An Analysis of the Effectiveness of Anti-Money Laundering and Counter Terrorist Funding Legislation and its Administration in the UAE

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Declaration of Authorship

I, Tatyana Gibbs, confirm that the work presented in this doctoral thesis is my own and it has not been submitted, in whole or in part, in any previous application for a degree. Where information has been derived from other sources, it has been properly acknowledged and referenced in the thesis.

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Abstract: This doctoral thesis develops a methodology to assess the effectiveness of anti money laundering and counter-financing of terror efforts in the United Arab Emirates by applying five "markers of success" (as determined by AML/CFT professionals) to the UAE's AML/CFT framework. The markers are *Robust Regulatory Framework*; *AML Legislation Enforcement*; *AML Legislation Awareness*; *Private Sector Commitment and Cooperation*; and *Transparency*. The analysis chapters attempts to measure these criteria using a variety of sources, including UAE laws of 2002 and 2004 and their amendments and replacements of 2014; various regulatory documents and policies enacted by the UAE Central Bank and other UAE bodies; expert opinion when available; and other materials from both official bodies and the country's media. The findings show generally uneven progress and sometimes-inconclusive results. During this period, the UAE, driven by external pressure coupled with internal self-interest, established an AML/CFT regime. As part of its AML/CFT framework, the UAE also created an outreach program via official bodies, and there is some evidence of its effectiveness in encouraging private sector compliance. However, measuring enforcement is problematic given the lack of hard and publicly available statistical data for much of this period. Efforts made to encourage a culture of transparency and accountability have run up against limited availability and accessibility of data. Accordingly, the UAE remains perceived as a largely non-transparent jurisdiction when it comes to financial crimes. Recent (2016) legislative developments underscore the UAE's effort to change this, as it is due for a new FATF evaluation in 2019.

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Preface

This doctoral thesis represents an attempt to analyze the effectiveness of Anti-Money Laundering (AML) and Counter-Financing of Terrorism (CFT) legislation and policy-implementation in the United Arab Emirates, using selected "markers of effectiveness," derived from interviews and surveys with AML/CFT professionals. Herein, these markers are applied to the legislative regimen built around the following pieces of legislation:

- UAE Federal Law No. (4) of 2002 ("Regarding Criminalization of Money Laundering");
- UAE Federal Law No. (1) of 2004 ("On Combating Terrorism Offenses");
- UAE Federal Law No. (7) of 2014 (On Combating Terrorism Crimes), which replaced the aforementioned Federal Law No 1 of 2004; and
- Federal Law No. (9) of 2014 ("Regarding the Amendment of Some Provisions of the Federal Law No. (4) of 2002 Regarding Combating Money Laundering").

They are also used to examine legislative awareness, private sector commitment and cooperation, and transparency about AML/CFT issues in the UAE.

As the creation of the legislation discussed here ended in 2014, that year may be broadly construed as the end of the period under study. However, some later developments (and sources) are mentioned in passing where relevant.

Due to health conditions that affect mobility and create accessibility issues, I have had to rely in many cases on digital academic and media databases. In cases involving materials deemed to be not immediately or easily available in analog form (for example, in the collections of most good university libraries) the web link to a given source is provided in the bibliography.

Please note that links listed herein were functioning at the time this doctoral thesis underwent final editing in January-February 2017.

In footnotes and/or the bibliography, I have acknowledged my research assistants at the American University of Sharjah when they aided me with translation and transcription of Arabic sources (I am not an Arabic speaker/reader) or in processing some statistical

data. Finally, as English is not my first language, my husband, a professor of mass communication at the American University of Sharjah, assisted with proofreading and stylistic suggestions meant to improve clarity and readability.

1. Introduction

In the new millennium, and especially after the terror attacks of 11 September 2001, concern about money laundering and terrorist financing has evolved beyond national borders. Individual countries have been encouraged (sometimes pressured) to develop corresponding legislative and regulatory measures, designed and dictated by intergovernmental bodies. Adopting standardized AML/CFT laws became a norm across the globe, to the point where (according to one author) "there are more developing countries with AML policies than developed ones."[1] A few years into this trend, observers began to assess whether such measures have had any impact on money laundering worldwide. Questions like: "Are AML rules really effective?" have moved to the forefront of academic research.[2] They are often accompanied by arguments that, while acknowledging the complexities of any assessment, fail to offer any definite answers. By 2009, one study observed that international efforts to combat transnational crime and money laundering were merely entering the conceptual phase of "crime prevention," a relatively new notion in criminology and policy-making, while predominantly still based on reactive law enforcement models.[3]

A signal that international bodies had recognized the need for a newer approach came in 2013. Then, the Financial Action Task Force (FATF) introduced its new methodology for the fourth round of member countries' mutual evaluations. It now includes not only technical compliance with the group's Forty Recommendations on AML/CFT regimens, but also assessment of effectiveness in the implementation of corresponding laws and regulations for "producing the expected results."[4]

UAE "Expected Results"

This work addresses AML/CFT issues in the United Arab Emirates, which has its next

[1] Sharman, *The Money Laundry*, 6.
[2] Pieth, and Aiolfi, "Synthesis: Comparative International Standards and their Implementation," 415.
[3] Walker and Unger, "Measuring Global Money Laundering: The Walker Gravity Model," 821.
[4] Financial Action Task Force (hereafter FATF), "Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems," 5.

FATF mutual evaluation scheduled for 2019.[5] What the UAE believes the "expected results" should be can be inferred from both past evaluations and current efforts. The latter are marked by, among other things:

- Enacting new AML legislation in 2014;
- Working to increase the number of suspicious transaction reports (STRs) filed – a criticism going back to evaluations as early as 2008;
- Establishing in 2016 a new supervisory authority, the Dubai Economic Security Centre (DESC). Though still in incipient form as of this writing, the DESC's main responsibilities will reportedly include "combating corruption, fraud, crimes, bribery, embezzlement, destruction of public property, forgery, counterfeiting, money laundering, terrorism financing, illegal organisations or other crimes that may be committed by entities that are under the jurisdiction of the Centre;"[6]
- Positioning itself as a dedicated international player in combating economic crime, apparent in the country's efforts to host multiple conferences, summits and training courses dedicated to this topic.

In the spirit of the 2013 FATF evaluation methodology guidelines, one can reasonably ask if these remedies and initiatives were introduced to reduce money laundering crimes, or to demonstrate enough compliance with FATF recommendations to do well by its evaluation standards. In that light, this doctoral thesis will use certain "markers of effectiveness," derived from interviews and surveys with AML/CFT professionals, to broadly assess the country's corresponding regimen and approach.

Rationale for Studying the UAE

The UAE, a small but wealthy Arab Gulf state formed in 1971, is important to the study of AML/CFT for a number of reasons. One is that it holds a unique economic, social and political character in its region. As Hertog appropriately observes: "The UAE however is a regional outlier in terms of extremely high per capita rent, low levels of political mobilization and an atomized civil society."[7] Among Middle Eastern states, it embraces indigenous Arab and Islamic traditions (including and recognizing the influences of Bedouin tribalism and Islamic Shariah law), while simultaneously welcoming and incorporating Western business and legal practices, and officially promoting modernity and tolerance. It also offers a rare regional example of political and economic stability.

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[5] FATF, "Global Assessment Calendar," July 2015, 5.
[6] Uncredited in *Khaleej Times*, "New law to protect Dubai's economy from financial crime."
[7] Hertog, "The Role of MENA Business in Policy Making and Political Transitions," 11.

The latter factor, economic stability, may speak to how the international business community has accepted the UAE as a cooperative member.

There is no doubt that oil has been the driving force of the country's rapid growth.[8] The UAE's stability and development can also be attributed to the country's leadership, which is grounded in the principle of *bay'a*, the individual and collective recognition of authority, fostered by the rulers' benevolence to and respect for their subjects. Further, "by providing the bulk of the population with a package of distributed wealth and a comprehensive welfare state, the rulers have been able to purchase political acquiescence and considerable popular support from both locals and expatriates." [9] As Almezaini remarks: "Rentierism continues to enhance the authorities' legitimacy," assuring political stability in the country. The latter is evident in the refusal of the country's politically connected business elite to sign a petition put forward to the UAE government by over 100 Emirati intellectuals demanding more legislative power for the Federal National Council, a predominantly advisory body.[10]

That the United Arab Emirates found itself in such a position also speaks to the country's rapid economic growth, largely stimulated and reliant on direct foreign investments, making the country an especially important global economic player.[11] This, coupled with social modernization and experiments with low-level democratization (such as elections to the Federal National Council, whose members had hitherto been appointed), helped move it away from reliance on tribal customs and into a role as the multinational financial and economic bridge between West and East.[12]

But such rapid change, along with free trade laws and the deregulation of financial sectors, also enabled criminal organizations to start to exploit the system through illegal activities.[13] As a result, in 2002 it initiated comprehensive AML legislation in response to both internal and external concerns about the practice. In a sense, the UAE (which had technically criminalized money laundering as early as 1987) was responding to a larger

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[8] Davidson, *The United Arab Emirates: A Study in Survival*, 5; Muhammad, Islam, and Marashdeh, "Financial development and economic growth."
[9] Davidson, The United Arab Emirates: A Study in Survival, 71-72, 104.
[10] Almezaini, "Private Sector Actors in the UAE and Their Role in the Process of Economic and Political Reform," 45, 64.
[11] Muhammad, Islam, and Marashdeh, "Financial development and economic growth."
[12] Uncredited in *Khaleej Times*, "About the Federal National Council."
[13] Arlacchi, "Address at the United Nations Convention Against Transnational Organized Crime."

trend, as international pressures increasingly stimulated individual countries to enact legislation that more specifically targeted this type of economic crime.[14] At the same time, the new law reflected a realization that the country's geographic position and the transitional state of its financial system placed it in the high target zone for transnational criminal activities.[15]

The UAE plays an important role in the geopolitics of the region. Flanked by regional powers Iran and Saudi Arabia, the UAE's foreign policy continuously reflects a diplomatic balance of regional influences and inevitable dependency on and vulnerability to the outside world. Despite the country's pro-Western drive, the UAE has remained openly critical of US policy in the Middle East, especially regarding the Israeli-Palestinian conflict.[16] It was also one of only three states to recognize the Taliban government in Afghanistan during 1996–2001.[17] Its foreign policy is not, however, belligerent. "The UAE adopts a policy of promoting conciliation, cooperation and consensus, seeking, whenever possible, to defuse confrontation and conflict."[18] The country's national security largely depends on the United States, in the form of weapons and the latter's actual military presence in the country.[19] The latter also reflects the United States' interests in maintaining political stability in the region.

While the UAE itself is of geopolitical interest in the study of AML/CFT, there is also the broader issue of Islamic Finance. This is especially important as "the UAE holds 17.4 percent of its total domestic banking sector assets in the Islamic banking system and accounts for nearly 7.4% of the global Islamic banking assets."[20] Overall there is a limited understanding of the specific money laundering/terror financing risks posted by Islamic Finance and the lack of comprehensive standards or best practices related to AML/CFT in the Islamic finance context.[21] Some in the West especially perceive Islamic

[14] Savona and De Feo, "International Money Laundering Trends and Prevention/Control Policies," 54-55.
[15] Al-Mulla, [*Criminal Confrontation of the Crime of Money Laundering],* 307-308, translated for the author by Hamda Faidallah Abdulkarim.
[16] Al-Alkim, "The Foreign Policy of the United Arab Emirates" 19-103, 171-206.
[17] Katzman, United Arab Emirates (UAE): Issues for US Policy, 6.
[18] Hellyer, "Evolution of UAE Foreign Policy," 161-178.
[19] Al-Mashat, "Politics of Constructive Engagement: The Foreign Policy of the United Arab Emirates," 457-480.
[20] Islamic Financial Service Board, "Islamic Financial Services Industry Stability Report 2015," 9.
[21] Kyriakos-Saad, Vasquez, El Khoury, and El Murr, "Islamic Finance and Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT)."

Finance products and services as vulnerable to money laundering and terrorism financing.[22]

Islamic Finance is sometimes confused with *hawala*.[23] As a contributor to the ACAMS Today website notes, "Security-related concerns about Islamic finance are usually the result of a lack of understanding of Shariah-compliant financing. The best example is associating Islamic finance and *hawala*." *Hawala*, which will be discussed in some depth in later chapters, is an "informal remittance system" which goes by different names depending on the region involved. And as the same contributor's article states, "Different features of *hawala* make it highly vulnerable to ML/TF activities. However … *hawala* is not an Islamic financial method. … Although *hawala* can be viewed as an ML/TF threat, it has no relation whatsoever with Islamic finance principles."[24]

Though this research focuses on UAE constitutional law, it is important to mention that historically, the legal systems of the countries in the Middle East have been influenced by Islamic Law,[25]*Shariah*[26] (شريعة), with varying degrees of its application to their national legislations.[27] In addition to the *Qur'an*[28] [also rendered by variant spellings, such as Koran] as the foundation of Islamic Law, *Shariah's* other sources include *Sunnah*, which refers to exemplary conduct of the Prophet, "the opinions and practice (*athar* and *amal*) of Companions," *Qiyas* or *Quias* ("analogical deduction"), and *Ijma*, which serves as "a check against the fallibility of Quias."[29] Some purport that Islamic Law is primarily a manifestation of moral law or "God's will."[30] According to Schacht, the Qur'an merely applied religious and ethical principles to the existing legal norms and "only occasionally completed and modified" them based on religious and ethical grounds." As he stated, "Koranic 'legislation' ... stood outside the existing legal system on which it

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[22] Silva, "Islamic Banking Remarks," 206-207.
[23] Ilias, "Islamic Finance: Overview and Policy Concerns," 9; and Razavy, "Hawala: An underground haven for terrorists or social phenomenon?" 278, 281.
[24] El Banna, "Islamic Finance, Money Laundering and Terrorist Financing." For broad discussions of Islamic Finance, see Kammer et al, "Islamic Finance: Opportunities, Challenges, and Policy Options"; and Alam, "Islamic Finance An Alternative to the Conventional Financial System?"
[25] "Islamic Law covers the entire system of law and jurisprudence associated with the religion of Islam" (Badar, "Islamic law (Shari'a) and the jurisdiction of the international criminal court," 414.
[26] *Shariah*, or Islamic law, will appear across sources quoted herein in varied spellings: *Sharia*, *Shari'a*, *Sharia'a.*
[27] Hamoudi, "Death of Islamic Law," 294-300.
[28] "The *Qur'an* is known to be the words of God and was revealed to the Prophet of Islam over a 23 year period. The Qur'an literally means recitation and reading. The Qur'an was revealed to the Prophet in fragments due to the requirements of time. The earliest revelations of the Qur'an were not written down immediately because there were then very few adherents and disciples of Islam. However, this changed very soon through the development of Islam and an appropriate copy of the Qur'an was collected later and saved. The Qur'an was adjusted to the standard pronunciation prevailing in Mecca" (Malekian, *Principles of Islamic International Criminal Law,* 66).
[29] Ḥasan, "The Sources of Islamic Law," 177, 179, 180.
[30] Hasan, "The Sources of Islamic Law," 165.

imposed moral and … legal rules."[31] The first attempts of Islamic law codification took place in the 19th century, during the era of Islamic legal modernism.[32] Some scholars argue that the mere principle of codification goes against Islamic doctrine. Schacht holds "traditional Islamic law" to be "a doctrine and a method" which any attempt to make more uniform or modernize will distort.[33] In the process of transitioning *Shariah* into statutory law, "divergence from traditional *Shari'a* rules was an inherent part of the codification process," making "*shari'a*, in large part, less relevant than it has been."[34] Consequently, some Muslim countries abolished *Shariah* in the criminal law and adopted Western codes.[35] The most recent attempt to insert Islamic law into the modern UAE legal system was the "Islamisation Programme" of 1978 – an attempt to codify and embed detailed *Shariah* criminal legal rules in the Draft Penal Code. The effort resulted in a conflict between *Shariah* doctrine and Penal Code; and was halted in due course.[36] Today each of the seven Emirates, in addition to the Civil Code, maintains a parallel system of *Shariah* courts, which adjudicate criminal and family law matters among Muslims and are supervised locally. Article 7 of the UAE Constitution provides for the position of *Shariah* within the state legal system. Some point out that the inherent ambiguity of the latter led to the division among the country's jurists into Islamists and Liberals, based on their interpretation and application of the article. The former read it as a declaration of *Shariah* above all other sources of law. As for the Liberals, who put *Shariah* on an equal ground with other legal sources, "any law which conflicts with the *Shari'a* should still be considered constitutional."[37] By "considering *Shariah* as religious rules with no legal force unless codified by the legislature," Article 7 "goes against the tenet that *Shari'a* is a divinely ordained system of law in which the human legislature has no right to intervene except for the purpose of formulating administrative regulations for its application." Hence it establishes a dual allegiance of Muslim Middle Eastern people. This phenomenon is still evident and prevailing today, and can be partly attributed to the sources of law in the Arab jurisprudence, where the meaning of "formal or official sources" of law is synonymous with the term used in English legal vocabulary, while the "material or subjective" sources encompass different connotation. The formal

[31] Schacht, "Problems of Modern Islamic Legislation," 106-107.
[32] Hamoudi, "Death of Islamic Law," 305-311.
[33] Schacht, "Problems of Modern Islamic Legislation, 108, 112-113.
[34] Hamoudi, "Death of Islamic Law," 307, 310.
[35] Badar, "Islamic law (Shari'a) and the Jurisdiction of the International Criminal Court," 414.
[36] Al-Muhairi, "The Islamisation of Laws in the UAE: The Case of the Penal Code," 350-371.
[37] Al-Muhairi, "The Position of Shari'a Within the UAE Constitution and the Federal Supreme Court's Application of the Constitutional Clause Concerning Shari'a," 219, 226-230.

sources of UAE law are "the written provisions of the law" and "Islamic *Shari'a*, followed by the jurisprudence of the Imam Malik and Imam Ahmad bin Hanbal schools, the jurisprudence of the Imam al-Shafi'i and Imam Abu Hanifa schools and finally custom." As for the material sources, "judicial precedent and judicial decisions are not considered binding, but rather deeply rooted in the local customs and traditions, which are traced back to "the tribal customary law, combined with the application of Shari'a."[38] The experts who headed the modernization of the UAE legal and judicial system, were unfamiliar with its indigenous traditions. Hence, from the start, the local governments and citizens questioned the credibility of the system.[39] The new written legislation marked the movement toward secularization of the legal system, commemorated by establishment of the civil courts. Secular criminal code based on Western law superseded *Shariah*, restricting the latter only to personal affairs. In two articles published in 1996, Al-Muhairi traces the evolution of UAE secular law, noting that *Shariah* has been assigned different levels and spheres of influence over time. As a result, currently in the UAE *Shariah* is applied only in the sphere of criminal matters and does not cover commercial matters.[40] The UAE Federal Penal Code of 1987 considers Islamic criminal law in its traditional form to be the primary source of rules governing the offences of *Hudud,*[41] *Qisas* or *Quesas* (crimes against the person) and *Diyah or Diyya.*[42] Financial crimes fall under *Ta'zir*, the third category of crimes under the *Shariah*. The exact scope of *Ta'zir* is not specified in *Qur'an* and *Sunnah*, leaving it to the state to determine what amounts to *Ta'zir*.[43]

Any form of financial crime is forbidden in Islam.[44] Some contend that money laundering is prohibited in *Shariah* with an even wider scale of injunction than in secular laws. Possession and use of wealth that endangers the interests of society or disturbs public order is condemned and prohibited.[45] In Islamic criminal law any activity funded by

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[38] Al-Muhairi, The Position of Shari'a Within the UAE Constitution and the Federal Supreme Court's Application of the Constitutional Clause Concerning Shari'a," 223-225; and Al-Muhairi, "The Development of the UAE legal system and unification with the Judicial System." 127.
[39] Al-Muhairi, "The development of the UAE Legal System and Unification with the Judicial System," 128-138.
[40] Al-Muhairi, "The Position of Shari'a Within the UAE Constitution and the Federal Supreme Court's Application of the Constitutional Clause Concerning Shari'a." 244.
[41] Hudud crimes include *ridda* (apostasy); *baghi* (transgression); *sariqa* (theft); *haraba* (highway robbery); *zena* (illicit sexual relationship); *qadhf* (slander); and *shorb al-khamr* (drinking alcohol). in Bassiouni, "Crimes and the Criminal Process," 269.
[42] There are two categories of *Qisas* and *Diyah* crimes: homicide and battery (Bassiouni, *Quesas Crimes,* 203-209.
[43] Jabbar, "Financial Crimes," 288.
[44] Jabbar, "Financial Crimes," 288.
[45] Ahmad, *Islam, Poverty and Income Distribution*, 30-31, 33.

illegally sourced money is forbidden.[46] Money or property derived from criminal activities as well as illicit gains associated with them are considered *haram (*حَرَام) meaning forbidden in Islam. The distinction between *halal (*)الحلال, *or* permissible, and *haram* requires that the source, usage and process of wealth acquisition must be lawful and morally right.[47] "Dealings in wealth that are *haram* are strictly prohibited" in Islam,[48] where even *sadaqah* (صدقة), charity, and *zakat* (زكاة), alms tax, stemming from illicit wealth are not acceptable.[49] Though administrative sanctions can be imposed on organizations in cases of their involvement in and connection with money laundering, Islamic Law does not recognize corporate liability for any criminal offences, since institutions lack discretion and freedom of choice, which form the basis of accountability.[50] Under Islamic law, only individuals can be criminally liable, even if offences committed by them were in the interest of the institutions.[51]

Islamic international law, as with Islamic law at large, does not divide legal from moral values. Hence according to Malekian, the international moral standard signifies "the degree and level of mutual and multilateral cooperation between nations for the solving of international issues and conflicts."[52] Financial institutions rendering services, either in countries with *Shariah* courts or in jurisdictions governed only by civil law, are not authorized to act against a country's constitutional law. They are subject to the same regulations and supervision as are conventional financial entities.[53]
While this thesis focuses exclusively on the UAE's AML/CFT Federal Laws, it is important to understand the overall impact of Islamic Law on formation of the modern civil judiciary system in the country. It is evident that there are no contradictions or ambiguities in both *Shariah* and UAE constitutional law positions on financial crime, with the exception of corporate liability mentioned above.

As already established, *hawala*, not being an instrument of Islamic finance, but rather an Alternative Remittance System (ARS) used around the world, attracted regulators' attention in the post 9/11 era. *Hawala* and ARSs at large were identified as both the

[46] Al Agha, "Money Laundering from Islamic Perspective," 406-411.
[47] Qureshi, *The Economic and Social System of Islam*, 60; Ḥasan, "The Sources of Islamic Law," 165-167.
[48] Jabbar, "Money Laundering Laws and Principles of Shari'ah," 199.
[49] Doi, *Shari'ah: The Islamic Law*, 352.
[50] Jabbar, "Money Laundering Laws and Principles of Shari'ah," 201-202.
[51] Shaheed, *Criminal Law of Islam,* II:94, 95, 131.
[52] Malekian, Principles of Islamic International Criminal Law, 24.
[53] Cutler, "Benign Shariah Finance."

primary money and value movement method in some areas of the world, and a vehicle for moving proceeds of crime.[54] It is important to note that there is no uniformity in addressing and regulating *hawala* and other such remittance systems. While some jurisdictions criminalize all forms of informal remittance, others impose regulations of varying degrees or do not regulate them at all. This diversity "forces informal operators into the underground even in countries where they can operate above board (for example, how openly could a Bangladeshi *hawala* operator engage in business in the UAE, where *hawala* is legal and regulated, if his activities are illegal at his home country which he visits and invests in?)"[55] Not surprisingly, the effectiveness of the UAE's efforts to regulate *hawala* are questioned in light of the overall effectiveness of the FATF recommendations on ARSs. The recommendations seek to influence national policies in this field, while ignoring the incompatibility of formal financial sector regulations on the informal sector, and also dismissing "important cultural, social and religious factors." The UAE is not an exception to this problem. It and other countries have faced challenges in their efforts to regulate *hawala* largely for analogous reasons. The mandated instruments, such as Suspicious Transaction Reports (STR) and Customer Due Diligence (CDD), are "ill-suited to be applied to the working modalities of an informal value transfer system." Therefore they yield no results.[56] Registered *hawaladars* have no incentives to file STRs, as their services rely on mutual trust to rule out any suspicions. The Banking Supervision and Examination Department (BSED) in the UAE notes: "the absence of any STRs reflects the fact that the *hawaladars'* customers are typically people who are known personally to them through family or business contacts."[57] What is more, trust is among "the primary features of *hawala* networks that distinguish it from other remittance systems."[58] One study held that *hawaladars* tend to operate on a see-, hear-, and speak-no-evil principle, even when there may be cause for suspicion with a transaction.[59]

Another impediment for regulating *hawala* is the high threshold for licensing. Many *hawala* operators lack sufficient "financial resources required to operate in the open." Hence they will continue operating in the shadow, providing a cheaper banking service

[54] Jost and Sandhu, "The Hawala Alternative Remittance System and its Role in Money Laundering," 1-21.
[55] Passas, "Setting Global CFT Standards: A Critique and Suggestions," 284.
[56] Trautsolt and Johnsøn, "International Anti-Money Laundering Regulation of Alternative Remittance Systems," 417.
[57] MENA/FATF, "Mutual Evaluation Report" (2008), 106.
[58] Pathak, "The Obstacles to Regulating the Hawala," 2017.
[59] Soudjin, "Hawala and Money Laundering," 270.

that is often the only one their clients can access.[60] Though *hawaladar* licensing is free in the UAE, the majority of *hawala* operators prefer to remain unregistered to avoid regulation and to protect their counterparts operating in jurisdictions where *hawala* is illegal. A large portion of the UAE population is comprised of temporary migrant workers, who rely on *hawala* to send money back home as a remittance. According to the UN, the UAE was second only to the USA in the growth of migrant worker numbers, gaining seven million during 1990-2013.[61] A large fraction of them come from countries with poor or non-existent financial infrastructures, and thus turned to *hawala*. The UAE's regulation of *hawala*, arguably far from comprehensive, was enacted due to international pressure over terror-financing fears, and such controls were considered essential for the country's AML/CFT efforts.[62] *Hawala* is discussed in greater details in Chapter 3 of this thesis.

Such concerns about the funding of terrorism – or least about calming Western fears about its financial support via the UAE's financial industry – were of course also present at the time of the signing of the UAE's 2002 AML law. And while laws criminalizing the financing of terrorism were already in existence in the UAE, the country introduced a comprehensive legislative CFT effort two years after the introduction of the 2002 AML law. UAE Federal Law No. (1) of 2004 (On Combating Terrorism Offenses) also included an item, Article 13, which spelled out specific prohibitions and penalties for money laundering used in such context.

Concerns about AML/CFT carried over into further legislation that year, when the UAE passed a law, Federal Law No. (8) of 2004, establishing "Financial Free Zones," some of which were to be allowed to operate their own civil and commercial court systems. The best known of these is the Dubai International Financial Center (DIFC), which "operates under a separate legal regime from the UAE as a whole, although the provisions of the criminal law are applicable within the DIFC."[63] The DIFC's AML regime is consistent with international standards set by the Financial Action Task Force; Article 3.1 of the Financial Free Zones law made all such zones subject to the 2002 AML law, with member firms required to file STRs with both the AMLSCU and the zone's own

[60] Wang, "Regulating Hawala," 221.
[61] United Nations publication, ¨Number of International Migrants Worldwide Reaches 232 Million," 2.
[62] Trautsolt and Johnsøn, "International Anti-Money Laundering Regulation of Alternative Remittance Systems."
[63] Reus, "Anti-Money Laundering: A Guide For UAE Companies."

regulatory body: in the case of the DIFC, the regulatory body is the Dubai Financial Service Authority (DFSA).[64] The DFSA has special courts to handle civil and commercial cases there;[65] however, UAE authorities handle criminal cases.[66]

Though this research's timeframe is mainly from 2002 to 2014, it is worth noting the 2016 emergence of the Dubai Economic Security Centre. It was created through passage of Dubai's Law No. (4) of 2016, issued on 18 April of that year. According to a description given by a local law firm the Centre's mission is "to assess and raise awareness of risks and to introduce new measures to protect the financial stability and investments in Dubai from crimes that may harm the economy. In other words, the Law is intended to assist in the recognition and reduction of financial risks and the combat against financial crimes in Dubai, in order to provide investors with an attractive economic environment."[67] To do this, the body has wide powers of jurisdiction in Dubai, including charities and even the DIFC.[68]

The new legal requirements and tighter controls are reflected in the changing corporate attitude. Ninety-two percent of AML and compliance professionals from the MENA region consider money-laundering exposure a high risk to their business.[69] According to a 2015 joint Thompson Reuters and Deloitte report, AML remains the most important priority for compliance officers in the MENA region. The majority (82.50 percent) of surveyed practitioners identified that their organizations implemented AML policies. However, it is worth noting that almost 50 percent doubted whether these policies could actually identify illicit activities.[70] This finding is particularly relevant to this research, as it concerns the assessment of the effectiveness of AML/CFT efforts.

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[64] DIFC Non Financial Anti Money Laundering/Anti Terrorism Financing (AML/CFT) Regulations, 5 and *passim*.
[65] Everington, "Dubai investigates Deutsche Bank over Anti-Money-Laundering Practices."
[66] DFSA, "Anti-Money Laundering, Counter-Terrorist Financing and Sanctions Compliance"; and author's interview with attorney Dr. Al-Mulla, 27 April, 2015, transcribed and translated by Mira Saeed Lootah. Note that the author's interview sources included two men with identical names and courtesy titles: Each was Dr. Ibrahim Al Mulla. One is a practicing Dubai attorney; the other, a Dubai police official and author of a work on AML efforts in the UAE. To differentiate between them, the researcher has described them in the text as *attorney* or *author* as appropriate.
[67] Lassoued and Eissa, "An Insight into the Newly-Formed Dubai Economic Security Centre."
[68] Townshend, "Dubai Sets Up Body to Fight Fraud, Money Laundering."
[69] KPMG, "Global Anti-Money Laundering Survey 2014," 9.
[70] Deloitte and Thompson Reuters, "Financial Crime in the Middle East and North Africa 2015: The Need for Forward Planning," 6.

The UAE Legal System: An Overview

Understanding how UAE authorities handle these cases requires some background as to how the UAE's court structure works. (Note that military courts are not discussed herein.) While the UAE, formed in 1971, is a federation, only five of the seven emirates – Abu Dhabi, Ajman, Fujairah, Sharjah, and Umm Al Quwain – are part of the federal court system, overseen by the Federal Supreme Court located in Abu Dhabi. In each of these five emirates, there is a three-tiered set of federally run courts: A Court of First Instance, a Court of Appeal, and a Court of Cassation. In the case of the remaining two emirates, Dubai and Ras Al Khaimah, their courts function independently of the UAE Federal Court System. Therefore they do not ultimately answer to the Abu Dhabi based Federal Supreme Court, and "all matters within these Emirates are determined by the local Courts."[71] However, their court systems (first instance, appeals, and cassation in Dubai; first instance and appeals in Ras Al Khaimah) enforce the AML/CFT federal laws.

That said, any proceedings involving national security are sent directly to the Federal Supreme Court in Abu Dhabi. This would be expected to be the case if a charge involved economic crimes related to terrorism. Otherwise, the prosecutor and court of a given emirate is responsible for adjudicating economic crimes allegedly committed within its boundaries.[72] This is the rule even though all UAE banks answer to the UAE Central Bank in Abu Dhabi.[73] The individual emirates' prosecutors offices and police departments have special units designated to handle complaints and accusations regarding money laundering. The Dubai public prosecutor, for example, addresses money laundering and other economic crimes in that emirate through a Funds Prosecution Unit.[74] Dubai's police department has an economic crimes unit that also does liaison work with foreign police organizations. There are also federal offices devoted to AML. In September 2000, the UAE's Ministry of the Interior created an "Economic Crime Suppression Division" as part of its Department of Security. This federal office works in close liaison with the Abu Dhabi police.[75]

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[71] Price and Al Tamimi, *UAE Court of Cassation Judgments*, viii.
[72] Interview with attorney Dr. Ibrahim Al-Mulla, 27 April, 2015, transcribed and translated by Mira Saeed Lootah.
[73] See UAE Federal Law No. (10) of 1980.
[74] Uncredited in *Gulf News*, "Jurisdiction of Prosecutions Defined."
[75] Al Mulla, [Criminal Confrontation of the Crime of Money Laundering], 312.

While the Federal Supreme Court has authority over the courts in all the emirates except Dubai and Ras Al Khaimah, it is also understood that the ruler of an emirate, if he so wishes, can intervene after a sentence has been passed. "By *Sharia'a*, a ruler is like a judge. He has the authority to forgive or pardon a defendant," notes a UAE lawyer with experience in economic crime cases. The UAE president has also issued pardons to those convicted by the Federal Supreme Court.[76]

AML/CFT Efforts in the UAE

Though whether it is a "victimless" or "public order" crime has been debated, money laundering has continued to be a topic of concern among UAE officials.[77] The 2002 law was amended in 2014 to bring it more into line with recommendations from the Financial Action Task Force (FATF) on Money Laundering.[78] In part, UAE officials are concerned about how their financial system is perceived internationally. This is something acknowledged in local media coverage. The major English-language newspaper in Abu Dhabi, *The National*, reported in 2014 that "In the UAE, the US treasury department last year targeted an exchange house and a trading company for allegedly helping Iranian attempts to circumvent sanctions. Dubai has also been accused by the NGO Global Witness of trading in smuggled gold, while research by the World Bank and the United Nations has alleged that Dubai has served as a funnel for funds linked to Somali piracy." An official with the auditing firm KPMG, while praising the UAE's "proactive steps," also called the UAE "one of the highest risk areas for money laundering."[79] More recently, at a 2015 forum in Dubai, a lawyer critiqued the UAE legal regimen as not strong enough, and argued that it did not have sufficient tools in place to mitigate risk.[80]

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[76] Interview with attorney Dr. Ibrahim Al-Mulla, 27 April 2015, transcribed and translated by Mira Saeed Lootah; and Duffy, *United Arab Emirates – Media Law Supplement,* 12, 15.
[77] "*Public order crime* is now the preferred term for 'victimless' crime, based on the idea that there are always secondary victims such as family, friends, acquaintances, and society at large" (Unger, "Money Laundering Regulation: From Al Capone to Al Qaeda," 20). See also Groot, "Money Laundering, Drugs and Prostitution as Victimless Crimes," 57-67.
[78] "The FATF had been established by the G7 at a Paris summit in 1989 because of growing concerns over the threat of money laundering to the international banking and financial system. By 2012 it would have thirty-six members" (Zarate, *Treasury's War*, 31). As of this writing its membership comprises 34 countries and two regional organizations, the Gulf Cooperation Council (which includes the UAE) and the European Commission (FATF, "Members and Observers.")
[79] Arnold, "UAE Strengthens Enforcement Against Money Laundering."
[80] Stuart Paterson, partner, Herbert Smith Freehills, speaking at the IIF Professional Program: Identifying and Mitigating Financial Crime Risks, Dubai, United Arab Emirates, 2 June 2015 (author's notes).

Assessing the effectiveness of UAE legislative AML/CFT efforts is challenging. But the same can be said of so doing with any national (or international) case study. As Joras Ferwerda noted, "Data on the effectiveness of anti-money laundering policy is more cumbersome to acquire. The information is quite hard to quantify and differs across countries."[81] Another observer noted that, while more than two decades had passed since the UN first grappled with the problem of money laundering (via the 1988 Vienna Convention), "there is still a lack of convincing empirical evidence on the extent of the phenomenon, as well as the effectiveness of the measures adopted to combat it." The same author continued by observing "that there is a close connection between these two knowledge gaps: since the effectiveness of counterpolicies should be assessed in terms of reduction of laundering activities, the inability to quantify the volume of the latter has hampered and still hampers understanding of the impact that policies have had on the phenomenon."[82]

Such clauses apply to this UAE-based case study as well. While the statistical limitations will be noted throughout, this research will try to assess UAE legislative AML/CFT efforts in several stages, involving background, development of a research design, and its application to UAE-relevant data. The opening chapters present background on money laundering as a concept and as a target of international legislation and regulation. The work will then shift to examine its relevance to the UAE. After this, using data gained from interviews with, and a later survey of, AML/CFT professionals, the researcher will seek to establish criteria for measuring the effectiveness of enforcement of such laws. Following this, the researcher will qualitatively apply those "markers" of effectiveness to available data on the development of AML/CFT regulation and legislation in the UAE from 2004-2014.

Data on money-laundering cases has been perceived as sensitive in the UAE, to say the least. The authors of a 2014 article on the subject commented on, among challenges, that "important secondary data such as official crime statistics and cases of money laundering in the UAE ... was limited," most it either being "withheld for security reasons, i.e. ongoing cases or private considerations, i.e. protecting integrity of own company, which is understandable, and this was the most common theme..." Moreover,

[81] Ferwerda, "The Effects of Money Laundering," 41.
[82] Vettori, "Evaluating Anti-Money Laundering Policies: Where Are We?," 474.

the authors noted that data "recording practices need some attention before we can tackle the problem of money laundering from a policy-type approach to disseminate practice within and across different sectors in the UAE that deal with money laundering."[83]

The bulk of the quantitative data involved herein will be statistics provided through the courtesy of the UAE's Anti-Money Laundering & Suspicious Cases Unit (AMLSCU). These invaluable data are drawn primarily from internal AMLSCU documents, specifically annual reports for 2012 and 2013. An AMLSCU representative informed the author that these annual reports – not in general circulation – represented the extent of their data that could be legally provided.[84] However, it is also possible that some data, especially before the critical 2008 MENA/FATF Evaluation report on the UAE, was never acquired and is simply not available. The available data vary in completeness for earlier periods; precise numbers on pre-2004 STRs, for instance, are not available. Indeed, this is something officials in 2004 acknowledged as a problem because of bureaucratic overlaps.[85] While one author allowed that the FATF mutual evaluation reports provided the "only structured and more-or-less consistent information" available,[86] the authors of the MENA/FATF 2008 Mutual Evaluation Report (MER) on the UAE complained about the lack of statistics.[87] Ironically, the same complaint surfaced even in the MENA/FATF follow-up report that ultimately released the UAE from requiring regular review to "biennial update" status.[88]

In the work that follows, UAE-specific data from MENA/FATF and available AMLSCU documents and other official sources (such as UAE laws and circulars) will be supplemented with information from news media (Arabic and English); interviews with legislative and law enforcement figures; and interviews with individuals involved with private-sector compliance.[89] When contradictions were found between official

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[83] Bin Belaisha and Brooks, "Money Laundering in Dubai," 351.
[84] Correspondence with AMLSCU senior analyst Mahendran Raman, 20 April 2015. In 2008, MENA/FATF evaluators noted that the AMLSCU "had not published an annual report since its inception in 2002 and there was no contemplation of doing so in the future." MENA/FATF, "Mutual Evaluation Report" (2008), 42. A later MENA/FATF follow-up document noted that such reports began appearing in 2009. MENA/FATF, "Mutual Evaluation Report" (2014), 25.
[85] Carvalho, "Anti-Money Laundering Law 'Highly Effective.'"
[86] Ferwerda, "The Effects of Money Laundering," 41.
[87] MENA/FATF, "Mutual Evaluation Report" (2008), 13.
[88] MENA/FATF, "Mutual Evaluation Report" (2014), 23-25.
[89] As will be noted below, as of 2006 at least, according to one study, no empirical models existed to determining how well an anti-money laundering "system works in suppressing crimes and preventing terrorist acts." Levi and Reuter, "Money Laundering," 365. The author has been unable to find any such models published since that work, although some recent

documents and media reports regarding figures, dates, and other statistical information, the work has generally favored the official source.

Note that, as with the authors of the 2014 article on Dubai ML cited above, obtaining access or interviews with relevant figures in the UAE was and remains difficult.[90] The writer sent multiple requests (both via email and telephone) for interviews, access to data, and other information. Few queries received a response. As with the aforementioned article, those requests that worked generally followed a pattern of "negotiated access" through a personally known intermediary; not all such efforts proved successful.

Literature Review

UAE-Specific Texts

Noting that the internal AMLSCU reports cited above are not in general circulation, relatively little specific research has been published in English on economic crime in the United Arab Emirates. One "insider" book is Iqbal Ismail Hakim's *United Arab Emirates Central Bank & 9/11*, which reproduces images of many memos and documents in stating the case against lax financial regulation within the UAE prior to 11 September 2001. As the book does not seem to have been challenged in court, it may be reasonably assumed that these documents are authentic. However, as much of the book's text consists of the author's personal attacks on perceived enemies (including senior figures at the UAE Central Bank) it therefore needs to be handled with great caution as a source.

More mainstream titles are 2009 and 2010 works by a UAE police official, Ibrahim Al Mulla. In the first of these especially, *Al-muwajaha al-jenaeiah leqadaya ghasl al-amwal* [*Criminal Confrontation of the Crime of Money Laundering*], Al Mulla discusses early UAE legislative AML/CFT efforts, describes some early cases, and in some places critiques applications of the law and the penalties prescribed under it. [Dr. Ibrahim Al Mulla consented to be interviewed by this researcher at the Dubai Police Academy (4 October 2015). Note that a UAE attorney also interviewed for this thesis (27 April 2015) has an identical name and academic title – Dr. Ibrahim Al Mulla – and a similar field of

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papers have touched on empirical means of studying *perception* of effectiveness, using questionaires. See Huang et al, "Anti-Money Laundering Requirements – Perceived Effectiveness."

[90] Bin Belaisha and Brooks, "Money Laundering in Dubai."

expertise. When necessary, this text has differentiated between the *author* and the *attorney*.]

Another helpful document is a country-specific 2008 report by MENA FATF (Middle East and North African Financial Action Task Force), which examines several elements of UAE Federal Law as they apply to money laundering.[91] UAE laws themselves are published in dual-language Arabic and English booklets and can be found in a variety of sources, one of which is a ten-volume set first published in 2008.[92] One helpful interpretative resource is the work of high-profile Emirati lawyer, Essam Al Tamimi, who has published several useful books on UAE law.[93] His law firm also publishes regular updates on UAE law in HTML form for emailing to clients and other interested parties.[94]

Perhaps the most area- and topic-specific work in this regard is a short but valuable 2014 article in the *Journal of Money Laundering Control*. Built around interviews with anonymous officials in relevant UAE government and law enforcement agencies, the paper's goal was "to highlight present strategies to prevent money laundering in Dubai."[95] Among the few other examples is a 2012 work, which included case studies involving the UAE and Afghanistan in its analysis of underground banking and its role in transnational crime. As was already mentioned earlier, the authors found that "the instruments designed for the formal banking sector were of little value used in the informal sector." They also concluded that recommendations by the Financial Action Task Force (FATF) ignored the complex local context of *hawala*.[96] *Hawala* itself in the post- 9/11 era sparked a large number of works.[97]

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[91] MENA/FATF, "Mutual Evaluation Report" (2008).
[92] Al-Qānūnīyah, *UAE Federal Laws*.
[93] Such as Al Tamimi, Practical Guide to Litigation and Arbitration in the United Arab Emirates.
[94] http://altamimi.newsweaver.ie/ddv0m72lkrxlwbmqk361fo?email=true&a=11&p=26673935
[95] Bin Belaisha and Brooks, "Money Laundering in Dubai," 343-354.
[96] Troutsolt and Johnson, "International Anti-Money Laundering Regulations of Alternative Remittance Systems," 416-417.
[97] To cite only a few examples, see Passas, "Dirty Money? Tracing the Misuse of Hawala Networks," and "Hawala and Money Laundering: a Malaysian Perspective"; Trehan, "Underground and Parallel Banking Systems"; Troutsolt and Johnson, "International Anti-Money Laundering Regulations of Alternative Remittance Systems"; and Van de Bunt, "A Case Study on the Misuse of Hawala Banking."

Broader Texts on Economic Crime

Economic crime as a global topic has, of course, received much international attention and has been looked at from multiple angles in various publications. Much scholarly research initially focused on AML efforts directed at hindering the proceeds of illegal narcotics trafficking. Over time the research scope has widened, reflecting a wider range of complex economic criminal activities, including areas such as fraud, political corruption, terrorism financing, illegal weapons sales, and human trafficking. Many useful works have been general in nature, surveying the issue and developments in related legal fields. For example, John Walker has since 1995 made a series of efforts at estimating worldwide money laundering figures, as well as drug money flows.[98] Buehn and Schneider have tried to estimate the international flow of criminal proceeds using "multiple indicators, multiple causes estimation," or MIMIC.[99] Schneiderthe and Windischbauer, in addition to defining and explaining the money-laundering process, have made their own efforts to estimate the volume of money-laundering activities worldwide, and measured the macroeconomic effects of national and international efforts to fight money laundering.[100] Simser explored emerging trends and threats in money laundering, pondering whether the current AML systems, which focus at large on traditional financial institutions, will fail to keep pace with diverse emerging threats, such as "online gaming, piracy, football and various forms of trade-based money laundering (TBML)."[101] Masciandaro provided an economic analysis of money laundering, remarking on "how anti-money laundering regulation, due to a well-designed system of incentives and costs for financial intermediaries, may evolve towards the achievement of higher effectiveness goals while improving its efficiency standards as well."[102] And Blum at el examined the issue of banking secrecy and financial havens in context of anti-money laundering efforts.[103]

Other works relevant to this study have explored various models and risk management of financial crime;[104] viewed the commonalities of international fraud cases;[105] and

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[98] See Walker and Unger, "Measuring Global Money Laundering: The Walker Gravity Model."
[99] Buehn and Schneider, "A Preliminary Attempt to Estimate the Financial Flows of Transnational Crime using the MIMIC method."
[100] Schneider and Windischbauer, "Money Laundering: Some Facts."
[101] Simser, "Money Laundering: Emerging Threats and Trends," 47.
[102] Masciandaro, "Money Laundering: The Economics of Regulation," 238.
[103] Blum, Levi, Naylor, and Williams, Financial Havens, Banking Secrecy and Money-Laundering.
[104] Pickett and Pickett, Financial Crime Investigation and Control.
[105] Matulich and Currie, eds., Handbook of Frauds, Scams, and Swindles; Pickett and Pickett, Financial Crime Investigation and Control.

provided, interpreted, and analyzed documentary materials that outline essential elements and notable instances of "white-collar" and corporate crime.[106] An edited book provides a series of essays that explore issues of corporate governance, tax compliance, enforcement regime and wide corporate illegal activities in light of the cost-benefit analysis for designing optimal legal policies.[107] Some works, such as a 1997 book edited by Rider, have given broad overviews of corruption in the context of financial crime.[108] Other works have studied cultural perceptions of corruption, occasionally singling out money laundering. Representative titles include those by Beale and Esposito,[109] Lipset and Lenz,[110] and Osborne.[111] Others have addressed integrity-based failings within the financial industry as a whole.[112]

Efforts at Assessing Effectiveness

Some studies of AML (and sometimes CFT) efforts have sought simply (but importantly) to catalog such efforts. Reider-Gordon and Butler, for example, compiled "a global survey of the largest or most significant AML enforcement actions and legal developments that occurred in 2012."[113] Other studies have analyzed the content of various anti-money laundering legislation efforts themselves.[114] And some – touching upon this thesis' objective have sought to measure the effectiveness of AML legislation and regulations. A work by Stessens, for example, contained extensive discussion of international legal regulations and their perceived effectiveness to curb money laundering.[115] Stessens has also examined issues and consequences of the FATF blacklisting of non-cooperative countries and territories, arguing that "the success of the FATF's efforts would have benefited if the FATF had been more critical of its own members."[116] In similarly critical vein, Levi and Reuter went beyond describing the facts about and examining the evolution of global anti-money laundering regime, instead reviewing information on enforcement efforts, which by their opinion "has been given much less policy attention than the laws and regulations themselves." In so doing, Levi

[106] Geis, White-Collar and Corporate Crime.
[107] Sjofren and Skogh, eds., New Perspective on Economic Crime.
[108] Rider, ed., Corruption: The Enemy Within.
[109] Beale and Esposito, "Emergent International Attitudes Towards Bribery, Corruption and Money Laundering."
[110] Lipset and Lenz, "Corruption, Culture, and Markets," 112-124.
[111] Osborne, "Corruption as Counter-Culture."
[112] Platt, Criminal Capital.
[113] Reider-Gordon & Butler, "Anti-Money Laundering," 388.
[114] Boran, "Money Laundering"; Bosworth-Davies, "Money Laundering - The Implication of Global Money Laundering Laws"; Lahey, "Money Laundering"; McCormick and Stekloff, "Money Laundering"; Newland, "Money Laundering"; Scruba, "Money Laundering"; Serafini, "Money Laundering."
[115] Stessens, Money Laundering: A New International Law Enforcement Model.
[116] Stessens, "The FATF 'Black List' of Non-Cooperative Counries or Territories," 208.

and Reuter identified gaps and challenges in corresponding research areas, offering the opinion that: "How well the [anti-money laundering] system works in suppressing crimes and preventing terrorist acts is entirely a matter of speculation. No published papers make any claims to provide an empirical assessment."[117] Three scholars from a university in the Netherlands produced a similarly critical paper in 2005.[118] A 2008 paper asked rhetorically in its title, "Just How Effective is Money Laundering Legislation?" and its results emphasized the difficulty of measuring the efficacy of AML regulations in the context of often-spurious assumptions about the extent and impact of the sums allegedly being laundered.[119]A 2011 work dismissed the imposition of global AML standards as not only ineffective but also damaging to private sector efforts in underdeveloped countries.[120] One of the editors of the 2013 *Research Handbook on Money Laundering* – which brought together 34 chapters on varied AML/CFT-related subjects – observed that debates currently rage not only over the size and scope of money laundering worldwide, but even whether it constituted a crime meriting punishment.[121]

On the other hand, the results of a more recent study by Chong and Lopez-De-Silanes showed "large effects of regulation and the quality of enforcement in controlling money laundering." The authors support their findings by showing the statistically significant impact of tough money laundering regulations on reduction of "the shadow economy," across close to 100 countries, including the UAE. "The results show that criminalization of money laundering activities, similar to increasing liability standards, and higher levels of disclosure and transparency for banks are associated with lower levels of money laundering. But at the same time, the data suggest a positive impact on the increase of enforcement and international cooperative efforts."[122]

Some analyses of effectiveness have examined AML/CFT in the setting of compliance. Soudijn argued that money laundering "cannot be solved simply by generating more and more regulations," arguing essentially in favor of placing more responsibility on

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[117] Levi and Reuter, "Money Laundering," 295, 365.
[118] Van Duyne, Groenhuijsen, and Schudelaro, "Balancing Financial Threats and Legal Interests in Money-Laundering Policy."
[119] Harvey, "Just How Effective is Money Laundering Legislation?"
[120] Sharman, The Money Laundry.
[121] Unger, "Money Laundering Regulation: From Al Capone to Al Qaeda," 20-22.
[122] Chong and Lopez-De-Silanes, "Money Laundering and its Regulations," 115.

financial facilitators.[123] On the other hand, according to Reider-Gordon the effect of the new laws and agreements enacted in 2010 had significant impact on anti-money laundering compliance actions both in the U.S. and around the world.[124] The emphasis on incorporating predicate offenses into AML legislation has echoed in some works as well. One recent title suggests that AML legislation and regulations should be seen as "a means to multiple ends, and not just directed at combating illegal drugs or organized crime." Accordingly, this "means that assessing its effectiveness depends in part on the particular objective being considered." Hence, "it should be pointed out that multiple objectives require multiple indicators."[125] Similarly, the author of a study examining the effectiveness of the AML regimen in Belgium observed "that the battle against money laundering has changed the policing landscape thoroughly, inserting a new type of public-private divide (and not public-private cooperation) on a global scale."[126]

For its part, the FATF by 2013 had developed a methodology for use in its mutual evaluation reports designed to measure the "extent to which a country is compliant with the FATF Standards and the level of effectiveness of its AML/CFT system."[127] The FATF defines effectiveness as "the extent to which the defined outcomes are achieved." The new, 2013 methodology is designed to assess not only the technical compliance, which are set by the specific requirements of the FATF Recommendations, but also the effectiveness assessment of "the extent to which a country's legal and regulatory framework is producing the expected results." Eleven Immediate Outcomes measure the effectiveness.[128] These outcomes will be further discussed, in the context of the practitioner-driven "markers of effectiveness" methodology employed herein, in Chapter 5.

Assessing AML in International and Nation-Specific Contexts

Much research and literature published after 2001 on economic crime began to focus on linking (and in some cases critiquing the perceived links between) money laundering and international terrorist financing. Research centers such as the Terrorism, Transnational Crime, and Corruption Center (TraCCC), were established to investigate

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[123] Soudijn, "Resolving Excuses in Money Laundering," 161.
[124] Reider-Gordon, "U.S. and International Anti Money Laundering Development.".
[125] Reuter and Truman, *Chasing Dirty Money*, 175-176.
[126] Verhage, The Anti-Money Laundering Complex and the Compliance Industry, 145.
[127] FATF, "FATF Issues New Mechanism to Strengthen Money Laundering and Terrorist Financing Compliance."
[128] FATF, "Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/SFT Systems," 15, 17.

convergence between international terrorism and transnational organized crime. The TraCCC's international applied research projects findings are published in their book series and other publications, and also were presented at conferences, workshops and lectures.[129] Paul Allan Schott of the World Bank has produced two editions of a book that can also be used as a reference guide with practical steps for developed and developing countries to establish and improve their legal and institutional frameworks for anti-money laundering (AML) and combating the financing of terrorism (CFT) in accordance with international standards. It also summarizes the role of the World Bank (WB) and the International Monetary Fund (IMF) in combating transnational economic crime.[130] A more recent book by de Willenbois et al guides countries in their efforts to comply with international standards in combating transnational economic crime, including "grand" corruption, money laundering and terrorist financing. De Willenbois examines 213 international large-scale corruption investigations from 80 different countries as part of the Grand Corruption Database Project to underline their commonalities in the use of corporate, legal, financial and administrative vehicles to facilitate and conceal corruption.[131]

Transnational studies of economic crime still require, or stimulate, works that focus on individual countries. Favarel-Garrigues' research shows the evolution of economic crime in Russia since 1965 to 2006, linking it to continuous struggle for political power and hegemony.[132] A selection of works that examines problems of corruption, organized crime and terrorism in Russia provides unique empirical data generated by Russian scholars sponsored by the Terrorism, Transnational Crime, and Corruption Center (TraCCC).[133] Another study, after scrutinizing the functions and roles of the Belgian compliance officers play in fighting against money laundering, found that additional dimensions have to be added to criminal phenomenon when dealing with money laundering. Through the study has a defined geographic scope; its findings and conclusions have an international span. For example, Verhage states: "Private organizations are the gatekeepers to the preventative AML system and as such determine the input of the system."[134] Nicaso and Lamonthe look at the specifics and

[129] Such as Orttung and Latta, Russia's Battle with Crime, Corruption, and Terrorism.
[130] Schott, Reference Guide.
[131] de Willebois, Halter, Harrison, Park, and Sharman, *The Puppet Masters*.
[132] Favarel-Garrigues, Policing Economic Crime in Russia.
[133] Orttung and Latta, Russia's Battle with Crime, Corruption, and Terrorism.
[134] Verhage, The Anti Money Laundering Complex and Compliance Industry, 161 and passim.

evolution of organized crime groups in different countries.[135] Shanmugam et al analyzed the shortcomings of the Malaysian governments' efforts to curb growing money-laundering activities in the country.[136]

Shifting to the United States, Woodiwiss examined the evolution of organized crime in that country and its impact on organized crime in the world. He argued for drastic changes in national and international financial and legal systems to combat the opportunities for any organized crime activity. The causes of its growth, he argued, include economic and financial deregulation and lack of international policies to govern globalization. "Globalization has been mismanaged in many other ways that have multiplied criminal opportunities and increase the destructive capacity of organized crime." Woodiwiss criticized national and international organized-crime-control policies as "woefully inadequate," and also faulted the role of the International Monetary Fund (IMF) and the World Bank. According to Woodiwiss: "Leading global financial institutions, notably the International Monetary Fund (IMF) and the World Bank, have done little to combat opportunities for serious organized criminality."[137] Two other researchers, Williams and Vlassis, contended "the international community must elevate the struggle against transnational organized crime to one of its highest priority in terms of both resource allocation and the development of appropriate strategies."[138] Di Gennaro pointed to the importance of improving judicial cooperation and internationalization of police forces in combating transnational crime.[139] Finally, different aspects of organized crime have been analyzed by using economic theories in a collection of research papers.[140] The edited book by Farer examines relationship between the transnational organized crime (TOC) and national security of sovereign states and tries to identify an optimal policy to combat TOC.[141]

Several studies have noted how economic globalization fosters transnational crime and human trafficking.[142] Organized transnational criminal syndicates have been seen as

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[135] Nicaso and Lamothe, Angels, Mobsters & Narco-Terrorists.
[136] Shanmugam, Nair, and Suganthi, "Money Laundering in Malaysia."
[137] Woodiwiss, *Gangster Capitalism*, 12-14.
[138] Williams and Vlassis, C*ombating Transnational Crime*, 1.
[139] di Gennaro, "Strengthening the International Legal System in Order to Combat Transnational Crime."
[140] Fiorentini and Peltzman, The Economics of Organised Crime.
[141] Farer, Transnational Crime in the Americas.
[142] Naim, *Illicit*; Pomodoro, "Trafficking and Sexual Exploitation of Women and Children"; Shelley, *Human Trafficking*; Strange, *Retreat of the State*.

creating a framework for human smuggling and trafficking.[143] Koslowski argued that "increasing human smuggling may also be an unintended consequence of the stricter visa and border control policies adopted by individual states."[144] Empirical examination of different facets of human trafficking and smuggling and the role of national and international legislation and policies that hinder or even facilitate it was presented in several papers in *Global Human Smuggling*.[145] Involvement of large multinational corporations in and lack of sufficient regulations and control of their subcontractors on human trafficking for the purpose of cheap labor were examined in a series of essays edited by Quayson and Arhin.[146]

Some other works, although not UAE-specific, have introduced frameworks of analysis that might provide helpful criteria for assessing UAE efforts. One such area involves international cooperation. This was stressed in, for example, a 2001 work by Morris-Cotterill, which called it "ironic that the international community would fail to produce a single, unified set of rules to take on a criminal activity that thrives precisely on exploiting differences in laws and regulations."[147] Two other researchers, two years later, echoed this thought, observing that: "A convergence of multilateral and domestic anti-money laundering initiatives that incorporate rigorous compliance monitoring systems is necessary to combat money laundering."[148] Similarly, the author of a 2004 work that examined the money-laundering process and global efforts to address it, concluded that resolving "the problems it creates will require an extensive integrated solution," which includes "co-operative links among regulatory, law enforcement agencies and the public and private sector both within and across borders."[149]

The argument has been taken further and made more specific to involve closer examination of those international (or neighboring) bodies themselves. Alldridge, for instance, stated in a 2008 work that: "If the criminal law is to be set by supranational bodies than we need greater understanding of the nature of organizations of international governance and, in particular, FATF must show far greater transparency

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[143] Office of the High Commissioner for Human Rights, *Trafficking in People*.
[144] Koslowski, "Economic Globalization, Human Smuggling, and Global Governance," 75.
[145] Kyle & Koslowski, Global Human Smuggling.
[146] Quayson and Arhin, Labour Migration, Human Trafficking and Multinational Corporations.
[147] Morris-Cotterill, "Money Laundering," 22.
[148] George & Lacey, "Crackdown on Money Laundering: A Comparative Analysis of the Feasibility and Effectiveness of Domestic and Multilateral Policy Reform," 351.
[149] Buchanan, "Money Laundering – A Global Obstacle," 126

and accountability than hitherto."[150] In related vein, others have stressed the corresponding need for consistency across jurisdictions as to how money laundering (and other such economic crimes) are legally defined: "The persistent differences in defining predicate crimes among national jurisdictions hampers both the preventive efficacy of AML regulation and criminal investigations and prosecution."[151] Another observer has criticized many existing statutes as focusing too much on the proceeds of crimes that have already been committed, rather than encouraging law enforcement bodies to ask: "What is the criminal planning to do with the money that he is going to such great lengths to conceal?"[152]

Methodology Overview

The methodological triangulated study will be detailed in a later chapter, but may be described briefly as including both qualitative and quantitative analysis elements. Overall, the goal was to identify "perceived markers of success" in AML/CFT legislation, and apply them to available data on UAE cases between 2002-2013 in order to assess the effectiveness of that country's AML/CFT efforts, and chart their effect on the crafting of the 2014 amendment to the 2002 AML law and Federal Law No. (7) of 2014.

The first round of methodological study was designed to identify "markers of perceived success" of AML legislation. A representative sample of 25 randomly selected stakeholders from the field were interviewed at the 5th International ACAMS MENA AML and Financial Crime Conference in Dubai on 18-19 January 2015. Since the survey component was included into the interview, we can see that the interviewees were representatives of regulatory authorities, compliance departments, law enforcement officials, intergovernmental institutions, software developers and government officials, with a range of years working in the AML field and coming from different jurisdiction. Qualitative data analysis software, NVivo, was then used to identify repeating themes and ultimately "markers of perceived success," which were narrowed down to 12. From these, randomly targeted participants at the 20th International ACAMS AML and Financial Crime Conference in Hollywood, Florida, USA, on March 17-19, 2015 were

[150] Alldridge, "Money Laundering and Globalization," 463.
[151] Arnone and Borlini, "International Anti-Money Laundering Programs: Empirical Assessment and Issues in Criminal Regulations," 255.
[152] Cassella, "Reverse Money Laundering," 94.

asked to select the five most important in their opinion**.** The researcher received collected 230 completed responses. These were then processed using statistical analysis software (SPSS) to generate tabulated reports for descriptive statistics to identify the five principal "markers" along with relevant correlational data.

In the final phase of analysis, these markers and correlational data would be applied to available data on AML cases in the UAE between 2002 and 2013, including broad statistical analysis of annual figures for the years in which such data were available, and a sampling of high-profile cases.

2. Character and Significance of Transnational Money Laundering Today

While this thesis is concerned with money laundering in the context of legislation and enforcement in a specific Middle Eastern country – the United Arab Emirates – much modern and global understanding of the concept and its treatment is derived from Western governmental and judicial standards.

Money laundering, according to a publication of the United States Department of the Treasury, "involves disguising assets so they can be used without the detection of the illegal activity that produced them."[153] As that short, one-sentence definition makes plain, assets involved in money laundering are deemed to have originated in criminal purposes. "Money laundering is driven by criminal activities," observes another US government publication. "It conceals the true source of funds so that they can be used freely. It is the support service that allows criminals to enjoy the fruits of their crimes. It allows crime to pay and often, pay well."[154] The point of money laundering is to offer illicit funds a harbor from which they can reemerge clean and legitimate.

However, some authors acknowledge the difficulty of estimating the financial flows of transnational crime, and question the reliability and accountability of various models developed and applied to do so; correspondingly, numerical inconsistences in reporting data should be expected.[155] And as one study observes, "it is hard to claim the existence of 'the perfect model' to measure ML."[156] In that light, numbers cited in most studies of ML are presented as estimates given to indicate potential scale.

