

Perceptions of Money Laundering and of the Legitimacy of Anti-Money Laundering

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Abstract

Money laundering and its control has been a major area of criminal and regulatory policy in the 32 years since the Financial Action Task Force (FATF) was created to tackle organised crimes and preserve financial integrity. The aim of this paper is to review the limited research on how money laundering and associated phenomena such as asset recovery and money muling are seen by the general public and by professionals, and to relate these data to the legitimacy of the AML enterprise. This will include examining international research on the general public and financial services professionals' attitudes towards anti-money laundering (AML) regulation and prosecution, and their beliefs about its value. One of the characteristic assumptions of politicians, regulators and 'the industry' is that controls do what they are supposed to do, and that any costs they impose are outweighed by the social benefits they generate. This set of assumptions has come under assault from both academics and professionals who question the evidence base for claims about the impact of AML efforts, however well intentioned. Some criticisms may owe more to prevailing scepticism about major institutions in society and to successive scandals in various parts of the world than to secure empirical knowledge: but beliefs are important in themselves (and not only at election times), as drivers of policy and as indications of the level of consensus.

Public and professional opinion alone are not a test of the effectiveness of controls, but opinion is a tool for generating insights into whether control measures are *seen* as being legitimate and effective, and for testing how well the facts about and goals of sanctions are being communicated to relevant populations. The reactions of 'primary offenders' to controls are not deducible from the views of the general public or of those of MLROs and others exercising control functions, but this review casts light on issues normally taken for granted. For example if, after 32+ years, the aims and successes of the loose-coupled AML control 'system' are not apparent to important sections of the public and the financial services sector, this raises questions about the value of the exercise even if regulated sectors do what they are required to, whether out of conformity or from fear of being sanctioned. Particular components such as proceeds of crime recovery and anti-money muling are used to illustrate efforts not just to reduce laundering opportunities but also to strike a popular chord with one more visualisable set of targets for intervention.

Data Sources: A few studies in different countries, contextualised and theorised, plus a review of the money muling literature around the world and how officials and banking organisations have 'sold' it and the media have greeted it.

Introduction

Money laundering and its control has been a major area of criminal and regulatory policy in the 32 years since the Financial Action Task Force (FATF) was created to tackle organised crimes and preserve financial integrity. One of the characteristic assumptions of politicians, regulators and (perhaps) 'the industry' is that controls do what they are supposed to do, and that any costs they impose are outweighed by the social benefits they generate. This assumption has come under assault from both academics and professionals who question the evidence base for claims about the impact of AML efforts, however well intentioned the goals may be. Some criticisms of AML may owe more to prevailing cynicism about major institutions in society and to successive scandals in various parts of the world than to knowledge of its operation and effects: but beliefs are important in themselves. Of course, in all areas of life, advocacy emphasises particular costs and benefits to their clients, and both impartiality and trust in impartiality/scientific competence are difficult to achieve (see e.g. Kavanagh and Rich, 2018).

Attitudes are not simple determinants of behaviour. People may conform to regulations and criminal offences irrespective of whether they believe in them, and many are consciously or unselfconsciously ingenious enough to find reasons for exceptions for their own (mis)conduct even where they are generally supportive of laws and regulations. However, understanding the (perceived) legitimacy of regulatory regimes is important: social psychological research in the tradition of Tyler (2006) shows most people obey the law because they regard it as legitimate even if they do not see sanctions on themselves as very likely. Social conformity and beliefs about how other people are behaving have been harnessed by behavioural scientists to nudge a range of behaviours in tax paying and other settings, and 'legitimacy' can be quite a fuzzy and contested construct. In the light of this, it is somewhat surprising that there has not been greater interest in popular and professional perceptions of the AML regime and its impact, a research gap that also applies to fraud controls.

There is also the question of who is surveyed in which jurisdictions. There has been some research on derisking and debanking in many countries, but general surveys of perceptions of the AML system in the Global South, and for example in ICRG greylisted countries, are missing. In this sense there is a divergence between the widespread interest in procedural justice in *policing* scholarship (even among some practitioners who appreciate the need for social support in police effectiveness) and that in AML. Of course, many criticisms of the fairness and impact of AML (not only on financial inclusion) imply procedural justice concerns, but members of what is sometimes termed 'the AML Community' have not displayed very much visible concern about the ways FATF, EU and national rules and legislation are seen by practitioners, customers, and potential customers. Even behavioural scientists have not been much engaged in this process. In recent years, the FATF leadership has promoted more outreach among civil society, but we need to move beyond a technocratic perspective on AML and consider it as a set of value and cost-benefit issues.

Measuring public and professional attitudes to AML

There have been episodic attempts to measure the attitudes of the general public and financial services professionals towards money laundering and AML over the last two decades: but this does not constitute an organised body of knowledge, since it has used different questions in different places, with often convenience sampling or ill-specified methods. Almost all the published studies have been in Anglo-Saxon FATF countries, particularly the UK; especially few have been in Global South or ICRG countries, creating an unintended bias. Some inferences may be made from the

growing number of studies examining conduct in organisations, even though they are not focussed on AML.

In the UK, Bosworth-Davies (1998) conducted a survey of Money Laundering Reporting Officers (MLROs) – sampling methods and actual numbers not reported - and 18% responded. Most self-identified as Compliance Officers rather than as MLROs. When asked to state whether, in their opinion, the Regulations would help to prevent money laundering in future, a third thought that they would, although some respondents provided caveats to their answer with such phrases as 'but only if the Institutions take it seriously'. Two thirds thought that they would not. A quarter – the most educated – considered that tax evasion should be included in reporting obligations, which it was not at the time.

Webb (2004) surveyed 30 people from a range of banks in London. He found that 27% (i.e. 7 people!) view money laundering regulations as a positive way of preventing money laundering which was good for the bank, irrespective of whether or not the AML regime was effective (whatever that means). 40% were described as neutral, i.e. the regulations have good aims but may not be worth the effort; and 33% were negative, considering that the regulations wasted a lot of time and were ineffective at reducing money laundering. 60% considered that the money laundering regulations would not reduce money laundering. Reader should note that this was before the major extension of the AML regime.

A more rigorous survey for the ICAEW by financial consultancy Z/Yen (2005) included some questions for a non-random opt-in sample of international financial services people in the UK and internationally about their perceptions of the *proportionality* of AML (p.33):

“We asked if the level of AMLR was proportionate to the risk of money laundering in each respondent’s sector. 65% of UK respondents said the level of AMLR was too severe, while only 38% of international respondents felt the level of AMLR was too severe. 40% of UK-based banking respondents felt that AMLR were proportionate and 43% felt AMLR were too severe for the risks.

However responses from UK-based accountants and lawyers were more skewed towards AMLR being too severe. 77% of UK-based accountants and 84% of UK- based lawyers felt AMLR too severe for the risks involved in their sectors.”

