For Iran's Top EU Trade Partner, AML Questions Likely to Outlast Sanctions

August 20, 2015 By Irene Madongo

As Germany readies for an expected uptick in trade with Iran, German banks are quietly asking how to handle a future influx of money from a country with an untested anti-money laundering regime.

With the international sanctions accord finalized last month, German firms are poised to see the lion's share of EU business with Iran should it comply with its nuclear obligations. Iran's most important trading partner in the European Union, Germany exported €2.4 billion in goods to the Islamic republic in 2014 under existing EU sanctions—a 30 percent jump from the previous year.

Like other nations, Germany has not moved slowly to reengage with Iran. Shortly following the deal's finalization, German Minister for Economic Affairs Sigmar Gabriel and a delegation representing multiple companies travelled to Tehran to discuss future trade with Iranian Central Bank Governor Valiollah Seif.

Should nations formally lift sanctions next year, banks "will be ready, in line with political developments, to finance the Iranian economy," said Michael Kemmer, general manager of the Association of German Banks.

But freed from many Iran-related sanctions duties, German financial institutions would still have to contend with national anti-money laundering (AML) laws and rules and future requirements under an EU directive finalized earlier this year.

Those requirements could run into the sometimes opaque ownership structures of Iranian corporations, particularly when incorporation records cite offshore entities in lieu of individuals, according to Hamburg-based Michael Tockuss, a board member of the German Iranian Chamber of Commerce.

"We know now that banks will not reopen accounts for some Iranian customers just out of money laundering reasons. The ownership structure is too difficult or not clear enough. We have companies now in Germany who refuse to receive money from third parties," said Tockuss, whose organization has discussed the issues with German financial institutions.

The "most problematic" compliance task for German banks is identifying and verifying beneficial owners of corporate clients, said Hans-Martin Lang, vice head of the AML division at the Federal Financial Supervisory Authority, or BaFin, in an April interview with *ACAMS moneylaundering.com*.

To circumvent bank compliance controls, Iranian businesses have previously turned to trustees and other third parties in Turkey and Persian Gulf states to act on their behalf, said Constantin Lauterwein, an associate at the Berlin offices of law firm White & Case.

Within Germany, BaFin officials have exhorted banks to improve their know-your-customer controls, he said.

"Once you have onboarded a client, it's hard to mitigate the risk that stems from not having a good onboarding and KYC process," said Lauterwein. "Even when sanctions are removed, concerns about Iran remain with respect to AML and one of the main focuses will be on the onboarding process."

German financial institutions have occasionally been subject to U.S. penalties linked to Iran. Last year, the U.S. Treasury Department's sanctions arm fined Clearstream Banking, the financial clearing subsidiary of Deutsche Börse AG, $152 million for holding funds in New York-based accounts on behalf of Iran's central bank.

The fine against the German institution, which held the funds even after warnings from U.S. officials, is the largest standalone settlement ever reached by the department's Office of Foreign Assets Control.

BaFin fines for AML compliance violations, which are capped at €100,000, remain relatively low by comparison, although officials are expected to raise the penalty threshold under the EU directive.

Iran's AML regime has, even recently, been the subject of a warning by the intergovernmental Financial Action Task Force (FATF), of which Germany is a member-state.

In June, the group said banks should closely scrutinize transactions with Iranian companies, and jurisdictions tread cautiously when considering requests to open branches for banks based in Iran. In the statement, FATF noted Iran's failure to address terrorism financing and AML vulnerabilities.

Approximately half a dozen small banks have legally taken on Iranian clients already, processing millions of euro-based transactions for the firms, according to Tockuss, who declined to name the institutions.

Spokespersons for the German branches of Bank Saderat, Bank Melli and Bank Sepah either could not be reached or declined to comment. A spokesman for Deutsche Bank said the institution would adhere to sanctions but did not comment on AML compliance.