



Australian Government  
Australian Institute of Criminology



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*Anti-money laundering and counter-terrorism  
financing regimes across the globe*

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## Outline

### The nature of money laundering and financing of terrorism

- Laundering the proceeds of crime
- Using illegally- and legally-obtained funds to finance terrorism
- The scale of the problem

### AICs comparative research

- France, Germany, Belgium, UK, USA, Singapore, HK, Taiwan, Aust.
- Analysis of legislation / jurisprudence, regulation / compliance, enforcement / prosecution outcomes

### Compliance and enforcement issues

- Nature, extent, outcomes

### Criminological and policy implications

- Displacement, harmonisation, coordination, access, research



# Use of illegally-obtained funds to finance terrorism

## Fraud

- Extremist Muslim terrorists have raised funds from fraud in Europe

## Kidnapping and extortion

- Separatist and left-wing groups raised funds from extortion in Europe

## Drug trafficking

- 50% of terrorist groups involved in drug-related crime (US State Dept)

## Smuggling

- Extensive use of smuggling of people, arms, drugs and bulk cash

## Other organised crime

- Funds generated from prostitution, cybercrime, counterfeiting, piracy

## *Funds transfer methods include:*

- Alternative remittance and use of shell companies to disguise funds



## Use of legally-obtained funds

### Organisational subscriptions

- Collection of funds from membership of terrorist organisations
- Funds obtained from group events, publications and donations

### Business activities

- Funds from legitimate business activities conducted by organisations

### Self-funding

- Funds raised specifically for attacks e.g. London attack cost £8,000
- Benbrika et al. – A\$10,000 from sale of parts from stolen cars
- Victorian case – funds of A\$1.9 million allegedly transferred to LTTE

### Charitable donations

- Diversion of charitable donations for legitimate charities to terrorist activities (e.g. Jemaah Islamiyah and Al Qaeda)
- Funding of terrorist groups set up as unregulated charities



# The Global AML / CTF regime

## Background

- Growth of organised crime, financial crime & financing of terrorism
- The Financial Action Taskforce 1989 – 40 + 9 recommendations
- Aims to identify the movement of funds by terrorists (and criminals)

## Regulated entities

- Initially limited mainly to financial institutions
- Extended to remittance providers and specified professionals

## Obligations of regulated entities

- Identify customers to determine if they are terrorists/criminals
- Report cash, suspicious, threshold, and international transactions to FIUs for analysis and use by law enforcement
- Undertake risk-based compliance activities



US\$207m. Seized in Mexico, 2007



# AICs comparative AML/CTF research

## Aims

- Implementation of the FATF 40+9 recommendations
- Identification of anomalies and weaknesses
- Focus on 9 selected EU, Nth American and SE Asian countries

## Evidence

- Desk-based analysis of legislation, FIU reports, evaluations, surveys
- Face-to-face consultations with stakeholders in 9 selected countries

## Limitations

- Only selected countries with English-language information
- Recency of implementation; lack of evaluative research

## Publications – <http://www.aic.gov.au/en/publications.aspx>

- Walters, Budd, Smith, Choo, McCusker, Rees *AML / CTF Across the Globe* – forthcoming AIC book (2011) and 20 other publications

Anti-money laundering and counter-terrorism financing across the globe: A comparative study of regulatory action

Julie Walters, Carolyn Budd, Russell G Smith, Kim-Kwang Raymond Choo, Rob McCusker and David Rees

AIC Reports  
Research and  
Public Policy Series 113



## Scope

### Regulated entities

- Differences in the inclusion of non-financial businesses / professions
- Moves to exclude low-risk entities from compliance with regime

