141/2010, of aggregate data for the purposes of money laundering prevention to the Financial Intelligence Unit and iii) the administrative organization and internal control procedures.

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Under Article 1 letter e) of the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, “predicate offence means any criminal offence as a result of which proceeds were generated that may become the subject of an offence as defined in Article 9 of this Convention” [3]. For more details on this topic see also [4,5].

On February 5th 2013, the European Commission adopted the proposal of the “Fourth Money Laundering Directive”, which will replace the 2005/60/EC. The proposal aims to "improve the clarity and uniformity of standards in all Member States, to extend its scope to deal with new threats and vulnerabilities, to promote high standards to combat money laundering, to strengthen cooperation between the different financial intelligence units” [6]. This Directive, currently under emanation, wants to reinforce the importance of AML risk-based approach, having a relevant impact on most aspects of the current Italian AML legislation, even those closely related to the client risk profiling [7,8].

Another important step in the evolution of AML Italian regulation is the Legislative Decree 169/2012. Thanks to this Decree, discipline on obligation to abstain from operations, in case of inability to comply fully with the customer due diligence has been integrated, introducing paragraph 1-bis in Article 23 of Decree 231/2007, which states: “in the case where it is not possible to comply with the due diligence requirements with respect to ongoing customer relationships already in place or operations in progress, institutions or persons subject to this decree return to client funds, instruments and other financial assets attributable, liquidating the relative amount by transfer to a bank account specified by the customer”. Unfortunately, the application of the Legislative Decree 169/2012 has encountered problems mainly related to the process of restitution of the amounts due to the customer. So it was necessary a clarifier intervention by the Italian Ministry of Economy and Finance about the application of paragraph 1-bis (Circular no. 57889, 30/07/2013, Department of the Treasury): the preliminary interlocution with client, the definitive inability to adequate verification compliance and relevant communication to the client, the characteristics of the account specified by the customer for the refund of the amount due and information related to the refund procedure.

In addition to the compliance with the specific legislation, it is important that anti-money laundering issue is addressed by more and more different perspectives and those studies and researches will be able to cover a progressively increasing number of topics strengthening, in this way, their support-role for the operational praxis. This paper is focused on the aspects of the AML system concerning the client risk profile. The purpose is to identify the elements that influence the ability of banks to respond properly to the imperative “Know Your Customer”, drawing information directly by AML officers. To achieve this goal, we designed a survey that allowed banks to make an assessment of the items we consider crucial for the correct determination of AML client risk profile: the AML personnel training, the use of information made available by competent authorities for supporting the identification of risk situations and the regulatory changes and their impact on the way banks contrast money laundering. The choice of these three AML system components is based on the fact that we believe they have a direct effect on the client risk profiling assessment. In particular, each of them corresponds to a specific section of the questionnaire sent to banks (section 3). Then, we selected some items of the sections of the questionnaire in order to verify if they influence the behavior of the banks in terms of suspicious transaction reports (STRs), considered as a proxy of the customer risk.

The remainder of the paper is organized as follows. In section 2 we review the literature on the anti-money laundering issues; section 3 focuses on the methodology; in section 4 we present the results of the survey and some evidence of the connection between the number of STRs and some items of the sections of the questionnaire; in section 5 we point out some final comments.

2. EVIDENCE FROM LITERATURE

The distortive effect of money laundering has progressively reached an intensity of systemic relevance too, and it exposes the legal economy to changes in competitive dynamics and mechanisms of resources allocation, capable of undermining the stability of the entire economic system [9,10]. It is not surprising, therefore, that major institutions and international organizations - such as the International Monetary Fund, the European Union, the Bank of International Settlement and the United Nations - have progressively included in their agenda the commitment in money laundering control, in order to achieve a shared way to address the problem, analyzing more closely the actions of recyclers and trying to understand the techniques of the introduction of illicit proceeds in the economic system, all

with the aim of formulating common contrast policies able to commit, with the same intensity, the various national systems [11].

For a long time, even the scientific community is showing a growing interest in the field of financial crimes economics, proposing methodologies and theoretical models for assessing the economic importance of such criminal activities. Considering variety and heterogeneity of contributions on AML topic, we organized the literature - which we were able to detect - trying to highlight the continued commitment of researchers to find new perspectives. The research strands identified are outlined below.

A first one includes studies proposing approaches based on the integration of traditional measures to prevent and combat money laundering with theories, models and techniques usually used in other contexts. Among the latest studies, some of them promote the integration between the Customer Relationship Management (CRM) system and the anti-money laundering system, considering the customer behavior analysis and the customer background investigation (related to CRM systems) an important contribution for increasing the staff capacity to identify potentially risky situations and, therefore, to improve the quality of the notifications of suspicious transactions [12]. Other studies examine the use of incentive-based approaches to assess the effectiveness of anti-money laundering regulations; they point out discouraging results with reference to the presence of information asymmetries among the addressees of the normative [13]. A more advanced version of the Game Theory, used for combating money laundering, allows the identification of the endogenous aspects of the fight against such crime, giving a key role to cooperation between banks and their employees [14]; others propose a model to support AML activities based on the traditional decision-making process, that is a new and flexible multi-agent AML system prototype, with smart agents with their own autonomy, reactivity and proactivity [15].