One such study estimated the size of global flows of illicit activities in the period of 2000-2001 as US$1.0-1.6 trillion, with a low estimate of US$500 billion a year coming from developing and transitional economies.[157] According to another analysis, the

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[153] U.S. Department of the Treasury, *FINCEN Advisory* I:1 (March 1996), quoted in Lilley, *Dirty Dealing*, ix.
[154] U.S. Office of the Comptroller of the Currency, "Money Laundering: A Banker's Guide to Avoiding Problems," quoted in Lilley, *Dirty Dealing*, x.
[155] Buehn, and Schneider, "A Preliminary Attempt to Estimate The Financial Flow Of Transnational Crime Using the MIMIC method."
[156] Bafella, Busato, and Argentiero, "Using Dynamic Macroeconomics for Estimating Money Laundering: A Simulation for the EU, Italy and the United States," 222.
[157] Baker, Capitalism's Achilles Heel. 172

volume of money laundering for 20 OECD countries in 2006 amounted to US$ 603 billion.[158] Another statistic for the same year held that between US$858 and 1056 billion left the developing countries illegally.[159] Washington-based NGO Global Financial Integrity contended that between 2004 and 2013, illicit financial flows from developing countries totaled an estimated US$7.8 trillion.[160] Not all of these transferred funds necessarily originated with illegal activities, but there is no doubt that the illicit flows have "serious, systematic adverse effect on the economic and political development of many of the poorest countries."[161]

The Term and the Concept

The term *money laundering* itself is "of recent and debated origin."[162] In some circles, it is believed to have derived from the activities of early 20th century American organized crime. Gangsters, including those affiliated with La Cosa Nostra and its various wings (such as the Chicago "Outfit" of Al Capone infamy), disguised their income sources by means of taking over and operating "business with high cash turnovers such as launderettes and car washes. Then they mingled their dirty cash with genuine clean cash receipts. This, whilst 'laundering' today is associated with the washing of criminal funds, the original use of the phrase related to the very real business of washing clothes."[163] One scholar traces money-laundering methods to Ancient Babylonia, where the practice was used to circumvent the world's first tax code established by Hammurabi. In Medieval Europe, money launderers disguised interest charges (not just criminal but sinful) by inflating exchange rates, risk-compensation premiums, or late-payment penalties.[164] Another scholar, citing the *Oxford English Dictionary*, linked the term *money laundering* to the American Watergate scandal of the early 1970s, adding that it was first cited in a US court in a 1982 federal case heard in Florida.[165] "There are similar terms in almost every language" – *riciclaggio* in Italian, *blanqueo* in Spanish, *blanchiment* in

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[158] Buehn, and Schneider, "A Preliminary Attempt to Estimate the Financial Flow of Transnational Crime Using the MIMIC Method," 183.
[159] Kar and Cartwright-Smith, Illicit Financial Flows from Developing Countries: 2002-2006, 21-23.
[160] Kar and Spanjers, Illicit Financial Flows from Developing Countries: 2004-2013, 5, 8.
[161] Reuter and World Bank, *Draining Development?,* 458.
[162] Shams, "The Fight Against Extraterritorial Corruption and the Use of Money laundering Control," 108.
[163] Lilley, *Dirty Dealing*, xii-xiii. See also Unger, "Money Laundering Regulation: From Al Capone to Al Qaeda," 19. A literal money-laundering example involves the Italian Red Brigades of the 1970s, who discovered that banknotes received in a ransom payment "had all been stained with yellow ink and were thus unusable. Unwilling to give up the money, the kidnappers physically washed it. Three people spent days washing the banknotes one by one and drying them with a hair dryer in a damp Milan basement flat." (Koh, *Suppressing Terrorist Financing and Money Laundering*, 28, citing L. Napoleoni, *Modern Jihad: Tracing the Dollars Behind the Terror Networks* (London: Pluto Press, 2003), 54 n.33.
[164] Naylor, *Wages of Crime,* 134-135.
[165] Shams, "The Fight Against Extraterritorial Corruption and the Use of Money Laundering Control," 108; Robinson, *The Laundrymen*, 6.

French.[166] The term in Arabic, غسل الأموال, *ghasl al-amwal*, literally means *washing money*. Thus, UAE financial crime specialist Ibrahim Al-Mulla entitled his book *Al-muwajaha al-jenaeiah leqadaya ghasl al-amwal* [*Criminal Confrontation of the Crime of Money Laundering]*.

As will be noted in a later chapter, the earliest UAE code concerning money laundering was faulted for its vague definition. However, many researchers contend "there is no universal or comprehensive definition of money laundering." The variance in definitions is explained by differences in priorities and perspectives of "prosecutors and criminal intelligence agencies, businesspersons and companies, developed and developing countries."[167] As Unger observed: "The choice of definition might also depend on the question posed."[168] One scholar, for example, defined money laundering "as the process of manipulating legally or illegally acquired wealth in a way that obscures its existence, origin or ownership for the purpose of avoiding law enforcement."[169] Another concisely held that "criminal laundering is any concealing of the proceeds of crime."[170] Another pointed out that before defining money laundering it has to be recognized as a business function. In this view: "Money laundering in the criminal sense involves the use of criminal or illicit funds and assigns criminal liability to otherwise legitimate business practices." The author explains further: "As a business activity, money laundering can further be divided between those who are ''self-employed,'' who launder funds for their own use, and ''service providers'' who do it for others.[171]

The internationally accepted definition of money laundering as an offence is that of Article 3 of the 1988 Vienna Convention. Its sections 1(b)(i) and (ii) criminalize the following:

> i) The conversion or transfer of property, knowing that such property is derived from any offence or offences established in accordance with subparagraph a) of this paragraph [which set forth a series of drug-related activities], or from an act of participation in such offence or offences, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offence or offences to evade the legal consequence of his actions;
> ii) The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from an offence or

[166] Shams, "The Fight Against Extraterritorial Corruption and the Use of Money Laundering Control," 108.
[167] Chaikin, "Money Laundering: An Investigatory Perspective," 468-469.
[168] Unger, The Scale and Impact of Money Laundering, 8.
[169] Shams, "The Fight Against Extraterritorial Corruption and the Use of Money Laundering Control," 109.
[170] Levi, "Following the Criminal and Terrorist Money Trails," 106.
[171] Turner, *Money Laundering Prevention,* 3-4.

> offences established in accordance with subparagraph a) of this paragraph or from an act of participation in such an offence or offences;[172]

Conceptually, laws that target money-laundering activities are usually aimed, not at that process itself, but at the processes from which such funds were derived. (As will be seen in a later chapter, this is another area where UAE lawmakers amended their early AML/CFT efforts based on concerns raised by outside evaluators.) Criminalization of money laundering "attaches criminal liability to acts exclusively concerned with the financial element of crime."[173] "Money laundering law is not concerned with tracing and retrieving a particular property; it is rather concerned with identifying value for the purpose of detecting criminal activity, depriving the criminals of the value of their illicit efforts, or preventing this value from being used to promote further criminal activity."[174] Hence, AML efforts tend to specify a large number of predicate offenses, the latter being (according to a World Bank publication) "the underlying criminal activity that generates proceeds that, when 'laundered', … lead to the offense of money laundering. The offense of money laundering cannot be committed without the prior commitment of a predicate offense (or underlying crime). It is useful to designate many crimes as predicate offenses for money laundering, so that the crime of money laundering can be used to fight the underlying crimes."[175] According to a different observer, "[t]he direct effect of fighting money laundering is that the law enforcement agencies have a second chance to catch the criminal. The criminal that got away might still reveal himself when he starts to invest the money he made from his crime. Even if the police are unable to prove the original crime, the criminal can still be convicted for money laundering, and the proceeds of the crime can be confiscated."[176] The latter derives from the concept of money as value rather than tangible property. Though money is largely associated with tangible legal tender, Hudson argues, "money exists only as an expression of the value," especially evident in cases of foreign exchange markets, bank transfers, cross-border transaction, etc." According to Hudson, only viewing money as value allows tracing rights in complex cross-border transactions.[177]

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[172] United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, 3.
[173] Gallant, Money Laundering and the Proceeds of Crime, 13.
[174] Shams, Legal Globalization, 50.
[175] World Bank, Combating Money Laundering and the Financing of Terrorism, Module 2:10.
[176] Ferwerda, "The Effects of Money Laundering," 38.
[177] Hudson, A., "Money as Property in Financial Transactions," 176 and *passim*.

ML efforts tend to ignore the actual value of the funds being laundered, and to define the offense as a "single act" rather than a continuous series. "Imposing a value limitation on the definition of money laundering will result in rendering money laundering law ineffective unless money laundering is approached as a continuous offence. The latter approach would increase the prosecutorial burden of proof substantially."[178] Prosecutions for money laundering may involve mundane actions. US case law contains examples of money laundering prosecutions arising "from simple transactions such as, purchasing a vehicle, cashing stolen casino chips, cashing cheques, buying a cabin, simple wire transfers, depositing in bank accounts and drawing cheques on those accounts and using safe deposits. In one case, the court held that paying the cash bond of $2500 to bail his co-conspirator out of prison was a 'financial transaction' within the meaning of money laundering statute and upheld the Defendant's conviction for money laundering on [the] basis of this act."[179]

Significance as a Transnational Problem

But the cash involved in such banal activities may stem from criminal activities, and by the turn of the millennium money laundering was a major transnational issue for law enforcement. By some appraisals, it had become an enormous global phenomenon.[180] Informed estimates placed the amount of laundered money in given countries as equal to significant percentages of their Gross Domestic Product (GDP), with examples ranging from 5 percent (Mexico) to 15 percent (Thailand) to 17 percent (USA) to 30 percent (Belarus).[181] The only figure regarding the extent of ML in the UAE that this author has found was an estimate that as of 2000, US$1 billion was being laundered in the UAE, about 1.32 percent of the GDP.[182] However, this figure is questionable, and in this author's view is likely an underestimate, as it is based on a 2000 paper citing unspecified press reports. As will be seen in a later chapter, this was at a time when no specific AML legislation, law enforcement efforts, or STR regimens were in place in the UAE. Moreover, the significance of the UAE's importance to AML studies transcends the actual monetary value, since the overall size of the UAE economy is considerably lower than that of the developed economies. A more recent statistic from 2012, not necessarily

[178] Shams, Legal Globalization, 50-51.
[179] Shams, Legal Globalization, 48.
[180] For a discussion and overview, see Staple, "Combating Transnational Financial Crime."
[181] Lilley, *Dirty Dealing*, 31, 32.
[182] Alkaabi, Mohay, McCullagh, and Chantler, "A Comparative Analysis of the Extent of Money Laundering in Australia, UAE, UK and the USA," 5, 9, citing as its source U.S. Government Interagency Working Group (2000), "International Crime Threat Assessment", available at: http://www.fas.org/irp/threat/pub45270chap3.html#r13.

measuring money laundering but rather illicit funds, shows that illicit capital outflow from the UAE amounted to 15 percent of the country's GDP in the period of 2001-2010.[183] The latter was calculated by the authors of Global Financial Integrity Report of 2012 and has not been empirically examined.

The country's potential ML situation may be better seen in light of its close connections to questionable regimes and non-state players. The UAE has figured in high-profile money laundering and terrorist financing cases. It was one of only three countries that recognized the Taliban during 1996-2001 as the legitimate government of Afghanistan. Al-Qaida activists were reported to have spent time in the UAE. Not only was the UAE financial network used to help finance the 9/11 attacks, but two of the 11 hijackers involved were UAE nationals.[184] The UAE also figured in the arms trafficking case of Viktor Bout, also known as "The Merchant of Death.[185] From 1993-2002 Bout operated from Sharjah and Ras Al Khaimah, transporting cargo and arms from Eastern Europe to Africa via the Middle East.[186] Bout himself described Sharjah at the time of his operation there as a place with "practically no law."[187] As a reminder of his presence, one of his planes mysteriously left in the desert can still be seen today.[188] The UAE has also the reputation of being a convenient hiding place for money launderers. As one source observed: "many wanted men reside in Dubai."[189] A man wanted by India in connection with the 12 March 1993 Bombay Exchange bombings operated out of Dubai from 1984. In 2003 the US and UN declared his involvement in narcotics smuggling and terrorist financing.[190] Among the latest to be publicly named is the mastermind or "the Controller" of a drug trafficking gang, charged with laundering £180 million, who is believed to be based in Dubai.[191]

It is easy to base one's operations in the UAE. One can either pay a local businessman to use his business name, or enter into a partnership with a UAE national. In the latter

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[183] Mossadak and Lahlou, "Empirical Investigation on the Illicit Financial Flow from MENA Region," 7.
[184] Katzman, The United Arab Emirates (UAE): Issues for U.S. Policy, 6.
[185] Austin, "Illicit Arms Brokers," 203-216.
[186] Landesman, "Arms and the Man," 28-57.
[187] Schmidle, "Disarming Viktor Bout," 54.
[188] Dennehy, "Shrouded in Mystery: The Russian Cargo Plane Abandoned in Umm Al Quwain."
[189] Mathiason, "Dubai's Dark Side Targeted by International Finance Police."
[190] U.S. Department of Treasury, "Treasury Sanctions Two Indian Nationals and a Company Based in Pakistan for Ties to the South Asian Criminal Network 'D Company'"; Weinstein, "Mumbai's Development Mafias," 22-39; Uncredited in The Telegraph, "Who's Afraid of Dawood Ibrahim"; United Nations Security Council, "Security Council ISIL (Da'esh) and Al-Qaida Sanctions Committee Amends One Entry on Its Sanctions List."
[191] Earlam and Armstrong, "Top Boss Of £180m Drugs Cash Ring Slips Net After NCA Arrest 32."

arrangement, the local businessman will own at least 51 percent of the business[192], while the other partner can undetectably fund the entire business. The U.S. Department of State reports: "There is often no record of the identity of the foreign partner" making it difficult if not impossible to identify beneficial owners of businesses or assets.[193] The MENA/FATF *Mutual Evaluation Report* of 2008 confirms that there is no clear procedure for declaration and verification of beneficial ownership when companies are registered in the UAE. It points: "there is clearly a considerable risk that foreign investors will seek to use nominees to hold the minimum 51% equity that must be registered in the name of a UAE national."[194]

A Europol 2013 SOCTA (Serious and Organised Crime Threat Assessment) report classifies the UAE as a major segment in the drug trafficking route from East and South Africa to EU.[195] According to a 2016 International Narcotics Control Strategy Report (INCSR) by the U.S. Department of State: "A portion of the money laundering/terrorist financing (ML/TF) activity in the UAE is likely related to proceeds from illegal narcotics produced in Southwest Asia."[196] The most recent case of a major drug-smuggling ring arrest was reported in a local paper on 23 January 2017. The value of the seized drugs is estimated to be AED 46 million (approximately US$12.5 million).[197] In the same SOCTA report cited above, the UAE, and Dubai specifically, were identified as "an important location for VAT (Value Added Tax) fraudsters and money launderers" and "a source, transit and storage area for cigarettes and counterfeit goods destined for the EU."[198] (As will be seen, the UAE has also been accused of facilitating illicit fund transfers, hence further enabling overall growth of transnational crime.)

On a global level, in March 1998 it was estimated "that money laundering amounted to between 2 and 5 per cent of world GDP: in other words between $1 and 3 trillion."[199] Currently, the actual figures of worldwide money laundering are still hotly debated.[200] In

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[192] UAE Federal Law No. (8) of 1984 concerning Commercial Companies.
[193] U.S. Department of State, "International Narcotics Control Strategy Report."
[194] MENA/FATF, "Mutual Evaluation Report" (2008), 123.
[195] Europol, Serious and Organised Crime Threat Assessment, 6.
[196] U.S. Department of Justice: International Narcotics Control Strategy Report (INCSR), Volume II: Money Laundering and Financial Crime, Countries/Jurisdictions of Primary Concern: United Arab Emirates.
[197] Ali, "Drugs Worth Dh46m Seized in Sharjah."
[198] Europol, Serious and Organised Crime Threat Assessment, 6, 13.
[199] Lilley, *Dirty Dealing*, 32.
[200] See, e.g., the entries in Part V (159-250) of Unger and van den Linde, eds., *Research Handbook on Money Laundering*, *passim*.

some cases, global money laundering estimates have dwarfed the annual money turnover of corporations such as General Motors and the GDP of countries such as Switzerland.[201] It is challenging to compute the actual annual value for laundered money because it encompasses a wide range of criminal activities generating and profiting from or otherwise utilizing the laundered money, including drug trafficking, arms sales, prostitution, pornography, terrorism, corruption, fraud, forgery, large-scale money and car theft, theft, blackmail and extortion, art and antique fraud, smuggling, human trafficking, and tax evasion.[202] One author points out that in the 1990s, only a relative handful of cases were reported to the relevant authorities, since many of the "red flags" of money laundering were not understood. The same author, examining the reporting of suspicious transactions[203] from certain countries in the 1990s, felt the numbers fell far short of the likely reality of the problem. The same author summed up the issue by concluding that "it is not the law enforcement agencies that are at fault: these reports are generated by banks, professionals and business."[204] The latter phenomenon has been prevailing in the UAE. There are no available STR statistics in the UAE prior to 2004. The 1999 HSBC case, which will be discussed in later chapter, demonstrates that most finance professionals were unaware of their legal obligation, mandated by the 1987 law, to report suspicions activities to the authorities. Even later on, STR data from 2012 showed that only seven banks produced over 70 percent of the filed STRs, while 15 out of 40 banks did not file any STRs at all.[205] We can only speculate that these were large international banks, which are inspected under closer scrutiny because of their multiple regulatory obligations in different jurisdictions including their license issuing countries. That observation underscores the fact that banks, businesses, and financial firms themselves are, wittingly or not, significant players in the money-laundering process. And their level of activity or passivity in scrutiny of transactions, accounts, and exchange and transfer of funds is key in helping law enforcement efforts at eradicating financial crime.

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[201] Lilley, *Dirty Dealing*, 32.
[202] Lilley, *Dirty Dealing*, 7-8.
[203] As defined in the US Money Laundering Control Act of 1986, "the term 'transaction' includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected" (18 USC §1959a©(3).
[204] Lilley, *Dirty Dealing*, 33-34.
[205] UAE/AMLSCU, "Annual Report" (2012), 38.

This research was guided by the paradigm that fighting money laundering and terrorist financing crimes reflects and is guided by each country's self-interest: to protect its financial system and economy as a whole from the negative impact of criminal abuse. The generally accepted rationale (put forward by international, intergovernmental and supranational organizations under the leadership of developed Western countries) promulgates the negative effects money laundering has on the world's economy, security and societies. As Stessens writes: "Money laundering is rightly considered as a derivative from predicate (often organised) crime activities and as such it is able to spread the detrimental consequences of these criminal activities to many parts of society." Stessens continues that due to its "corruptive influence on financial markets and the reduction of the public's confidence in the international financial system it may entail, money laundering creates a certain risk of inherent instability for the world economy and even a potential for organised crime groups to destabilize a national economy."[206] Another scholar, Unger, lists 25 effects of money laundering, including the direct effect of crime, "which is the loss to the victims and gain to the perpetrators of crime." The rest are considered indirect effects, which can be economic, social or political in nature. The researcher breaks these effects into two groups: short and long-term. The short-term effects, according to Unger, happen within one to two years and are predominantly economic, causing distortions of consumption, savings and investment, affecting financial, public and monetary sectors. The long-term effects can be detected after more than four years, by when the economy is dominated by large-scale criminal presences as a result of growing corruption. [207]

But it is important to acknowledge that another school of thought exists that questions the necessity of stringent AML policies. It doubts ML has an overall negative effect on economic development, and challenges the effectiveness of and even the motives for AML policy implementation. This argument has arisen naturally given the interdisciplinary nature of AML/CFT, involving input from legal scholars, economists, social scientists and international organizations. It is part of the broader debate of the role of law as a moderator of human behavior. The "Law and Economics" movement of the later 20th century applied economic reasoning to law, grounded in the proposition

[206] Stessens, *Money Laundering,* 84, 87.
[207] Unger, The Scale and Impact of Money Laundering, 109-174.

that "People respond to incentives."[208] It has been applied for understanding and assessing law and policy through the utility rationalization lens.[209] Scholars varied on the incentive effects of law. Some thought that only punishments and rewards matter; some felt law influenced behavior in other ways; others felt behavior can also be influenced by noneconomic, social variables which trigger conscience the same way law has to be used to do. An example of the latter position has been put forth by the legal scholar Stout, who noted: "The belief that material reward and punishments are the best and possibly only way to change human ways dominates public policy and many private institutions as well." In her opinion, these institutions should instead be directed toward cultivating human consciences.[210]

Crime and law enforcement has attracted academic attention from economists, who have examined it from an individual decision-making process entailing choosing between criminal and non-criminal activities. This decision process has been captured in formal mathematical modeling, initially by Becker, and consequently developed into the "economics of crime" theory. The deterrence hypothesis dominated the academic discussion. The ultimate question Becker posed involved what level of resources and how much punishment should be used to enforce deterrent laws, the goal being to determine optimal policies to combat illegal behavior.[211] Levitt used a similar approach in his study of juvenile crime, establishing a correlation between the juvenile crime rate and the severity of punishment. His results demonstrated that juvenile crime is responsive to harsher sanction.[212]

Economists tend to approach policy issues, Langsburg observes, by analyzing costs and benefits.[213] Accordingly, Ehrlich has used a "market model" which provides empirical evidence that societies cannot rely exclusive on harsh sanctions to achieve crime control, and that the marginal efficacy of positive incentives also serves as a deterrent effect on offenders.[214] He has found that individuals choose to commit crimes when the expected benefits are greater than the expected costs.[215] Using an occupational choice

[208] Landsburg, The Armchair Economist, 3.
[209] Posner, Economic Analysis of Law.
[210] Stout, Cultivating Conscience, 40.
[211] Becker, "Crime and Punishment: An Economic Approach."
[212] Levitt, "Juvenile Crime and Punishment."
[213] Landsburg, The Armchair Economist, 104.
[214] Ehrlich, "Crime, Punishment, and the Market for Offenses."
[215] Ehrlich, "The Market Model of Crime: A Short Review and New Direction."

model, Ehrlich correlated crime deterrence to the tradeoff between illegitimate and legitimate activities based on expected cost and benefits of each, as well as to punishments. He suggested the issue is whether to spend resources to enforce existing laws, or explore alternative methods to combat crime.[216] However, when the same hypothesis was tested in 107 countries using jurimetrics analysis in the context of organized crime, the results contradicted Ehrlich's findings. Reliance on traditional legal sanctions to counteract organized crime tends to create an incentive for criminal groups to expand and enhance their operational capacities, especially when judicial authorities did not obstruct their criminal assets. "This constitutes the paradox of criminal sanctions where more frequent and stiffer punishments applied to physical persons lead to higher levels of organized crime and higher level corruption."[217]

Though the "economics of crime" field has produced many papers, few studies tested AML policies' deterring effects on both ML acts themselves and predicate offences as preceding elements. One that did was by Ferwerda, who used economic crime modeling to show that tougher AML policies and better international cooperation could reduce a country's overall crime rate.[218] Masciandaro's "dynamic model" similarly showed that effective AML regulations and their enforcement resulted in "an increase of the overall public benefit."[219] When comparing regulatory enforcement with criminal justice process, one study established that the deterrence effects of regulatory contraventions "can adequately be secured by non-criminal processes, provided that financial penalties are available in that context."[220] However, when analyzing drug markets and related policies, one author noted that they "have proven to be highly law enforcement-resistant."[221] Following this logic, effective regulations have to take into account continuously changing criminal behavior.

Another study, grounded in the economics of crime theory, states that since criminals are profit-motivated, the mere availability of services to conceal criminal sources of profits "is a key determinant of the degree of criminal output in a society." It concluded

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[216] Ehrlich, "Participation in Illegitimate Activities: A Theoretical and Empirical Investigation," 561.
[217] Buscaglia, "The Paradox of Expected Punishment: Legal and Economic Factors Determining Success and Failure in the Fight Against Organized Crime," 311.
[218] Ferwerda,"The Economics of Crime and Money Laundering."
[219] Masciandaro, "Money Laundering and its Effects on Crime," 55.
[220] Ogus, "Regulation and its Relationship with the Criminal Justice Process," 39.
[221] van Duyne and Levi, *Drugs and Money,* 181.

that in a globalized setting, where predicate crime and laundering of its profits can easily be separated, "some countries have a higher incentive not only to tolerate money laundering, but to actively attract it." The same study suggested: "...small countries are better positioned vis-a-vis their larger and more developed neighbours, because they obtain relatively more benefits, at a relatively lower share of the total social costs. Small, developing or transitional economies – which are often otherwise unattractive to legitimate foreign direct investment sources – have, we suggested, a lot to gain by attracting illicit criminal proceeds – that is, by opening dancing with the devil – and very little to lose from doing so." [222]

This underscores the fact that large developed countries bear the largest threat and cost from ML, while " the smaller countries bare the majority of benefits."[223] With that in mind, "not all countries will attempt to court criminal capital, because for some countries – the larger legitimate economies – the costs of doing so will outweigh the benefits."[224] Unger, who listed 25 effects of ML, also admitted that there could be positive growth effects from it as well, such as when a country establishes itself as a *transit entrepôt* attracting both criminal and lawful financial flows while keeping "externalities" outside of its jurisdiction. According to Unger, "for every one billion of additional laundered currency ... there will be 0.1 percent increase in annual growth," as long as predicate offences generating these funds are only committed outside the country's borders.[225] There are some who contend this phenomenon may help explain the rapid economic growth of the UAE in the late 1990s and early 2000. One study concluded that the adoption of AML laws in the Gulf countries (Saudi Arabia, Kuwait, Qatar, Bahrain, UAE and Oman) resulted in decreased GDP, suggesting that money laundering partially contributed to the UAE's GDP prior to the introduction of ML laws. It observes: "with the adoption of this [AML] law the GDP decreases and a partial part of illicit money have changed destination."[226] Money laundering investigators frequently point to Dubai as a major centre for nesting criminal funds, whether it is US$1 billion of funds looted from Afghanistan's Kabul Bank, or the large portion of US$230 million stole

[222] Gnutzmann, McCarthy, and Unger, "Dancing with the Devil," 251.
[223] McCarthy, "Why do some Countries Tolerate Money Laundering?," 140.
[224] Gnutzmann, McCarthy, and Unger, "Dancing with the Devil," 250.
[225] Unger, The Scale and Impact of Money Laundering, 13.
[226] Issaoui, Hassen and Wassim, "The Effects of Money Laundering (ML) on Growth Application to the Gulf Countries," 13-24.

by a Russian official in the so-called Magnitsky case.[227] In 2009 Peters labeled the UAE "the financial world's Wild West."[228]

Considering the above, some have questioned whether international attention should be focused on deterring the benefiting countries from welcoming criminal investments by giving them incentives to tighten their AML controls.[229] One question that can be asked in this context is how much threat ML actually poses to countries considering the ever-expanding range of ML as a legal concept, the accuracy of officially reported ML volumes, and the lack of accepted methodology.[230] Naylor claims inflated numbers are politically motivated, and notes a lack of consensus on ML figures and on the practice's impact on society:

> Everyone agrees with the fundamental principle that criminals should not profit from their crimes. However, beyond that basic conviction, there is no real agreement about how large the problem of criminal money flows really is; about why society is actually worse off when criminals, rather than legitimate business people, consume, save, or invest; or about what level of collateral damage society should be called on to accept in the name of the war on crime profit.[231]

One study found rich western EU countries "the most vulnerable/attractive" to dirty money, while poorer EU countries were significantly less threatened.[232] Another suggested that "because smaller economies are better able to insulate themselves from the costs of crime, smaller countries bear a smaller share of the total costs relative to the potential benefits of investment that money laundering offers, and so have a higher incentive to tolerate money laundering."[233] Researchers have also questioned whether AML (and CFT) policies actually reduced predicate crime, and their general cost-effectiveness.[234] One study emphasized the broad cost centers of an AML regime by breaking it into three categories: borne by the government; by private sector companies; and by private citizens.[235] It is worth mentioning that multiple studies have attempted to calculate the costs of such AML/CFT regimes, but acknowledge that such figures are based only on estimates due to the difficulties associated with quantifying the costs. Reuter and Truman roughly estimated the cost of the US AML regime in 2003

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[227] Dawson, "Corrupt Money Hides in Dubai, Officials Turn Blind Eye – Eva Joly"; Ashin, "Dirty Money, Real Pain," 39.
[228] Peters, Seeds of Terror, 168.
[229] Gnutzmann, McCarthy, and Unger, "Dancing with the Devil."
[230] See, for example, van Duyne, "Money Laundering Policy," 75.
[231] Naylor, *Wages of Crime*, 286.
[232] Brettl, "Measuring Money Laundering Threat," 95.
[233] Gnutzmann, McCarthy, and Unger, "Dancing with the Devil," 247.
[234] Sharman, The Money Laundry, 37.
[235] Reuter and Truman, *Chasing Dirty Money*.

was $7 billion.[236] One study qualified its cost calculations for the UK and USA using "Low," "Best," and "Top" estimates.[237] Due to lack of core data on direct cost allocation in AML/CFT compliance, a 2014 KPMG survey measured its perception. Based on their findings, the cost of AML compliance for banking institutions was rising at the rate of 53 percent, eight percentage points higher than in 2011. The same study found this hike largely due to increasing expenditures in mandated by regulators' transaction-monitoring systems. At the same time, satisfaction with the latter, according to the same survey, has declined since 2011.[238] If so, why do banks continue spending on compliance? According to several senior bankers, "the fact they had spent massively on compliance would serve as a defense if any compliance issues arise – regardless of whether their spending was efficient or effective." One bank insider admitted in an interview with the *Financial Times* that overspending is a potential issue in compliance.[239] While large financial institutions can bear the growing compliance cost, small community banks are experiencing a backlash. A 2015 *American Banker* survey reported that more than 46 percent of American small banks surveyed had to reduce product offerings, including loan and deposit accounts, due to increased spending for regulatory compliance functions. The same survey also found that because of high compliance costs, customer service had suffered as community banks struggled to comply with growing regulations and fewer staff.[240] One author notes that the institutions are expanding compliance to protect themselves "ironically from the police rather than from the client," risking a paranoiac approach that would diminish service and responsibility toward customers.[241] While there is no evidence that "formal AML enforcements are significantly related to bank failures" and that bank customers discipline noncompliant banks, the bank regulators "may be the only police of banks' AML obligations."[242] As a result, "the need to have in place rigorous and effective systems designed to ensure compliance with the relevant [regulatory] provisions is paramount," for all regulated institutions.[243] Bank employees are expected to act "as front line 'police' or financial investigators, rather than simply aiding the proper

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[236] Reuter and Truman, *Chasing Dirty Money*, 93.
[237] Yeandle, Mainelli, Berendt, and Healy, *Anti-Money Laundering Requirements,* 9.
[238] KPMG, "Global Anti-Money Laundering Survey 2014."
[239] Noonan, "Banks Face Pushback over Surging Compliance and Regulatory Costs."
[240] *American Banker*, "Regulatory Risk Takes Center Stage."
[241] Naylor, *Wages of Crime*, 272.
[242] McIntosh, "The Costs of Anti-Money Laundering Enforcements to Noncompliant Banks," 13
[243] Mugarura, "Does the Broadly Defined Ambit of Money Laundering Offences Globally, a Recipe for Confusion than Clarity?" 439.

authorities."[244] In the United Kingdom, the failure to detect and report suspicious transactions will result in criminal charges against employees with a maximum term of 5 years imprisonment or a fine or both on indictment.[245] In response, as one author reports, the Money Laundering Reporting Officers (MLROs) in the UK banking industry are driven to use the protecting strategy to manage conflicting pressure from the regulators and the banks, rather than complying with regulation to prevent money laundering.[246]

Similarly, the BSA imposes the role of gatekeeper on the U.S. banking system. Non-compliance with filing suspicious activity reports in accordance with section 5318(g) of Title 31, United States Code[247] will result in "supervisory action."[248] Under the BSA individuals responsible for a company's failure to implement and maintain an effective AML program are liable for a civil money penalty of US $25,000 for each day that the company lack an effective AML Program.[249] U.S. Department of Treasury v. Thomas Haider exemplifies a larger enforcement trend where U.S. regulators use the threat of individual liability to ensure corporate compliance. [250] In 2014 FinCEN filed a civil enforcement action in New York federal court against Thomas E. Haider, the former Chief Compliance Officer of MoneyGram International, Inc. ("MoneyGram"), seeking enforcement of US$1,000,000 civil money penalty as well as a judicial order enjoining "Haider from participating, directly or indirectly, in the conduct of the affairs of any 'financial institution" for the willful violations of the BSA, 31 U.S.C. § 5311 *at seq*."[251] The penalty was based on the findings that Haider was personally responsible for the institution's failure to implement and maintain an effective AML compliance program and to file timely Suspicious Activity Reports (SARs).[252]

The U.S. Government Accountability Office reported that "From January 2009 to December 2015, DOJ, FinCEN, and federal financial regulators (the Federal Reserve,

[244] Whitehouse, "A Brave New World," 144.
[245] Sections 330 of Part 7 of the Proceeds of Crime Act 2002 (POCA) states that a person employed in the regulated sector commits an offence if he "knows or suspects or has reasonable grounds for knowing or suspecting, that another person is engaged in money laundering" and he "does not make the required disclosure as soon as is practicable after the information or other matter comes to him."
[246] Bello, Improving Anti-Money Laundering Compliance, 7.
[247] Unites States Code, Titles 3, Chapter 31, Subchapter 53, § 5318(g), 387-388,
[248] 12 CFR 21.11.
[249] United States Code, Titles 31, Chapter 31, Subchapter 53, § 5321, 398-401.
[250] Levy, Federal Money Laundering Regulation, 6-55.
[251] US Department of Justice , "Manhattan U.S. Attorney Sues Thomas E. Haider, …."
[252] *The United States Department of Treasury v. Thomas E. Haider*, United States District Court, Southern District of New York, 18 December, 2014.

FDIC, OCC, and SEC), assessed about $5.2 billion and collected about $5.1 billion in penalties, fines, and forfeitures for various BSA violations." These included the failure to develop and implement adequate AML programs, to identify and report suspicious activities, and to comply with the record-keeping and retention requirements.[253]

Similar to the UK and US legislations, the UAE's New AML Law establishes that chairmen, directors, managers and employees of financial institutions may be personally subject to criminal punishment (imprisonment and/or fine) for failing to inform the Financial Information Unit in the Central Bank of any money laundering offence occurring within their institution. Article (15) of the law sets the fines and imprisonment sentence of unspecified duration for individuals for refraining from informing the Financial Information Unit despite of their awareness "of any offence, occurred within the establishments thereof; relating to money laundering, terrorism and terrorist organizations financing." Notably, mere suspicion is not enough for a criminal offence to be committed. An accused has to be "aware of any offence" and fail to report it.[254] The latter does not apply to administrative sanctions for the breach of the regulatory requirements, where the suspicion test, not the actual knowledge, is employed. Moreover, the failure to comply with the AML regulations can still potentially constitute a crime. Article (19) of the UAE Federal Law No. (4) of 2002 stipulates penalties for breaches of "any of the other provisions herein." Violations under this provision are punishable either by imprisonment for an unspecified term or a fine.[255] Considering that the New AML Law did not amend Article (19) while adding Article (12bis), which imposes an obligation upon supervised entities to comply with money laundering regulations and directives, including reporting of suspicious transactions, a mere breach of AML/CFT regulations could potentially constitute a criminal offence under Article (19).[256] Though at the present time Article (19) has not been invoked in this way, it offers a prosecuting authority leeway to do so in the case of an egregious regulatory breach. The Dubai Financial Services Authority (DFSA) data on administrative sanctions for failure to comply with the AML/CFT regulations demonstrates a shift from private warnings of regulatory concerns to monetary

[253] US Government Accountability Office,. "Financial Institutions: Fines, Penalties, and Forfeitures for Violations of Financial Crimes and Sanctions Requirements," *Report to Congressional Requester*, 11.
[254] UAE Federal Law No. (9) of 2014, Article (15).
[255] UAE Federal Law No. (4) of 2002, Article (19).
[256] UAE Federal Law No. (9) of 2014, Article (12bis).

sanctions; [257] and the growth of sanctions enforced on individuals. In 2014, the DFSA issued four private warnings,[258] while in 2015 it imposed two institutional fines of US$640,000 and US$8.4 million and an individual fine of $45,000 for compliance failure.[259] In 2016 fines of US$60,000 and US$85,191 were imposed on firms for the failure to comply with the provisions of the AML Module of the DFSA Rulebook. [260] The same year, a fine of US$56,000 was imposed on two individuals for non-compliance with the AML regulatory requirements.[261]

Furthermore, the scope of AML regulations is continuously expanding. As Geiger and Wuensch point: "Over recent years, the strategy of FATF has been "more of everything": to move the fences in a way that the clean world shrinks and the criminal world grows."[262] The burden of compliance has spilled beyond institutional boundaries. Banks are expected "to act as the *de facto* regulators" of its customers, such as the money services business industry. The latter expectation is a major cost driver and a cause of termination of relationships with these businesses, based on "the cost/benefit calculus" of maintaining these accounts.[263] "The cost of compliance is increasing rapidly but it would be a brave person who steps up to say that it is too high a price to pay for countering terrorism and serious crime."[264] The financial industry is facing the risk of spending more resources on preventing operational risk than the cost of the risk itself.[265] It is generally believed that noncompliance leads to reputational damages, potential penalties imposed by the regulator on the financial sector firms, and the risk of personal liability. Since it is hard to quantify the impact of non-compliance on reputation, the only tangible risks remaining relevant are prospective penalties and personal liability. As there is no perceived reputation benefit for financial institutions to commit resources in money laundering controls, they ultimately bear the costs of government-mandated compliance.[266] Moreover, according to Harvey and Lau "compliance is undertaken to prevent a negative impact on, rather than as an

[257] The DFSA regulates over 400 firms within the Dubai International Financial Centre (DIFC). See "DFSA in Action" Vol. 13, 1.
[258] DFSA, "Annual Report" (2014), 57.
[259] DFSA, "DFSA in Action" Vol. 12, 8; and "Annual Report" (2015), 57.
[260] DFSA (2016). Enforceable Undertaking, Razmala Investment Bank Limited, 18 September. DFSA (2016), Decision Notice, Clements (Dubai) Limited, Reference No. F002007, 21 September.
[261] DFSA, "DFSA in Action" Vol. 13, 7. DFSA Decision Notices, Kapparath Muraleedharan and Raphael Lilla.
[262] Geiger and Wuensch, "The Fight Against Money Laundering," 95.
[263] Abernathy, testimony in "Bank Secrecy Act's Impact on Money Services Businesses."
[264] Whitehouse, "A Brave New World," 144.
[265] Saunders and Cornett, *Financial Institutions Management*, 372.
[266] Harvey, "Compliance and Reporting Issues Arising for Financial Institutions from Money Laundering Regulations," 343.

enhancement to, reputation."[267] Some suggest that reputational benefit of compliance is in providing a competitive advantage to a business in the form of preferential treatment by the regulators and high pressure from the large industry players.[268] This issue will be further explored in Chapter 8 of this doctoral thesis in the context of the Compliance vs. Commitment paradigm.

It has been widely reported that compliance costs have undergone a "low double-digit" percentage increase over the past five years, but "not all are convinced that the new rules will provide the intended transparency." According to the CFO of a Swiss private bank: "I think we served our clients [well] before all these regulatory changes. All in all, I don't think clients feel the change in regulation other than they have to sign more forms."[269] Along these arguments lies another criticism addressing the disproportionate gap between fewer-than-expected convictions, accompanied by the low volume of asset recovery (estimated to be 0.2 percent of all laundered funds in the United States), and the cost of the AML regime.[270]

One of the earlier criticisms of a unified policy approach to ML questioned its applicability to and compatibility with developing countries. "The evidence suggests that application of AML policy in developing countries is often a question of going through the motion rather than reducing crime."[271] It is important to acknowledge that this criticism was prior to introduction of revised FATF Recommendations, which now take into account risk in the context of each country as part of its methodology. However, developing countries face higher direct and indirect AML costs in part because of corruption, "the greatest single sources of illicit funds laundered in these countries." Such countries are not going to eradicate internal corruption, but may put forth an on-paper AML regimen in order to stay off the FATF blacklist or seek to improve or protect their perception internationally.[272] That itself has formed part of a larger discussion of how an international policy establishing uniform incentives and punishments may motivate different responses and behaviors in different cultures. Penalties (in the AML case, fines imposed on financial institutions), introduced as a deterrent, can be treated

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[267] Harvey and Lau, "Crime-Money, Reputation and Reporting," 69.
[268] Geiger and Wuensch, "The Fight Against Money Laundering," 101; Verhage, "Between the Hammer and the Anvil?" 12-13.
[269] Pavoni, "Private Banking: Wealth Management - Is Private Banking a Global or Local Game?"
[270] Levy and Reuter. "Money Laundering."
[271] Sharman, *The Money Laundry*, 67.
[272] Sharman, *The Money Laundry*, 61, 131.

as the price for avoiding ethical obligations.[273] Some have also questioned whether ML fines are actually damaging to financial institution. Data suggests that sometimes they are not. For example, UBS, which in 2009 paid US$780 million in fines to US authorities for tax evasion charges, recovered by 2014 its previous position as highest valued private banking brand in the world.[274]

Another argument put forward is that ML can be interpreted as a "victimless crime." Therefore its societal impact is questionable. The concept has been used in the context of political debate citing the "libertarian" arguments of philosopher John Stuart Mill.[275] One example might involve the decriminalization of drugs. The argument for it is based on the rationale that nobody is harmed in a drug transaction due to mutual consent from both sides. And the debate on whether victimless crimes should be decriminalized took a new turn with application of cost-benefit analysis.[276] Decriminalization of money laundering as a result of liberalization of drugs, according to Groot, should be researched further, applying cost-benefit analysis.[277] As Stessens has noted, "This fundamental fact of the absence of a victim able to institute recovery claims against the alleged perpetrators of a crime has had a number of far-reaching effects on how the fight against money laundering has been shaped."[278] In his latest book, Alldridge, after evaluating the trend in the international AML legislative and regulatory initiative, reaches a conclusion that they serve only the interests on AML industry, since the purported issues related to and associated with money laundering are based on assumptions, impossible to measure, and hard to prove.[279]

Characteristics of Money Laundering

As the act of laundering money itself usually constitutes a crime or a breach of banking regulations, the practice is primarily associated with criminal enterprise.[280] As noted above, such activities may include illegal drug trafficking, arms sales, prostitution, pornography, terrorism, corruption, fraud, forgery, large-scale money and car theft,

[273] Bowles, The Moral Economy.
[274] Pavoni, "Private Banking: Wealth Management - Is Private Banking a Global or Local Game?"
[275] Mill, On Liberty.
[276] Posner, The Economics of Public Law.
[277] Groot, "Money Laundering, Drugs and Prostitution as Victimless Crime."
[278] Stessens, *Money Laundering: A New International Law Enforcement Model*, 421.
[279] Alldridge, What Went Wrong With Money Laundering Law?
[280] As discussed further below, when HSBC officials in the United Arab Emirates became aware of money laundering activities in several accounts in their Sharjah branch, they closed the accounts and eventually made a report to UK regulatory authorities, but also observed that no local laws had been broken, as (or so they thought) no money laundering law was then in place. Hakim, *United Arab Emirates Central Bank & 9/11*, 22-29, 139.

theft, blackmail and extortion, art and antique fraud, smuggling, human trafficking, and tax avoidance.[281] Examples "range from the very simple, e.g., merely changing to larger denominations street-level drug money to reduce the bulk and enhance portability, to the very complex involving multiple electronic fund transfers, use of false documentation and use of shell companies in offshore jurisdictions. … [T]he degree of sophistication is determined by the purpose that the launderer is seeking to achieve."[282]

While money laundering may have begun as a local activity, done to evade detection by domestic tax authorities, it has grown into a transnational phenomenon, and the internationality of the practice is the key issue for modern law enforcement. Perhaps the impetus for this shift, from the local to the international, can be seen in the famous case of Al Capone. While law enforcement could not find enough evidence and witnesses to prosecute Capone for many alleged crimes, federal prosecutors ultimately took advantage of a 1927 Supreme Court ruling, which held that illegally earned income was still taxable. They ultimately convicted Capone on five tax charges. One outcome from this was that fellow gangster Meyer Lansky, learning a lesson from Capone's downfall, discovered Swiss banks, thereby changing money-laundering culture.[283]

Conclusion

The preceding pages have tried to describe the character and significance of ML today, noting in passing that there is little consensus about methodologies to estimate the funds involved, or the effectiveness of AML (and CFT) regimens. It may also be pertinent that, while a broad consensus exists about the undesirability of ML (noting that the source of most ML funds in developing countries is corruption) observers have argued over the danger ML presents to society at large, and over the cost-benefit tradeoff of AML (and CFT) regimes. Having broadly examined some theory, the following chapter will look at practice, presenting the traditional money laundering model, and then following with examples of transnational money-laundering techniques.

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[281] Lilley, *Dirty Dealing*, 7-8.
[282] Shams, *Legal Globalization*, 45-46.
[283] Bergreen, *Capone,* 224; Robinson, *The Laundrymen*, 4-5; Storm, "Establishing The Link Between Money Laundering And Tax Evasion," 17-18; Krishna, "The Legacy of Al Capone in Tax Law."

3. The Traditional Money Laundering Model and Standard Typologies

The previous chapter attempted to broadly assess scholarly and professional viewpoints on that character and significance of ML, along with a survey of views related to methodology and effectiveness issues. This chapter will present the money-laundering model and techniques that are prevalent in the UAE and present a threat to the broader global community.

Money-laundering schemes may range from the relatively simple to the vastly complex. Money-laundering "acts or transactions are limited only by the purpose for which they are structured and the skill of the launderer. There is an almost unlimited number of ways in which the launderer can achieve his/her purpose."[284] In similar vein, another expert noted that if it always followed a regular process, money laundering would be much easier to prevent. The same author also cautions: "there are some methods of money laundering that do not need to involve the banking system, such as dirty dealing in cash based economies."[285]

The classic schematic of the "traditional" money-laundering process involves three-stages: *placement*, *layering* and *integration*. It is worth mentioning that some scholars have questioned the adequacy of this model. According to van Duyne, "the process [of ML] can stop at any phase or earlier phase may be repeated." He notes: "the actual sequence depends on the nature of the crime-enterprise or the administrative requirements."[286] Despite such criticism, this study will outline the generally accepted money-laundering process, since it has been used in the professional training programs.[287] The AML/CFT professionals interviewed and surveyed for this study may be expected to have applied the three-stage framework.

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[284] Shams, "The Fight Against Extraterritorial Corruption and the Use of Money Laundering Control," 109.
[285] Lilley, *Dirty Dealing*, 48.
[286] van Duyne, "Money Laundering Policy: Fears and Facts," 79.
[287] Professional certificate programs that offer AML training, either as a stand alone or part of another certificate, include the Association of Certified Anti Money Laundering Specialists (ACAMS), the International Compliance Association (ICA), the American Banker Association (ABA), the Conference of State Bank Supervisors (CABS), and the Association of Financial Crime Specialists (AFCS).

Placement involves "getting all proceeds of crime into the world's banking system but simultaneously arousing no suspicion in doing so." This usually requires the criminal enterprise to utilize businesses "that in the normal course of events have a high physical cash flow. Examples of these cash intensive businesses are casinos, bars, retail outlets, art dealers and restaurants."[288] For example, the Lebanon-based organization Hezbollah, which the United States has designated a terrorist organization, for a time relied on the services of Ayman Joumaa. A former assistant secretary of the US Treasury Department has described Joumaa as "an all-purpose narcotics trafficker and money launderer." In cleaning drug cash, he performed the placement stage of the money-laundering process by having associates transfer funds, via Lebanese money exchange firms, into accounts in the (now defunct) Lebanese Canadian Bank.[289]

The second stage of the process is variously termed *layering*, *agitation*, or *co-mingling*. "As each of the terms implies, unless this stage is completed, the criminal money may have been placed in the banking system but it is still in one block and can be identified as such. The trick at this stage is to move money around: within the same financial institution; to other financial institutions; to other countries; into other currencies; to other types of investments (bonds, stocks, and travellers' cheques); or by investment in real estate."[290] In the case cited above, Joumaa performed this stage of the process by using the money, which had been deposited in the Lebanese Canadian Bank, to finance mass purchases of used cars in the USA, which were then shipped overseas, often to West Africa. The method of sending the money used was electronic wire transfer.[291] As Shams observed, both the "instantaneous nature of these transactions and their daily volume ... make legal pursuit very difficult."[292] This stage is where the UAE becomes especially vulnerable, when it serves as a conduit to international financial markets channeling proceeds of foreign criminal organizations and illegal activities to Dubai-based companies.[293] Dubai has been a destination where proceeds of crime are often invested with a help of locally based financial facilitators, who help integrate criminal money in the legal economy. In one case, the method used was a loan-back service. A company under control of the financial facilitator provided a loan to the criminal to buy

[288] Lilley, *Dirty Dealing*, 49.
[289] Zarate, *Treasury's War*, 359.
[290] Lilley, *Dirty Dealing*, 50.
[291] Zarate, *Treasury's War*, 359.
[292] Shams, "The Fight Against Extraterritorial Corruption and the Use of Money Laundering Control," 109.
[293] US Department of State, "Money Laundering and Financial Crime."

a house. The provided loan was just the criminal's own money. A financial facilitator could also construct fake employment for the criminal or his wife in a legitimate business when a house needed financing, creating a pay-roll record with which the criminal could obtain a loan from a bank to finance his house. Since financial facilitators operate as small, independent businesses that provide financial tax advisory or administrative assistance, they are not formally regulated. In general financial facilitators are involved in setting up a string of businesses and money transfers.[294]
The final step is *integration*. "The original proceeds of crime have now been washed and spun dry so that they can be introduced into a respectable financial environment. The money can also be taken out of the banking system for 'legitimate' purchases without too many awkward questions being raised."[295] In the Hezbollah case, the used cars, bought in the USA and sent overseas, were sold, with the proceeds "transmitted back to Lebanon for Joumaa and Hezbollah to use. So the drug money was laundered through used-car sales, and the used cars themselves became literal money-laundering vehicles."[296]

Observations

The techniques used in money laundering – as will be shown below – are ever evolving. Similarly, as a law-enforcement issue the concept of money laundering itself is also fluid. The Hezbollah example cited above shows that much modern concern with money laundering has involved terrorism, and sometimes "narco-terrorism" – the latter term referring to the process of money being raised through sales of illicit drugs, with the ultimate purpose of being used to fund terrorism.[297] Some observers have argued that much of this concern was media generated after the terrorist attacks in the United States on 11 September 2001.[298] They have also questioned whether enhanced scrutiny of possible money-laundering activities would have led to the prevention of those attacks.[299]

AML controls have also developed to a point where the money involved in an alleged money-laundering operation no longer had to be gained through illegal enterprise.

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[294] Soudijn, "Using Strangers for Money," 208.
[295] Lilley, *Dirty Dealing*, 51.
[296] Zarate, *Treasury's War*, 359.
[297] See, for example, Hudson et al, A Global Overview of Narcotics-Funded Terrorists and Other Extremist Groups.
[298] Lilley, *Dirty Dealing*, 148.
[299] Lilley, *Dirty Dealing*, 128-131.

"Money that is obtained by evading taxes is very often legally obtained, and money that is channeled towards terrorism could be raised from a legitimate source," the latter including donations to ostensible charity organizations.[300] There are also arguments "that money that is derived from some civil wrong [as opposed to a criminal act] could qualify for money laundering purposes."[301] An example of such a "civil wrong" might be a man hiding wealth "to avoid the enforcement of a court ruling against his assets in a divorce case."[302]

ML Typologies (Techniques) and Areas of Concern

A publication of the FATF notes that "[t]here are three main methods by which criminal organisations and terrorist financiers move money for the purpose of disguising its origins and integrating it into the formal economy. The first is through the use of the financial system; the second involves the physical movement of money (e.g. through the use of cash couriers); and the third is through the physical movement of goods through the trade system."[303] This section will broadly examine money-laundering techniques that constitute immediate risk to the UAE and/or have been utilized within the UAE or by UAE-located entities.

ML Using the Financial System and Financial Institutions

Electronic Fund Transfers (EFT)

Apparent weaknesses of the UAE financial system were exploited to finance the 9/11 suicide attacks. A number of six-figure sums were wired from Dubai to bank accounts in America. "All of the bank-to-bank transactions flowed through the UAE Exchange's correspondent account at Citibank."[304] High-frequency and high-value bank transfers are innate components of the UAE banking sector, reflecting, as mentioned earlier, the county's demographics. More than 80 percent of residents are expatriates, who rely on different types of money transfers, depending on the cost and the type of income earned. In addition to transfers conducted on behalf of individuals, the UAE banking sector

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[300] Shams, "The Fight Against Extraterritorial Corruption and the Use of Money laundering Control," 110-111; Unger, "Money Laundering Regulation: From Al Capone to Al Qaeda," 21.
[301] Shams, "The Fight Against Extraterritorial Corruption and the Use of Money laundering Control," 111, citing Rider, B (1998), "The Control of Money Laundering: A Bridge Too Far?," 5 EUR. J. FIN. SERV. 27.
[302] Shams, "The Fight Against Extraterritorial Corruption and the Use of Money laundering Control," 111. Fear of scrutiny by tax officials has prompted some individuals performing illegal activities to pay unnecessary taxes simply to keep up appearances. A Soviet agent spying in the UK in the mid-1980s under the identity of "Erwin Van Haarlem" operated as a "self-employed art dealer. This, however, was simply a cover profession which generated very little income; Van Haarlem paid tax on sales he had not made simply to keep up his cover" (Andrews, *Defence of the Realm*, 727).
[303] FATF, "Trade Based Money Laundering," i.
[304] 9/11 Commission, Monograph on Terrorist Financing, 134.

facilitates institutional money flow in and from the country. With 45 currently operating free zones and 10 more under construction, the growing international business presence strains the financial infrastructure and logistics, ultimately creating new risks for the country's and international banking sector. [305] In the country's context, the banks have to deal with a great number of Small and Medium Enterprises (SMEs). According to a 2013 Dubai SME report, the SMEs represent 95 percent of all establishments in the Emirate and "contribute around 40 percent to the total value add generated in Dubai's economy." The majority of the SMEs, 57 percent, operates in the Trading sector and is inherently more export-oriented, generating more than 20 percent of their revenue from the regional and international markets. The same study indicates that three-fourths of SME exporters are exporting to other countries without having a physical presence in these markets.[306] The international commerce has to be facilitated by the local and foreign banks in the UAE. As of 2013 figures, every bank in the UAE offered Automated Teller Machine (ATM) services operating on a central "Switch" system, meaning that a customer of a particular bank can use any other bank's ATM for conducting banking transactions.[307]

To understand how criminals can exploit the unique nature of the UAE business environment, with a large number of SMEs and high international exposure, to transfer illegal funds, the general methods of electronic transfer need to be summarized.
An electronic funds transfer (EFT**)** takes place over a computerized network, with the money value represented digitally. EFT examples include a Point-of-Sale (POS) system in retail stores, ATMs, telephone banking or Pay-by-Phone services, Automated Clearinghouses (ACH), wire transfers, and online banking.[308] EFTs facilitate fast transfer of money from one account to another, within a country or across borders. Trillions of dollars are transferred in millions of transactions each day. According to Fedwire® Funds Service - Monthly Statistics, a daily average value of transfer in August 2016 was US$3,069,299 million.[309] EFTs are attractive to criminals for the same reasons as they are attractive to legitimate businesses. It is "because they [EFTs] generally provide a secure and trusted means of sending large amounts of money quickly." EFTs enable money launderers "to spirit their money beyond the grasp and sometimes out of the

[305] Cherian, "45 Free Zones in the UAE: Find the Right One for Your Business."
[306] Government of Dubai, "The State of Small and Medium Enterprises (SMEs) in Dubai," 4, 12, 17.
[307] PwC and HSBC, "Doing business in the UAE," 21.
[308] Colton et al, *Computer Crime.*
[309] Federal Reserve Bank Services, "Fedwire Fund Service -- Monthly Statistics," accessed 12 October 2016.

sight of law enforcement." Because they don't require any "actual physical movement of currency, they are a relatively rapid, reliable, and secure method for transferring funds without the risks associated with large cash deposits or physical transportation of illicit monies."[310] Terrorists use wire transfers to move funds around the globe to finance operations such as the attacks of 9/11. The FATF uses the term *wire* or *funds transfer* when "referring to any financial transaction carried out for a person through a financial institution by electronic means with a view to making an amount of money available to a person at another financial institution." According to the FATF "there are a limited number of indicators to help identify potential terrorist wire transfers," because the complexity of wire-transfer schemes creates a deliberately confusing audit trail to disguise the source and destination of funds. What complicates the matter more is that wire transfers can be sent through non-bank institutions, such as money remitters or *bureaux de changes*, that have different compliance requirements for recordkeeping and transmission of information.[311] These discrepancies exist in the UAE. For example, Article 5.1 of Regulation 24/2000 set significantly different thresholds for banks and money changes for verification of customer identity. For the banks it was approximately US$11,000 and for moneychangers US$600.[312] This requirement was amended in 2008, in response to criticism in the Mutual Evaluation Report.[313] But a discrepancy still remains under the new requirement, though with a difference of only about US$400, since the threshold for the banks was lowered to US$1,000.[314] Moreover, "the same international money transfer agents are controlled to a different extent in different countries."[315] Often the perpetrators use false identities to avoid detection.[316] The UAE has been a link in many complex money laundering schemes involving electronic money transfers. However, there is "a lack of recognition by the authorities as to the extent to which overseas criminal groups use the UAE financial system to launder money."[317] The Mutual Evaluation Report of 2008 confirms that the country has "only very limited provisions in place with respect to wire transfers."[318] The UAE Central Bank regulations

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[310] U.S. Department of Treasury/FINCEN, "Feasibility of a Cross-Border Electronic Funds Transfer Reporting Systemunder the Bank Secrecy Act," 3:4.
[311] FATF, "Money Laundering Typologies," 4.
[312] UAE Central Bank, Regulation No. 24/2000 - Regulation Concerning Procedures for Anti-Money Laundering."
[313] MENA/FATF, "Mutual Evaluation Report" (2008), 75.
[314] UAE Central Bank, "Addendum to Circular No. 24/2000 - Regulation concerning Procedures for Anti-Money Laundering," Notice No. 2922/2008.
[315] Unger, The Scale and Impact of Money Laundering, 96.
[316] Williams, "Banker as Victim."
[317] MENA/FATF, "Mutual Evaluation Report" (2008), 21.
[318] MENA/FATF, "Mutual Evaluation Report" (2008), 75.

relating to wire transfers are too general in terms of the procedures for verification of identity and transmission of originator information.[319]

Structuring/Smurfing

The UAE is a small country, with a population of only about nine million. However, operating in the country (approximately as of this writing) are 140 moneychangers, 23 national with 1014 branches and 28 foreign banks with 170 branches. Thus, the UAE is a perfect area to utilize structuring technique for laundering money.[320] The latter requires utilization of several different financial institutions for ML-related transfers.[321] This process is known as structuring or smurfing and simply involves breaking a large transaction into a series of smaller multiple transactions (all under the reporting threshold) using any number of financial institutions and/or people. Basically, "a person deposits cash with a cash dealer in amounts less than the mandatory reportable amount" to avoid the trigger of detection and reporting.[322] Individuals involved in making these structured transfers or transactions are sometimes known as smurfs. The UAE, with its large population of migrant, often underpaid, workers is an ideal place to find candidates to pose as smurfs to make multiple transactions below the threshold requirement.[323] The modern question of "What does a smurf look like?" speaks to the transformation of ML as a whole. A banker told one author that: "Years ago if someone came with a duffle bag of money and wearing some gold chains about their neck, we figured we ought not to do business with them because it seemed obvious that the person was a money launderer. Today they're very sophisticated. They wear conservative suits and button-down shirts."[324] Unger made a similar warning, cautioning that the ML archetype of "tattooed gangsters dealing in drugs, prostitution, people-trafficking and racketeering is largely a myth. Money laundering also involves 'white collar' crime."[325] In this light, a retired priest in Massachusetts faced 12 counts of ML charges in 2015 for a series of international, cross-jurisdictional wire transfers to

[319] MENA/FATF, "Mutual Evaluation Report" (2008), 10.
[320] UAE Central Bank, "Moneychangers."
[321] FATF, "Report on Money Laundering Typologies 2003-2004."
[322] Chaikin, "Money Laundering: An Investigatory approach," 484; see also Welling, "Smurfing, Money Laundering and the Federal Criminal Law: The Crime of Structuring Transactions."
[323] Augustine, "Money Exchanges Seek Standardisation of Anti-Money Laundering Efforts."
[324] Cocheo, "Money Laundering Panel: Stop the Smurfs," 32.
[325] Unger, The Scale and Impact of Money Laundering, 188.

Nigeria using Western Union.[326] We can only wonder how many structured transactions go undetected in the UAE.

Correspondent Banking

The UAE's economic and financial development is fueled through correspondent banking networks, providing access to financial services around the globe, supporting international trade and further strengthening financial inclusion. Correspondent banking occurs when a bank, to transfer money on behalf of its clients, itself employs an account in a foreign bank. To move money across borders, a bank has to hold an account with a bank overseas, a relationship known as correspondent banking. Domestic banks around the world generally do not connect with one another directly. For example, when a UAE bank customer wants to send a wire transfer to another country, the UAE bank transfers funds from the correspondent account it holds in the recipient country.[327] Correspondent banking relationships are vulnerable to misuse for money laundering, because correspondent bank is forced to rely on respondent bank to conduct all necessary due diligence in respect to its customers and suspicious transactions. Since in some jurisdictions these procedures are more lax than in others, "correspondent banking can be a gateway for illegal funds into the regular banking system."[328] Correspondent banking was at the heart of the Bank of New York scandal in 1999, involving money laundering done through that bank's correspondent accounts in Russia.[329] It also figured in the case of FBME Ltd., formerly known as Federal Bank of the Middle East, Ltd., which the FinCEN in 2014 categorized as a financial institution of ML concern. The FBME was alleged to have allowed obscured transactions into the US financial system, principally through direct and indirect correspondent accounts, facilitating money laundering as well as terror financing. The FinCEN faulted the FBME for weak AML controls, encouraging its use by shell companies. The suspicious wire activity through other US institution totaled $387 million between April 2013 and April 2014. FinCEN eventually barred the FBME under the USA PATRIOT Act from obtaining or using correspondent accounts with US financial institutions. [330]

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[326] Lee, "Worcester Retired Priest Faces Money Laundering Charges."
[327] Kobor, "Money Laundering Trends," 14.
[328] Unger, The Scale and Impact of Money Laundering, 93-94.
[329] O'Brien, "Bank settles U.S. inquiry into money laundering," and Cullison, "Russia sues Bank of New York over 1990s scandal."
[330] This is derived from the following: USDOT/FINCEN, "Notice of Finding that FBME Bank Ltd., Formerly Known as Federal Bank of the Middle East, Ltd., is a Financial Institution of Primary Money Laundering Concern," 42640;

In light of such cases and their corresponding risks, the United States toughened its regulatory regime for correspondent banks.[331] Under the US PATRIOT Act new and enhanced due diligence standards are required for US financial institutions that enter into correspondent banking relationships with foreign banks that operate under either an offshore banking license, or a banking license issued by states that have been designated either as uncooperative with AML procedures set by international groups of which the US is a member, or with which it concurs; or "by the Secretary of the Treasury as warranting special measures due to money-laundering concerns."[332]

In addition US financial institutions are prohibited from establishing, maintaining, administering, or managing correspondent accounts with "shell banks," which may be broadly defined as those lacking a physical presence. Financial institutions[333] are responsible for taking "reasonable steps" to ensure that correspondent accounts are not used indirectly to provide financial service to foreign shell banks.[334] The tighter regulatory requirements ultimately increased cost of compliance, causing some leading U.S. banks to terminate their correspondent relationship with some UAE banks. This practice is referred to as "de-risking."[335] According to the current governor of the UAE Central Bank, Mubarak Rashid al-Mansouri, "de-risking has proven to be wholesale and indiscriminate for our financial institutions and that it is unduly hurting remittances from our large expat workforce to their home countries."[336] The latest development in this field was JP Morgan's decision to cut its correspondent banking relationship with Emirates NBD, Dubai's largest bank.[337] It is important to point out that the issue of de-risking goes beyond the UAE borders. The results of the correspondent banking survey, conducted by the World Bank, and commissioned by the Financial Stability Board (FSB),

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USDOT/FINCEN, "Imposition of Special Measure Against FBME Bank Ltd., Formerly Known as the Federal Bank of the Middle East Ltd., as a Financial Institution of Primary Money Laundering Concern."

[331] United States Department of the Treasury/Financial Crimes Enforcement Network, "Customer Due Diligence Requirements for Financial Institutions."

[332] 31 U.S.C. §5318(i) 2(A)(ii), 389.

[333] 31U.S.C. §5312(a)(2) (A)-(Z), 379 broadly defines "financial institutions" beyond the banking sector.

