

# Biggest Crimes are not Cash Related: Collective Action toward Best Practices



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# Background and main points

- “Recently cash has become unpopular in political circles, as it effectively restricts states’ power to tax (explicitly or via negative interest rates) or to survey and potentially control their citizens. Several states have enacted restrictions to the use of hard cash.”
- De-risking and avoidance of informal remittance companies. Is switching out of cash for better risk management and control?
- Are most damaging crimes and risks in cash?
- Regulatory arrangements have room for improvement
- Useful means to monitor and help develop economies and fragile states

# NO CASH SCANDALS AND RISKS

- DEUTSCHE BANK
- BNP PARIBAS
- HSBC
- JPMORGAN CHASE
- CITIGROUP
- LLOYDS BANKING GROUP
- MADOFF INVESTMENT SCANDAL
- LIBOR
- FINANCIAL CRISIS
- BANK OF NEW YORK
- 9/11
- S&Ls in the USA, BCCI, PPI, AMBROSIANO, KP, RM, R, ETC
- “ODIOUS DEBT”, GS AND EUROZONE
- PANAMA PAPERS

- Distrust of government and banks in recent times – capital controls and bail ins reminiscent of older scandals around the world
- 85% in cash and 2.5 billion w/out account – reduce cash by turning clients away from banks? migrants banked in EU now?
- De-risking and humanitarian law violations: communities starved, countries left out, capital drained out of entire economies, development and global growth undermined

# Fighting terror with error

- Informal remittance channels furnish vital service but also facilitate serious crime, not unlike banks and other formal financial service providers.
- Regulation inconsistent, misapplied, mis-measured, ineffective, costly, counter-productive
- Policies formed with imperfect knowledge of sectors and networks subject to regulation, independently of industry/community views, and without coordination at national and international levels.
- Regulation necessary but proportionate to the risk and appropriate to socio-economic and cultural environments.

# De-risking and risk growth

- eliminate company risk for individual financial institutions
- increase the systemic risks and create additional externalities.
- Displacement to channels harder to monitor.
- Billions of legitimate flows unduly criminalized or treated as suspicious.
- Raise the cost of sending money to the very people who need more options and lower costs for remittance services.
- needy communities and families suffer, may be unable to survive in challenging and conflict-ridden contexts. Development projects and economic growth undermined by lack of liquidity and investment with dire effects on the banking and other industries.
- Anti-West sentiment, radicalization and violent conflict as well as additional pressures to migrate to Europe or OECD countries in search of economic and security shelter

- The entire humanitarian community in Somalia relies on the availability of MSBs to do business including transferring funds for project activities to organization staff or local partners and paying for staff and office running costs.
- Without MSBs, the UN and NGOs in Somalia would be forced to carry cash to pay day-to-day operational and program costs, placing funds and staff at risk in an insecure environment



- 51 percent are women - remittances account for 64 percent of their income
- A large majority employed, particularly in such professions as teaching and entrepreneurship
- Remittances account for 60 percent of their average annual incomes of \$3,000



# Risk perceptions and reality

- Risk perceptions and reality – more than 30% of STRs about cash
- The EUR 500 note accounts for over 30% of the value of all banknotes in circulation
- Director of Europol: “The use of cash by criminals remains one of the most significant barriers to successful investigations and prosecution. It is a threat that has not received sufficient international attention or legislative solutions. A fragmented enforcement approach at national and international level, and the differing regulatory frameworks across the EU Member States, are widely exploited by criminals, who adapt their methods and routes to take advantage of these loopholes. Stepping up efforts to increase international cooperation and information exchange, and establishing a more harmonised approach among EU Member States concerning cash movements within the EU, are crucial if we are to tackle these criminal activities.”

- Mostly fear of the unknown – how is it used; sources of hoarding – ord. citizens v. criminals
- All criminals use cash for ML
- When predicate offence must be proven, cash undermines prosecution
- Physical smuggling big – comp./registered cash transfers to calculate illicit flows – 1.5b seized annually

# Regulatory risks

- Thoughtless global regulation (forced cosmopolitanism, “derisking” and legal transplants) → paper compliance → loss of control (reinforced parochialism)
- Traceability v. transparency
- Legitimacy v. legality disparities grow – no sustainability
  - Lawful but awful practices
  - Unlawful but useful practices

# Recommendation

- Need for systematic study setting the record straight and discussing vulnerabilities
- Collective Action even without government – led by private sector
- Strategic planning and gradual, steady progress with training and capacity building projects towards stronger culture of integrity
- Document how integrity supports the bottom line and facilitates evidence-based dialogue with regulators
- Link cash with offences and offenders – red flags

# Different types of Collective Action

- Short- or long-term
- Simple or complex (multi-stakeholder)
- Degree of enforceability

# Types

- Integrity declaration – short term /project-based ethical commitment. Principles bind signatories during a given project.  
Enforcement by honor and peer pressure

# Types

- Principle-based initiative – long term ethical commitment. Signatories undertake not to engage in certain malpractices and corruption in their daily business



# Types

- Integrity pact - short term, project-based agreement with external monitor

# Types

- Certifying business coalition - monitors and certifies compliance of its members with core shared AML/CFT anti-corruption principles - long-term initiative to promote standards of business conduct within certain country / sector
- might include: advocacy / external communication, training program or best practice exchange / information database. Audit checks on companies effective action to implement principles

# Any industry can do it

- IACA initiative
- Private sector led
- Build sustainable islands of integrity
- Non-state and government agencies will recognize effort and join in
- Risk management, level playing field, reduced compliance costs, better basis to interact with regulators/controllers, reputation protection

# Thanks so much

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