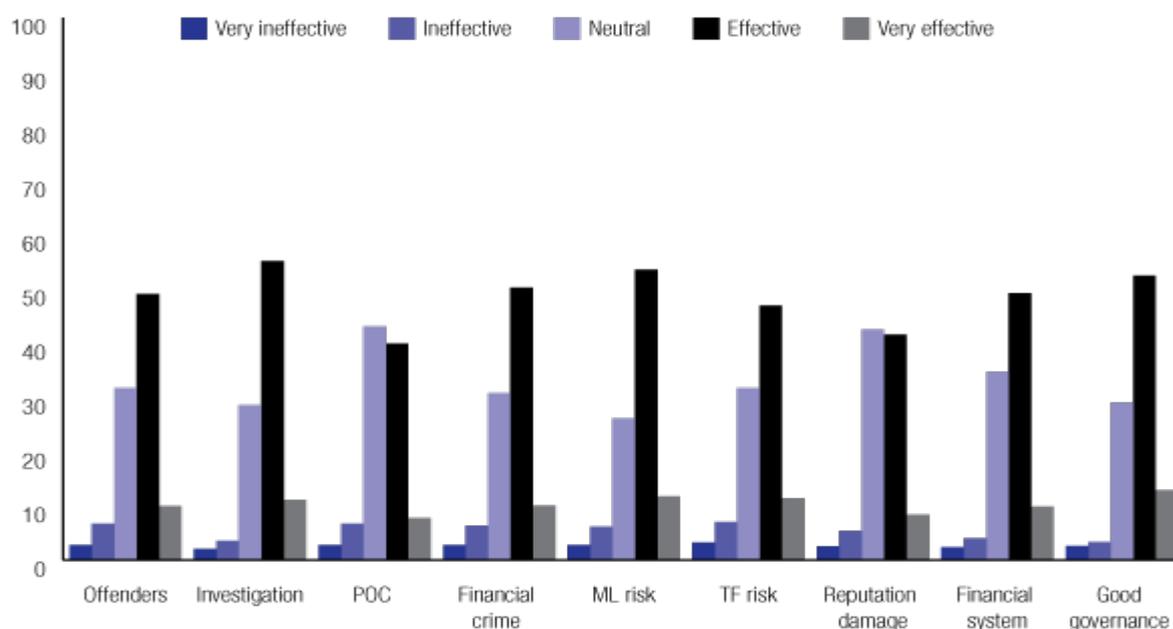
The survey asked people why they complied with AMLR. 57% of UK respondents said that their organisations complied with AMLR to avoid sanctions from the authorities, while only 32% said they complied because AMLR represent good business practice. Of the international respondents, 51% said they comply because they believe that AMLR in their country represented good business practice and only 28% comply to protect themselves from sanctions.

Less than 10% of UK (compared with 20% of international) respondents said that they complied with AMLR because the requirements were effective at combating money laundering. Over half of UK lawyers but less than a quarter of UK accountants said they comply because they think AMLR are good business practice. 73% of respondent UK accountants state that they comply with AMLR to protect themselves from sanction. We should note that in the subsequent 15 years, the actual number and severity of sanctions for professionals and for the financial sector have risen substantially (from a very low base rate), so these data may not apply today. Furthermore, people may not always be aware of why they comply, though their responses to that question remain interesting. A later small-scale interview study of 31 senior opinion leader accountants (whose

selection was unspecified) for the Consultative Council of Accountancy Bodies (CCAB, 2014) found broad satisfaction with AML regulation, and the normal range of complaints about unclarity of purpose and lack of feedback. An internal online survey of accountants in 2020 (CCAB, 2021) found the majority of respondents think the “know your client” checks are important to them and their practice; 81% of accountants think the “know your client checks” are important or very important; the majority agree that accountants have an important role to play in preventing economic crime and that the “Know Your Client” checks are essential to their practice; but more than half disagree that “Know Your Client” checks are proportionate to the level of risk their clients possess. No further details of the methodology are available.

Masciandaro and Filotto (2001) surveyed Italian bankers about their beliefs about customer perceptions. This may not be a good measure of actual perceptions, but it is interesting in itself and a possible indirect route for discerning some of bankers’ own views about the AML system untrammelled by social acceptability bias. Bankers thought that on average half of the customers were aware that banks reported suspicions. They thought that almost half derive this knowledge directly or from personal experience, and only 41% from the bank itself. Managers felt that around 88% of information that customers had was generated by the bank rather than by public offices. They thought that the public would see the main objective of AML as being tax recovery rather than attacks on organised crime, corruption, etc. but that where information was more accurate, it would likely come from the bank rather than the media. They make the point that ‘signals’ sent out by the banks are an important component of the process. Arguably, a survey conducted over 20 years ago in Italy, with a methodology and sampling frame that is obscure (though conducted with a bank with a presence in over half the 20 Italian regions), is merely an interesting comparison point. But it was an attempt to consider empirically the asymmetry of perspectives. The authors concluded: “We fully concur with those who state that total observance of the anti-laundering laws cannot be imposed on the system from without through the use of coercive instruments. Rather, the laws must seek the convinced adherence of the intermediaries to the values of autonomy, integrity and legality.”

An Australian Institute of Criminology survey of regulated people in Australia in mid-2009 (Walters et al., 2012) found overall, significantly more respondents viewed the regime as being effective or very effective at minimising the risk of money laundering (65.2%) compared with those who believed the regime was effective or very effective at minimising terrorism financing risks (58.2%; $t=4.7$, $p\leq 0.0001$). Ten percent of respondents took the view that the aim of the AML/CTF regime to reduce risks of terrorism financing was either ineffective or very ineffective. In perception of regime ability to meet goals:



The aim of the regime of ‘enabling regulators to investigate financial crime effectively’ received the highest mean judged effectiveness rating (3.7), as did the additional benefit of installing ‘good governance practices’. The lowest effectiveness rating was given for the aim of ‘facilitating the recovery of the proceeds of crime’ (3.4). A statistically significant difference was found between the mean results for the highest and lowest mean rated aims of the regime ($t=-2.5$; $df=7069.9$; $p\leq 0.01$).

Participants were asked to indicate on a five-point scale the extent to which they agreed or disagreed with the statement ‘In Australia, the AML/CTF regime is too onerous, given the risks’ and then to provide reasons for their views. On the scale from 1 (strongly disagree) to 5 (strongly agree), all respondents recorded a mean score of 3.8, a median score of 3.0 and a standard deviation of 1.0. The largest proportion (45.5%) of respondents neither agreed nor disagreed that the system was too onerous for the money laundering risks. The proportion of respondents who agreed with the statement (30%) was slightly higher than the proportion that did not (25.7%). These findings indicate there was no strong feeling either way about the extent to which the regime is onerous. Given the scandals about Australian banks’ conduct over both money laundering and consumer detriment generally in recent years (Levi, 2019), we can only speculate about what these results would look like now.

