

Global Coalition to Fight Financial Crime

Effectiveness Expert Working Group Position Paper

July 2022

Introduction

This paper is informed by discussions of the Global Coalition to Fight Financial Crime Effectiveness Steering Committee (ESC) and its four sectoral subgroups, which are aligned to the following areas:

- Law enforcement / Financial Intelligence Unit (FIU)
- Financial services / Fintech / Regtech / Crypto
- Regulatory / Supervisory
- Financial Action Task Force (FATF)

This paper draws on the expertise of the ESC members and attempts to:

- Identify and synthesize key cross-cutting themes raised in subgroup discussions to date;
- Make recommendations about potential reforms that might improve the effectiveness of the financial crime framework in a way that engages all ecosystem stakeholders in a collaborative framework to fight financial crime in an increasingly digital age.

In addition to this paper, the FATF working group has issued a number of separate advisory papers. These should be read in conjunction with this paper and are annexed below¹. Also noted is the 2021 Institute of International Finance (IIF) / Deloitte Joint White Paper entitled “*The Effectiveness of Financial Crime Risk Management Reform and Next Steps on a Global Basis*”² for a complementary review of key areas outlined herein, including the use of financial intelligence, risk prioritization, and technological innovation in financial crime risk management.

In order to properly assess effectiveness, there must be a thorough review of the ML/TF risk. The level of risk is informed by the threat and materiality, which must be viewed in the context of each jurisdiction.

Thematic Area 1 | Enhancing Information Sharing

Public Private Partnerships (PPPs)

Enabling increased information sharing in all ways (public to private, public to public, private to private, local to global), is an important factor in improving the ability of all stakeholders in the

¹ Global Coalition to Fight Financial Crime (February 2022) FATF Subgroup Working Paper: How to improve the Effectiveness of the Mutual Evaluation Process <https://www.gcffc.org/fatf-subgroup-working-paper/>

² Institute of International Finance (IIF) and Deloitte (November 2021) The effectiveness of financial crime risk management reform and next steps on a global basis <https://www2.deloitte.com/cn/en/pages/financial-services/articles/the-effectiveness-of-financial-crime-risk-management-reform-and-next-steps-on-a-global-basis.html>

ecosystem to fight financial crime more effectively. Public Private Partnerships are a critical enabler in this context and can help create a framework of collaboration that allows financial crime to be tackled more effectively as part of a 'whole system approach'.

The ESC noted the following as being useful foundational principles that stakeholders considering the development of PPPs may wish to consider:

- Areas of focus for PPPs should enjoy consensus support across stakeholders to drive engagement (e.g. being linked to national law enforcement or social priorities);
- PPPs should develop practical, relevant, and 'cross cutting' measures, so that success can be demonstrated to all stakeholders to secure long term engagement and sustained growth;
- PPPs should be supported by a clear legislative and governance framework that provides clear accountability, and clarity around issues such as the appropriate handling of personal information;
- PPP models should maintain a degree of flexibility to allow for appropriate adjustment and adaptation in response to emerging financial crime threats, new financial technology, and changing public priorities;
- PPP membership should include as a minimum, relevant subject matter experts from within law enforcement (including police, customs and tax authorities), the FIU, the regulatory sector and reporting entities, prioritizing engagement with institutions whose coverage most closely aligns with prioritized threats. Strong relationships with, and engagement from, senior leaders within participating organizations is also key;
- PPP models might consider including relevant organizations / sectors outside regulated sectors (e.g. NGOs and academia) to enable access to a diversity of perspectives and data;
- PPPs should aspire towards the sharing of both tactical and strategic level intelligence both to drive investigations and to help the regulated sector be more effective in preventing and detecting crime;
- PPP leaders can help ensure the sustainability of PPP over time by ensuring regular, high-quality feedback is provided to contributors to demonstrate the value of their engagement.

Public Private Partnerships (PPPs) and the Financial Action Task Force (FATF)

The ESC considered PPP to be a key enabler of success in the context of the FATF measures of effectiveness (the 11 Immediate Outcomes³). PPPs had for example, an important role to play in helping to evaluate threat materiality in relation to national risk assessments, by ensuring more comprehensive access to insight about threats and risks across the stakeholder community.