[334] 31 U.S.C. §5318(i) 2(A)(ii), 389.

[335] Financial Action Task Force (Brisbane), "Drivers for 'De-Risking' Go Beyond Anti-Money Laundering/Terrorist Financing."

[336] Reuters report, "Regulation Hits UAE Banks' Dealing with US banks."

[337] Uncredited in *Gulf Business*, "JP Morgan Cuts Banking Ties with Emirates NBD."

show that about half of the emerging and developing economies surveyed have experienced a decline in correspondent banking services.[338]

Payable-Through Accounts

The "payable-through account" technique has a documented history of usage in the UAE. According to US legal documents, "The term payable-through account means a correspondent account maintained by a U.S. financial institution for a foreign financial institution by means of which the foreign financial institution permits its customers to engage, either directly or through a subaccount, in banking activities usual in connection with the business of banking in the United States."[339] It is related to the aforementioned concept of "nesting." Kobor noted that such an account "at a U.S. bank involves a foreign bank holding a checking account at the U.S. institution. The foreign bank can issue checks to its customers, allowing them to make payments from the U.S. account."[340] Payable-Through Accounts give the respondent's bank customers the ability to conduct business by executing their own transactions without needing to clear the transactions through the respondent bank. "For example, a launderer from Colombia can bank in the US if the Colombian bank has a payable-through account with a US institution without having to notify the US financial authorities, which may require a greater degree of evidence of the origin of funds."[341]

The vulnerability of these accounts to criminal abuse is evident in the case involving Al Zarooni Exchange, one of six significant transnational criminal organization (TCO) cases targeted under Executive Order 13581.[342] The U.S. Department of Treasury's Office of Foreign Assets Control (OFAC) "designated Dubai-based money services business Al Zarooni Exchange under Executive Order (E.O.) 13581 for being owned or controlled by, or acting for or on behalf of, directly or indirectly, the Khanani MLO [Money Laundering Organization], and for materially assisting, sponsoring, or providing financial, material, or technological support for, or goods or services to or in support of, the Khanani MLO." Prior to it, the Altaf Khanani Money Laundering Organization was designated pursuant to Executive Order 1358, which targets transnational criminal organizations and their

[338] Financial Stability Board, "Report to the G20 on Actions Taken to Assess and Address the Decline in Correspondent Banking."
[339] 31 CFR § 561.307.
[340] Kobor, "Money Laundering Trends," 14, 15.
[341] Unger, *The Scale and Impact of Money Laundering*, 94.
[342] Obama, "Executive Order 13581 – Blocking Property of Transnational Criminal Organization"; codified as 3 CFR 13581.

supporters. According to the U.S. Treasury, the Khanani MLO facilitated movement of billions of dollars of organized crime proceeds annually between Pakistan, UAE, US, UK, Canada, Australia, and other countries, by exploiting its relationships with financial institutions. Moreover, "Altaf Khanani, the head of the Khanani MLO, and Al Zarooni Exchange have been involved in the movement of funds for the Taliban.[343] The UAE Central Bank subsequently revoked Al Zarooni Exchange's license due to AML compliance violations. The US Treasury praised both the bank and the Dubai Police General Headquarters for their cooperation and assistance.[344]

Private Banking

Private banking caters to very wealthy individuals, offering personalized products and services, thereby making it an especially vulnerable area for exploitation in a high-wealth country like the UAE. Private wealth in the GCC doubled from $1.1 trillion to $2.2 trillion during 2010-2013. During the same period, the private wealth in the UAE growth by 25 percent, the highest rate among the GCC countries. Together, Saudi Arabia and the UAE control 74 percent of the region's wealth.[345] According to a Boston Consulting Group survey, the UAE is the second largest source of offshore wealth in the MEA region.[346] While the global investors continuously favor invest in the region, the 2014 survey showed that 28 percent of global investors would prefer to invest in the UAE. Though in 2015 the number decreased to 22 percent, it still remains the most sought place for capital allocation.[347] Some argue the UAE has benefited economically from regional geopolitical tensions and the slowdown of economic growth in the Western hemisphere.[348]

In recent years, according to one observer, *personal banking* or *private banking* has been the AML field's most sensitive areas. Clients for such services likely have influential political links, and may dislike oversight.[349] Despite increasing competition and

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[343] United States Department of the Treasury/Press Center, "Treasury Sanctions the Khanani Money Laundering Organization."
[344] Reuters report, "UAE Revokes Licence of Al Zarooni Exchange on Anti-Money Laundering Violations."
[345] Diemers and Khalil, "GCC Private Banking Study 2015," 4-7.
[346] Beardsley et al. "Global Wealth 2016,"11.
[347] Emirates Investment Bank, "GCC Wealth: Insight Report."(2014). 25; and Emirates Investment Bank, "GCC Wealth: Insight Report "(2015) *33*.
[348] Arsenault, "Dubai Booms Again on Back of the Arab Spring"; Weisenthal, "The Dubai Economy Is Going Nuts, And There's A Surprising New Factor Fueling The Boom"; Uncredited in *Arabian Gazette*, "Dubai Property Market Still Benefiting from Arab Spring, Euro and Cypriot crisis," *Arabian Gazette*; Oxford Business Group, "The Report: Dubai 2013," 159.
[349] Turner, *Money Laundering Prevention*.

regulatory scrutiny, private banking remains a lucrative banking segment and has considerably grown during recent years.[350] The UAE has not been an exception to this trend, with Dubai emerging as the regional hub for private banking, targeting mainly clients from Saudi Arabia or the Levant.[351] Private banking services are delivered through dedicated bank advisers whose clients, as one source observes, are "sensitive to confidentiality, trust, and service quality. Wealthy people normally don't have to deal with people they dislike or distrust, and usually they don't." Indeed, "Confidentiality is a key attribute of private banking," where "the watchword of the private banking profession is 'discretion, discretion, discretion."[352]

The statutory definition of a *private banking account* in the USA PATRIOT Act states that it is "an account (or any combination of accounts) that

i. "requires a minimum aggregate deposits of funds or other assets of not less than $1,000,000;
ii. is established on behalf of 1 or more individuals who have a direct or beneficial ownership interest in the account; and
iii. is assigned to, or is administered or managed by, in whole or in part, an officer, employee, or agent of a financial institution acting as a liaison between the financial institution and the direct or beneficial owner of the account."[353]

Because of the huge sums involved, and the inherent culture of discretion, private banking is seen as a highly competitive industry, in which bankers may feel pressured to bend rules or turn a blind eye in order to accommodate clients whose financial wishes are outside of the law. In the early 1990s, the brother of former Mexican President Carlos Salinas, Raul Salinas, moved about US $100 million in questionable funds using Citibank's private banking services in North America and Europe; Citibank used three Panamanian *shelf companies* (more on this term below) as part of the venture.[354] In the same decade, American Express Bank International paid heavy fines to the US government when two of their private bankers were convicted of laundering funds through their employer.[355] The US Riggs Bank was also fined for regulatory and criminal violations arising from private banking it performed for the president of Equatorial Guinea and the former president of Chile.[356]

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[350] Monahan, "Private Banking: Wealth Management - Private Banking: In Flux?"
[351] Global Investor Report, "GCC Private Banking Developing Rapidly."
[352] Smith, Walter, and DeLong, *Global Banking*, 252, 257.
[353] USA PATRIOT Act (U.S. H.R. .62, Public Law 107-56), Title III, Subtitle A, Sec. 312.
[354] van der Does de Willebois et al, *The Puppet Masters*, 37.
[355] Richards, Transnational Criminal Organizations, Cybercrime, and Money Laundering, 91-92.
[356] Levi and Reuter, "Money Laundering," 302.

Beneficial Ownership and Politically Exposed Persons (PEP)

The above examples involving Citibank and Riggs Bank reveal another aspect about private banking: Potentially problematic customers include those conducting their banking in a country where they don't reside, and who also have links to government, adding to the possibility of criminal as well as political sources of wealth.[357] Therefore, the concept of ''beneficial ownership'' is an important aspect of the Private Banking Rule.[358] The term is defined as: "Beneficial owner of an account means an individual who has a level of control over, or entitlement to, the funds or assets in the account that, as a practical matter, enables the individual, directly or indirectly, to control, manage or direct the account."[359]

One of the major compliance concerns for private banks is dealing with the politically exposed person (PEP). It is important to point that there is no internationally agreed-upon definition of PEPs. Although often used interchangeably with PEPs, "Senior Foreign Political Figure (SFPF)," which is defined in the Code of Federal Regulations in title 31, Part 103, section 175, focuses exclusively on foreign persons of official rank. It defines *senior foreign political figure* as:

> i) A current or former:
> a. Senior official in the executive, legislative, administrative, military, or judicial branches of a foreign government (whether elected or not);
> b. Senior official of a major foreign political party; or
> c. Senior executive of a foreign government-owned commercial enterprise;
> ii) A corporation, business, or other entity that has been formed by, or for the benefit of, any such individual;
> iii) An immediate family member of any such individual; and
> iv) A person who is widely and publicly known (or is actually known by the relevant covered financial institution) to be a close associate of such individual.[360]

The UK Money Laundering Regulations 2007 (MLR) hold "a politically exposed person" as a non-UK citizen and define the term in more detail but in generally similar ways to the American version.[361] In both cases, the SFPF/PEP is a foreign individual holding (or who has been entrusted with) a prominent position or function, the responsibility of which can potentially be abused for the purpose of laundering illicit funds or other

[357] See Smith, Walter, and DeLong, *Global Banking,* 253-254.
[358] Gittleman and Sacks (2005),"Anti-Money Laundering Regulations," 20.
[359] 31 C.F.R. Chapter I (7–1–06 Edition), §103.175(b.).
[360] 31 C.F.R. (Code of Federal Regulations) Chapter I (7–1–06 Edition), §103.175(r.).
[361] See UK Money Laundering Regulations 2007, Schedule 2, Paragraph (4), and UK Money Laundering Regulations 2007, Section 14(5), Paragraph (4).

predicate offences such as corruption or bribery. However, the FATF broadens the category to include domestic as well as foreign figures. Its definition section includes:

- Foreign PEPs: individuals who are or have been entrusted with prominent public functions by a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials.
- Domestic PEPs: individuals who are or have been entrusted domestically with prominent public functions, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials.
- International organisation PEPs: persons who are or have been entrusted with a prominent function by an international organisation, refers to members of senior management or individuals who have been entrusted with equivalent functions, i.e. directors, deputy directors and members of the board or equivalent functions.

It also covers "family members" (related by blood or civil partnership), and "close associates," the latter being described as "individuals who are closely connected to a PEP, either socially or professionally. [362]

PEPs may present a problem because of their "above the law" status in their home countries. As a recent work indicates: "Whether politically exposed persons (PEPs) can be prosecuted for money laundering or are under immunity is … differently regulated. This can make it difficult to prosecute corrupt officials for money laundering. Especially in many Asian and African countries the PEPs cannot be prosecuted."[363] The FATF Recommendations require application of additional AML/CFT measures to business relationships with PEPs. It notes carefully that "These requirements are preventive (not criminal) in nature, and should not be interpreted as meaning that all PEPs are involved in criminal activity."[364] Though PEPs are a major AML compliance concern for the private banking sector, all financial institutions have to apply these requirements when dealing with PEPs. The EU Fourth Money Laundering Directive noted that these requirements, in addition to customer due diligence measures, include the requirement to:

> (a) have in place appropriate risk management systems, including risk-based procedures, to determine whether the customer or the beneficial owner of the customer is a politically exposed person;
> (b) apply the following measures in cases of business relationships with politically exposed persons:
> (i) obtain senior management approval for establishing or continuing business relationships with such persons;

[362] FATF, "FATF Guidance – Politically Exposed Persons (Recommendations 12 and 22)," 3-5.
[363] Unger, "Money Laundering Regulation: From Al Capone to Al Qaeda," 27.
[364] FATF, "FATF Guidance – Politically Exposed Persons (Recommendations 12 and 22)," 3.

(ii) take adequate measures to establish the source of wealth and source of funds that are involved in business relationships or transactions with such persons;
(iii) conduct enhanced, ongoing monitoring of those business relationships.[365]

UAE Central Bank regulations limit the scope of PEPs exclusively to "Foreign Politically Exposed Persons (FPEP), defined as senior figures in foreign executive, legislative, administrative, military or judicial branches; their immediate family; and close associates.[366] Interestingly, many banks have developed a definition that extends to a broader group than required by the standard setters or by national law or regulation. This can be explained by potential risks associated with PEPs.[367] The Dubai Financial Services Authority's (DFSA's) definition of PEPS is a perfect example of this phenomenon. The DFSA, the independent regulator of financial services in the Dubai International Financial Center (DIFC), adopted a definition where PEPs:

Means a natural person (and includes a family member or close associate) who is or has been entrusted with a prominent public function, domestically or in a foreign country or territory, for example a head of state or of government, senior politician, senior government, judicial or military official, ambassador, senior executive of a state owned co-operation, an important political party official but not middle ranking or more junior individuals in these categories.[368]

The UAE's political structure and geographic proximity to unstable regimes lacking transparency makes the ability to identify PEPs crucial to protecting its financial system from criminal money. The "Arab Spring" of 2010 helped guide world attention to the rulers (and their families) of the affected countries, which placed greater focus on financial institutions in regards to possible involvement in assisting PEPs in moving assets out of those countries. The KPMG 2011 survey showed that in the MENA region, PEPs is an area providing significant challenges around compliance, especially with regard to their identification. Exactly 97 percent (up from 89 in 2007, one percentage point less than in North America) of MENA financial institutions participating in the

[365] EU Directive, "Directive (EU) 2015/849 of the European Parliament and of the Council," Article 20.
[366] UAE Central Bank, "Addendum to Circular No. 24/2000 - Regulation concerning Procedures for Anti-Money Laundering," Notice No. 2922/2008.
[367] Greenberg, Gray, Schantz, Latham, and Gardner, *Stolen Asset Recovery.*
[368] DFSA, "DFSA Rulebook: Anti-Money Laundering and Counter-Terrorist Financing and Sanctions Module," AML/VER12/08-16, 12.

survey then used PEP status as a risk factor.[369] In the same year, in response to regional political and social unrest, the DFSA reminded DIFC-registered Authorised Firms and Ancillary Service Providers (non-financial institutions) "to be alert to the potential outflow of licit and illicit assets from these jurisdictions," and to review the existing clients from these jurisdictions "to ensure proper classification, along with necessary systems and controls."[370]

In mounting regulatory requirements, some private banks are closing their operations in perceived high-risk regions. For example, RBC exited a wealth-management business in Latin America, closing all offices in the region along with its international wealth management business in the Caribbean.[371] In recent years, US giant Merrill Lynch retreated from international wealth management, while Morgan Stanley disposed of its wealth management arm in Europe, the Middle East and Africa. "Banks active outside their domestic markets have been faced with the choice of either significantly ramping up compliance efforts, including new reporting systems and procedures, or exiting the market."[372] Starting from 2010 a few large international banks either completely pulled out of or began trimming their services in the UAE. Among them are Royal Bank of Scotland,[373] Lloyds,[374] Barclays[375] and Standard Chartered. The latter closed the majority of its small and medium-sized business (SME) accounts in the UAE as part of an anti-money laundering settlement with US authorities. According to the settlement, the bank had failed to detect large numbers of "potentially high-risk transactions" originating in SCB branches in the UAE (among other places.)[376] The bank's website explained its move as "part of its broader efforts to sharpen its strategic focus, withdrawing or re-aligning non-strategic businesses, including those where increased regulatory costs and risks undermine their economic viability."[377]

Recent UAE enforcements reflect the concerns. The Dutch bank, ABN Amro, was fined US$640,000 by DFSA and €625,000 by Dutch central bank De Nederlandsche Bank

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[369] KPMG, "Global Anti-Money Laundering Survey 2011: How Banks Are Facing Up The Change."
[370] DFSA, "The DFSA letter to the Senior Executive Officers of Authorised Firms and the AMLOs of Ancillary Service Providers."
[371] Trichur, "RBC Weighs More Unit Sales."
[372] Pavoni, "Private Banking: Wealth Management - Is Private Banking a Global or Local Game?"
[373] The Royal Bank of Scotland, http://www.rbsbank.ae/UAE/index.htm.
[374] McGinley, "Lloyds to Close Dubai Private Banking Business."
[375] Bianchi, and Nair, "Barclays Said to Cut About 150 Dubai Corporate Banking Jobs."
[376] Rushe in *The Guardian*, "Standard Chartered Fined $300m by US Financial Watchdog."
[377] Standard Chartered Bank, "New York State Department of Financial Services' Consent Order Relating to Standard Chartered."

(DNB) for perceived deficiencies in its AML systems. Its private banking division, which operates in the DIFC, contravened rules "requiring it to implement appropriate safeguards to prevent opportunities for money laundering." The Decision Notice stated that the bank failed to identify on two occasions a PEP contented to its clients.[378] The DFSA observed that the fine would have been $1m was it not for the bank's initiative to self-report deficiencies and to fully cooperate with the DFSA's investigation.[379]

Shell Companies

One source has defined a *shell company* as one "that, at the time of incorporation, has no significant assets or operations. Shell companies can be set up domestically or offshore and the ownership structure of a shell company can take several forms. Shell companies have no physical presence, employees or products and may be owned by corporations, nominee owners and bearer shares, obscuring beneficial ownership."[380] (The similar term *shelf company* refers to one that has been created and registered as an entity but has no activity, and can be sold "off-the-shelf" as an already-registered firm.)[381] In its definition of *shell* companies the FATF emphasize that they are legitimate corporate entities used for holding stock or intangible assets of another business entity. Nonetheless it stresses that they can also have no legitimate commercial purpose and can be misused by criminals in ML operations, mutual-fund schemes, tax fraud and internal business fraud.[382] Often these companies are used "to establish layers between the criminal and the laundering, fraudulent or corrupt transaction; and between the predicate crime and the criminal proceeds."[383] There are endless examples when shell companies were used for the latter purposes. Siemens, among other methods, used shell companies to facilitate bribe payment of more than US$800 million over the course of 2001 to 2007.[384] To secure a contract valued at US$6 billion, for construction of liquefied natural gas (LNG) facilities in Nigeria, the members of the TSKJ Consortium conspired to funnel over US$180 million worth of bribes to Nigerians acting through a subsidiary shell company in Madeira, which served as conduits for the bribe money.[385]

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[378] DFSA, "Decision Notice," F001198.
[379] DFSA, "DFSA fines ABN AMRO for Anti-Money Laundering Deficiencies."
[380] Australian Government/Australian Transaction Reports and Analysis Centre, "Money Laundering Methods," n. 15.
[381] van der Does de Willebois et al, *Puppet Masters*, 37; Chaikin, "Money Laundering: An Investigating Perspective," 487-488.
[382] Wells, "Billing Schemes, Part 1: Shell Companies That Don't Deliver," 76-79.
[383] FATF, "Money Laundering Using Trust and Company Service Providers," 35.
[384] U.S. Department of Justice, "Transcript of Press Conference Announcing Siemens AG and Three Subsidiaries Plead Guilty."
[385] Oduor and Oduor, *Left Out of the Bargain,* 137.

One study demonstrated the ease of setting up a shell company with no requirements for official identification and low cost. Of the 45 corporate service providers approached in the study, "17 were content to form the company without any independent confirmation of identity, requiring only a credit card and a shipping address for documents."[386] The project, based on soliciting offers for shell companies, demonstrated that it is quite easy to obtain an untraceable shell company without producing formally required proof of customer identity.[387]

PEPs have been major beneficiaries of the expansion of shell companies in the globalized economy, using them as a vehicle for hiding wealth.[388] "PEPs, when involved in criminal activity, often conceal their illicit assets through networks of shell companies and off-shore banks located outside the PEPs country of origin."[389] One study of the laundering of corrupt precedes involving PEPs cases showed that more than half of analyzed cases shell companies were used primarily for laundering purposes. One of the cases involved a former Russian Minister of Atomic Energy, Yevgeny Adamov, who laundered through American shell companies US$9 million of funds provided by the West for upgrading nuclear safety at 15 power plants in Russia and Eastern Europe.[390] The recent "Panama Papers" phenomenon brought about new interest in, and details on, the workings of shell companies. Though too recent to figure in peer-reviewed journal articles and books, the term "Panama Papers" can be briefly described as referring to a database consisting of millions of documents leaked from Panamanian law firm Mossack Fonseca. These were prepared for the firm's foreign clients and entities, in some cases detailing illegal or secret holdings concealed in shell companies created by the firm. The International Consortium of Investigative Journalists, which prepared a series of news stories on the subject, also operates a searchable "Panama Papers" database.[391] Major Middle East figures and PEPs, including from the UAE and Saudi Arabia, are among those said to have had private financial data revealed in the database.[392] (It may be worth

[386] Sharman, "Shopping for Anonymous Shell Companies," 132.
[387] Findley, Nielson, and Sharman, "Global Shell Games."
[388] Olatunde and Lauwo, "The Role of Offshore Financial Centres in Elite Money Laundering Practices: Evidence from Nigeria."
[389] FATF, "Report on Money Laundering Typologies 2003-2004," 1.
[390] Gordon, "Laundering the Proceeds of Public Sector Corruption."
[391] https://panamapapers.icij.org/.
[392] Lusher, "Panama Papers: 12 World Leaders Linked to Offshore Dealings – and the Full Allegations Against Them."

noting that the UAE currently has no tax system from which an Emirati of any status might feel a need to hide income.)

Sheldon Whitehouse, a Democratic Party senator for Rhode Island, was quoted observing that "the international environment has shifted," largely after the Panama Papers "shed a very cold light on the mischief that goes on behind these shell company screens, and that makes it more difficult for opponents to create a credible argument."[393] The Panama Papers have directed a rising national and global focus on the risks associated with money laundering arising from the creation and use of shell companies.[394]

Anonymity behind shell company ownership as a predicament has been recognized and addressed at the highest levels. Countries are under pressure for more detailed information at the time companies are formed. The lack of transparency over company ownership was one of the main points of discussion at the June 2013 G8 summit. There the UK unveiled a proposal to create a central register of beneficial ownership to eliminate "anonymous" shell firms.[395] The US government proposed beneficial ownership legislation that will make it mandatory for all legal entities to disclose "adequate and accurate beneficial ownership information" to the Department of the Treasury at the time of a company's creation, and to regularly update the information, with penalties for failure to comply. The legislation would also create a central companies' beneficial ownership registry, run and updated by the FinCEN, initially accessible only by US law enforcement and some US government officials.[396] On the same day, the FinCEN announced the Customer Due Diligence (CDD) Final Rule, which made it compulsory for banks, brokers, mutual funds and other financial institutions to collect and identify the beneficial owners of companies, partnerships and trusts when these entities open new accounts from the date the CDD Final Rule takes effect, in May 2018.[397]

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[393] Monahan, "Anti-Money Laundering: US - US Takes Aim at Shell Companies Anti-Money Laundering."
[394] Hardy, Michel, and Murray (2016), "Is the United States Still a Tax Haven? The Government Acts on Tax Compliance and Money Laundering Risks."
[395] UK/G8, "Trade, Tax & Transparency: the 2013 UK G8 Presidency Report," 3, 10.
[396] U.S. Department of Treasury, "Treasury Announces Key Regulations and Legislation to Counter Money Laundering and Corruption, Combat Tax Evasion."
[397] United States Department of the Treasury/Financial Crimes Enforcement Network, "Customer Due Diligence Requirements for Financial Institutions."

One study suggests that imposing a legal duty with penalties for non-compliance on Corporate Service Providers (CSPs), also known as Trust and Company Service Providers (TCSPs), is the most effective solution for this issue.[398] The CSPs include lawyers, notaries and accountants, who are intermediaries for their clients in the formation and management of shell companies.[399] Another work put forth banning shell companies among other possible solutions to fight money laundering.[400] While examining illicit flows from the former Soviet Union, another researcher concluded: "the money laundering risk in connection with shell companies stems ultimately from the readiness of banks to work with them," and "where there is a banking model built largely around their [shell companies'] use."[401]

While some jurisdictions permit shell companies under the corporate registration laws, the UAE prohibits the establishment of these entities.[402] The Dubai Multi Commodities Centre (DMCC), the largest free zone in the UAE, which regulates a range of commodities among which gold, diamond, precious metals, in its AML/CFT Policy states: "The granting of DMCC membership to shell companies is strictly forbidden."[403]

Remittance and Exchange Systems, and Hawala

Hawala is of special interest to a study of the UAE because of its prevalence there. Dubai "has often been singled out as a location where many *hawala* transactions are consolidated and cleared."[404] "The US Treasury Department has specifically identified Dubai, Pakistan, and India as the '*hawala* triangle,' because people living in these regions rely heavily on *hawala* networks," one analyst observed in a 2004 journal article.[405] *Hawala* is primarily seen as a vehicle for remittance transfer. It serves "millions of immigrants ... whose remittances are often desperately needed as a means of survival."[406] The World Bank estimated in 2006 that while official banks annually transferred about $167 billion in remittances, the underground or unofficial transfer

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[398] Findley, Nielson, and Sharman, "Global Shell Games."
[399] FATF, The Misuse of Corporate Vehicles, Including Trust and Company Service Providers.
[400] He, "A Typological Study on Money Laundering."
[401] Stack, "Shell Companies, Latvian-Type Correspondent Banking, Money Laundering and Illicit Financial Flows From Russia and the Former Soviet Union," 509.
[402] United States Department of State, "Countries/Jurisdictions of Primary Concern: United Arab Emirates."
[403] Dubai Multi Commodities Center (DMCC) (2016), "Anti-Money Laundering and Combating the Financing of Terrorism Policy and Process," 11.
[404] Wilson, "*Hawala* and Other Informal Payments Systems," 6.
[405] Pathak, 'The Obstacles to Regulating the *Hawala*," 2037.
[406] Passas, "Formalizing the Informal?" 8-9.

system handled a figure at least half that size.[407] An observer in the UAE noted in the post 9/11 environment that *hawala* operators fell into two basic categories: "those who do it for a living, and … those who have their normal business and the *hawala* is a small side business at best." He continued:

> *Hawala* operators usually are best at delivering money and receiving money from certain regions only, and it would be unlikely that they would be able to cover the entire length and breadth of one country. However, they do have a loose alliance [with] each other and 'cross deliver' to each other for efficiency, though this is rare.[408]

Money remittance services play an essential role in UAE's international money flows and at the same expose the country to money laundering and terrorist financing risks. A money remitter transfers money for clients without accessing formal banking networks. Remitters may be multinational franchises (such as Western Union); national franchises (in the UAE, UAE Exchange); or smaller operations. Their clients may need the alternative systems due to their own lack of bank access, or the lack of banking services at the desired destination. The formal operations may be regulated, and their clients' transfers perfectly legitimate. More problematic are what have been referred to as underground or informal (and therefore poorly- or un-regulated) remittance organizations or systems. The best known include the Chinese *fei chi'en* ("flying money") system, and of more interest to this thesis, *hawala* (Urdu for "in the air"), a centuries-old method that originated in the Indian subcontinent and spread to the Middle East and elsewhere.[409]

As noted in the introduction, *hawala* is not synonymous with or a feature of Islamic Finance, although post-9/11 study of the former invited inspection of the latter. That same examination determined that *hawala* was Al-Qaida's favored money-movement system after it moved to Afghanistan in 1996. This was "because the banking system there was unreliable and formal banking was risky due to the scrutiny that Al-Qaida received after the August 1998 East African Embassy bombings. It relied on the established *hawala* networks operating in Pakistan, in the United Arab Emirates, and throughout the Middle East. Since 9/11, it is said that the dependence of Al-Qaida on the *hawala* system has become even greater."[410]

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[407] Van de Bunt, "A Case Study on the Misuse of *Hawala* Banking," 692
[408] Sher, "Counter Point: Regulation of *Hawala* is a Step in the Right Direction."
[409] For a concise history, see Shehu, "The Asian Alternative Remittance Systems and Money Laundering," 176-177
[410] Koh, Suppressing Terrorist Financing and Money Laundering, 28-29.

For several reasons, experts have begun to abandon earlier attempts at designation and start to classify *hawala* and other such systems as Informal Value Transfer Systems, or IVTS. For example, describing *hawala* as an "underground banking" system is common but not appropriate, because *hawala* dealers, or *hawaladars* "generally do not provide traditional financial services such as savings or checking accounts. In addition, there is nothing really 'underground' about these networks; the dealers often operate openly and legally, advertising their services in the ethnic press of many countries. Furthermore, describing the IVTS as 'alternative' is misleading: in many nations, such informal arrangements represent the only financial system available."[411] There are many ways in which *hawala* networks operate.[412] For example:

> Upon customer request a US-based *hawaladar* – a *hawala* operator - will call, fax, or email their *hawaladar* associate in Pakistan, for example, with the specifics of the transaction (i.e. amount and password only – no names are used). This Pakistan-based *hawaladar* will then pay the requested amount out of his/her own funds, and in local currency, upon receiving the agreed upon password from the recipient. The only paper trail might be a notation, often encoded or in a little known dialect (e.g. Gujarati or Memoni), of the debt obligation in internal books. The funds are distributed, often delivered right to the door of the intended recipient all within a course of minutes, without receipts or paperwork, and all outside of formal financial institutions.[413]

Notably, money never moves across borders. What moves are goods and liability positions. "[I]n larger transactions," one observer notes, "some *hawaladars* (or their associates) utilize import/export businesses. Through these companies, 'countervaluation' – the settling of accounts through trade rather than transfer – occurs. Countervaluation is done either by the underinvoicing or overinvoicing of product flows between these import/export businesses. For example, if a *hawaladar* owed $25,000 to a colleague in Bishkek, he might over-invoice a shipment of carpets. The carpets, having a true value of $25,000 would be invoiced at $50,000; $25,000 would cover the legitimate cost of goods and the remaining $25,000 would settle his/her debt."[414] Sometimes these settlements are paid in gold.[415] The latter is especially prevalent since Dubai hosts one of the largest gold markets in the Middle East and South Asia. It has long been a favored, even "notorious," point for gold smuggling.[416] Dubai even earned the nickname the "smugglers' supermarket."[417]

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[411] Perkel, "Money Laundering and Terrorism: Informal Value Transfer Systems," 188. See also Borders, "Regulating and Combating Underground Banking," 98-99.
[412] El Qorchi, Maimbo, and Wilson, *Informal Funds Transfer Systems,* 14-15.
[413] Bowers, "*Hawala*, Money Laundering, and Terrorism Finance," 380-381.
[414] Bowers, "*Hawala*, Money Laundering and Terrorism Finance," 382.
[415] Farah, "Al Qaeda's Road Paved with Gold."
[416] Naylor, *Wages of Crime,* 196, 229-235; Allen, "The Veil Over Dirty Money in Dubai."
[417] Weinstein, "Mumbai's Development Mafias," 27, 30.

The UAE has been the ground for the ongoing debate on the role of *hawala* in the modern financial system. The United Arab Emirates has openly voiced its support of and recognizes the need for *hawala* networks.[418] In response to the international criticism, the UAE officials have promulgated: "We believe that *hawala* transactions originating in the UAE are innocent and reflect migrant workers' remittances to their home countries." The country also recognizes its responsibility "to ensure that criminals, money launderers, and terrorists do not misuse this system of *hawala*." [419] Both statements reflect the country's socio-economic and geo-political position. The country's reliance on migrant workers and its dependency on foreign investments require political and economic stability as a guarantor for economic integration. The benefits of the *hawala* system were publically acknowledged. As a UAE Central Bank official observed, "The transaction can be completed very fast, sometimes in 15 minutes, and in almost all cases the *hawaladar* back home sends the money directly to the worker's house."[420] Observers have summarized *hawala*'s advantages to its users as being "fast, cheap reliable, easy discrete and accessible."[421] And, again in a UAE Central Bank official's words, "the *hawala* rate is better than the official banking exchange rate; and … it can be used in rural areas which in some countries lack formal banking facilities."[422] Another observer noted: "In terms of cost, *hawala* commission ranges from 0.25 to 1.25 per cent, which is significantly lower than commissions charged by the formal banking sector. The low cost is primarily due to low overheads and favourable exchange rates as well as integration with existing business activities,"[423] while "[e]xchanges in the tens of thousands of dollars are frequent."[424] In the UAE, their customers are migrant workers: mostly taxi drivers and labourers, who send home on average around US$400 every month. Many use the *hawaladars* as banks, "making regular deposits and letting them know how much to send home at the end of the month."[425]

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[418] Beckett, "Informal Money-Movement System in UAE is Likely Uncontrollable."
[419] Al-Hamiz, "*Hawala*: A UAE Perspective," 32.
[420] Al-Hamiz, "*Hawala*: A UAE Perspective," 31.
[421] Borders, "Regulating and Combating Underground Banking," 103, citing Passas, "Dirty Money," 42.
[422] Al-Hamiz, "*Hawala*: A UAE Perspective, 32.
[423] Keene, "*Hawala* and Related Informal Value Transfer Systems – An Assessment in the Context of Organized Crime and Terrorist Finance: Is There Cause for Concern?" 188.
[424] Looney, "*Hawala*: The Terrorist's Financial Mechanism,"165.
[425] Maayeh, "*Hawala* Money Transfers Defy Regulation Efforts."

However, that the transfer process can be used for both legitimate and illegitimate purposes has prompted some to refer to "white" and "black" *hawala*.[426] Investigating suspected cases of the latter is hindered by the difficulty in tracing the flow of funds. "Specifically," a modern study notes, "an IVTS operates not by exchanging money, which would be traceable, but rather through the exchanging of debts, where the only tracking method is a balance sheet. In transacting these debt transfer, an ITVS agent will often use untraceable actions like false pricing on imports or exports, in-kind payments, trade diversion schemes, or the use of pre-paid phone cards."[427] All of these activities are classic money laundering typologies, as is the use of gold or precious stones, which is sometimes the medium by which *hawala* accounts are settled.[428] It works the following way. *Hawaladars* maintain accounts in different jurisdictions that can be used for clearing purposes. Major *hawala* hubs are located in traditionally in large trade cities, such as London, New York, Islamabad, New Delhi, Tehran, Dubai, etc.[429] Once *hawala* funds reach such accounts, they are used to purchase gold. The gold is then exported to Dubai, from where it is smuggled to and sold in the black market in India. The same mechanisms can be employed with any other commodity including precious stones. Therefore, it is also commonly used for avoiding import duties.[430] *Hawala* is often utilized to circumvent regulations in other countries.[431] Due to the lack of a paper trail it is a perfect mechanism for tax evasion.[432]

In the words of another observer, "the problematic nature of IVTS networks is that it is practically impossible to track the funds due to the fact that most dollars passing through an IVTS are legitimate and clean. In the IVTS networks, clean money is sent through a system populated by mostly 'clean' money, and the funds reach their illegal purpose when used for terrorism." [433] Tradition is not the only factor that has made hawala a sensitive industry to regulate: there is also religion to consider. In the Middle East and Asia, "Many people use *hawala* networks for cultural-religious reason because under Islamic law, the use of certain banking systems is considered sinful if it makes

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[426] See Daudi, "The Invisible Bank: Regulating the *Hawala* System in India, Pakistan and the United Arab Emirates," 630-632.
[427] Guiora and Field, "Using and Abusing the Financial Markets: Money Laundering as the Achilles' Heel of Terrorism," 64.
[428] Pathank, 'The Obstacles to Regulating the *Hawala*," 2012.
[429] Maimbo, The Money Exchange Dealers of Kabul, 4, 7, 24,
[430] Passas, "*Hawala* and Other Informal Value Transfer Systems," 55-56; Thompson, "The Nexus Of Drug Trafficking And *Hawala* in Afghanistan," 159.
[431] Jost and Sandhu, "The *Hawala* Alternative Remittance System And Its Role In Money Laundering," 11.
[432] Shanmugam, "*Hawala* and Money Laundering," 39-40, 42.
[433] Guiora and Field, "Using and Abusing the Financial Markets: Money Laundering as the Achilles' Heel of Terrorism," 76.

interest from money. The Qu'ran encourages followers to build financial relationships based on trust rather than contract.[434] *Hawala* networks then, are used by millions of Muslims who are simply following Qu'ranic scripture and cultural norms. In other words, the *hawala* network is a financial system governed by cultural values and religious tenets."[435] When a *hawaladar* collects money for a client for a transaction, the code he or she supplies to provide the payout at the other end is "often a random word or phrase from the Koran."[436]

There is also, perhaps ironically, a culture of trust at the center of the process. As one researcher on the subject observer: "The intriguing aspect of *hawala* banking is that, as far as its customers are concerned, a maximum of trust is engendered despite a minimum of transparency and formality … [E]ven a request of a receipt is offensive because it would doubt the credibility of the informal banker. Clients interviewed seemed uninterested in a receipt even if one was available. Considering the lack of formal procedures, the trust placed by clients in *hawala* bankers is remarkably high. When, for instance, Surinamese immigrants in The Netherlands were asked why they use *hawala* bankers instead of official banks or money transfer agencies such as Money Gram, they mentioned the trustworthiness of *hawala* bankers as an important consideration." [437]

Though *hawala* operations often lack state oversight, it was observed of those operating in the period after 9/11 that "[c]ontrary to Western misperceptions, the *hawaladars* also kept meticulous records – in detailed ledgers and computers – because their business depended on it."[438] Others have noted, however, that those records are not kept to be user-friendly to law enforcement. "*Hawala* ledgers are often insubstantial and in idiosyncratic shorthand. Initials or numbers that are meaningful to the *hawaladar* are useless if they reveal nothing about transactions, amounts, time, and names of people or organizations. The cooperation of *hawaladars* in such cases is of vital importance.

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[434] Alternate spellings for *Qu'ran*, such as *Koran*, also appear herein.
[435] Pathank, 'The Obstacles to Regulating the *Hawala*," 2026-2027.
[436] Razavy, "*Hawala*: An Underground Haven for Terrorists or Social Phenomenon?" 279. *Hawala* differs from *Fei-chin* primarily in that it relies on a code while the latter employs a token or chit to trigger payment. "A sugar cube with a certain sign taken to a Chinese gold ship might represent payment of a million dollars and the gold shop owner would move gold worth one million dollars from one shelf account to another shelf account; after that, the sugar cube could be just swallowed." Trehan, "Underground and Parallel Banking Systems," 77.
[437] Van de Bunt, "A Case Study on the Misuse of Hawala Banking," 694.
[438] Zarate, *Treasury's War*, 95.

Personal ledgers are sometimes destroyed within a short period of time, especially in countries where *hawala* is criminalized." The same writer added:

> In some cases, particularly when *hawaladars* know that their clients are breaking the law, no notes or records are kept at all. In other cases, *hawaladars* may serve customers without asking many questions about their true identity, the origin of their money or the reason for the transfer. In such cases, even if *hawala* operators decided to cooperate with authorities, they would have no knowledge or useful information to share.[439]

These features make *hawala* challenging to regulate. The UAE adopted a normative framework for licensing and supervision of *hawala* operators, with their registration with the Central Bank. Due to strict confidentiality rules there is no publically available list of registered *hawala* operators, largely because the *hawaladars'* counterparts in many countries are operating outside their domestic law.[440] The registration process is free; and requires the application for a certificate and an interview by the Central Bank officials.[441] The Central Bank was encouraging *hawala* operators to register. By 2005, 124 *hawala* operators were granted certificates. Certified *hawaladars* are expected to perform basic CDD, keep records of transfers, and report suspicious transactions.[442] As an incentive, registered *hawaladars* receive a certificate, which can be used to access the formal banking and remittance system.[443] In reality though, this incentive is diluted by the fact that unregistered *hawaladars* use the formal banking system with no restrictions.[444] The *hawala* registration policy did not produce anticipated results. The new reporting and licensing requirements for *hawala* brokers did not stop criminal activity. In 2006, local newspapers reported a crackdown on *hawala* operators in Dubai resulting in shutting some of their offices, confiscating large sums of money and a number of arrests. Consequently, the Central Bank directed all UAE banks and moneychangers to freeze the accounts of the suspects and those believed to be helping them, as well as nine companies involved.[445] Two years later, another local newspaper reported on the ineffectiveness of the *hawala* registration policy, noting that many *hawaladars* continued operating without registering. According to the newspaper's sources there were no incentives to register and no penalties for running an unregistered *hawala*. *Hawaladars* also revealed how easy it is to continue their business

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[439] Passas, "*Hawala* and Money Laundering: a Malaysian Perspective," 113.
[440] MENA/FATF, "Mutual Evaluation Report" (2008), 105.
[441] Berti, "The Economics of Counterterrorism," 21.
[442] Al-Hamiz, "Hawala: A UAE Perspective," 33.
[443] MENA/FATF, "Mutual Evaluation Report" (2008), 106.
[444] US Department of State, International Narcotics Control Strategy Report, II:56.
[445] Rahman, "UAE Central Bank Freezes Hawala Operators Accounts."

under the radar.[446] There is no information available on how many current *hawaladars* are trading without a license.

Complicity among Professionals (Bank Employees, Attorneys, etc.)

Concerns about insider activity – corrupted employees working inside a financial institution – and corresponding FATF recommendations have prompted AML specialists to increasingly recommend that financial institutions screen their employees.[447] Writing of the UAE, Emirati author/educator Dr. Ibrahim Al Mulla noted that money laundering in the GCC and elsewhere led to the emergence of new types of criminals inside the country's financial sector. "These are not your typical criminals as they include bankers, accountants, lawyers, businessmen and other professionals who practice the profession of ML. As shown, these types of criminals are white-collar workers. There are many reasons and motives that drive these workers to commit such crimes." A principal motive is profit, which according to Al Mulla rose dramatically over time. Money laundering transactions at the start of the 1980s yielded 6-8%, rising to 20% in the mid 80's to the 90's.[448] Another observer of the country's financial industries felt that corrupt professionals were "a dime a dozen in the UAE."[449]

Two Dutch scholars, Nelen and Lankhorst, studied the role of lawyers and notaries in helping organized crime figures to, among other things, launder money. They described these relationships as "inherently non-transparent." While lawyers may offer legal advice to criminals, the advice may involve ways to avoid detection or prosecution, and they can also "provide the expertise needed to launder criminal proceeds." Furthermore, "[t]o the outside world, the participation of a lawyer and notary in a transaction can create the impression of legitimacy. From the perspective of the criminal network, the most important surplus value of the professional concerns the confidential nature of the relationship and the privilege of non-disclosure." The cases they examined turned up examples reflecting "the involvement of lawyers with regard to giving advice on beneficial ways to transfer money, thinking up (fake) constructions, and passing criminal) money through their accounts. In a number of cases, the lawyer was inserted into a chain of financial transactions and provided several of the aforementioned

[446] Maayeh, "Hawala Money Transfers Defy Regulation Efforts."
[447] Chaikin, "Commercial Corruption and Money Laundering," 278.
[448] Al-Mulla, [*Criminal Responsibility of the Banks and their Role in Money Laundering Crimes*], 40-41, as summarized and translated for the author by Hamda Faidallah Abdulkarim.
[449] Hakim, UAE Central Bank & 9/11, 40.

services. They not only stored large sums of money on behalf of their clients, but also passed money through their own person or business accounts to other accounts, and thought of complex financial constructions to mislead the judicial and fiscal authorities."[450]

Physical Movement of Money

Cross-border cash smuggling has been a serious issue for the UAE, caused in part by the country being in close proximity to illegal drug cultivation zones. In a 2010 news article, the United States ambassador to Afghanistan, Anthony Wayne, stated that every day ten million dollars in cash was being smuggled from Kabul to Dubai in briefcases; most of which came from the Afghan heroin trade. He added that the US investigators had a case when just in 18 days $190 million in cash was smuggled to Dubai. Insider source and expert linked this phenomenon to the ease of obtaining a UAE passport for opening a bank account and of circumventing airport customs in some of the Emirates. A UK financier living in Dubai told a reporter in 2010 that the situation had not changed despite new regulations. "Russians are still coming with suitcases of cash to buy flats which they never live in," the individual was quoted as saying. "It's easy to get resident permits. These sorts of stories are rife. Russia is the biggest source. A lot of it is mafia."[451] Smuggling cash is a "traditional and extremely basic money laundering method," and one which terrorist groups often employ.[452] It has been described as, alongside *hawala*, a principal financing tool of Taliban and Al-Qaida.[453] An FATF publication sets forth the basic concerns regarding the practice:

> The movement of cash across borders is prevalent in countries where the electronic banking system remains embryonic or is little used by the populace. Large parts of Africa and the Middle East have predominantly cash-based societies, and this naturally lends itself to cash flows using alternative remittance systems or by courier. Analysis of a number of terrorism cases has shown that money couriers are active even within Europe and between countries with a well functioning financial system. In most cases couriers are involved in. Moving funds generated outside the financial system and kept out of the financial system to avoid detection.[454]

The FATF Recommendations (discussed in a later chapter) that set standards for anti-money laundering procedures includes a section (Recommendation 32 in the current set) urging member countries to be able to detect "the physical cross-border transportation of currency and bearer negotiable instruments, including through a

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[450] Nelen and Lankhorst, "Facilitating Organized Crime: The Role of Lawyers and Notaries," 129-130, 135.
[451] Mathiason, "Dubai's Dark Side Targeted by International Finance Police."
[452] Koh, Suppressing Terrorist Financing and Money Laundering, 29.
[453] Zarate, *Treasury's War*, 15, 36, 102-105.
[454] FATF, Terrorist Financing, 23.

declaration system and/or disclosure system." It also requires members to maintain the legal authority to interrupt suspicious or falsely declared transactions, and to enact "effective, proportionate and dissuasive sanctions."[455] The recommendation is amplified in several pages of interpretive notes.[456]

While the latter observes that, "[f]or the purposes of Recommendation 32, gold, precious metals and precious stones are not included," it cautions that "unusual cross-border movement" of such items should trigger Customs Service suspicion. [457] This is because, as a 2008 FATF publication observed, "It has been suggested that some groups have converted cash into high-value and hard-to-trade commodities such as gold or precious stones in order to move assets out of the financial system."[458] Terrorists are said to favor gold "because its value is easy to determine and remains relatively consistent over time," and the Taliban and Al-Qaida are both said to have converted some of their resources into gold for smuggling out of Afghanistan in late 2001. Such use dovetails into the practices of *Hawaladars*, who (as also noted above) are said to "routinely have gold, rather than currency, placed around the globe."[459] Another reason why gold might be favored is the logistics involved in moving currency itself. "One million dollars in 'street cash' (i.e. bills in $5, $10, and $20 denominations) weighs approximately 256 pounds."[460] Nonetheless, a 2003 article reported that "It is estimated that about $2.3m is hand-carried daily by couriers from Karachi to Dubai. Though most of this could be for the purpose of purchasing gold (considering the thriving gold business between the two countries), some could be for other criminal purposes."[461] The UAE remains, of course, an important trading center for gold; Dubai traded $70 billion of the precious metal in 2012.[462]

The UAE is also one of the world's largest trading centers for diamonds. In less than a decade diamond trade in Dubai grew from $5 billion to $40 billion. For one author the reasons for this tremendous growth are obvious: "It [Dubai] offers traders a free-trade zone with no taxes on imports and exports, backed by a government that tries not to

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[455] FATF, "International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations" [hereafter, FATF, "Recommendations" (2012)], 25.
[456] FATF, "Recommendations" (2012), 99-102.
[457] FATF, "Recommendations" (2012), 101.
[458] FATF, "Terrorist Financing," 23.
[459] FATF, "Terrorist Financing," 24.
[460] Bowers, "*Hawala*, Money Laundering, and Terrorism Finance," 381-382.
[461] Shehu, "The Asian Alternative Remittance Systems and Money Laundering," 175.
[462] Doran in *The National*, "Dubai Gold Trade Grows to $70bn."

interfere with business. By contrast, rival Antwerp has had to cope with now-lifted sanctions on Marange diamonds, and faces a possible E.U. prohibition on Russian gems. Dubai has none of those concerns."[463] As one source observes, "the sole purpose of the trading through Dubai is the artificial 'value change.'"[464] A 2011 FATF/Egmont report found an unexplained 74 percent markup on the average per carat for export over the import price. "These are the same rough stones going in and out only they are sold at a much higher price, an increase that perhaps includes more than the entire production chain mark-up."[465] And in the words of another report, "Companies, individuals or criminal networks seeking to disguise problematic diamonds will initially ship their stones to Dubai, where the parcels can then be mixed with other shipments." The report continues:

> From there, stones are shipped on to other jurisdictions for cutting and polishing, only this time they are accompanied by a KP [Kimberly Process] certificate from Dubai, rather than the initial country of origin. By repeating this process such diamonds become extremely difficult, if not impossible, to trace. This practice is problematic not only because it can be used to disguise purchases from legal, yet reputationally challenged sources (like Zimbabwe's Marange diamond fields); it can also be used to hide the origins of diamonds which do not meet KP certification requirements.[466]

Others explain rapid development of the diamond market in the UAE by citing radical groups and militant organizations that preferred purchasing diamonds in its less regulated market. Direct charter flights from Congo's diamond and gold areas to Dubai attested to how unregulated the diamond trade was in the early days. A senior diplomat from Kinshasa was quoted in the *Washington Post* saying: "Borders here, in terms of control, are a joke. Who is going to control charter flights from diamond fields when there are not even radars to cover most of the country? Basically this is a country without authority."[467] These diamonds were destined for less regulated markets, including Dubai, where there was little transparency.[468] Al-Qaeda has been believed to use the "conflict diamond" smuggling route to launder its own proceeds, purchasing them in Africa and converting them into cash as needed.[469] Mounting international pressure made the UAE the first Arab country to implement the Kimberley Process Certification Scheme, becoming part of Federal Law No. (13) of 2004.[470] The Dubai Multi

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[463] Bates in *JCK Magazine*, "Dubai Under Fire."
[464] Even-Zohar, C. (2005), "Under-Valued Rough Diamond Imports into Dubai Trigger Filing of Suspicious Activities Reports."
[465] FATF/Egmont Group, "Money Laundering and Terrorist Financing through Trade in Diamonds," 32
[466] Partnership Africa Canada, "United Arab Emirates."
[467] Farah, "Digging up Congo's Dirty Gems."
[468] Passas and Jones, "Commodities and Terrorist Financing," 12.
[469] Tidwell and Lerche, "Globalization and Conflict Resolution," 50.
[470] Union Law No. (13) of 2004, Regarding Supervision of Import/Export and transit of Rough Diamonds.

Commodities Centre (DMCC) is today the only place of import and export for rough diamonds within the UAE.[471]

Despite these efforts, UAE officials regularly report cases of diamond smuggling into Dubai. In 2008, customs officials at Dubai International Airport detained an African woman trying to smuggle uncut diamonds worth over $1 million on her body.[472] In 2012, two passengers were caught at the same airport trying to smuggle over a kilogram of rough diamonds, carrying them inside their guts.[473] Dubai may also serve as a place to source uncut diamonds bound for other destinations. In 2006, Russian customs officials apprehended an air passenger from Dubai trying to smuggle 2.5 kilograms of diamonds into the country. There are also reports that diamonds are increasingly being used as a medium to provide counter valuation in *hawala* transfers, particularly between Dubai and Mumbai.[474]

ML Using Trade-Based Techniques and Non-Financial Businesses and Professions

Trade-based money laundering is increasingly gaining attention from the international community. From 2004-2013, Kar and Spanjers estimated that "misinvoicing" in the context of trade-based money laundering in drug-producing and drug-trafficking countries reached US$654.7 billion per year, with greater prevalence in drug transit countries rather than in drug producing countries. (The UAE's role in the global drug trafficking as a transit country was discussed earlier.) The same report values the total "misinvoicing" in the UAE at US$807,055 million, making it the third largest after Mexico and Russia.[475] It does not come as a surprise. Trade-based money laundering relies on a country's external trade to move illicit funds both into and out of that country. Although the size of its domestic market is small, the UAE has become the largest re-exporting country in the region. With an area of 83,600 Sq. km and a population of 8.19 million, the UAE is a home to five major ports and five airports. In 2016, the UAE was ranked 13th among 160 nations and the highest in the Middle East for its logistics

[471] Dubai Multi Commodities Center (DMCC), "U.A.E. Kimberley Process 2011 Annual Report," 1.
[472] Morris, "Diamond Smuggler Caught in Dubai."
[473] Uncredited in *Gulf News*, "Customs Agents Catch Diamond Smugglers."
[474] US Department of State/Bureau of International Narcotics and Law Enforcement Affairs, "International Narcotics Control Strategy Report (INCSR), United Arab Emirates."
[475] Kar and Spanjers, *Illicit Financial Flows from Developing Countries: 2004-2013,* 1, 17-18, 45.

performance.[476] Pearls, precious metals and precious stones remain the country's top import and export commodity.[477] One author notes: "The majority of commodities that are traded and smuggled in the African region ... originate from or transit Dubai." Smuggling is so prevalent in the UAE, that even the stream running through the port of Dubai has been dubbed "Smugglers Creek."[478] With annual trade of US$17,035 million, Iran is one of the most important trading partners for the UAE.[479] One source notes: "Dubai is Iran's lifeline to the world. Several hundred thousand Iranians reside in Dubai and more than 10,000 Iranian-run businesses operate in Dubai and many of them are 'import-export' variety."[480] A bare volume of trade is overgrowing the country's monitoring capacities. Levitt and Jacobson observed that the UAE export-control related actions were taken primarily in response to the US pressure to crack down on trade with Iran.[481]

Much trade-based money laundering relies on techniques meant to disguise the value of the goods and services that provide the basis for transactions themselves meant to provide cover for the movement of cash obtained through criminal enterprise. Trade-based money laundering has been defined as "the process of disguising the proceeds of crime and moving value through the use of trade transactions in an attempt to legitimize their illicit origin. In practice, this can be achieved through the misrepresentation of the price, quantity or quality of imports or exports." Its "basic techniques" involve:

- over- and under-invoicing of goods and services;
- multiple invoicing of goods and services;
- over- and under-shipments of goods and services; and
- falsely described goods and services.[482]

Such practices "vary in complexity," the most basic ones involving "fraudulent trade practices (e.g. under- or over-invoicing of receipts)."[483] A chapter by Zdanowicz in the 2013 *Research Handbook on Money Laundering* gives a detailed example of how this works, using a fictional foreign exporter who buys 10,000 razors for ten cents each, or $1,000. They are then exported to a domestic importer for $100 each, or $1,000,000.

[476] World Bank, Logistic Performance Index, "Global Ranking 2016."
[477] UAE Ministry of Economy, "Annual Economic Report 2015," 27-28.
[478] Cassara, *Trade-Based Money Laundering*, 100, 132.
[479] World Integrated Trade Solution, "United Arab Emirates Trade at a Glance : Most Recent Values."
[480] Cassara, *Trade-Based Money Laundering*, 134.
[481] Levitt and Jacobson, "The U.S. Campaign to Squeeze Terrorists' Financing," 72.
[482] FATF, "Trade Based Money Laundering," 3-4.
[483] FATF, "Trade Based Money Laundering," 25.

The end result is that $1,000,000, less the $1,000 required for the original purchase, has been moved to a foreign country. The process can be reversed to involve undervaluing imports, in which 200 gold watches, bought for a total of $1,000,000 dollars, are then sold to a foreign importer for only $1,000. After selling the watches off at their original price of $5,000 each, a million dollars has been moved, less the $1,000 involved in the invoice payment. Several methodologies have been used to analyze anomalies in international trade pricing. These include weighing the country average price vs. that of the world average; and tracking those goods priced at 50 percent above or below an "average country price." Due to criticism of the latter methodology – "In some cases the 50 percent filter may have been too low and in other cases it might have been too high" – the US Internal Revenue Service has "stipulated that the inter-quartile price range should be used to determine the validity of transfer prices in international trade."[484]

Black Market Peso Exchange (BMPE)

The UAE has figured in several Black Market Peso Exchange (BMPE) cases. One of them involved the country's offshore companies, which were used by the Iranian business to circumventing foreign exchange controls, country sanctions and correspondent banking restrictions imposed on Iranian financial institutions.[485] Another scheme implicated Turkish front companies and banks, an Iranian bank and money-exchangers in Dubai. Through made-up invoices Iranian banks gained access to hard currency from Iran's oil sales that was locked in escrow accounts overseas.[486] The U.S. State Department also reports that trade goods in Dubai are being purchased through narcotics-driven systems similar to the BMPE.[487]

A specialized variant of this common ML process is the Black Market Peso Exchange (BMPE). It provides what an FATF publication calls "a useful illustration of how a number of different money laundering techniques can be combined into a single criminal operation." The same publication set forth its description in a set of eight bullet points, using a Colombian drug cartel's financial operations as its example (although the technique can be and has been used in other scenarios).

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[484] Zdanowicz, "International Trade Mispricing: Trade-Based Money Laundering and Tax Evasion," 254, 256-258.
[485] Ping, "Iranian Black Market Currency Exchange."
[486] Uncredited in *The Economist*, "Trade and Money Laundering: Uncontained."
[487] US Department of the Treasury/FinCEN, "Advisory to Financial Institutions on Filing Suspicious Activity Reports Regarding Trade-Based Money Laundering," 3.

> • First, the Colombian drug cartel smuggles illegal drugs into the United States and sells them for cash;
> • Second, the drug cartel arranges to sell the US dollars at a discount to a peso broker for Colombian pesos;
> • Third, the peso broker pays the drug cartel with pesos from his bank account in Colombia (which eliminates the drug cartel from any further involvement in the arrangement);
> • Fourth, the peso broker structures or 'smurfs' the US currency into the US banking system to avoid reporting requirements and consolidates this money in his US bank account;
> • Fifth, the peso broker identifies a Colombian importer that needs US dollars to purchase goods from a US exporter;
> • Sixth, the peso broker arranges to pay the US exporter (on behalf of the Colombian importer) from his US bank account;
> • Seventh, the US exporter ships the goods to Colombia; and
> • Finally, the Colombian importer sells the goods (often high-value items such as personal computers, consumer electronics and household appliances) for pesos and repays the peso broker. This replenishes the peso broker's supply of pesos.[488]

Unlike other techniques, such exchange does not require importers and exporters to collude in fraudulent transactions: "Instead, the prices and quantities of the goods can be correctly reported to customs agencies and value can still be transferred across borders."[489]

Real Estate

As the author of a chapter in the 2013 *Research Handbook on Money Laundering* notes, real estate is a potential answer to the question of "where does all this [laundered] money go?"[490] Real estate is an attractive ML option, inviting large, multiple financial transactions (including loans, trust/escrow accounts and deposits, and even shell and property management companies), which can help, obscure the source of funds involved.[491] Real estate figured in, for example, 30-40 percent of 52 Dutch ML cases analyzed in one 2003 study.[492] The UAE has not been an exception. According to a World Economic Forum report, "The proceeds of Afghanistan corruption or opiate trafficking related proceeds are laundered in real estate in neighbouring countries, particularly in commercial and residential real estate in Dubai and the rest of the UAE"[493] Dubai was the first of the emirates allowing foreigners to acquire property in the emirate.[494] In

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[488] FATF, "Trade Based Money Laundering," 7-8.
[489] FATF, "Trade Based Money Laundering," 8.
[490] Ferwerda and Unger, "Detecting Money Laundering in the Real Estate Sector," 268.
[491] FATF, "Money Laundering and Terrorist Financing through the Real Estate Sector," 5, 7, 8,11, 13-15
[492] Ferwerda and Unger, "Detecting Money Laundering in the Real Estate Sector," 269, citing Meloen, et al, *Buit en Besteding*.
[493] World Economic Forum/Global Agenda Council on Organized Crime, "2010-2011 Term Report," 11.
[494] Not all emirates allow foreign ownership of land and real estate property. In 2005, Abu Dhabi and Ras Al Khaimah followed Dubai's suit and introduced legislation allowing foreign ownership of real estate in these Emirates. On the other hand, the same year, Sharjah extended the right to own property to the GCC Nationals. In 2006, Umm Al Quwain allowed foreigners to own building floors without land. To date, Fujairah does not have specific laws regarding property registration and ownership in this Emirate. (Sources: Abu Dhabi Law No. (19) of 2005 introduced the creation of Investment Zones (currently 12 in number), as areas of land within Abu Dhabi in which foreign nationals were entitled to

2002, when HH Sheikh Mohammed Bin Rashid Al Maktoum issued a decree allowing foreigners to buy and own freehold property in select areas of Dubai, there were no specialized laws and regulations in place to accommodate Dubai's expanding real estate market. The decree commenced demand for residential and commercial property leading to disproportionate growth of construction market and real estate prices. International criminal syndicates began investing in property in Dubai, contributing to skyrocketing of real estate prices. That was the time when "gangsters bought business properties openly in Dubai, Sharjah, and Abu Dhabi," thanks to "no question asked approach" practiced by the government.[495] Some of international mafia organization had been running a highly profitable property development business, constructing retail and residential buildings in Dubai. The latter includes, earlier discussed the D-Company.[496] Since foreigners were first allowed to buy homes in 2002, the UAE property showed over 300 percent cumulative average appreciation during the following five years.[497] In 2008 property prices in Dubai reached record levels.[498] The Dubai Land Department estimates that the value of real-estate transactions in Dubai rose from US$10.5 billion in 2002 to US$126 in 2007.[499] It is important to note that the first regulatory efforts were made by Dubai in 2007. Dubai's Real Estate Regulatory Authority ("RERA") was formed to oversee Dubai's real estate regulatory framework and development.[500] In 2011, The Dubai Land Department issued a circular prohibiting for foreign offshore companies to own property in Dubai. Foreign companies and free zone companies incorporated in the UAE were not affected by this ruling, as these companies are not considered to be offshore.[501]

As Dubai's real estate market expanded, well-publicized real estate corruption scandals accompanied this process. In 2008, a number of senior executives from major property

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real property rights, including ownership rights to land, which is fundamentally different than Dubai. Decision No. (20) of 2005 allowed all nationalities to own property in specific investment projects provided they purchase the property in the name of the company that was established in the Ras Al Khaimah Free Zone or Al Hamra Free Zone. Two years later, the rule was relaxed by Decision No. (12) of 2007, allowing non-UAE nationals and companies to own freehold title to property in projects owned by RAKIA, Al Hamra and Rakeen, without the need to establish a company in Ras Al Khaimah. Sharjah Executive Council Resolution No. (32) of 2005 Concerning the Sale of Properties in the Emirate of Sharjah. Umm Al Quwain, Law No. (3) of 2006 on Property Ownership.)

[495] Singh, "The Risks to Business Presented by Organised and Economically Motivated Criminal Enterprises," 81.

[496] Weinstein, "Mumbai's Development Mafias," 23.

[497] Al Mal Capital, "UAE Real Estate Sector," 2.

[498] Economist Intelligence Unit, "United Arab Emirates: Economic Performance: Downturn in Dubai Housing Market Less Sharp Than Feared."

[499] Bianchi, "Dubai Property Sector Loses Luster."

[500] Dubai Law No. (16) of 2007, "Establishing the Real Estate Regulatory Agency."