It is possible to include in another line of research works that highlight the importance of methodologies used to quantify the volume of financial resources recycled, directly proposing solutions useful for that purpose or by offering critical reviews of existing evaluation methodologies developed both by the relevant institutions and by scientific research involved in the fight against money laundering. Thus, in this line of research it is possible to include contributions proposing models, such as the gravity model - widely used in international trade theory - with the purpose to create a scale of money laundering, useful as a basis for successive measurements at the macroeconomic level [16]. There are also studies based on cash in-flow models on current accounts, defining indicators to assess the level of dissemination of illicit traffics and other crimes related to laundering [17,18]. Other works in this strand of research introduce a criticism of basic assumptions in some methods to assess money laundering volumes, such as the Financial Action Task Force (FATF) method, because it is based on the assumption that 10 percent of drug trafficking is intercepted by the police and also because it uses the street price level as a basis for calculating the volume of money laundering, and so they emphasize the importance of empirical methodologies not based on non-clear and often politically supported estimates [19]. Others analyze money laundering as a form of money-management, even suggesting examples of a positive use of illicit funds (e.g. by designating to charitable projects) [20]. Other research concerns the costs/benefits of compliance with the AML legislation, highlighting the need for greater matching between the objectives of the regulation and the extent of money-laundering activities [21].

The studies that analyze money laundering issues with particular reference to the technological progress that inevitably influences the activity of the addressees of money

laundering regulations, especially financial institutions, represent another line of research. It includes the studies that support the important contribution of the technological tools to intercept potential risk situations and tackle them most effectively, especially with reference to the impact on the monitoring of banking transactions [22]; others consider the increase of the exposure to money laundering offences, as a consequence of the use of prepaid cards, electronic fund transfers and payment services via mobile phones [23,24,25]. We mention also the studies aimed at setting up a new framework for the prevention of money laundering through the mapping of Control for Information and Related Technology in banks, giving a key role to the internal information system for the documents production, the customer database management, the identification of offence of fraud, etc. [26].

There are several researches considering the money laundering issues from a purely legal point of view, often analyzing the regulatory framework related to specific national regulations [8,27,28,29,30] or offering an assessment of the program to combat money laundering and terrorist financing, until it can be regarded as a “regime for financial integrity” [31]. On the contrary, works carried out with the direct involvement of operators engaged in combating money laundering (especially banks, as the ones of the main addresses of regulations) are not so frequent. Some of these contributions are based on surveys or other qualitative methodologies which permit to analyze the difficulties and challenges that fight against money laundering asks for; some of them for example focus on proper training, considering that often persons involved in the AML process are not so able to face risky situations because of the lack of specific skills [32,33,34,35]. Others consider also the involvement of operators such as lawyers and notaries [36].

Our paper is just part of the last line of research. The contribution we want to give is to increase this kind of investigations, which actually, as mentioned above, are still not very numerous, perhaps because of the difficulties arising from the distrust respect to direct involvement methods, especially with regard to a sensitive and complex issue as anti-money laundering.

3. METHODOLOGY

Our survey is divided into three sections representing the aspects (training, information and regulatory development) that we consider crucial to qualify an anti-money laundering system as effective. Despite we know there are other relevant aspects, such as the monitoring system, the responsibilities of AML and compliance function, etc., we decided to focus on training, information and regulatory development, because they are very important for the enhancement of the customer risk assessment process. In other words we think these aspects can be easily joined in order to point out how banks can improve the analysis of the specific customer risk. The survey is based on a questionnaire sent to the AML officers (if present, as an alternative to the compliance function, traditionally engaged in AML matters) of the Italian banking groups, during the last few months of 2012 and the first months of 2013. We referred to the 75 Italian banking groups listed in the Bank of Italy Register at March 2012. Questionnaires were sent to all the banks by e-mail, but we received 46 replies from banks representing mostly small and medium-sized institutions; anyway, the number of participants exceeds 60 percent of the total. Data have been drafted in an anonymous manner to ensure the confidentiality of information provided.

The questionnaire consists of three sections, each one dedicated to specific items of analysis. The first Section is about “Training and operational impacts”. The items here included permit to achieve an overview of the technical and organizational aspects related to

anti-money laundering training activities managed by the banks of the sample. With reference to this area, questions concern the scheduling of training initiatives, the origin of trainers (in-house or external), the teaching methods used in the courses, the provision of methods for the assessment of the level of learning of the personnel and of techniques for monitoring the impacts produced by the training activities on practices, in terms of changes in the operators behavior, during ordinary tasks and in potentially risky situations.

The second Section, named "Use of information", permits to know the opinion about the informative supports at their disposal for the fulfillment of AML requirements. In this case, the questionnaire requires to assess the quality of information used for the correct customer risk determination and of the supporting role of competent authorities, often representing the sources of such information.

The Section "Regulatory development: focus on the Legislative Decree 169/2012" is the last one and it aims to highlight how the banks of the sample address one of the most important corrective measures. The purpose is to identify any potential obstacle to the requirements fulfillment. In this final part, the objective is to assess the awareness of operators with respect to the continuous evolution of the AML regulations. We decided to focus on the amendments introduced by the Decree 169/2012 in order to understand, on the basis of the direct experience of banks operators, the eventual presence of doubts and difficulties of interpretation of the rules, considering they have been already subject of clarification by the competent authorities.

