



The IMF mandate in the fight against Money Laundering

GOPAC - Anti-Money Laundering Global Task Force

Engaging parliamentarians in strengthening global anti-money laundering efforts

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Disclaimer: Antonio Hyman-Bouchereau is Senior Counsel at the IMF. The views expressed herein are those of the author(s) and should not be attributed to the IMF, its Executive Board, or its management.



How do anti-corruption and good governance work fit into the mandate of the IMF?



Overview of the Fund's approach to promoting Good Governance and Combating Corruption (1)

- **The Fund limits itself to the economic aspects of governance that could have a significant macroeconomic impact.**
- **The Fund places great emphasis on good governance when providing policy advice, financial support, and technical assistance to its member countries. It promotes good governance by helping countries ensure the rule of law, improve the efficiency and accountability of their public sectors and tackle corruption**
- **The Fund's approach to combating corruption emphasizes prevention, concentrating on measures to strengthen governance and limiting the scope for corruption.**



Overview of the Fund's approach to promoting Good Governance and Combating Corruption (2)

Background:

Global membership (187 countries) and active relations with all members.

The Fund has a macroeconomic mandate:

- Fostering international financial stability**
- Platform for coordinating national economic policies**
- Institutional reforms at the edge of this mandate**
- But IMF role in poverty reduction affirmed**



Overview of the Fund's approach to promoting Good Governance and Combating Corruption (3)

Key Policy Documents issued in 1997:

Good Governance—The IMF's Role

- watershed; brought “corruption” into IMF jargon
- prevention; economic governance: public sector management and private sector climate; must be macro-economically significant; primary responsibility with authorities.

Guidance Note – Governance Issues, EBS/97/125

(July 2, 1997) , Supp. 1 (July 11, 1997)



Overview of the Fund's approach to promoting Good Governance and Combating Corruption (4)

Since 1997, policy considerably widened:

- statistical standards and ROSCs
- transparency codes and ROSCs (incl. for “difficult” countries)
- *Safeguarding Fund Resources Policy*

However, the IMF does not have a mandate *per se* to fight corruption in member countries. Rather, the IMF's purposes relate to: collaboration on international monetary problems, promoting exchange stability, assisting in the establishment of a multilateral system of payments for current international transactions and in the elimination of foreign exchange restrictions, assisting members in correcting balance of payments maladjustments, and facilitating the expansion and balanced growth of international trade.



Overview of the IMF's approach to promoting Good Governance and Combating Corruption (5)

In designing and applying its work in the governance and anti-corruption area, the IMF and its staff must work within the scope of its mandate as defined in the Articles.

Within these areas of concentration ⇒

- **public resource management with a focus on fiscal transparency;**
- **financial sector soundness;**
- **tax administration;**
- **central bank safeguards;**
- **AML/CFT.**



Overview of the IMF's approach to promoting Good Governance and Combating Corruption (6)

Three main features characterize the IMF's work on governance/anti-corruption in all these subjects:

- 1. Emphasis on prevention, focusing on measures to promote transparency, foster good administrative practices and thereby limit the scope for corruption;**
- 2. The main tool in fostering these goals is the improvement of the legal and institutional frameworks for addressing governance and anti-corruption issues;**
- 3. IMF advice cannot extend to investigations into the actions of targeted individuals or enforcement of particular criminal prosecutions.**



The Role of Governance in the IMF “Instruments”

IMF activities

-Surveillance (over exchange arrangements; compulsory)

- Article IV reports (all members)
- Standards and Codes, ROSCs
- Multilateral surveillance (World Economic Outlook-WEO)

-Financial assistance (balance of payments difficulties; poverty reduction)

- Stand-By Arrangements
- Poverty Reduction and Growth Facility (PRGF) loans based on Poverty Reduction Strategy Papers (PRSP)
- Highly Indebted Poor Country Initiative (HIPC) for debt relief

-Technical assistance (statistics, fiscal and monetary/financial policy making)



IMF's Promotion of Good Governance and Combating of Corruption (1)

Surveillance (period 2002-2004)

- More than one third of Art IV PINs refers to governance and/or corruption
- Three quarters of Art IV staff reports makes at least one reference; some unevenness across regions and income levels
- Content of governance references:
 - Fiscal policy issues (half)
 - Anti-corruption legislation and institutions (one third)
 - Money and banking issues (10%)
 - Exchange rate related issues (5%)