[501] Government of Dubai, Land Department, "Dubai Real Estate Legislation"; Uncredited in *Gulf News,* "Ask the Expert: Property Registration."

developers across Dubai were arrested in high-profile fraud cases, as part of the government's effort to clean up the property sector. The real estate scandals included public- as well as government-owned constriction companies. Several executives of Deyaar Development, one of Dubai's largest publicly traded developers, were detained by police over accusations of fraud at the company.[502] Zack Shahin, the chief executive, has been incarcerated since March 2008 on charges of bribery and embezzlement worth Dh237 (US$64.5) million.[503] When bailed out in 2012, he tried to flee, but was detailed in Yemen. He was charged and convicted to a ten-year jail sentence in 2014 on charges relating to theft and fraud.[504] The same year, several officials from Sama Dubai and Mizin, property developers owned by Dubai Holding,[505] were arrested under alleged bribery charges.[506] In 2009, senior managers at Dubai Waterfront Company,[507] one of the emirate's property developments, were arrested as part of an investigation into bribery allegations.[508] Nakheel, a Dubai government-owned property developer, widely known for offshore ventures, figured in fraud allegations the same year.[509] These cases were widely reported in local media, the angle being that Dubai was to be praised for efforts to fight corruption. Dubai's Public Prosecutor was quoted in a regional publication saying: "The government will continue to have a strict stance against all aspects of corruption and will take legal measures against violators."[510]

However, not all scandals get the same publicity as the ones above. That involving a property development firm, Al Fajer Properties and its marketing agency, Dynasty Zarooni, was not covered by local media, which were allegedly silenced by senior representatives of the Government of Dubai due to the company's links to the ruling family of Dubai. Al Fajer Properties, a part of the Al Fajer Group, ran by the Dubai ruler's brother-in-law, was accused of deceiving investors on the construction progress.[511]

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[502] Economist Intelligence Unit, "Economic Performance: Scandals Hit the Dubai Property Scene."
[503] Mustafa, "Nine Deyaar Executives Charged in Dh237m Fraud Cause."
[504] Al Amir, "Former Deyaar Chief Jailed in Dubai Over Dh20m Bribery Case"; Uncredited in A*rabian Business.com* "Ex-Deyaar CEO Sentenced to 10 Yrs in Jail."
[505] The ultimate majority shareholder of Dubai Holding LLC is His Highness Sheikh Mohammed Bin Rashid Al Maktoum. PwC, "Independent Auditor Report," 9.
[506] Franco, "Police Arrest 4 Sama Dubai Employees Over Alleged Corruption"; Za'za, "Dubai Islamic Banks, Dh1.8b Fraud Case Referred to Court."
[507] Dubai Waterfront Company is a subsidiary of Nakheel LLC, which owns a 51 percent stake in the company. The Government of Dubai has owned Nakheel, a former subsidiary of Dubai World Corporation, since 2011, as a result of the Dubai World restructuring. See Fitch, "Dubai to Take Over Limitless, Nakheel."
[508] Al Ghalib, "Two Ex-Nakheel Employees Sent for Trial."
[509] Kerr, S. (2009, 11 Feb.), "Three Held in Dubai Corruption Probe," *Financial Times*, Middle East and North Africa, available at https://www.ft.com/content/1e120b28-f7c5-11dd-a284-000077b07658.
[510] Sambidge and Billing, "Dubai Zero Tolerance Pledge on Corruption."
[511] Chohan, "Dubai Property Scandal Claim Emerges Amid Media Blackout."

However, only Kabir Mulchandani, chairman of development company Dynasty Zarooni, faced legal charges of "fraud and embezzlement." Mulchandani was accused of defrauding investors of more than $100 million. So far, that was the biggest case to grow out of Dubai's efforts to regulate a weakening property market.[512]

Reflecting on the crackdown on the real estate sector corruption, one local analyst observed: "A lot of the people implicated are Emirati nationals with close links to the authorities. Arresting these people is one thing, making them actually do time is another." The latter reflects a general position of critics who believe that "the anti-corruption drive merely addresses the tip of the iceberg, ignoring some of the underlying problems of doing business in Dubai, where state-owned companies rarely issue economic data and regulations are sometimes applied unevenly."[513] It is important to reiterate that the country's "rentier pact" assumes distribution of land among important local families in exchange for loyalty and support. Furthermore, government property development contracts are awarded strategically to loyal citizens.[514]

ML Using Charities and Non-Profits

Charities, a 2008 FATF publication notes, are attractive targets for co-opting, compromising, and abuse by terror networks.

> Many thousands of legitimate charitable organizations exist all over the world that serve the interests of all societies, and often transmit funds to and from highly distressed parts of the globe. Terrorist abuses of the charitable sector have including using legitimate transactions to disguise terrorist cash traveling to the same destination; and broad exploitation of the charitable sector by charities affiliated with terrorist organizations. The sheer volume of funds and other assets held by the charitable sector means that the diversion of even a very small percentage of these funds to support terrorism constitutes a grave problem.[515]

A recent study of terrorist financing notes that the Irish Republican Army "secured funding through donations from the US" in the 1960s-70s, largely through Irish Northern Aid (Noraid), an ostensible charity organization which "achieved a budget of US $7 million, funding more than 50 per cent of the IRA's cash needs."[516] In its description of the emergence of al Qaeda, the U.S. government's 9/11 Commission noted that anti-Soviet jihadists in Afghanistan drew on "a financial support network that came to be known as the 'Golden Chain,'" sustained by "charities or other nongovernmental

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[512] Bianchi, S. (2009, 26 Jan.), "Dubai Property Scandal Expands," *Wall Street Journal,* Europe, Brussels, 20.
[513] Uncredited in *Globe and Mail* ,"Corruption Scandals Plague Fast-Growing Dubai."
[514] Hvidt, "The Dubai Model," 401.
[515] FATF, "Terrorist Financing," 25.
[516] Koh, Suppressing Terrorist Financing and Money Laundering, 21.

organization."[517] In the mid-1990s, when Osama bin Laden re-established himself in Afghanistan, "Al Qaeda and its friends took advantage of Islam's strong calls for charitable giving, *zakat*. These financial facilitators also appeared to rely on heavily on certain imams at mosques who were willing to divert *zakat* donations to al Qaeda's cause. Al Qaeda also collected money from employees of corrupt charities."[518] The report's authors added that bin Laden's organization "took two approaches to using charities for fund-raising."

> One was to rely on al Qaeda sympathizers in specific foreign branch offices of large international charities – particularly those with law external oversight and ineffective internal controls, such as the Saudi-based al Haramain Islamic Foundation.[519] Smaller charities in various parts of the globe were funded by these large Gulf charities and had employees who would siphon the money to al Qaeda. In addition, entire charities, such as the al Wafa organization,[520] may have wittingly participated in funneling money to al Qaeda. In those cases, al Qaeda operatives controlled the entire organization, including access to bank accounts. Charities were a source of money and also provided significant cover, which enabled operatives to travel undetected under the guise of working for a humanitarian organization.[521]

Given the scope of the problem, when the FATF issued Special Recommendations not long after the 11 September 2001 terrorist attacks in the United States, one of them advocated special scrutiny for non-profit organizations. This suggestion is now embodied in Recommendation Eight of the current (2012) set of FATF Recommendations.[522]

Conclusion

Money laundering is a global problem with a vast array of techniques at the launderer's disposal. These may involve the use of loopholes in the financial system; the physical movement of money itself or goods through otherwise legitimate trading channels; and even the misuse and/or exploitation of charitable operations. In many cases, modern

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[517] 9/11 Commission, The 9/11 Commission Report, 55.
[518] 9/11 Commission, *The 9/11 Commission Report*, 170. Koh notes that *zakat* "is a religious donation of at least 2.5 per cent of one's accumulated wealth held for a full year for charitable purposes" (*Suppressing Terrorist Financing and Money Laundering*, 21-22).
[519] Of Al Haramain, "the US Treasury stated in September 2004 that there were direct links between the US branch of this charity and Osama Bin laden. In addition, the relevant affidavit alleges that the branch criminally violated tax laws and engaged in other money laundering offences. Information shows that individuals associated with the branch tried to conceal the movement of funds intended for Chechnya by omitting them from tax returns and mischaracterizing their use, which they claimed was for the purchase of a prayer house in Springfield, Missouri. This charity is on the UN 'blacklist' and in 2003 there were 13 countries where it was listed as operating. Only two countries reported that assets had ben frozen; three did not submit a relevant report to the UN; eight did submit a report relating to [UN anti-terrorism] Security Council Sanction 1455 but failed to provide an account of this charity" (Lilley, *Dirty Dealing*, 139).
[520] Al Wafa is among those organizations listed in Bush, Executive Order 13224.
[521] 9/11 Commission, *The 9/11 Commission Report*, 170-171.
[522] FATF, "Recommendations" (2012), 13.

technologies are augmenting the problem. The next chapter will present an overview of AML legislative efforts, which in some cases have been sparked by related CFT concerns.

4: International Initiatives Against Proceeds of Transnational Money Laundering

While beginning on a relatively local scale (as noted in the previous chapter), money laundering evolved into a transnational problem in the 20th century. In part this was due to a general erosion of national measures meant to control currency flow across borders, some of which had been in place for centuries. (Restrictions in England, for example, on currency import and export dated to at least 1299.)[523] By the early 1980s, legal expert George Staple noted, the elimination of exchange control mechanisms made it "possible instantly to transfer money of any amount or denomination virtually anywhere in the world." This innovation posed significant problems for law enforcement of financial crimes: "[B]ecause criminal law is territorially based, and differs across jurisdictions, the investigation and prosecution of fraud and the related offences of money laundering and corruption are particularly dependent upon mutual legal assistance between states." Staple set forth several parameters of the problem:

> The activities of these criminals usually span several jurisdictions. They have no regard for international frontiers. Indeed they are adept at exploiting the territorial nature of national laws. There is ample scope for the commission of offences partly in one jurisdiction and partly in others. Often witnesses, such as bankers and professional advisers, together with the documentary evidence, are to be found in a number of different jurisdictions. Suspects are frequently not in the jurisdiction in which they should be brought to trial. The proceeds of the crime can be in yet another jurisdiction, while the victims, who are seldom remembered in the criminal justice system, can be somewhere else again. [524]

According to Stessens, the "internationalisation" of money laundering impacts the effectiveness of Anti Money Laundering (AML) measures, which, according to him, is possible only with international harmonisation of anti-money laundering criminal as well as preventative legislation and establishment of effective international co-operation mechanisms deployed to co-operate in the prevention and prosecution of money laundering and in international "proceeds-hunting."[525] In analyzing the history of AML measures, we can witness application of the above rationale in legislative arena. Before we move to our discussion of the evolution of AML efforts, it is important to establish the commonalities behind the impetuses for fighting money laundering.

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[523] "The UK Exchange Control: A Short History," 245.
[524] Staple, "Combating Transnational Financial Crime," 169.
[525] Stessens, *Money Laundering*. 94.

Stessens identified the three main drivers for AML legislation as enabling law enforcement to confiscate criminal proceeds "in those situations where confiscation might otherwise not be possible"; gathering evidence against senior organized crime figures; and preventing ML's effects on legitimate economy and financial sectors.[526] The latter explains the over-expanding scope of predicate offences for money laundering. In summarizing the history of Anti-Money Laundering (AML) measures, this chapter will follow the lead of one scholar's breakdown of that history into four phases.[527] The author of this thesis added a fifth phase to this timeline. These will be discussed below, incorporating materials from other authors and sources as well.

The First Phase: The 1970s

Prior to 1970, laws did exist that allowed the prosecution of "what would be described today as money laundering," although that term was not yet in use. Section 22 of the UK's 1968 Theft Act allowed the successful prosecution of a man involved with the proceeds of the robbery of £26 million worth of bullion from Heathrow Airport's Brink's-Mat warehouse. "The scope of this provision, however, was limited in two respects. First, it applied only to theft-related money laundering; and secondly, it required the handling of the actual stolen property or other goods representing the stolen property."[528]

The USA's 1970 Banking Secrecy Act has been described as an "early starting point" of law enforcement efforts against ML.[529] While a domestic law, a primary US concern about ML was its international nature; in passing the BSA the US Congress "was primarily concerned with financial assets held abroad and criminal proceeds roaming the interstate channels of commerce."[530] The BSA, another observer wrote, was aimed at US organized crime, and was "the first of its kind to require the reporting of extraordinary cash activity." It required American banks to file a Currency Transaction Report (CTR) on transactions over $10,000, and any individual or corporation to report (using a Currency and Monetary Instrument Report, or CMIR), the transporting of more

[526] Stessens, *Money Laundering*. 85-86.
[527] Shams, Legal Globalization, 17-40.
[528] Shams, *Legal Globalization*, 17, 32; for background on the case, see Connett, "Police Traced Laundered Money Around the World."
[529] Unger, "Money Laundering Regulation: From Al Capone to Al Qaeda," 23.
[530] Shams, Legal Globalization, 26-27.

than $100,000 into or out of the US. None of these transfer actions became illegal, but it became "illegal to do so without reporting the transaction as required by the BSA." The relevant forms require basic data meant to identify those conducting the transaction and indicate ownership of the money. The intent is "to identify the 'source and origin' of unusually large cash activity. The US government can then use this information for law enforcement, tax administration or regulatory purposes."[531]

Three years later, in 1973, the US and Switzerland signed a Mutual Legal Assistance Treaty (MLAT) which "marked an obvious departure from" earlier arrangements that confined themselves to countries sharing borders and legal traditions (i.e., civil or common). In this case, the US had a common or case law basis (i.e., with court decisions establishing authoritative precedent along the concept of *stare decisis*), while the Swiss was a civil law system. The MLAT initiative between the two countries/systems was fueled by US "concern over the use of the Swiss financial sector to hide assets from US law enforcement." This was a common issue with many other countries, whose pursuits of alleged criminal activities frequently "came repeatedly crashing against the Swiss financial secrecy walls." This perhaps peaked with the 1977 "Chiasso Affair," in which the director of a Credit Suisse branch had been involved with the reinvestment in Liechtenstein of 2.2 billion Swiss francs "constituting the proceeds of [a] violation of Italian currency restrictions." In that same year, the Swiss Union of Banks and the Swiss National Bank signed an "Agreement on the Observance of Care by the Banks in Accepting Funds and on the Practice of Banking Secrecy." Similar in intention to the US Bank Secrecy Act, the Agreement was "a private self-regulatory response," obliging Swiss banks "the duty to identify their customers and the beneficial owners of assets deposited with them. The impact of this obligation was effectively to outlaw anonymous bank accounts." While amendments to the agreement (in 1982, 1987, and 1992) loosened its strictness, the original's significance "should not be underestimated," as "some of the obligations that were first established in this agreement eventually found their way into Swiss law," and "inspired subsequent criminalization of money laundering" in Switzerland. [532]

[531] McDonald, *Money Laundering*, 2-3.
[532] Shams, Legal Globalization, 21-24.

The Second Phase: The 1980s

In the same year the Agreement on the Observance of Care was signed, 1977, a select committee within the Council of Europe began to study what it termed "the illicit transfer of funds of criminal origin frequently used for the perpetration of further crime." In June 1980, their work culminated in the adoption of a recommendation entitled "Measures Against the Transfer and Safekeeping of Funds of Criminal Origin." This Council of Europe document became "the first international instrument, albeit an unbinding one, to address explicitly the problem of money laundering." Its adoption heralded a new stage of AML efforts aimed at "criminalization and internationalization." (One of the first developments was "the adoption of the term 'money laundering' in legal language," arising from a 1982 federal case in Florida.[533]) The Council of Europe recommendation has been called "probably ahead of its time"; indeed, it "failed to find a receptive audience and was not widely implemented." Yet the document "fully embraces the philosophy of prevention so central the programme of countermeasures subsequently adopted by the FATF." The recommendations included the "know your customer" rule, urging banks to check identities whenever accounts were opened, safe deposits rented, and large transactions made.[534]

By the middle of the decade some in the US had concluded that the 1970 Bank Secrecy Act was not enough to offset the threat posed by international narcotics traffic and the organized criminal organizations that ran it. In the words of a former US Department of Justice official:

> Even gigantic drug profits are worthless to organized crime if they can be readily traced and seized by drug enforcement authorities. Organized crime must, therefore, have the means for disguising their ill-gotten gains. The volume of cash apparently exceeds that which organized crime can satisfactorily launder by the myriad transactions of money couriers who handle just under $10,000 each day, the present reporting threshold. Criminal enterprises have had to rely on legitimate financial channels to accept large cash deposits, which may then be used to buy stock, be transferred to accounts in other domestic banks, or be moved out of the country. Officials of banks, currency exchanges, brokerage houses, and casinos are involved in these money-laundering schemes, often unwittingly, but sometimes knowingly. The President's Commission on Organized Crime has estimated that the narcotics traffic alone is the source for $5-15 billion in illegal profits channeled abroad, two-thirds of which transits through domestic financial institutions. Concluding from its investigations that the Bank Secrecy Act does not provide sufficient authority to prosecute and to penalize money-laundering activity, the Commission recommended that money laundering be made a criminal offense and that casinos be made subject to the Act.[535]

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[533] Shams, Legal Globalization, 26-27.
[534] Gilmore, *Dirty Money*, 123, citing Nilsson, "The Council of Europe Laundering Convention," 419, 423.
[535] Frost, "Drug Trafficking, Organized Crime, and Terrorism," 191.

The first specific AML law was passed in the United States in 1986, the Money Laundering Control Act. It is broken into two key sections, 1956 and 1957. Section 1956(a)(1) can be summarized as stating that money laundering has taken place if the defendant knowingly conducts or attempts (in the words of Stefan Cassella) "to conduct a financial transaction affecting interstate commerce" using money or property gained through a "specified unlawful activity" or SUA with an effort to hide their illegal nature, avoid reporting the transaction, or continue the illegal activity itself.[536] Another section, 1956 (a)(2), made it an offense to send money "into or out of the United States to promote an SUA offense, regardless of whether the money, itself, is the proceeds of any unlawful activity." [537] Section 1956(a)(3) "was added to the money laundering statute in 1988, to make it possible to prosecute persons who engage in the laundering of 'sting money,' i.e., money that is not really criminal proceeds but is represented as such by a law enforcement officer, or a person acting at his or her direction."[538] Section 1957 "makes it an offense for any person to conduct any monetary transaction involving more than $10,000 in 'criminally derived property.' Its purpose is to make it difficult for wrongdoers to spend their ill-gotten gains, or to place them in the banking system, by making it a criminal offense for a third-party to do business with them. … [It] is designed to freeze criminal proceeds out of the banking system."[539] Another observer noted that the 1986 US law also "had an 'extraterritorial reach' provision that permits the US law to be applied to any foreign national in cases where any part of a financial transaction touches the US. The mere check clearance procedure through a US bank or wire transfer in US dollars from one country to another is considered sufficient in terms of 'touching the US.'"[540]

In the same year, the UK introduced the Drug Trafficking Offences Act (DTOA) "rendering it a criminal offence to enter an arrangement whereby the proceeds of another's drug trafficking activities are laundered." The impetus for this law was a House of Lords decision in the 1980 case of *R v Cuthbertson* which "revealed the failure

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[536] Cassella, "The Money Laundering Statutes (18 U.S.C. § § 1956 and 1957)," 21.
[537] Cassella, "The Money Laundering Statutes (18 U.S.C. § § 1956 and 1957)," 28.
[538] Cassella, "The Money Laundering Statutes (18 U.S.C. § § 1956 and 1957)," 28. A *sting* is "an elaborate confidence game; *specific*: such a game worked by undercover police in order to trap criminals" (*Merriam-Webster's Collegiate Dictionary*, 1155-1156).
[539] Cassella, "The Money Laundering Statutes (18 U.S.C. § § 1956 and 1957)," 29.
[540] McDonald, *Money Laundering*, 4. This occurs in § 1956(b)(2), "Jurisdiction over foreign persons." McDonald's text is a May 2000 lecture delivered in the United Arab Emirates, which was then developing its first comprehensive AML legislation.

of forfeiture laws, as they were at the time, to deprive the offender of the proceeds of one's criminal conduct once they have taken an intangible form." Subsequently, the Howard League for Penal Reform – "an independent body concerned with the reform of the criminal justice system" – established a committee led by Justice Sir Derek Hodgson to help "close the legislative loopholes that permitted offenders to retain the gains of their crimes." The resulting Drug Trafficking Offences Act of 1986 introduced measures to allow confiscation of drug-related proceeds and criminalized money laundering in such cases. While its scope was limited to drug trafficking, two years later, in 1988, the UK passed the Criminal Justice Act (CJA). This "extended the scope of confiscation orders to 'relevant criminal conduct,' defined as including all indictable offences as well as a lists of less serious offences," but did not do the same regarding money laundering. (Such scope would be widened to include money laundering involving terrorist groups in the 1989 Prevention of Terrorism (Temporary Provisions) Act, and much more broadly in the UK's 1993 Criminal Justice Act.)[541]

Money laundering did figure prominently in two other 1988 legislative efforts. One was the Australian Financial Transaction Reports (FTR) Act, which, similar to the BSA, required the reporting of transactions exceeding $10,000.[542] It would become the basis for increasingly tougher Australian AML efforts. The other 1988 document is one that has been termed the "definitive step of internationalization."[543] This was the December 1988 "Vienna Convention" treaty, formally known as the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Its provisions required member states to "adopt such measures as may be necessary to identify, trace, and freeze or seize proceeds, property, instrumentalities or any other things [used in drug trafficking] for the purpose of eventual confiscation."[544] In one scholar's words: "The significance of this instrument [the Vienna Convention document] lies in the fact that it imposed an obligation on all parties to criminalise the laundering of drug proceeds. Although the Convention did not use the term 'money laundering,' its definition of money laundering offences became the accepted definition in all the subsequent instruments."[545]

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[541] Shams, *Legal Globalization*, 28, 32, 33, 34.
[542] McLean, *International Cooperation in Civil and Criminal Matters*, 287.
[543] Shams, *Legal Globalization*, 28.
[544] Article 5(2) in United Nations, United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 5.
[545] Shams, *Legal Globalization*, 28.

At about the same time, the Basel (Switzerland) Committee on Banking Supervision issued its "Statement of Principles on the Prevention of Criminal Use of the Banking System for the Purpose of Money Laundering." The 1988 Basel Principles "are based on the assumption that banks are being used unwittingly for the purpose of money laundering and that the cooperation of financial institutions with law enforcement agencies will be very useful for the purpose of preventing this use." The document advised banks to adopt measures that "(i) ensure the identification of any customer that enters a relationship with the bank; (ii) prevent the engagement of the bank in transactions that appear illegitimate; and (iii) secure close cooperation with law enforcement." While banking regulators hitherto "were ambivalent about their role in the fight against money laundering," the Basel Principles established a consensus "amongst its members by attempting to create a prudential interest in suppressing the use of the financial system for money laundering purposes."[546]

The Third Phase: 1989-2001

The Vienna Convention led the way into the third phase of AML efforts that have been described as "supra-nationalization."[547] To help "oversee the implementation of the principles of the Vienna Convention," the Organization for Economic Co-operation and Development in 1989 created the Financial Action Task Force (FATF) on Money Laundering.[548] Based in Paris, its mission has been concisely described as "to coordinate and encourage nations to sign the Vienna Convention and draft anti-money laundering laws."[549] It has functioned by bringing together experts from a wide range of fields, disciplines, and government agencies, including law enforcement; a result of this holistic approach is that observers have characterized it as fluid and flexible, able to "evolve and mature" over time.[550] It currently (2013) describes itself as "an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations [40 in total] are recognized as the global anti-money laundering (AML) and counter-terrorist financing

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[546] Shams, *Legal Globalization*, 37-38.
[547] Shams, *Legal Globalization*, 39.
[548] http://people.exeter.ac.uk/watupman/undergrad/ron/international%20conventions.htm
[549] McDonald, *Money Laundering*, 5.
[550] Gilmore, *Dirty Money*, 81-82.

(CFT) standard."[551] These are disseminated, at least in part, by regional organizations called FATF-Style Regional Bodies, or FSRBs, which are also expected to:

- "devise systems for combating money laundering and terrorist financing in their respective regions."
- Evaluate the AML and general anti-terrorism financing "systems of the member states and make recommendations for their improvement."
- Study "typologies – the most common schemes used by criminals for money laundering and terrorist financing. Based on the results of the typological research, the best practices are disseminated to the private sector, oversight and regulatory bodies, law enforcement and the scientific community."[552]

Member countries are expected to adhere to FATF recommendations, and "their implementation of the forty Recommendations [are] monitored through a two-pronged approach: an annual self-assessment exercise and the more detailed mutual evaluation process under which each member country is subject to an on-site examination. In addition, the FATF carries out cross-country reviews of measures taken to implement particular Recommendations."[553] The aforementioned FSRBs figure in these evaluation approaches. It issued its first set of anti-money laundering recommendations upon its creation in 1989. These 40 guidelines were intended to "formulate an anti-money laundering protocol."[554] The recommendations have been since modified; the original set included, besides some preliminary general ones, specific recommendations regarding areas discussed in the following sections.[555]

a) "Customer identification and record keeping rules"

Items 12-14 discouraged the keeping of anonymous accounts, and encouraged "reasonable measures" to be made to correctly identify account holders and transaction makers. This was to be done particularly "in the case of domiciliary companies (i.e., institutions, corporations, foundations, trusts, etc., that do not conduct any commercial or manufacturing business or any other form of commercial operation in the country where their registered office is located)." In addition, financial institutions should keep transaction and customer identification records for at least five years, and make them available "to domestic competent authorities in the context of relevant criminal prosecutions and investigations."

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[551] FATF, "Annual Report" (2012-2013), 1.
[552] http://www.eurasiangroup.org/fsrb.php.
[553] FATF, "The Forty Recommendations" (1996), 1.
[554] McDonald, *Money Laundering*, 5.
[555] The recommendations cited below are drawn from the FATF's 1990 annual report, officially titled "Financial Action Task Force on Money Laundering – Report," 31-35.

b) "Increased diligence of financial institutions"

Item 15 recommended that banks and other financial institutions "pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions which have no apparent economic or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing, and be available to help supervisors, auditors and law enforcement agencies." Items 16-20 subsequently recommended that those institutions report any suspicions "to the competent authorities"; prohibit employees from warning customers of such reports being made; deny customers access to any accounts under investigation; and develop their own anti-money laundering programs. The latter "should include, as a minimum:

a) "the development of internal policies procedures and controls, including the designation of compliance officers at management level, and adequate screening procedures to ensure high standards when hiring employees;
b) "an ongoing employee training program;
c) "an audit function to test the system."

c) "Measures to cope with the problem of countries with no or insufficient anti-money laundering measures"

Items 21-22 stated that the previous section's recommendations about diligence should also be followed when dealing with individuals and companies "from countries which do not or insufficiently apply these recommendations;" and that should local laws prevent an institution from complying, then "competent authorities in the country of the mother institution should be informed by the financial institutions that they cannot apply these recommendations."

d) "Other measures to avoid currency laundering"

Recommendations 23-25 involved border checks of cash transportation; implementation of a transaction regulation system similar to the US Bank Secrecy Act; and "the development of modern and secure techniques of money management … as a means to encourage the replacement of cash transfers."

e) "Implementation, and role of regulatory and other administrative authorities"

Items 26-29 recommended that supervising banks or other authorities should implement anti-money laundering programs, and be prepared to act in cooperation with local law enforcement; ensure adequate supervision and regulation of all cash-based professions; establish guidelines to detect suspicious behavior; and take steps to

prevent "criminals or their confederates" from obtaining control of a financial institution.

f) "Administrative cooperation"

This area encompasses items 30-32, and was broken into two segments. The first, "Exchange of general information" (items 30-31), recommended countries record cash flow data and provide it to the IMF and BIS; and suggested that international law enforcement agencies, central banks, and financial regulators disseminate information about the latest money laundering techniques. The second part –"Exchange of information relating to suspicious transactions" (Recommendation 32) – is more specific, directing countries to "make efforts to improve a spontaneous of 'upon request' international information exchange relating to suspicious transactions, persons and corporations involved in those transactions between competent authorities."

g) "Cooperation between legal authorities"

This final segment of the recommendations document, concerning items 33-40, is also broken into two segments. In the first, "Basis and means for cooperation in confiscation, mutual assistance, and extradition" (items 33-35), countries are encouraged to ensure that different "knowledge standards" (i.e., definitions) of money laundering infractions do not affect their ability to cooperate; create bilateral and multilateral agreements to ensure cooperation on "generally shared legal concepts"; and support international conventions on confiscating proceeds from money laundering ventures.

The final four items, 36-40, are listed under the heading: "Focus of improved mutual assistance on money laundering issues." They simply encourage cooperation among countries in areas such as obtaining records, seizing proceeds, determining jurisdiction venues, and extradition.

Observations

Before proceeding to the fourth phase of AML regulation efforts, it is worth noting that modern AML regulatory practices were slow to evolve. This – like the general recommendations on cooperation cited above – speaks in part to the transnational nature of modern money laundering. As author Peter Lilley observed, "Although the Financial Action Task Force has promoted best-practice principles to be adopted by all countries, the simple truth is that there is no uniformity across the world in relation to

anti-money laundering regulations and legislation." Part of the problem is the speed with which financial transactions are expected to be made, something which application of the FATF's recommendations may significantly slow down. And this would affect legitimate clients as well as illegitimate ones. In Lilley's words: "It is frequently said that if an organization tries rigorously to apply and enforce all money laundering regulations, the time involved is exorbitant and it becomes almost impossible to do any business."[556]

With that said, international anti-money laundering efforts did gain ground at the end of the 20th century with the emergence of the FATF. It produced a revised and amended set of recommendations in 1996. Item 35, for instance, encouraged member countries to ratify the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. It included an annex that listed "financial activities undertaken by business[es] or professions which are not financial institutions." And it also included a set of "interpretative notes" meant to define and clarify some elements in the revised list of recommendations. [557] By 1999, the FATF was showing it meant business with its recommendations, blacklisting Russia "for its lack of anti-money-laundering laws and measures."[558] In February 2000 it further "published a report on countries and territories that were 'Non-Cooperative' with anti-money laundering regulations," with a list naming names (including offshore financial centers, and countries such as Liechtenstein) emerging in June 2000.[559] But the same report also acknowledged (in Peter Lilley's words) "a number of issues that were undermining anti-money laundering progress." Most involved areas covered in the 1989 Forty Recommendations, and represented basic AML measures. They included (in Lilley's words):

- Lack of or inadequate regulations and supervision of financial institutions.
- Inadequate rules for the licensing and creation of financial institutions – particularly in offshore jurisdictions. In this respect the FATF drew attention to organized criminal groups taking over or buying banking licenses.
- Problems with customer identification caused by anonymous accounts, accounts in fictitious names and non-retention of relevant records.
- The increased number of territories offering bank secrecy.
- Countries with no effective system for reporting suspicious transactions.
- Inadequate or non-existent requirements for the identification of beneficial owners or corporate entities.

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[556] Lilley, *Dirty Dealing*, 4.
[557] FATF, "The Forty Recommendations" (1996).
[558] Zarate, *Treasury's War*, 159.
[559] Lilley, *Dirty Dealing*, 61, 93.

- Lack of resources in business, law enforcement and other relevant areas.

The report concluded by acknowledging "that, as long as these glaring loopholes exist, money will be washed by launderers entering the international financial system through such jurisdictions or using such lax territories to escape and evade investigation in more mainstream and regulated environments."[560]

As the millennium turned, another UN document expanded on the precepts of the 1988 Vienna Convention. This emerged from the 2000 International Convention Against Transnational Organized Crime (the Palermo Convention). Schott summarized it as containing "a broad range of provisions to fight organized crime and commits countries that ratify this convention to implement its provisions through passage of domestic laws." Its key AML recommendations, as Schott summarized them in his words, were that member countries:

- Criminalize money laundering and include all serious crimes as predicate offenses of money laundering, whether committed in or outside of the country, and permit the required criminal knowledge or intent to be inferred from objective facts;
- Establish regulatory regimes to deter and detect all forms of money laundering, including customer identification, record-keeping and reporting of suspicious transactions;
- Authorize the cooperation and exchange of information among administrative, regulatory, law enforcement and other authorities, both domestically and internationally, and consider the establishment of a financial intelligence unit to collect, analyze and disseminate information; and
- Promote international cooperation.

Signed by 147 countries and ratified by 82 of them, the convention's document became effective 29 September 2003. Schott wrote that "The *Palermo Convention* is important because its AML provisions adopt the same approach previously adopted by the Financial Action Task Force on Money Laundering (FATF) in its *Forty Recommendations on Money Laundering*."[561] According to Betti, it was the first successful attempt to adopt an instrument dealing with transnational organized crime, due to its broad definition of a criminal organization, its broad applicability to criminal offenses, and its "multidisciplinary character."[562]

The Fourth Phase: Post 9/11- 2010

By the time the Palermo Convention had gone into effect, the Islamic extremist attacks in the United States of 11 September 2001 had brought about a new urgency regarding the funding of terrorism, raising the profile of the link to the latter of economic crimes.

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[560] Lilley, *Dirty Dealing*, 61-62.
[561] Schott, *Reference Guide,* III:4.
[562] Betti, "New Prospects for Inter-State Co-Operation in Criminal Matters: The Palermo Convention," 152-153.

Thus emerged the fourth historical phase of AML efforts, which might be called the AML/CFT phase. It saw a number of post-9/11 efforts, the most significant of which may have been the October 2001 passage of the American USA PATRIOT Act; and the November 2001 extension of the FATF mandate with new recommendations addressing the financing of terrorism. As discussion began of a "War on Terror" in the immediate aftermath of 9/11, "[a] consensus immediately emerged, or rather seemed to exist, that going after the terrorist money is a key instrument in this war. Such consensus translated into amendments to money laundering laws in the form of extending criminal liability and expending financial institutions' policing duties and obligations."[563]
Experts in US and international law enforcement had been warning about links between money laundering and terrorism for years prior to 9/11, often with drug proceeds and organized crime added to the mix. In 1984, for example, the UN International Narcotics Control Board contended that drug trafficking, given the money involved and the collusion of organized crime, was a threat to some countries' national security. In August of that year, a US Senate Subcommittee on Alcoholism and Drug Abuse "explored the links between drug traffic and terrorism" used by insurgencies to achieve political aims or to destabilize their host country. Examples cited in testimony of groups allegedly involved with drugs, drug smuggling, and drugs-for-arms dealing included insurgents and officials in Burma, Colombia, Cuba, and Peru, although there was little consensus on the significance of "trafficker-terrorist cooperation." A DEA official, writing in 1986, observed that unmentioned "in the context of the drug-terrorism link" were the Afghan *mujaheddin*, who were "officially regarded as anti-Soviet 'freedom fighters' rather than as insurgents or terrorists. The omission is all the more curious because Afghanistan produces, by US estimates, a whopping 400-575 metric tons of opium. It seems likely that a considerable amount of this sizable tonnage is produced with the approval and encouragement of leaders of *mujaheddin* groups." [564]

This drug connection was reexamined 15 years later, after the 9/11 atrocities were traced to al Qaeda extremists based in Afghanistan, where that country's Taliban leadership sheltered them. *The 9/11 Commission Report* observed that while the Afghan drug trade "was a source of income for the Taliban, it did not serve the same purpose for al Qaeda, and there is no reliable evidence that [Al Qaeda leader Osama] Bin Ladin was

[563] Shams, *Legal Globalization*, 40.
[564] Frost, "Drug Trafficking, Organized Crime, and Terrorism," 191-194.

involved in or made his money through drug trafficking."[565] While drug dealing did not emerge as a principal form of al Qaeda funding, terrorist funding in general became an issue. As money laundering had, in 1999, become a high-profile topic, fueled by scandal at the Bank of New York involving Russian organized crime proceeds, much attention was now given to the vulnerability of banks to terrorist use. *The 9/11 Commission Report* observed that prior to the attacks in the US, that country's Treasury Department "did not consider terrorist financing important enough to mention in its national strategy for money laundering."[566] Its panel of authors added in a footnote:

> Although there was an increased focus on money laundering, several significant legislative and regulatory initiatives designed to close vulnerabilities in the U.S. financial system failed to gain traction. Some of these, such as a move to control foreign banks with accounts in the United States, died as a result of banking industry pressure. Others, such as the regulation of money remitters with the United States, were mired in bureaucratic inertia and a general antiregulatory environment.[567]

One result of reflection on this situation was that, as Lilley observed, post-9/11 media fallout was particularly "highly critical of previous US efforts to halt and identify domestic money laundering."[568] However, the next line of the *9/11 Commission Report* excerpt given above was a cautionary message: "In any event, it is an open question whether such legislative or regulatory initiatives would have significantly harmed al Qaeda, which generally made little use of the U.S. financial system to move or store its money."[569] In light of future AML/CFT efforts, such as the USA PATRIOT Act of October 2001, other observers have also noted that money laundering, and its lack of regulation, played no role in the 11 September atrocities, Lilley writing that the perpetrators "exhibited no suspicious money laundering characteristics whatsoever."[570] That being said, post-9/11 initiatives against economic crimes, including money laundering, were part of a broad campaign against terrorist funding.[571] And the subsequent USA PATRIOT Act "ushered in the most sweeping expansion of the US AML regime since the inception of the 1970 Bank Secrecy Act."[572] As another observer pointed out, "The template for the financial war was the money-laundering apparatus in place since the war on drugs of the 1980s.

> The rationale for the surveillance and control of financial flows was twofold: first, they could untangle money puzzles and yield a great deal of information about subversive and otherwise

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[565] *9/11 Commission Repor*t, 171.
[566] *9/11 Commission Report*, 186.
[567] *9/11 Commission Report*, 505, n90.
[568] Lilley, *Dirty Dealing*, 148.
[569] *9/11 Commission Report,* 505, n90.
[570] Lilley, *Dirty Dealing*, 128-131.
[571] Zarate, *Treasury's War*, 29.
[572] Zarate, *Treasury's War*, 30.

> shadowy groups; second, the use of economic and financial tools – embargoes, asset seizures, and the like – would eventually 'take profit out of crime.'[573]

While the new measures, of course, were meant to deal with organizations interested in ideology rather than profits *per se*, this is not to deny the possibility or the importance of the connection between such groups. As a RAND political scientist has noted, "Criminal organizations can become ideological over time." He added:

> Terrorist groups rely upon organized crime for the weaponry and munitions they require for terrorist attacks and insurgencies. … The two groups are further connected by the drug trade: both are financially dependent on narcotrafficking … Finally, terrorist groups and criminal networks both depend upon corrupt officials, to help hem hide their activities from the government, and both prefer to operate in areas with weak law enforcement.[574]

The new regulations comprised the USA PATRIOT Act's Title III, which itself has become known as the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001. It has been described as basically amending and expanding the 1970 Bank Secrecy Act and the 1986 Money Laundering Control Act. Among its key provisions is the requirement that all financial institutions develop and implement AML programs which include development of internal policies, procedures and controls; designation of a compliance officer; ongoing training; and an independent audit function. Congress' intention, according to Phillips, was that "each Financial Institution should have the flexibility to tailor the anti-money laundering program to its structure and address particular money-laundering risks or vulnerabilities." The US Treasury Department was tasked with formulating appropriate regulations and requirements. Each program would be required to have a "designated compliance officer, an ongoing training program, and an independent audit function. … The training program requirement is designed to ensure that employees who are often the first line of defense in anti-money laundering programs are fully trained to recognize suspicious account activity and know how to report such activity to a supervisor. The independent audit function requirement is intended to test the Financial Institution's anti-money laundering program to determine its efficacy in detecting and, if applicable, reporting such suspicious activity. The audit should also determine the Financial Institution's compliance with certain recordkeeping requirements. Currently, there is no regulatory requirement that an auditing firm conduct a Financial Institution's anti-money laundering audit. The regulators have indicated that the audit may be conducted internally; provided,

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[573] Warde, "Global Politics, Islamic Finance and Islamist Politics Before and After 11 September 2001," 53.
[574] Lal, "South Asian Organized Crime and Terrorist Networks," 294.

however, that the audit is conducted by officers and employees other than those persons designated as anti-money laundering compliance officers and staff."[575]

Akin to the BSA, the Act also required financial institutions "to implement procedures that are reasonably designed to verify the identity of customers at the time an account is opened and to check the list of customers to determine if any customers are included on a list of known or suspected terrorists." The first such list was issued on 24 September 2001, to accompany an Executive Order that required "the freezing of assets and blocks transactions with the list of individuals and organizations identified in the order." A second such document, the Specially Designated Nationals List (SDNL) and is published by the Office of Foreign Assets Control (OFAC), and Phillips noted that "Each time a new list is published, which can be as often as weekly, the entire customer database must be rechecked." The list was to be circulated to a "senior-level person" in each financial institution who would "act as the single point of contact." [576]

Additionally, while previous regulations had required "depository institutions and their affiliates" to file Suspicious Activity Reports (SARs), the USA Patriot Act now required this of broker-dealers as well. "In general," wrote Phillips, "the proposed rule includes two triggering events that require a broker-dealer to submit a SAR. The first event is any known or suspected violation of law or regulation. The second event is where the broker-dealer knows, suspects or has reason to suspect the transactions involve money laundering, involve a violation of the BSA, or appear to serve no lawful purpose. Thus, the proposed regulation incorporates a due diligence standard and requires broker-dealers to monitor customer transactions to detect these types of activities." Phillips added that "For reasons that have not been disclosed, the proposed rule for broker-dealers does not exactly parallel the existing rule for depository institutions and, in many ways, the proposed rule includes reporting requirements that are broader than the requirements for banks. For example, under the existing rules, a depository institution must submit a SAR for any activity that involves at least $5,000 and: (i) any known or suspected violation of federal law; (ii) a suspicious transaction related to money laundering; or (iii) a violation of the BSA. Under the proposed rule applicable to broker-dealers, the reporting requirement is triggered by 'any suspicious transaction

[575] Phillips, "Anti-Money Laundering Initiatives Under the USA Patriot Act."
[576] Phillips, "Anti-Money Laundering Initiatives Under the USA Patriot Act."

relevant to a possible violation of law or regulation.'" SARs would be submitted to the Financial Crimes Enforcement Network (FinCEN), and while those submitting could not disclose that fact to the suspect, they were given a legal "safe harbor from liability, including securities arbitration."[577]

Another key provision of the USA PATRIOT Act was that it required the US Department of the Treasury to (in Phillips' summation) "adopt regulations that will encourage the cooperation among Financial Institutions, their regulatory authorities, and law enforcement authorities regarding information relating to individuals or organizations that are 'reasonably suspected based on credible evidence of engaging in terrorist acts or money laundering activities.'"[578]

New FATF Recommendations

On its part, the FATF in late October 2001 met in Washington D.C., and ultimately issued Eight Special Recommendations for combating terrorist financing. (A ninth – concerning cash smuggling by couriers – would be added in October 2004, yielding an expanded list).[579] In one author's summary, member countries were advised to:

1) "[R]atify and implement relevant UN instruments."
2) "[C]riminalize the financing of terrorism, terrorist acts and terrorist organizations."
3) Freeze, seize, and confiscate terrorist assets.
4) Report "suspicious transactions relating to terrorism. … [T]he types of entities that should report such suspicions are … not only banks but also non-bank financial institutions (which, as a minimum, should include bureau de change, stockbrokers, insurance companies and money remittance/transfer services)."
5) Cooperate internationally, by fostering the exchange of information between law enforcement agencies and other government contacts; denying "'safe haven' to those involved in the terrorist financing"; and permitting extradition, with a specific recommendation that claims "of political motivation are not recognized as a ground for refusing requests to extradite persons alleged to be involved in terrorist financing."
6) Regulate "alternative remittance" areas "such as the black market peso exchange, *hawala* or *hundi* systems, and other methods prevalent in China and East Asia." FATF members should require licensing/registration of such methods, which themselves would be subject to FATF recommendations, and open to "sanctions … if providers fail to obtain a license or register and fail to comply with relevant FATF recommendations."

[577] Phillips, "Anti-Money Laundering Initiatives Under the USA Patriot Act."
[578] Phillips, "Anti-Money Laundering Initiatives Under the USA Patriot Act."
[579] Koh, Suppressing Terrorist Financing and Money Laundering, 124-125.

7) Regulate wire transfers by requiring "financial institutions to include originator information on funds transfers sent within or from the jurisdiction." Transfers attempted without such originator information were to be closely scrutinized.
8) Scrutinize non-profit organizations (such as charities) "to prevent their misuse for terrorist financing purposes."[580]

The ninth point is now Recommendation 32 in the revised FATF guidelines. It advises member countries to be able to detect cash transfers by courier, regulate and stop suspected "bearer-negotiable instruments," and have legal penalties in place for those caught lying about such transfers.[581]

In June 2003, the FATF issued a new set of Forty Recommendations, which did not as yet encompass the Special Recommendations. A scholar has noted that "the revised Forty Recommendations are not separated from the Nine Special Recommendations, but should be read together, thus providing a combined set of enhanced measures to combat terrorist financing."[582] (The FATF would, however, later consolidate the recommendations in their 2012 report.[583]) One analysis of the "general framework" provided by the two, then-separate sets of recommendations included the following observations:

1) The FATF had begun "to make direct reference to the financing of terrorism in its standards," and its recommendations' subtitles "afford equal footing to money laundering and terrorist financing."
2) The "scope of application *ratione personae*[584] has been substantially extended to include non-financial institutions with explicit enumeration, such as casinos, real estate agents, dealers in precious metals and stones, lawyers, notaries, other independent legal professionals and accountants, and trust and company service providers."
3) The "standards themselves had also become more sophisticated as illustrated by the detailed provisions on customer due diligence (CDD) measures in general and specifications on the CDD procedures in relation to individual categories of subjects and activities such as politically exposed persons, intermediaries and cross-border correspondent banking."
4) "[A]ttempts have also been made to alleviate the consequent burden in terms of implementation and in supervision, such as the introduction of a risk-based approach; the exemption of non-financial institutions from the strict application of 'no professional secrecy privilege' in respect of suspicious transaction reports; lenient standards of 'no-tipping off' for non-financial institutions; and the narrowing down of the scope of activities of non-financial institutions that are

[580] As summarized and paraphrased in Lilley, *Dirty Dealing*, 150-152.
[581] FATF, "Recommendations" (2012), 25.
[582] Koh, Suppressing Terrorist Financing and Money Laundering, 125.
[583] FATF, "Recommendations" (2012), 11-30. A table showing how the items were consolidated appears on 4-5.
[584] The act an individual commits, "whether in an official or in a private capacity" (Dinstein, *War, Aggression and Self-Defence*, 156).

subject to the reporting of suspicious transactions." Koh suggested that the effort represented an effort to reduce "duplication of resources and the resistance from related sectors."

5) The "concept of the FIU [Financial Intelligence Unit][585] has been explicitly dealt with for the first time in the main text of the Forty Recommendations."
6) Reference was increased to specific "standards set by other organizations," such as the 1999 International Convention for the Suppression of the Financing of Terrorism (ICSFT); the UN's 2001 Security Council Resolution 1373 on terrorism and terrorist financing; the "Core Principles" put forth by the 2000 Palermo Convention; and the Inter-American Convention against Terrorism of 2002.[586]

At this stage AML reporting requirements have spilled beyond financial institution, covering a wide range of professionals such as lawyers, accountants, and dealers in precious metals/stones. The latter created issues for law professionals in the context of consent process and tipping off in the UK.[587]

The Fifth Phase: 2010 to Present

In the words of Bajrektarevic: "Having dealt with the Narcotic Drugs, Organized Crime, Terrorism Financing and Corruption related treaties, the international community is now turning its attention to forms of the private/corporate sector and of individual or non-organized crime."[588] Strategies of targeting financial elements of crime began to morph into a civil legal approach. Gallant describes it as "transportation of attributes associated with civil proceedings onto criminal processes, and legal frameworks, which permit the recovery of criminal proceeds through wholly civil legal processes."[589] This stage is marked by escalating attention to tax and wealth disclosure with a general shift from domestic to international issues. One study defines it as "the war against aggressive tax planning, tax evasion and tax avoidance in the era of global fiscal transparency."[590] The international community is confronting tax evasion through information sharing. This period has seen a gradual shift from bilateral tax treaties to a single multilateral standard implemented through automatic exchange of information in tax matters.

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[585] The term FIU, used in the European Union, is a governmentally created body meant to serve as a bridge between private sector and law enforcement (Koh, *Suppressing Terrorist Financing and Money Laundering*, 41-42). Its US equivalent would seem to be the Treasury Department's Financial Crimes Enforcement Network (FinCEN).
[586] Koh, Suppressing Terrorist Financing and Money Laundering, 126-128.
[587] Campbell and Campbell, "Money Laundering and the Consent Regime in the United Kingdom – Time For Change," 485-495.
[588] Bajrektarevic, "The Justice-Home Affairs Diplomacy: The Palermo Convention, Ten Years After - Towards the Universal Criminal Justice," 121.
[589] Gallant, Money Laundering and the Proceeds of Crime, 18.
[590] Kristoffersson and Pistone, "Policy Issues, Historical Development, General Legal Framework," 2.

The OECD identified tax crime as one of the top three sources of money laundering. Hence, tax administrations can play an important role in detecting and deterring the practice.[591] In the proposal for a new directive on July 5 2016, the European Commission made the fight against tax avoidance a priority alongside money laundering and terrorism financing.[592] Its broader drive to boost tax transparency and tackle tax abuse is an expansion of the Fourth Directive requirement to establish national registers of beneficial owners of companies and some trusts.[593] A FATF handbook states that its standards on transparency and beneficial ownership, designed to prevent money laundering or terrorist financing, can support efforts to prevent and detect tax crimes and corruption.[594] An FATF recommendation (discussed later) also advocates such correlation between tax crime and money laundering by treating tax crime as a predicate offence to money laundering.[595]

This link has its critics, some of whom suggest that the causational relationship between tax evasion and money laundering was proposed to add impetus to the AML industry by raising the value of laundered proceeds.[596] Others contend that the mere presence of tax havens is a threat to international security, because "[i]nternational crime, international terrorism, and money laundering also benefit from bank secrecy and the ability to hide billions of dollars in offshore accounts."[597] Yet, some argue that it is a fallacy "to aggregate laundering and tax evasion into a general problem category of 'offshore'."[598] However, many would agree that international tax evasion contributes significantly to the tax gap.[599] Multiple attempts have been made to estimate the size of offshore wealth and tax revenue losses due to tax evasion. Zucman estimated that in 2013 about US$7.6 and in 2014 US$8 trillion of the global financial wealth of households was held in tax havens, with three-quarters being unrecorded. He acknowledged that his estimate is lower than US$8.9 trillion of the Boston Consulting Group, and US$32 trillion of Henry's estimate for 2012. The highest tax revenue losses due to tax evasion fall on Europe (78

[591] OECD, "Money Laundering Awareness Handbook."
[592] European Commission (2016, 5 July), "Proposal for a Directive of the European Parliament and of the Council Amending Directive (EU) 2015/849 on the Prevention of the Use of the Financial System for the Purpose of Money Laundering or Terrorist Financing and Amending Directive 2009/101/EC."
[593] EU Directive (EU) 2015/849 of the European Parliament and of the Council, (4th Anti-Money Laundering Directive) 20 May, 2015, Chapter 1, Article 3(4)(f).
[594] FATF ,"FATF Guidance to Transparency and Beneficial Ownership," 4.
[595] FATF, "Recommendations" (2012), 116.
[596] Alldridge, "Tax Avoidance, Tax Evasion, Money Laundering and the Problem of 'Offshore'," 324-331.
[597] Kerzner and Chodikoff, *International Tax Evasion in the Global Information Age*, 3.
[598] Alldridge, "Money Laundering and Globalization," 447.
[599] The tax gap is the "difference between actual revenue collection and an estimation of potential collection" (Shome, "The Control of Tax Evasion and the Role of Tax Administration," 40).

percent) and the United States (35 percent).[600] Despite a link between tax gaps and illegal behavior, the tax gap is not entirely comprised of the underground economy.[601] The tax gap estimates of developed nations are comparatively lower than that of developing nations. In the developed nations the average gap is approximately eight percent, while in developing countries' figures are much higher.[602]

Sharing tax information is not a novel concept. Information in tax matters has been exchanged between different countries for many years. Article 26 of the OECD Model Tax Convention,[603] the UN Model Tax Convention,[604] the Convention on Mutual Administrative Assistance in Tax Matters,[605] the EU Directive on Savings Income Taxation (EU Savings Directive),[606] thousands of double tax treaties,[607] and Tax Information Exchange Agreements (TIEAs)[608] were all designed for tax information exchange. Even developing countries, with less sophisticated tax authorities, initiated tax information sharing initiatives.[609]

Some suggest that the current intensified political pressure for tax transparency is the outcome of the global financial crisis. "States cannot afford to lose billions in potential

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[600] Zucman, "Taxing Across Borders," 139, and Zucman, "The Missing Wealth of Nations," *passim*. According to one "conservative" estimate, in 2010 between US$21 and US$32 trillion was invested in 80 offshore secret jurisdictions (Henry, "The Price of Offshore Revisited," 5).
[601] Rifkin, "A Primer on the Tax Gap and Methodologies for Reducing It," 378-379.
[602] Schneider, "Shadow Economies Around the World"; Phua, "Convergence in Global Tax Compliance."
[603] "The competent authorities of the Contracting States must exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention" (OECD, "Article 26 of the OECD Model Tax Convention on Income and on Capital and its Commentary," 81).
[604] According to its text, the United Nations Model Double Taxation Convention (the United Nations Model Tax Convention) is a treaty between Developed and Developing Countries aimed at eliminating double taxation.
[605] According to its text, the Convention on Mutual Administrative Assistance in Tax Matters, developed jointly by the OECD and the Council of Europe, is a multilateral instrument to foster tax co-operation and to tackle tax evasion and avoidance.
[606] The EU Directive on Savings Income Taxation is based on a system of automatic exchange of information, imposing a withholding tax on interest income earned by European residents in a number of cooperating tax havens. It is "applied by all EU Member States apart Austria and Luxembourg, has shifted the power to tax cross-border savings from the source to the country of residence of the investors" (Gérard and Granelli, "From the EU Savings Directive to the US FATCA, Taxing Cross Border Savings Income," 15). Johannesen and Zucman, "The End of Bank Secrecy?" 89.
[607] A double taxation treaty is a negotiated agreement between two severing states with an objective among others to combat tax evasion and fiscal fraud. There are about 2,600 double tax treaties worldwide (Zarb, "Double Tax Treaties,"; Braun and Zagler, "An Economic Perspective on Double Tax Treaties With(In) Developing Countries.")
[608] As part of the OECD standards countries are expected to sign tax information exchange agreements (TIEAs) with other countries. Currently tax havens are required to sign a minimum of 12 TIEAs under the threat of economic sanctions. The total number of TIEAs signed since 2000 is 600 (Bilicka and Fuest, "With Which Countries do Tax Havens Share Information?" 177; Johannesen and Zucman, "The End of Bank Secrecy?," 66.)
[609] The 2004 Andean Community Income and Capital Tax Convention (The Andean Model) is an arrangement to avoid double taxation and prevent fiscal evasion among the member states of the Andean-Group (Andean Community Income and Capital Tax Convention, Decision 578; Velayos, Barreix, and Villela, "Regional Integration and Tax Harmonization: Issues and Recent Experiences," 95-98.

tax revenue due to poor collection of taxes."[610] Starting in 2008 with the UBS case,[611] the DOJ and the IRS "are using both carrots and sticks to coax taxpayers to bring their money back into the "system." So far, three rounds of the Offshore Voluntary Disclosure Program (OVDP),[612] FATCA, and the Department of Justice's Swiss Bank Program, in Nanavati's and Thornton's view, confirm "the urgency to the crackdown" to fix government's fiscal difficulties.[613] The recent tax leaks and scandals refocused public attention to the problems of offshore tax evasion, corruption, and international money laundering. The most recent one is the financial data leak obtained by the International Consortium of Investigative Journalists (ICIJ), the Panama Papers. There has also been an increased focus on tax issues by the international media. According to the EY report, topics of tax avoidance and tax havens gained attention of international media and received a wide coverage in the world press. Just during one week in 2013 articles on this topic appeared in the national press of, amongst others, Egypt, India, New Zealand, Pakistan, South Korea, Spain, Taiwan, the UK, Australia, Belgium, France, Germany, Malaysia, the Netherlands and the US.[614] Headlines circulating in mass-media publications during the past few years include "Top 25 Corporate Tax Dodgers,"[615] "2,500 New Inspectors to Chase Tax Evaders,"[616] and "Target Tax Evaders."[617] In 2011, the N*ew York Times* published a series "But Nobody Pays That," in which business reporter David Kocieniewski "devoted a year to digging out and exposing the obscure provisions that businesses and the wealthiest Americans exploit to drive their tax bills down to rock bottom."[618]

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[610] Kristoffersson and Pistone, "Policy Issues, Historical Development, General Legal Framework," 19.
[611] From 2000-2007, UBS assisted U.S. clients in concealing their offshore accounts from the Internal Revenue Service (IRS) by helping them open accounts in the names of fake companies to act as foreign beneficial owners of the accounts. The bank was accused of not only assisting in these tax-evasion schemes, but also of purposefully marketing these strategies to wealthy Americans. On 18 February, 2009, UBS entered into a Deferred Prosecution Agreement with the U.S. Department of Justice on 18 February, 2009. Ultimately, the dispute between the DOJ and UBS transformed into a dispute between the U.S. and Swiss governments and was resolved out of court. The settlement involve the disclosure of identities of 4,450 (eventually on 10,000) UBS account-holders suspected of using offshore accounts to evade taxes. (Szarmach, "Piercing the Veil of Bank Secrecy," 410-413. See also, Cantley, "The UBS Case," 15-24.
[612] The first OVDP was available for a short time in 2009 for US taxpayers to disclose voluntary the unreported income from hidden offshore accounts to escape criminal prosecution and annual civil penalties for a price of 20 percent of their highest account balance during an eight-year look-back period. The second OVDP was available in 2011 and provided the same benefits for a higher price of 25 percent of the taxpayer's highest account balance. Finally, the third, current one, was offered in 2012. Though it has a higher penalty rate than the previous programs, but offers clear benefits to encourage taxpayers to disclose foreign accounts now rather than risk detection by the IRS and possible criminal prosecution (US IRS, "IRS Offshore Voluntary Disclosure Efforts Produce $6.5 Billion; 45,000 Taxpayers Participate.")
[613] Nanavati and Thornton, "DOJ and IRS Use 'Carrot 'N Stick' to Enforce Global Tax Laws," 5.
[614] Ernst & Young, "Tax Transparency: Seizing the initiative," 16.
[615] Kristof, "Top 25 Corporate Tax Dodgers."
[616] Campbell, "2,500 New Inspectors to Chase Tax Evaders."
[617] Uncredited in *Vancouver Sun*, "Target Tax Evaders," B6.
[618] Kocieniewskji, D. (2011). "But Nobody Pays That," *New York Times*, available at http://topics.nytimes.com/top/features/timestopics/series/but_nobody_pays_that/index.html.

The Foreign Account Tax Compliance Act (FATCA)

The Foreign Account Tax Compliance Act (FATCA), an offset provision of the ''Hiring Incentives to Restore Employment Act''(HIRE Act) of 2010, was enacted by the US Congress in the effort to combat tax evasion. It requires foreign financial Institutions (FFIs) and certain non-financial entities to report on the foreign assets held by their U.S. account holders. These include financial accounts held by U.S. taxpayers or by foreign entities in which U.S. taxpayers hold a substantial ownership interest.[619] FATCA is a unilateral system in which automatic information reporting is used to enforce US tax law with respect to US residents' foreign accounts; foreign governments do not receive information on their residents' US (or other offshore) accounts.[620] While it was supposed to take effect in 2013, implementation of the final regulations was delayed until 2014, due to the complexities of its extraterritorial reach.[621]

Under the act, FFIs are encouraged to either directly register with the Internal Revenue Services (IRS) to comply with FATCA regulations, or comply with FATCA Intergovernmental Agreements (IGA) treated as in effect in their jurisdictions.[622] FFIs that do not both register and agree to report face a 30% withholding tax on certain U.S.-source payments made to them."[623] The HIRE Act also contained legislation requiring U.S. persons to report, depending on the value, their foreign financial accounts and foreign assets. Under FATCA, U.S. taxpayers holding financial assets outside the United States must report those assets to the Internal Revenue Services (IRS). Penalties are imposed for not reporting these financial assets.[624] FATCA's other provisions also impose tax penalties on understatements related to undisclosed foreign assets; U.S. taxpayers who do not report on their annual returns offshore account assets that exceed $50,000; and bearer bonds sold to offshore investors.[625] In 2011, in addition to the FATCA requirements, the US government introduced another measure – a parallel disclosure requirement by the BSA – requiring a United States person that has a financial interest in or signature authority over foreign financial accounts to file the FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR), if the

[619] Public Law 111–147, 18 March, 2010.
[620] Dharmapala, "Cross-Border Tax Evasion Under A Unilateral FATCA Regime," 29-37.
[621] Hirschfeld, "FATCA Update," 688.
[622] US Department of Treasury, "Foreign Account Tax Compliance Act (FATCA)," available at https://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA.aspx.
[623] US IRS, "FATCA Information for Foreign Financial Institutions and Entities."
[624] US IRS, "Summary of FATCA Reporting for U.S. Taxpayers."
[625] Public Law 111–147, March18, 2010, Title V, Subtitle A, Part I, Chapter 4, Sections 1471-1474.

aggregate value of the foreign financial accounts exceeds $10,000.[626] The deadline for filing this form has been extended seven times. The current due date for filing is 15 April 2017.[627] It is important to acknowledge that introduction of the FATCA was received with resentment by the EU financial industry. One concern raised was the potential burden of compliance for European financial institutions.[628] In response, the US Treasury issued multiple notification guidelines to clarification to process of reporting, to minimize some of the obligations imposed on foreign financial institutions and, as mentioned earlier, to postpone the date when penalties would apply.[629] Another controversy FATCA caused was its incompatibility and noncompliance with other countries' provisions on banking secrecy and data protection laws.[630] Canadian officials noted, for instance, that: "The flow of information from Canadian financial institutions directly to the IRS that is required by FATCA would violate a number of laws in Canada."[631] The common perception that "[n]ational sovereignty and foreign laws are completely disregarded under the FATCA regime," has been echoed by multiple sources.[632]

Another US measure introduced in 2013 was the Department of Justice's Swiss Bank Program, which targeted the entire banking sector of Switzerland for disclose of US taxpayers who evade taxes. Under this program, though the banks don't have to disclose names of US customers, they must turn over sufficient information about their accounts "to allow the US government to make a treaty request for the customers' names." The DOJ announced that 106 of approximately 300 Swiss banks have chosen to enter the program.[633] The Department of Justice expects to collect more than US$1.36 billion from 80 Swiss banks and other financial firms that have acknowledged assisting US taxpayers with undeclared accounts.[634]

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[626] 31 CFR 103.24. US DOT/FinCEN, "BSA Electronic Filing Requirements For Report of Foreign Bank and Financial Accounts (FinCEN Form114)."
[627] US DOT/FinCEN, "Notice 2015-1 FBAR Filing Requirements – Extending Filing Date Related to Notice 2014-1."
US IRS, "Current FBAR Guidelines," Report of Foreign Bank and Financial Accounts (FBAR).
[628] Uncredited in *Structured Products* , "EU Adds Voice to Protests Against US FATCA Tax."
[629] US IRS, "FATCA -- Regulations and Other Guidance."
[630] Brodzka, "FATCA from the European Union Perspective," 7-13.
[631] Christians and Cockfield, "Submission to Finance Department on Implementation of FATCA in Canada," 1.
[632] Grant, "It Is About Control: Progressivism, FATCA and Global Law," E91.
[633] Nanavati and Thornton, "DOJ and IRS Use 'Carrot 'N Stick' to Enforce Global Tax Laws," 7.
Letzing, "Swiss Banks Use Carrot and Stick in Addressing Hidden Accounts."
[634] Uncredited in *The Economist*, "Tackling Tax Evasion,", 62-63.
Kerzner and Chodikoff, *International Tax Evasion in the Global Information Age*, 198-200.

OECD: Common Reporting Standards (CRS)

US implementation of the much-criticized FATCA regime has pushed the Automatic Exchange to the center of the global financial stage.[635] In 2013, the G20 announced its commitment to seeing Automatic Exchange become the new global standard by the end of 2015.[636] In 2014, drawing extensively on the intergovernmental approach to implement FATCA, the OECD and G20 countries developed the Common Reporting Standards (CRS), that represents an international consensus on Automatic Exchange of financial account information for tax purposes on a reciprocal basis. The goal of CRS is to allow tax authorities to obtain a clearer understanding of financial assets held abroad by their residents. Despite some similarities with FATCA, CRS requires a broader scope for reporting, to cover:

- "… different types of investment income including interest, dividends and similar types of income; and also address situations where a taxpayer seeks to hide capital that itself represents income or assets on which tax has been evaded (e.g. by requiring information on account balances)."
- "… shell companies, trusts or similar arrangements, including taxable entities to cover situations where a taxpayer seeks to hide the principal but is willing to pay tax on the income."
- "… not only banks but also other financial institutions such as brokers, certain collective investment vehicles, and certain insurance companies."[637]

In 2015, 53 jurisdictions signed an agreement to automatically exchange information based on Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters.[638] By January 2017, the list of signatories grew to 108.[639]

The CRS were also a result of the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum). Established in the early 2000 under the OECD umbrella, its role was to ensure implementation of internationally agreed standards of transparency and exchange of information in the tax area. Annually, it conducts in-depth peer reviews among its 139 members to assess their level of compliance with the CRS.[640]

The UK Criminal Finance Bill 2016-2017

The effort to fight tax evasion took a shaper turn with the introduction of the Criminal Finance Bill, an amendment the Proceeds of Crime Act 2002, by the UK Government on

[635] Kerzner and Chodikoff, International Tax Evasion in the Global Information Age, 287.
[636] G20, "G20 Meeting of Finance Ministers and Central Bank Governors,". 5-6; Editorial Board in *New York Times*, "The Group Of 20 Tackles Tax Avoidance."
[637] OECD, "Standard for Automatic Exchange of Financial Account Information in Tax Matters," 9-12.
[638] The Convention on Mutual Administrative Assistance in Tax Matters ("the Convention") was developed jointly by the OECD and the Council of Europe in 1988 and amended by Protocol in 2010. OECD, "The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol," Chapter III, Section I, Article 6, 14.
[639] OECD and Council of Europe, "Convention on Mutual Administrative Assistance in Tax Matters."
[640] OECD, "Tax Transparency 2016: Report on Progress," 9.

