FATF Standards, Anti-Money Laundering and Counter-Terrorist Finance and Sanctions

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International Financial Law

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How to access the lecture materials

- Go to the official UZH website of Prof. Alexander (English version) → ‘teaching materials’ → ‘lectures’ → ‘Spring Semester 2026’ → ‘International Financial Law’
- You will find all information about the course on this website.
- **There is no OLAT page for this course.**

Do You Trust The Bank?

What happens to a financial system when trust disappears?

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Core Tensions:

- Sovereignty versus harmonization
- Financial inclusion versus de-risking
- Innovation versus stability
- Soft law versus enforcement

WHAT MATTERS MOST?

Prevention, Complexity, or Sanctions: What Do You Think Is Most Important?

1. Strong preventive measures (such as: due diligence, beneficial ownership, supervision)

2. Reducing regulatory complexity and improving clarity

3. Aggressive sanctions (punishments)

What it Looks Like

Late 1980s/1990s:

Increase in cross-border financial crime, money laundering, tax evasion, terrorist attacks enabled/supported by illicit cross-border flow of money

- Need to better regulate the financial sector
- International problem requiring international action

International standards on financial crime:

Aims to protect the international financial system from being misused for the purposes of money laundering and terrorist finance

- Since 9/11 terror attacks: sound AML/CTF regimes required by international standards
- Banks under increasing scrutiny
- FATF Recommendations

What it Looks Like

- Financial crime (generally associated with money laundering):
- A financial transaction that is based on an underlying offence such as drug trafficking, extortion, organised crime,etc.

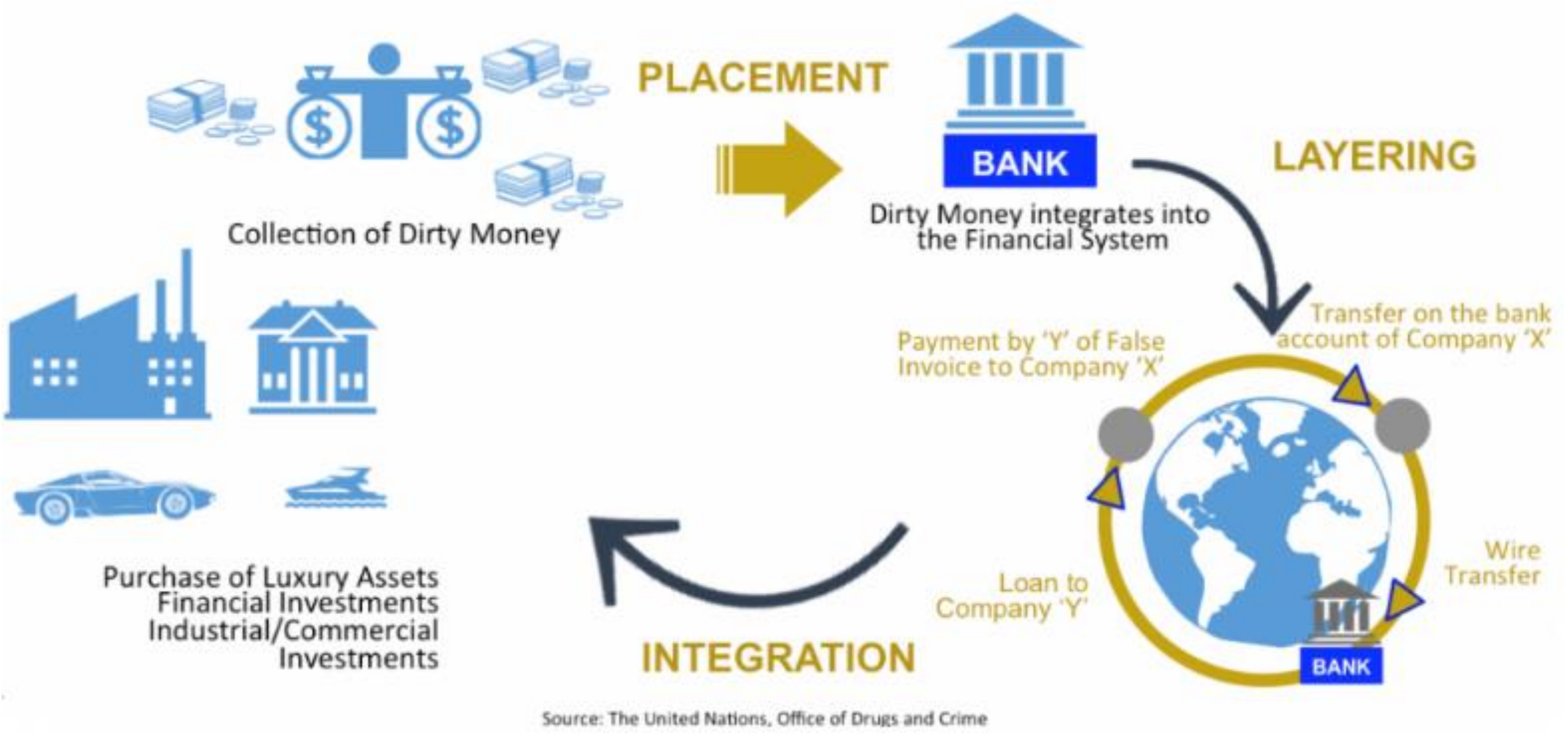
Late 1990s money laundering extended to a broad range of offences:

  - Tax evasion involving offshore entities
  - Fraud, embezzlement, theft, bribery, corruption (relation between money & offence)
  - Sanctions evasion
  - Participation in an organized crime group, obstruction of justice, bribery of public officials, misappropriation of property, trading in influence, abuse of functions, illicit enrichment
  - Financing of terrorism

Money Laundering

Placement > Layering > Integration

- the **placement** of assets in a country's financial system, e.g. the transfer of cash across a border, electronic transfers abroad, conversion into another currency (banks, exchange offices, casinos, post offices, etc.);
- **concealment of the source of money or layering** including financial operations abroad via various financial institutions, the use of offshore companies, fictitious transfers and contracts, "smurfing", virtual borrowing, using safe deposit boxes, the purchase of payment instruments with cash, smuggling of cash, double accounting, and resale of real estate; and
- **integration** or incorporation of funds into the economy, or reinvestment in criminal activity.



The process of concealing illegal funds

https://www.gov.si/en/topics/prevention-of-money-laundering/

Money Laundering

Typology of money laundering are the processes (methods) used to conceal the unlawful source of money or other assets, including various mechanisms, techniques and instruments.

- A **money laundering mechanism** is an environment or system in which money laundering activities are carried out in part or in full, primarily comprised of the following groups: financial institutions (banks, savings banks, brokerage firms and leasing companies), notaries, attorneys, natural persons, legal entities (domestic and foreign companies, shell companies and offshore companies), and money transfer systems (for example, Western Union and MoneyGram)
- A **money laundering instrument** is the carrier of value used for money laundering activity, such as cash, cheques, securities, real estate, vehicles and vessels, and companies
- A **money laundering technique** is the way in which money laundering activities are carried out, such as cash withdrawals and deposits, electronic transfer of funds between bank accounts (wire transfers), alternative systems for transferring funds, cross-border transfers of cash, and currency exchanges.

The FATF and its Recommendations

- FATF = Financial Action Task Force
- An international body that fights:
  - Money laundering
  - Terrorist financing
  - Financing of weapons of mass destruction
- Established in 1989, based in Paris (G7 initiative)
- Influences policy across over 200 jurisdictions
- Recommends legal, regulatory and operational measures
- Issues 49 Recommendations:
  - 40 core recommendations
  - 9 special recommendations on terrorist financing

The FATF and its Recommendations

- Risk-based approach
- Mutual evaluations
- Grey list / Black list consequences (Sanctions)

Broader Institutional Architecture

- International Monetary Fund (IMF)
  - AML/CTF assessments via FSAP
  - Technical assistance
- World Bank
  - Capacity building
  - Governance reform
- United Nations Office on Drugs and Crime (UNODC)
  - Palermo Convention
  - Legal framework support
- Bank for International Settlements (BIS)
  - Basel Committee guidance
  - Prudential supervision linkages

UN Security Council

- **United Nations Security Council**
- Targeted financial sanctions
- Asset freezes
- Terrorist designation lists
- **Regional and Unilateral Sanctions**
- EU sanctions regimes
- OFAC (U.S.)
- Secondary sanctions and extraterritorial effects

FATF’s Core Principles

- The 6 Key Areas of the FATF Recommendations
    - AML/CFT Policies & Risk Assessment
    - Criminal Justice & Law Enforcement
    - Financial Sector Regulations
    - Transparancy of Legal Persons & Arrangements
    - International Cooperation
    - Terrorist Financing & Proliferation (9 Special Recommendations)

AML/CFT Framework (Recs 1-4)

- National Policies and Legal Measures
  - Countries must:
    - Identify and assess money laundering & terrorist financing risks
    - Create coordinated national strategies
  - Define ML/TF as criminal offenses
  - Allor confiscation of illicit assets

Financial Institutions & Non-Financial Businesses (Recs 9-23)

- Customer Due Diligence & Monitoring
  - Know Your Customer (KYC)
  - Monitor and report suspicious transactions
  - Apply rules to:
    - Banks, insurance firms, etc.
    - Casinos, real estate agents, lawyers, etc.
  - Keep records, verify identity

Transparence, Cooperation & Terrorism (Recs 24-40 + Special 9)

- Beneficial Ownership & Terrorist Financing
    - Prevent misuse of companies and trusts
    - Know who really controls a company (‘beneficial owners’)
    - Work with other countries – share information
    - Freeze terrorist assets
    - Monitor non-profit organizations at risk of abuse