In addition to the presentation and comments of the survey results, we intend to assess the impact of some of the above-mentioned elements referred to the AML customer risk profiling. In more details, we conducted a contingency analysis, considering, as dependent variable, the number of STRs made by the banks in 2011-2012 and as independent variables, some items contained in the three sections of the questionnaire, items that we consider relevant for their impact on the assessment of the customer risk and hence on the number of STRs: 1) Section "Training and operational Impacts": origin of trainers, frequency of training in class, frequency of e-learning training, mechanisms of testing levels of learning, mechanisms of assessment of trainers, mechanisms of assessment of training impacts; 2) Section "Use of information": support of Authorities, effects of using data sources made available by Authorities; 3) Section "Regulatory development: focus on the Legislative Decree 169/2012": effects of Legislative Decree 169/2012, effects of the lack of provision of self-laundering offence.

4. ANTI-MONEY LAUNDERING SYSTEM IN THE ITALIAN BANKING SECTOR: RESULTS OF A SURVEY

4.1 Section "Training and Operational Impacts"

4.1.1 Training

According to the Italian regulations (Legislative Decree 231/2007 and subsequent modifications), all the banking groups of the sample state to arrange AML training of personnel. There are just a few cases where banks specify also the contents of training, such as:

- The relevant regulations

- The processes connected to different event types (fraud; usury; tax offences; credit cards; etc.)
- The instruments for fighting Money Laundering (Diagnostic Relevant Anomalies; Cash Controls; Warning Indicators).

Concerning the teaching method used for training, almost all the groups (91%) use "taught lessons with the use of slides". The percentage is almost reduced by half, though remaining relevant (48%), for the option "e-learning through internal network" and it is very low (13%) for the solution "e-learning through external services". In general, the trend is to prefer the telematic approach – considered not so effective in any event by some banks – for transferring the basic concepts (such as the regulations in force) and to prefer more interactive approaches (traditionally achieved by lessons) for the deepening of subjects with a more operational and procedural nature.

The importance of training for the dissemination of a real anti-money laundering culture within the organization is further illustrated by the comments provided by one of the institutions. In particular, the Anti-Money Laundering Function of a banking group has undertaken some initiatives in order to provide the opportune information for the anti-money laundering compliance process. The subsidiaries have been in fact involved in different areas in order to strengthen the controls for combating money laundering (Box 1).

Box 1. Requests to subsidiaries by the Anti-Money Laundering Function (AMLF)

- Tax Identification Number Compulsory for relationships with non-residents: the AMLF asked the subsidiaries to acquire the tax number regarding the relationships for which it had not been yet acquired.
- Capital companies: the AMLF sent to subsidiaries a list of capital companies for which there was the need to apply enhanced customer due diligence measures. It concerned companies that, even if did not present overdrafts, they had registered relevant movements on the current account in the last 12 months. After the controls, the subsidiaries had to decide to forward a notification of suspicious transaction or to close the procedure.
- Controls on entities established in risk areas for the presence of organized crime: the AMLF sent to subsidiaries a list of capital companies established in areas with high presence of organized crime, also indicating the connected names (legal representative, beneficial owner) resident in such areas. Subsidiaries must carry out all necessary checks in order to exclude that the bank maintains relations with entities directly or indirectly associated with criminal phenomena. The initiative derives from a measure of the Ministry of the Interior that lists, for each province, the offences signaling the presence of organized crime. The Ministerial Order contains a synthetic indicator, constructed on the basis of the presence of typical offences (such as association with a mafia organization) and other offences signaling a criminal organization (mafia-type killings and extortions). The presence of such offences highlights the control of the area by criminality: banks must relate the customer due diligence measure to the associated risk (risk-based approach – Article 20, Legislative Decree 231/2007); one of the criteria for the risk assessment is "the geographical area of residence or office of the customer or counterpart".
- Verification of Beneficial Owners for ONLUS: the AMLF sent to subsidiaries a list of ONLUS for which there is the need to verify the correct signaling of the beneficial owner. The declaration of the existence of a beneficial owner means that the ONLUS has been created and managed on the interests of one or more persons, in contradiction with the

statute. If there is a suspicion that the ONLUS is simply an entity intended to satisfy specific interests, as confirmed by the transcription of the beneficial owner, the relationship must be stopped and the notification of suspicious transaction must be evaluated. So, subsidiaries must contact the legal representative of the ONLUS; ask for the statute, if not acquired at the time of opening of the relationship; verify the legal representative's powers (instrument of appointment and check of assigned powers); acquire the declaration of non-existence of the beneficial owner or terminate the relations; the eventual registration of the beneficial owner must be communicated to AMLF by e-mail.

- "Cash-for-gold" sector: the AMLF provided to subsidiaries details about the procedures to follow in the case of customers working in the "Cash-for-gold" sector. The "Cash-for-gold" boom needs a careful analysis of risks and opportunities associated with the relations with such customers, in order to avoid negative impacts on bank's reputation. Everyone knows that this sector is very connected with criminal organizations: it is used as vehicle for money laundering and exorbitant lending. To that end, at the time of opening of relations detailed checks on the applicant party and the corporate structure must be carried out. It is necessary to request the ordinary documentation and the authorization issued by the police headquarters, with the indication of the names of the persons who physically perform the activity: the authorized persons and the bank's counterpart must be the same. During the initial phase of the relation the risk factors to monitor are the following: place of birth and place of residence; province of the eventual company's office. Also the customer's activity must be carefully monitored verifying the transfers' payers (typically the traders in investment in gold, obliged to a registration in a specific register managed by the Bank of Italy) and all the other credit transfers (cash and cheque). The subsidiaries must normally check and, at a quarterly frequency at least, verify if changes in the corporate structure exist; if yes, it is necessary to ask for the police headquarters' authorization and carry out new checks, on the basis of the above-mentioned procedure.