14 October 2016. In addition to changes of certain aspects on the AML/CFT framework, this draft legislation proposes the introduction of a new offence of failing to prevent the facilitation of tax evasion. In its current draft, criminal facilitation constitutes either a UK tax evasion offence or an equivalent offence under foreign law. [641] Both offences have extraterritorial application, though the foreign tax evasion requires for the entity or the facilitator to have links with the UK.[642] The bill also introduces the "Unexplained Wealth Order," which requires individuals to explain the origin of assets that appear to be disproportionate to their known income. This information will be made available for law enforcement agencies to use against any person suspected of links to serious crime and overseas politically exposed persons. [643] Though legal professionals suggest "the main impact of the new offences is likely to be compliance-related," experts at PWC warn "the criminal acts of individual employees could result in criminal liability and significant financial penalties for the company."[644]

Stronger Powers For Tax Authorities

Recently, there has been a noticeable push to expand the role of tax authorities beyond detection of tax evasion and toward identification of and reporting other suspected serious crimes such as bribery, corruption, money laundering and terrorism financing. The 2015 OECD Report highlights potential benefits of sharing STRs with tax authorities, pointing out that some jurisdictions successfully use STRs for civil purposes already, and concluding that tax administrations should have the fullest possible access to the STRs received by the FIU in their jurisdiction to tackle financial crime with maximum effectiveness. The report concludes: "There are potentially significant financial and efficiency gains to be realised by both tax administrations and money laundering authorities from increasing their levels of co-operation, information sharing and, more specifically, in taking a joint approach to analyzing and utilizing STRs."[645]

Relevance to the UAE

In 2010, the UAE joined the Global Forum on Transparency and Exchange of Information for Tax Purposes, following the country's decision on implementation of the G20

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[641] UK Criminal Finance Bill [As Amended in Public Bill Committee] (The Bill) (22 November, 2016), Part 3: Corporate Offences of Failure to Prevent Facilitation of the Tax Evasion, Section 40(4) and Section 41(1), House of Commons, available at https://www.publications.parliament.uk/pa/bills/cbill/2016-2017/0097/17097.pdf.
[642] UK Criminal Finance Bill, Part 3, Section 41(2).
[643] UK Criminal Finance Bill, Chapter 1.
[644] Pickworth, Carroll, and Anderson, *"Follow the Money – The Criminal Finance Bill"; Morse, "PwC Comments on the Implications of the Criminal Finance Bill - Corporate Offences of Failure to Prevent Facilitation of Tax Evasion."*
[645] OECD, "Improving Co-Operation Between Tax and Anti-Money Laundering Authorities," 31.

resolutions for the exchange of information for tax purposes. In 2012, the UAE Cabinet instructed the Ministry of Finance to gather information on natural or legal persons, including free zones, for the purpose of tax information exchange. The same year, the UAE signed a Memorandum of Understanding (MoU) with the Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes. Starting in 2013 two workshops were conducted on frameworks for standards of transparency and exchange of information for tax purposes in the MENA region.[646] Despite the country's verbal commitment to transparency and exchange of information, the 2016 Global Forum Peer Review indicated: "the UAE has not exchanged information in every case where it was requested, in the Peer Review Report." The country's was rated as *Partially Compliant* with the international standard. The UAE's delays on establishing an EOI unit created a backlog of requests on an urgent basis, as did the country' difficulties in setting an EOI framework. Issues related to poor communication were also raised: "The UAE's EOI partners have reported difficulties in communicating with the UAE Competent Authority. Status updates were never sent, and even where partial responses were sent no explanation was offered on the status of the missing information." Another identified shortcoming was dispersion of information among local authorities. Additionally, the UAE was faulted for delaying signing TIEAs with jurisdictions interested in entering into information exchange arrangements.[647] The FATF Mutual Evaluation of 2008 earlier raised similar criticism along the lines of record-keeping fragmentation and poor cooperation.

In 2015, the US and the UAE signed a memorandum of understanding to improve international tax compliance and implement FATCA. The latter requires the United Arab Emirates to obtain information on all "U.S. Reportable Accounts" and to exchange this information annually with the United States on an automatic basis.[648] The bilateral agreement between the US government and the UAE has been in force since February

[646] UAE Ministry of Finance, "UAE Joins Membership of the Global Forum on Transparency and Exchange of Information."
[647] OECD, "Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: United Arab Emirates 2016, Phase 2: Implementation of the Standard in Practice," 7-9. 12.
[648] "The term 'U.S. Reportable Account' means a Financial Account maintained by a Reporting United Arab Emirates Financial Institution and held by one or more Specified U.S. Persons or by a Non-U.S. Entity with one or more Controlling Persons that is a Specified U.S. Person." UAE Central Bank, "Agreement between the Government of the United States and the Government of America United Arab Emirates to Improve International Tax Compliance and to Implement FATCA," Article 2(1), 5.

2016.[649] Based on the agreement, all financial institutions located within the UAE were required to register with the IRS by 2017. By that date, the UAE is required to obtain information on the "US Reportable Accounts" from the reporting financial institutions. "In order to do so, the UAE will implement local laws to impose reporting obligations on UAE Financial Institutions and branches of non UAE financial institutions resident in the UAE."[650] The local press publicized the FATCA Agreement in the usual optimistic way. For example: in *Gulf News*: "Saeed Al Hamiz, assistant governor for banking supervision at the UAE's Central Bank, said that there were positive results regarding the banks' readiness to send information to the IRS."[651] According to the press, the local financial institutions have started to warn their customers about new international tax compliance measures, and with the usual optimistic forecast for implementation and compliance. [652] With the large number of US persons living in the UAE, FATCA compliance is important to both UAE financial institutions and to US individuals and entities holding accounts with such institutions.[653] However, the country's reporting authorities and FFIs have to ensure that their systems are set to collect and share the necessary information in timely matter to avoid the earlier criticism posed by the Global Forum Peer Review.

The Current (2012) Forty Recommendations

In 2012, the FATF reviewed and updated its recommendations, doing so in collaboration with FATF-Style Regional Bodies (FSRBs), the International Monetary Fund, the World Bank, and the United Nations. The result was a 128-page document that included not only a revised set of Forth Recommendations, but also an extensive set of Interpretive Notes. They represent, as of this writing, the definitive international initiative against transnational money laundering. The recommendations are broken into six sections, headed A through G, some of which contain subsections. The main sections are:

A. AML/CFT Policies and Coordination
B. Money Laundering and Confiscation
C. Terrorist Financing and Financing of Proliferation
D. Preventive Measures
E. Transparency and Beneficial Ownership of Legal Persons and Arrangements

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[649] US DOT/UAE, "Memorandum of Understanding, 17 June 2015" ; US DOT/UAE, "Agreement between the Government of the United States of America and the Government of the United Arab Emirates to Improve International Tax Compliance and to Implement FATCA"; UAE Ministry of Finance, "Tax Compliance.".
[650] UAE Ministry of Finance, "Guidance Notes on the requirements of the Intergovernmental Agreement between the United Arab Emirates and the United States," 8.
[651] Dias, "UAE Banks to Comply with FTCA Before Deadline."
[652] Kassem, "UAE Banks Warn Customers on New International Tax Compliance Measures"; Maceda, "UAE Banks Notify Expats on Anti-Tax Evasion Policy"; Dias, "UAE Banks to Comply with FTCA Before Deadline."
[653] In 2015, there were about 50,000 US citizens living in the UAE (Snoj, "UAE Population – By Nationality."

F. Powers and Responsibilities of Competent Authorities and Other Institutional Measures
G. International Cooperation

Besides the consolidation of the previous Forty-plus-Nine Recommendations, the authors of the report noted that the "revisions address new and emerging threats, clarify and strengthen many of the existing obligations, while maintaining the necessary stability and rigour in the Recommendations. The FATF Standards have also been revised to strengthen the requirements for higher risk situations, and to allow countries to take a more focused approach in areas where high risks remain or implementation could be enhanced." This "risk-based approach," the authors continued, "allows countries, within the framework of the FATF requirements, to adopt a more flexible set of measures, in order to target their resources more effectively and apply preventive measures that are commensurate to the nature of risks, in order to focus their efforts in the most effective way."[654]

AML/CFT Policies and Coordination (Recommendations 1 and 2)

This risk-based element is discussed in the revised Recommendation 1, in which member countries are advised to assess their own AML/CFT risks, and take action by "designation and authority or mechanism to coordinate actions to assess risks, and apply resources, aimed at ensuring the risks are mitigated effectively." Besides creating or designating this competent authority, member countries should require their financial institutions and relevant professions to do the same, presumably within their own industries. Recommendation 2 announces the expectation that the aforementioned authorities will establish and carry out relevant policies; member countries are also instructed to require their FIU, along with law enforcement and other relevant bodies, to have appropriate AML/CFT policies in place, and to ensure coordination between them.[655]

Money Laundering and Confiscation (Recommendations 3-4)

Recommendation 3 requires that money laundering be criminalized along Vienna Convention and Palermo Convention standards, "with a view to including the widest range of predicate offences." The latter (according to the interpretive note) "should, at a minimum, include a range of offences within each of the designated categories of

[654] FATF, "Recommendations" (2012), 8.
[655] FATF, "Recommendations" (2012), 11.

offences. The offence of money laundering should extend to any type of property, regardless of its value, that directly or indirectly represents the proceeds of crime. When proving that property is the proceeds of crime, it should not be necessary that a person be convicted of a predicate offence."[656] Recommendation 4 requires countries to apply the same conventions' standards to allow the confiscation and seizure of property and proceeds involved with AML/CFT law enforcement charges, "without prejudicing the rights of *bona fide* third parties." Subsequent paragraphs require the introduction of relevant related authority, and include the adoption of laws that allow "non-conviction based confiscation," and place the burden on the alleged offender to prove proceeds' lawful origin.[657]

Terrorist Financing and Financing of Proliferation (Recommendations 5-8)
Recommendations 5 through 8 criminalize terrorist financing acts, organizations, and individual terrorists; require member states to freeze assets of persons or entities designated by the UN Security Council as terrorists or involved with the proliferation of weapons of mass destruction; and instruct countries to review their laws so that charities and non-profit organizations cannot be misused for purposes related to terrorism. [658]

Preventive Measures (Recommendations 9-23)
Recommendation 9, entitled "Financial institution secrecy laws," states only that: Countries should ensure that financial institution secrecy laws do not inhibit implementation of the FATF Recommendations."[659] It has no interpretive notes. Recommendation 10 is regarding "Customer due diligence." It bars financial institutions "from keeping anonymous accounts or accounts in obviously fictitious names"; requires institutions to undertake CDD measures when establishing accounts, a suspicion emerges about financing, or when there are doubts about a customer's identity data. CDD requirements also kick in when carrying out transactions above USD/EUR 15,000, and in a range of circumstances regarding wire transfers specified in the Interpretive Note to Recommendation 16.[660] The recommendation also advises institutions to take a

[656] FATF, "Recommendations" (2012), 12, 34.
[657] FATF, "Recommendations" (2012), 12.
[658] FATF, "Recommendations" (2012), 13.
[659] FATF, "Recommendations" (2012), 14.
[660] FATF, "Recommendations" (2012), 14, 71-76.

risk-based approach to its implementation. The last recommendation in this section, 11 "Record-keeping," requires financial institutions to maintain records on accounts and transactions for five years, and to make them "available to domestic competent authorities upon appropriate authority." [661]

A subsection entitled "Additional Measures for Specific Customers and Activities" (Recommendations 12-16) addresses special cases involving diligence toward Politically Exposed Persons (PEPs), correspondent banking, money-or-value transfer services (such as *hawala*), and wire transfers. Recommendation 15 broadly addresses new technologies, advising member states and their institutions to assess money-laundering risks arising from ongoing technology changes, whether they involve new delivery systems or a modification to existing ones. [662]

The subsection "Reliance, Controls and Financial Groups" (Recommendations 17-19) sets forth CDD requirements on third parties involved in banking transactions, such as foreign branches and subsidiaries, and requiring "enhanced due diligence" in "higher-risk countries" as designated by the FATF. [663] Recommendations 20 and 21 are grouped under the subheading "Reporting of Suspicious Transactions," and establish requirements of reporting to the relevant FIU (Financial Intelligence Unit), while including "safe harbor" protection for those individuals and institutions doing so. At the same time, Recommendation 21(b) holds that a member country's law should prohibit any employee or official from disclosing the reporting of a suspicious transaction to the FIU.[664]

The last two recommendations in this section, 22 and 23, concern DNFBPs (Designated Non-Financial Businesses and Professions." The first recommendation extends DNFBP status under certain circumstances (generally involving transaction size) to casinos, real estate agents, dealers in jewelry and precious metals, lawyers, and trust and company service providers.[665] The latter recommendation spells out circumstances under which those DNFBPs should be required to report certain transactions as suspicious.[666]

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[661] FATF, "Recommendations" (2012), 15.
[662] FATF," Recommendations" (2012), 16-17.
[663] FATF, "Recommendations" (2012), 18-19.
[664] FATF, "Recommendations" (2012), 19.
[665] *Trust and company service providers* are those persons or businesses not covered by other recommendations, "which as a business, provide any of the following services to third parties: acting as a formation agent of legal persons; acting as

Transparency and Beneficial Ownership of Legal Persons and Arrangements (Recommendations 24-25)

These two recommendations require the prevention of "the misuse of legal persons for money laundering or terrorist financing," and the same regarding legal arrangements.[667]

Powers and Responsibilities of Competent Authorities and Other Institutional Measures (Recommendations 26-35)

This section is broken down into four subsections. The first, "Regulation and Supervision" (Recommendations 26 and 27) holds member countries to ensure they have adequate regulation in place along FATF guidelines; prohibit shell banks; require licensing/registration of financial institutions; give supervising and regulatory bodies adequate authority to acquire relevant data from financial institutions; and hold DNFBPs to adequate standards of registration and supervision.[668] The second section is entitled "Operational and Law Enforcement" (Recommendations 29-32). Its first (29) recommendation requires establishment of an FIU in each country. Its second (30 requires that law enforcement has the appropriate authority to investigate both money laundering and a wide range of predicate offenses, as well as to freeze and seize property that may become judicially recognized as criminal proceeds. Also, "[C]ountries should ensure that, when necessary, cooperative investigations with appropriate competent authorities in other countries take place."[669] Recommendation 31 mandates that competent authorities "should be able to obtain access to all necessary documents and information for use in those investigations, and in prosecutions and related actions. This should include powers to use compulsory measures…." Recommendation 32, on Cash Couriers, remains largely as it appeared as the ninth Special Recommendation.[670] Four pages of corresponding Interpretive Notes discuss, among other things,

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(or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons; providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement; acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another form of legal arrangement; acting as (or arranging for another person to act as) a nominee shareholder for another person." FATF, "Recommendations" (2012),113-114.

[666] FATF, "Recommendations" (2012), 19-21.

[667] FATF, "Recommendations" (2012), 22.

[668] FATF, "Recommendations" (2012), 23.

[669] FATF, "Recommendations" (2012), 24-25.

[670] FATF, "Recommendations" (2012), 25.

declaration/disclosure systems for travellers, and the trafficking of precious metals and stones; a mini-glossary also introduces several specific legal definitions.[671] Recommendations 33 and 34 are grouped together under the subheading "General Requirements." Respectively, they require countries to "maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of their AML/CT systems"; and "establish guidelines, and provide feedback" to help financial institutions and DNFBPs "in applying national measures to combat money laundering and terrorist financing, and, in particular, in detecting and reporting suspicious transactions." The final recommendation in this section, 35 ("Sanctions") is placed in a subsection of the same name and requires countries to "ensure that there is a range of effective, proportionate and dissuasive sanctions" in place to deal with violations. None of these three recommendations has any Interpretive Notes attached to it.[672]

International Cooperation (Recommendations 36-40)

The last four recommendations are grouped together under the subheading "International Cooperation," and reflect a challenging part of the AML/CFT process. Recommendation 36 requires countries to join and implement the Vienna Convention and several other international treaties; it encourages ratification of several other such conventions, including the 2001 Council of Europe Convention on Cybercrime, when applicable. Recommendation 37 on "Mutual Legal Assistance" requires countries to "have an adequate legal basis for providing assistance and, where appropriate, should have in place treaties, arrangements or other mechanisms to enhance cooperation." Members are expected to, among other things, refrain from restricting mutual legal assistance; be able to prioritize mutual legal assistance requests; and keep such requests confidential (i.e., to avoid alerting a suspect). The next two recommendations (38-39) cover freezing/confiscation and extradition, while the last (40 – "Other forms of international cooperation") notes among other things that Memoranda of Understanding (MOU) may be used to facilitate bilateral and multilateral cooperation between competent authorities. [673]

[671] FATF, "Recommendations" (2012), 99-102.
[672] FATF, "Recommendations" (2012), 26.
[673] FATF, "Recommendations" (2012), 27-30.

Conclusion

The history of AML law shows it beginning with regulatory efforts such as the BSA, which, though domestic, also attempted to grapple with the international dimension of the problem. That this was seen at the time of the BSA is evident in the subsequent US-Swiss MLAT, itself the forerunner of the Swiss BSA-like "Agreement on the Observance of Care." Over time, domestic regulations tightened into criminal statutes with "extraterritorial reach" such as the US 1986 Money Laundering Control Act (to mention only one example); and soon morphed into major international efforts such as the Vienna Convention and the subsequent FATF recommendations series. While concern at drug trafficking was at the heart of many of these efforts, post-9/11 AML legislative efforts have tended to link the practice to combating the financing of terrorism (CFT) and weapons proliferation. This is seen in the 2012 version of the FATF Forty Recommendations, which is currently the principal international legislative response to the problem. By 2010 tax evasion as a criminal offence had become a top priority in the fight against money laundering and corruption. Several legislative initiatives, requiring transparency and exchange of information for tax purposes among jurisdiction, were introduced, some raising controversies. The UK Criminal Finance Bill, the latest development in this scenario, though still evolving before its final signing, has taken a new turn by introducing criminal liability for the facilitation of tax evasion.

5: Economic Implications of Transnational Money Laundering on the UAE and the World at Large

In his book, the title of which can be translated as *Criminal Confrontation of the Crime of Money Laundering*, Emirati author Ibrahim Al Mulla listed four factors he felt made the UAE especially vulnerable to this activity: high income; geographic location; economic climate; and proximity to drug cultivation/production areas. While not the only factors at issue, all of these made the UAE an ideal target for money-laundering operations. And as Al Mulla noted, in the 1980s and beyond the UAE worked to craft AML laws and regulations meant to put the country in step with United Nations treaties and FATF recommendations.[674] His observations indicate that, despite its critics, the country has long at least been aware of its vulnerabilities.

While the UAE's AML/CFT legislation will be described in greater detail elsewhere, evidence of an effort to criminalize money laundering goes back to a Penal Code article of 1987. And while the UAE's first AML-specific legislation was signed into law in early 2002, at a time when concerns over terrorism and terrorist financing were helping to accelerate the creation and passage of such laws, the UAE had prioritized AML legislation well before the terrorist attacks of 11 September 2001. In the aftermath of that tragedy, however, the lack of specific AML legislation left the UAE vulnerable to criticism, and the accusation of a kind of willful ignorance about how its financial sectors were being exploited.[675] According to one former auditor working in the United Arab Emirates, much of the banking industry there indeed engaged in a kind of conscious blindness about transfers and operations that, under other circumstances, would have triggered suspicions and alarms.[676]

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[674] Al Mulla, [*Criminal Confrontation of the Crime of Money Laundering]*, 307-311, translated for the author by Hamda Faidallah Abdulkarim.
[675] Lilley, *Dirty Dealing*, 34.
[676] Hakim, United Arab Emirates Central Bank & 9/11.

Yet whatever may be said of the real or alleged failings of financial watchdogs, particularly central banks, those in all countries generally wish to avoid imposing unnecessary regulation. Historically, central banks have preferred a laissez-faire approach out of necessity, shifting most responsibilities to their member institutions. As a 1967 publication of the Bank of England observed: "The need to avoid delay in commercial transactions has made it desirable for the Bank in turn to delegate to commercial banks a considerable degree of authority to handle day-to-day transactions."[677] This was presumably still true in 2001, and likely remains the case today. The problem occurs when those financial institutions (and other relevant ones) prove unable or unwilling to adequately scrutinize or police their load of daily business dealings, which may exist in crushing numbers. As shown earlier, some ML techniques are deliberately constructed to make such monitoring inconvenient, if not impossible. While modern AML/CFT thinking continues to identify new threats and vulnerabilities, addressing each promises to be a work-intensive task requiring the involvement and attention of many specialists.

Unsurprisingly perhaps, a criticism in some FATF evaluations has been the inability or unwillingness of a given country to allocate enough resources to otherwise address problem areas; such criticism has been leveled at the UAE.[678] It is also worth noting that not all of the consequences of money laundering may be immediately seen as negative. One list of 25 consequences of money laundering includes entries such as "greater availability of credit" and "profits for the financial sector."[679] However, the potential negative effects far outnumber those benign ones. The negative implications are spelled out briefly in the following chapter, which tries to introduce them by placing them in a UAE setting in order highlight that country's vulnerabilities.

UAE Background, Strength, and Vulnerabilities

The United Arab Emirates was formed in 1971 as a federation of seven emirates: Abu Dhabi, Dubai, Sharjah, Ajman, Umm Al-Quwain, Ras Al-Khaimah, and Fujairah. The federal capital is located in oil-rich Abu Dhabi, the ruler of which has traditionally held the position of president (technically for renewable five-year terms). The ruler of Dubai

[677] "The UK Exchange Control: A Short History," 246.
[678] MENA/FATF, "Mutual Evaluation Report" (2008), 9-13.
[679] Unger et al, "The Amounts and Effects of Money Laundering," 100-101.

– with less oil wealth but a strong commercially driven economy – traditionally holds the position of vice president/prime minister.[680] Further establishing Abu Dhabi and Dubai's preeminence among the seven emirates is the fact that the rulers of both effectively have veto power in the Supreme Council of Rulers, which is the chief legislative body of the country, comprised of each emirate's ruler.[681] Though its population is largely made of resident expats from Asia, the Middle East, North Africa, and the West (Emirati account for about 20% of the total population), the country is usually described as unified and stable. These factors have made its location – "roughly half way between Asia and Europe" – especially attractive to international business. Also important is the fact that the UAE is, "by international standards, a law-abiding country whose citizens residents enjoy low crime rates and civil and domestic harmony.[682]

In such settings, the UAE's GDP growth has been, at times, spectacular. It grew from a 1975 figure of US$10 billion to US$164 billion by 2006. While growth slowed after 2007 (and even contracted -4.8% in 2010), it subsequently continued to rise at moderate percentages.[683] As of 2013, UAE GDP was set at US$383.80 billion.[684] Although oil is a principal source of wealth, a significant area of GDP growth has been in non-oil sectors. A study of the period 1975-2006 found that oil GDP grew at an annual average of 7.1%, while non-oil GDP grew faster, at 11.45%. Significant non-oil areas have been wholesale/retail trade, construction, manufacturing, tourism, and financial services.[685] The latter area is, of course, particularly vulnerable to money-laundering concerns. Banks operating in the UAE can be divided into two categories: Locally Incorporated Banks, which "are public shareholding companies licensed in accordance with provisions of Union Law No. (10) of 1980"; and Branches of Foreign Banks, licensed by the Central Bank to operate in the UAE under the same law.[686] By the end of 2006, the UAE had 21 national commercial banks operating 516 branches; 25 foreign commercial banks, operating 121 branches; two investment banks; 11 finance companies operating 18 branches; 13 investment companies; 15 financial intermediaries; 100 securities brokers; and 102 moneychangers operating 274 branches.[687] By the end of 2014, the

[680] MENA/FATF, "Mutual Evaluation Report" (2008), 14.
[681] Provisional Constitution of the United Arab Emirates (1972), Part IV, Article 49.
[682] MENA/FATF, "Mutual Evaluation Report" (2008), 14.
[683] Trading Economics, "United Arab Emirates GDP Growth Rate 2000-2014."
[684] Trading Economics, "United Arab Emirates GDP 1973-2014."
[685] MENA/FATF, "Mutual Evaluation Report" (2008), 14.
[686] UAE Central Bank, "Commercial Banks."
[687] MENA/FATF, "Mutual Evaluation Report" (2008), 16.

number of national commercial banks had reached 23, with 892 operating branches, while the number of foreign commercial banks grew by 12 percent reaching 28 in total with 115 operating branches.[688] (The latter is another indicator of rapid growth of the UAE financial sector.) The securities market includes a pair of domestic operations: the Abu Dhabi Securities Market and the Dubai Financial Market.

As of 2008, it was perceived that "the majority of serious criminal activity in the UAE relates to either transshipment of prohibited goods through the high-volume port system, or the commission of financial crimes and fraud-related offenses in the global financial sector."[689] In the words of a US-UAE Business Council report, the country has been "engaged in a vigorous campaign to develop its ports and transportation infrastructure in an effort to bolster the country's position as a vital hub in the global logistics supply chain."[690] However, the ports operating in the country also present additional threats for trade-based money laundering. The country's ports operate under regulations from the National Transport Authority (NTA), established in 2006, in coordination with other federal and local transportation regulatory agencies to promote consistency. The NTA also proposes policies, laws, and legislation on marine and land transport.[691] The FATF mutual evaluation report also noted that the country was one "where the carrying of large amounts of cash and purchasing goods and property with cash is quite common."[692] Adding to the concerns about money-laundering threats, the system of *hawala* has thrived in the UAE, especially among its expat population.[693]

It may also be relevant to note that individual emirates have been able to "create a number of free zones in which foreign nationals may trade outside the constraints of domestic commercial law," one such being the Dubai International Financial Center (DIFC).[694] Another such entity is the Dubai Multi-Commodities Center (DMCC) free zone, in which the Dubai Gold and Commodities Exchange (DGCX) operates.[695] Dubai's own government notes that it "was the first emirate to pioneer the free zone model, offering

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[688] UAE Central Bank, "List of National Banks & Distribution of their branches in the UAE as at 31-10-2014," and "List of Foreign Banks and Distribution of their branches in the UAE as at 31-10-2014."
[689] MENA/FATF, "Mutual Evaluation Report" (2008), 14.
[690] US-UAE Business Council, "Council Report: U.A.E. Ports & Transportation Infrastructure Industry and Opportunities for Partnership."
[691] US-UAE Business Council, "Council Report: U.A.E. Ports & Transportation Infrastructure Industry and Opportunities for Partnership."
[692] MENA/FATF, "Mutual Evaluation Report" (2008), 14.
[693] MENA/FATF, "Mutual Evaluation Report" (2008), 15, and Hakim, *United Arab Emirates Central Bank & 9/11*, *passim*.
[694] MENA/FATF, "Mutual Evaluation Report" (2008), 14.
[695] MENA/FATF, "Mutual Evaluation Report" (2008), 16.

foreign businesses attractive concessions and a number of investment incentives, including 100 percent ownership of a subsidiary and zero taxation. There are currently 22 free zones in operation, developed for specific sectors and industries including ICT, media, finance, gold and jewelry and health care. Jebel Ali Free Zone is now one of the world's largest free zones allowing for 100 percent foreign ownership with no recruitment or sponsorship restraints."[696]

As this thesis will detail, the UAE government has since 1987, and especially since 2002, taken steps toward addressing and reducing the money-laundering threat. Some involve administrative regulations, such as a restriction on "the entry of new foreign-owned institutions."[697] More profound are legislative efforts (discussed in depth in later chapters), particularly the 2002 anti-money laundering law and the 2004 counter-terrorism law, which also addressed financing and money-laundering issues. Both apply to the financial "free zones" mentioned above, such as the DIFC. The DIFC, being then a relatively recent addition to the UAE's financial picture, was spared criticism in the 2005 book *United Arab Emirates Central Bank & 9/11 Financing*. The author, Iqbal Ismail Hakim, is a past chief examination officer in the Banking Supervision and Examination Department of the UAE Central Bank. Beyond evident editing and production limitations, the book, subtitled *Authorities Shut Their Eyes!*, needs careful handling as a source, given that much of it involves personal vindication and personal attack. (It is noted in several places that the author's life had been threatened.) Yet it paints a picture, with documents reproduced throughout, of a system in which questionable financial transactions regularly occurred, at least until the AML law of 2002 and subsequent efforts to raise awareness about the subject.

Some Implications of Money Laundering

The wait for specific AML legislation in the UAE may stem from lack of awareness of the extent of the problem, although as will be seen in a future chapter, significant national discussions of the concept began at least by 2000. It was noted in that period that, ironically, many of the same qualities that gave legitimate customers confidence in UAE financial institutions could also attract money launderers. "Remember, if you are a money launderer, you want to have confidence in the financial system you are using, just

[696] Dubai Foreign Direct Investment Office, "Why Dubai?" 23.
[697] MENA/FATF, "Mutual Evaluation Report" (2008), 16.

as a genuine customer does," a UK consultant observed in 2001. He added: "Think of it this way – If it's attractive to a real customer, then it's attractive to a money launderer."[698] There may also have been a lack of understanding of its potential harmful effects to an economy. The fact that money laundering is not a victimless crime can be seen in the lists of predicate offenses that figure in much AML legislation, but such practices also have (to quote one book) "serious macroeconomic implications." These include investing in legitimate businesses (to mix or mingle "bad" funds with legitimate funds); choosing investments not to make a profit "but to avoid detection"; and moving money rapidly into and then out of a country.[699] Speaking in Paris on 10 February, 1998, International Monetary Fund Managing Director Michael Camdessus described the scale of money laundering as offering "two sorts of risks: one prudential, the other macroeconomic."

> Markets and even smaller economies can be corrupted and destabilized. We have seen evidence of this in countries and regions, which have harbored large-scale criminal organizations. In the beginning, good and bad monies intermingle, and the country of region appears to prosper, but in the end, Gresham's law[700] operates, and there is a tremendous risk that only the corrupt financiers remain.

A kind of "lasting damage" was possible, he added, "when the infrastructure that has been built up to guarantee the integrity of the markets is lost. Even in countries that have not reached this point, the available evidence suggests that the impact of money laundering is large enough that it must be taken into account by macroeconomic policy makers." Relevant to the money-laundering phenomenon, he added, was the fact that "Money subject to laundering behaves in accordance with particular management principles. There is evidence that it is less productive, and therefore that it contributes minimally, to say the least, to optimization of economic growth." Camdessus went on to list several "potential macroeconomic consequences of money laundering." They included:

- "Inexplicable changes in money demand"
- "Greater prudential risks to bank soundness"
- "Contamination effects on legal financial transactions," and
- "Greater volatility of international capital flows and exchange rates due to unanticipated cross-border asset transfers."

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[698] Quoted in Jose, "Region 'faces risk of dirty money flow.'"
[699] World Bank, Combating Money Laundering and the Finance of Terrorism, I:19.
[700] Gresham's Law may be presented as: "Bad money drives out good." See Rolnick and Weber, "Gresham's Law or Gresham's Fallacy?" 185.

In addition, Camdessus argued that besides "the economic costs, we must also remember the social and political dimensions of crime and related money laundering – the suffering of the victims and the overall weakening of the social fabric, and collective ethical standards. All of this lends urgency to anti-laundering efforts, which attack criminal activity at the most vulnerable point – where its proceeds enter the financial system."[701] UAE authorities have affirmed this from a variety of viewpoints. The chief executive of DIFC, Nasser Al Shaali, put it in business terms when speaking to a reporter in 2008. He said that "a sound compliance framework is essential for regional companies to ensure long-term business sustainability," adding (in the reporter's paraphrasing) that statistics showed that "companies that apply good corporate governance typically see a 30 per cent premium on their stock price as opposed to those who don't."[702] From a law enforcement perspective, in his book on money laundering UAE author and academic Ibrahim Al Mulla deemed the crime so serious that he called for tougher penalties – a rare sign of a public disagreement with national policy.[703]

Outside observers have praised the country's serious approach to AML/CFT issues. But some reports have indicated the UAE (which, again, had no specific AML law before 2002, or comprehensive CFT law until 2004) spent a long time playing catch-up. A 2008 MENA-FATF report on the UAE noted that officials were unable to provide assessors with some basic data – exact figures on free zones, for example. Nor could they provide "any documents that articulated the UAE's overall policies and objectives for combating ML and FT. It appeared, therefore that there is no overall published government policy on AML/CFT matters. While the national committees tasked with the responsibility of overseeing the AML/CFT efforts might be expected to have formulated certain objectives to underpin a formal strategy, the mission was not made privy to any of the committees' discussions or output."[704] And while many problems spotted in an earlier 2004 assessment had been mended, "the progress made by the authorities in recent years has been over-shadowed in many areas by new international [FATF] standards."[705] In this light, some remarks on the consequences of a weak AML approach bear repeating.

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[701] Camdessus, "Money Laundering: The Importance of International Countermeasures."
[702] Saleem, "Sound Compliance Framework Needed."
[703] Al Mulla, [*Criminal Confrontation of the Crime of Money Laundering],* 334-335, translated for the author by Hamda Faidallah Abdulkarim.
[704] MENA/FATF, "Mutual Evaluation Report" (2008), 18.
[705] MENA/FATF, "Mutual Evaluation Report" (2008), 21

Effect on Development

While the robustness of the UAE financial and development areas separate it from many other regional economies, it is not so strong as to be invulnerable. This was noticed in the global economic crisis that began in 2007. Two years into this, Dubai experienced significant debt problems that became internationally visible.[706] Despite this, officials were upbeat in local media interviews.[707] In fact, little negative local economic news appeared in 2009 in the UAE, where journalists work in a tightly regulated industry where self-censorship prevails. The existing media law's Article 81 prohibits publication of "matters that impair the national currency or confuse opinions on the economical status of the state."[708] (It may be notable that in 2009, as the economy sputtered, a draft revised media law – ultimately never signed into action – included in Article 32, No. 3, vague restrictions against the broadcasting or publishing of "misleading news to the public in a manner that can hurt the national economy.")[709] Irrespective of local coverage, in the following year, 2010 (as noted above), the economy endured a short period of negative growth.

The UAE's long-term recovery would seem to require attention to details that dovetail into a strong AML/CFT framework. A World Bank publication notes, for example, that besides macroeconomic effects, money laundering undermines the rule of law; [710] certainly the UAE has striven to progress into a civil society with such an attitude to standards and ethics. The same publication also links economic and governmental quality, and UAE officials routinely point to government performance as crucial to the country's success.[711]

The same publication warns of the effects of money laundering on the "function and integrity of the financial system. … Losses to depositors, destabilization of the financial system, and costs to the taxpayers are but the obvious and calculable costs of such

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[706] For examples of contemporary international media coverage of this issue, see Reed, "The Sheikh's New Clothes? Dubai's Desert Dream Ends" and Smith and Kiwan, "Dubai Seeks Debt Delay, Some Units Cut to Junk."
[707] See, for example, Almezel and Ahmed, "'Dubai a Global Model for Success.'"
[708] UAE Federal Law No. (15), 1980, Regarding Publications and Publishing.
[709] A draft of the law, with editorial commentary and criticism, appeared in the local newspaper *Al Khaleej*, 18 Jan., 2009, 17 (translation by Dina Gharbo).
[710] World Bank, Combating Money Laundering and the Finance of Terrorism, I:20.
[711] World Bank, *Combating Money Laundering and the Finance of Terrorism*, I:22; for an example of official remarks on government performance, see Al Maktoum, "Sheikh Mohammed's speech at the 2004 World Economic Forum, Sunday, May 16, 2004," (English translation).

activities." While the UAE does not, as of this writing, have an income or sales tax system in place, officials are unlikely (especially given the slowed pace of growth) to take lightly a loss in resources that could be spent on infrastructure or other projects among their own citizens, especially in a region in which political unrest is a sensitive concern. In related vein, the World Bank publication also observes that ML practice usually also involves the corruption of "bank officers and other financial market professionals, such as insurance and securities brokers," again undermining "confidence in the financial market," and spilling "over into other forms of criminality, such as fraud and extortion."[712] As the UAE's creation of economic free zones testifies to the UAE's commitment to economic liberalization, this would seem to be under threat should the country, in failing to enact "prudent" AML/CFT restrictions, be required to intervene more forcefully in interrupting the flow of funds and/or commodities.[713]

Warnings for Developing Countries Still Relevant

While today the UAE would be classified as a developed, rather than developing country, warnings issued to those in the latter category may still be relevant. Recent research by Global Financial Integrity (GFI) confirmed that "organized crime, corruption and tax evasion have the most disproportionately corrosive impact in countries with lowest levels of development, along with the highest levels of poverty and economic inequality."[714] In this context, Schott noted that money laundering and terrorist financing practices had "particularly significant economic and social consequences for developing countries, because those markets tend to be small and, therefore, more susceptible to disruption from criminal or terrorist influences. [They] also have significant economic and social consequences of countries with fragile financial systems because they too are susceptible to disruption from such influences."[715] Acknowledging that the impact was hard to quantify (like the extent of money laundering itself), Schott identified five broad areas he felt money laundering and terrorist financing could affect: Increased Crime and Corruption; International Consequences and Foreign Investment; Weakened Financial Institutions; Compromised Economy and Private Sector; and Damaged Privatization Efforts. Each of these will be summarized in the following paragraphs.

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[712] World Bank, Combating Money Laundering and the Finance of Terrorism, I:20-21.
[713] World Bank, Combating Money Laundering and the Finance of Terrorism, I:21-22.
[714] Guzman, interview with Global Financial Integrity Managing Director Tom Cardamone.
[715] Schott, *Reference Guide,* II:1-2

Schott portrays the view promulgated by the international community. However, drawing upon Osterfeld's methodology,[716] the results of Housten's study suggest that corruption can have "significant restrictive as well as expansionary economic effects," depending on "the degree to which laws protecting property are enforced in a nation." Hence, nations with weak governance show much larger positive effects from corruption, supporting the proposition that many corrupt activities substitute for missing or misguided law. Housten points that direct attacks on corruption are unproductive and costly battles and will be resisted. The only solution to corruption, in his opinion, is in fundamental improvement of the governance structures of these countries.[717]

Increased Crime and Corruption

The United Nations Convention Against Corruption links corruption with other forms of organizes and economic crime including money laundering.[718] Though initially being tackled as isolated menaces, at the start of the millennium the international community and lawmakers started addressing them as interconnected elements of transnational crime, which, according to Mugarura "thrive in an environment of weaknesses in national regulatory environment characterised by lack of requisite laws, weak enforcement mechanisms and bad governance."[719]

Schott regards money laundering as an activity that "helps make criminal activities profitable; it rewards criminals." There is a general consensus with this statement. However, Schott's conclusion: "Thus, to the extent that a country is viewed as a haven for money laundering, it is likely to attract criminals and promote corruption," has some ambiguity. According to him, such money laundering "havens" have weak AML/CFT frameworks, enforcement, and penalties. Such states also see a culture of bribery emerge among regulators and law enforcement institutions.[720] Proceeds of corruption may be laundered in jurisdictions, which have not enacted strict anti-money laundering measures. However, criminals may also choose to launder funds in countries, which

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[716] Osterfeld, D. (1992). Prosperity versus Planning: How Government Stifles Economic Growth. New York: Oxford University Press.
[717] Houston, "Can Corruption Ever Improve an Economy," 326.
[718] United Nations Convention Against Corruption, preamble.
[719] Mugarura, "Uncoupling the Relationship Between Corruption and Money Laundering Crimes," 84.
[720] Schott, *Reference Guide*, II:2-3

uphold very strict bank secrecy laws or regulations, such as offshore financial centers.[721] Sharman's findings "contradict conventional wisdom" that "financial opacity is not caused by palm-fringed tropical islands," rather by "the large high-income economies like the United States and Britain."[722] In 2010, the state of Delaware in the US toped the Forbes list of the most secretive tax havens in the world, outpacing Luxembourg, Switzerland, and Cayman Islands. The list also includes the U.K. (City of London), Ireland, Bermuda, Singapore, Belgium and Hong Kong. All these countries have established the AML/CFT framework. Moreover, as Dharmapala and Hines conclude: "Tax havens are small countries, they are affluent countries, and they have high-quality governance institutions.[723] One author audaciously explains this by stating that "if you're going to hide illicit cash, where better to do it? Where it stands out from the crowd, or where it can be lost like a needle in the proverbial haystack? Big numbers help the owner of dubious cash lose theirs in the crowd, and the places named above are big."[724] Multiple studies show that money-laundering vehicles are used to hide proceeds of corruption. One of these vehicles is offshore jurisdiction. The study of the round-trip investments – from Russia to offshore financial centers and back to Russia – found that these investors don't leave their criminal funds in the offshore jurisdictions, but rather invest them back in Russia as funds coming from a new source, specifically foreign direct investment. The round-trip investors are often closely allied with authorities, or represent authority themselves.[725] In this scenario the corruption has been expanding at its source, in this case Russia. One article suggests that each BRIC country has its own offshore jurisdiction, which is used for capital round tripping.[726] There is no evidence that these types of investment schemes in any way contribute to promotion of corruption in the offshore jurisdictions. On the contrary Switzerland, Singapore, Luxembourg and the United Kingdom, the four jurisdictions that were in the top ten for most secretive tax havens in the world, are also ranked in the top ten least corrupt countries.[727] The availability of offshore jurisdictions promotes corruption in the

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[721] Ledyaeva, Karhunen, and Whalley, "Offshore Jurisdictions (including Cyprus), Corruption, Money Laundering, and Russian Round-Trip Investment," 2.
[722] Sharman, "Shopping for Anonymous Shell Companies," 134.
[723] Dharmapala and Hines, "Which Countries Become Tax Havens?" 1065.
[724] Murphy, "World's Best Tax Havens."
[725] Ledyaeva, Karhunen, and Whalley, "Offshore Jurisdictions (Including Cyprus), Corruption, Money Laundering, and Russian Round-Trip Investment."
[726] Rovnick, N. (26 March, 2013), "Most Foreign Investment In Brics Isn't Foreign At All – It's Tycoons Using Tax Havens," *Quartz*, Atlantic Media, available at https://qz.com/66944/the-brics-biggest-investment-sources-are-tax-havens-which-mostly-shows-the-rich-stealing-from-the-poor.
[727] Transparency International, Corruption Perception Index 2016, available at http://www.transparency.org/news/feature/corruption_perceptions_index_2016.

developing countries, from where the corrupt funds are flowing in, because only the wealthiest elite in developing countries seems to have access to offshore financial services. A study by Blankenburg and Khan distinguishes between the types of illicit flows from advanced and developing countries. According to this study, tax evasion and tax avoidance constitutes the important part of illicit flow from advanced counties, while illicit flows from developing countries are at large politically driven. [728] The study builds this distinction on Baker's notion of dirty money, which manifest in different forms of illicit capital flows: criminal, corrupt, and commercial. The criminal form includes "a boundless range of villainous activities including racketeering, trafficking in counterfeit and contraband goods, alien smuggling, slave trading, embezzlement, forgery, securities fraud, credit fraud, burglary, sexual exploitation, prostitution, and more." The corrupt one is "from bribery and theft by (foreign) government officials." And finally, the commercial form from tax evasion.[729] Despite of its form, illicit flight facilitated by money laundering will have economic impact on both jurisdictions: the suppliers and the recipient, by creation of an asymmetric economic supply and hence extremes of wealth concentration. Corruption produces enormous profits to be laundered; hence, according to Chaikin and Sharman it is "the number one source of money to be laundered in the developing world."[730]

However, if we consider the impact of money laundering on corruption through the prism of the illicit flow differentiation, the developing countries face the largest risk of growing corruption, that is at large attributed to prevalence of political corruption, where corrupt politician are granted immunities from justice during their tenure office position. The latter explains why, despite the efforts made to combat money laundering, in Nigeria, for example, corruption is still deeply rooted in the country.[731] Yet, Christens believes that there has been "an obsessive focus on public officials (politicians and state employees) and a lack of attention to other elites, including company directors or financial intermediaries." According to him, if we define corruption as "the specific activities which contribute to undermining the integrity of the rules, systems and institutions which govern societies," the focus is shifted to the enablers of the supply-side of illicit funds, exposing corrupt practices such as "insider-trading, tax evasion and

[728] Blankenburg and Khan, "Governance and Illicit Flows," *2*1-68.
[729] Baker, *Capitalism's Achilles Heel*, 23.
[730] Chaikin and Sharman, *Corruption and Money Laundering*, 191.
[731] Markovska and Adams, "Political Corruption and Money Laundering: Lessons from Nigeria," 169–181.

avoidance, market-rigging, non-disclosure of pecuniary involvement, embezzlement, and trade mispricing," all disguised through offshore structures. He provides some evidences, such as operation of 'sham' trusts, to illustrate how tax havens go about their task of supporting corruption.[732]

The UAE, while ranking low in regards to many basic human rights, scores high overall on the absence of corruption, taking the 23rd position out of 97 countries under one study, while being regionally ranked as the least corrupt county.[733] However, as illustrated earlier, the country traditionally served as a recipient of illicit finds and proceeds of corruption.

Corruption, and the related topic of nepotism, is potentially sensitive in the United Arab Emirates. In the Arab world, tribal and family loyalties are very strong, and ruling families tend to appoint or arrange selection of trusted members of "their own" to positions of responsibility.[734] Political scientist Edward Banfield found strong links between such family oriented cultures and corruption. In Lipset and Lenz's words: "The underlying theory stems from Plato, who pointed out that the inherent relations among family members, especially parents and children, press them to give particularistic preferences (nepotism). Banfield noted that corruption is linked to the strength of family values involving intense feelings of obligation."[735]

While the United Arab Emirates is no exception to family-oriented Arab culture, the country has ranked positively in terms of a low amount of perceived public sector corruption. This is according to the website transparency.org, which compiles data on this topic, and uses it to create an annual "Corruption Perception Index." According to the site, "The Corruption Perceptions Index ranks countries and territories based on how corrupt their public sector is perceived to be. A country or territory's score indicates the perceived level of public sector corruption on a scale of 0 (highly corrupt) to 100 (very clean)." The UAE's rating improved incrementally from 2012 (68) through 2013 (69) to 2014 (70), the last being good enough to place the UAE 25th worldwide on the list of lowest perceptions of public sector corruption. This ranking also qualified it as

[732] Christensen, 'The Looting Continues," 186.
[733] Agrast et al, "The Rule of Law Index," 158, 181.
[734] For relevant discussions, see El-Ghonemy, Affluence and Poverty in the Middle East, 112-123; and Sayan, ed., *Economic Performance in the Middle East and North Africa*.
[735] Lipset and Lenz, "Corruption, Culture and Markets," 116.

first in the Middle East, placing it ahead of states such as Israel (37th) and Saudi Arabia (55th). In an international setting, the UAE finished below Austria (23rd) and the Bahamas (24th), and just above Estonia and France (tied for 26th).[736] It would seem that an aggressive AML/CFT policy and its enforcement would help keep the UAE on track in this regard.

One indicator that this is necessary is the results of a 2014 PwC Global Economic Crime Survey. It reported that "27% of respondents in the UAE reported economic crime within their organization, significantly above the average for the Middle East of 21%,"[737] although still considerably below the global figure of 37%.[738] On the launch of the survey John Wilkinson, PwC Partner and leader of PwC's Middle East Forensic Services team, said, "Economic crime is a risk that threatens development at a national level. It impacts the welfare of people across the region and stifles economic growth." He added that the 2014 results found that internal audits found only 5% of frauds; top-offs accounted for 22%, and 16% "by chance." The numbers, he said, indicated "a widespread lack of effective fraud detection methods in the Middle East. We believe the shortfall in effective fraud prevention and detection leads to a substantial deficit in the knowledge of economic crimes actually being committed."[739]

The survey also showed that 53% of UAE respondents (compared to 38% globally) reported that the cost of economic crime to their organization fell in the range between US$100,000 and $5 million. Also, a larger percentage of UAE respondents (compared to the global survey) identified non-financial impacts of economic crime on areas such as Employee Morale, Business Relations, Reputation, and Share Price.[740] The report notably pointed out that while "the low level of reported frauds is encouraging, it is important to note that there is always an element of undetected fraud which must be taken into consideration when interpreting these results."[741] The latter sentiment can also be found in the summary of a 2014 E&Y report on the Middle East, which stated that "Often, the

[736] Transparency International, "Corruption Perceptions Index 2014: Results."
[737] PwC, "Economic Crime in the UAE," 1.
[738] PwC, "PwC's Global Economic Crime Survey shows fraud reported by 21% of organisations in the Middle East compared to 37% globally."
[739] PwC, "PwC's Global Economic Crime Survey shows fraud reported by 21% of organisations in the Middle East compared to 37% globally."
[740] PwC, "Economic Crime in the UAE," 3
[741] PwC, "Economic Crime in the UAE," 2.

survey showed, existing formal anti-fraud policies are designed to be effective after fraud has been detected, rather than proactively acting as a deterrent."[742]

International Consequences and Foreign Investment

Schott argues that a country's reputation for money laundering – with associated corruption, crime, and bribery – would logically discourage foreign financial institutions from doing business there, or with institutions located there. They could, for example, "decided to limit their transactions with institutions from money laundering havens; subject these transactions to extra scrutiny, making them more expensive; or terminate correspondent or lending relationships altogether. Even legitimate business and enterprises from money laundering havens may suffer from reduced access to world markets or access at a higher cost due to extra scrutiny of their ownership, organization and control systems." Such countries would be seen as high risk choices for foreign private investment or receive foreign governmental assistance. Schott noted that such countries are named on the FATF "non-cooperating countries and territories" (NCCT) list, which "gives public notice that the listed country does not have in place even minimum standards." Inclusion on the NCCT list not only discourages business and foreign assistance, Schott added, but also subjects that state or territory to "specific counter-measures" from FATF member countries. [743] This view is shared by Wei (2000), whose analysis of data on FDI in the early 1990s from 14 source countries to 45 host countries revealed a significant negative effect corruption on FDI.[744] Habib and Zurawicki, by analyzing data from international statistics on FDI, found corruption to be a serious obstacle for investments. [745] However, not all empirical investigations on impact of corruption on FDI reach this conclusion. Using data set of 73 developed and less developed countries, Egger and Winner found that corruption can server as a stimulus for FDI, providing an empirical support to existence of the 'helping hand' type of corruption with regard to foreign investment.[746] The results of Al-Sadig's research on correlation between corruption and direct foreign investments show that "the country's quality of institutions is more important than the level of corruption in encouraging FDI inflows into the country."[747] Pinto and Zhu in their study of empirical estimation of the

[742] Goldstraw-White and Gill, "Bribery, Corruption and Fraud in the Middle East," 19.
[743] Schott, *Reference Guide*, II:3-4.
[744] Wei, "How Taxing is Corruption on International Investors?," 1-11.
[745] Habib and Zurawicki, "Corruption and Foreign Direct Investment," 291-307.
[746] Egger and Winner, "Evidence on Corruption as an Incentive for Foreign Direct Investment," 932-952.
[747] Al-Sadig, "The Effects of Corruption on FDI Inflows," 267.

relationship between foreign investment and corruption discovered that FDI is associated with higher levels of corruption in less developed countries and autocratic countries.[748] The results of the study of 306 FDIs by UK firms in 75 emerging markets (EM) show that political risk and corruption do not deter managers from investing in EM. Moreover, the research found investments in countries with a high corruption rating yield the highest gains, since, as the authors explain, firms there are facilitated access to valuable resources on favorable terms.[749] For countries like the UAE, with a low level of corruption, as mentioned earlier, the prevailing issue in this context is a damaged international image. International pressure to comply with AML/CFT standards can manifest in directly expressed disapproval of powerful jurisdictions and international organizations. Alexander observes that this pressure is especially profound in developing countries.[750] FATF criticism of the UAE's AML/CFT framework created sufficient pressure for the country to initiate new legislation and regulation to comply with the international standards.

Weakened Financial Institutions

Schott listed seven "adverse consequences" to banks and other financial institutions from working in a money-laundering haven. They are: Loss of profitable business; liquidity problems through withdrawal of funds; termination of correspondent banking facilities; investigation costs and fines; asset seizures; loan losses; and declines in the stock value of financial institutions.[751] Taken together, these conveyed four interrelated risks: *reputational*, *operational*, *legal* and *concentration*. Schott defined a *reputational risk* as "the potential that adverse publicity regarding a bank's business practices and associations, whether accurate or not, will cause a loss of confidence in the integrity of the institution." This would scare off borrowers, depositors, and investors, ultimately affecting the bank's finances on several fronts. None of this would be offset by any perceived gains from facilitating money laundering, Schott added, because "funds placed on deposit with a bank by money launderers cannot be relied upon as a stable source of funding. Large amounts of laundered funds are often subject to unanticipated withdrawals from a financial institution through wire transfers or other transfers,

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[748] Pinto and Zhu, "Fortune or Evil?," 693-705.
[749] Barbopoulos, Marshall, MacInnes, and McColgan, "Foreign Direct Investment in Emerging Markets and Acquirers' Value Gains," 604-619.
[750] Alexander, *Insider Dealing and Money Laundering in the EU*, 28-35.
[751] Schott, *Reference Guide*, II:4, citing Basel Committee on Bank Supervision, "*Customer Due Diligence for Banks,"* paragraphs 8-17.

causing potential liquidity problems."[752] This observation led to Schott's definition of an *operational risk*, which "is the potential for loss resulting from inadequate or failed internal processes, people and systems, or external events," which "occur when institutions incur reduced, terminated, or increased costs for inter-bank or correspondent banking services. Increased borrowing or funding costs can also be included in such losses." The third risk, *legal risk,* "is the potential for law suits, adverse judgments, unenforceable contracts, fines and penalties generating losses, increased expenses for an institution, or even closure of such an institution." [753] The final category, *concentration risk*, "is the potential for loss resulting from too much credit or loan exposure to one borrower," and would be mitigated by the due-diligence, KYC (know your customer) procedures an effective AML regime would put in place. Schott added:

> Statutory provisions or regulations usually restrict a bank's exposure to a single borrower or group of related borrowers. Lack of knowledge about a particular customer, the customer's business, or what the customer's relationship is to other borrowers, can place a bank at risk in this regard. This is particularly a concern where there are related counter-parties, connected borrowers, and a common source of income or assets for repayment. Loan losses also result, of course, from unenforceable contracts and contracts made with fictitious persons. [754]

McIntosh's results support Schott's observations. McIntosh found that operating performance of noncompliant banks worsened after a formal enforcement, as a result of operational costs for upgrading their AML compliance programs, and of loss in profitability from stopping the launder-facilitating activity. McIntosh also found that enforcement actions led to greater capital risk "due to the increased demand on regulatory capital to support the operational risk exposed by noncompliance." But, this study did not establish any correlation between the AML enforcements and the banks' reputational risk.[755] The results of Zeidan's investigation failed to show any significant and sustained effect of enforcement actions on bank performance.[756]

Compromised Economy and Private Sector

Schott noted that criminals using "front companies" – "business enterprises that appear legitimate and engage in legitimate business" – could affect legitimate businesses by undercutting them on product and service costs. This is because the front companies,

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[752] Schott, *Reference Guide*, II:4-5. See also Ferwerda, "The Effects of Money Laundering," 40.
[753] Schott, *Reference Guide*, II:4-5.
[754] Schott, *Reference Guide*, II:5-6.
[755] McIntosh, "The Costs of Anti-Money Laundering Enforcements to Noncompliant Banks," 2.
[756] Zeidan, M. (2012), 'The Effects of Violating Banking Regulations on the Financial Performance of the US Banking Industry," *Journal of Financial Regulation and Compliance* 20:1, 56–71.

which launder criminal proceeds by mixing them with legitimate ones, could use such funds to subsidize their product and service costs to below-market levels. After all, the point of a front company is to "preserve and protect the illicit funds, not to produce a profit." This opens the potential for criminal enterprises "to control whole industries or sectors of the economy of certain countries. This increases the potential for monetary and economic instability due to the misallocation of resources from artificial distortions in asset and commodity prices. It also provides a vehicle for evading taxation, thus depriving the country of revenue." [757]

Damaged Privatization Efforts

Not only can criminal outfits subsidize product and service costs using "front companies," but they also can outbid otherwise "legitimate purchasers of former state-owned enterprises. When illicit proceeds are invested in this manner, criminals increase their potential for more criminal activities and corruption, as well as deprive the country of what should be a legitimate, market-based, tax paying enterprise." [758]

The Cost of Failure

As with all countries, it is in the UAE's interests to develop a cogent AML/CFT legislative and regulatory apparatus. The UAE, as a rapidly developing country, also has much to lose, as becomes apparent when examining the potential effects of being singled out for failing to address AML/CFT concerns. The FATF works in this regard as an international oversight body, and since June 2000 has published lists of "non-cooperative countries or territories."[759] It updates this list in regular press releases (or "public announcements") citing what it calls "jurisdictions that have strategic deficiencies" in AML/CFT protection. The FATF has issued three such "public announcements" annually since 2008.[760] A February 2015 press release, for instance, called on FATF members and others "to apply countermeasures" against Iran and North Korea, both long-term targets of FATF concern.[761] (Observers have referred to this process as "blacklisting.")[762] It also warned its members to be wary of risks in Algeria, Ecuador, and Myanmar, where new

[757] Schott, *Reference Guide*, II:6.
[758] Schott, *Reference Guide*, II:7.
[759] FATF, Annual Report 2000-2001, 10.
[760] FATF, Annual Report 2011-2012, 29.
[761] FATF, "FATF Public Statement – 27 February 2015."
[762] See, for example, British Virgin Islands Financial Services Commission, "Public Statement No. 8 of 2013, 20 November, 2013."

AML/CFT measures had either not yet been graded for effectiveness or were deemed insufficient. In the more serious cases, that of Iran for example, its recipe for countermeasures read in part as follows:

> The FATF reaffirms its call on members, and urges all jurisdictions, to advise their financial institutions to give special attention to business relationships and transactions with Iran, including Iranian companies and financial institutions. In addition to enhanced scrutiny, the FATF reaffirms its 25 February 2009 call on its members and urges all jurisdictions to apply effective counter-measures to protect their financial sectors from money laundering and financing of terrorism (ML/FT) risks emanating from Iran. The FATF continues to urge jurisdictions to protect against correspondent relationships being used to bypass or evade counter-measures and risk mitigation practices, and to take into account ML/FT risks when considering requests by Iranian financial institutions to open branches and subsidiaries in their jurisdiction. Due to the continuing terrorist financing threat emanating from Iran, jurisdictions should consider the steps already taken and possible additional safeguards, or strengthen existing ones.[763]

Such materials are also compiled into the FATF's annual report, which includes a list of "high risk and non-cooperative jurisdictions." The 2011-12 report, to cite one example, while "blacklisting" Iran and North Korea, also listed 18 countries with which FATF members were advised to use caution when dealing with financially. The report further listed 22 additional countries where, despite a "high-level political commitment" to fixing AML/CFT problems, FATF members were still advised to be wary of. [764]

Such "blacklisting" or "greylisting" has been seen to be largely effective when used by the OECD and FATF.[765] (Middle Eastern countries such as Oman and Lebanon introduced their own AML legislation in 2001 in part to avoid, or be removed, from FATF "uncooperative countries" listings.[766] As will be seen in the next chapter, the UAE's 2002 AML law was introduced at a time when the FATF was closely reviewing the country.) While the intention is to force a state's decision makers to comply with the international body's AML/CFT requirements, in some cases, pressure may be brought from external players as well. For example, when Guyana faced blacklisting by the Caribbean Financial Action Task Force (CFATF) in early 2014, the Conference of Heads of Government of the 15 members of CARICOM (Caribbean Community) issued a communiqué criticizing Guyana for failing to implement the FATF-required AML/CFT legislation. It noted that the blacklisting would "'have far-reaching implications and, indeed, repercussions on the economy of Guyana as well as that of every territory of the

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[763] FATF, "FATF Public Statement – 27 February 2015."
[764] FATF, Annual Report 2011-2012, 29-31.
[765] Sharman, "The Bark is the Bite; Johnson, "Blacklisting."
[766] Ali, "Oman Money-Laundering Law Nears Completion"; and Reuters, "Lebanon Bows to World Pressure on Banking Secrecy."

Region.'" A news media article noted that these repercussions would "affect the cost of processing international transactions and will adversely affect trade and financial flows in the Region." The statement by the CARICOM heads added that: "'The non-passage of the Bill will also retard the regional integration enterprise, limit the opportunity for growth in Guyana and the Region and result in hardship for the people of Guyana, and indeed, of the Region…We call on all relevant parties to enact the necessary legislation in the national and regional interest.'"[767] Another way blacklisting can affect a country beyond its borders is in the process of remittance. When the Philippines faced possible FATF blacklisting in 2013, a concern noted at the time was that the process meant "tighter requirements imposed on nationals of a country when they engage in financial transactions. Such a consequence is seen to adversely affect sending of remittances by the over 10 million estimated overseas Filipino workers."[768]

The Cost of Terrorism

While many of the above issues involve abstractions involving reputation, there is also the pragmatic concern of what effect terrorism would have on the UAE. Besides the human cost of victims and casualties, there are also political and economic costs involved. With that said, assessing the effectiveness of an AML/CFT program in dealing with terrorism is challenging. "[I]t is difficult if not impossible to establish connections between terrorism averted and any specific element of the AML regime; only where a specific terrorist plot is foiled, fairly late in its development, can a connection be made. In turn, inasmuch as the regime is justified on the basis of preventing international terrorism incidents, it is less likely to be examined on a cost-effectiveness basis as much as on its efficacy in measurably contributing to preventing an incident."[769] It is possible, however, to itemize some of the ways terrorism incidents would affect the UAE itself. The country's business and financial sectors would seem to be at risk; a 2005 IMF "working paper" noted that since 1998 business facilities have become a preferred terrorist target. The authors then broke down the "economic consequences of terrorism" into several categories.

- Direct Economic Costs: This includes "the destruction of life and property, responses to the emergency, restoration of the systems and the infrastructure

[767] Kaieteur News report, "'Blacklisted' Guyana Will Have Repercussions Across the Region."
[768] Remo, "Int'l Body Wants More Teeth in PH Anti-Money Laundering Law."
[769] Reuter and Truman, *Chasing Dirty Money*, 141. For more on assessing CFT effectiveness, see *ibid*., 142.

affected, and the provision of temporary living assistance." These are highest in the short-term following an incident, and are "likely to be proportionate to the intensity of the attacks and the size and the characteristics of the economy affected." The Organization for Economic Cooperation and Development estimated direct economic costs to the United States of 9/11 at $27.2 billion, or about one-quarter of one percent of the US GDP.