IMF's Promotion of Good Governance and Combating of Corruption (2)

Financial programs

Leverage: IMF financial support, other IFI and donor support, debt relief

Justifications: macro-economically destabilizing, proper use of public resources, private sector investment climate, donor support

Most programs contain governance conditionality:

- Letter of Intent/Memorandum of Economic and Financial Policies***
- Prior actions, structural performance criteria and structural benchmarks**
- Disbursements conditional on successful reviews**
- Country ownership; streamlining of conditionality**
- Problems with quality of conditionality**



IMF's Promotion of Good Governance and Combating of Corruption (3)

Technical assistance:

The Fund provides technical services to members in accordance with Article V, Section 2(b), the Fund may on provide technical assistance if it is consistent with the purposes of the Fund.

Technical assistance is voluntary for members and is provided at their request. Providing technical assistance is also voluntary for the Fund and may be subject to practical restraints on the Fund side such as the extent of expertise and resources.

The Fund is active in a wide range of activities that contribute to good governance and the prevention/combating of corruption, including , the Offshore Financial Centers program, the Extractive Industries Transparency Initiative and promotion of the codes on fiscal policy transparency, data dissemination and transparency in the conduct of monetary and financial policies, as well as, legal advice on anti-corruption and AML/CFT regimes.



IMF's Promotion of Good Governance and Combating of Corruption (4)

In the context of advising on anti-corruption regimes, IMF staff have, in particular, noted five key challenges that countries and experts face in designing these regimes:

- **Long-term approach**
- **Do a diagnostic: Assessment before solution (One size does not fit all).**
- **Review early drafts**
- **AC Commissions: Independence**
 - **Policy-making**
 - **Budgetary allocations**
- **Mission: Investigation + Prevention & Education**



Mutually Supportive Relationship between the Fund's Governance/Anti-Corruption and AML/CFT Work

ML, FT and corruption have disruptive consequences on the soundness and stability of financial institutions and financial systems, and – if not controlled – may dampen foreign direct investment.

Overlap:

- ⇒ corruption is a major source of ML since it generates large amounts of proceeds to be laundered;**
- ⇒ ML facilitates corruption by concealing the unlawful origin of illicitly obtained assets;**
- ⇒ Corruption undermines AML efforts by enabling the commission of ML offenses and hinder their detection.**



Why is the IMF involved?

- ❑ Prevent abuse and protect/enhance integrity**
- ❑ Unchecked, ML/FT can have negative macro/micro consequences**
 - Increase reputational risk that could affect soundness**
 - Can fuel corruption**
 - Lessen ability to attract foreign investment**
 - Increase volatility of international capital flows and exchange rates**
 - Distort allocation of resources**



ML/FT as an economic phenomenon

Money laundering is the financial manifestation of a predicate crime.

- **Predicate crime transfers money from the formal economy to the criminal economy**
- **ML represents a counter-transfer back to the formal economy.**

Economic impact not just the laundering but the predicate as well

Impact potentially highest where

- **Criminal sectors are especially large**
- **Financial sectors are vulnerable, including to sanctions**



Role of the IMF in AML/CFT

April 2001: IMF/WB Boards approved action to counter money laundering:

- **money laundering threatens the financial system integrity and is a global concern;**
- **need for international cooperation;**
- **to intensify AML global fight against money laundering within respective mandates;**
- **aim at strengthening supervision and promote sound legal and institutional framework.**



Role of the IMF in AML/CFT

- IMF, in collaboration with WB, FATF, FSRBs, and other international standard setters will intensify its efforts and coordinate activities
- Efforts focused on the financial sector, legal and institutional aspects of anti-money laundering/combating the financing of terrorism
- IMF not to get involved in criminal law enforcement issues
- Technical assistance to member countries



IMF Technical Assistance in AML/CFT

The Fund's AML/CFT TA delivery is currently made possible by the generous support of external donors, some under the multi-donor AML/CFT Topical Trust Fund (TTF) and others through individual funding arrangements. Thirteen of donor countries have pledged funding to support the TTF through to the end of March 2014.

The AML/CFT TTF donors are – in order of size of pledge – Norway, Switzerland, Canada, the United Kingdom, Germany, Japan, Kuwait, Qatar, Saudi Arabia, Luxembourg, the Netherlands, Korea, and France.

The IMF is about to launch two more multi-donor TTFs, on Managing Natural Resource Wealth and on Tax Policy and Administration, which through economic policy capacity building aim to improve governance.