The professional resources devoted to the training of personnel are exclusively internal for 39% of the sample, and both in-house and external for 44%. These are the most frequent answers referred to the origin of trainers. The decision to use in-house expertise (Anti-Money Laundering Officer *in primis* and, more seldom, Compliance and members of the Board of Directors and the Audit Board) or external expertise (such as financial police and judiciary officers) mainly depends on the contents of training. Some banks for example state that in the case of general matters (such as the regulatory framework) trainers are external; instead for more specific issues (operational and procedural subjects) trainers are in-house. Finally other banks explain the decision to use external expertise that is the need to ensure the information transfer without the influence of the single bank's characteristics; this is particularly true for more sensitive issues, such as the notification of suspicious transactions.

In the case of training in class, the frequency is mainly annual and the activities are nearly always planned. Only a few banking groups state longer intervals (once every two or three years at least) and only 9% of the sample does not plan the training activities; often a specific training plan, formulated in cooperation with the Human Resources Unit, is mentioned. On the contrary, the e-learning training tends to have a not planned frequency, as it is generally proposed when relevant regulations changes exist and/or relevant adjustments of the practices are necessary. For the most part of the sample (74%) training programmes are supported by supplementary teaching materials, such as files prepared by trainers, placed at the service of participants and also of subsidiaries. Traditional lessons are often integrated with analysis of case studies, comments in the specialized press and

distribution of reviews of regulations. The use of analogue material is little (22%) and the use of specialist publications is even more little (13%); only some banks refer to specific references, available in printed form and/or electronic form.

Only 13% of the sample does not verify the levels of learning of the personnel; one institution has planned to start such verification in the nearest future. There is not a big difference between the banks that verify the levels of learning only if the verification is provided for in the training programme (40%) and the banks that always verify them (47%). The most diffuse technique of verification is certainly the questionnaire or test. Sometimes, final tests for e-learning training programmes are provided; on this subject one institution states that the final test failure prevents from validating the training activity. The same bank states that for traditional lessons also admission tests are provided; this institution underlines the general importance of verification testing on personnel expertise (knowledge and experience) as tool for the assessment of individual training needs.

The percentages of opposite answers about the existence of assessment techniques of trainers at the end of courses are not so different: affirmative answers ("yes, always") for 48% and negative answers ("no, never") for 35%. In the case of lessons, the assessment is expressed through questionnaires, intended both to understand many aspects of the training activity, such as the teaching and the supporting materials adequacy, and to provide useful suggestions for next training initiatives.

4.1.2 Operational impacts

As regards the issues considered most crucial in the expertise transfer process, from the training to practices, the options "customer due diligence measures", "identification of the beneficial owner" and "notification of suspicious transactions" have been equally selected (multiple-choice questions): all of them in fact stand at around 50%. In other words, the sample attaches great relevance to these three areas, in terms of possible gap between "theory and practice". The issue referred to "monitoring of correct use of cash, cheque and savings books" has been completely excluded: no banking group selected it. Hereinafter some interesting comments made by banks:

- Notwithstanding the importance of the issues related to the customer due diligence and the beneficial owner, sometimes notifications of suspicious transactions are not so compliant with the regulations' purpose.
- The identification of the beneficial owner represents one of the most complex and controversial matters introduced by the Legislative Decree 231/2007.
- Some operators tend to notify transactions about which indeed they do not have deepened the analysis.
- Among the customer due diligence requirements, "the constant check during the relationship" is the most difficult in terms of implementation by both subsidiaries and management. It represents a pillar of the cultural process the institution has developed in order to control the money laundering risk and at the same time it is an area to which the Anti-Money Laundering Function pays special attention, also through specific training programmes.
- The notification of suspicious transactions, characterized by a significant degree of discretion, is not adequately supported in terms of operational and IT procedures.

The share of institutions that has not implemented verification tests of the impacts of training in terms of changes in practices is small (13%). This percentage would probably decrease,

as some banks state they have provided for such implementation by the end of the year. Some of the remaining banks point out they do not carry out specific checks, at getting feedback of the training activities but control on practices by the Anti-Money Laundering Function and/or the Compliance Function respecting the specific competences. Other institutions state that is not a matter of specific formalized mechanisms, but they are measures at monitoring the activity of the units concerned; generally it is possible to observe improvements in performance, thanks to the received instructions. A bank finally underlines that the feedback from the Anti-Money Laundering Function is useful not only for controlling, but also for identifying possible critical areas to overcome through further training.

Changes in practices are mainly recognized indirectly, by observing the activities (70%). The direct recognition, through talks, is less frequent (17%); sometimes operators are contacted only if weaknesses in a certain activity emerge.

The last questions are focused on the intention to understand the level of effectiveness (obviously, in the opinion of the questionnaire compiler) of:

- the general connection between training and changes made to the different activities;
- more in detail, the relation between changes to activities and the main areas of the anti-money laundering compliance process.