While the importance of Public Private Partnerships is gaining traction, the ESC considered that there would be value in the FATF providing clearer endorsement of PPP within the global framework. For example, the existence of a well-functioning PPP could be factored into the mutual evaluation assessment process.

Formal recognition of the development of PPP by the FATF would strongly encourage senior political engagement in their development, release associated funding and help to ensure wider engagement from key stakeholders in the national AML ecosystem. Increased engagement would also help PPPs modernise for example through increased digitisation, and

³ FATF (April 2022) Report on the State of Effectiveness and Compliance with the FATF standards <http://www.fatf-gafi.org/publications/documents/effectiveness-compliance-standards.html>

could help PPP scale, so that they become a central pillar of both public and private sectors' response to tackling illicit finance.

Clear FATF support for PPP would also be of value in encouraging proactive engagement from the regulatory sector, who are a key enabler of PPP, but are not always directly incentivised to engage at present.

The FATF group has drafted a separate paper⁴ that encourages the FATF to find ways to incentivise the development of PPPs in a manner tailored to local laws/regulations/risks/economic factors etc. The points above are noted in conjunction with that paper.

Enabling information sharing in support of PPPs

Privacy Enhancing Technologies (PETs) offer opportunities to enable tactical information sharing within the context of a PPP without breaching data privacy legislation. However, consideration of the use of PETs should be balanced with discussion on the need for regulatory/legal clarity on information sharing and the use of data to support technological innovation as the ultimate goal.

Strengthening collaboration between stakeholders (outside of the PPP)

Increasing collaboration between stakeholders is an important enabler of a more effective financial crime framework, helping to build mutual understanding, trust and confidence between stakeholders.

In addition to the development of PPP, the ESC noted that enhanced information sharing was also important within government. It was important for example to:

- Encourage fully integrated relationships between FIUs and law enforcement to maximize successful financial crime investigations and prosecutions. In this context, the Canadian 'Voluntary Information Record' (VIR) process was identified as an example of good practice. The VIR process enables Canadian law enforcement agencies to share information regarding live and historic investigations with the FIU in order to drive the focus of SAR/STR analysis and disclosure;
- Leverage all source intelligence (FIU data holdings, open-source information, classified intelligence reporting, law enforcement sensitive information, private sector data etc.), to support the production of high quality strategic and tactical assessments that support the targeting of financial crimes with the largest societal cost and greatest benefit to criminal actors;
- Identify innovative methods to increase access to/transparency of FIU data holdings while retaining the critical value-added analysis provided by FIU financial crime experts and maintenance of data security.

Thematic Area 2 | National Risk Prioritisation

⁴ Global Coalition to Fight Financial Crime (February 2022) FATF Subgroup Working Paper: How to improve the Effectiveness of the Mutual Evaluation Process <https://www.gcffc.org/fatf-subgroup-working-paper/>

There is growing consensus that the introduction of clear national risk priorities (such as those proposed within recent amendments to the US AML framework), had significant potential to improve overall effectiveness of the financial crime framework, by enabling resource within all parts of the AML ecosystem (public and private) to be focussed with greater precision on areas of highest harm, or of greatest interest to the public sector, leading to improved outcomes against key threats.

Historically, an argument has been made that it is impossible to judge which SARs will be meaningful in the future – and that by introducing national priorities, SAR reporters may miss something that proves valuable at a later date. The ESC acknowledged this contention, but maintained that introducing a system that enabled more capacity to be pointed at known and prioritised threats was an approach that was more likely to produce a disruptive impact against financial crime more reliably. In addition, the introduction of national risk priorities did not have to imply a binary process, where reporting against low priorities was simply switched off. The introduction of priorities and the response to them could be nuanced, with, for example, regulatory frameworks allowing increased automation or less resource intensive treatment of reporting against lower priority areas. This calibrated approach to the allocation of effort towards higher priorities would enable capacity to be released while retaining a comprehensive regime.

The implementation of national priorities was not an argument for reducing spend / capacity in the system – it was an argument about enabling capacity to be focussed more strategically to drive outcomes against matters of national risk priority.

There would be value in clarifying the definition and application of the risk-based approach in the context of national priorities, with a focus on ensuring that the implementation of national priorities does not simply create additional reporting burdens, but rather enables resource to be dialled up in areas of priority and dialled down in areas of less priority. This process would need to be agile and dynamic to reflect changing priorities.