- Indirect Costs of Terrorism: These "can be significant and have the potential to affect the economy in the medium term by undermining consumer and investor confidence." This can, for example, "reduce the incentive to spend as opposed to save," start "a generalized drop in asset prices and a flight to quality that increases the borrowing costs for riskier borrowers." The 9/11 attacks "primarily affected the major industrial countries through a fall in demand generated by the loss in confidence about the economy and its impact on output."
- Negative Impact on Productivity: A terror attack can do this "by raising the costs of transactions through increased security measures, higher insurance premiums, and the increased costs of financial and other counterterrorism regulations."[770]

Conclusion

The UAE is a rapidly developing economy, which has pursued policies of economic diversification. Some argue that economic success of the UAE is partially built on criminal funds. In the wake of 9/11 the underground, criminal economy of the country attracted attention from the international community due to its role in facilitating the financing of these attacks. After mounting international pressure, the country passed AML/CFT laws, though publically denying its venerability to and risk of money laundering. After less-than-expected results on the FATF mutual evaluation of 2008, the UAE embarked on the path of more comprehensive legislative reforms addressing money laundering, terrorist financing and corruption. What we can see is the country's reactive approach to the international criticism and pressure; it is in the UAE's interests to have an aggressive AML/CFT framework in place because there are significant consequences for not doing so. Setting aside the potential punishment of "blacklisting" or "greylisting," Gresham's Law that "bad money drives out good" seems applicable given the ramifications of a poor fiscal reputation. The UAE economic diversification program largely dependents on foreign investments. For that reason the country has established a channel of economic and financial free zones. If in the past the country could afford to turn a blind eye on capital investments coming to it, now the risks of such an approach are too high. The UAE has worked hard to present itself to the world

[770] Johnston and Nedelsescu, "The Impact of Terrorism on Financial Markets," 3-4.

as a low-crime, low-corruption and stable state. However, that image is easily wrecked in an era of fast-moving media. What is at stake, should the UAE's image suffer, is foreign investment, which the UAE lobbied to regain after the fiscal problems of 2009. Nor can the country afford to see its financial institutions weakened by reports or the perception of instability caused by a lack of integrity. Finally, the UAE must consider its own interests in preventing the possibility of terror attacks on its own soil, which in addition to direct human costs may be expected to have own long-term economic consequences. The UAE government's priority is sustainable stability, despite the political and economic turmoil in the region. In 2010, the government of the UAE launched its plan for the upcoming decade – UAE Vision 2021 – in which, among other things, it seeks to reinforce its citizens' sense of safety and achieve leading positions in the areas of security.[771] Though some aspects of their implementation has been faulted, the UAE's efforts to address AML and ultimately CFT issues between 1987-2014 were undertaken with all of the above concerns above. The rest of this work will try to assess the effectiveness of these efforts.

[771] UAE Prime Minister's Office, "Vision 2021."

6. Development of a Methodology to Assess the Relevance and Effectiveness of UAE AML/CFT Efforts

As noted in the introductory chapter, evaluating the effectiveness of AML/CFT laws and their implementation is challenging even in open societies with high levels of transparency. While the United Arab Emirates is a fast-developing country with oft-stated goals of greater information flow, access to government data is controlled and it is rare to find the publication of official statistics on money laundering. In part, this may be due to legal tradition – courts are under no obligations to cooperate with the news media, for instance. And given its geographic position in the volatile Middle East, there are presumably also general security concerns about issuing data that would reveal areas of law enforcement/security service interest. While the literature review (given in the introductory chapter) contains some works that have tried to assess AML/CFT effectiveness, among the most significant are the "11 Immediate Outcomes" put forth by the FATF in 2013. These outcomes, which are now part of FATF mutual evaluation assessments, are as follows:

1) Money laundering and terrorist financing risks are understood and, where appropriate, actions coordinated domestically to combat money laundering and the financing of terrorism and proliferation.
2) International cooperation delivers appropriate information, financial intelligence, and evidence, and facilitates action against criminals and their assets.
3) Supervisors appropriately supervise, monitor and regulate financial institutions and DNFBPs for compliance with AML/CFT requirements commensurate with their risks.
4) Financial institutions and DNFBPs adequately apply AML/CFT preventive measures commensurate with their risks, and report suspicious transactions.
5) Legal persons and arrangements are prevented from misuse for money laundering or terrorist financing, and information on their beneficial ownership is available to competent authorities without impediments.
6) Financial intelligence and all other relevant information are appropriately used by competent authorities for money laundering and terrorist financing investigations.
7) Money laundering offences and activities are investigated and offenders are prosecuted and subject to effective, proportionate and dissuasive sanctions.
8) Proceeds and instrumentalities of crime are confiscated.
9) Terrorist financing offences and activities are investigated and persons who finance terrorism are prosecuted and subject to effective, proportionate and dissuasive sanctions.
10) Terrorists, terrorist organisations and terrorist financiers are prevented from raising, moving and using funds, and from abusing the NPO sector.

11) Persons and entities involved in the proliferation of weapons of mass destruction are prevented from raising, moving and using funds, consistent with the relevant UNSCRs.[772]

While these standards are significant, and were known to the researcher at the start of the planning of this thesis, several factors made the independent development of an assessment methodology attractive. One was the fact that doing so provided a solid scholarly exercise. Another was the possibility that while the FATF outcomes reflect an international regulatory perspective, a survey of those standards valued by professional AML/CFT practitioners may elicit other viewpoints. A third was the realization that hard data on an ongoing security concern (i.e., terrorism) in the United Arab Emirates made it hard or impractical in that country to try gathering data on terror cases. The result is that this study is built upon primary and secondary data collection and analysis as described in the following pages. The primary data collection was conducted in three stages for the purpose of establishing and applying criteria for evaluation of effectiveness of AML/CFT legislation in the UAE.

Stage One (Survey and Interviews)

The first stage, involving a combination of a short questionnaire coupled with structured interview questions with AML experts, disclosed 12 themes perceived as contributing to the success of AML legislation in any jurisdiction or at large. These interviews were conducted at the ACAMS 5th Annual AML and Financial Crime Conference MENA in Dubai on 18-19 January 2015. The purpose of this stage was to identify potential measures of effectiveness, to provide a set of general criteria.

The researcher chose the ACAMS conference as a venue for carrying the interviews, since its presenters, attendees and audience comprised AML/CFT professionals representing various economic and geo-political sectors. While these were mainly experts working in the UAE and the Middle East and North Africa (MENA) region, the conference's international nature allowed the sampling of views to transcend Gulf Co-Operation Council (GCC) jurisdictional boundaries. Those interviewed at the ACAMS MENA event included AML/CFT specialists from the UAE (12) the greater Middle East (9), North America (1) and Europe (3). Over the two-day period, 26 one-on-one, in-person interviews were conducted. All were audio recorded, transcribed, and then

[772] FATF, Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems, 15

analyzed using NVivo, a qualitative data analysis software package. The interviewees were asked 10 questions. The first four questions, delivered on a questionnaire form, were demographical in nature focusing on where and how long the interviewee worked in the AML field.

- Q1. How would you describe your professional position? (The respondents were given 18 choices to identify their professional affiliation or list it under "Other," if it was not already represented.)
- Q2. How long have you worked in the AML area? (The work experience was broken down as less than 1 year, 1 and 2, 3 and 5, 5 and 10, and more than 10 years.)
- Q3. How long have you worked in the AML area in the UAE? (The questions had the same breakdown of time periods as the previous one.)
- Q4. In which jurisdiction do you work? (In addition to a list of all seven Emirates of the country, the USA and the UK were given as options, along with "Other," where a respondent could identify the country he/she came from.)

The rest of the questions were delivered as part of interviews. Questions 5-7 were directed toward identification of markers of success.

- Q5. Can you identify some "markers" by which one could measure the success of AML legislation?
- Q6. Can you share any observations, anecdotal or otherwise, involving measuring the effectiveness of AML legislation?
- Q7. Do you have any observations about AML legislation effectiveness in the UAE?

The remaining three questions, also delivered during the interviewing phase, were meant to assist the researcher with obtaining additional data and introduce the possibility of a follow-up interview.

- Q8. Can you suggest a contact or office where measurement data for AML legislation can be obtained?
- Q9. Is there anything you would like to add?
- Q10. Can I contact you with follow-up questions?

Breakdown of Stage One Survey/Interview Results

Eleven interviewees identified their professional position as "compliance officer" from the banking sector. The sample also included regulators (3), accountants/auditors (2), lawyer (1), law enforcement officer (1), government official (1), financial trading, financial service provider and consultant (4), money transfer and mortgage providers (2), and NGO representative (1). Eight of those interviewed were not novices to the AML field and had worked there for more than 10 years. Seven indicated that they had worked in the AML field between five and 10 years; five had worked in the field between three and five years, four between one and two years; and one less than a year. In total, 20 out of 26 interviewees worked in the AML field for more than three years. The

following themes, or success markers, emerged through the answers given in interviews to Questions 5, 6 and 7 (they are presented here in alphabetical order):

- AML Legislation Awareness
- AML Legislation Enforcement
- AML Legislation Enhancement
- AML Legislation Harmonization in Alignment to International Standards
- Government Commitment
- High Ratio of Asset Recovery to Cost of Investigation and Prosecution
- High Ratio of Prosecutions to STRs
- Number of Sanctions
- Private Sector Commitment and Cooperation
- Robust Regulatory Framework
- Transparency
- Well-Developed IT Infrastructure

Stage Two: Survey to Determine Top Five Chosen Markers of Success

The information collected during the first, qualitative stage of the study was converted into a survey, which represents the second stage of the methodology. In this phase, the earlier collected "markers of success" were narrowed down to five through tabulation of data from a qualitative survey conducted at the 20th Annual International AML and Financial Crime Conference on 16-18 March in Hollywood, Florida, USA. The top five markers of success that had been chosen by those surveyed are presented in Table 1.

Table 1: Top 5 Chosen Markers of Success

Marker of Success	Number of Responses	Percent of Total
AML Legislation Enforcement	145	63
AML Legislation Awareness	141	61.3
Transparency	135	58.7
Private Sector Commitment and Cooperation	126	54.8
Robust Regulatory Framework	120	52.2

A total of 230 surveys were administered. As with the Dubai event, while many of those attending were "local" (North Americans), the conference's international nature allowed the gathering of views from a diverse audience. The majority of respondents (frequency of 190), 82.61 percent were from North America, but the surveyed pool also included 40 "international" respondents from Latin American and the Caribbean, South America, Africa, Central America, Asia, and Europe. Five respondents (2.2 percent) did not

provide a response to the regional question. The geographic distribution of the surveyed is presented in Table 2.

Table 2: Place of Work

Geographic Region	Frequency	Percentage
North America	190	82.6
Latin American and the Caribbean	15	6.5
South American	8	3.5
Africa	3	1.3
Central America	3	1.3
Asia	3	1.3
Europe	3	1.3
Not Answered	5	2.2
Total	230	100

Almost 40 percent of those surveyed (frequency of 89) had worked in the AML area for more than 10 years. This strengthens the reliability of the collected data since the surveyed were not new to the AML field. Only 12 (5.4 percent) of those surveyed respondents had been in the AML field for less than one year.

Table 3: Work Duration

Work duration in the AML	Frequency	Percent
More than 10 years	89	39.9
6-10 years	64	28.7
3-5 years	40	17.9
1-2 years	18	8.1
Less than 1 year	12	5.4

There was a diverse occupational affiliation of the surveyed pool. Though 33.8 percent of those surveyed identified their professional position as compliance officers (frequency of 90), the sample also included consultants, accountants, software developers, entrepreneurs, government officials, cyber security specialists, lawyers, regulators, law enforcement agents, and other. The occupational breakdown is presented in Table 4.

Table 4: Professional Position

Professional Position	Frequency	Percent
Accountant/Auditor	33	12.4
Consultant	29	10.9
Software Developer	8	3
Entrepreneur	2	0.8

Compliance Office	90	33.8
Government Official	14	5.3
Cyber Security Specialist	1	0.4
Lawyer	12	4.5
Regulator	19	7.1
Law Enforcement Agent	15	5.6
Other[773]	43	16.2

Surveyed individuals worked in broad types of organizations. Almost 50 percent of those surveyed (frequency of 121) worked in the banking sector including Private, Retail, Commercial, Investment banks. The sample also had representatives from Government, Law Enforcement Agencies, Consulting companies, and others. Table 5 shows a break down of work places for the pool of respondents.

Table 5: Area of Work

Area of work	**Frequency**	**Percent**
Consulting Company	29	11
Banking (Private)	27	10.3
Banking (Retail)	45	17.1
Banking (Commercial)	35	13.3
Banking (Investment)	14	5.3
Other[774]	32	12.2
Insurance	5	1.9
Legal firm	2	0.8
Casino	3	1.1
Money Service Business	7	2.7
NGO	2	0.8
Government	25	9.5
Brokerage	14	5.3
Precious Metals/Stones	1	0.4
Law Enforcement Agency	18	6.8
Security Services	4	1.5

[773] The list of professional positions identified under "Other" were: Compliance Auditor, Compliance Professional, Compliance Manager, Compliance Testing, Analysts, AML Analyst, AML BSA Analyst, Senior BSA Analyst, Paralegal/Social Media Analyst, Counter Threat Finance Analyst, Compliance Analysts, Investigator, Financial Crime Investigator, Investigator/ AML Compliance, AML Investigations Manager, BSA AML Investigations Manager, Operations & Security Officer, Risk Officer, BSA Officers, Risk Managers, AML Manager, Investment Management Senior Executive, AML-Watch list Screening, Banker, Sales, Software Marketing, Financial Service Providers, Department Of Defense Civilians, and Researcher.

[774] Under "Other" those surveyed listed the following workplaces: Software provider, Regulation, Military, Banking Compliance, Holding Company, Payment Processing, Credit Card, Sole Proprietor, Credit Union, GSE-Mortgage Investor, Non-bank Financial Institution, Federal Reserve, Data, Asset Management Company, Investment Management, Vendor-Information Provider, Financial Service Providers.

In addition to testing and narrowing down the evaluation criteria for AML legislation effectiveness in the UAE, the quantitative data analysis of the surveys examined correlations between variables in the survey. By using three statistical outputs – the Chi-square,[775] Asymptotic significance (2-sided),[776] and Cramer's V[777] – the study tested whether there significant relationships exist between chosen markers of success and particular professions, areas of work, or length of work in the AML field. For example, when examining whether identified professions tended to list a specific marker, high significance was found between Law Enforcement Agents and the marker "High Ratio of Asset Recovery to Cost of Investigation and Prosecution. This relation has a Pearson Chi-square of 27.213, which is considerably higher than the minimum expected number of 2.15; an Asymptotic Significance of less than 0.01 percent; and a rating on the Cramer V test of 0.344. Law Enforcement Agents also gave preference to "Robust Regulatory Framework" and "AML Legislation Awareness" as their perceived markers of success. The survey also showed that Compliance Officers tended to give preference to "AML Legislation Enforcement" and "AML Legislation Harmonization in Alignment to International Standards." Consultants tended to stress the importance of "Private Sector Commitment and Cooperation." The relationships between the markers of success and profession are presented in Table 6. Alternately, Tables 7 and 8 highlight areas of moderate and low significance in correlation between profession and selected markers of success.

Table 6: High Significance Between Markers of Success and Profession

Markers of Success[778]	**Profession**	**Pearson Chi-Square**	**Asymptotic Significance (2-sided)**	**Cramer's V**
High Ratio of Asset Recovery to Cost of Investigation and Prosecution	Law Enforcement Agent	27.213	> 0.001	0.344
Private Sector Commitment and Cooperation	Consultant	10.485	0.001	0.214
Robust Regulatory Framework	Law Enforcement Agent	9.701	0.002	0.205
AML Legislation Enforcement	Compliance Officer	9.036	0.003	0.198
AML legislation Awareness	Law Enforcement Agent	8.116	0.004	0.188

[775] Chi-square test, showed the existence or nonexistence of the relationships between the investigated variables.
[776] Asymptotic significance demonstrated the statistical reliability and significance of the data. To establish significance the output has to be less than 5 percent. The significance increase as its value approaches 0.
[777] Cramer's V measures association between two variables under investigation. Its reported value is from 0 (no association) to 1 (complete association).
[778] Khashayar Nikravesh helped the author process statistical data presented in tables 6-14.

AML Legislation Harmonization in Alignment to International Standards	Compliance Officer	7.175	0.007	0.177

Table 7: Moderate Significance between Markers of Success and Profession

Marker of Success	Profession	Pearson Chi-Square	Asymptotic Significance (2-sided)	Cramer's V
Robust Regulatory Framework	Consultant	5.943	0.015	0.161
Robust Regulatory Framework	Compliance Ofcr.	5.983	0.014	0.161
Government Commitment	Compliance Ofcr.	5.914	0.015	0.160
High Ratio of Prosecution to STRs	Law Enforcement Agent	5.861	0.015	0.160
Government Commitment	Lawyer	5.627	0.018	0.156
AML legislation Awareness	Consultant	5.554	0.018	0.155

Table 8: Low Significance between Markers of Success and Profession

Marker of Success	Profession	Pearson Chi-Square	Asymptotic Significance (2-sided)	Cramer's V
Transparency	Consultant	4.034	0.045	0.132
AML Legislation Harmonization in Ali gnment to International Standards	Accountant/Auditor	3.976	0.046	0.131
AML Legislation Enforcement	Law Enforcement Agent	3.843	0.050	0.129

High significance was reported in relations between the markers of success and areas of work including Law Enforcement Agency, Government, Consulting Company, Retail and Commercial Banks, Brokerage and Money Service Business. AML Professionals working in law enforcement agencies identified the "High Ratio of Asset Recovery to Cost of Investigation and Prosecution" as the marker of success for the AML legislation, with Pearson Chi-Square output of 20.198 over required 2.58, Asymptotic Significance of less than 0.001 and Cramer's V of 0.2960. Representatives of Commercial Banks and Government selected "Well-Developed IT Infrastructure." The high significance of relationships between the Markers of Success and the area of work is presented in Table 9.

Table 9: High Significance between Markers of Success and Area of Work

Marker of Success	Area of Work	Pearson Chi-Square	Asymptotic Significance (2-sided)	Cramer's V
High Ratio of Asset Recovery to Cost of Investigation and Prosecution	Law Enforcement Agency	20.198	> 0.001	0.296
Well-Developed IT infrastructure	Banking (Commercial)	10.544	0.001	0.214
Well-Developed IT infrastructure	Government	9.673	0.002	0.205
AML legislation Awareness	Law Enforcement Agency	9.253	0.002	0.201
AML Legislation Enforcement	Banking (Retail)	8.307	0.004	0.190
Robust Regulatory Framework	Consulting Co.	8.04	0.005	0.187
Government Commitment	Government	7.584	0.006	0.182
Government Commitment	Brokerage	7.606	0.006	0.182
Number of Sanctions	Money Service Business	7.625	0.006	0.182

Tables 10 and 11 present moderate and low significance in relationships between the markers of success and areas of work.

Table 10: Moderate Significance between Markers of Success and Area of Work

Marker of Success	Area of Work	Pearson Chi-Squared	Asymptotic Significance (2-sided)	Cramer's V
Private Sector Commitment and Cooperation	Consulting Company	5.953	0.015	0.161
AML Legislation Enforcement	Consulting Company	5.536	0.019	0.155
AML Legislation Harmonization in Alignment to International Standards	Brokerage	5.14	0.023	0.149
Private Sector Commitment and Cooperation	Security Services	4.932	0.026	0.146
Robust Regulatory Framework	Law Enforcement Agency	4.658	0.031	0.142

Table 11: Low Significance between Markers of Success and Area of Work

Marker of Success	Area of Work	Pearson Chi-Square	Asymptotic Significance (2-sided)	Cramer's V
High Ratio of Prosecution to STRs	Insurance	4.363	0.037	0.138
Number of Sanctions	Banking (Retail)	4.318	0.038	0.137
AML Legislation Enforcement	Money Service Business	4.232	0.040	0.136
AML Legislation Enhancement	Banking (Private)	4.207	0.040	0.135
Private Sector Commitment and Cooperation	Banking (Investment)	4.135	0.042	0.134
Private Sector Commitment and Cooperation	Brokerage	4.135	0.042	0.134
Government Commitment	Banking (Commercial)	4.078	0.043	0.133
High Ratio of Prosecution to STRs	Brokerage	3.908	0.048	0.130

When examining relationships between the markers of success and the length of work in the AML field, high significance was established between "Robust Regulatory Framework" and working in the AML between six and ten years and less than one year. The new comers to the AML profession found strong regulatory framework as important as the individuals who have worked in the field for over six years. The results of identified high significance are presented in Table 12. The moderate and low significance reported in Tables 13 and 14 respectively.

Table 12: High Significance between Markers of Success and Length of Work in AML

Marker of Success	Length of work in AML	Pearson Chi-Square	Asymptotic Significance (2-sided)	Cramer's V
Robust Regulatory Framework	6-10 years	8.010	0.005	0.187
Robust Regulatory Framework	Less than 1 year	6.397	0.011	0.167

Table 13: Moderate Significance between Markers of Success and Length of Work in AML

Marker of Success	Length of work in AML	Pearson Chi-Square	Asymptotic Significance (2-sided)	Cramer's V
AML Legislation Enhancement	Less than 1 year	5.867	0.015	0.160
AML Legislation Enhancement	6-10 years	4.997	0.025	0.147
Transparency	1-2 years	4.889	0.027	0.146

Table 14: Low significance between Markers of Success and Length of Work in AML

Marker of Success	Length of work in AML	Pearson Chi-Square	Asymptotic Significance (2-sided)	Cramer's V
Robust Regulatory Framework	3-5 years	4.178	0.041	0.1350
Well-Developed IT infrastructure	More than 10 years	4.124	0.042	0.0134
Well-Developed IT infrastructure	3-5 years	4.001	0.045	0.1320
Transparency	More than 10 years	3.962	0.047	0.1310

Stage Three

The final stage of the research design will be applied in the following chapters. This involves applying the top five "markers of success" to available data on applications and aspects of AML/CFT efforts in the United Arab Emirates. As noted before, those markers are (in alphabetical order):

- AML Legislation Awareness
- AML Legislation Enforcement
- Private Sector Commitment and Cooperation
- Robust Regulatory Framework
- Transparency

As there is some overlap between these concepts, as operationalized in the UAE case, they will not be addressed strictly in that order. At the onset of each chapter, perceived difficulties in applying these markers to the United Arab Emirates will also be discussed. The subsequent analysis in each chapter may reflect the fact that the criteria have been applied to limited, fragmentary, or mainly qualitative data.

AML Legislation Enforcement and Robust Regulatory Framework

Given their connection, the two markers *AML Legislation Enforcement* and *Robust Regulatory Framework* will be examined together in Chapter 7. For the purposes of this research, the marker *AML Legislation Enforcement* may be understood to mean how effectively reported cases are investigated and prosecuted, and whether appropriate penalties and sentencing were applied. The term *Robust Regulatory Framework* may be understood to mean the tools and vehicles put in place for companies to report

suspicious transactions and whether appropriate mechanisms are in place to screen them for further referral to the law enforcement agencies.

The two elements will be conflated in Chapter 7 on the assumption that, as an external driver,[779] legislation must be enforced to be compliant. Legislation can be passed, but unless regulators and governmental bodies put in place mechanisms for their enforcement, the laws will not be followed. Regulations support the requirements of the legislation and serve as these mechanisms. AML legislation, no matter how strong it is, will not be effective unless there is a robust regulatory framework to guarantee its enforcement and compliance.

To do this, Chapter 7 will present the history and evolution of AML/CFT Legislation and its enforcement in the UAE from 1987-2014, noting actions taken in response to standards set forth by international treaties, conventions and the FATF Recommendations. It will also present a broad examination of industry compliance during that time. It will do this in part by presenting figures on STRs and when available (as from 2010-2013) a breakdown of numbers showing subsequent prosecutions and, when successful, asset recoveries.

AML Legislation Awareness and Private Sector Commitment and Cooperation

The next chapter will examine the markers for *AML Legislation Awareness* and *Private Sector Commitment and Cooperation*. The term *AML Legislation Awareness* may be understood to mean that all of a given company employees are informed and educated about the country's AML laws and regulations, such as industry specific ones or those that are broader in scope. This is based on the assumption that company employees must understand what AML laws require them to do in terms of mechanisms and procedures placed for detection and reporting of suspicious transactions. They presumably also have to know about the consequences of not complying with the legislated regulations.

Doing this may be presumed to be impossible without *Private Sector Commitment and Cooperation*. For the purposes of this research, that term may be understood to mean

[779] "An external or internal condition that motivates the organization to define its goals. An example of an external driver is a change in regulation or compliance rules which, for example, require changes to the way an organization operates; i.e., Sarbanes-Oxley in the US" (From "Glossary of Supplementary Definitions," online at http://pubs.opengroup.org/architecture/togaf9-doc/arch/apdxa.html.

that private sector companies have to go beyond merely establishing appropriate reporting mechanisms and procedures for suspicious transaction reporting; they also have to adopt a corporate culture at the core of which is zero-tolerance to illegal activities. Doing this is not possible without upper-management commitment. It may be manifested in well-designed training programs, which are ongoing and mandatory for all employers, not only for those newly on board. In such an atmosphere, private sector cooperation is carried beyond mere reporting, but extends to active cooperation with regulatory and law enforcement authorities.

Due to the overlap of these themes, there will be some interchangeability of quantitative data presented in Chapter 7. Chapter 8 will return to reported STR filings with the UAE Central Bank between 2004-2013, on the hypothesis that the numbers indicate the level of awareness of legislative/regulatory requirements among private sector companies, and consequences of non-compliance with them. It will also cite media reports on awareness-raising efforts during this period; examine the number of AML certified professionals working in the country, noting the recent founding of an ACAMS UAE Chapter; and the outsourcing of compliance services to ancillary companies registered within the DIFC.

Transparency

Chapter 9 will examine the evolution of *Transparency* in the UAE about AML/CFT issues over the period 1987-2013. Used here, *Transparency* may be understood to mean access to and sharing of information between parties concerned and involved in business processes and AML reporting and investigation processes. But it also refers to transparency on the part of the UAE authorities and UAE-based financial institutions about the presence of money laundering in the country itself. To this end, Chapter 9 will trace the evolution in publicly expressed attitudes about AML/CFT issues as they concerned the UAE; about the public availability (or non-availability) of AML/CFT-relevant data; and general UAE-based media reportage of AML/CFT concerns.

7. The Evolution of a Regulatory/Legislative Framework and Subsequent AML/CFT Regulation/Legislation Enforcement in the UAE, 1987-2014

As noted previously, this chapter will examine two identified "markers of success" – "Robust Regulatory Framework" and "AML Legislation Enforcement." For the purposes of this research, the marker *AML Legislation Enforcement* may be understood to mean how effectively reported cases are investigated and prosecuted, and whether appropriate penalties and sentencing were applied. The term *Robust Regulatory Framework* may be understood to mean the tools and vehicles put in place for companies to report suspicious transactions and whether appropriate mechanisms are in place to screen them for further referral to the law enforcement agencies. The two elements will be conflated herein on the assumption that, as an external driver, legislation must be enforced to be compliant. Legislation can be passed, but unless regulators and governmental bodies put in place mechanisms for their enforcement, the laws will not be followed. Regulations support the requirements of the legislation and serve as these mechanisms. In identifying obstacles in controlling money laundering, Bernasconi states: "In order to establish whether or not a country may be considered as a criminal haven, we must not only consider the existence of legal standards but also the existence of authorities which may exercise effective control in applying the law."[780] AML legislation, no matter how strong it is, will not be effective unless there is a robust regulatory framework to guarantee its enforcement and compliance.

To do this, this chapter will present the history and evolution of AML (and eventually CFT) Legislation and its enforcement in the UAE from 1987-2014, noting actions taken in response to standards set forth by international treaties, conventions and FATF Recommendations. It will also present a broad examination of industry compliance

[780] Bernasconi, "Obstacles in Controlling Money Laundering Crimes," 249.

during that time, presenting figures on STRs from 2004-2013 and when available (as from 2010-2013) a breakdown of numbers showing subsequent prosecutions and, when successful, asset recoveries.

AML Regulatory Framework, 1987-2001

Although the concept of money laundering, as understood in the West, received little attention in the United Arab Emirates until perhaps 2000, it was technically criminalized as early as 1987. This came as part of an effort to bring the UAE into line with what would become the UN's Vienna Convention of 1988. The relevant legal item was Chapter Four, Article 407 of Federal Law No. (3) of 1987 (On Issuance of the Penal Code). Article 407 read as follows:

> Whoever knowingly possesses or conceals things resulting from a crime without taking part in commitment of the act shall be punished by the penalty prescribed for the crime from which he knows such things have resulted. A culprit who does not know that such things have resulted from a crime, but has obtained them in circumstances which lead him to believe that their sources are illegal, shall be punished by detention for a period not exceeding six months, by a fine not exceeding five thousand Dirhams, or by either of these two penalties.

However, this included no specific definition or mention of the money laundering process. The FATF would ultimately find it deficient as a piece of AML legislation.[781] The article's general language may also help explain why, as will be noted in the next chapter, a dozen years after its passage some bankers in the UAE thought no AML law was in place.[782]

Little additional AML regulation seems to have occurred in the UAE during the next few years. UAE owned banks, however, did run afoul of regulators in other countries. In 1991 US regulators fined Bank of Credit and Commerce International (BCCI) $200 million for money laundering; the largely Abu Dhabi-owned bank was registered in Luxemburg. (The then-ruler of that emirate, also the then-UAE president, himself figured in some resulting litigation.)[783] Perhaps the next regulatory effort that might fit into an AML framework came in 1992, when the Central Bank issued Board of Directors' Resolution No. 123/7/92. This required moneychangers in the UAE to obtain prior approval before, among other things, opening Nostro accounts (i.e., in which a bank

[781] FATF, "Annual Report 2001-2002," Annex G, 1.
[782] David Bagley to "Susan" sent to wright.s@mhub2.com (likely Susan Wright, then HSBC's chief AML officer), 21 Dec. 1999, reproduced in Hakim, *UAE Central Bank & 9/11*, 22, and other documents reproduced on 23-29.
[783] Hakim, *United Arab Emirates Central Bank & 9/11*, 141; Walker, "Corruption in International Banking and Financial Systems," 2, 5; Snider, "Corporate Economic Crimes," 42-43.

opens an account with another bank).[784] A year later, the UAE Central Bank issued Circular No. 14/93, which contained what were described as "comprehensive customer identification requirements and introduced a new requirement for opening of accounts for Charitable Institutions." According to a 2012 AMLSCU publication, "[T]he regulation consists of (11) articles regarding account opening requirements, where banks are not allowed to open secret or shadowy accounts. Also, banks are requested to obtain all necessary documents while opening an account or renting safe deposit boxes. Banks should also verify the name of the accountholder as per his/her passport or trade license in case of juridical persons (companies and establishments). All documents should be verified and information regarding each customer should be registered and duly updated accordingly." Five years later, the Central Bank's Notice No. 163/98 "imposed an obligation to report certain types of suspicious transactions concerning the deposit of cash or third party cheques, when there are no known commercial activities." The Central Bank subsequently directed all banks in the country to "monitor all Letters of Credit opened detailing the steps to be taken by banks in this regard." And in July 1998, the UAE established a six-member Financial Intelligence Unit (FIU). It was given "access to all relevant authorities in the UAE as well as those abroad."[785]

By 2000, although UAE officials downplayed concerns of money laundering inside the country, it had clearly emerged as (in a reporter's words) the country's "major focus … from the regulatory side."[786] Certainly there were significant signs of official interest in the topic. In May the Abu Dhabi-based Emirates Center for Strategic Studies and Research hosted an AML presentation by a US expert.[787] The Ministry of the Interior asked the Central Bank to form a body devoted to AML issues and in July, the bank created a National Anti-Money Laundering Committee (NAMLC) [788] On 12 September, the undersecretary of the UAE's Ministry of the Interior issued a directive creating an "Economic Crime Suppression Division" within the national Department of Security, intended to work closely with the Abu Dhabi police.[789] In November the Dubai police held a five-day AML training session, with help in part from their German

[784] UAE/AMLSCU, "Annual Report" (2012), 21.
[785] Uncredited in *Gulf News*, "UAE Efforts to Combat Money Laundering Win Global Praise." and AMLSCU, "Annual Report " (2012), 13, 22-23. These sources differ on the year in which the FIU was founded; the author has relied on the AMLSCU document.
[786] Chand, "In 2000, Banks Jumped on IT Bandwagon, Kept Eye on Money-Laundering."
[787] McDonald, *Money Laundering*, is the text of a presentation made in the UAE at that time.
[788] Uncredited in *Gulf News*, "UAE Efforts to Combat Money Laundering Win Global Praise."
[789] Al Mulla, [*Criminal Confrontation of the Crime of Money Laundering]*, 312, translated for the author by Hamda Faidallah Abdulkarim.

counterparts.[790] And at about the same time, UAE Central Bank Governor Nasser Al Suwaidi announced that a new AML law would be announced within three months.[791] Local newspapers greeted the news of the future legislation, which at that time was seen primarily as a tool to fight organized crime.[792]

In advance of the law, on 14 November the Central Bank issued Circular No. 24/2000, which required immediate reportage of transactions over AED200,000, as well as "all deals suspected of being money laundering attempts."[793] During the same month the Central Bank's FIU was renamed the Anti-Money Laundering and Suspicious Cases Unit (AMLSCU), the name under which it has operated up to the present date.[794] On December 1, 2000, the Central Bank also issued additional new regulations "to all banks, money changers and finance companies in an effort to check money laundering."[795] According to Central Bank governor Al Suwaidi, banks were being asked "to notify us of any unusual account movements; then we start an investigation and order the suspicious account frozen with interest." Of the anticipated new law, it would "target three categories – individuals and institutions indulging in money laundering; those who withhold information or refuse to cooperate in fighting the menace; and those who know or suspect they are helping launder dirty money."[796]

At the same time, other countries in the region – Oman and Lebanon – were promoting their own AML legislation, the latter hoping to be removed from an FATF "uncooperative countries" listing."[797] This was a delicate time for the UAE as well. In February 2001, FATF representatives conducted an on-site visit to the country as part of a joint FATF/GCC Mutual Evaluation Report (MER) project. Their findings, published in the *FATF Annual Report 2001-2002*, included the following:

> UAE authorities do not see a significant money-laundering problem affecting their country. The domestic crime level is low, although some significant fraud cases have occurred. Only a few cases of money laundering have been detected so far most of which have been associated with either narcotics trafficking or financial fraud schemes. The UAE government nevertheless recognises the

[790] Abdullah, "Faster Flow of Information Needed to Fight Money Laundering."
[791] Carvalho, "Abu Dhabi Trading Floor Set to Open."
[792] Uncredited in *Gulf News,* "*Gulf News* Says: Being One Step Ahead."
[793] Rao, "Finance Houses Lack Effective Money-Laundering Detection Systems," and Uncredited in *Gulf News*, "UAE Efforts to Combat Money Laundering Win Global Praise."
[794] UAE/AMLSCU, "Annual Report" (2012), 13.
[795] Nazzal, "Tougher Laws Needed Against Money Laundering."
[796] Chand, "In 2000, Banks Jumped on IT Bandwagon, Kept Eye on Money-Laundering."
[797] Ali, "Oman Money-Laundering Law Nears Completion," and Reuters, "Lebanon Bows to World Pressure on Banking Secrecy."

> need to implement an effective anti-money laundering system to protect its financial sector from potential money laundering, and it is taking firm steps to put relevant measures in place.

Moves recognized as furthering this included the aforementioned creation of the National Anti-Money Laundering Committee and the Central Bank directives. But while the UAE had, in the words of the FATF report, "developed and significantly implemented the framework for its anti-money laundering system, … certain of its aspects needed be clarified and strengthened." For example, while Article 407 of the 1987 Penal Code broadly addressed crimes such as money laundering because it "covered possession and concealment of property obtained as the result of any crime, … it did not include the conversion or transfer of such property." And while the Penal Code's Article 82 set forth confiscation laws that could be applied to AML cases, "UAE law did not permit the confiscation of property of equal value, nor did it permit the confiscation of substitute assets." Moreover, "The UAE could not apply confiscation in the full range of circumstances as envisaged by FATF Recommendation 7."[798] While the result was that the "UAE authorities were advised by the evaluators that the country needed to modify the legislation then in effect to bring its money laundering offence up to adequate standards," such deficiencies were also expected to be corrected in the new AML law.[799] For his part, while Suwaidi was outwardly cooperative he seems to have resented having to adjust UAE regulations to fix a problem he saw as mainly a Western one.[800] Banks in the UAE also seemed to find few transactions worth being suspicious about. The FATF report noted that between issuance of the Central Bank's Nov. 14, 2000 Circular No. 24/2000, requiring STRs to be filed, and the end of 2001, only 206 such reports had been generated. Evaluators found this number "very low in comparison to the relative size of the financial sector of the UAE." There was also no sign that the Central Bank had yet penalized any financial institution for failing to comply with STR rules; presumably the FATF evaluators felt the low number of STRs betrayed a significant compliance problem. In addition, no AML regulations had yet been applied to insurance and gold-trading sectors, which the evaluators considered vulnerable, or to stopping trade-based and *hawala*-based money laundering efforts.[801]

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[798] FATF, Annual Report 2001-2002, annex G, 1.
[799] FATF, Annual Report 2001-2002, annex G, 3.
[800] Nawaz, McKinnon and Webb, "Informal and Formal Money Transfer Networks," 334, citing Allen in *Financial Times*, "The Veil over Dirty Money in Dubai."
[801] FATF, Annual Report 2001-2002, annex G, 2.

Perhaps more impetus to the expected AML law came from critical US media articles about money laundering in the region. One US report "estimated that $75-$155 billion is laundered in the Arab world each year."[802] The Central Bank felt the need to issue a statement on May 20 that "Money laundering in the UAE is minimal by international standards because the UAE implements tough punishment for crimes that would yield dirty money."[803] Just two days later, however, the Central Bank's board of directors reviewed the effectiveness of the aforementioned Circular No. 24/2000. On June 3 the bank issued amendments to it via Notice No. 1045/2001.[804]

Little data seems to have been collected regarding these early efforts at AML enforcement. One rough benchmark comes from a Dubai Police economic crime expert, quoted in a news article. According to it, his department received 77 reports of suspected AML cases in 2000 and 95 in 2001. (The figure for 2000 is derived from the officer's remark that the 2001 number represented a 23% increase over that of the previous year.) He was also paraphrased as saying that "70 per cent of financial crimes investigated by the police last year [2001] had international links."[805]

Federal officials felt a need to tighten the AML screws. Just a few days before the September 11, 2001 terrorist attacks in the United States, Al Suwaidi announced that the text of a new, comprehensive AML law would be finished by the end of the year. His tone on the money-laundering problem was in contrast to his earlier statement that there was little of it in the country. "It is not very easy to combat money laundering," he acknowledged. "You need to know the transferring party and the origin of the money. Often you can see only one link. So it is not very easy to wipe it out completely. Every active banking centre is vulnerable to such things."[806]

Post-9/11 AML Regulatory Framework

International AML regulation took on a new urgency in the aftermath of 9/11, with counter-financing of terrorism at the center of efforts such as the USA PATRIOT act. The United States Government's Office for Foreign Assets Control sent the UAE Central Bank a list of what was described as "26 terrorist organisations and leaders," and in early

[802] Uncredited in *Gulf News*, "GCC Law Against Money Laundering Takes Shape."
[803] Uncredited in *Gulf News*, "Central Bank Denies Money Laundering Charge."
[804] Uncredited in *Gulf News*, "UAE Efforts to Combat Money Laundering Win Global Praise."
[805] Uncredited in *Gulf News*, "Money Laundering Bane of Economies."
[806] Carvalho, "Anti-Money Laundering Law by Year-End."

October Al Suwaidi said UAE banks in the country had been ordered to search for and freeze any accounts on the list. He emphasized that he did not expect any to be located.[807] Not long afterwards US experts arrived in the UAE to train local bank regulators in techniques of spotting money laundering and suspicious transactions.[808] A few weeks later, Al Suwaidi convened a press conference to deny US media claims that some 9/11 hijackers used UAE bank accounts. According to Suwaidi, the accounts were in names similar to those of hijackers, but "They are different people, different nationalities." Stressing that "Financial institutions in the UAE cannot be blamed by the U.S. if the names were similar," he also stated that "if the U.S. granted visas to the suspected individuals and who trained there, the UAE cannot be blamed for dealing with them."[809] By then the six-member staff of the existing Anti-Money Laundering and Suspicious Cases Unit had been doubled, presumably to handle the increased workload.[810]

At the same time, the new AML law was nearing completion. On Oct. 9 it was officially announced that the UAE Council of Ministers had approved the wording of what would become Federal Law No. (4) of 2002, "Regarding Criminalization of Money Laundering."[811] An editorial in the English-language newspaper *Gulf News* put forth what was presumably a pre-approved, official position:

> The new law should be implemented as quickly as possible. Approving a law is one thing, enforcing it is another. Once this law becomes effective, it is very important that the Central Bank makes it incumbent on the banks and financial institutions to make sure that it works. The banks will have to institute new procedures to monitor for possible infringements, they will have to share more information with the authorities, and the authorities will have to monitor the banks better. Only once this happens will the UAE be sure that it is operating to the high standards that it has set for itself.[812]

Bankers and analysts interviewed for the next day's edition praised the law, contending that the UAE had now "taken the lead in the region" on AML. Perhaps naively or disingenuously, they said (in a reporter's words) that "there are no reported cases of money laundering in financial institutions here." But they allowed that "the system of *'hawala'* or funneling money informally is an area that needs to be looked into."[813] That

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[807] Carvalho, "Suwaidi Sees No Terrorist Assets in UAE."
[808] Uncredited in *Gulf News*, "U.S. to Train Bank Regulators in Gulf."
[809] Carvalho, "Official Says UAE Not Used for Money Laundering."
[810] Uncredited in *Gulf News*, "UAE Efforts to Combat Money Laundering Win Global Praise."
[811] WAM in *Gulf News*, "Law on Money Laundering Gets Cabinet's Nod."
[812] Uncredited in *Gulf News*, "*Gulf News* Says: Building Global Trust."
[813] Carvalho, "New Law to Boost UAE's Financial Hub Status."

said, Al Suwaidi told the press "there will be no more additions to the anti-money laundering law issued on Tuesday [Oct. 9]."[814]

At about the same time, the UAE Central Bank closed one of the country's money exchange houses and announced that nine others were being scrutinized for unspecified "lapses."[815] The institution that was closed was not named; Emirati author Ibrahim Al Mulla asserted in his book that its owners were found guilty of involvement in an $800 million money-laundering operation.[816] Probably with this in mind, the Central Bank subsequently announced new controls on exchange houses, including basic KYC "instructions to check the identity of persons who remit at least Dh2,000 ($545)."[817] A news report described the new regulations as part of a "move to tighten the transfer of money from the UAE by way of improving the senders' record maintenance requirement by the exchange houses." The measure earned polite approval in the UAE press, although (in a reporter's words) "According to majority of the exchanges, there is [sic] literally no money laundering cases here." The article also noted that, among exchange house personnel, there were "no serious fears expressed about any possibility of the money transferors switching to the unofficial 'hawala' route since the rate offered by them are said to be no match to that of the exchange houses."[818] More tightening came after the Central Bank's Board of Directors met on Oct. 29 and "resolved to reduce the thresholds, for official identification." The bank's subsequent Notice No. 1815/2001 reduced the thresholds for moneychangers from AED200,000 to AED2,000; and for banks from AED200,000 to AED40,000.[819]

Early in December, UAE authorities "requested" that the country's free trade zones adopt more thorough KYC procedures. Specifically, they were asked "to adopt certain procedures regarding natural or juridical persons who wish to establish their business at the Free Trade Zones, i.e., they were asked to obtain information about the owners of foreign companies that wish to establish joint venture companies or branch offices in the free zones." The UAE government would also issue notices in the Arabic and English press "advising both Nationals and Residents to exercise prudence while transferring

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[814] Carvalho, "Suwaidi Sees No Terrorist Assets in UAE."
[815] Uncredited in *Gulf News*, "UAE Shuts Money Exchange House."
[816] Al Mulla, [Criminal Confrontation of the Crime of Money Laundering], 334-335.
[817] Uncredited in *Gulf News*, "UAE to Enforce Money Laundering Law in January."
[818] Uncredited in *Gulf News*, "Exchange Houses Hail New Ruling on Money Transfer."
[819] Uncredited in *Gulf News*, "UAE Efforts to Combat Money Laundering Win Global Praise." See also UAE/AMLSCU, "Annual Report" (2012), 25.

cash funds abroad or while receiving funds from abroad." And a Ministry of Economy and Commerce circular directed insurance companies to implement KYC measures and report any suspicious transactions.[820] By the end of the year, local media reported that the UAE had "frozen 14 suspect bank accounts and placed other accounts on the blacklist in support of an international drive to deprive terrorists from funds." The customs department would in January 2002 begin implementing a new rule requiring visitors to "declare their funds if they have a minimum Dh40,000 ($10,900)." Bigger news was that January would also see the new AML law come into effect.[821] Its timing would come 12 days after the National Anti-Money Laundering Committee's Jan. 10, 2002 response to the FATF report of its earlier evaluation of the UAE. The committee "declared that deficiencies in the Anti-Money Laundering Systems in the UAE have been eliminated."[822]

Federal Law No. (4) of 2002: Regarding Criminalization of Money Laundering

Signed by UAE President Zayed Bin Sultan Al Nahyan on 22 January 2002, the new law's first three articles comprised its Chapter One. Articles 1 and 2 (in the official English translation) defined money laundering as "Any act involving transfer, conversion or deposit of Property, or concealment or disguise of the true nature of those Property, which were derived from any" of the following acts:

a) Narcotics and psychotropic substances.
b) Kidnapping, piracy and terrorism.
c) Offenses committed in violation of the environmental laws.
d) Illicit dealing in fire-arms and ammunition.
e) Bribery, embezzlement, and damage to public property.
f) Fraud, breach of trust and related offences.
g) Any other related offences referred to in international conventions to which the State is a party.

Article 3 rendered financial, commercial, and economic establishments in the UAE "criminally liable for the offence of Money Laundering if intentionally committed in their respective names or for their account." Chapter Two, consisting of articles 4-12, set forth the "commitments of government agencies." Article 4 gave the Central Bank power to freeze suspect property for a week; gave the Public Prosecution Office power to seize such proceeds; and allowed courts to "order Provisional Attachment, for undetermined periods," on suspect property, proceeds, or instrumentalities. The next article gave the

[820] Uncredited in *Gulf News*, "UAE Efforts to Combat Money Laundering Win Global Praise."
[821] Uncredited in *Gulf News*, "UAE to Enforce Money Laundering Law in January"; Uncredited in *Gulf News*, "UAE set to Enforce Fund Declaration for Visitors."
[822] Uncredited in *Gulf News*, "UAE Efforts to Combat Money Laundering Win Global Praise."

Attorney General "exclusive authority to initiate criminal action against a perpetrator of any of the offences herein"; it also authorized the Central Bank exclusively to handle seizures of property. Article 6 authorized the Central Bank to set a ceiling on how much cash could be brought into the UAE without declaration, and to establish a corresponding declaration system. The seventh article established a Financial Information Unit (FIU), to which all UAE financial institutions were to report suspicious transactions. The FIU was already in existence as the Central Bank's Anti Money Laundering and Suspicious Cases Unit (AMLSCU), and was charged under the law to work with UAE law enforcement bodies and also, when appropriate, to convey data to foreign agencies when called for by treaty obligations or on a reciprocal basis. Article 8 directed the FIU to notify the Attorney General of any possible money laundering cases, and also directed the office of Public Prosecution to liaise with the FIU should such a case have been directly reported to the former. Articles 9 and 10 established a "National Anti-Money Laundering Committee," to be chaired by the Central Bank governor. Its membership would also include representatives of the UAE Customs Board and relevant trade and licensing agencies, as well as the ministries of Interior; Justice, Islamic Affairs and Awqaf[823]; Finance and Industry; and Economy and Commerce. Its tasks including proposing further AML measures and regulations; coordinating national AML efforts; and representing the UAE at international AML forums. Articles 11 and 12 required all licensing agencies dealing with financial and commercial institutions in the UAE to ensure their compliance with the new AML law, and imposed confidentiality requirements on AML-related data "except to the extent required" in legal actions. Chapter Three of the law comprised articles 13-20, which addressed penalties. In Article 13, individuals who violated Article 2 above (which gave a basic definition of money laundering) faced penalties of up to seven years imprisonment and fines between AED 30,000-300,000. In Article 14, financial institutions convicted of money laundering violations faced fines between AED 300,000 and AED 1,000,000. Both articles also authorized confiscation of the proceeds of the corresponding AML cases. Article 15 stipulated that officials and employees of various financial institutions failing to report

[823] "*Awqaf* (singular, *waqf*) is an Arabic word meaning assets that are donated, bequeathed, or purchased for the purpose of being held in perpetual trust as ongoing charity (s*adaka jariya*) or for a general or specific cause that Islam regards as socially beneficial. This condition of perpetuity has led over the years to a considerable accumulation of societal wealth such that *awqaf* has become an important sector dedicated to the social and economic improvement of the Muslim society. The importance of the *awqaf* sector is seen in terms of the huge assets it controls, in its social expenditure, in the number of people it employs, and in its significant contribution to the economy which accounts for as much as 10 per cent of the GDP of some countries" (Dafterdar, "Towards Effective Legal Regulations and Enabling Environment for *Awqaf*," 1).

suspicious transactions to the FIU faced imprisonment – the duration was unspecified – and/or fines between AED 10,000-100,000. The next article set forth imprisonment for up to one year and/or fines of AED5,000-50,000 for informing anyone that they were under AML investigation. Article 17 warned anyone filing a false AML complaint that they faced the maximum penalty prescribed for false notification." Article 18 set the penalties for exceeding the ceiling (set in article 6) for the physical transfer of cash at between AED2,000-20,000, with the money involved liable to confiscation. Article 19 established a "catch all" penalty for breaking any other provision of the law with fines of AED10,000-100,000, while the final article in the section, number 20, absolved officials and employees of financial and other institutions from liability if their reporting of transactions violated other confidentiality agreements. Chapter Four's two articles authorized UAE bodies to cooperate with their foreign counterparts to meet treaty obligations and reciprocity. The three articles in Chapter Five were pro forma statements authorizing the Council of Ministers to "issue the executive regulations for the implementation of this law"; repealing any earlier contradictory legal provisions; and arranging for the new law's publication.

Response to the New AML Law

Efforts at implementing the new law included stepped up internal training. At about the same time the new law went into effect, the Dubai Police, in conjunction with agents from the US Federal Bureau of Investigation, hosted a weeklong AML course. It involved 28 members of law enforcement bodies; besides local UAE officers, these included representatives from other GCC countries.[824] Of the new legislation itself, a report by the official news agency (WAM) in English said: "It is a comprehensive law which meets the 25 criteria set by the Financial Action Task Force (FATF). The law also includes the 40 FATF recommendations." It quoted Al Suwaidi saying: "It is very comprehensive and many countries can learn from us, including some West European countries that do not have such laws."[825] UAE bankers and financiers offered supportive, even enthusiastic comments to the English-language press. The head of the Abu Dhabi-based Union National Bank was quoted saying: "We welcome it wholeheartedly. It's not that the banks and the other financial institutions had not been observing strict directives from

[824] Uncredited in *Gulf News*, "Police Officers Attend Course to Combat Crime."
[825] WAM in *Gulf News*, "Anti-Money Laundering Law Signed."

the regulators, but the law being in place will certainly raise the image of the UAE and its financial system globally."[826] A series of similar articles followed.[827] In one, published in April in Arabic, an AMLSCU official suggested that the potential money laundering market in the UAE was worth $500 billion annually.[828]

AML Legislation Enforcement, 2002-2003

With the signing of the new 2002 AML law, the UAE had an AML Regulatory Framework that put it into compliance with FATF standards. The AML law at least met the then-contemporary basic criteria of the FATF, as that organization observed in its *Annual Report 2001-2002*.[829] Thus this initial "marker of success" found realization in the UAE by 2002. That said, the second "marker of success" being studied in this chapter, AML Legislation Enforcement, is harder to assess quantitatively in the immediate aftermath of the new law's passage. For it is hard to find statistics to analyze the country's actual AML situation for the first two years the law was in operation.

The UAE's Anti-Money Laundering and Suspicious Cases Unit (AMLSCU) has shared with the author STR data (in varying degrees of detail and internal analysis) from 2004-2013. However, STR details for 2002-2003 do not seem to have been comprehensively compiled. Suwaidi himself acknowledged, in early 2004, bureaucratic difficulties with gathering accurate statistics on AML reports. "Yes, we have had some cases but they were not major ones," he was quoted as saying in the UAE press. "I do not have statistics about such cases because it is not only the Central Bank that records such cases as there are cases with other judicial parties."[830] The problem seems to have been invoked a 2008 FATF/MENA evaluation report of the UAE, which cited "a lack of statistics" as among factors that "do not permit an analysis of effectiveness" of the country's AML legislation.[831] (The criticism was repeated in a 2008 IMF document that repackaged the MENA/FATF report.[832])

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[826] Jose and Rao, "Anti-Money Laundering Law Draws Big Applause."
[827] See, for example, Rahman, "UAE's Anti-Money Laundering Law Hailed"; Uncredited in *Gulf News*, "Task Force Recognises UAE's Anti-Money Laundering Efforts"; and Uncredited in *Gulf News*, "UAE Efforts to Combat Money Laundering Win Global Praise."
[828] Uncredited in *Aawsat*, ["Emirates Applies Strict Measures to Combat Money Laundering"]
[829] FATF, "Annual Report 2001-2002," Annex G, 3.
[830] Carvalho, "Anti-Money Laundering Law 'Highly Effective.'"
[831] MENA/FATF, "Mutual Evaluation Report" (2008), 13.
[832] International Monetary Fund, "United Arab Emirates: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism," 47.

Outside of stray media reports and fragmentary glimpses from official documents, little hard data has surfaced about the enforcement of the new law in its first two years, or which might help measure its effectiveness.[833] Bearing in mind the caution that "anecdote is not the plural of data," some qualitative elements that speak to the early enforcement of the new law in 2002 include the following:

- On Jan. 26, 2002, not long after the new law was signed, a man using a German passport opened an account at a Dubai bank; on Feb. 19 over $1 million was transferred into the account from a bank in Germany, after which the account holder (in a reporter's words) "came to the bank and attempted to withdraw the whole amount, claiming he was going to use it to invest in a business venture in the country. When bank officials enquired as to what business venture he was planning to invest in, the man had no clear and straightforward answer." After determining that the local account holder's German identity was false, the Dubai bank informed authorities of a possible ML attempt. The account holder was ultimately identified as an Indian citizen, who said he had obtained the fake passport from a UAE national and trader, who himself obtained it from a Belgian. The Indian and UAE national both received two-year prison terms; the Belgian received a two-month sentence. The Dubai Appeals Court later (3 October 2004) upheld the sentencing.[834]
- About a month after the new AML law took effect, Dubai police questioned "three expatriate brothers who own a leading jewelry group in Dubai with considerable interests in bullion dealing" about suspected money laundering.[835]
- In March 2002, the Dubai public prosecutor agreed to extradite a Canadian citizen who had been "accused by Canadian authorities of involvement in drugs and money laundering. … As there is no extradition treaty between the UAE and Canada, the matter was submitted to the Dubai Public Prosecutor to decide. The public prosecutor has ordered that the accused be handed over to Canada, on condition that the Canadian authorities give a written undertaking that they will hand over any criminal if the UAE makes such a request."[836]
- In a letter received on 6 May, 2002, the Central Bank ordered Abu Dhabi Islamic Bank to freeze accounts (then containing Dh6,943,072) of Nortel Distribution, which was suspected of money laundering. A subsequent letter, received 12 May, told the bank (in a reporter's words) "to preserve these account[s] as per the orders of the Attorney General." After an 11 August meeting with the AMLSCU, at which representatives of Nortel and Abu Dhabi Islamic Bank attended, the "company was unable to give any convincing explanations regarding the source of its assets. The Attorney General's decision to preserve the account remained effective." Nortel subsequently filed a lawsuit against Abu Dhabi Islamic Bank in the Dubai Court of First Instance – presumably the accounts had been located in a Dubai branch of the bank – asking that its assets be released along with Dh4

[833] The author searched *Gulf News*, available at www.gulfnews.com; *Gulf Today*, available at www.gulftoday.ae; and *Khaleej Times*, available at www.khaleejtimes.com. Her Arabic-speaking student assistants undertook a similar scan of Arabic-language sources, which yielded little in this time period, possibly because those UAE news outlets may not yet have archived earlier stories online.
[834] Bathish, "Court Upholds Prison Terms of Three Criminals."
[835] Uncredited in *Gulf News*, "Jewelers Held for Questioning."
[836] Uncredited in *Gulf News*, "Canadian in UAE to be Extradited."

million in compensation. The court rejected the suit, as did the higher Dubai Courts of Appeals and Cassation.[837]

- At about the same time that the freezing of Nortel's accounts took place, a UAE judge said (in a reporter's words) that "The UAE had detected minor money laundering operations but it is free of organised suspect cash activities as a result of direct surveillance by monetary authorities and cooperation by financial institutions…"[838]
- In early June 2002, the Central Bank reported that 37 suspect bank accounts had been frozen since the issuance of the new law, mostly done on orders from the Attorney General. The Arabic newspaper *Al Ittihad* reported that a lawyer representing the holder of three affected accounts had filed a formal complaint via the Dubai police department (It is unclear if this referred to the Nortel case cited above, which appears to have involved a court action rather than a police complaint).[839]
- On 10 June 2002, a tipoff from a British Embassy official led UAE police to arrest two Germans at Dubai International Airport. The pair, flying from Dusseldorf, was carrying two bags, one containing 9,820 Euros concealed in a newspaper, and another containing 370,000 Euros.[840]
- In July 2002, the Economic Crimes Section of the Dubai Police Criminal Investigation Department reported that two money-laundering cases were among 59 actions it had referred to the Public Prosecutor in the first half of the year.[841]
- Early in October 2002, the UAE finalized the "implementation details" of the AML law, giving the Central Bank powers to freeze suspicious assets for a week, and also prescribed penalties of up to seven years in prison.[842] Also in October, the two Germans arrested on June 10 (see above) were found guilty of money laundering.[843] According to an Arabic language article, they were fined Dh100,000; it is unclear if this sum was applied to them individually or collectively.[844]
- Also in October 2002, it was reported that a total of 30 money-laundering cases were currently under investigation in the UAE. Seven of those involved proceeds totaling about $100 million.[845]

Even fewer details seem to have been printed (or perhaps digitized into searchable databases) about AML Legislation Enforcement in 2003. The MENA/FATF 2008 report on the UAE noted that in 2003, the Dubai public prosecutor initiated five cases.[846] Media references to two 2003 incidents – one in April, and one in August involving a "person who opened a false account with a national bank" – in fact only appeared the following

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[837] Uncredited in *Khaleej Times*, "Abu Dhabi Islamic Bank to Keep Nortel Funds Freeze Over 'Money Laundering.'"
[838] Kawach, "UAE Free of Organised Suspect Cash Activities."
[839] Uncredited in *Gulf News*, "Move on Freeze of Accounts Defended."
[840] Za'Za , "Two Arrested For Money Laundering."
[841] Uncredited in *Gulf News*, "23 Piracy Suits Referred To Prosecution."
[842] Kawach, "Anti-Money Laundering Law in Final Stage."
[843] Za'Za, "Two Arrested For Money Laundering."
[844] Al Sheikh, ["Emirati Lawyer: Cases of Money Laundering are Increasing and Their Size Reaches up to $100 Million"].
[845] Owais, "Money Laundering Cases 'Under Scrutiny.'"
[846] MENA/FATF, "Mutual Evaluation Report" (2008), 26.

year in a story about cases discussed at an AML seminar.[847] The paucity of detailed coverage may reflect a lack of official data dissemination rather than media fatigue with the subject, for money laundering remained much discussed. Often this was in the context of terrorist funding, toward which the UAE's AML compass was gradually shifting, in keeping with worldwide trends in AML legislation.