### Predicate criminality

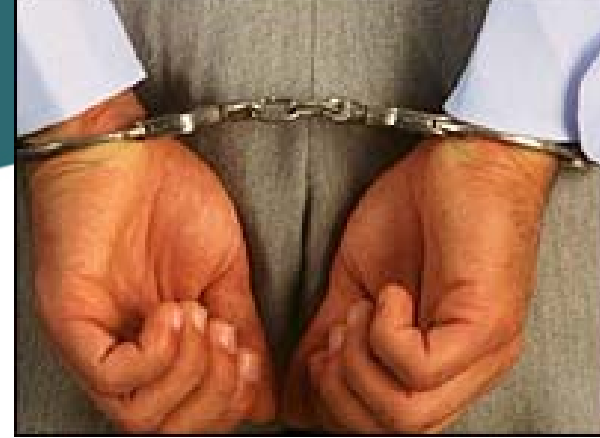
- Some involve all serious crimes (Aust, US, Germany, Singapore, HK)
- Some involve only specified offences (Belgium, France, Germany)

### Financing of terrorism

- Generally criminalised, except in Taiwan
- Variations in the proscription of specific acts, individuals, groups

### Reporting

- Large increase in extent of reporting (>300% from 2002-09 in US&UK)
- Some require preliminary investigations prior to reporting (Belgium)
- Differences in reporting of cash and bearer negotiable instruments



## Prosecution trends

### Prosecutions based on reporting 2007

- United Kingdom – 220,000 reports, 766 prosecuted (0.3%)
- France – 12,000 reports, 400 prosecuted (3%)
- Belgium – 12,000 reports, 1,666 prosecuted (14%)
- Taiwan – 2,000 reports, 400 prosecuted (20%)

### Money laundering prosecutions

- Germany – 40% decrease 2002-03; 160% increase 2005-06
- United Kingdom – 16 guilty 2003; 1,328 guilty in 2006
- Australia – 5 convictions in 2003-04; 50 in 2009-10

### Financing of terrorism prosecutions

- USA – 262 prosecutions between 2002 and 2007
- Australia – 38 prosecutions for terrorism offences since 2001
- Belgium – 21 cases of terrorism or financing in 2008
- Germany – 65 STRs (0.9%) involved financing of terrorism in 2008





# Compliance and enforcement

## Enforceable undertakings

- Australia – 5 enforceable undertakings given to ensure compliance

## Financial sanctions USA

- 2007 – 248 actions against financial institutions for non-compliance
- 2007 – 5% of entities had inadequate AML systems (248 actions)
- e.g. *Riggs Bank NA* – fined US\$25m for non-compliance in 2004 (failure to assess risk, carry out CDD, file SARs, monitor trends, train AML staff, audit processes)

## Financial sanctions United Kingdom

- 2001-08 – 10 financial sanctions imposed for non-compliance
- e.g. *Abbey National PLC* – fined £2.32m in Dec 2003 (failure to file SARs, carry out customer identification, monitor compliance over a prolonged period)



# Criminological and policy implications

## The role of financial intelligence

- Transaction reports provide an important source of information
- Sound intelligence gathering is essential in responding to terrorism

## The role of education

- Informing business and individuals of the risks of financing terrorism
- Enhancing social inclusion of ethnic communities to counter the processes of radicalisation that can lead to attacks

## Cost of the regime

- Cost of maintaining regulatory agencies
- Impact of business – *Scarman Centre Survey* (2002) of 344 UK financial institutions – 58%: KYC could lead to customers being alienated, 46%: KYC could lead to lost business
- Business compliance costs – staffing, education, software: Z/Yen Ltd estimates (2005) – UK £253m (0.026% GDP), US (0.021% GDP)



# Criminological and policy implications

## Displacement concerns

- Corruption of insiders and gatekeepers
- Use of unethical and unregulated professionals / service providers
- Avoidance of the regulated financial sector – cash, stored-value cards, laundering of stolen goods prior to entry into the regulated sector

## Research – evaluative and comparative

- Need for formal evaluations and comparative research
- Evidence needed of costs and benefits of the regime

## Qualitative criminological research

- Routine activities theory – offender decision-making
- Reporting behaviour of financial institutions
- Utilisation of financial intelligence by law enforcement



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