A Canadian survey by Angus Reid Consultancy (2019) in the aftermath of the casino gambling and real estate money laundering revelations in British Columbia – but before the extensive hearings of the Cullen Commission 2020-22 (<https://cullencommission.ca/>), which have cast an unflattering light on Canadian AML efforts and performance - found that nearly half of Canadians (47%) are dissatisfied with federal government efforts to combat money laundering. One-in-four (23%) are satisfied, while a considerable number (30%) are unaware of any efforts. Though views varied in different provinces, 74% stated that money laundering was a problem or a big problem in their province, and only 13% stated it was not or not really a problem. Those who were following news stories about this issue in Canada were significantly more concerned about this issue, while those with less knowledge make up a considerable portion of the “don’t know” group. More than half of Canadians (55%) – 62% among British Columbians - support ‘lifestyle audits’ as an anti-money laundering tool.

Social research on general attitudes to money laundering in the UK has been less directly relevant. In general research conducted for the Sentencing Council of England and Wales (Marsh et al., 2019), just over half the population thought that the criminal justice system was effective and fair (compared with over two thirds in the Crime Survey for England and Wales). The survey indicated that nearly three quarters of the public (70%) thought sentences are too lenient (17% about right, 4% too tough). This view was more prevalent among adults aged 55+ (81%), those in the lower socioeconomic grades C2 and DE (75% and 74% respectively), White people (72%), and those educated up to school level and below (77%). Qualitative discussions indicated that media coverage was particularly influential in perpetuating the impression that sentencing is excessively lenient. Despite the fact that a significant majority of the public said that they were confident that they understand what ‘statutory minimum sentence’ (63%), ‘statutory maximum sentence’ (61%), and ‘life sentence’ (77%) mean, qualitative discussions found that understanding was far more limited in reality. The public were more likely to say that sentencing for ‘emotive’ crimes is too lenient than they said for other offences such as acquisitive crimes. In both quantitative and qualitative interviews, the severity of the offence and the harm caused to the victim were consistently ranked as the most important factors that a judge *should* take into account (94% and 93%). Conversely, ‘if a defendant pleads guilty’ was consistently placed near the bottom end of the scale (55%). Knowing the actual sentence tended to lessen perceptions for most offences that sentencing was too lenient: in other words, people assumed that sentences were lower than they actually were.

Research was also conducted among District and Crown Court judges (though not among the general public or financial services professionals) about perceptions of appropriate sentencing for fraud, bribery and money laundering. For developing the guideline sentences on money laundering, judgment of harm (p.10) involved an initial assessment of harm based on the amount of money laundered, and then an assessment of whether ‘greater harm’ was demonstrated based on the origins of the money (i.e. the underlying offence) and whether this was from ‘*serious criminality, which included, but was not limited to drug offences, terrorism, tax evasion and robbery*’. (This does not specifically include most frauds connected with real money laundering charges.) Some judges thought that laundering was more serious if it originated from a more serious offence, and took place over a longer period of time. Lesser sentences were appropriate if the offence was not motivated by personal gain.¹

An earlier survey of perceptions of organised crime in Scotland did not ask any specific questions about money laundering, but AML might have been included among those 15 percent who considered that fighting organised crime was the job of everyone (88 percent thought it was the police’s job). 20 percent of people associated organised crime with money laundering – the second highest after drugs - but that tells us little (Scottish Government Social Research, 2013).

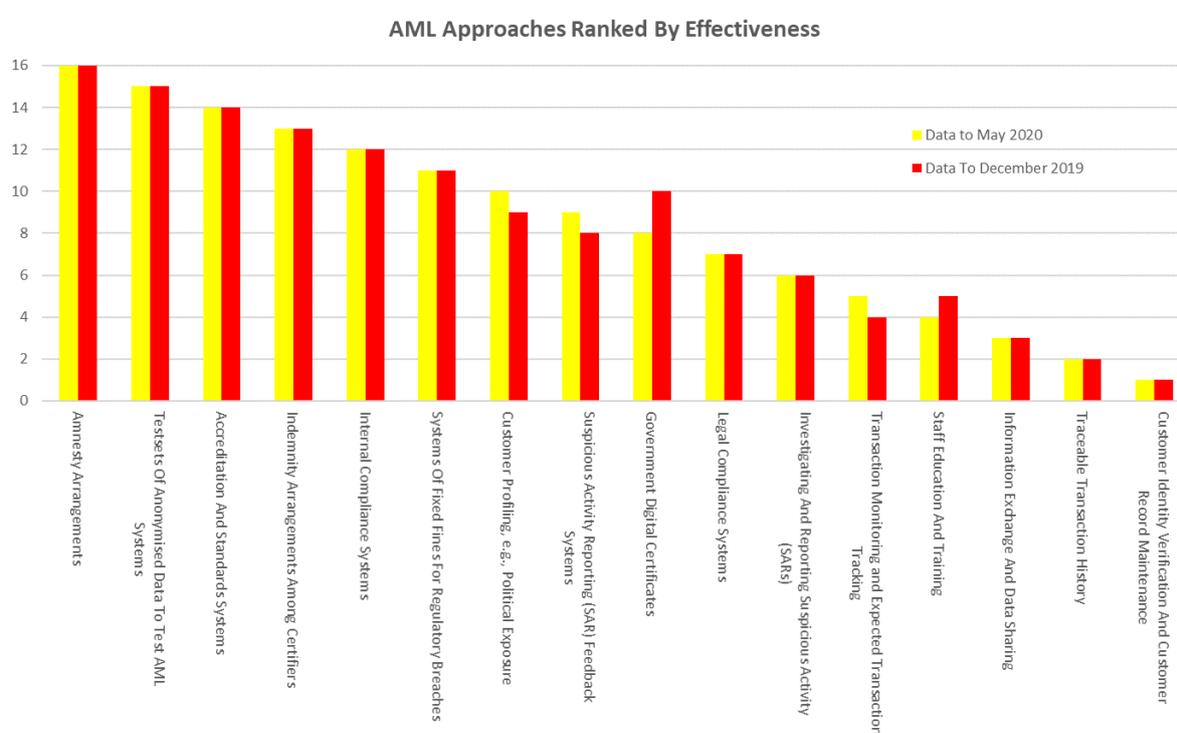
A few surveys have been conducted in poorer countries. In one Malaysian study conducted before the 1MDB fraud and laundering scandal which led to international settlements, charges and

¹ This is a matter that is often contestable. Hitting business targets to keep one’s job, obtain a partnership or promotion may not be tied to any particular money laundering offence (or any other rule violation), but may be a conscious or unconscious motivation for acting in this way. ‘Techniques of neutralisation’ are commonplace among all offenders, but much white-collar criminology argues that they are a necessary precondition for respectable professionals to be enabled to commit crimes. It is not necessary in this context to set out what the Sentencing Council decided in its guidelines (<https://www.sentencingcouncil.org.uk/offences/crown-court/item/money-laundering/>) and (for corporate offenders, <https://www.sentencingcouncil.org.uk/offences/crown-court/item/corporate-offenders-fraud-bribery-and-money-laundering/>).

convictions including the former Prime Minister and senior Goldman Sachs executives, Pok et al (2014) found that banks considered avoiding penalties, improving brand image and improving customer perceptions to be the rationale for implementing the AML/CFT legislation. Most conventional bank (but not Islamic bank) officers considered their organisations' compliance culture to be high or very high.

