

## A criminal asked to design anti-money laundering laws would probably keep our current ones

Written by Ronald F Pol, Senior researcher NZ, La Trobe University

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Money laundering rarely gets as literal as the case in Thailand last week, where police raided homes of a ring suspected of laundering a billion baht (about A\$48 million) of drug proceeds and found millions [stashed in a washing machine](#) .

Stories about money laundering, and efforts to prevent it, are rife.

In just the past week there were reports about Swiss bank UBS agreeing to pay a [€10 million \(about A\\$16 million\) penalty](#) to end an Italian money laundering case; a New Zealand company, Jin Yuan Finance, being [fined NZ\\$4 million \(about A\\$3.7 million\)](#) for not complying with anti-money laundering laws; and calls in Australia for a royal commission after leaked CCTV footage from Melbourne's Crown Casino showed a man in a tracksuit exchanging "[bricks of cash](#)" worth hundreds of thousands of dollars for gaming chips in one of the casino's high-roller rooms.

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In the latter case, Crown Casino defended itself on the basis of having a "comprehensive" Anti-Money Laundering and Counter-Terrorism Financing program overseen by the [Australian Transaction Reports and Analysis Centre](#) (AUSTRAC). But federal parliamentarian Andrew Wilkie called the situation a [catastrophic &ldquo;multinational, multi-jurisdictional and multi-agency&rdquo; failure](#) by politicians, state regulators, police and AUSTRAC.

He's right, at least in part.

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The deeper problem isn't that national anti-money laundering laws are being flouted. It's that the global anti-money laundering system is a failed experiment.

We need to have an honest conversation about what's wrong with it, including the possibility that much of it is a waste of time, and some of it might be doing more harm than good.

### 99% design failure

Don't get me wrong: money laundering controls do good things too. Suspicious transactions trigger alerts, offenders are arrested and assets seized.

But the amount of criminal funds intercepted is scarcely a drop in the bucket. The system is designed to catch *some* criminals. It has almost no impact on crime.

The United Nations Office of Drugs and Crime has estimated that just [0.2%](#) of the proceeds of crime are seized. My update of the UN's estimate (in research not yet published) suggests the figure might now be 0.1% or less. Either way, in practical terms the "success rate" of money laundering controls is scarcely [an accounting rounding error](#) in criminal accounts.

There are many reasons for anti-money laundering's failure, but a big problem is the emphasis on activity and effort rather than results. It's the same mindset that focuses on the number of hours spent at work rather than what's achieved, or how many speeding tickets are issued instead of whether harm from accidents is reduced.

Reforms to the global anti-money laundering system, [rolled out from 2014](#), were meant to address this problem. They didn't. Though the language of "outcomes" and "effectiveness" was used, it meant something different to the *impact* and *effect* of regulations on reducing crime and its harms.

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In other words, the new measures were mislabelled “outcomes”. They continued to measure effort and activity, such as the number of money laundering prosecutions, instead of the impact (if any) on crime. (I explain this in detail in a paper in the [Journal of Money Laundering Control](#), freely available until January 2020).

### **Frenetic activity**

Frenetic compliance activity helps obscure the harsh reality of poor results. Casinos and banks conform to complex rules designed like a giant stack of colanders to catch water, continually adding new ones to “fix gaps”. New “compliance solutions” doggedly rake over the same ground covered by those that catch less than 1% of transactions.

The upshot is that companies can show they comply with anti-money laundering laws (Crown’s response is straight out of the compliance textbook) and countries can show they comply with international standards.

But does it stop crime? Who knows? The system isn’t designed to demonstrate its impact on crime. Jin Yuan Finance, for example, was fined because it breached anti-money laundering laws, not because there was necessarily laundering or any other crime.

A criminal mastermind given the chance to rewrite anti-money laundering rules might just keep what we have, on the basis it keeps the authorities ineffectually busy.

### **Good intentions and ‘voluntary coercion’**

The problems with the system can be traced to the rushed and flawed way it was set up.

The modern anti-money laundering experiment started in 1989, at a G7 summit in Paris. The seven big industrialised nations bypassed treaty-based consensus to establish a “Financial Action Task Force” to help prevent drug trafficking. The task force – known as [FATF](#) – later targeted money laundering associated with other profit-motivated crimes and terrorism financing.

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After a sluggish start, with few nations signing up to its compliance model, FATF made an offer governments couldn't refuse – ironically echoing a famous line from [The Godfather](#) .

FATF rated countries' anti-money laundering regimes and issued “black lists” and “grey lists” publicly naming those not meeting its “recommendations”. Banks did the rest. Treating the ratings and lists as a proxy for risk, access to the financial system became difficult for many countries. FATF's intention (in its own words) was to “pressure” countries to comply, “[to maintain their position in the global economy](#)” .

Risking exclusion from financial markets, 205 countries and jurisdictions “voluntarily” joined the anti-money laundering movement. The system depends on a set of self-declared “best-practice” standards. This means each national anti-money laundering regime reflects the flaws of the international standard.

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At the [UN General Assembly](#) last month, leaders from small and large countries [railed against](#) the perceived unfairness and damage caused by blacklists and financial sanctions.

Such protests might be more easily dismissed as self-serving if the anti-money laundering system worked. But it doesn't.

Complicated laws, armies of regulators and costly compliance tasks give the comfort of activity and feeling of security, but they don't make us safe from serious crime and terrorism. To resolve it, we must frankly confront the reality of its failure.

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*Ronald F Pol does not work for, consult, own shares in or receive funding from any company or organisation that would benefit from this article, and has disclosed no relevant affiliations beyond their academic appointment.*

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