Regulating *Hawala*

Hawala also received significant media attention in the UAE at this time. As early as January of the previous year, UAE-based legal experts had issued public cautions over the practice's vulnerability to criminal exploitation. Some warned of similar risks for the gold industry as well.[848] UAE Central Bank regulations going back to 1992 (specifically article 2 of Resolution No. 123/7/92) required moneychangers to be licensed and regulated. This law in theory would have regulated *hawaladars*, but the extent to which it was ever unforced is unclear. The attacks of 9/11 pushed *hawala* closer to the forefront of terror-financing concerns; some in the West, who saw the practice as an unregulated menace through which terrorist funds could flow, wanted *hawala* banned outright.[849] (As noted in an earlier chapter, the post-9/11 FATF recommendations sought regulation of all such IVTS.) US officials felt sure *hawala* had played a role in financing the 9/11 attacks; while observers have differed on their interpretation of the evidence for this, if *hawala* had a role it seems to have been a minor one.[850] (However, its earlier use by al Qaeda in American Embassy bombings in 1988, and later use to move funds out of Afghanistan in 2001, is documented.[851])

Regardless, the US government's response to 9/11 included launching a case against the Somalia-based Al-Barakaat financial enterprise, a large-scale international *hawala* operation, which also offered a kind of banking service in which individuals could deposit assets. It was also its host country's largest employer. Its connection to terrorism would, in hindsight, be seen as tenuous. To some critics, the legal assault on it, which included seizure of $1.9 million in assets, cut off many people's legitimate source

[847] Rashid, "No Money Laundering in the UAE, Says Official."
[848] Rao, "Finance Houses Lack Effective Money-Laundering Detection Systems."
[849] Carvalho, "UAE to Introduce New Law Against Terror Financing."
[850] See Borders, "Regulating and Combating Underground Banking," 100-101; and Bowers, "Hawala, Money Laundering and Terrorism Finance," 387.
[851] Wheatley, "Ancient Banking, Modern Crimes," 359.

of income and denied them access to their savings deposits.[852] *Hawala* did, however, have well-placed critics in Middle Eastern and Asian countries. But while the West saw *hawala* as a means of terror financing, many of these critics saw it in the context of tax avoidance.[853] When the head of Pakistan's Central Bank visited Suwaidi in November, 2001, he told Pakistani expats that: "It is the patriotic duty of all Pakistanis living abroad to shun the *hundi* (*hawala*) as this system is undermining the national economy." Speaking with workers in an Abu Dhabi labour camp, he told them that his country's banks had improved efficiency and would not charge fees for handling remittances.[854]

On the other hand, his host in the UAE seems to have wanted to give *hawala* the benefit of the doubt, and preserve it as a functioning, though more regulated, system. From Suwaidi's perspective*, hawala* was a long-established part of Arab culture, which he was resistant to sacrifice, particularly in the cause of something Suwaidi had (as noted above) been quoted as calling a Western problem.[855] But hawala was seen as such a problem that, for a time at least in 2001, the UAE feared being placed on a list of non-cooperative countries and territories (NCCT). Suwaidi later attributed this to a misunderstanding by FATF "that *hawala* was prevalent only in the UAE."[856] (FATF reports indicate that no NCCT status was conferred on the UAE.)[857]

Regardless, Suwaidi presumably bowed to international pressure when early in 2002 he announced that the UAE was working with its GCC counterparts on a joint approach to regulate the practice. "If *hawala* is being misused by some people, it cannot be countered by the UAE alone," he told local journalists. "It has to be tackled at the GCC level and all our countries are making efforts to come out with a common system to make sure *hawala* is not misused."[858] Indeed, at a time when Western countries wanted the practice banned, Abu Dhabi played host to the first International Conference on *Hawala* in May 2002. (It would host others in 2004, 2005, and 2007). Its goals, and those of the later ones, were to "facilitate proper risk and impact assessment and prioritization," including assessing is vulnerability to "money laundering, terrorist

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[852] Guiora and Field, "Using and Abusing the Financial Markets: Money Laundering as the Achilles' Heel of Terrorism," 87; and Pathank, 'The Obstacles to Regulating the Hawala," 2045-2046.
[853] See, for example Sher, "Counter Point: Regulation of *hawala* is a Step in the Right Direction."
[854] Uncredited in *Gulf News*, "Pakistanis Urged to Shun *Hawala* System."
[855] Nawaz, McKinnon and Webb, "Informal and Formal Money Transfer Networks," 334, citing Allen in *Financial Times*, "The Veil over Dirty Money in Dubai."
[856] Carvalho, "UAE to Introduce New Law Against Terror Financing."
[857] See FATF, "Annual Review of Non-Cooperative Countries and Territories 2006-2007," 2, n2.
[858] Carvalho, "GCC in talks to check *hawala* deals."

financing and other related crimes." Its other objectives were to reach out to *hawala* operators to convince them "on the value of an integrated and sound money transfer system," and encourage "closer co-operation and enhanced information exchange between law enforcement agencies and regulators to ensure that the applicable measures are both effective and balanced."[859]

Outreach was perhaps the hardest part, as the practice was such an underground element that no *hawaladars* attended the conference. (In similar fashion, when word leaked that US Treasury Secretary Paul O'Neil planned a visit to a Dubai *hawala*, he arrived to find "that not only were the *hawaladars* missing, but that the entire storefront had been removed the night before.")[860] Despite this, on 16 May the conference issued what has been termed the "Abu Dhabi Declaration on Hawala," praising the system for its general usefulness but also stating that such informal value transfers systems should be regulated in accordance with FATF recommendations. It also warned (in an observer's words) about the risks of too restrictive regulation." One danger with the latter was that "too stringent regulation could result in underground banking being carried on even more covertly."[861]

Suwaidi used the 2002 forum as an opportunity to refute western media presentations of *hawala* as a means of transferring illicit funds. "That, of course, is not the case and has never been the case," he was quoted as saying, adding (in a reporter's words) that the "majority of people who use *hawala* to remit their funds are low income blue-collar migrant workers in the Middle East or western countries who are for a large part illiterate and have moved to work overseas from countries where there are strict exchange controls."[862] However, no joint GCC regulatory body for *hawala* ever coalesced; Saudi Arabia and Qatar would in fact ban the practice.[863] Regardless, the UAE stuck to a moderate course on *hawala*, which might fall into what a later observer called the assimilation model. In this "underground bankers will have to look more like ordinary bankers and vice versa, subject to the precondition that compliance with the relevant rules and regulations and government supervision are guaranteed. The purpose of this is not to eliminate underground banking as an institution based on trust, but 'only' to

[859] UAE/AMLSCU, "Annual Report" (2013) 13.
[860] Bowers, "Hawala, Money Laundering and Terrorism Finance," 386.
[861] Borders, "Regulating and Combating Underground Banking," 107. See also Looney, "Hawala," 166.
[862] Carvalho, "Meet Highlights the Need to Regulate, But Not Ban, *hawala*."
[863] Maayeh, "Hawala Money Transfers Defy Regulation Efforts."

modify it, while offering the customers of underground bankers a real alternative on the money transfer market."[864]

By November, likely with the post-9/11 FATF recommendations in mind, the Central Bank announced that new regulations for UAE-based *hawaladars* were to take effect in the future. The dealers would be required to register with the Central Bank; record details of each transaction, including "reverse transactions" or inward remittances; report suspicious transactions that might involve money laundering; and submit returns to the Central Bank. Perhaps because *hawaladars* had little prior experience of government registration, the awareness effort stressed the simplicity of the forms involved.[865] As Trautsolt and Johnson noted in a later article, the incentive was that those *hawaladars* who registered would "receive a certificate to facilitate their access to the formal financial sector, should they wish to deal with banks or moneychangers." However, as "it is general knowledge that unregistered *hawaladars* use the formal banking system with no restrictions in their business routines … this incentive seems to matter little in reality."[866]

It appears that a period of several months were spent spreading advance notice, with a kind of pre-registration in place, prior to the actual issuance of the relevant Central Bank regulation on 1 April 2003.[867] (Moving ahead of this chapter's basically chronological approach, by October 2005, 153 *hawaladars* would be registered in the UAE.[868] By August 2008, that number would rise to 260, with 100 applications pending. But at the same time, unregulated *hawala* was seen as omnipresent in the UAE capital of Abu Dhabi. This was probably due in part to the lack of incentive cited above, as well as lax enforcement and nonexistent penalties. "We are not registered, nobody is registered here," an Abu Dhabi storeowner and *hawaladar* told a reporter from *The National* newspaper. "Every textile shop is doing *hawala*. It is how people make most of their money."[869] Trautsolt and Johnson would conclude from the *hawala* registration effort that the FATF recommendations themselves on *hawala* were ineffective.[870]

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[864] Borders, "Regulating and Combating Underground Banking," 104.
[865] Carvalho, "Central Bank Begins Registering Hawala Operators," and Zagaris, "Problems Applying Traditional Anti-Money Laundering Procedures to Non-Financial Transactions, 'Parallel Banking Systems,' and Islamic Financial Systems," 162.
[866] Trautsolt and Johnsøn, "International Anti-Money Laundering Regulation of Alternative Remittance Systems," 414.
[867] UAE/AMLSCU, "Annual Report" (2013) 12.
[868] WAM in *Gulf News*, "UAE Keeps Tabs on Inflow of Foreign Funds."
[869] Maayeh , "Hawala Money Transfers Defy Regulation Efforts."
[870] Trautsolt and Johnson, "International anti-money laundering regulations of alternative remittance systems," 417.

The Shift Toward CFT

To return to the straight chronology of AML/CFT efforts brings the focus of this doctoral thesis back to 2003. While earlier AML efforts were connected to concern with organized crime and narcotics trafficking, the 9/11 attacks in the US shifted the focus of many such efforts toward the context of fighting terrorism. The acronym CFT ("combating the financing of terrorism") began to emerge alongside AML. Indeed, it was in this context that US representatives seem to have initially seen the UAE's 2002 AML law.[871] But it also became gradually clearer that Western governments and international organizations felt more was needed. As a modern study has noted, there are clear legal demarcations between AML and CFT as problems to be regulated.

> Despite many similarities, terror financing presents a wholly different discussion from money laundering and as such, the traditional money laundering legislation is insufficient against terror financing. Money laundering … is the cleaning and concealment of "dirty" or "illicit" money. A governmental program that searches for illegal activities will likely find money laundering. However, the financial acts in terror financing do not necessarily involve illicit funds. In money laundering the criminality begins with the illicit earning of funds, followed by the subsequent illegal act of money laundering. In terror financing, however, the actual illegality often occurs only after the actual transfer, when the money is ultimately used for funding terrorism. Thus, the mere application of the existing money laundering rules is insufficient.[872]

Or as another scholar has expressed it, terror financing "involves a process completely different from money laundering: 'money dirtying' which is the reverse of money laundering."[873]

No sign of any perceived inadequacy of the UAE AML law in this regard seems to have come out in the press when Dubai hosted the IMF-World Bank annual meetings in September 2003. Then, much was made of the fact that the UAE had, mainly by virtue of its AML law, emerged as a regional leader in halting the financial exploitation of financial institutions by terrorists.[874] However, it became clear within a few months of the IMF-World Bank meeting in Dubai that more specific anti-terrorism approaches were wanted. In April 2004, an IMF delegation returned to the UAE to discuss concerns about the financing of terrorism. The trip included a session with the National Anti-Money Laundering Committee and its chairman, Central Bank Governor Sultan bin Nasser Al Suwaidi. The latter told a reporter for an English-language newspaper that the IMF team had "expressed satisfaction" with the UAE's AML efforts. "But," he added, "the IMF has

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[871] Carvalho, "U.S. Lauds UAE Role in Fighting Terrorist Funds."
[872] Guiora and Field, "Using and Abusing the Financial Markets: Money Laundering as the Achilles' Heel of Terrorism," 76.
[873] Unger, "Money Laundering Regulation: From Al Capone to Al Qaeda," 21.
[874] Raveendran, "UAE Plays Perfect Host with Reforms in Banking Sector."

directed us to put in place a law to combat financing of terrorism." According to Suwaidi, UAE authorities began preparing a CFT law at once. "A Technical Committee has been formed with representatives from the Ministry of Justice, the UAE Central Bank and some other organisations," he told a reporter. "When it is ready it will go through the usual channels before a decree is passed." *Hawala* was apparently still a sore point with Western governments, because Suwaidi emphasized that while the UAE would cooperate with international bodies, it would reject calls to ban *hawala*. "*Hawala* plays a key role in facilitating remittances, especially those of migrant workers and it is an integral part of the international finance system," he told the press. "In this part of the world, it serves a very important purpose and we cannot ban it. However, we will do our best to regulate it." This would be done in part, he said, by continuing the practice of registering *hawaladars*. Doing this, made *hawala* "a legitimate way of transferring money," he added, noting that criminals could also misuse other financial institutions.[875] Under any circumstances, Suwaidi at this time felt the existing AML law had made a significant impact, and he told the press in June it had resulted in a drop in suspicious transactions from abroad.[876] At about the same time, the country had taken steps to ensure competent regulation of its Financial Free Zones, of which the Dubai International Financial Center (DIFC) was the first and most visible; [877] and transportation of valuables in the diamond trade, the operations of which were overseen by the Dubai Multi Commodities Center (DMCC). [878]

Federal Law No. (1) of 2004 ("On Combating Terrorism Offenses")

UAE President Zayed bin Sultan Al Nahyan signed the decree, on behalf of the Ministry of Justice, into law on 28 July 2004. (Decrees in the UAE have the force of law, and are issued by the president, in collaboration with the Council of Ministers, "should necessity arise for urgent promulgation of Union laws between session of the Supreme Council."[879] It consisted of 45 separate articles. Those most relevant to terror-financing are as follows:

Article 3 provides for the forfeiture of "property derived from the offence or apparently included within the property of the convict if it is proved that this property is in fact a

[875] Carvalho, "UAE to introduce new law against terror financing.
[876] Uncredited in *Alyaum*, ["The success of the UAE's efforts to reduce the suspicious transfer of funds."]
[877] UAE/AMLSCU, "Annual Report" (2013), 15.
[878] UAE/AMLSCU, "Annual Report" (2013), 15.
[879] UAE Constitution, Part V, Chapter 2, Article 113, as translated in Walters and Quinn, *Bridging the Gulf*, 265-266.

resource assigned to finance the said societies, bodies, organizations, centres, groups or gangs." Article 4 provided for the forfeiture of any property or proceeds given to support such groups, as well as that which "had been transferred, substituted, in whole or in part or mixed with other property gained from legal sources." Moving closer, perhaps, to the traditional money laundering sphere, Article 12 provided for imprisonment up to and including for life for "Whoever gains, provides collects, carries or transfers property, directly or indirectly, with intention to be used or knows they are going to be used, in whole or in part, to financing any of [the] terrorist acts provided in this Decree by Law within the State or abroad, whether the said act occurred or non-occurred…" The same article provided for forfeiture of the aforesaid property. And Article 13 provided the same punishment for "Whoever carries, transfers, deposits property on the account of another person, or conceals or disguises its nature, essence of its source or its place as well [as] whoever possesses property … with intention to be used or knows they are going to be used, in whole or I part, to financing any terrorist acts provided in this Law…" Again, the article called for the forfeiture of such property. Article 34 specified that in such cases "the competent court shall seize the property, possession or proceeds until the end of the trial," and that all orders related to seizure or freezing of bank accounts "shall not be executed save through he Central Bank." Article 39 freed the Central Bank from liability in such cases. Article 36 established a National Committee for Combating Terrorism, which would include representation from the UAE Central Bank. It would sometimes be known as the National Counter Terrorism Committee (NCTC), and would work closely in future with the NAMLC and AMLSCU.[880]

AML Legislation Enforcement, 2004-2008

With the signing of this decree, the UAE's AML/CFT framework would be largely settled for the next decade, until the signing of Federal Law No. (9) of 2014, which amended portions of the aforementioned AML law of 2002. At this point, in 2004, UAE Central Bank data emerges that can be used to draw inferences about the effectiveness of the UAE's AML/CFT legislative/regulatory framework. (One sign of how 2004 marked a turning point in data collection is that the UAE Central Bank during the year developed a secure online portal through which banks and other financial institutions could submit STRs.)[881]

[880] UAE/AMLSCU, "Annual Report" (2013), 3.
[881] UAE/AMLSCU, "Annual Report" (2013), 15.

The starting point for an assessment of the UAE's AML/CFT framework at this point is the MENA/FATF evaluation performed in 2007, which culminated in a report published in April 2008. Its "key findings" were that a basic legal framework was in place but needed strengthening. "The AML law needs to be amended to expand the range of predicate offences and to provide greater powers for the financial intelligence unit." The latter, the AMLSCU, also needed greater staffing. The report noted that the UAE's framework at this time "predates the revision of the FATF Recommendations in 2003, which have now imposed much more detailed requirements." And while the report looked favorably at the regulation of *hawala*, it was especially critical of the low numbers of STRs generated.[882] STR figures can indeed be seen as key indicators of diligence and a source for comprehensive data breakdown, and were understandably a centerpiece of the evaluators' attention.

The MENA/FATF evaluators noted that the Central Bank's "regulations contain detailed examples of types of transactions that might reasonably be regarded as unusual in order to assist the institution to identity suspicious activity." The evaluators also reproduced the feedback form the UAE Central Bank provided in receipt of an STR. It contained "five tick-box items notifying the institution of any one of the following:"

- The STR has been added to our STR database at AMLSCU and no action is required.
- The STR has been added to our STR database at AMLSCU and you should monitor the account regularly for suspicious movements.
- You should interview the customer, and inform us of the outcome of the interview.
- The case will be passed-on to the police for investigating concerned person/customer/entity's activities.
- Steps will be taken to freeze the accounts and pass on to the Public prosecutor for further investigation.[883]

These five tick-boxes, then, represent the five potential outcomes of a single STR. Compiling statistics on the breakdown of outcomes – something FATF evaluations would request while compiling their 2008 report[884] – does not seem to have begun in the UAE until 2011, which is the first year for which such breakdowns appears in the AMLSCU *Annual Reports*. However, the same source does track the growth of STRs from 2004-2013.[885]

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[882] MENA/FATF, "Mutual Evaluation Report" (2008), 9.
[883] MENA/FATF, "Mutual Evaluation Report" (2008), 81.
[884] MENA/FATF, "Mutual Evaluation Report" (2008), 82.
[885] Adapted from UAE/AMLSCU, "Annual Report" (2013), 21.

Table 1: Annual Number of STR Reports, 2004-2013, AMLSCU

2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
377	372	635	694	1170	1750	2781	2576	2700	2890

For the period under assessment in this section, 2004-2008, it shows an average of 649.6 STRs filed annually. Some contemporary media reports offer additional numbers and statistics, but many of these seem to confuse or perhaps conflate STRs with other types of reports. It is possible that UAE officials still had not yet consolidated AML complaints in a central database. For example, Dubai Police operated the "Al Ameen" service, in which residents could report crimes by phone, fax or email; this service generated a dozen money laundering complaints in 2004 and 47 in 2005; most complaints involved scam-type emails originated from Africa.[886] This seems supported in a footnote to the 2008 MENA/FATF MER which states that what were classified as STRs included not only those "received from the financial sector" but also "reports filed by various law enforcement and other agencies." [887] Certainly, by 2010 the AMLSCU had begun to break down STRs into those filed by financial institutions and moneychangers on ML/FT suspicion; those filed by financial institutions and moneychangers on fraud/criminal suspicion; and those coming from other law enforcement authorities.[888] The fact that multiple STR types were being kept seems to be reflected in a statement, contained in the 2008 MER, that UAE Central Bank officials told the investigators that "there were just over 4,000 STRs on hand as at [*sic*: of] December 31, 2006."[889] This was apparently a cumulative number representing STRs going back to Central Bank's Nov. 14, 2000 Circular No. 24/2000, which made STR filing mandatory.

Such aggregate figures seem to make other appearances in media stories. For example, a 2005 story in *Gulf News* reported UAE officials announcing that the "[t]he total number of suspicious transactions and cases received by the Central Bank's Anti-Money Laundering and Suspicious Cases Unit (AMLSCU) so far has been 2,384." Again, this is presumably a cumulative figure going back to November 2000. The article also reported that the UAE had (in an unspecified time period) "frozen 17 suspicious bank accounts totaling Dh4.95 million" or US$1.348 million. An AMLSCU official was quoted as saying

[886] Bithar, "Spike in Money Laundering Cases Poses New Problem."
[887] MENA/FATF, "Mutual Evaluation Report" (2008), 43, n. 10.
[888] UAE/AMLSCU, "Annual Report" (2012), 35; and UAE/AMLSCU, "Annual Report" (2013), 21.
[889] MENA/FATF, "Mutual Evaluation Report" (2008), 43.

that 2,273 of the aforementioned 2,384 cases had been investigated, "of which 27 were referred to the public prosecutor for legal action." In 16 cases, four of which related to UAE Customs, proceeds from money laundering were ordered confiscated. The other nine cases were then awaiting final decisions in the courts.[890]

There are other signs of confusion from this period over how UAE officials (or perhaps journalists) presented or interpreted figures on STRs. In some cases, it seems that aggregate figures since 2000 (or 2002, when the AML law took effect) were translated as annual numbers. A 2009 story in *Gulf News*, for example, quoted a senior UAE Central Bank official as stating that during the year, "6,198 cases have been reported to the Central Bank until May, and the number could eventually cross 15,000… In 2008, 13,101 cases were reported to the Central Bank." Both figures, again, far outpace those later published by the AMLSCU (1750 in 2009, 1170 the year before), suggesting that multi-year cumulative totals were in fact being discussed. Yet the official being quoted, Saeed Abdullah Al Hamiz, senior executive director of banking supervision, added that between 2002 and 2008, more than 74,000 "cases of suspicious transactions" had been reported. Of that huge figure, he said, "only 285 have been sent to the Public Prosecution since 2002, with 20 of those reaching court."[891]

Further confusing the picture, the MENA/FATF team compiling the 2008 evaluation report received a different set of STR numbers than those later published by the AMLSCU. According to the MENA/FATF document, between 2004-2006 financial institutions filed the following numbers of STRs:[892]

Table 2: Annual Number of STRs by Financial Institutions, 2004-2006, MENA/FATF

	2004	**2005**	**2006**
Banks	252	250	475
Moneychangers and other financial institutions	38	49	73
DIFC institutions[893]		2	8
Total	290	301	556

[890] Carvalho, "UAE Freezes Suspicious Accounts."
[891] Uppal, "UAE regulators join hands to ensure probity.
[892] Adapted from MENA/FATF, "Mutual Evaluation Report" (2008), 82.
[893] In May 2008, it would be reported that the DFSA had filed "around 25" STRs with the UAE Central Bank since 2004. Masudi, "DFSA: The Watchdog Fighting Financial Crimes."

This yields the total STRs for 2004-06 as published in MENA/FATF MER 2008. But this contradicts the STR numbers for the same period as published in AMLSCU Annual Report 2013.[894]

Table 3: Annual Number of STRs, 2004-2006, AMLSCU

2004	2005	2006
377	372	635

A more immediate problem noted in 2008 was the lack of specific information derived from the STR numbers. Besides noting that the 10 DIFC cases all involved "submission of forged documents," the authors of the 2008 MENA/FATF report observed that the UAE Central Bank had been unable to grant the team's request for a breakdown of the rest of the STR data. Moreover, the authors also noted that "[t]he level of STR reporting in the domestic sector appears to be very low relative to the size of the market. It is also understood (from discussions with the private sector) that the reporting is heavily concentrated among a few institutions. These figures suggest that the system is not providing a proper basis for the analysis and investigation of money laundering threats in the jurisdiction." The authors suggested two causes for the low figures: most financial institutions were failing in their duty, or "they are applying a threshold of suspicion that is unreasonable [sic] high." Under any circumstances, "the central bank reports that, through its examination process, it is generally satisfied with the levels of compliance by the banks." [895]

Another aspect of the analysis the MENA/FATF team remarked at was the low number of AML/CFT investigations and prosecutions taking place outside of Dubai itself. There, the prosecutor's office began five cases in 2003, seven in 2004, eleven in 2005, four in 2006, and two in 2007. In comparison, the Attorney General, based in Abu Dhabi and responsible for prosecuting ML cases outside of Dubai and Ras Al Khaimah, had begun only two cases prior to the arrival of the evaluators. Both were in Sharjah, and the first "failed for lack of evidence and the second is still before the courts." Moreover, according to the report, the AMLSCU had sent no STR-based cases to the federal prosecutors since 2005. While Ras Al Khaimah had experienced no ML-based

[894] Adapted from UAE/AMLSCU, "Annual Report" (2013), 21.
[895] MENA/FATF, "Mutual Evaluation Report" (2008), 82.

prosecutions, the analysts dismissed this as insignificant because "this is a small emirate."[896] Outside of the report, media articles provide some evidence of Dubai efforts.

- The Dubai Court of First Instance, for example, in April 2005 found an accountant and businessmen guilty of laundering Dh6.3 million under the 2002 law. They received no criminal penalty, but were each fined Dh40,000. The verdict was however, reversed on appeal late in May.[897]
- In December 2005, Sharjah and Dubai police began "Operation Octopus," which ultimately (in late August 2006) brought 19 people to Sharjah court charged with money laundering and drug running. "According to the case file — comprising more than 3,000 pages — last December, the authorities concerned received information that some members of a gang who were staying in the UAE, were planning to smuggle a huge quantity of drugs — 2,500kg of hashish — in containers of 90,000 towels from Pakistan to Holland, through some of their assistants in Pakistan. The smugglers hid the narcotics in towels and transferred them from Faisalabad to Multan in Pakistan where they were repackaged in cartons, then sent to Karachi where a member of the gang received the quantities and put the consignment in a container. The suspect completed the shipment procedures with the Pakistani Customs, and the cargo was supposed to be shipped to a private company belonging to a member of the gang in Holland."[898] (The outcome of the case does not appear to have been reported; it is possible that it was the case the MENA/FATF evaluators reported had been dropped for lack of evidence.)
- On 7 May 2006, UAE authorities arrested a 53-year-old Russian national wanted on an Interpol warrant for money laundering and subsequent extradited him to Spain. [899]
- In early March 2007, Suwaidi called a press conference to announce the breakup of an international money laundering effort, the efforts done mainly by UAE security and regulatory officials. In discussing the investigation, which unfolded over 18 months, he attacked critics of UAE AML/CFT efforts, basically accusing them of jealousy over the UAE's developed financial sector. He said the investigation had involved a group of 21 people and nine companies from various countries. The sum involved was $50 million.[900] While a *hawala* system was involved in the case, it was not that of the UAE.[901]
- Later in March 2007, UAE investigators assisted in the international breakup of what was described as an effort to launder drug money "in a UAE 'cash pool' serving a string of dealers between the UK and Afghanistan." The figure involved was Dh715 million.[902]
- In May 2007 Dubai Police closed out a major investigation against a money laundering operation. According to the Arabic newspaper *Al Bayan*, the first involved Dh74 billion in money laundering, had been in operation since 1999,

[896] MENA/FATF, "Mutual Evaluation Report" (2008), 26.
[897] Za'za, "Businessman and Accountant Cleared of Money Laundering."
[898] Rashed, "19 on Trial Over Record 2,500kg Drugs Haul."
[899] Za'za, "UAE Extradites Wanted Russian to Spain."
[900] Uncredited in *Elaph*, ["UAE Disintegration Of International Money Laundering Network."]
[901] Uncredited in *Al Ittihad*, ["Central Denies The Use Of The *Hawala* System In Money Laundering Operations."]
[902] Masudi, "Money Laundering Sweeps UAE."

and the cash concerned had passed through banks in 10 countries. Dubai police captured eight suspects; five more were captured outside the UAE.[903]

- In October 2007, after 16 months of monitoring, Dubai Police arrested 40 more people of various nationalities involved in a similar operation that allegedly involved the laundering of Dh2.4 billion.[904]

Compliance Assessments in 2008

Besides the STR materials cited above, and a general lack of statistics needed to assess the AML/CFT framework's effectiveness,[905] the MENA/FATF evaluation report found other areas to critique. Assessing the country's framework on the 40 Recommendations and Nine Special Recommendations then in force, it found the UAE in Compliance on only five; Largely Compliant with 15, Partly Compliant with 18, and Non-Compliant with 11. The 5 areas of Compliance were: [906]

Table 4: Areas in which UAE was Deemed Compliant

Recommendation #	Description	Compliance Status
19	Other forms of reporting	C
27	Law enforcement authorities	C
28	Powers of competent authorities	C
34	Legal arrangements	C
35	Conventions	C

The 15 areas in which the UAE was deemed Largely Compliant were: [907]

Table 5: Areas in which UAE was Deemed Largely Compliant

Recommendation #	Description	Compliance Status
2	ML offense – mental element and corporate liability	LC
3	Confiscation and provisional measures	LC
4	Secrecy laws consistent with the Recommendations	LC
8	New technologies and non face-to-face business	LC
9	Third parties and introducers	LC
10	Record-keeping	LC
11	Unusual transactions	LC
22	Foreign branches & subsidiaries	LC
31	National co-operation	LC
36	Mutual legal assistance (MLA)	LC
37	Dual criminality	LC
39	Extradition	LC
SR.II	Criminalize terrorist financing	LC
SR.V	International cooperation	LC
SR.VIII	Nonprofit organizations	LC

[903] Uncredited in *Al Bayan*, ["Dubai Police Disrupt Largest Networks of Laundering and Customs Fraud…"]. See also Za'za, "Dubai Police Arrest 16 Suspects for Money Laundering."
[904] Al Theeb, "Huge Money-Laundering Ring Smashed."
[905] MENA/FATF, "Mutual Evaluation Report" (2008), 43.
[906] MENA/FATF, "Mutual Evaluation Report" (2008), 151-158.
[907] MENA/FATF, "Mutual Evaluation Report" (2008), 151-158.

The 18 areas in which the UAE was deemed Partly Compliant were: [908]

Table 6: Areas in which UAE was Deemed Partly Compliant

Recommendation #	Description	Compliance Status
1.	ML offense	PC
14	Protection and no tipping-off	PC
15	Internal controls, compliance and audit	PC
17	Sanctions	PC
18	Shell banks	PC
20	Other NFBP & secure transaction techniques	PC
21	Special attention for higher risk countries	PC
23	Regulation, supervision and monitoring	PC
25	Guidelines & Feedback	PC
26	The FIU	PC
29	Supervisors	PC
30	Resources, integrity, and training	PC
32	Statistics	PC
33	Legal persons–beneficial owners	PC
38	MLA on confiscation and freezing	PC
40	Other forms of co-operation	PC
SR.I	Implement UN instruments	PC
SR.III	Freeze and confiscate Terrorist assets	PC

The 11 areas of Non-Compliance were: [909]

Table 7: Areas in which UAE was Deemed Non-Compliant

Recommendation #	Description	Compliance Status
5	Customer due diligence	NC
6	Politically exposed persons	NC
7	Correspondent banking	NC
12	DNFBP–R.5, 6, 8–11	NC
13	Suspicious transaction reporting	NC
16	DNFBP–R.13–15 & 21	NC
24	DNFBP—regulation, supervision and monitoring	NC
SR.IV	Suspicious transaction Reporting	NC
SR.VI	AML/CFT requirements for money/value transfer services	NC
SR.VII	Wire transfer rules	NC
SR.IX	Cash Border Declaration & Disclosure	NC

In terms of bullet points, the most documented area of complaint involved the NC-rated category pertaining to Customer Due Diligence (Recommendation 5). A list of 15 criticisms pointed out the lack of "core CDD obligations" throughout the country's financial institutions, including a failure to require such institutions to understand the ownership of the organizations they were dealing with; to verify authorization of those claiming to be acting on another's behalf; too-high cash thresholds in some cases that would otherwise require verification or other CDD procedures; and failings in areas involving high-risk customers. [910] Its critique of STR handling (Recommendation 13) was also pointed, set forth in six bullet points:

[908] MENA/FATF, "Mutual Evaluation Report" (2008), 151-158.
[909] MENA/FATF, "Mutual Evaluation Report" (2008), 151-158.
[910] MENA/FATF, "Mutual Evaluation Report" (2008), 151-152.

• No obligation in law or regulation to report suspicions related to terrorist financing.
• The obligation embedded in 'other enforceable means' to report suspicions of terrorist financing applies only to institutions supervised by the central bank.
• Absence of a defined basis upon which money laundering suspicions should be reported (subjective or objective or both).
• Lack of clarity about the scope of the reporting obligation with respect to the definition of money laundering.
• No obligation to report attempted transactions.
• Low rate of reporting (and concentration among relatively few institutions) brings into question the overall effectiveness of the regime.[911]

The evaluators' action plan for the UAE to put itself in compliance with the 40 Recommendations/Nine Special Recommendations comprised, when reduced to table form, about six pages of the report.[912] Among them was the advice that the country's FIU, the AMLSCU, should hire more staff, and also be able to better handle its STR data.[913] The overall evaluation was negative enough to require the UAE to submit to what MENA/FATF would describe as "a regular follow-up process." The first of these follow-up reports would be produced in May 2010, with subsequent ones due in the following five Novembers, plus an additional one in June 2014.[914]

Meeting the Action Plan: Regulatory and Legislative Responses to the 2008 MER (to early 2014)

The reward for meeting the MENA/FATF requirements would be exemption from regular follow-up visits. The UAE would attain this status in November 2014 coinciding with the 7th follow-up visit, coming on the heels of the issuance of Federal Law No. (9) of 2014, which made significant amendments to the original 2002 AML law. As of this writing, only that 7th follow-up report has been made publicly available. It can be deduced however that the UAE's responses to the 2008 MER and most follow-up visits was complicated by the fact that the FATF in 2012 introduced an updated and in some several cases consolidated set of Recommendations.[915] (This was a point alluded to by AMLSCU Executive Director Abdulrahim Mohamed Al Awadhi in that FIU's 2012 annual report.[916])

While preparing for the first follow-up action, scheduled to occur two years later, on 17 June 2008 the Central Bank issued Circular No. 2922/2008. Officially an addendum to

[911] MENA/FATF, "Mutual Evaluation Report" (2008), 153.
[912] MENA/FATF, "Mutual Evaluation Report" (2008), 159-165.
[913] MENA/FATF, "Mutual Evaluation Report" (2008), 159.
[914] MENA/FATF, "Mutual Evaluation Report" (2014), 3.
[915] FATF, "Recommendations" (2012), 11-30. A table showing how the items were consolidated appears on 4-5.
[916] UAE/AMLSCU, "Annual Report" (2012), 7; see also 30.

Circular No. 24/2000, its 11 points addressed issues raised in the MER. These included Beneficial Ownership; Due Diligence; Wire Transfers; Enhanced CDD on FPEPs, Correspondent Banks, and Businesses/Individuals; STRs; attempted and unusual transactions, and tip-offs. It also contained stipulations about compliance officer hiring and training, and noted penalties for failure to comply with the circular.[917] A few days later, Dubai's attorney general released a statement to the press emphasizing the seriousness with which the UAE took AML/CFT issues: "Combating money laundering crime and money launderers tops our priorities... we take swift action and speed up litigation process in money laundering crimes. We also cooperate with local and international authorities when we investigate such crimes before we charge the suspects and refer them to Dubai courts to be prosecuted." His remarks came shortly after a Dutch male and a Jordanian female were put on trial in Dubai in a case involving the alleged laundering of Dh60 million.[918] At about this time, the Ministry of Justice published regulations (No. 1) on AML/CFT procedures for lawyers including their requirement to file STRs; a similar code (No. 20) for public notaries appeared later in the year[919]

There were other efforts at increased regulation during this era. January 2008 saw the signing of Federal Law No. (2) "In Respect of the National Societies and Associations of Public Welfare." It contained several articles addressing funding, and may have been issued in response to Mutual Evaluation team discussions regarding the domestic non-profit sector. The new law gave the UAE Ministry of Social Affairs the "power to supervise and monitor the activities of the charitable societies and … the authority to close the entity if found in violation of the Law.[920] The same team found significant concern with the insurance sector. In 2007, Federal Law No. (6) had created an Insurance Authority that was "empowered to carry out all regulatory and supervisory functions of the insurance sector including its adherence to international standards on AML/CFT."[921] However, the 2008 MER found that AML/CFT controls and inspection programs for the insurance sector fell "well short" of FATF standards (as did those of the

[917] UAE Central Bank Notice No. 2922/2008, 17 June 2008.
[918] Uncredited in *Gulf News*, "Tackling Money Launderers Head On."
[919] UAE/AMLSCU, "Annual Report" (2013), 16; these documents do not seem to have been published in English. The Arabic version of Recommendation 1 (pertaining to lawyers) available at http://www.centralbank.ae/en/pdf/amlscu/Ministry%20of%20Justice%20Regulation%20No.%281%29%20of%202008.pdf is stamped as having been received by the UAE Central Bank on 3 July 2008.
[920] MENA/FATF, "Mutual Evaluation Report" (2008), 126-129; UAE/AMLSCU, "Annual Report" (2012), 20.
[921] UAE/AMLSCU, "Annual Report" (2013), 16.

UAE's Securities and Commodities Authority, set up in 2000).[922] On 4 November 2009, the Insurance Authority's Board of Directors tried to fix this when they issued Resolution No. 1 of the year, "regarding anti-money laundering and combating the financing of terrorism procedures for the said sector, in line with the FATF Recommendations."[923] The document went into effect in February 2010. It has not, to date, been translated into English, but according to a summary that has circulated inside the insurance industry: "Under the Resolution it is a criminal offence to aid, or refrain from reporting, money laundering activities, and doing so is punishable by fines and/or imprisonment. The Resolution requires all insurance related professions in the UAE to establish anti-money laundering procedures, concentrating in particular on Knowing Your Client, and be subject to compliance inspections by the Authority. Among other requirements, the Resolution stipulates that certain minimum information is to be kept on file for every insured and the information to be updated regularly." The required information for companies was "A verified copy of the current trade license"; "Names and addresses of directors'; and "Names and addresses of shareholders." In the case of individual customers, their full name, address, place of work, and verified copy of their passport or UAE identification card needed to be kept on file.[924]

At about the same time that insurance industry circular took effect, the Securities and Commodities Authority issued the first of several documents tightening its own AML/CFT controls. This started with Decision No. 17R of 2010, proceeding through a series of further documents meant to ensure compliance with industry-relevant portions of UN Security Resolutions 1267 of 1999 and 1373 of 2001, both dealing with counter-terrorism.[925]

The UAE Central Bank was also busy. On 19 August 2009, a Central Bank notice (3809/2009) ordered all financial institutions "to obtain prior approval from the Central Bank for opening accounts of FPEPs, as defined in the said notice. Furthermore, financial institutions were also instructed to provide a list of their FPEP customers to the Central Bank." (The AMLSCU has noted without elaboration that "This requirement to obtain prior approval from Central Bank has been cancelled in 2013.") [926] On 16 March 2010,

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[922] MENA/FATF, "Mutual Evaluation Report" (2008), 11; UAE Securities and Exchange Commission, "Establishment."
[923] UAE/AMLSCU, "Annual Report" (2013), 16.
[924] UAE Insurance Authority, "Board Resolution No. 1 of 2009."
[925] MENA/FATF, "Mutual Evaluation Report" (2014), 7.
[926] UAE/AMLSCU, "Annual Report" (2013), 16.

the Central Bank issued Notice No. 1401/2010 "requiring the reporting entities to provide full details including a CV of compliance officers and alternate compliance officers." [927] On 5 April 2011, the Central Bank issued Notice No. 2203/2011 requiring "all national banks to obtain Central Bank's written approval of the nominations to the membership of their board of directors. Candidates would have to meet the AMLSCU's approval that they were "individuals of appropriate academic qualifications, adequate business and banking experience and of sound character." [928]

There were also clear signals that FATF Regulations were driving changes in UAE regulation. Earlier in that same year – on 28 February 2011 – the UAE's Official Gazette Issue No. 518 included the text of a new law entitled "Declaration by Travellers Entering or Leaving the UAE Carrying Cash and Monetary/Financial Bearer Instruments." It came into effect six months later, on 1 September 2011. This contained two amendments to previous regulations, both meant to conform to FATF Recommendations. "Both cash and bearer negotiable instruments (inbound and outbound) are now subject to declaration." The other was that "The threshold has been increased from AED 40,000 to AED 100,000 or equivalent in other currencies, to reflect the socio-cultural and economic factors in the region. [929] In October 2011, the Emirates Securities and Commodities Authority, having in the previous year issued revised regulations "specifying the AML/CFT obligations of the securities markets and the brokers operating therein," issued a further one which had been "further revised in line with recommendations from the NAMLC Work Team for full compliance with the FATF Recommendations." [930]

In July 2012 the Central Bank issued what was described as "enhanced regulation for *Hawaladars*" which included requirements for registration, on-going supervision and sanctions (for non-compliance), customer due diligence, record keeping and suspicious transactions reporting etc. in line with FATF Recommendations." [931] It effectively made hawaladar registration mandatory, rather than voluntary. [932] At about the same time, it was announced that Abu Dhabi officials were prosecuting an Arab resident on ML charges. According to a press report, "The man, who was employed at the General Authority of Islamic Affairs and Endowments, was detained after a UAE-based bank

[927] UAE/AMLSCU, "Annual Report" (2013), 14.
[928] UAE/AMLSCU, "Annual Report" (2013), 16. See also MENA/FATF, "Mutual Evaluation Report" (2014), 5, 21.
[929] UAE/AMLSCU, "Annual Report" (2012), 25.
[930] UAE/AMLSCU, "Annual Report" (2013), 15.
[931] UAE/AMLSCU, "Annual Report" (2012), 22.
[932] See MENA/FATF, "Mutual Evaluation Report" (2014), 5 and 20-21.

reported suspicious transactions into his account. This included total deposits of Dh6.6 million from February 2011 to April 2012. The deposits were made from across the country, but without any documentation to verify the origins of the funds. The bank reported the case to the UAE Central Bank's Anti-Money Laundering and Suspicious Cases Unit, which then referred it to the Public Prosecution. When questioned by Public Prosecutors, the defendant admitted to undertaking business activities without a commercial license. He added that he received funds from his countrymen in the UAE, which he sent back to their families outside the country after charging a fee. According to the defendant, money exchanges in the UAE do not transfer funds to his country. The defendant also admitted to lending funds based on profit rates used by Islamic banks."[933]

On 13 August 2012, the UAE issued Federal Law Decree No. (5) on cybercrimes. Its Article 37 criminalized money laundering using information technology, stipulating seven years imprisonment and fines between AED500,000 and AED2,000,000.[934] Also in August 2012, the Central Bank issued a notice warning banks and financial institutions "about high risk jurisdiction and counter measures required to deal with natural and/or judicial persons from such jurisdictions." The AMLSCU has noted that "All other Supervisory Authorities have issued regulations in relation to high risk countries for the entities supervised by them."[935]

By the following year, the United Nations was driving many UAE regulatory efforts. In February 2013 the UAE Ministry of Justice issued a decree creating what was described as a "follow-up committee for implementation of the UN Convention against Transnational Organized Crime."[936] In September 2013, the AMLSCU circulated "the UN 1267 lists as per the mechanism adopted by the Central Bank of the UAE for freezing, delisting and other administrative procedures in relation to designated entities." Though the AMLSCU report does not specifically present a timeline, other entities such as the Insurance Authority, the Securities and Commodities Authorities, and the Ministry of Foreign Affairs also circulated such lists (in the case of the latter, the UNSCR

[933] Uncredited in *Gulf News*, "Man Detained for Suspected Money Laundering."
[934] UAE/AMLSCU, "Annual Report" (2013), 17.
[935] UAE/AMLSCU, "Annual Report" (2013), 17.
[936] UAE/AMLSCU, "Annual Report" (2013), 8. "The UAE, as a member of the United Nations, is required to comply with sanctions issued and passed by the United Nations Security Council (UNSC)" (DFSA, *DFSA Rulebook: Anti-Money Laundering, Counter-Terrorist Financing and Sanctions Module*, 6).

1373 criteria as well.) [937] The FATF Recommendations still loomed in the background however. At some point in 2013 the UAE Ministry of Economy issued revised regulations for accountants and auditors "in full conformity with FATF Recommendations." This updated an earlier set of regulations originally issued in 2007 by the Insurance Authority.[938] And also during the same year a NAMLC Working Team helped the Insurance Authority release a new set of AML/CFT guidelines "to comply fully with the FATF standards." [939] The year 2014, which would see the UAE escape the biennial follow-up process, began with a new set of controls for the licensing and monitoring of money exchanges, which replaced a 1992 resolution of the UAE Central Bank's Board of Directors. "Applications for money changing business[es] are to be processed keeping in view the requirements under the said regulation. The regulation details permissible activities and activities which require prior approval of [the] Central Bank of the UAE, for example, opening of Nostro accounts and borrowings by encumbering assets."[940]

AMLSCU Quantitative Data on AML/CFT in the UAE, 2010-2013

Further signals of change were an apparent revamping at the AMLSCU, which would begin publishing an Annual Report in 2009 (albeit not for general circulation).[941] It would also form a "working group" to implement the MER's action plan.[942] One sign of its "increased outreach programmes" (coupled perhaps with the effects of the Central Bank's aforementioned Circular 2922/2088) was a rapid rise in STR activity at the UAE's various financial institutions. STR figures for 2008 suddenly shot up, from 694 in 2007 to 1170. They would rise to 1750 in 2009 and 2781 in 2010, where they would roughly level off over the next few years.[943]

While the November 2010 MER follow-up report is not available from the MENA/FATF, it presumably repeated old criticisms about the lack of STR data. The gathering and processing of STR data appears to have become a priority of the AMLSCU. Key to doing this was to get more financial institutions submitting STRs online, utilizing the system initiated in 2004. However, even given the rising numbers of STR submissions by 2010,

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[937] UAE/AMLSCU, "Annual Report" (2013), 17.
[938] UAE/AMLSCU, "Annual Report" (2013), 15.
[939] UAE/AMLSCU, "Annual Report" (2013), 16.
[940] UAE/AMLSCU, "Annual Report" (2013), 12.
[941] MENA/FATF, "Mutual Evaluation Report" (2014), 25.
[942] MENA/FATF, "Mutual Evaluation Report" (2014), 6.
[943] UAE/AMLSCU, "Annual Report" (2012), 36; UAE/AMLSCU, "Annual Report" (2013), 21.

the AMLSCU felt "the responses from the reporting entities were not up to the desired level." Hence, "the financial institutions were again directed [via Central Bank Notice 6703/2010, of 27 December 2010] to file STRs through the upgraded STR on-line system…" As the notice also contained a deadline of 15 January 2011, it appears that part of the process involved the financial institutions being required to register or otherwise arrange a formal connection with the AMLSCU's online service.[944] By 2013, the AMLSCU would report that 213 financial entities and 111 exchange houses were connected to the online STR system.[945]

The key engine inside the AMLSCU was its STR Analysis and STR Database Management Section, the responsibilities of which included receiving, reviewing, and analyzing incoming STRs, after which it would "take appropriate actions." The latter included initiating search and freeze instructions when necessary.[946] The AMLSCU would undertake IT improvement efforts on its behalf, with stated goals of reducing processing time, prioritizing STRs on risk basis, and enhancing analysis through data mining.[947] A significant breakdown in statistics was in place at least by the time the 2010 data had ben collated. Figures from the 2012 and 2013 AMLSCU annual reports (the only ones that organization has shared with the author; they and others are not yet publicly available) have been adapted into the following charts:

Table 8: ML/TF-Related STRs, Financial Sector, 2010-2013, AMLSCU*[948]*

	2010	**2011**	**2012**	**2013**
Banks	2211	1800	1848	1929
Moneychangers, Other Financial Institutions, and Other Entities	298	421	443	428
Total	2509	2221	2291	2357

Table 9: Fraud and Criminal Case-Related STRs, Financial Sector, 2010-2013, AMLSCU*[949]*

	2010	**2011**	**2012**	**2013**
Banks	254	333	379	468
Moneychangers, Other Financial Institutions, and Other Entities	18	22	30	65
Total	272	355	409	533

Table 10: STRs, Other Authorities, 2010-2013, AMLSCU*[950]*

	2010	**2011**	**2012**	**2013**
(Police/Ministry of Interior, Public prosecution, State Security)	624	801	385	258

[944] UAE/AMLSCU, "Annual Report" (2012), 27.
[945] UAE/AMLSCU, "Annual Report" (2013), 15-16.
[946] UAE/AMLSCU, "Annual Report" (2012), 15.
[947] UAE/AMLSCU, "Annual Report" (2012) 5.
[948] UAE/AMLSCU, "Annual Report" (2012), 35; and UAE/AMLSCU, "Annual Report" (2013), 21.
[949] UAE/AMLSCU, "Annual Report" (2012), 35; and UAE/AMLSCU, "Annual Report" (2013), 21.
[950] UAE/AMLSCU, "Annual Report" (2012), 35; and UAE/AMLSCU, "Annual Report" (2013), 21.

Table 11: Total STRs Submitted Annually, 2010-2013, AMLSCU[951]

	2010	2011	2012	2013
Total STRs	3405	3377	3085	3148

The AMLSCU's number crunchers were also tracking which banks were submitting regular STRs, and which were not. In 2012, 40 UAE banks (73% of the total) had submitted STRS, while 15 (or 27% of the total) had submitted none. Of those that had submitted STRs, 74% of the figure (1644 STRs) had come from just seven banks.[952] Presumably of just as much interest to outside reviewers were the figures now being kept on those cases referred to law enforcement. Interestingly, the numbers showed a steady decrease from 2010 to 2013. The AMLSCU, in its 2012 and 2013 annual reports, credited this to better selectivity by its analysts. Its 2013 report noted at one point:

> In view of close coordination with the law enforcement authorities on their requirement an streamlining of the analytical process, including experience gained over the years, the disseminated reports are now aligned with the law enforcement requirements. As a result, the analysis process of STRs has been enhanced in order to disseminate only those STRs that warrant further investigation by law enforcement authorities. This is in line with the FATF Recommendation that states that dissemination of information should be selective and allow the recipient authorities to focus on relevant cases/information. Most of the STRs referred to law enforcement agencies were pertaining to suspected cases of money laundering and other types of financial crimes. There was close interaction between the AMLSCU & law enforcement agencies in this regard.[953]

Table 12: STRs Referred to Law Enforcement[954]

2010	2011	2012	2013
1229	880	596	526

Of those cases referred to law enforcement, only a relative handful seem to have actually gone to prosecution stage: Of the years for which figures have been made available to this researcher, there were 60 in 2012 and 120 in 2013. They have been broken down as follows:

Table 13: Cases Referred to Law Enforcement[955]

Outcomes	2012
Under investigation	23
No Concern	14
Absconding	10
R/E permitted to Exit	5
Account Banned	4
Imprisoned	2
Released	1
Case Adjourned	1
Total	60

[951] UAE/AMLSCU, "Annual Report" (2012), 35; and UAE/AMLSCU, "Annual Report" (2013), 21.
[952] UAE/AMLSCU, "Annual Report" (2012), 38.
[953] UAE/AMLSCU, "Annual Report" (2013), 26.
[954] UAE/AMLSCU, "Annual Report" (2012), 43; and UAE/AMLSCU, "Annual Report" (2013), 26.
[955] UAE/AMLSCU, "Annual Report" (2012),45.

The figures for 2013 are presented solely on a bar graph with actual numbers indistinct. Most of the 120 cases (the bar graph image appears to be about 42) are described as "sub-judice," with about 35 others classified as under on-going investigation.[956] Of equal interest in assessing the effectiveness of the UAE's AML/CFT framework are the figures for repatriation of funds. The following has been compiled from the 2012 and 2013 AMLSCU annual reports.

Table 14: Repatriation of Funds, 2010-2013, AMLSCU[957]

2010 Cases	2010 Funds Repatriated	2011 Cases	2011 Funds Repatriated	2012 Cases	2012 Funds Repatriated	2013 Cases	2013 Funds Repatriated
16	US $2.41 million	15	US $6.76 million	22	US $5.12 million	70	US $3.26 million

It is notable that by 2013, while the number of cases more than tripled over the previous year, the total sum repatriated significantly shrank. According to the AMLSCU, 26% of it went back to the USA; 17% to China; 16% to the UK. [958]

Examples from Media Reports

A Dubai Police investigator told a reporter in mid-2013 that the emirate's customs department had reported 243 drug cases the previous year, many of which had an aspect of money laundering involved. In some cases, he noted parcels containing cash were being sent legally – with necessary documents attached – through Dubai to which additional money was evidently added during shipment. One such parcel that weighed 50 kg when it entered customs reached the bank weighing 80 kg. He also related a money laundering case involving an Indian national who had transferred about Dh111 million using various exchanges.[959] In May 2014, a three-year international manhunt ended when Dubai Police arrested a UK national linked to 14 alleged fraud and ML cases between 2005-07.[960]

Underscoring the fact that money laundering remained a serious threat in the region, news broke in February 2014 of what was said to be the largest ML case yet in the Gulf. Authorities in Manama, Bahrain, would ultimately convict 15 people (one in absentia) of running a ML operation from the UAE Exchange office. On 1 October it was reported that

[956] UAE/AMLSCU, "Annual Report" (2013), 26.
[957] UAE/AMLSCU, "Annual Report" (2012), 47; UAE/AMLSCU, "Annual Report" (2013), 27.
[958] UAE/AMLSCU, "Annual Report" (2013), 27.
[959] Fouda, ["Arab World Disorders Increase the Risk of Drug Smuggling Crimes"] translated for the author by Mira Saeed Lootah and Hamda Faidallah Abdulkarim.
[960] Uncredited in *Birmingham Mail*, "Suspected Fraudster Arrested in Dubai After Worldwide Three-Year Hunt."

those convicted included 11 managers and staff of UAE Exchange. They had reportedly funneled up to US$922.8 million through Saudi Banks and ultimately to the UAE; details emerged of bags of cash being taken illegally through the King Fahd Causeway connecting Saudi Arabia and Bahrain; over a million Saudi riyal were transferred to the UAE daily. Eleven defendants were sentenced to eight-year jail terms with fines of Bahrain Dh130,000 each."[961]

Federal Law No. (9) of 2014 and the 20th MENA/FATF Plenum

As noted earlier, while the UAE worked steadily toward full compliance with the FATF Recommendations following publication of the 2008 Mutual Evaluation Report, the February 2012 revision of the recommendations complicated its efforts. As of the AMLSCU's annual report for 2012, that body reported it was "coordinating with the concerned authorities in the UAE for fulfilling the requirements in this regard."[962] It seems that a final strategy for removing the UAE from regular follow-up requirements was worked out at the 12th Plenary Meeting of the FATF/MENA in November 2010 and an e-Plenary Meeting in August-September 2013. By then, what was at-issue was the UAE's compliance with what had been classified as "core" and "key" elements of the revised recommendations. Recommendations listed as "core" were R1, R5, R10, R13, SR2, and SR4; of them, the UAE was found to have problem status (PC or NC ratings) with R1, R5, R13 and SR4. The "key" FATF Recommendations comprised R3, R4, R23, FR26, R35, R36, R40, SR1, SR3, and SR5. Of these, the UAE was rated as PC/NC on five: R23, R26, R40, SR1, and SR3.[963]

These, again, were only the "core" and "key" Recommendations. Indeed, for all the UAE's efforts since the MER was published in April 2008, by August-September 2013 the country found itself rated PC and NC on 37 of the new list of 40 recommendations. Yet UAE officials were, in June 2014 when MENA/FATF produced the 6th follow-up report, optimistic. A 7th follow-up report was being readied for November, to coincide with the 20th MENA/FATF Plenary meeting (to be held in Manama, Bahrain, that month). And UAE officials expressed the hope that the plenary meeting would grant the country's

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[961] Uncredited in *Trade Arabia*, "5 Convicted in $922m Money-Laundering Racket in Bahrain"; Qader in *Akhbar Al-Khaleej* (2014, 5 Feb.), ["Biggest Issue of Money Laundering in the Gulf"] translated for the author by Mira Saeed Lootah and Hamda Faidallah Abdulkarim; and Uncredited in *Manama Voice News*, ["Officials are accused of laundering large funds worth 4 billion riyals and exploitation of records … "], translated for the author by Mira Saeed Lootah and Hamda Faidallah Abdulkarim.
[962] UAE/AMLSCU, "Annual Report" (2012), 30.
[963] MENA/FATF, "Mutual Evaluation Report" (2014), 3-4

"request to move from regular follow-up to biennial updating."[964] The UAE would go into that session without Central Bank governor Al Suwaidi, who had reportedly long expressed an interest in retiring.[965] On 21 Sept. 2014, the UAE government announced "it had replaced its Central Bank governor, Sultan bin Nasser Al Suwaidi, who has held the post since 1991, with Mubarak Al Mansouri, the chief executive of the Emirates Investment Authority, the federal sovereign wealth fund that helps invest the country's oil revenues."[966] 953). However, he was reported to have long expressed interest in retirement.

Tables 15 and 16 give some idea of the problem areas the UAE faced going into that session late in 2014.

Table 15: Problem Areas: Core Recommendations

Core Recommendation #	Compliance Level at start of 7th Follow-Up Review	Notes
R1 (Money Laundering Crime)	PC	Four listed areas of deficiency, three of which addressed lack of predicate offenses. The fourth involved the lack of prosecutions registered outside Dubai, and lack of data regarding prosecutions inside Dubai.[967]
R5 (Due Diligence)	NC	Fifteen listed areas of deficiency, involving a wide range of CDD issues, including their incorporation into law and regulations. [968]
R13 and SR4 (Suspicious Transaction reporting)	NC	Six listed deficiencies, including lack of clarity regarding scope of reporting obligations; and low reporting rates (and few reporting institutions), which raised doubts as to the system's efficiency. [969]

Table 16: Problem Areas: Key Recommendations

Key Recommendation #	Compliance Level at start of 7th Follow-Up Review	Notes
R23 (Regulation, Monitoring, and Follow-Up)	PC	Four deficiency areas, including the fact that *hawaladar* registration was voluntary; no requirements to efficiency and appropriateness of board members and managing directors of insurance firms; lack of AML/CFT inspections in the securities and gold sectors; lack of

[964] MENA/FATF, "Mutual Evaluation Report" (2014), 3.
[965] Fitch, "UAE Central Bank Hits Refresh with New Governor."
[966] Kassem, "UAE Central Bank Says Goodbye to Long-Serving Governor."
[967] MENA/FATF, "Mutual Evaluation Report" (2014), 7-10.
[968] MENA/FATF, "Mutual Evaluation Report" (2014), 18-20.
[969] MENA/FATF, "Mutual Evaluation Report" (2014), 11-18.

		control over AML/CFT compliance in insurance sector.[970]
R26 (FIU)	PC	Four deficiency areas: lack of concentration of STR submission to AMLSCU; lack of AMLSCU independence vis-à-vis Central Bank leadership; insufficient distribution of STRs to law enforcement agencies; lack of publication of annual reports and other data; and inability of AMLSCU efficiency to be assessed from available statistics.[971]
R40 (Other forms of int'l cooperation)	PC	One deficiency: "Lack of legal provisions defining the ways by which the Central Bank, the Securities & Commodities Authority or the Ministry of Economy could exchange confidential information with foreign counterparts."[972]
SR1 (Implementation of UN Instruments) and SR 3 (Freezing/Confiscating of Terrorist Assets)	PC	Two identical deficiencies for both: Non-observance of the freezing list relevant to UNSCR 1373; and non-circulation of freezing list relevant to UNSCR 1267.[973]

The key to resolving many compliance issues was the perceived inadequacies of the 2002 AML Law. By 2012 at least, a NAMLC Working Group had devised a strategy "for fulfilling compliance requirements" based on "their proposal on the revision of the AML Law." The Ministry of Finance reviewed the proposal, forwarded it to the AMLSCU, which returned it to the ministry (presumably with its own additions or suggestions). It was then sent to the Council of Ministers, which approved it and directed the Ministry of Finance "to prepare the draft for amending the AML Law." Accordingly, in July 2012 the Ministry of Finance submitted the draft law and a Bill of the Executive Regulation to the UAE's Ministry of Justice, to be reviewed by the Technical Legislative Committee.[974] While this and other work was being done on the law, the AMLSCU held four meetings in 2013 "to discuss and review the existing AML/CFT regime and recommend appropriate measures to bridge the gap with the FATF Recommendations…"[975]

The result of these efforts was that on 26 October 2014, UAE President Khalifa Bin Zayed Al Nahyan signed Federal Law No. (9) into existence. Its formal title was "Regarding the Amendment of Some Provisions of the Federal Law No. (4) of 2002 Regarding Combating Money Laundering." Several of its points directly addressed

[970] MENA/FATF, "Mutual Evaluation Report" (2014), 20-23.
[971] MENA/FATF, "Mutual Evaluation Report" (2014), 23-25.
[972] MENA/FATF, "Mutual Evaluation Report" (2014), 25.
[973] MENA/FATF, "Mutual Evaluation Report" (2014), 26-27.
[974] UAE/AMLSCU, "Annual Report" (2012), 34.
[975] UAE/AMLSCU, "Annual Report" (2013), 34.

compliance with "core" and "key" FATF Recommendation issues; some of the latter had also, by now, been resolved by separate codes issued by the Central Bank and other regulatory bodies. The result was that less than a month after the law was signed into effect, the MENA/FATF team that had produced the first MER in 2008 essentially closed a circuit of AML/CFT compliance in the UAE. The team's 7th Follow-Up Report found that the problem "key" and "core" recommendations had been resolved as follows:

- R1: (Money laundering crime): The amended AML law would expand "the scope of ML predicate offenses, and provided that conviction of perpetrators of predicate crimes is not a pre-requisite for proving that the properties are the proceeds of a crime."[976] [This seems to have been addressed in Article 2.3 and 2.3 of the amended law.]
- R5 (Due Diligence): These were addressed in "executive regulations of AML law which provided for many basic obligations related to customer due diligence."[977]
- R13 and SR4 (STRs): Amendments to the AML law (apparently articles 7, 8, and "duplicate article" 12) "provided for obliging the covered entities to report suspicious transactions …"; "expanded the scope of obligations of reporting suspicious transactions…[;] and clarified the legal rule based on which the reporting entities can reach a objective discretion to decide whether reporting is required or not." [978]
- R23 (Regulation, Monitoring and Follow-up): The UAE, in regulations discussed above, had "addressed the deficiencies related to this recommendation by subjecting transfer brokers (*Hawaladars*) to the regulation and supervision of the Central Bank. Furthermore, the Insurance Authority asked the institutions under its jurisdiction to develop special regulations related to the efficiency and adequacy of the Board members and managing directors." [979]
- R26 (FIU): The UAE had take steps to centralize the AMLSCU as the "sole national center concerned with receiving, analyzing, and forwarding suspicious transaction reports." (Article 7 of the amended AML law stipulated that the AMLSCU would be "the entity to which suspicious transactions reports … shall be sent from all relevant financial, other financial, commercial and economic institutions.") [980]
- R40 (Other forms of international co-operation): The UAE had signed "a number of memoranda of understanding with equivalent regulatory authorities, which would contribute to increasing information exchange with equivalent foreign entities." [981]
- SR1 (Implementation of UN Instruments) and SR3 (Freezing and Confiscating Terrorist Assets): These had been resolved, as noted above, by 2013 actions of the AMLSCU and other UAE authorities and ministries.[982]

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[976] MENA/FATF, "Mutual Evaluation Report" (2014), 4.
[977] MENA/FATF, "Mutual Evaluation Report" (2014), 4.
[978] MENA/FATF, "Mutual Evaluation Report" (2014), 4-5.
[979] MENA/FATF, "Mutual Evaluation Report" (2014), 5.
[980] MENA/FATF, "Mutual Evaluation Report" (2014), 5.
[981] MENA/FATF, "Mutual Evaluation Report" (2014), 5.
[982] MENA/FATF, "Mutual Evaluation Report" (2014), 5; and UAE/AMLSCU, "Annual Report" (2013), 17.

With these "core" and "key" areas resolved, the MENA'FATF team concluded that the organization's 20th plenary meeting (to be held in Manama, in Bahrain from 18-20 November) was empowered to approve the UAE's request to shift from follow-up to biennial update status.[983] Accordingly, such an announcement was made during the session that the UAE had, along with Egypt, earned a change in reporting status. As the MENA/FATF website reported:

> The plenary congratulated the Arab Republic of Egypt and the United Arab Emirates for the significant progress made in addressing the AML/CFT deficiencies as identified earlier and based on the recommended action plan established in their mutual evaluation reports. The plenary meeting adopted the follow up reports and approved to be moved from regular follow up to biennial update….[984]

Conclusion

With the change in MENA/FATF review status in late 2014, the United Arab Emirates had reached a new level of international acknowledgment for its AML/CFT framework. The history of UAE AML/CFT efforts from 1987-2014 does show linear, if uneven, progress toward a goal of international acceptance and recognition for its efforts. By obtaining MENA/FATF approval, the UAE can be shown to have hit the pre-defined "markers of success" of *Robust Regulatory Framework* and *AML Legislation Enforcement*. However, measuring the latter especially remains problematic given the lack of harder statistical data for this period, something even the MENA/FATF team commented on in 2014.

The following chapter will examine two different "markers of success": *AML Legislation Awareness* and *Private Sector Commitment and Cooperation*. Both of these touch upon elements addressed above in this chapter, such as interaction with the AMLSCU (as FIU) and other regulatory bodies. The final chapter before the conclusion, on the "marker of success" entitled *Transparency*, will also return in places to elements addressed in this chapter related to the availability of data in official publications and in transmission via news and other information media.

[983] MENA/FATF, "Mutual Evaluation Report" (2014), 6.
[984] MENA/FATF, "20th MENAFATF Plenary Meeting and 10th Anniversary Celebration."

8. AML Legislation Awareness and Private Sector Commitment and Cooperation in the UAE, 2002-2008, and 2009-2014

This chapter will assess two more "markers of success" – *AML Legislation Awareness* and *Private Sector Commitment and Cooperation*. It will be broken into several segments, each with some overlapping elements. As these two markers represent a relationship between the state and private sector that may be ostensibly symbiotic but officially hierarchical, the chapter will begin with a discussion of the differences between compliance and commitment. Following this, the chapter will examine official awareness and outreach efforts made by UAE authorities over the period 2002-2014 to alert the financial sector (and other institutions) of the implementation of AML (and later CFT) laws. These efforts continued over the years as part of the UAE's drive to meet compliance with the changing FATF Recommendations on AML/CFT legislation. Because this section will also detail shifting patterns in the numbers of STR filings after 2004, it will in passing broadly address private sector commitment and cooperation. The third and fourth parts will address two specialized topics regarding private sector commitment/cooperation. They will examine, in turn, the activities of several organizational entities in the UAE. The first is the Dubai International Financial Center (DIFC), which has unique legal status in the UAE, with AML/CFT regulation operated in line with UAE law but overseen by the Dubai Financial Services Authority (DFSA), and also outsources compliance services to ancillary companies registered within the DIFC. The second is the operations of the Association of Certified Anti-Money Laundering Specialists (ACAMS), an international group increasingly active in the UAE and GCC. Following this, the chapter will examine some other organizations that have also obtained a significant presence in the UAE. Please note that some materials introduced in the previous chapter, such as figures on STR filings in the UAE between 2004-2013, will reappear in places herein.