In the current era, as part of the global financial centres research conducted by financial consultancy Z/Yen over the ten months to May 2020, a non-random opt-in survey of 2,274 financial professionals around the world rated the effectiveness of approaches to Anti-Money Laundering (AML).² The results show a significantly greater emphasis on government digital certificates since the covid-19 pandemic. Some hardy perennials of AML policy such as internal compliance were rated low down, but many others ranked high. It is unknown whether customer profiling was ranked lower because most of their customers were not Politically Exposed Persons.

Figure 1



Finally, BAE systems (2020) commissioned a survey whose respondents were 452 staff working in compliance or risk management across the financial services sector, including banking and insurance, in six countries, and 6,035 respondents from the general public spread fairly evenly over the same 6 countries. This was conducted 24 June – 7 July 2020. The data show that some 89% of Financial Industry specialists said they are concerned that money laundering is happening covertly among customer transactions, with 41% extremely concerned. Some more detailed results are set

² The questionnaire was sent to around 12,700 individuals working in financial services around the world, making a response rate of around 8.9% in relation to the AML questions. The great majority of those individuals had previously answered Z/Yen surveys on this topic, making them a form of panel survey, though not randomly or representatively drawn.

out in Figure 2, with fraud far outstripping the other offences in terms of FI concerns, somewhat dramatically depicted as ‘keeping them awake at night’.

As with much discussion, it is not clear how the participants distinguished between fraud, drug trafficking, human trafficking, and ‘organised crime’. Suspected drugs trafficking was reported the next most frequently after fraud, but aroused only moderate concern as a crime; and there were a few significant variations in the rank ordering of predicate crime concerns within the six nations, with professionals in Singapore being far more likely than those elsewhere to see fraud (64%) and corruption (55%) as the biggest money laundering problem. Given the relatively low domestic corruption levels in Singapore, one can only presume that this relates to source of funds of bank clientele, perhaps from elsewhere in Asia, and it may have reflected the movement of Chinese and other funds from Hong Kong, as well as the fall out from the 1MDB scandal originating in Malaysia. The concatenation of predicate crime seriousness with ‘problem for the bank’ seriousness remains implicit in the data as reported, but this may be an important analytical issue to be explored in future research.

Financial compliance professionals are no more likely than anyone else to know what the ‘true’ figures are for the cost of predicate offences – the evidence base for such estimates is weak even in the best researched countries (Reuter, 2013; Levi, 2020) - but trafficking in human beings was ranked the third costliest crime. Environmental crimes were ranked low down, though a little higher in terms of financial losses. Only Germany ranked tax crimes in the list of the top five crimes of money laundering concern: perhaps a reflection of the cum-ex scandal there. The survey design may not have appreciated the overlap between cybercrime and fraud (and intellectual piracy), but cybercrime did not feature in the top five of the UK, US or France, whereas it was top concern in Australia.

Figure 2 (from BAE, 2020)

Fig 1: 22 predicate offences to money laundering ranked in significance

Predicate Offence	Most Concerning	Financial Loss	Hard to Identify	Tend to Report Most	Score	Rank
Fraud	1	1	1	1	4	1
Corruption	2	2	3	3	10	2
Participation in an organised criminal group and racketeering	3	5	4	4	16	3
Illicit trafficking in narcotic drugs and psychotropic substances	6	6	2	2	16	4
Terrorism	5	4	5	6	20	5
Trafficking in human beings and migrant smuggling	8	3	6	5	22	6
Illicit trafficking in stolen goods and other goods	12	7	9	7	35	7
Cybercrime	4	12	10	11	37	8
Forgery	11	14	7	8	40	9
Piracy	10	9	13	9	41	10
Tax crimes relating to direct and indirect taxes, as laid down in national law	7	11	14	10	42	11
Sexual exploitation	16	8	8	15	47	12
Illicit arms trafficking	15	13	11	12	51	13
Insider trading and market manipulation	9	17	15	13	54	14
Counterfeiting of currency	17	10	17	14	58	15
Extortion	14	19	12	17	62	16
Robbery or theft	13	18	18	16	65	17
Kidnapping, illegal restraint and hostage-taking	18	20	19	18	75	18
Counterfeiting and piracy of products	19	15	21	20	75	19
Smuggling	20	21	16	19	76	20
Environmental crime	22	16	20	22	80	21
Murder, grievous bodily injury	21	22	22	21	86	22

The most cited answers on the costs of financial crime were “damage to personal/professional reputation” and “negative impact on the industry” (both 37%). Next came “financial cost to the company” and “impact on corporate reputation” (all 35%). When asked why they considered it was important to spot money laundering, over a third (37%) argued that it’s important in order to avoid unnecessary fines; but they placed a higher premium on satisfying customers that their financial institution is ethical, protecting society from financial crime (protecting the *institution* was not asked about), and avoiding reputational damage from regulatory fines. There were national variations: In France, 60% cited regulatory requirements as the most important reason for spotting money laundering, much higher than the global average of 46%. In Australia it was more important to demonstrate to customers that they followed ethical practices – 61% compared to the overall average of 49%: this may reflect the pounding Australian banks had received from the Hayne Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Levi, 2019).

The Report summarises the data as: Big banks care more about avoiding fines, reputational damage and stopping criminal activity; Mid-sized banks want to help protect society from financial crime and meet regulatory requirements; and Small banks care about protecting society and ensuring their customers know that they are ethical. These themes were reinforced by its refresh report (BAE, 2021), which asserts inter alia that half money laundering transactions are slipping through the net and that almost two thirds consider that spotting money laundering has become harder in the past year. France, Germany and Turkish compliance staff were far more likely than those in Australia, the UK, and US to consider that financial institutions were unable to uncover the majority of money laundering in their systems. The top four predicate crimes of concern remain unchanged from 2020: fraud (43 per cent), corruption (32 per cent), participation in organised crime/racketeering (31 per cent) and terrorism (30 per cent). However, cybercrime has fallen down the list significantly from a top five spot, cited as a lead concern by a third (32 per cent) of respondents in 2020, to just 17 per cent in 2021. It is replaced as a top five concern by human trafficking (27 per cent). This is plausibly attributable to the efforts of counter-human trafficking training and publicity (and perhaps signals from regulators), but it is far from obvious that cybercrime has actually become less threatening! What emerges from these surveys, as from others, is that there is concern about the growth of box-ticking compliance rather than compliance that has a social and crime-reductive purpose (though this may be a form of Golden Age-ism, assuming that the latter was present in the past). However, these are the perceptions of a non-random sample of *compliance* staff, not the views of senior bank staff (who decide on compliance staffing levels and financial crime strategy) or of ordinary staff.