Customer due diligence (CDD, Rec 10)

- What is CDD?
  - Identification and verification of the customer's identity using reliable documents and data.
- Core Components
  - Identify and verify beneficial ownership
  - Understand the nature and purpose of the business relationship
  - Conduct ongoing monitoring for consistency and unsusual patterns
- When is CDD required?
  - At account opening
  - During large or suspicious transactions
  - When doubts arise about previously obtained information
- Enhanced Due Diligence (EDD)
  - Required for high-risk customers (e.g., politically exposed persons, offshore structures)

Suspicious transactions reporting (STR, Rec 20)

- Definition
  - Obligation to report transactions suspected to be linked to money laundering, terrorism financing, or other criminal activity.
- Who must report?
  - Financial Institutions
  - Designated Non-Financial Businesses and Professions (DNFBPs): casinos, lawyers, real estate agents, etc.
- Reporting Characteristics
  - No threshold required (based on suspicion, not amount)
  - Must be reported to the National Financial Intelligence Unit (FIU)
  - Confidentiality guaranteed (tipping-off prohibited)

Why It Matters

FATF Compliance = Global Trust

- Non-compliant countries risk:
  - Being on Grey or Black Lists
  - Losing international investment
  - Facing trade restrictions
- FATF pushes for global financial safety and transparency

FATF ‘Black List’ – High-Risk Jurisdictions

- Definition
  - Countries with serious strategic deficiencies in AML/CFT and proliferation financing frameworks.
- Current Jurisdictions (as of June 2025)
  - Iran
  - North Korea
  - Myanmar
- Consequences
  - Subject to a FATF call for action
  - Enhanced due diligence by FATF members
  - Possible countermeasures (e.g, sanctions, financial restrictions)
- Reasons for Listing
  - Lack of effective legislation and enforcement
  - Non-cooperation with FATF recommendations
  - Links to terrorist or WMD financing activities

FATF ‘Grey List’ – Increased Monitoring

- Definition
  - Jurisdictions committed to resolving strategic AML/CFT deficiencies within agreed timelines.
- Characteristics
  - Countries are actively working with FATF
  - Required to implement action plans
  - No countermeasures, but increased scrutiny
- Examples (as of June 2025)
  - Bolivia
  - British Virgin Islands
  - Angola, Lebanon, Nigeria, South Africa, Vietnam, Yemen (and others)
- FATF Monitoring
  - Progress reviewed regularly
  - Removal from the list requires full implementtion of reforms

FATF's Risk-Based Approach

- Identify risks
- Allocate supervisory resources proportionally
- Customer Due Diligence (CDD)
- Enhanced Due Diligence (EDD)
- Suspicious Transaction Reporting (STR)

Review the FATF Recommendations and look at the wording:

What stands out to you? What might be missing? Does this risk-based regulation (one size does not fit all) create inconsistency across jurisdictions? And if so, does this matter?

The Panama Papers

Background

- 11.5 million leaked documents
- Mossack Fonseca offshore law firm
- Exposure of shell companies
- Politically exposed persons

Regulatory Failures

- Beneficial ownership opacity
- Gatekeeper professions
- Cross-border enforcement gaps

Regulatory Outcomes

- Strengthened beneficial ownership registries
- EU AML Directives expansion
- Increased scrutiny of offshore jurisdictions

Panama Papers & Switzerland

The Panama Papers revealed that:

- Swiss banks were among the most active intermediaries working with Mossack Fonseca.
- Swiss-based financial institutions requested and managed thousands of offshore entities.
- Swiss lawyers and fiduciaries were heavily involved in setting up shell companies.

Swiss AML/CFT Law

- Anti-Money Laundering Act:
  - applies to financial intermediaries and governs the combating of money laundering and terrorist financing. It ensures the exercise of due diligence in the conduct of financial transactions.
- Anti-Money Laundering Ordinance “Anti-Money Laundering Act:”
  - requirements for the professional practice of financial intermediation and the due diligence obligations and reporting duties which traders must fulfil
- FINMA Anti-Money Laundering Ordinance
  - sets out how the financial intermediaries are to implement their obligations to prevent money laundering and terrorist financing.

Crypto – What Makes It Different?

- Pseudonymity (not fully anonymous)
- Peer-to-peer transfers without traditional intermediaries
- Cross-border by design
- Decentralized finance (DeFi)
- Speed and finality of settlement

Discuss:

Is blockchain a threat to AML enforcement, or is it a tool that (could) enhance transparency?

Crypto & FATF

- Travel Rule
- VASP Licensing and Supervision
- Stablecoins & DeFi
- Targeted Enforcement

- EU (MiCA)
- US (Genius Act)
- UK (FCA)

Key Takeaways

- AML/CTF is central to financial stability
- FATF standards shape global compliance norms
- Sanctions increasingly intersect with AML
- Beneficial ownership remains the critical vulnerability
- Banks function as frontline regulators