



Customer Tax Integrity - Practice among Europe

(2023 update)

Background

Anti-money laundering (AML) and counter financing of terrorism (CFT) legislation and regulations were developed and implemented in order to target financial economic crime, such as corruption, terrorism financing and tax evasion. Over the years, there has been a growing awareness on tax integrity and the scope of these regulations is shifting from covering not only tax evasion, but also (aggressive) tax avoidance. However, since there are no common clear and objective criteria for defining the forms of tax avoidance that are prohibited, managing these integrity risks is a challenge for financial institutions.

There is a broad landscape of guidelines published by national tax authorities and regulators for banks on how to assess tax evasion and avoidance as part of customer due diligence. The Luxembourg circular CSSF 17/650 as amended by Circular CSSF 20/744 includes a list of indicators concerning the professional obligation to report suspicions regarding the predicate offence of laundering of an aggravated tax fraud or tax evasion. More interesting are publications focused on tax avoidance. We refer to the Dutch Good Practices Customer Tax Integrity Risk Management for Banks and the UK Code of Practice on Taxation for Banks as those publications refer to tax avoidance.

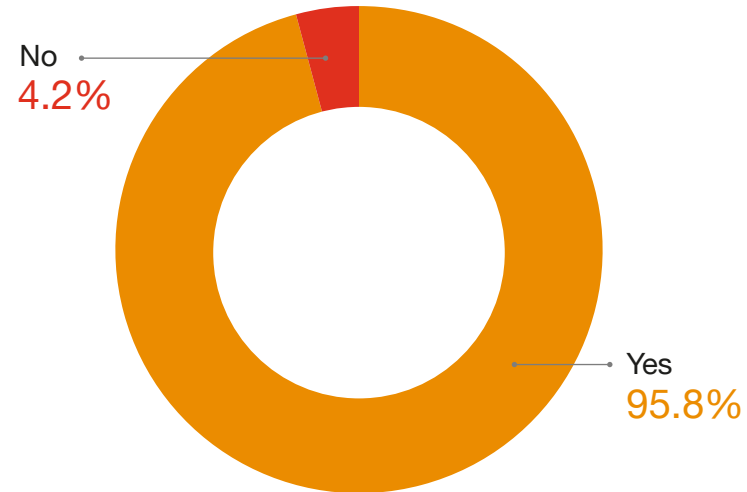
The Dutch Good Practices Customer Tax Integrity Risk Management for Banks provides banks practical tools for implementing risk management as it relates to tax evasion and tax avoidance in order to safeguard sound and business operations. The guidance document is aimed at banking customers, the bank's own operations fall outside the scope of the guidance. The UK Code of Practice on Taxation for Banks describes the approach expected of banks with regard to governance, tax planning and engagement with HMRC. Banks operating in the UK that sign up to the Code commit to adopt good practices in relation to their own tax affairs, and not to promote tax avoidance by others.

Practice among European banks

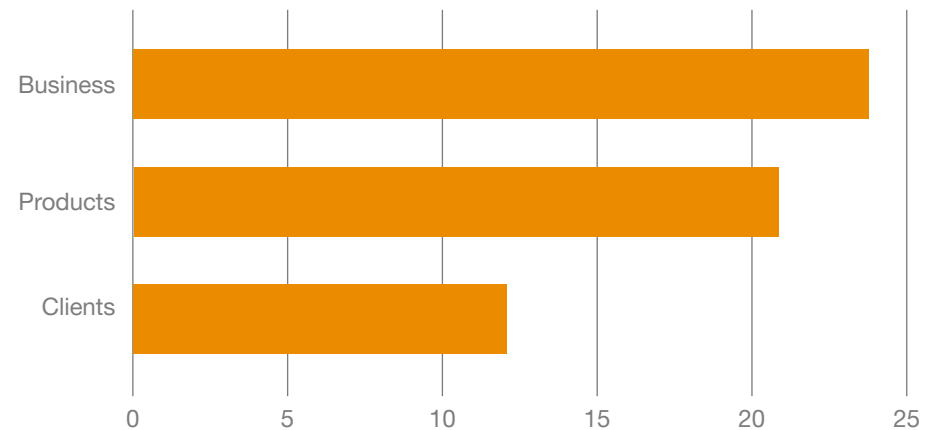
To gain insights into how financial institutions, in particular banks, are coping with Customer Tax Integrity, PwC NL has performed a benchmark among 25 European banks on the basis of publicly available information. Our results show that most of these banks have a public tax policy in place that differentiates between tax evasion and tax avoidance. Currently, the focus of these policies is the bank's own business and the products they offer to their clients. Yet Customer Tax Integrity becomes more and more important.