It is important that a shared understanding exists between the public and private sectors about how performance against the priorities will be measured. Performance reporting may need an increased focus on qualitative assessment. The Wolfsberg Group – Statement on Effectiveness⁵, recommending that an assessment of the ‘usefulness’ of information provided to law enforcement be considered, is extremely helpful in this context, but will need to be further developed and defined to understand its implementation in practice.

The ESC noted the following points as potentially useful considerations around the definition of ‘usefulness’. That:

- Prosecutorial action was taken in part because of information reported;
- Positive (and negative) feedback from law enforcement;
- Intelligence provided fed into a wider investigation;
- Law enforcement took action of some stated or specified kind;
- Information instigated law enforcement and the private sector collaborated in some way (e.g. the production of a typology).

Metrics must also take into account jurisdictional differences, these might include for example, access to data, technology, customer maturity, product offering and concomitant patterns of behaviour.

⁵ The Wolfsberg Group (August 2020) Publication of Wolfsberg Group statement on Developing an Effective AML/CTF Programme <https://www.wolfsberg-principles.com/articles/publication-wolfsberg-group-statement-developing-effective-amlctf-programme>

Developing an evidence base

The case for policy change around the development and implementation of national priorities has been made in various forums. It should be enhanced through case studies that provide practical examples of where the absence of national priorities (and or effective feedback on SARs), was undermining the ability of the regulated sector to be as effective as they could be in tackling financial crime. Developing these case studies would be a useful area of focus in future for the ESC.

It would also be valuable to identify case studies that illustrated how ‘low value’ activities that consumed capacity, but which were not likely to lead to the effective prevention, detection and disruption of financial crime, could arise when supervisory approaches focussed on ‘technical compliance’, over a focus on the effective contribution to outcomes. A potentially useful statistic in this context could be the proportion of resource in the regulated sector deployed in FIU / PPP type activity vs wider programme governance.

National risk prioritisation and FATF

The majority of AML legislation and regulation at the national level derived from the FATF standards. As such it was important that the FATF provided clear guidance around the development and implementation of national priorities. FATF guidance would be useful in the following areas for example (a non-exhaustive list):

How national priorities could be:

- Integrated into existing guidance on the application of the ‘risk-based approach’;
- Reconciled with Recommendation 20 (reporting of all suspicious transactions);
- Integrated and reconciled with the ‘all crimes approach’;
- Defined with sufficient fidelity as to be practical / implementable by the regulated sector
- Supervised and examined in line with FATF’s focus on ‘effectiveness’;
- Used to inform examiner training;
- Used to enable capacity in both public and private sectors to be dialled up / down in line with national priorities;
- Used to support the identification of ‘low risks’ (recognizing these may be harder to agree), and expectations around their management;
- Used to help ensure the ‘spirit’ of the FATF guidance, and its focus on effectiveness percolated down through national frameworks into, for example, the supervisory examination of an FI’s AML framework;
- Used to amplify the concept of *materiality* within the FATF standards (and consequently within national regimes).

The ESC would consider further the development of practical recommendations to help interested parties understand how a ‘national risk priority framework’ could / should work in practice. Areas of potential focus could include for example (a non-exhaustive list):

- Whether/how the national risk priorities (and responding to them), could / should be tailored for different sectors, avoiding a ‘one size fits all’ approach that could create inefficiencies;
- How capacity focused on areas of lower national risk priority could be released to enable additional capacity to be directed towards areas of greater priority. This could include for example, the development of regulatory guidance around the increased use of automation in reporting on activities not linked to the priorities;

- Exploration of the use of ‘administrative forbearance’ (where permitted by legal frameworks) as a tool to enable the rebalancing of resource towards areas of high priority;
- Improving the feedback loops between the FIUs and the regulated sector, to help ensure that regulated institutions filing reports were well informed about the alignment of their reports to the areas of national priority, and the usefulness of those reports in addressing those priorities. Feedback loops would also need to be systematised and industrialised if the regulated sector is to be examined on its contribution to national priorities. It is important therefore to find ways to ensure the Financial Intelligence Unit (FIU) and the Law Enforcement (LE) community is incentivised (and perhaps even obliged), to provide feedback at scale will be important;
- How the effective implementation of national priorities and measurement of performance against them could be reflected in international standards;
- How key concepts such as ‘the usefulness of information to Law Enforcement (LE) should be defined, captured and fed into the supervisory frameworks.