On the first point, the “satisfactory” opinion prevails (61%), indicating a positive impact of training in terms of performance improvement and greater personnel awareness of different issues: on this subject a bank states that “after the training courses the requests of clarifications to the Anti-Money Laundering Function are more relating and they indicate a greater awareness of such matters”.

The good level of effectiveness assigned to the training project in general is confirmed also for the single activities (the results are shown in the Table 1). It should be critically stressed that the quite positive opinions expressed may be connected to the fact that most of the courses are in-house and that for those cases perhaps the trainers are the same people who answered to such questions.

It is the opinion “satisfactory” that always shows the greatest concentration of the answers from banks. These results, certainly positive, at the same time show that the anti-money laundering process must make even more progress: the opinion “entirely satisfactory” has never been expressed, except for one area. In other words, operators often recognize how important are the objectives achieved so far, but they underline the necessity to improve further the know-how transfer to subsidiaries; this is important in order to create and/or strengthen a real anti-money laundering culture within the entire organization. This is true in general for all the areas we investigated. At the same time for some of them banks point out a stage of development in progress, still characterized by inefficiencies more or less severe; for others instead they recognize a good progress. The Table 2 shows the principal observations for each activity.

Table 1. Opinions on the effectiveness of the link between changes to practices and specific areas in the anti-money laundering process (absolute values)*

Areas concerning anti-money laundering	Answers from the banking groups				
	Entirely satisfactory	Very satisfactory	Satisfactory	Barely satisfactory	No changes
Proper distinction between the identification procedure and the customer classification procedure	0	12	24	6	2
Proper procedure of request and archiving of documents acceptable for fulfilling the customer due diligence requirements	0	4	30	8	2
Proper distinction between continuing relation and occasional transaction	2	10	24	2	6
Proper search in data sources made available by Authorities for the determination of the customer risk	0	10	20	8	6
Proper use of the notification of suspicious transactions	0	8	28	2	6
Monitoring on the proper use of cash and cheque	0	10	30	0	4
Proper identification of the beneficial owner	0	10	28	4	2

**Two groups did not answer*

Table 2. Some comments on the effectiveness of the relation between changes to activities and specific areas of the anti-money laundering process*

Areas concerning anti-money laundering	Comments from the banking groups
Proper distinction between the identification procedure and the customer classification procedure	No comment.
Proper procedure of request and archiving of documents acceptable for fulfilling the customer due diligence requirements	Responsibility for managing documentation (with particular reference to questionnaires for customer due diligence) has increased. However, questionnaires are also important for general management purposes, not only related to money laundering.
Proper distinction between continuing relation and occasional transaction	Personnel is helped by the presence of automatic IT systems, useful for an appropriate control. The bank has strictly defined such distinction, removing the possibility of operator discretions.
Proper search in data sources made available by Authorities for the determination of the customer risk	Personnel is helped by the presence of automatic IT systems, useful for an appropriate control. The verification of the presence of the name in the World Check (it is a comprehensive and widely adopted database of PEPs and heightened risk individuals and entities) increases the awareness of customers, not only for money laundering purposes. The issue is still difficult to understand.
Proper use of the notification of suspicious transactions	Sometimes notifications concern not so important events. The quality of notifications is a little improved. The issue is certainly complex, but quite established. There is a progress in the quality of notifications contents; one key factor is undoubtedly the new internet based system by which it is possible to transfer information more and more complex (as the one about the relations between the parties involved in the notified transaction).
Monitoring on the proper use of cash and cheque	It is a requirement that has registered a measurable decrease of cases over time. The personnel awareness is significantly increased.
Proper identification of the beneficial owner	The ability of assessing complex capital structures is significantly increased. It is a requirement quite heavy, in particular for very complex corporate structures with abroad connections; in these situations it might be more difficult to collect promptly information useful for verification. The issue is very debated: there are both difficulties of interpretation of some regulations (entirely new for the Italian framework) and problems of understanding and application to practice.

**Two groups did not answer*

4.2 Section "Use of Information"

This section is about the information sources banks may use in order to comply with the anti-money laundering requirements. Our main purpose is to understand which is the benefit the banks of the sample assign to the information sources for the assessment of the customer risk, as indispensable condition for the proper application of regulations.

With reference to the customer risk assessment, the information derivable from the direct contact with the customer is considered important by the majority of banks (87%, some of them – 30% – declare it is indispensable). They also state the presence of a circle informative system involving both the front-office and the back-office on the basis of a collaborative and synergistic approach. The customer is the main source for collecting useful data for a proper due diligence. The direct dialogue allows to approach, to know and to monitor the customer, also considering the warning indicators listed by the Bank of Italy (Measure dated 27/8/2010): e.g. information could be incoherent with the activity actually performed or other than data collected from independent and reliable sources.

The opinion about the World Check is positive too: banks using such database (91%) consider the related information mostly important for the customer risk assessment: the sample considers such information indispensable (9%), very useful (26%) and useful (52%). However, it is important to point out that the World Check must be considered no more than a tool for helping the customer risk assessment. In particular, banks state that for the names included in the database the birth date is not always mentioned; this is a problem for the comparison of biographical data. Expertise and caution in the use of such list must exist, as it is created mainly through the web and no checks on the completeness and correctness of data are carried out.