Perceptions of asset recovery in the UK

One component of money laundering - Asset recovery/Proceeds of Crime Confiscation - has been a significant political theme, tapping into populist resentment at criminals continuing to enjoy the fruits of the (metaphorical) poisoned tree though in every country, the proportions of estimated proceeds laundered that are confiscated or even frozen are tiny (i.e. less than one percent). This resentment is true of the assets both of local drugs dealers and of global kleptocrats who are the objects of the StAR Initiative, though (or because) there can be a tinge of admiration for those who are able to ‘live the life’. Thus, Prime Minister Tony Blair wrote an impassioned foreword to the UK’s review of proceeds of crime (PIU, 2000: 3-4), noting that ‘it simply is not right in modern Britain that millions of law-abiding people work hard to earn a living, whilst a few live handsomely off the profits of crime. The undeserved trappings of success enjoyed by criminals are an affront to the hard-

working majority. And it is, of course, often the underprivileged in society who suffer most from crime'. He concluded (p.4):

Through implementing the recommendations in this report, we shall help turn the tide against criminals. We will deter people from crime by ensuring that criminals do not hang on to their unlawful gains. We will enhance confidence in the law by demonstrating that nobody is beyond its reach. We will make it easier for courts to recover the proceeds of crime from convicted criminals. And we will return to society the assets that have been unlawfully taken. All this will need to be achieved in a way that respects civil liberties; we will ensure that is the case

At least in the UK, there have been occasional efforts to examine attitudes to proceeds of crime recovery (Wilson, 2006; Gottschalk, 2010), which are set out below. The first formal attempt was in Northern Ireland, against the backdrop of the creation of the Asset Recovery Agency (Northern Ireland branch) to deal with growing serious and organised crime in the aftermath of the Good Friday Agreement 1998. A national representative study (Wilson, 2006) concluded:³

- Four fifths of those surveyed had heard/read something about ARA: twice the percentage for GB (41%).
- 87% of those surveyed agreed that there are 'many people in Northern Ireland these days who are living off the proceeds of crime'.
- 21% of those surveyed suspected that someone in their own neighbourhood had obtained a large part of their wealth from crime, while over two fifths (41%) of people believed that there were people living in their local community who had acquired a significant part of their wealth from crime. Younger people were more likely than older ones to believe that there are people living within their immediate community who have acquired a large part of their wealth from crime.
- 89% of respondents would react with some anger and concern if someone whose wealth had come largely from the proceeds of crime, moved into their immediate neighbourhood.
- 86% of those surveyed agreed that 'many criminals who go to jail manage to hang on to the proceeds of crime and are able to live a wealthy lifestyle when their prison sentence is over'.
- More than four fifths (83%) of those surveyed said that wealth confiscation and a prison sentence are equally important objectives in dealing with criminals.
- Almost three quarters (72%) of those surveyed thought that drug dealing financed serious or organised crime.
- 91% supported ARA's power to act through civil courts to recover assets resulting from crime even if the person has not been convicted in the criminal courts. Over one third (36%) expressed concern that these powers could be abused: 53% of 16-24 year olds expressed concern, compared to 28% of those aged 65 and over.

³ NI Assets Recovery Community Scheme: Since the start of the scheme in 2012, half of the total proceeds of crime recovered through the payment of confiscation orders have been directed to the Assets Recovery Community Scheme (ARCS) fund to support projects that prevent crime or reduce the fear of crime. The other half is allocated to relevant law enforcement agencies to invest in asset recovery capabilities. The ARCS fund is managed by the Department of Justice Protection and Organised Crime Division. Funding decisions are made by an ARCS panel. Since 2012 we have been able to distribute in excess of £5million to a wide range of projects across Northern Ireland. Organisations applying for funding must clearly demonstrate how their project will directly benefit victims, communities and/or the environment.

- Over one quarter (26%) of respondents were concerned that people they knew could be unfairly targeted by ARA because of its powers: younger people were twice as likely as 65+ to be concerned. More people in GB than in Northern Ireland were concerned about the potential abuse of power by ARA.
- 60 per cent of those surveyed – slightly more Protestants than Catholics - thought that the recovery of 'significant sums of money' would have a positive effect on their community (compared with 45 per cent in the UK as a whole). Around one third thought that this would not have an impact (either positive or negative) on their community.
- Catholics (70%) were more likely than Protestants (60%) to believe that ARA acted in a way that is fair to all sections of the community. On the other hand, Protestants (22%) were more likely than Catholics (4%) to believe that ARA had focused too much attention on assets relating to loyalist paramilitaries.

Gottschalk (2010) concluded that public awareness of asset recovery in England and Wales was generally low – in an opinion poll carried out in December 2009, around a third (32%) of respondents had never heard about asset recovery. However, 22 per cent said they knew a great deal/fair amount about it. A previous poll, conducted in January 2009, showed similar levels of awareness. Respondents' views of asset recovery were mostly positive, with 87 per cent of respondents supporting the use of asset recovery powers. Even if respondents had only learned about asset recovery during the interview, 81 per cent said they supported it. Similar levels of support were reported in the previous poll. Just over half of respondents (53%) thought that asset recovery was effective in reducing and preventing crime. Again, this proportion was similar to the previous poll. One-fifth (20%) of the respondents knew about the Community Cashback Scheme, and 21 per cent of them said it improved their opinion of the local police. These data do not tell us anything about the *actual* effectiveness of the police or of asset recovery in reducing any forms of crime, but they do tell us something about popular perceptions of the activities.

Curiously, the Phase Three impact evaluation of the separate £20 million CashBack for Communities scheme in Scotland contains no discussion of the actual impact on crime, on its organisation or on perceptions of organised crime/AML/confiscation, though around a quarter of people surveyed thought that crime had been reduced by the money spent, mostly on sports. The Report stated (Research Scotland, 2017: 4):

The main intended outcomes for phase three related to general participation, participation by equality groups, new opportunities, skills and behaviours, and positive destinations. Few aimed to reduce levels of crime and antisocial behaviour, encourage sustained participation in community based activity or increase community based action.

Nor does the Phase Four evaluation seriously evaluate impacts on offenders (Research Scotland, 2020).

Perceptions of asset forfeiture and recovery elsewhere

The US is a prime mover of trends in enforcement. But there has been little interest in researching either effectiveness or public perceptions thereof there, except from the libertarian right (Knepper et al., 2020; McDonald and Carpenter, 2021). A Cato Institute (2016) survey, conducted by YouGov, found that 84% of a representative sample of 2,000 Americans oppose civil asset forfeiture—police "taking a person's money or property that is suspected to have been involved in a drug crime before

the person is convicted of a crime”; only 16% think police ought to be allowed to seize property before a person is convicted. In instances when police departments seize people’s cars, houses, or cash, 76% of Americans say local departments should not be allowed to keep the assets. Instead, 48% say seized assets should go into the state general fund, while another 28% say assets should go into a dedicated state-level general law enforcement fund. Although Americans prefer policing be done by local (not state or federal) authorities, only 24% think local police departments should keep the assets they seize. Americans may plausibly believe that transferring seized assets to a state-level fund will reduce local departments’ material incentive to seize people’s property. Opposition to civil asset forfeiture cuts across demographics and partisanship: strong majorities of whites (84%), blacks (86%), Hispanics (80%), Democrats (86%), independents (87%), and Republicans (76%) all oppose. Even 78% of those who hold highly favourable attitudes toward the police staunchly oppose civil asset forfeiture.