Other Recommendations

Information sharing utilities

Information sharing utilities that allow disparate data sets to be brought together to enable enhanced analysis or to reduce duplicative processes, are being piloted in several jurisdictions including the Netherlands, Switzerland, Canada and the UK, across a range of topics including fraud, AML and sanctions compliance.

Informative examples of different kinds of utility models include transaction monitoring (TM) utilities such as Transaction Monitoring Netherlands (TMNL), an initiative by five Dutch banks focussed on identifying unusual patterns in payments traffic collectively, and KYC utilities such as those operated by SWIFT and Invidem (and other providers) which enable the collection of due diligence information once which can then be reused and relied on by multiple stakeholders.

Utility models have significant potential to help deliver both efficiencies within the AML framework, and enhancements in driving effectiveness. TM utilities could for example ultimately allow a collective approach to the identification, analysis and resolution of sanctions or TM alerts. Reviewing alerts in the context of a network (rather than in institutional silos), would improve detection. Performing activities once on behalf of the system would deliver efficiencies in areas that consume significant resource within the regulated sector. This could release capacity that could be redeployed towards other activities (e.g. PPP) more likely to deliver better outcomes.

The ESC supports the development of utility models and the transformative potential they have to improve the efficiency and effectiveness of the AML framework. The ESC recognises and supports the FATF’s recent focus and publications on data pooling, and strongly encourages a continued focus in this area, noting the detailed overview and recommendations provided in the 2021 Deloitte IIF white paper⁶.

Optimising business models and processes to enable the effective use of data and technology

⁶ Institute of International Finance (IIF) and Deloitte (November 2021) The effectiveness of financial crime risk management reform and next steps on a global basis <https://www2.deloitte.com/cn/en/pages/financial-services/articles/the-effectiveness-of-financial-crime-risk-management-reform-and-next-steps-on-a-global-basis.html>

It is important that leaders across all stakeholder groups ensure their organisations' business models and processes are agile and able to incorporate new technologies and approaches that will allow increasing data volumes to be ingested and analysed to better enable the effective prevention and detection of financial crime. In this context stakeholders should consider:

- The implementation of effective analytical tools and knowledge development programs for financial crime investigators, FIU staff, and other relevant stakeholders;
- Broadening perspectives on both collection methods used and the types of information collected by FIUs and law enforcement and private sector to increase the value of financial information and intelligence;
- Identifying practical potential changes to legislation and regulations to ensure the most useful data is being collected and exploited to its fullest potential;
- Identifying opportunities to release capacity within the stakeholder community through for example, automation of SARs relating to structuring.

FATF 'pilot jurisdictions':

The ESC noted that while the FATF was extremely important in helping to ensure the implementation of AML standards internationally, the need to demonstrate compliance through the mutual evaluation process was the principal focus of political attention. This could limit political engagement and support in the development of innovative approaches.

In more mature jurisdictions that had already proved an acceptable level of basic AML competence, the FATF could give permission to develop, test and evaluate new AML approaches which had the potential to improve effectiveness, even if by implementing these new approaches, the jurisdiction diverged from the existing standards.

If jurisdictions could agree on pilot approaches with the FATF in advance and receive assurances that they would not be penalised in a future Mutual Evaluation for running them (even if the pilot proved less successful than anticipated). It could help to create the necessary political will, in country, to encourage and fund innovative and potentially more effective approaches to tackling AML.

Pilots could be debriefed and lessons learned fed into the FATF policy cycle to help drive improvements in overall effectiveness. These topics could be usefully raised for discussion with the FATF subgroup.

Digital typologies

Collective reporting against national priorities could be enhanced through a focus on the creation and deployment of 'digital typologies' – algorithms that could be rapidly ingested into the reporting systems of ecosystem stakeholders. This ecosystem would include current AML/CFT stakeholders (such as banks and their transaction monitoring systems), but should also include new and potentially transformative partners, in particular national payments architectures where digital typologies could identify suspicion that individual institutions working in silos would be blind to.