Across Europe, banks are increasingly aware of how (aggressive) tax avoidance should fall within the scope of the financial and economic crime prevention infrastructure. Aside from processes that safeguard the bank against the risk of tax evasion on behalf of their clients, banks are looking for ways to mitigate the risk of aggressive tax avoidance on behalf of their clients. Measures do not need to be generic but can be tailored to the specific client sector. For example, banks may require specific clients to fill in a self-certification form in which they state that they are tax compliant.

Is a public tax policy (and/or UK tax policy) available?



Public tax policy covers: (1) business (2) products (3) clients

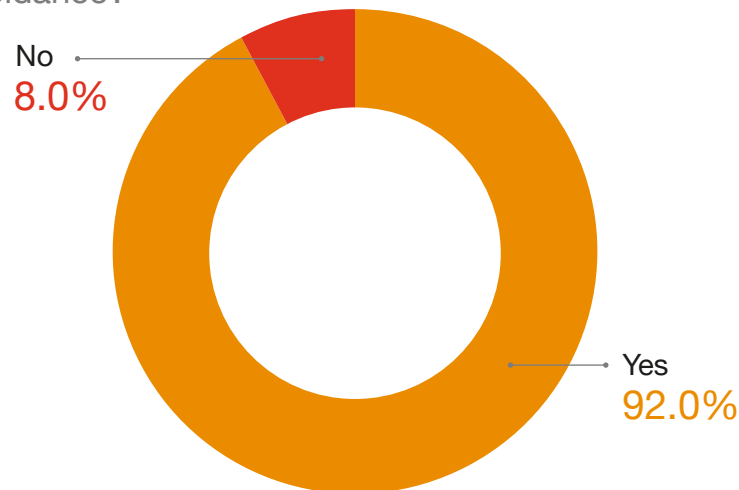


We see a shift from CTI mainly considered as a compliance topic with a bare minimum approach towards CTI as part of the broader ESG concept of which tax integrity is a key principle. This development is also linked to the further integration of AML and CFT processes in the overall ESG approach. As part of the risk management process, ESG criteria are taken into consideration to determine the client's risk profile. Such assessments can be performed by the first line. The ESG criteria are often sector-specific and relate to environmental and social aspects but may also cover tax considerations.

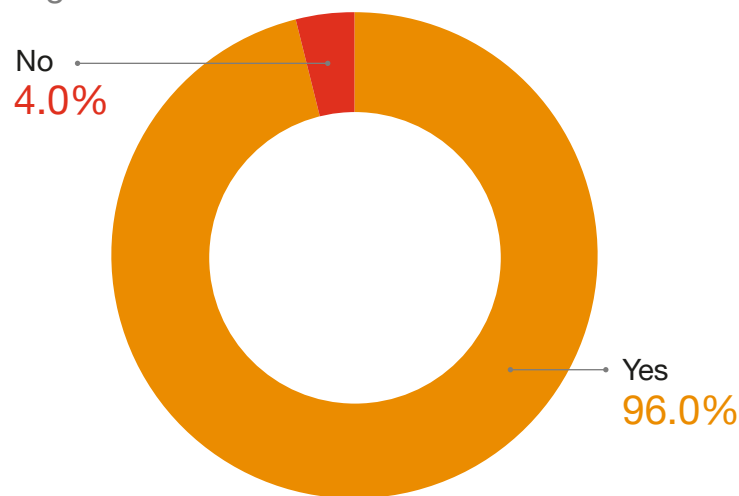
Tax transparency

Tax integrity and transparency are marked as non-financial (e.g. reputational) risks that entail compliance and reputational risks. Moreover, in some cases tax is considered as a material topic along the lines of the Global Reporting Initiative's ("GRI") tax standard 207. This is a global reporting standard for tax transparency and public disclosure of tax payments on a country-by-country basis. Our results show that more than half of the banks that were included in the review have adopted the GRI 207 standard in their 2021 reporting.

Does the tax policy differentiates between tax evasion and tax avoidance?



ESG aspects are mentioned in the context of client risk-management:



Observations

CTI and transaction monitoring

General observations

- No standard approach but increasing importance of CTI as part of transaction monitoring
- CTI monitoring generally limited to indications of tax evasion
- Limited availability of algo rhythms/data tools to monitor CTI, available tools focus on tax evasion and reputational risks

CTI and the 3 Lines of Defense (“3LoD”) model

PwC Network observations

- No standard approach for embedding CTI in 3LoD
- CTI generally integrated in 3LoD policy as part of AML/KYC policies
- 1st line CTI activities include self-assessment forms, monitoring adverse tax compliance press, provision of training
- No standardized approach whether 2nd line responsibility for CTI sits with Compliance or Tax
- Role of Group Tax in differs per country; from Subject Matter Expert to not actively being involved

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