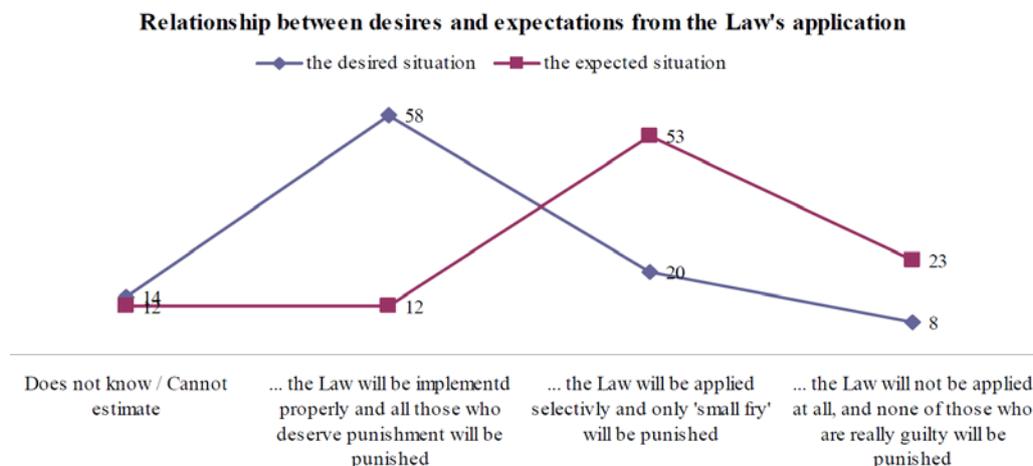
These attitudes are not, however, a study of perceptions of proceeds of crime confiscation generally and – like many other public opinion studies – may reflect the stream of media reports of civil forfeiture abuses promoted by libertarian advocates opposed to ‘policing for profit’ (which does not mean that the reports are inaccurate, or any more inaccurate than most media case summaries).

Unusually, supported by the Council of Europe, the Serbian authorities conducted a study of perceptions of their new measures of asset confiscation, asking a representative sample of Serbs (Council of Europe, 2011). 22 percent claimed knowledge of the law, and a further 39 percent that they had heard something about it, with the same percent having no knowledge of it at all: this seems credible. Knowledge was correlated with education level. Respondents were asked if they knew about persons targeted for asset confiscation: just over half knew about Darko Šarić and a third about Milorad 'Legija' Ulemek, with less than ten per cent knowing about any other specific cases/criminals. A third considered that others might have been proceeded against, but only half of them were able to identify concrete cases: these included the singer Svetlana ‘Ceca’ Ražnatović (29%) and businessman Miroslav Mišković (10%), but only a few respondents cited other targets.

There were interesting expectations about the effects of the law:

<i>Opinions about the expected effects of the Law</i>	Disagree	Undecided/no opinion	Agree
A concrete Law which will contribute to the fight against crime has finally been adopted	26%	29%	45%
This Law will help punish all those who enriched themselves from the toil of others	40%	22%	38%
Assets which will be confiscated will contribute significantly to the Budget	31%	30%	39%
This Law is just more empty words	23%	30%	48%
No one will punish politicians and tycoons – their property is safe	12%	25%	63%
Who knows where the confiscated cash will end up – certainly not in the Budget	18%	33%	49%

The gap between normative perspectives and real-world expectations was illuminated in answers as follows (typos in the original):



In respondents' opinions, the Law on Seizure and Confiscation of the Proceeds from Crime was adopted primarily in order to bring Serbia nearer to the European Union by harmonising its legislation with the standards which prevail in Europe (51% thought this was definitely so); followed by an attempt by the authorities to show determination to fight crime (50%), although many respondents doubted very much that the authorities were genuinely willing to take such a step. Just 4% of respondents thought the main motivation for adopting the Law was its crime deterrent role.

Views about what is likely to affect implementation were interesting, reflecting some political cynicism.

<i>What affects the implementation of the Law</i>	Affects strongly	Affects substantially	Don't know/ no opinion	Little effect	No effect at all
The potency of the criminal groups in Serbia	41	24	24	9	2
The determination of the public authorities responsible for its implementation	29	28	24	13	6
Links between criminals and politicians	47	22	21	7	3
The activity of the judiciary	33	27	24	11	5
The activity of the Prosecution	33	27	25	10	5
The activity of the Police	35	27	23	10	5

When asked to rate their confidence in Serbia's institutions, the best rated was the Ministry of Internal Affairs – 5 percent had full confidence and 29 per cent partial confidence in it. The next most partial confidence was 15 per cent, so fewer than one in five Serbians had *any* confidence that judges, prosecutors or lawyers would perform in a trustworthy way.

One of the most controversial aspects of the Law is the possibility of selling seized assets at auction even before the culpability of its owner is proved. This provoked heated debates among professionals, and no fewer than 73% of those surveyed think that the Prosecution must first prove that someone is guilty of a criminal offence before that defendant's assets may be disposed of, while only 7% think that it is sufficient to indict a person for his or her property to be seized by the state. No question about asset restraint prior to conviction was asked. Only 6% of those surveyed considered that funds gained from the fight against crime should be reinvested in crime-fighting. So for all its design weaknesses, this survey generated interesting insights into perceptions not just of a particular type of civil forfeiture mechanism but also the integrity and competence of Serbian institutions. This should also be seen against the backdrop of the collapse of Yugoslavia, the rise of organised crime and its imbrication into both business and politics not just in Serbia but elsewhere in the Balkans (and not exclusively there). This is an issue too seldom confronted in the politics of AML.

Money Muling

'Money mules' is a phrase that has caught the media, the financial services sector and perhaps (though not demonstrably yet) the public imagination, in the UK and elsewhere in the world. Mules are commonly conceived of as people recruited as conduits for proceeds of crime with the intention of defeating anti-money laundering (AML) and anti-fraud controls.⁴ The term makes sense as a metaphor for people carrying sacks of money on their backs: occasional customs or police interceptions of travellers with suitcases containing over \$1 million in cash would be the modern form.⁵ Cryptocurrency and e-banking worlds have mitigated that particular problem of portability and confiscation risk (once cash has been transformed into them), though most countries outside the UK have no customs confiscation powers if cash is declared on exit and entry.⁶

Depending on where they live and where they want the money to end up, major criminals (including tax and exchange control evaders) have always moved some proceeds of crime to defeat creditors, other criminals and tax agencies. Beyond that, the need or demand for money mules is an artefact of the controls we have placed on money movement via our Anti-Money Laundering (AML) efforts. Before the UK, US and others began to criminalise money laundering in the 1980s, there was no need for crime entrepreneurs to parcel funds up into sections to make them less suspicious because normally, no-one in an intermediary position in financial services cared or had any legal duty to identify customers or report suspicions. The more business-like the crimes and the organisational context, the easier transfers out become. There is also the growing but still not dominant use of cryptocurrencies (led by Bitcoin) for drugs and human trafficking, constrained by their usability in everyday life and ease of access by counterparties. (Though some cryptocurrencies are becoming normalised, accelerated by the growth of Bitcoin ATMs in cities and by recommendations from paid Instagram influencers to buy crypto: in addition to value volatility, a massive fraud problem in the making when some crypto exchange managers disappear with the loot.)