Digital typologies could be created as shared endeavours between the LE/FIU and FinTech/FI communities. They would aggregate input and insight from both communities to create comprehensive and powerful indicator sets that could be rapidly deployed at scale across the regulated sector, helping to prevent crime and improve the focus and quality of reporting. To enable and expedite the development of digital typologies policy makers should consider the

potential need for legislative ‘safe harbours’ that could facilitate the level of information sharing that may be necessary for algorithm development.

Policy makers should also consider how current, but less effective / ineffective typologies, could be eliminated to free capacity, to focus on the development and implementation of new and powerful collective and digital typologies. Typologies recommended in the past for good reasons, often do not age well, because the circumstances which led to their creation have changed (e.g. customer behaviour has changed, transactional activity has moved away, products and services are no longer offered or their features are materially different). At present, retiring typologies can be extremely challenging and can consume significant resources in proving negative outcomes and managing governance that could be better deployed elsewhere.

A focus on the development of digital typologies targeted at the identification of illicit activity associated with the national priorities, would be a logical area of early activity. Existing PPP constructs (where they exist) could be used to facilitate their development. The innovation hub construct established by Austrac through their Fintel Alliance, is an example of good practice in creating the conditions necessary for innovations such as the development of digital typologies to flourish.

Some ESC members are already trialling the development of digital typologies. Capturing and sharing lessons learned may be an area of future focus for the ESC.

Data standardisation

ESC noted that there would be value in the FATF redoubling its efforts to define and enforce a consistent set of minimum data standards across the AML ecosystem.

Areas of focus should include metrics relevant to the measurement of effectiveness which might include for example, the numbers of victims safeguarded (not e.g. ‘numbers of SARs filed’), and enhanced consistency in the collection and publication of asset recovery data which would help inform the identification of effective approaches and the development of robust evidence-based policy in this important area.

In addition, enhanced data standardisation would help drive efficiencies across the AML ecosystem by reducing complexity and by helping to ensure that operational burdens with little to no risk management value arise when countries implement different requirements that seek to yield the same results.⁷

Data standardisation would also help enhance effectiveness by enabling data sets to be more easily reconciled and analysed to help identify suspicious patterns of activities and common individuals and entities of high risk. Examples in this context could include the standardisation of data formats within global SARs / STRs and the continued standardisation of cross-border payments data.

Defining the goal and measuring progress

Members of the ESC will continue work collaboratively to develop and agree an over-arching ‘mission statement’ that defines the key features of an effective financial crime framework. This ‘mission statement’ must include clear definitions of terms, including ‘effectiveness’ and ‘financial crime’ and should include proposed measures against which performance could be

⁷ Institute of International Finance (IIF) and Deloitte (November 2021) The effectiveness of financial crime risk management reform and next steps on a global basis | page 14 – arguments in the context of beneficial ownership <https://www2.deloitte.com/cn/en/pages/financial-services/articles/the-effectiveness-of-financial-crime-risk-management-reform-and-next-steps-on-a-global-basis.html>

judged. The creation of an over-arching mission statement would help provide direction to the development of ideas within sectoral subgroups.

A short paper that will provide the ESC with a suggested mission statement, set of definitions and potential measures is under development. This will be shared with the ESC for discussion and approval as soon as possible.

Effectiveness Expert Working Group | Acknowledgements

The Effectiveness Expert Working Group of the Global Coalition to Fight Financial Crime is chaired by Sir Rob Wainwright, with Chris Bostock as its Rapporteur (and principal author of this Position Paper) and Karel de Zoete as its Group Secretary.

Members of the Working Group include the chairs of its thematic subgroups: Sarah Paquet (Co-chair Law Enforcement / Financial Intelligence Unit subgroup), Simon Riondet (Co-chair Law Enforcement / Financial Intelligence Unit subgroup), Gemma Rogers (Chair Financial services / Fintech / Regtech / Crypto subgroup), Jamal El-Hindi (Chair Regulatory / Supervisory subgroup) and Daniel Thelesklaf (Chair Financial Action Task Force subgroup).

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About the Global Coalition to Fight Financial Crime

The Global Coalition to Fight Financial Crime brings together different parts of the anti-financial crime ecosystem to work towards the establishment of global standards, built on public-private cooperation, to complement and make more effective current regional safeguards. For more information, visit www.gcffc.org.