A lot of institutions consider the warning indicators listed by the Bank of Italy important: they are indicated as indispensable (13%), very useful (30%) and useful (57%). These indicators, alerting the operator to the necessity of a targeted analysis, are useful for the assessment of anomalies resulting automatically from the data-processing techniques; such indicators are also an important reference in telling the subsidiaries and the middle-office what to do. Banks agree that such indicators help the notification of suspicious transactions: some banks point out their great importance for the identification of the factors, objective and subjective, that concur to the selection of the transactions to notify as suspicious. However, they are not an exhaustive tool and they must be used considering all the bank's information, but their leading role for a correct assessment process is generally pointed out.

The hypothesis of irregular behaviors defined by the Financial Intelligence Unit is another tool for helping the notification of suspicious transactions. They complement the above-mentioned indicators and they permit to link specific economic sectors and single phenomena with logical and time sequence of events and behaviours related to criminal activities. Also in this case the opinions are positive, very similar to the previous ones: the information resulting from such hypothesis is considered indispensable (13%), very useful (35%) and useful (52%).

The opinions expressed about the support of the Authorities to the proper customer risk assessment instead are different: 65% of the sample states it is useful or necessary. The remaining banks think it is little or no useful, because regulations are not so focused on the aspects to analyze, too much principle-based and without algorithms able for standardising the assessments.

For the above-mentioned reasons, many banks (57%) think that the use of the data sources made available by Authorities could have effects on the notification of suspicious transactions. They are considered important also for reporting purposes: in other words, such goals must not be achieved uncritically, by automatic diagnostic methods, but by professional assessments and judgments. Besides, they could increase the awareness of the use of measures for combating money laundering: too often such use derives from the fear of penalties rather than the wish to identify possible risks for the bank.

4.3 Section "Regulatory Development: Focus on the Legislative Decree 169/2012"

In this section we focus on the Legislative Decree 169/2012 ("Further Amendments and Supplements to the Legislative Decree 13 August 2010, n. 141"), as one of the most important corrective measures of the Legislative Decree 231/2007. Our purpose is to identify possible obstacles to the compliance with the anti-money laundering requirements.

First, we ask for a self-evaluation on the level of knowledge of the Legislative Decree 169/2012. Answers are quite balanced: the level of knowledge is scarce (13%), sufficient (22%), good (13%), reasonable (26%), high (22%), very high (4%). Banks add some interesting comments about the monitoring and/or reporting techniques used for promoting the knowledge of new regulations. Some of the mentioned techniques are the following: "Regulatory Observatory" cooperating with the Anti-Money Laundering Function; reporting to subsidiaries; regulatory alert and successive circular and then updating of the Anti-Money Laundering Internal Consolidated Law.

The amendments made by the Legislative Decree 169/2012 are differently assessed: very useful (13%), useful (35%), little useful (39%), unhelpful (4%), preventing the compliance with the anti-money laundering requirements (9%). The different answers may be explained by certain diffidence with regard to a corrective measure that from the start raised interpretation and implementation issues. The result is the same also for the identification of the changes introduced by the 169/2012 considered most critical by the banks. There are some positive observations; one institution for example states that the changes are particularly useful and interesting for strengthening the customer due diligence procedure, because they help the correct knowledge of the customer through various activities with different depth and extension, dependent on the specific money laundering and terrorist financing risk. On the contrary, other banks point out implementation issues and uncertainties due to a lack of a proper assessment of the impacts produced by such changes.

The settlement of the amount due to a customer by means of a transfer to a bank account specified by the customer is the most critical change (61%); afterwards come the repayment of the money, the financial instruments and other financial assets to the customer (43%) and the preventive message accompanying the transfer of funds to the bank account specified by the customer (26%). The most frequent option presents many implementation issues. For example, if the customer has not only cash deposits, but also financial instruments for refunding them the bank should settle such instruments before executing the credit transfer (according to the article 23 of the Legislative Decree 231/2007, as amended by the Legislative Decree 169/2012). Moreover, the bank could not know the existence of a bank account held by the customer in other institution, or the customer could not have relations with other banks, so that the impossibility of the due diligence could preclude other relationships to him.

The question (multiple-choice) permits to specify other crucial aspects. In this regard, an institution states that the obligation to refrain seems to be opposed with the possibility to take advantage of the customer due diligence procedure conducted by other addressees of the 231/2007. In order to prevent any repetition of customer due diligence procedures (231/2007, Article 18, subparagraph 1 (a), (b), (c), (d)), institutions could in fact refer to the customer due diligence performed by others. Such requirements must be considered fulfilled when an appropriate statement is provided by one of the addressees of the 231/2007 with which customers have continuing relationships or upon which customers conferred tasks for professional services and for which they have been already personally identified.

Besides, more than 40% of the sample excludes that the above-mentioned critical aspects may produce some effects on the notification of suspicious transactions, because it should be driven by the individual sensibility and capacity to identify potentially risky situations. 35% of the sample has a different view: the bank receiving the transfer could prudently notify without the support of a proper analysis.