⁴ Though the general government and commercial focus has been on people rather than on businesses, perhaps because including the latter risks making money muling equivalent to money laundering itself.

⁵ See, for example, 'Investigation into Dubai money laundering ring continues as £5.5m cash courier Tara Hanlon jailed.' <https://www.essexnewsandinvestigations.com/single-post/investigation-into-dubai-money-laundering-ring-continues-as-5-5m-cash-courier-tara-hanlon-jailed> (accessed 29/11/2021); <https://www.nationalcrimeagency.gov.uk/news/closed-case-plane-passenger-with-1-5m-in-baggage-ordered-to-give-it-up> (accessed 29/11/2021).

⁶ See Johnson, J. 'Head of money-laundering unit resigns over suspected money-laundering', *The Telegraph*, 9 November 2021.

A focus on money mules is understandably a significant part of the contemporary AML control focus, because if we could stop proceeds of crime being dispersed in smaller tranches through unsuspected people, the internal bank processes and paradigms of criminal exfiltration would work better and make it easier to identify (and perhaps stop) those criminals that use the muling mechanisms. If there was no risk of formal counteraction – whether freezing assets or criminal justice measures – paying money mules would be a needless expenditure for fraudsters and traffickers. There are also unanticipated impacts on the lives of those who allow their bank accounts to be ‘borrowed’ by proceeds of crime, articulately highlighted by not-for-profit UK fraud prevention body Cifas and other industry bodies on radio, TV and press outlets.⁷ These warnings include the (actually rare) risk of gaining criminal records for money laundering; and denial of future banking and other financial services facilities such as mortgages through Cifas markers put on suspected money mules – a form of intentional financial exclusion, though they can be over-ridden by banks. We may presume that these consequences are not widely anticipated by either knowing or naïve money mules.

Money muling is a criminal service, and each account has a limited life span before it can no longer be useful. Except where there is a convincing business front, the larger the amounts involved in fraud (or corruption), the more mules may be needed, and therefore intermediaries with access to ready mules can command a premium. In addition to offenders’ *beliefs* about risks, there are also real risks of being picked up and acted against, and the consequences of detection by private and public actors. We need to appreciate the meaning of those risks to different populations.

Money mules are part of fraud as well as of ‘pure’ money laundering schemes, and this may be connected with the hybridisation of street and cybercrime gangs, at least in the Netherlands and the UK, but plausibly elsewhere (Berry, 2020; Roks et al., 2021; Soudijn and Zegers, 2012). Some Dutch mules engage in crimes beyond phishing scams. During a police interrogation, one mule declared that she was asked to change counterfeit 100 Euro bills by buying cheap goods at different locations and collecting the change as ‘laundered’ cash. This demonstrates the weakness of the concept of laundering since such funds are not really sanitised: but they may be what I would term ‘sanitised enough’.

Crimes vary in their need for money muling assistance. For most crimes for gain, there is no need for money muling or indeed any laundering services, since the proceeds are immediately consumed in subsistence or leisure activities rather than being saved, distributed, et cetera. For others, including some Missing Trader Intra-Community (MTIC) tax frauds, trade based money laundering and false invoicing techniques predate muling and obviate the need for it (though there may be knowing or naïve associates as part of the ‘crime scripts’ for these offences). Some ‘mule herders’ offer their services on internet forums, but contacts between core group members and herders can also be established within offline social networks or offline criminal meeting places. Though internal monitoring makes this risky for them, financial services employees may provide data about “interesting” bank accounts or even increase withdrawal and credit limits, which means reduced numbers of money mules are required to move money originating from phishing attacks.

Recruiting Money Mules

Launderers typically recruit money mules in two ways: as unwitting accomplices or as willing and knowing accomplices. Social engineering of unwitting mule activities may include *inter alia*, serving as an intermediary, or transferring money under the guise of an ostensibly benevolent act, such as supporting someone in need overseas, with the mules keeping little or nothing for themselves. In

⁷ I have no information on the measures taken elsewhere.

other cases, they may think they are doing a legitimate job, advertised as a work-from-home scheme,⁸ also popular during Covid times, when those seeking work via LinkedIn may be targeted.

Complicit mules engage in similar behaviours, but knowing their behaviour is illicit. For instance, they may use their own accounts to conduct wire transfers and keep a fee, etc.. In a recent Dutch study, potential money mules were recruited using the chat function on mobile phones with messages inquiring about people who were interested in making money or more specific questions like ‘What kind of [bank] card do you have?’ or asking about the colours ‘orange’ or ‘green’ —a reference to the colours of the ATM cards from popular banks in the Netherlands.. Offline interactions and encounters remain important even in a ‘technological’ environment. This pattern is also plausible for the UK, though Cifas reports note the changes in age groups suspected of money muling, by no means just the young. Criminals might be expected to target different age ranges to avoid the banks’ money laundering risk models. However, newspaper and radio/television headlines about the corruption of school-children and university students by organised criminals – domestic and foreign – are designed to tap into public fears about their kids being drawn into organised crime and being threatened or even killed by ruthless gangs, alongside any criminal justice or commercial sanctions that they might suffer.

In 2019, new asset freezing order powers were used by the UK authorities to clamp down on Chinese accounts used as a conduit for allegedly illicit funds, a concern also expressed in the US and Australia. The extent to which such funds related to cybercrime, organised crime, corruption or simply circumventing Chinese exchange control rules is unknown.⁹ Almost by definition, the resources exist only to analyse a limited proportion of mules, who sometimes become a cut-out, a person who becomes the low-hanging fruit that law enforcement arrests when investigations are successful, but who is unable to further identify the ‘core’ money launderer or the predicate offender(s) (Gundur et al., 2021; Moiseienko and Kraft, 2018).

Combating money muling

For reasons of space, I have focused on money muling in the UK and the Netherlands,¹⁰ but this is a universal issue, as noted in Europol, US and Australian daily or weekly ‘Actions’. The private sector monitoring firms have extensive systems for identifying patterns of suspected muling and linking Internet Protocol [IP] addresses and other data. But as with all systems, one of the problems is to optimise/minimise false positives and false negatives and to act quickly before the money is gone. All of the banks have their own internal investigative staff for money muling, but technological ‘pre-sorting’ is vital: this rarely impinges on public perceptions of money muling, except when interventions are made to freeze or ‘de-risk’ accounts which sometimes attract publicity when the account holder or parent raises it with the media as an example of inexplicable bank behaviour (which banks, afraid of tipping off or granting counter-intelligence information to criminals, usually do not comment on).