IMF Technical Assistance in AML/CFT

Fund AML/CFT TA addresses anti-corruption topics through each of the following modalities of TA:

- **General Advice on AML/CFT strategy, coordination, and policy issues;**
- **Awareness raising: seminars on AML/CFT for national coordinators, parliamentarians, and other stakeholders, with a view to enacting or promulgating new or updated AML/CFT laws or regulations and adopting best practices;**
- **Legal advice on legislative proposals, typically prior to such proposals being sent to the country's parliament, including provisions in anti-corruption laws and laws enhancing international cooperation.**
- **Legal and operational assistance in the formation and development of financial intelligence units (FIUs) and in the training of FIU staff; and**
- **Training of criminal justice officials (*i.e.* police, customs, prosecutors, judges, etc.) in financial literacy to facilitate investigating, prosecuting, and adjudicating money-laundering and terrorist financing cases, asset forfeiture, asset recovery and international cooperation.**



What Is The Global Financial Crisis?

- ❑ Contraction of world economy, a fall in GDP**
- ❑ Initiated in financial institutions (sub-prime market) mid-2007 and spread to real sector**
- ❑ Contributed to by poor FI lending decisions (exacerbated by risk from sophisticated products and investment vehicles)**



Global Financial Crisis: Causes

- Asset price bubbles (housing and equity)**
- Credit booms**
- Systemic risk buildup (subprime loans)**
- Regulation and supervision failures**
- Financial integration and interconnectedness**



Financial Crisis Impact

AML/CFT initiatives:

- **Financial sector regulatory reforms**
- **FATF/NCCT, OECD, FSB “lists”**
- **Fiscal stimulus followed by fiscal austerity**

FIUs:

- **Reporting entities and supervisory focus may be diverted from AML/CFT compliance**
- **Fiscal restraint may impact available resources**
- **More attention on financial fraud cases?**
- **Greater emphasis on cooperating with tax authorities**



What is the IMF doing about the crisis?

- Closely tracking economic and financial developments worldwide so that it can help policymakers with the latest forecasts and analysis of developments in financial markets.**
- Giving policy advice to countries and regions, and money to assist emerging market and low-income economies that have been hit.**
- Assisting the G20 with recommendations to reshape the system of international regulation and governance.**



Some findings from the crisis

- ❑ Big ML cases not solely related to crisis period, focus POC and ML**
- ❑ Crisis exposed frauds mainly, and governments also focused on tax leakage**
- ❑ Potential for further frauds to come to light as liquidators and administrators deal with failed entities**



Lessons – Big Money?

Big money crimes and cases have more consequences, particularly for the global financial system

- Including that more funds are laundered.

AML regimes should aim *“to minimize the amount of funds laundered”*

- To protect the financial system’s integrity
 - Less dirty money consequences.
- To fight crime.

Stopping big money crimes and cases achieves the aim quicker.



Lessons - Placement?

Significant proportion of the big money crimes involve funds already in the financial system:

- **Need more focus on monitoring of transactions**
- **Less emphasis on “cash” based placement scenario training for LEA and FI staff**



Lessons – Effectiveness?

Place greater emphasis on effectiveness of LEAs, FIU, and judicial process, e.g.:

- **LEAs and FIUs have to stop counting case files and focus on the amount of money involved (POC or ML).**
- **LEAs (& FIUs) have to go after the big money**
- **Total value confiscated relative to estimated total POC;**
- **Average value of freezing orders and confiscations**



Looking Forward

IMF projects underway on:

Risk assessment

- **F(x) (threat, vulnerability) and consequences**
- **To help prioritize limited resources**

Effectiveness

- **What is the impact of investments in AML/CFT initiatives?**
- **Is the allocation of resources to AML/CFT worth the investment?**



Critical success factors for effective/efficient AML legislation

An effective AML/CFT system requires the following structural elements, among others:

- **respect of transparency and good governance;**
- **culture of AML/CFT compliance shared and reinforced by government and private sector;**
- **measures to prevent and combat corruption;**
- **efficient court system that ensures that judicial decisions are properly enforced;**
- **high ethical and professional requirements for police officers, prosecutors, judges, etc. and measures and mechanisms to ensure these are observed; and**
- **a system for ensuring the ethical and professional behaviour of “gatekeepers”.**



Thanks for your attention!

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