Last questions concern the lack of provision of self-laundering offence in the Italian Criminal Code. The 231/2007 covers, only for the fulfillment of reporting requirements, a broader notion of money laundering than the one relevant to criminal law, that does not provide the penalization of self-laundering offence. For many banks the criminal notion of money laundering and the administrative one should be the same, as hoped for a long time both at national level and international level (see The International Monetary Fund Recommendation dated 2005). 78% of the sample considers the lack of provision of self-laundering offence as highly or averagely critical. The remaining banks state it is little important or totally irrelevant, because in their opinion what the criminal law states would not affect the identification of irregular behaviors.

Despite the great consensus on the opinion that the criminal notion should be in line with the administrative one, 52% of the sample does not consider the lack of provision of self-laundering offence as a possible obstacle to the correct use of the notification measure: the notification obligation arises when banks “know, suspect or have reasonable grounds for suspecting” (art. 41, Legislative Decree 231/2007), whether the suspected person of committing money laundering acts addresses, in prosecution terms, both the money laundering acts and the predicate offence.

One last point: the average number of notifications sent to the competent Authorities from the beginning of 2011 to the end of 2012 is evenly distributed: 48% up to 50 notifications, 52% over 50 with a concentration (39%) for notifications over 100. Banks state there is a greater sensitivity about such matter and there is a wide diffusion of a culture of legality; these aspects must be accompanied by a proper customer selection at the starting time of relationships. The assessment of the new customer must avoid relations with persons with high risks connected to economic sector, corporate structure, and geographical location. So, it is desirable a greater penetration of anti-money laundering measures at the starting time of relations with customers. In other words, there is a need for a greater integration between commercial policies and risk management. At the same time, the great number of notifications should not derive from the banking operator’s fear of penalties for mistakes and/or omissions. On the contrary, a greater sensitivity on the money laundering issues should represent the means for a more effective, in terms of quality and timeliness, notification system: fear of penalties often involves notifications for precautionary goals rather than cooperative goals, with the use of assessment criteria not so selective that clog up the system [37].

4.4 Some Evidence from Questionnaires

In order to test the connections mentioned in the methodology section (section 3), we used the bivariate analysis, conducted through a contingency table, whose column variables (Y) are given by ranges of the number of STRs and row variables (X) are derived from AML system components that we believe may affect the number of STRs. After calculating the joint frequency for each couple of values (x_i, y_j) and the marginal frequencies for each X and each Y, we calculated conditional relative frequencies of Y|X, leading to the conditional distribution of Y given $X = x_i$ ($Y \mid X = x_i$, as Table 3). In order to comment some of the data in the contingency table, we considered the most significant lines. First of all, banks with more external AML trainers show an intermediate propensity for reporting suspicious transactions (from 10 to 50 STRs), highlighting how the intervention of professional experts not directly involved in bank's activity could support the operators' ability to rationally and consciously identify risk situations, thereby avoiding unwarranted abuse of reporting. The number of STRs is significant for the infra-annual frequency of training, both in class and e-learning: the higher frequency of deepening and upgrading actions offers more opportunities for discussion and clarification of any doubt about operations related to AML, thus growing the possibility of identifying an increasing number of risk situations for which reporting is appropriate. Also for the post-training assessment mechanisms, both for personnel and for trainers, the number of STRs is high, even if the assessment of training effects in terms of changes in operating practice is not so frequent in the banks with high STRs. In one case, the high number of reports could be linked to the confidence in the knowledge operators gain through a very high quality training programme (contents and trainers). In the other, reports could instead represent a form of preventive self-help, given the absence of mechanisms able to assess the compliance of the activity with the AML training requirements. The intermediate propensity for reporting is linked to a little regard for the support provided by Authorities and for the use of the data sources made available by Authorities: it could mean operators' fear for mistakes given the low confidence in the authorities that on the contrary should steer and protect them. Most of the banks that do not consider the changes introduced by the Legislative Decree 169/2012 very relevant for reporting show an average number of STRs. Such value could be influenced by an incomplete awareness of the innovative scope of the Legislative Decree. As regards the lack of provision of self-laundering offence, most banks that consider it as an obstacle to the proper identification of risk situations show a good propensity for reporting.

Nevertheless the above-mentioned results do not let us set up a relationship between the variables characterized by unambiguous direction and well-identified intensity and form. In other words, the trend of data into the cells of the contingency table does not suggest a very identified relationship. Besides, also the Pearson's Chi2 values (shown in the Table 3 and based on an alpha-level of 0.05) show a weak connection when the assumption of connection between X and Y is accepted.