⁸ This is not a recent phenomenon: see Aston et al. (2009).

⁹ <https://www.scmp.com/news/china/society/article/2189065/warnings-issued-after-britain-freezes-chinese-students-bank>; <https://www.universityworldnews.com/post.php?story=20190307200521986>. See more generally, <https://www.cifas.org.uk/newsroom/new-data-reveals-stark-increase-young-people-acting-money-mules>; <https://www.europol.europa.eu/newsroom/news/over-1500-money-mules-identified-in-worldwide-money-laundering-sting>; <https://www.bbc.co.uk/news/uk-england-45797603> (all accessed 30 November 2021). See also the thoughtful NCA review of Chinese underground banking: <https://www.nationalcrimeagency.gov.uk/who-we-are/publications/445-chinese-underground-banking/file>.

¹⁰ See UK Finance’s <https://www.moneymules.co.uk/>

Another area of action is in the Prevent mode,¹¹ with warning advertising aimed variously at students and any demographic group whose numbers have been rising. In 2021, an Economic and Social Research Council supported initiative *We Fight Fraud* has developed a lively film, *Crooks on Campus*, accompanied by 'roadshows' on campuses, in an attempt to make students more aware of the harms and the risks to them. Foreign students may be a high risk-taking group, especially as they near the end of their studies and might (reasonably?) assume that no harm to them will come from lending their accounts to others. It is commonly held that ethnic groups may be targeted by a combination of pressure, assumptions of harmlessness, and distance from pro-conformist norms, but relaxed attitudes may be more widespread among Generation Z. Evidence of impacts of this warning outreach is not yet available, beyond substantial signups to become, for example, mule marshals, by people who may not have been vulnerable to temptation anyway. Cifas and UK Finance have been engaged in both information sharing efforts within the sector and outreach publicity, but there is not yet any public evaluation of these efforts on the levels and forms of money muling. In the past three years, Lloyds Bank alone has blocked £60 million from 88,000 accounts over suspected money muling¹² and other banks have been very active also: but though important, this is a modest proportion of fraud, let alone proceeds of crime generally. We could learn something from those who turn down money muling offers, but most of the money mules narrative focuses on 'innocents lured into the web of evil organised criminals'.

There was a predictable political backlash from the Chinese authorities when NCA analysis showed the role of Chinese students in UK money muling. It is an open question what impacts education about the harms of money muling and the risks of getting a negative credit score and imprisonment will have on Generation Z people who may anyway have few prospects of home ownership or on overseas students who may not be impacted by UK credit scoring if and when they return home. However, it is useful for banks and others as a way of demonstrating that they are doing something. Money mule recruitment may now be more important since the Confirmation of Payee in UK online bank transactions has made it harder to scam people using account names that differ from the person/firm they thought they were paying.

To the sceptical, the focus on individual mules distracts attention from the question of how despite all the costs of AML and the international political infrastructure, it still seems to be easy to open accounts in the name of others or to recruit people to lend their accounts. It also distracts from the importance of *corporate and other business* fronts through which funds can be channelled. In the case of the UK, long delayed reforms at Companies House would help to reduce the use of misleading business fronts as *corporate* mules. Elsewhere, the rise of consciousness of the role of low public profile renegade US States like South Dakota, Wyoming, etc. in assisting corporate malefaction and frustrating beneficial ownership changes may show up the *individual* money mule issue as a side show in dealing with kleptocracy as well as more conventional Serious and Organised Crime. More rapid freezing of suspect business and individual accounts is needed, because once the money has gone, it is a lot harder and more expensive to get it back.

¹¹ 'Prevent' is one of the 4Ps - See HM Government, 'Serious and Organised Crime Strategy 2018' https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752850/SOC-2018-web.pdf (accessed 21/12/2021). Though it discusses economic crime prevention extensively, the Economic Crime Plan does not relate to the Prevent approach to turning people away from criminal pathways.

¹² <https://www.lloydsbankinggroup.com/insights/taking-on-the-fraudsters-together.html>

Discussion

There has been an explosion of research into procedural justice in policing around the world, and many police interested in evidence-based policing have contributed and learned from this, because (ethics aside) they realise that without the consent or active support of ‘the governed’, their tasks will be much harder. If anything approaching this has happened in the world of AML, it has been done very privately! This review has raised in several places the question of who the relevant audiences are. Unlike general policing scholars (and actual policing remains overwhelming the policing of the lower classes and ‘underclass’), corporate crime researchers or policy advocates very seldom consider that regulators should aim for legitimacy in the eyes of the regulated firms/persons or indeed predicate criminals. So this is a tricky cultural and political arena.

Gouldner (1954) described three patterns of bureaucratic rules differentiated by how much workers and management accepted and abided by them. The *mock* bureaucracy represented rules that neither side accepted nor followed, usually because they were imposed from higher up and held no meaning within the organization. *Representative* bureaucracy was the opposite: it had rules that both management and workers found to be very meaningful and compliance was expected and enforced culturally, without much need for supervision. But the third was the *punishment-centered bureaucracy* where one side was imposing its will on the other. Rules set by one group were evaded by others, tension and conflict were rife and rule-breaking led to punishment that reinforced the entrenched (and often negative) attitudes of one group about the other.

Although FATF and the FSRBs are represented in various intensities at a national representative level, and there are thresholds for MER acceptance and greylisting, as well as representation in national and regional (e.g. EU) law-making and regulation, it is arguable that AML has become – and perhaps always was - primarily a punishment centred bureaucracy. It reflects a mindset that unless one confronts recalcitrant jurisdictions and business/professional sectors with prospective pain, there is no reason why they would give up present benefits. This has been the history of AML, and it has been a political success as the Americans, British and French wanted it to be, by-passing the UN, whose measures such as the UNCAC have been far weaker and had less operational impact. Other papers at this conference will deal with different aspects of effectiveness, but one question for consideration is how far the FATF and national/regional bodies should engage in ‘responsive regulation’, and to whom should controls be accountable. The limited research to date suggests that there is very little understanding among the public or even among many regulated sectors of what AML achieves and can reasonably be expected to achieve, and what it would take to get there. Especially in Australia and the US, lawyers have most successfully resisted formal AML regulation, and we have little organised understanding of what lawyer regulation has achieved and could achieve; whereas financial services have been mostly cowed into submission. One might have expected ex-police/intelligence officers who have moved into the financial sector to be a reservoir of support for increasing the crime control impacts via AML, but there is not yet evidence that this augmentation has been transformational. We need to appreciate how big and complicated the ‘AML-industrial complex’ is, and though this may be true also of other policy areas like climate and wildlife control, a start would be to think through the implications of what do the general public, people working in regulated sectors, and offenders of various kinds think about the value of AML.

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