Table 3. Contingency table and Pearson's Chi2

	Number of suspicious transaction reports				
Origin of trainers	< 10	10 - 50	50 - 100	> 100	TOTAL
In-house	0.167	0.500	-	0.333	1
External	0.333	0.667	-	-	1
In-house and External	-	0.308	0.154	0.538	1
Pearson's Chi2	0.153				
Frequency of training in class	< 10	10 - 50	50 - 100	> 100	TOTAL
Annual	0.077	0.538	0.077	0.308	1
Infra-annual	-	0.200	0.200	0.600	1
Non-scheduled	0.500	0.500	-	-	1
Pearson's Chi2	0.142				
Frequency of e-learning training	< 10	10 - 50	50 - 100	> 100	TOTAL
Annual	-	0.333	-	0.667	1
Infra-annual	-	-	0.333	0.667	1
Non-scheduled	0.143	0.571	0.072	0.214	1
Pearson's Chi2	0.145				
Mechanisms of testing levels of learning	< 10	10 - 50	50 - 100	> 100	TOTAL
Yes, always	0.200	0.100	0.100	0.600	1
Only if provided for in the training programme	-	0.778	-	0.222	1
Never	-	0.333	0.333	0.334	1
Pearson's Chi2	0.245				
Mechanisms of assessment of trainers	< 10	10 - 50	50 - 100	> 100	TOTAL
Yes, always	0.100	0.200	-	0.700	1
Only if provided for in the training programme	-	0.600	0.200	0.200	1
Never	0.143	0.571	0.143	0.143	1
Pearson's Chi2	0.164				
Mechanisms of assessment of training impacts	< 10	10 - 50	50 - 100	> 100	TOTAL
Yes	0.111	0.444	0.056	0.389	1
No	-	0.250	0.250	0.500	1
Pearson's Chi2	0.044				
Support of Authorities and number of STRs	<10	10 - 50	50 - 100	> 100	TOTAL
Essential/very useful/useful	0.143	0.286	0.071	0.500	1
Little useful/no useful	-	0.600	-	0.400	1
Pearson's Chi2	0.043				
Effects of using data sources made available by Authorities	< 10	10 - 50	50 - 100	> 100	TOTAL
Yes	0.091	0.273	0.091	0.545	1
No	-	0.667	-	0.333	1
I do not know	0.125	0.500	0.125	0.250	1
Pearson's Chi2	0.059				

Continued Table 3…….

Effects of Legislative Decree 169/2012	< 10	10 - 50	50 - 100	> 100	TOTAL
Yes	-	0.167	-	0.833	1
No	0.111	0.667	-	0.222	1
I do not know	0.167	0.167	0.333	0.333	1
Pearson's Chi2	0.252				
Effects of the lack of provision of self-laundering offence	< 10	10 - 50	50 - 100	> 100	TOTAL
Yes	-	0.600	0.200	0.200	1
No	0.182	0.273	-	0.545	1
I do not know	-	-	-	1	1
Pearson's Chi2	0.172				

5. CONCLUDING REMARKS

In this paper we identified some key components of the banking anti-money laundering system (training, information and regulatory development), which are particularly useful and able, in our opinion, to enhance the “Know Your Customer process”. We collected information directly from a sample of Italian banks, thanks to the use of a questionnaire.

The findings on the one hand demonstrate the continued commitment of the banking system in the fight against money laundering, on the other they emphasize both the need for greater support on the part of the competent authorities, which must strengthen the tools and guidelines for effective protection, and the existence in banks of impediments to a better functioning of the anti-money laundering system. In particular, considerable energy is expended by banks in the training: it is implemented with trainers that differ depending on the topics discussed and the verification of the degree of learning and evaluation of trainers is a widespread practice, as is the test of the effects of training on practice.

However, banks complain about deficiencies in the information sources available to determine the risk profile of the customer both as the completeness and the correctness of the data, whereas for these reasons banks require the human control and the technical-professional evaluation by bank operators. Another critical issue highlighted by the survey covers a number of inconsistencies and discrepancies in the money laundering legislation and the related problems of interpretation and application that banks must face. Hence the desire for a coherent development of the regulatory framework, which is accompanied by another point of attention: the one concerning the need to promote the further growth of anti-money laundering culture within the banking organizations. It should originate collaborative conduct, not precautionary, as well as improve the ability to identify and combat deviant behavior, with the aim of improving the quality and timeliness of reporting. In this respect, the number of STRs is not so relevant, because too much influenced by the banking operators fear of penalties for mistakes and/or omissions. On the contrary, it should be the result of a greater operators sensitivity and such sensitivity could be enhanced by taking action in various areas, such as, in our opinion, training, information and regulatory development. Even if the banks of the sample state to have set a process of strengthening of all the three fields analyzed, we pointed out a connection still weak between the number of STRs and some items of the sections of the questionnaire.

In view of the problems that emerged, the commitment of the authorities to promote the proper functioning of the anti-money laundering safeguards must be maximum and every

form of fruitful collaboration, every opportunity for dialogue and constructive debate, assumes a fundamental value. On the other hand, the very nature of money laundering, changing and constantly evolving, requires a systematic update of the principals and of skills/expertise and this, in turn, requires the support of the authorities, the promotion of self-evaluation and the comparison with other banking organizations.

This paper identifies the necessary interventions and corrective measures to strengthen the safeguards against money laundering "giving voice" to those who are daily engaged in countering money laundering offence. It is desirable a deepening, also by means of more sophisticated statistical methods, of our research by extending the sample of banks not only in number but also in nationality, in order to carry out comparisons between banks which are subject to different anti-money laundering regulations and understand whether and to what extent the regulations impact on the behavior of banks. A further purpose is to extend the coverage to additional and relevant elements, such as, in particular, the monitoring system and the responsibilities of the various organizational functions mostly involved in the AML activities (Compliance, AML officer, etc.). Other important elements to be considered are those which affect the collaboration of banks in the notification of suspicious transactions: among these, Customer Relationship Management and technological innovation. The extension of the banks involved and the profiles of observation of the anti-money laundering system would allow to gather further elements referable to regulatory differences and factors of business management, relevant to the functionality of the systems implemented within the banking industry.

COMPETING INTERESTS

Authors have declared that no competing interests exist.

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