Compliance vs. Commitment

Before addressing the marker-specific areas, derived in the process of qualitative study of AML/CFT professionals, it must be noted that there has been a great deal of research

dedicated to distinguishing and assessing impacts of compliance versus commitment on organizational effectiveness.[985] In the organizational ethics context the above dualism is denoted as "compliance orientation" versus "value orientation."[986] References to "compliance-based" versus "integrity-based" approach to management can also be found.[987] In all cases, compliance requires a set of control systems aimed at standardizing employee behavior in the space of legal and regulatory requirements.[988] Hence, it is predominantly externally driven and often oriented toward protecting top management from blame in the event of any legal misdemeanors.[989] While commitment -based approach is internally driven and deeply grounded in the personal and organizational values, compliance-based approach is a reactive measure to external events and pressures.[990] Compliance-based approach, when it takes the "bureaucratic form," becomes "synonymous with rigidity, goal displacement, and authoritarian command and control."[991] It is often labeled as "coercive" approach. Theorists distinguish between "coercive systems" to achieve behavioral compliance and "enabling systems" that promote commitment to organizational goals. Alder and Borys argue that in a coercive environment employees lose their ability to grasp changes taking place in their organization, therefore they are unable to modify their response to new situations.[992] According to Stansbury and Barry, this affects "employees' ability and motivation to exercise their own moral judgment, especially in novel situations."[993] Alternatively, "enabling systems" produce "organizational adaptability," which has a positive effect on performance.[994] We can assume that these academic distinctions of compliance versus commitment are echoed among practitioners. The same dualism is present in the corporate compliance (in this case the term is used as an organizational function). Some researchers purport that "corporate compliance practices are often "coercively" structured, coined by a legal discourse."[995] "Compliance by financial institutions with anti-money laundering rules has sometimes been looked on as an end in itself, whereas it is in fact no more than a means of providing law enforcement

[985] Ramus and Oppegaard, "Integrating Compliance-based and Commitment-based Approaches in Corporate Sustainability Management."
[986] Weaver and Treviño, "Compliance and Values Oriented Ethics Programs."
[987] Paine, "Managing for Organizational Integrity."
[988] Weaver, Treviño, and Cochran, "Corporate Ethics Programs as Control Systems."
[989] Weaver and Treviño, "Compliance and Values Oriented Ethics Programs."
[990] Ramus and Oppegaard, "Integrating Compliance-based and Commitment-based Approaches in Corporate Sustainability Management."
[991] Alder and Borys, "Two Types of Bureaucracy," 84.
[992] Alder and Borys, "Two Types of Bureaucracy."
[993] Stansbury and Barry, "Ethics Programs and the Paradox of Control," 239.
[994] Meilich, "Are Formalization and Human Asset Specificity Mutually Exclusive?"
[995] Habisch, "The Broken Tables of Stone," 912.

authorities with useful information and protecting the financial industry from criminal influence."[996]

When the above is discussed in the context of financial institutions, which operate in a highly competitive environment, some believe that value calculation will be a deciding factor in selecting the right corporate strategies.[997] This observation is rooted in Friedman's statement: "Only people can have responsibilities. A corporation is an artificial person and in this sense may have artificial responsibilities, but 'business' as a whole cannot be said to have responsibilities..."[998]

Financial institutions are faced with the dilemma "whether to forgo immediate revenues because of a relatively low probability of unspecified regulatory or reputational sanctions at some unknown future point."[999] It is largely due to the fact that managers will favor correction over detection.[1000] As one manager stated: "…nobody ever gets credit for fixing problems that never happened."[1001] The latter can possibly be explained by the conflicts of interest that are built into the structure of financial institution and self-interests of financial service providers.[1002]

In the environment of elevated regulatory pressure where "external regulators and internal controllers tighten enforcement of existing rules, generate new types of rules, and try to close loop-holes in rules to prevent new violations,"[1003] rule-compliance is becoming a main focus. However, it comes at increasing cost, deterring from building a commitment-based culture. According to a KPMG survey of industry views: "As management attention continues to be pulled in multiple directions there are many who feel that it is no longer possible to meet all regulatory expectations. The AML burden placed on senior management time will continue to increase, making it more challenging than ever to meet the regulatory requirements."[1004] As Alexander notes, in addition to

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[996] Stessens, Money Laundering: A New International Law Enforcement Model, 420.
[997] Langevoort, "Chasing the Greased Pig Down Wall Street."
[998] Friedman, "The Social Responsibility of Business is to Increase its Profits," 173.
[999] Martinez-Moyano, McCaffrey, and Oliva, "Drift and Adjustment in Organizational Rule Compliance: Explaining the 'Regulatory Pendulum' in Financial Markets," 326.
[1000] Repenning and Sterman, "Capability Traps and Self-Confirming Attribution Errors in the Dynamics of Process Improvement."
[1001] Repenning and Sterman, "Capability Traps and Self-Confirming Attribution Errors in the Dynamics of Process Improvement," 280.
[1002] Boatright, John, "Financial Services," 217.
[1003] Martinez-Moyano, McCaffrey, and Oliva, "Drift and Adjustment in Organizational Rule Compliance: Explaining the 'Regulatory Pendulum' in Financial Markets," 330.
[1004] KPMG, "Global Anti-Money Laundering Survey 2014," 12.

rising compliance costs, there is also the risk of civil litigation in cases when an institution suspects money laundering, but these suspicions prove unfounded.[1005]

There is even a growing fear of non-compliance that is spilling over into non-regulated business areas. An example is Monjasa, a bunker-fuel supplier present in the UAE since 2006. According to its UAE-based compliance manager, though the company is not formally regulated, to maintain relationships with banks and its clientele it still had to establish a compliance function. Banks, he noted, vary in their expectations of compliance programs, so his firm ultimately has to satisfy a wide range of compliance criteria. Monjasa, according to him, sees regulatory obligations flowing from US regulators to US banks, then to local banks (through correspondent relations), and from these to companies across the globe. Compliance expectations, he noted, are not just "Know Your Customer" but increasingly "Know Your Customer's Customer."[1006]

Not surprisingly, according to a 2015 Dow Jones survey "Increased regulatory expectations continue to represent the greatest AML compliance challenge."[1007] Some even argue that the duty of fighting money laundering has been shifted mainly to the private sector, responsibilities of which now include client surveillance.[1008] Compliance is now seen as having been extended beyond a company's commercial goals, where Corporate Social Responsibility (CSR) rests upon a "sophisticated, multi-layered regime of compliance."[1009]

In another 2015 survey, compliance officers identified "Failure to meet regulatory requirements" as the most substantial risk posed to their organization. Though the majority of surveyed compliance officers in the MENA acknowledge that their organizations have AML policies in place, the results of the same survey also show that 57 percent of respondents questioned the ability of their compliance policies to prevent illicit activity.[1010] In this setting, legal scholar Lynn Stout's argument comes to mind, that "we do not always need to rely on crude material rewards and punishment to encourage prosocial behavior." She describes prosocial acts as those for the benefits of others,

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[1005] Alexander, Insider Dealing and Money Laundering in the EU, 191-199.
[1006] Interview with Victor Garcia-Bragado, Compliance Manager, Monjasa, Dubai, 13 Nov. 2016.
[1007] Dow Jones, "2015 Global Anti-Money Laundering Survey," [n.p.]
[1008] Sharman, *The Money Laundry*.
[1009] Scheffer and Kaeb, "The Five Levels of CSR Compliance."
[1010] Deloitte and Thomson Reuters Accelus, "Financial Crime in the Middle East and North Africa 2015: The Need for Forward Planning," p. 12.

including broad society. In her opinion the effectiveness of a law lies in its power to activate conscience.[1011]

We also cannot ignore the fact that each institution is a composition of individuals, whose "commitment" to the organization and its goals can also be questioned especially in the context of conflict of interest. After all, the organization itself does not make decisions, but rather its employees do, which impact the institution as a whole. According to Davis and Stark, in situations when professionals are required to exercise judgment for decision-making on behalf of their organizations and institutions, conflicts of interest are inevitable. These do not merely involve "apparent conflict of interests," which can be guarded against by laws, professional codes and other regulations. As Davis and Stark point out: "Conflict of interest can remain a technical problem after it has ceased to be a moral problem."[1012] Some may predict the conflict of interest will be more pronounced in the UAE, due to its high proportion of expatriates, especially in the private sector. Despite the government policy of Emiratisation, which is described by one as "a carrot-and-stick approach" to encourage private sector companies to employ UAE Nationals in the private sector, the latter is still largely comprised of expatriates from multiple nationalities and religious groups.[1013] Based on 2009 figures expatriate workers held 99 percent of private sector jobs.[1014] The country's reliance on an expatriate workforce results in high turnover due to the temporary nature of foreign worker employment. An expatriate's weighted average duration of residency in the UAE is 8.7 years. [1015] Other issues that should be mentioned in this context are possible inconsistency and general lack of training for new employees due to high job turnover rate and reduced organizational and job commitment. Based on social exchange and social comparison theories, research shows that foreign workers tend to show lower organizational citizenship behavior.[1016] Organizational citizenship behavior (OCB) has drawn interest from many researchers as contributing to organizational effectiveness. It is defined as employees' willingness to contribute to the organization above and beyond the formal definition of their job requirements. [1017] According to Reoux and Penner "OCB

[1011] Stout, *Cultivating Conscience*, 16 and *passim*.
[1012] Davis and Stark, eds., "Introduction," *Conflict of Interest in the Professions,* 12 and *passim*.
[1013] Ahmad, "New UAE Emiratisation Regulations."
[1014] Ahmed, "Expats Make up 99% of Private Sector Staff in UAE."
[1015] De Bel-Air, "Demography, Migration, and the Labour Market in the UAE."
[1016] Ang, Linn, and Begley, "The Employment Relationships of Foreign Workers Versus Local Employees."
[1017] Organ, Podsakoff, and MacKenzie, *Organizational Citizenship Behavior*.

is, at least in part, a proactive behavior driven by motives," one of which is Organizational Commitment (OC), "which is influenced by an employee's thoughts and feelings about the organization." [1018] Another study determined that Leader-Member Exchange (the latter implies supervisor-subordinate relationship) and organizational justice serve as motivational bases for OCB.[1019] These findings are especially relevant to this study due to the socio-economic composition of the workforce in the UAE, where "tiering of citizenship and residency and hierarchisation of migrant communities" performed by Emirati authorities penetrated societal and organizational environment.[1020] Based on the above, inequality in work status and pay determined by nationality can impede front-line, blue-collar employees and low-management (largely occupied by Non-Emiratis, from "Non-Western" nationalities)[1021] from exercising a high level of commitment to their organization. We can purport that even rule-compliance might be at question. In the AML/CFT field private sector institutions rest their compliance function more and more on critical and analytical skills of their employees, which surpasses the basic requirement of the "check-list" compliance. Regulators expect from compliance departments to identify and respond proactively to potential wrongdoing.[1022]

In the context of the UAE's socio-economic divisions determined largely by nationalities, with the country's public sector, in the face of legislators, senior officials, regulators, law enforcement represented predominantly by Emirati citizens, the conflict of interest is inevitable.[1023] As one researcher observes: "While they are well protected and privileged in the public sector, Emiratis find themselves vulnerable in private sector jobs," due to "a stricter legal framework that is mainly designed for the transient expatriate workforce in the private sector." [1024]

[1018] Rioux and Penner, "The Causes of Organizational Citizenship Behavior," 1313.
[1019] Oren, Tziner, Sharoni, Amor, and Alon, "Relations Between Leader-Subordinate Personality Similarity and Job Attitudes."
[1020] Jamal, "The 'Tiering' of Citizenship and Residency and the 'Hierarchization' of Migrant Communities: The United Arab Emirates in Historical Context."
[1021] De Bel-Air, "Demography, Migration, and the Labour Market in the UAE."
[1022] Securities Industry Association, "The Role of Compliance."
[1023] De Bel-Air, "Demography, Migration, and the Labour Market in the UAE."
[1024] Al-Waqfi and Forstenlechner, "Of Private Sector Fear and Prejudice," 612.

Official AML Legislative Awareness/Outreach, and the Growth of Private Sector Commitment/Cooperation

One researcher notes that the implementation of effective measures to combat economic crime requires "an alliance between law enforcement and the private sector."[1025]As the case below demonstrates, this alliance is impossible without the private sector's awareness of the legal and regulatory requirements.

In 1999, HSBC officials conducted an internal investigation into suspicious, apparently money-laundering related activities in their branch in Sharjah in the United Arab Emirates. At issue were several "Russian" accounts opened by an individual employee, into which (according to an internal memo) flowed "transactions of a distinctly suspicious nature." As efforts were made to close the accounts and discipline the employee, HSBC officials struggled to decide how, and to whom, to report the problem outside the company. The same internal memo quoted above read at one point: "As there is no money laundering law in the UAE no local regulation has been broken and it may be that these particular accounts can be viewed as being part of misfeasance by a single employee. As such there is probably only slight risk of any external reputational damage. … I do not propose making any report of an ML related nature to the local Central Bank, although a report will have to be made with regard to the staff fraud, and I will leave [others] to determine whether you need to formally advise the FSA [Financial Services Authority]."[1026]

The problem was that, as noted in the previous chapter, money laundering had in fact been criminalized in the UAE in 1987. The fact that employees at a major international banking firm were unaware of that fact may speak to a general lack of knowledge – or concern – within the financial sector about the law, and to some perhaps the criminal practice itself. Indeed, according to a former UAE-based bank examiner, Iqbal Ismail Hakim, prior to 9/11 financial crime activities were routine. Also routine was a sense that national authorities had little interest in pursuing money-laundering cases. According to Hakim, a number of factors in the pre-9/11 era made the UAE an attractive destination for financial crime purposes. These included:

[1025] Ali, "Economic Crime and Terror: Spinning a Web of Greed and Fear," 99.
[1026] David Bagley to "Susan" via wright.s@mhub2.com (likely Susan Wright, then HSBC's chief AML officer), 21 Dec. 1999, reproduced in Hakim, *UAE Central Bank & 9/11*, 22, and other documents reproduced on 23-29.

1) Tax status. The UAE had no tax system, hence no tax regulation. "During the course of my duties as an examiner," Hakim wrote in 2005 of his earlier experiences, "I have seen billions and billions parked in UAE banks as non-resident deposits for tax evasion motives."
2) Ineffective regulators. In the UAE, Hakim alleged that many "financial institutions that received dirty money pay only lip-service to anti-money laundering laws." There were also regulators, he charged, who "turn a blind eye" to memos and reports of suspicious financial activity.
3) Corrupt professionals. Hakim alleged that "lawyers, accountants and bankers are willing to help in hiding and laundering money or simply shut their eyes. Such professionals are a dime a dozen in the UAE."[1027]

A contemporary FATF report from 2001-2002 lent substance to Hakim's complaints about the low priority given to AML efforts in the country. It noted, for example, that between issuance of the Central Bank's Nov. 14, 2000 Circular No. 24/2000, requiring STRs to be filed, and the end of 2001, only 206 such reports had been generated. Evaluators found this number "very low in comparison to the relative size of the financial sector of the UAE." There was also no sign that the Central Bank had yet penalized any financial institution for failing to comply with STR rules; presumably the FATF evaluators felt the low number of STRs betrayed a significant compliance problem. In addition, no AML regulations had yet been applied to insurance and gold-trading sectors, which the evaluators considered vulnerable, or to stopping trade-based and *hawala*-based money laundering efforts.[1028]

When in 2001, UAE officials announced that an AML law (to be passed in 2002) was in the works, local bankers and analysts were quoted politely praising the initiative, contending that the UAE had now "taken the lead in the region" on AML. However, they also called it unnecessary. Money laundering, they explained, didn't happen in UAE financial institutions and (as paraphrased in a reporter's words) "there are no reported cases of money laundering in financial institutions here." Even the head of the UAE Central Bank seemed to suggest the legislation was preventative, rather than responding to an actual problem. Local bankers and experts, however, allowed that "the system of *'hawala'* or funneling money informally is an area that needs to be looked into."[1029]

[1027] Hakim, UAE Central Bank & 9/11, 40.
[1028] FATF, "Annual Report 2001-2002," annex G, 2.
[1029] Carvalho, "Official Says UAE Not Used for Money Laundering."

Whatever the case, the UAE government would make concerted efforts over the following years to spread awareness of the law, particularly as external reviewing bodies (principally from MENA/FATF) began to seek out statistical data from which the UAE's degree of compliance with AML/CFT standards could be deduced. The principal figure, as discussed in a previous chapter, was the number of Suspicious Transaction Reports (STRs) filed.

After the signing of the new AML law, UAE officials began to regularly hold workshops for financial sector representatives which, to judge from media reports, addressed AML/CFT topics either directly or as part of wider discussions of reporting obligations. Some early efforts included the following:

- In April 2002, responding to the new AML law and to Central Bank directives, the Emirates Insurance Association, with over 50 affiliated businesses, began "raising awareness within the sector" about compliance with the law. In a reporter's words: "This includes setting up dedicated units within the companies to oversee the processes, and nominating compliance officers with the UAE Central Bank, which is required under the anti-money laundering laws recently issued by the UAE." The story noted that "The directives from the Central Bank make it mandatory for all licensed financial institutions in the country to report transactions of Dh20,000 or over."[1030]
- Also in June 2002, the AMLSCU joined the Egmont Group of FIUs – an international AML/CFT coordinating council – becoming the first such unit in the Gulf region to do so.[1031]
- In July 2002, the Ministry of Economy and Commerce announced it was "working on a set of directives for the audit firms in the country in a view to making these firms responsible for weeding away any possible money laundering activities their clients might [be] involve[d] in."[1032]

The AMLSCU became the principal engine of promoting AML – and later CFT – awareness and outreach in the UAE. However, the body was initially understaffed (as previously noted) and these efforts do not seem to have always been successful. When, in 2008, a MENA/FATF team of evaluators assessed the UAE's AML/CFT situation, they acknowledged that the AMLSCU had "conducted numerous courses and seminars for the financial industry." But the report went on to note that evaluators "received mixed reports on the value of these training courses. Some institutions felt that they were consistently at a level that was too basic for the needs of the compliance officers, since

[1030] Nair, "Insurers to Monitor Money Laundering."
[1031] UAE/AMLSCU, "Annual Report" (2013), 8; see also Egmont Group, "About the Egmont Group," and Gilmore, *Dirty Money*, 71-73.
[1032] Jose, "High-Level Panel on Auditing Set Up."

they largely focused on the core legal requirements."[1033] The same evaluators complained at the lack of available STR data that would indicate how well the country was tackling the problem.[1034]

As noted earlier, there seems to have been some confusion over how STRs were tabulated in this era. Under any circumstances, a preponderance of STR filings did not necessarily translate into court cases. A 2009 media story, citing a Central Bank official speaking to a press briefing, included STR numbers which seem wildly at odds with later, official AMLSCU figures for the period; presumably some qualifiers regarding the data numbers were lost. According to the story, the official said that "out of more than 74,000 [sic] cases of suspicious transactions reported between 2002 and 2008, only 285 have been sent to the Public Prosecution since 2002, with 20 of those reaching court."[1035] In this setting, it may be worth repeating the official figures of STRs from 2004-2013.[1036]

2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
377	372	635	694	1170	1750	2781	2576	2700	2890

The MENA/FATF complaints over the lack of STRs prompted UAE officials to new outreach efforts meant to encourage filing of the reports, an activity that required some training in recognizing suspicious fiscal activities in the first place. In some cases, the Central Bank worked jointly with representatives of the private sector (principally the Dubai Financial Services Authority, or DFSA, discussed further below), and the Emirates Securities and Commodities Authority (ESCA). The three bodies came together, for example, in 2009 to host an event "to provide guidance and training in the reporting and investigation of suspicious money transactions."[1037] The Central Bank also sponsored a 2011 workshop, along with DFSA representatives, and probably counterparts from other regulatory bodies as well, that included a discussion of STR numbers from the previous two years.[1038] The AMLSCU also factored the news media into what it described as its "policy to create awareness on matters of pubic concern." In 2012 it issued a pair

[1033] MENA/FATF, "Mutual Evaluation Report" (2008), 81.
[1034] MENA/FATF, "Mutual Evaluation Report" (2008), 13.
[1035] Uppal, "UAE Regulators Join Hands to Ensure Probity."
[1036] Adapted from UAE/AMLSCU, "Annual Report" (2013), 21.
[1037] See, for example, Uppal, "UAE Regulators Join Hands to Ensure Probity."
[1038] Kumar, "Banks Detect an Increase in the Number of Suspicious Transactions."

of "Cautionary Notices to the general public, alerting them about fraudulent documents and schemes, through major Arabic and English newspapers in UAE."[1039]

The result was a steady rise in STR filings over time. As the AMLSCU 2013 annual report observed, "the increase in STR submission started from 2006, gained momentum in 2008, showed a slight decline in 2011 and then increased steadily during 2012 and 2013. The increase in STR submission over the years is due to more awareness among the reporting entities on their obligations to file STRs due to sector-specific outreach programmes by AMLSCU and electronic linkage of banks and moneychangers to the on-line reporting system."[1040] By 2012 the AMLSCU was also circulating – internally at least – reports based on a steadily rising amount of collated and processed data from STR filings. Among other things, they showed that, increasingly after 2004, the ability to spot and report suspicious financial operations had taken hold in the UAE.

While the author does not have earlier official figures available, according to AMLSCU data the year 2011 saw training and outreach efforts that reached 2,644 professionals from both the financial and legal industries (1,496) and law enforcement (1,148). The AMLSCU separately listed 43 "interactions" in which its staff "provided guidance and technical assistance on AML/CFT through face-to-face meetings with the representatives from the private and public sector entities." The numbers compiled during the following year, 2012, showed a shrinking figure for those participating in AMLSCU outreach efforts (678 total: 583 from finance industry, etc.; 95 from law enforcement), but a growing number of those receiving "technical assistance" from its staff (113 interactions involving 483 people).[1041] A detailed snapshot is available of the organization's awareness and outreach efforts during that year, some of which appear to have been highly specialized projects involving small groups, and in some cases individuals. (The AMLSCU did not, in its methodology, classify these as "technical assistance" encounters.) One was a training program for six university students; another was a presentation on AML/CFT given to three Securities and Commodities Authority officials. The head of the Sharjah Police Department's Organized Crime section benefited from a two-day AMLSCU program; four law enforcement officials received two months of specialized AML/CFT training. The AMLSCU also conducted ongoing training for new

[1039] UAE/AMLSCU, "Annual Report" (2012), 6.
[1040] UAE/AMLSCU, "Annual Report" (2013), 21.
[1041] From a comparative chart, "Training and Outreach Efforts (2011-2013) in UAE/AMLSCU, "Annual Report" (2013), 34.

Central Bank staff, which in 2012 amounted to two-dozen employees. Larger-scale efforts included six seminars and presentations, all held in Dubai, variously aimed at private sector, DIFC, and law enforcement personnel.[1042] There were also 14 other occasions during the year in which AMLSCU staff took part in AML/CFT-relevant workshops, seminars, and training events. Eleven of these took place in the UAE: seven were held in Abu Dhabi, two in Dubai, and one each in Sharjah and Fujairah. Two of the three external events occurred in Saudi Arabia, one in Beirut, Lebanon. Some such events were sponsored by MENA/FATF, FATF, and/or the GCC. Some were awareness-oriented, such as the event in Sharjah, listed as an "AML Awareness Course conducted by Emirates Institute for Banking & Financial Services."[1043] A similar set of outreach efforts is listed for the following year, 2013, which saw an increase in participant numbers in AMLSCU outreach programs (753 finance and legal professionals, 174 law enforcement agents, 927 total – up from 678), and a dip in the number of "technical assistance" participants (270, down from 483), though only a mild reduction in the total number of "encounters" from the previous year (110, down from 113).[1044]

By 2014, at least, officials in UAE-based financial institutions were seemingly well aware of the country's AML/CFT legislation, and of the need for compliance with it. As the head of compliance of one Dubai-based bank remarked in an opinion piece published in *Gulf News*:

> Depending on the activities of a financial institution, it may be subjected to numerous regulators and regulations. I wouldn't be surprised if a financial institution is subjected to examination from an authority, which possibly was not in the list of "regulators". This may seem a bit overbearing but the reality is — banks in the UAE have three financial regulators, depending on the banking activities being conducted (UAE Central Bank, Emirates Securities and Commodities Authority and DFSA), in addition to Labour/Immigration laws, Commercial Law, the Telecommunications Regulatory Authority Additionally we have to comply with the laws originating out of the UN, US and the European Union directives which need to be adhered to in cross border banking relationships. Keeping abreast of the new regulations, which run into hundreds of pages, is the biggest challenge for any compliance professional.[1045]

The concurrent rise of political and religious extremism in the Gulf area was also giving a special impetus to AML/CFT efforts. Media coverage of trials, in 2014-15, of those alleged to have joined such groups – some involving dozens of suspects – contained little detail about terror finances. It is worth noting that the UAE has stringent,

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[1042] UAE/AMLSCU, "Annual Report" (2012), 62-64.
[1043] UAE/AMLSCU, "Annual Report" (2012), 58-59.
[1044] UAE/AMLSCU, "Annual Report" (2013), 34.
[1045] Anand, "When Compliance Becomes the Watchword for Banks."

comprehensive sedition laws, and it may have had no need to invoke AML/CFT legislation in such cases. However, in January 2016 the local press reported that the UAE Central Bank had revoked the license of Al Zarooni Exchange "due to anti-money laundering compliance violations. The move came after a special examination of the firm and its activities." This may have been prompted from outside, the article adding: "The US Treasury has linked the firm to Altaf Khanani Money Laundering Organisation and is alleged to have laundered money for criminals and political extremists." The move seemed to have been seen as a warning to the UAE's larger financial industry. The chief compliance officer of Abu Dhabi Commercial Bank was quoted as saying "The recent regulatory action has reiterated the need for Financial Institutions to fully comply with Anti-Money Laundering regulations. Institutions are expected to act swiftly and effectively in order to manage evolving risks in the business environment. Credibility of UAE financial sector is of paramount importance, the message is clear."[1046]

Private Sector Commitment and Cooperation

DIFC/DFSA

While the rise of STR numbers from 2004-2013, as described above, may give a general picture of private sector commitment and cooperation with the country's AML/CFT regimen, separate mention needs to be made of the Dubai International Finance Center (DIFC). Because of its members firms' high-profile presence in the UAE's financial system, the DIFC, and its regulatory body, the Dubai Financial Services Authority (DFSA), should be seen as separate from the rest of the country's financial institutions. The DIFC, as briefly described in the introductory chapter, was created under Federal Law No. (8) of 2004, which established "Financial Free Zones," some of which were to be allowed to operate their own civil/commercial court systems. The DIFC, in fact, "operates under a separate legal regime from the UAE as a whole, although the provisions of the criminal law are applicable within the DIFC."[1047] The DIFC's supervisory regime for anti-money laundering applies to all financial service businesses (or Authorized Firms), Ancillary Services Providers (ASPs) and Designated Non-Financial Businesses and Professions (DNFBPs) and is consistent with international standards set by the Financial Action Task Force.[1048] Article 3.1 of the Financial Free Zones law made it clear that "The Financial Free Zones and all the operations conducted

[1046] Rahman, "Experts Stress on Complying with Anti-Money Laundering Regulations."
[1047] Reus, "Anti-Money Laundering: A Guide For UAE Companies."
[1048] DIFC, "Non Financial Anti Money Laundering/Anti Terrorism Financing (AML/CFT) Regulations," *passim*.

therein shall be subject to the provisions of Federal Law No. (4) of 2002 Regarding Criminalization Of Money Laundering." Authorized Firms and ASPs are required to report suspicious transactions to the AMLSCU and to simultaneously file a report with the Dubai Financial Service Authority (DFSA). DNFBPs are required to report such transactions to the AMLSCU and simultaneously file a report with the Compliance Department of the DIFC Authority.[1049] Accordingly, the Dubai Financial Services Authority (DFSA), which oversees the DIFC, has special courts to handle civil and commercial cases there, and has investigated and prosecuted component banks for "alleged shortcomings in its customer due diligence and anti-money-laundering procedures."[1050] Note that, as the DFSA website acknowledges, in the DIFC "Any criminal investigation and resulting penalties would be performed by UAE authorities."[1051]

The DIFC's legal sovereignty, outside of criminal cases, is considerable. The DIFC has, for example, the power to create its own internal laws.[1052] Its judicial authority was established in Federal Law No. (12) of 2004, Article 3 of which established DIFC Courts of First Instance and Appeal. The former was to be composed of a single judge; the latter of a presiding judge (known as the Chief Justice) and two others. The Appellate court judges were to be appointed by a decree of the ruler of Dubai, in whose name its judgments were to be issued. The Court of First Instance had "exclusive jurisdiction to hear and determine" civil or commercial claims and actions arising out of the DIFC. However, it could not hear such cases "of which a final judgment is rendered by another court."[1053] Other UAE legislation also made clear that the Financial Free Zones, including the DIFC, were "subject to the provisions of the federal laws applicable in the State concerning criminalization of money laundering and anti-terrorism finance."[1054]

The DFSA has close working relationships with regulatory bodies in the UAE and several other countries. In late September 2005, for example, the DFSA signed a memorandum of understanding with the Emirates Securities and Commodities Authority, pledging to "cooperate and share information."[1055] It later signed a similar document with the UAE

[1049] DIFC, "Non Financial Anti Money Laundering/Anti Terrorism Financing (AML/CFT) Regulations," 5.
[1050] Everington in *The National*, "Dubai Investigates Deutsche Bank Over Anti-Money-Laundering Practices."
[1051] Interview with attorney Dr. Al-Mulla, 27 April 2015, transcribed and translated by Mira Saeed Lootah; and DFSA, "AML, CFT & Sanctions Compliance."
[1052] See for example, Uncredited in *Gulf News* "DIFC Releases Draft Law For Fund Management Firms."
[1053] UAE Federal Law No. (12) of 2004.
[1054] See Article 3 of UAE Cabinet, Resolution No. 28 (2007).
[1055] Uncredited in *Gulf News*, "Esca and DFSA in Accord on Information Sharing,"

Central Bank.[1056] It also has MOUs in place with regulators in, for example, the USA,[1057] the UK,[1058] Australia,[1059] Egypt,[1060] Greece,[1061] South Africa,[1062] and France.[1063]

While DIFC courts lack criminal AML/CFT jurisdiction, the DFSA has still been given the responsibility of regulating AML in the DIFC.[1064] This means that it oversees compliance with general AML/CFT regulations, and can penalize firms that fail to meet standards of, for example, CDD and KYC. Such efforts included the 2006 addition of Compliance Consultants (CCL) to the DIFC. According to a news article, "CCL will focus on supporting firms applying for authorised status with the DFSA and help regional firms operate in a market with world standard laws and regulations." The same piece noted that "firms regulated by the DFSA are the subject of rigorous on-going supervision."[1065] As the DIFC grew, the DFSA regulating body had occasion to emphasize the seriousness with which it viewed AML/CFT issues. In a 2008 interview, its director of supervision, Bryan Stirewalt, acknowledged to a reporter that the DFSA (in the reporter's words) "is a young entity – so criminals may regard it as exploitable, at least initially. 'But people with less than good intentions will find out it's not the case,' he [Stirewalt] said."[1066] A law enacted in January 2012, gave the DFSA additional AML/CFT responsibilities by transferring supervision of DNFBPs to it from the Dubai International Financial Center Authority (DIFCA).[1067] Later in 2012, DFSA received positive media comment when it issued a consultation paper on Politically Exposed People (PEP) in an AML context.[1068] Examples of the DFSA penalizing DIFC-based firms include the following:

- Investment bank Arqaam Capital appears to have been fined twice by the DFSA. The first time, in 2012, it was fined $50,000 along with Ernst & Young "over breaches of its rules in the way Arqaam valued eight artworks in its 2009 financial statements."[1069] Three years later, in July 2015, the DFSA again fined it $50,000 due to problems with AML compliance. A DFSA statement said that:

[1056] Uncredited in *Gulf News*, "DFSA, Central Bank in Pact."
[1057] Uncredited in *Gulf News*, "DFSA Signs Agreement with US Banking Regulators"; and "DFSA in Deal with US Audit Regulator."
[1058] Uncredited in *Gulf News* "DFSA Signs Data Sharing Pact with UK Counterpart," and "DFSA in MoU with Jersey Financial."
[1059] Uncredited in *Gulf News,* "Dubai Financial Services Authority Signs Accord with Australia's ASIC."
[1060] Uncredited in *Gulf News,* "DFSA Signs Agreement with Egyptian Regulator."
[1061] Uncredited in *Gulf News*, "DFSA Signs Deal with Greek Regulator."
[1062] Uncredited in *Gulf News*, "DFSA Signs Pact with South African Banking Regulator."
[1063] Uncredited in *Gulf News*, "Dubai Financial Services Authority inks accord with French regulator AMF."
[1064] DFSA, "DFSA Rulebook," 6.
[1065] Uncredited in *Gulf News*, "Compliance Specialist Sets Up Shop at DIFC."
[1066] Masudi, "DFSA: The Watchdog Fighting Financial Crimes."
[1067] Uncredited in *Gulf News*, "Anti-Money Laundering Role Moved to DFSA."
[1068] Raveendran, "A Salute to DIFC Regulators."
[1069] Zawya Dow Jones, "Arqaam and Ernst & Young Agree to Pay Fines."

"The risk assessment identified a number of deficiencies in Arqaam's AML systems and controls, assessment of customer AML risks and customer due diligence (CDD) practices." In the words of a news report, "The DFSA is concerned that Arqaam may not have acted with due skill, care and diligence; ensured that its affairs were managed effectively and responsibly; and complied with certain DFSA AML Rules requirements."[1070]

- In April 2015 the DFSA fined the DIFC branch of Deutsche Bank $8,400,000 for what were described as "serious contraventions." According to media reports, the bank "breached the DFSA rules regarding its private wealth management business." According to a DFSA statement, "Those contraventions include misleading the DFSA, failures in [the bank's] internal governance and systems and controls and in its client take-on and anti-money laundering processes." The fine was the result of three-year investigation that began in January 2011 "based on information that Deutsche Bank failed to properly classify some of its customers as clients under DFSA rules, depriving them of certain protections. Investigators later found that there were 'wider failings' at the bank, prompting the authority to expand the scope of the inquiry."[1071]

ACAMS

One may also be able to draw conclusions, or at least hypothesize, about levels of private sector commitment and cooperation by examining the numbers, over time, of UAE-based financial professionals who have joined the Association of Certified Anti-Money Laundering Specialists (ACAMS). With antecedents going back to 1989, ACAMS was founded in 2001 and describes itself on its website as "the largest international membership organization dedicated to enhancing the knowledge and expertise of AML/CTF and financial crime detection and prevention professionals, from a wide range of industries, in both the public and private sectors." Its resources include the subscription-required website www.moneylaundering.com, featuring databases on legislation, regulation, and sanctions, as well as a collection of current and past news articles. The organization itself has an extensive policy on integrity and conduct.[1072] As of 2016, the cost of joining ACAMS is expensive enough to discourage casual applicants: annual memberships cost US$295 for a private-sector individual, US$195 for a government employee.[1073]

Since 2007 ACAMS has held all of its annual MENA conferences (save for the 2014 edition) in Dubai. The growing interest in the topic is evident in the increasing number

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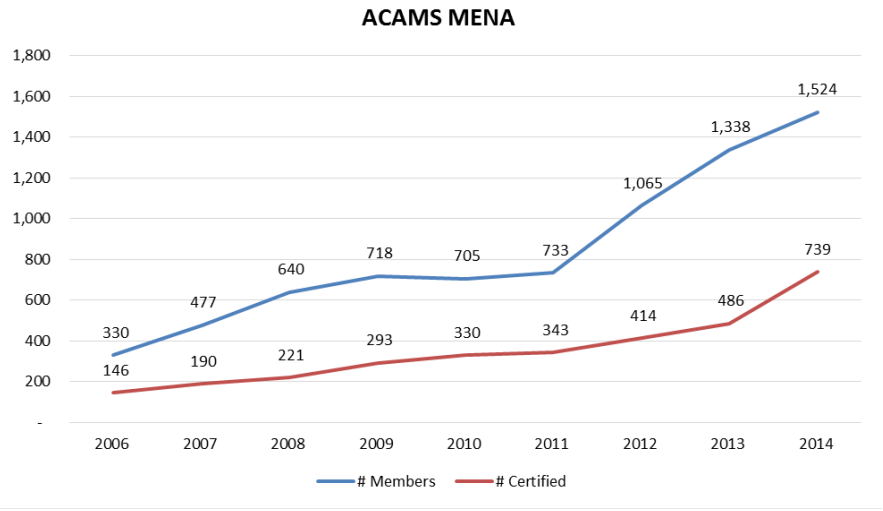
[1070] Uncredited in *Gulf News*, "DFSA Fines Arqaam Capital Over Money Laundering Rules."
[1071] Maceda, "Bank in DIFC Fined Dh30 Million."
[1072] This is derived from the following web sources: http://www.acams.org/about-acams/; http://www.moneylaundering.com/Pages/AboutUs.aspx; http://www.advisoryhq.com/articles/cams-certification-guide/; http://www.acams.org/standards-of-conduct/.
[1073] http://www.acams.org/become-an-acams-member/.

of attendees. According to a regional ACAMS official: "We [ACAMS] have seen a steady increase in participation for this conference year after year and that the audience has diversified dramatically over the years. At first the event drew mostly AML, CTF and financial crimes prevention professionals from the banking sector but today non-banking financial institutions such as MSBs and insurance firms also attend. In addition, government regulators and law enforcement personnel are present as well thereby creating a nice public-private sector mix of attendees."[1074]

Among ACAMS' offerings is a form of professional accreditation known as CAMS (Certified Anti-Money Laundering Specialist). Again according to its website, such certification is "the gold standard in AML certifications and recognized internationally by financial institutions, governments and regulators as a serious commitment to protecting the financial system against money laundering."[1075] CAMS accreditation is knowledge-intensive; the fifth edition of the ACAMS-produced study guide for the exam is a hefty 435 pages.[1076] As with ACAMS membership, applying for CAMS certification is expensive; the cost of taking the exam, plus different sets of preparation materials, ranges from US$1145-US$1880 depending on private- or public sector employment.[1077] ACAMS' Middle East and North Africa (MENA) chapter began operating in the UAE in 2006, that year enrolling 330 members and 146 CAMS-certified AML specialists. Both of these categories showed steady, sometimes sharp, growth over the following years, until by 2014 ACAMS MENA registered in 1,524 members with 739 certified specialists. Though a breakdown by country was not available, the following chart, prepared for the author by an ACAMS officer, shows the course of that regional growth.[1078]

[1074] Email correspondence with Jose Lewis, Head of Middle East and Africa, ACAMS, 9 Nov. 2016.
[1075] http://www.acams.org/anti-money-laundering-specialist-certification/.
[1076] Pasley ed., Study Guide for the CAMS Certification Examination.
[1077] http://www.advisoryhq.com/articles/cams-certification-guide/.
[1078] Courtesy of Mr. Mike Rodriguez, CAMS-FCI, Chapter Development Manager, ACAMS®, 80 Southwest 8th Street, Suite 2350, Miami, FL 33130.



UAE-specific figures are, however, available for those attaining CAMS certification, as a searchable list of graduates (including country data) is available via the ACAMS website. As of its 26 July 2016 update, the UAE was home to 281 CAMS graduates.[1079]

Other Professional Programs

There are other AML certificate programs offered in the UAE. Besides the CAMS, the CCL Academy started to offer training courses in the UAE in 2006. Among a broad range of finance related courses there are also training in financial crime prevention, risk management and compliance. In addition to the annual compliance executive program and two compliance certificates, it also offers Advanced Diplomas in Compliance and Financial Crime.[1080] Ethan Hethaway, a Hong Kong-based banking and finance training provider officers training and certificate programs in corporate compliance in the UAE.[1081] Multiple online certificate programs are also available to the UAE-based compliance professionals, among which are the International Compliance Association

[1079] http://www.acams.org/aml-certifications/cams-graduates-index, accessed 10 August 2016.
[1080] https://www.cclacademy.com/certification/course-labels/level-1-introduction-to-the-compliance--aml-functions-2077.
[1081] http://www.ethanhathaway.com.

(ICA) International Diploma in Anti Money Laundering and the ICA International Diploma in Governance, Risk and Compliance. Though these programs are offered online, these are four workshops, which the program participants have to attendees in person. The ICA has established its presence in Dubai in 2008. It also offers in-house trainings for companies that sign more than ten its employees for the program.[1082] Starting from 2009, NASDAQ Dubai Academy offers training courses in anti-money laundering.[1083]

Thomson Reuters

Thomson Reuters is another firm with a well-established presence in the UAE that offers professional training, consulting, research, and IT solution services in the AML/CFT field. The company's presence in the region dates to 1866, when it established a news bureau in Egypt. In 2007 it launched its annual Gulf Cooperation Council (GCC) Regulators' Summits to facilitate dialogue between financial services regulators and their regulated entities, as it recognized their mutual need to share information and learn from each other. Five of 10 summits were hosted in the UAE, and the number of participants has progressively grown from 150 in 2007 to 500 in 2016.[1084]

The Institute of International Finance

From 2013 on professional associations and conference organizers started to introduce AML/CFT related topics to their events held in the UAE. The Institute of International Finance (IIF), [1085] association of financial institutions, one of the more recent enterers into the UAE, started to conduct its annual IIF MENA Chief Risk Officer Forum in 2013, three of which were hosted in the UAE. The forum's goal is to facilitate a dialog between regional regulators and the banks to aide with implementation of new regulatory developments in the MENA region. This initiative followed by the IIF's opening of its office in the DIFC in 2014 "to better serve its members."[1086] The same year, the IIF in cooperation with the Dubai International Financial Centre (DIFC) launched an annual

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[1082] http://www.int-comp.com/qualifications/diploma-in-grc.
[1083] http://www.nasdaqdubai.com/press/nasdaq-dubai-academy-to-provide-anti-money-laundering-and-compliance-courses-for-brokers; http://www.nasdaqdubai.com/academy-courses/anti-money-laundering; http://www.nasdaqdubai.com/press/nasdaq-dubai-academy-training-sessions-to-cover-anti-money-laundering-and-sanctions.
[1084] Uncredited in *Saudi Gazette*, "Abu Dhabi to host 10th GCC Regulators' Summit"; and email correspondence with Samah Noureldine of Thomson Reuters, 10 Nov., 2016.
[1085] "The Institute of International Finance is the global association of the financial industry," members of which are the world's largest commercial and investment banks, asset managers, insurance companies, sovereign wealth funds, hedge funds, central banks and development banks. Information about the IIF can be found on https://www.iif.com/about.
[1086] https://www.iif.com/press/iif-open-middle-east-and-africa-regional-office-dubai-names-wolfgang-engel-chief-0.

executive program on Understanding Country Risk, which among other topics also included the country's regulatory environment.[1087]

Academy and Finance

The Switzerland-based Academy and Finance[1088] quickly identify AML/CFT legal and regulatory training as a niche for its conference theme in Dubai, when it first hosted "Dubai Forward" Conference in 2014, the main theme of which was on how Dubai will maintain its competitive regulatory framework and how the UAE adapt to the new standards of fiscal transparency. In 2015 it organized in Dubai a conference titled 'Anti money laundering obligations in the UAE: the recent changes. Based on the growing interest and demand, in 2016 alone it hosted nine conference and trainings related to AML/CFT legal and regulatory compliance.[1089]

Legal Week

Legal Week, the UK-based law journal, helps fill the educational platform for legal professionals in the AML/CFT field. In addition to publishing news, analysis and research on business law developments worldwide, its staff manages professional events. After its launch of Corporate Counsel Forum Middle East in Dubai in 2013, a year later it introduced a new annual event: Regulatory and Compliance Forum Middle East, which in 2016 was titled: "Completing the Compliance Compass - Filling in the Gaps."[1090]

An Abundance of Outreach

By late 2015 outreach and awareness on economic crime in general, often citing AML/CFT in particular, seemed to have hit a peak in the UAE. The Pearl Initiative, a Gulf-area business organization promoting accountability, hosted The Pearl Initiative and World Economic Forum on 28 October in the Dubai Exhibition Center. Just a few days later, on 1-2 November, ACAMS hosted its 6th Annual AML and Financial Crime Conference at Jumeirah Emirates Towers. This was followed, on 4-5 November, by a conference sponsored by a "Policing and Security Conference: Global Challenges, Local Solutions," held at the Abu Dhabi National Exhibition Centre. Less than two weeks later, The Palace Downtown Dubai was the setting for a conference entitled "Anti Money

[1087] https://www.iif.com/news/events/executive-program-understanding-country-risk-2014.
[1088] Academy and Finance was created in 2000, in Switzerland with a purpose to organize conferences and seminars in the field of finance. More information on it is available at http://www.academyfinance.ch/v2/company_profile.html.
[1089] See http://www.academyfinance.ch/v2/wmd.html.
[1090] http://www.legalweek.com.

Laundering Obligations in the UAE: The Recent Change." And on 9 December, the Abu Dhabi Police Department's Anti-Corruption Department hosted an event on that city's corniche to mark "International Anti-Corruption Day."[1091]

Conclusion

Regarding knowledge of money laundering and related economic crime issues, the United Arab Emirates has come a long way since 1999, when some bankers did not know the country even had criminalized AML. The UAE government, through official bodies, embarked on significant outreach efforts to educate its finance sector about AML (and later CFT) laws; these efforts ran parallel with the UAE's effort's to comply with fluid FATF Recommendations. In this regard the UAE government was assisted by organizational entities such as the Dubai International Financial Center (DIFC) and the Association of Certified Anti-Money Laundering Specialists (ACAMS).

[1091] The author attended each of these events.

9. Toward Transparency in the UAE

This chapter will survey the concept of Transparency, the last of the "markers of success" regarding AML/CFT regimes to be examined, as it has evolved in the United Arab Emirates. For the purposes of this research, transparency, and the related term accountability, should be understood in a business and governmental setting. In addition, this chapter will discuss the relevant concept of public disclosure in the UAE presented it in the context of legal and regulatory framework for financial and anti-corruption reporting and whistleblower provisions in the country's legislation.

Transparency

"In general," according to one authority, "transparency is the quality of being easily seen through." It adds elsewhere that: "Transparency, in a business or governance context, is honesty and openness. Transparency and accountability are generally considered the two main pillars of good corporate governance. The implication of transparency is that all of an organization's actions should be scrupulous enough to bear public scrutiny."[1092] The website BusinessDictionary.com provides a definition which includes the following relevant meanings.

- "Lack of hidden agendas and conditions, accompanied by the availability of full information required for collaboration, cooperation, and collective decision making."
- "Minimum degree of disclosure to which agreements, dealings, practices, and transactions are open to all for verification."
- "Essential condition for a free and open exchange whereby the rules and reasons behind regulatory measures are fair and clear to all participants."[1093]

At the outset, it can be said that such Western styles and concepts of transparency have historically been foreign to the UAE. The same can be said of the similar term accountability. BusinessDictionary.com defines it as: "The obligation of an individual or organization to account for its activities, accept responsibility for them, and to disclose the results in a transparent manner. It also includes the responsibility for money or other entrusted property."[1094] While UAE officials and managers may well have to accept responsibility and take ownership of problems, they do not need to "disclose the results in a transparent manner" as far as concern public data, public discourse and

[1092] TechTarget, http://whatis.techtarget.com/definition/transparency.
[1093] WebFinance Inc., http://www.businessdictionary.com/definition/transparency.html#ixzz4Go88TcaI.
[1094] WebFinance Inc., http://www.businessdictionary.com/definition/accountability.html#ixzz4HBxu9uym.

communication are concerned. While officials in, for example, American government and publicly traded companies are expected to be answerable to the public via the press, there is no comparable requirement for a UAE government operative or company manager or director. The international investigation into the BCCI scandal, mentioned in the earlier chapter, demonstrates what critics would describe as the UAE's public denial of involvement in the bank's criminal activities. While publically declaring innocence, proclaiming victimization, and citing the intent to fully cooperate with investigators, the country's lack of cooperation in providing key documents and keeping accused BCCI official away from international interrogations only raised more suspicion from the international community.[1095]

Words and Actions

There are, then, significant cultural differences between Western and Arab countries that need to be considered when assessing transparency (and related terms, such as *public disclosure*, discussed below) in the UAE. These can be extrapolated to suggest that these differences alter how reality is perceived. As one Arabist noted, "Arabs are more likely to allow subjective perceptions to determine what is real and to direct their actions. This is a common source of frustration for Westerners ... A Westerner can point out flaws in their arguments, but that is not the point. If they do not want to accept the facts, they will reject them and proceed according to their own view of the situation. Arabs will rarely admit to errors openly if doing so will cause them to lose face. *To Arabs, honor is more important than facts.*"[1096]

Zaharna, surveying the work of several scholars, contrasted American examples against Arab ones, the list including (among others):

1) *High Context/Low Context.* "Low-context cultures, such as the American culture, tend to place more meaning in the language code and very little meaning in the context. For this reason, communication tends to be specific, explicit, and analytical." In contrast, Arab culture is seen as high-context. In such an environment, "meaning is embedded more in the context rather than the code. … Thus the listener must understand the contextual cues in order to grasp the full meaning of the message. Thus, a high-context person will tend to talk around a point and expect his listener to know what he means. It is not necessary for the speaker to be specific because the details are in the context, not the message. In other words, in high-context exchanges, much of the 'burden of

[1095] Kerry and Brown, "The BCCI Affair: A Report to the Committee on Foreign Relations," 421-461.
[1096] Nydell, Understanding Arabs, 29.

meaning' appears to fall on the listener. In low context cultures, the burden appears to fall on the speaker to accurately and thoroughly convey the meaning in her spoken or written message."[1097]

2) *Indirect/Direct*: Americans are said to have a cultural preference for clarity and directness. This Direct Style "strives to accurately represent fact, technique, or expectation and to avoid emotional overtones and suggestive allusions." In contrast, the writer identifies the Arab world with the Indirect Style. "[A]mbiguous communication is more indirect and emotionally rich. Whereas univocal stresses openness, ambiguous styles would be more likely to conceal or bury the message. Additionally, the desire for precision is not as important as creating emotional resonance. The ambiguous style would likely omit specific factual and even technical aspects of a message."[1098]
3) *Oral/Literate*: Put briefly, Western culture in this example is seen as Literate-dominant, a term emphasizing the written/printed word, while Arab culture is seen as linked to an Oral-dominant tradition. "The print or literate dominant society relies more on the factual accuracy of a message than its emotional resonance. This may relate to the historical purpose of the written word – to record, preserve, and transmit. Literate societies also favor evidence, reasoning, and analysis over the less rational, more intuitive approach. This contrasts to the logic of oral cultures, where a single anecdote can constitute adequate evidence for a conclusion and a specific person or act can embody the beliefs and ideals of the entire community. Whereas literate cultures may place a higher premium on accuracy and precision than on symbolism, in the oral cultures the weights are reversed. In oral cultures there appears to be greater involvement on the part of the audience, and this in turn, affects the importance of style and devices that enhance audience rapport." [1099]
4) *Linear/Non-Linear*: Citing the work of scholar Cary Dodd, Zaharna indicates that Western culture is linear, and Arab culture non-linear. "The linear cultural pattern stresses beginnings and ends of events, is object-oriented rather than people- or event-oriented, and is empirical in its use of evidence. Linearity also stresses presentation of singular themes; i.e., one point followed by second point, followed by third, etc. Points or facts are presented sequentially, in a linear progression. One "builds an argument" in a "step by step fashion" instead of "throwing things in all at once." In contrast, the communication message of non-linear cultures normally has multiple themes, is expressed in oral terms and heightened by nonverbal communication. The non-linear thought framework, according to Dodd, involves the "simultaneous bombardment and processing of a variety of stimuli" so these people would think in images, not just words. Time orientation is less important than people and events, and frequently, time is not segmented. [1100]

The role of literacy – to record material as a source of data – is echoed in the same article's broad observations about the differing roles of language between West and East.

> From a Western historical perspective, written language was viewed primarily as a means for record keeping and documentation. Thus language was used as an instrument for conveying information across time and space. By necessity, focus was on accuracy of content. Style served primarily as a means for enhancing the accuracy and truth of the substance." In contrast, Arabic may be seen not as a means for conveying and preserving data, but as "an art form, a religious phenomenon, and an identity tool. These forces appear to have shaped the role of the Arabic language in an entirely different fashion than English. Rather than viewing language as a means for transferring information with a stress on factual accuracy, language appears to be a social conduit in which emotional resonance is stressed. [1101]

Zaharna, the author of the piece being cited here, presents this material in the context of the practice of public relations. Zaharna adds that:

[1097] Zaharna, "Understanding Cultural Preferences of Arab Communication Patterns," 242-243.
[1098] Zaharna, "Understanding Cultural Preferences of Arab Communication Patterns," 243.
[1099] Zaharna, "Understanding Cultural Preferences of Arab Communication Patterns," 244.
[1100] Zaharna, "Understanding Cultural Preferences of Arab Communication Patterns," 244-245.
[1101] Zaharna, "Understanding Cultural Preferences of Arab Communication Patterns," 245-246.

> Just as humor is culturally relative, standards and norms of acceptable business and social practices are culturally based as well. A skillful American practitioner will not only explicitly state what the practices are but also explain why they exist. A particularly helpful technique is to provide a historical example of what happened when a practice was violated and what the negative ramifications were. Accuracy may be a particular concern for American practitioners to watch for, remembering that in Arabic, emotional resonance through vivid imagery is more important than facts. Additionally, from the Arab perspective, preserving the social bonds and a positive "public face" are much more important than facts. Thus, a "little white lie" can readily become a BIG white lie if public face or social relations are threatened.[1102]

UAE Standards and Perceptions

Western politicians and business figures, of course, can also lie and may routinely downplay concerns or negative news. But in an Arab setting, a cultural rather than strictly professional distinction may need to be made between words and action in the UAE regarding several elements of its AML/CFT regimen. This may also apply to assessments of the state of economic crime within the country itself. The problem, of course, is that such a dichotomous approach runs counter to the idea of transparency. But it also may help explain why former UAE Central Bank governor Sultan bin Nasser Al Suwaidi would tell the country's media in 2000 that "There is very little money laundering in the UAE," while at the same time his office was hard at work on AML legislation. (Indeed, AML would be described in 2000 as the country's "major focus … from the regulatory side."[1103])

There may be other cultural issues at play, in instances where reporting an episode might be seen as counter-productive, or as an unacceptable admission of failure. To cite a 2014 study based on interviews with UAE officials, many individuals are reluctant to come forward and acknowledge a problem.

> Furthermore, even when knowingly victimised, individuals and organisations fail to report money laundering and other acts. An individual may feel embarrassed and fail to report the crime; an organisation might investigate in-house and decide that it would be best to resolve the matter internally, even though a crime has been committed, to protect its public reputation, rather than open a "Pandora's box" and expose the level and depth of corruption in their company.[1104]

There are also differences in how Emirati observers assess responsibility when it comes to economic crimes. As noted earlier, Al Suwaidi saw money laundering as a Western problem.[1105] Other UAE experts challenge notions of bank complicity with money laundering that are generally accepted in the West. The law enforcement scholar Dr.

[1102] Zaharna, "Understanding Cultural Preferences of Arab Communication Patterns," 252.
[1103] Chand in *Gulf News*, "In 2000, Banks Jumped on IT Bandwagon, Kept Eye on Money-Laundering."
[1104] Belaisha and Brooks, "Money Laundering in Dubai," 348, citing Levi, "Money Laundering and its Regulation."
[1105] Nawaz, McKinnon and Webb, "Informal and Formal Money Transfer Networks," 334, citing Allen in *Financial Times*, "The Veil over Dirty Money in Dubai."

Ibrahim Al-Mulla, writing in a 2010 book, observed (in an English translation of the original Arabic text) that "In general, the criminal contribution [to money laundering] takes three forms: it's either in the form of incitement, form of criminal conspiracy or in the form of assistance. It is hard to imagine the bank contributing to crime through incitement or conspiracy. However, the question is to what extent the bank is considered a criminal contributor in the form of assistance as it helps the client by providing an easy channel for ML." He continued that:

> It is also hard to consider the bank a contributor to the crime of ML even in the form of assistance because of two points. First, the original crime happens before the bank accepts the dirty funds and thus, the bank should not be considered the cause of the original crime. Even if supposedly there are cases where the bank is involved with the ML offenders, however it does not amount to the reason of the crime especially if found later that it is just to secure the fruits of the money obtained from crime. Secondly, it is hard to say that a bank is a criminal contributor just because they refused to investigate the source or every deposit that is suspicious.

For this reason, Al Mulla argued that a bank's failure to investigate the source of the suspicious money is not enough to make it a contributor or a partner in crime. This is because the bank's behavior is not instrumental in the emergence of the crime but rather ends at the effects of the crime.[1106]

Low Numbers as Proof of Effectiveness

In a 2015 interview with author Al Mulla (in which this researcher was assisted by two translators), he estimated that, since 2004, while thousands of allegations of money laundering had been passed to the police, he knew of only a handful that prosecutors actually brought to court. This was due, he said, to the difficulty involved in tracking funds through the alleged ML process to any criminal origins. Money laundering cases, he said, are among the hardest to tackle. "It's easy to get suspicious cases to the police and prosecution," he said at one point (as translated from Arabic into English), "but most of the cases fail to reach the court in this process. Some of them don't even make it to the prosecution. The reason could be the lack of evidence or a failure in one of the regulatory steps."(Note that much of this period being discussed was prior to the 2014 amendment to the AML/CFT law). He also noted that observers tend to measure the effectiveness of the UAE's AML legislation by the number of cases reported. The fewer

[1106] Al-Mulla, I., [*Criminal Responsibility of the Banks and their Role in Money Laundering Crimes*], 46-48, as summarized and translated for the author by Hamda Faidallah Abdulkarim.

the number of cases, he said, the more effective the regimen is considered. [1107] However, as noted earlier, this standard of "low numbers = good enforcement" has run contrary to the expectations of the FATF evaluators, who presume a level of ML activity is present based on the size of the financial industry. [1108]

Transparency and Public Disclosure

Al Mulla's observations help introduce the generally cautious approach some in the UAE have taken toward transparency and the related concept of *public disclosure*. According to general belief in the West, transparency serves as a guarantor of greater accountability and a deterrent against abuses and misdeeds by officials, because it enables citizens to assess to what extent government is serving their interests.[1109] But some in the West do argue that transparency can "do more harm than good with respect to the citizens' civil mindedness" and "potentially erode institutional confidence and citizens' willingness to engage in the individual or collective actions," in the absence of institutional avenues to hold government accountable.[1110] In societies with no existing institutes insuring public's participation in policy-making, transparency will not produce institutional trust.[1111] The latter ambiguity can be applied to the UAE environment where there are no institutional channels for public participation in the legislative processes. On the other hand, enhancing transparency is crucial for UAE development, due to the country's dependency on direct foreign investment. Some findings suggest that lack of transparency can greatly impede the amount of foreign investment in a country. "The (relatively) more transparent are the country's policies and institutions, the more attractive is the country to foreign investors."[1112] So, establishing itself as a highly transparent society in perception of foreign observers is becoming the UAE's top priority. What are the indicators of good transparency?

Transparency cannot be discussed without examination of public disclosure laws and practices. One business dictionary defines *public disclosure* as a situation in which an

[1107] Interview with author Dr. Ibrahim Al Mulla (Dubai Police Academy), 4 Oct. 2015, translation and transcription by Mira Saeed Lootah and Hamda Faidallah Abdulkarim.
[1108] MENA/FATF, "Mutual Evaluation Report" (2008), 9.
[1109] Carey, Legislative Voting and Accountability.
[1110] Bauhr and Grimes, "Indignation or Resignation," 309, 310-311.
[1111] Frost, "Restoring Faith in Government."
[1112] Drabek and Warren, "The Impact of Transparency on Foreign Direct Investment," 24.

organization makes information available by publishing it.[1113] The concept generally is interpreted, in the West at least, as embracing a wide range of data. While the term is often associated in media reports with negative or potentially negative data, it has been also observed that "disclosure in finance includes much more than disclosure of adverse interests. It has been noted that disclosure of performance data of all kinds, including levels of risk, facilitates competition, which in turn reduces conflicts of interest. In addition, conflicts of interest can be avoided by making known a firm's policies and procedures for dealing with conflicts."[1114]

When referring to *public disclosure laws* we presume legal provisions for privately owned entities, which do not have to disclose financial and operating details in most cases. These laws ultimately determine what information, if any, should become public knowledge. It is important to distinguish *voluntary* from *required disclosures*. The former means "disclosures in excess of requirements, representing free choices on the part of company managements to provide accounting and other information deemed relevant to the decision needs of users of their annual reports," making them more politically sensitive than the other types.[1115] Legal provisions for required disclosure are largely considered as guaranteeing transparency within private and public sectors. Roberts argues that many countries have been pressured by a transnational network of nongovernmental organizations to adopt national disclosure laws to endorse transparency. Transparency International (TI) publishes a Corruption Perceptions Index that annually ranks countries based on the international business community's view about the pervasiveness of corruption within each. (The UAE's standing on this index will be discussed below.) The TI has also endorsed enactment of a disclosure law as one of the central elements of a national anticorruption strategy, purporting the link between access to information and low levels of corruption. This external pressure, according to Roberts, suggests that the 'late adopters,' mainly developing countries, possibly enacted disclosure laws for the sake of appearances, motivated only by improving their ranking in TI's Corruption Perceptions Index as a condition for inflow of foreign investment.[1116] The latter case is evident when the disclosure laws are adopted, but public access to information is still impeded by poor recordkeeping. For example,

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[1113] McIntosh, chief ed., *Cambridge Business English Dictionary*.
[1114] Boatright, "Financial Services," 232.
[1115] Meek, Roberts, and Gray, "Factors Influencing Voluntary Annual Report Disclosures by US, UK and Continental European Multinational Corporations," 555.
[1116] Roberts, "Soft States."

UAE law guarantees *de facto* public access to government information, but the extent to which it is enforced is difficult to assess. One attempting to view AML court cases on the UAE Public Prosecutor's official website has to search for cases by their numbers. But access to the ledger for case numbers is not open to the public. So though on the surface everyone is given access to information, technical roadblocks limit accessibility.

Legal provisions requiring accurate corporate books and record keeping along with effective internal and external auditing are stated in Federal Law No. (8) of 1984, the Commercial Company Law.[1117] Detailed provisions for internal control, the formation of an audit committee and the appointment of external auditors are contained in Ministerial Resolution No. 518 of 2009 Concerning Governance Rules and Corporate Discipline Standards, which apply to entities with securities listed in the UAE. All financial institutions doing business in the UAE are required to apply International Accounting Standards (now International Financial Reporting Standards, IFRSs),[1118] promoting transparency, accountability and efficiency in annual accounts. The 2016 Global Forum Peer Review of the UAE implementation of international standards of transparency and exchange of information for tax purposes raised the issue of absence of account auditing requirement for partnerships and offshore companies in the Jebel Ali Free Zone and RAK Free Zones, where no framework has been established to monitor the accounting records.[1119] Though non-financial firms in the UAE, in general, are not under this requirement, a majority of them adopted IFRS voluntarily. This can be explained by the compatibility of the UAE's laws and regulations with its international counterparts and by companies' desire to attract foreign investments.[1120] One study establishes a strong link between voluntary financial disclosure and accessibility to capital markets, where the former provides an apparent competitive advantage.[1121] By this logic, the competition for foreign investment will ultimately make all countries adopt universally transparent disclosure practices. According to Zarzeski it is impossible because accounting disclosure practices are culture-driven. International

[1117] UAE Federal Law No. (8) of 1984.
[1118] The International Accounting Standards Committee (IASC) was founded in June 1973. International Accounting Standards Board (IASB) is the independent standard-setting body of the International Financial Reporting Standard**s** (IFRS) Foundation. More information on the IFRS is available at: http://www.ifrs.org/IFRSs/Pages/IFRS.aspx
[1119] OECD, "Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: United Arab Emirates 2016, Phase 2:Implementation of the Standard in Practice," 9.
[1120] Aljifri and Khasharmeh, "An Investigation into the Suitability of the International Accounting Standards to the United Arab Emirates Environment."
[1121] Choi, "Financial Disclosure and Entry to the European Capital Market."

firms disclose higher level of public information because they are driven by global culture and market forces. The level of accounting disclosure in locally-operated firms would be dictated by "the secretive nature of a culture." they operate it.[1122]

Aljifri argues that the extent of disclosure in the UAE is primarily driven by regulations than by market. According to him, high level of disclosure in the UAE's banking sector can be explained by UAE Central Bank's close control and monitoring. Firms from business sectors with weak legal and enforcement framework demonstrate lower level of disclosure.[1123] The results of one study show that the disclosure of corporate governance practices in the UAE is rather low, especially related to disclosures on board of directors' qualifications, skills and the training programs available for them. This can imply that the selection of the directors may be influences by the ownership, which are more interested "in electing directors who represent them in the board" regardless of their qualification and experience.[1124]

The terms disclosure and transparency appearing jointly in the Federal Law No. (4) of 2000, which established the Security and Commodity Authority and granted it supervisory and executive powers over the securities and commodities market licensed in the UAE. According to Articles 4(2)(e) the authority may exercise its power to make regulations concerning disclosure and transparency. Articles 12 (4) and (5) gives the Board of Directors power to require companies licensed by the Authority to take necessary measures for disclosure of any substantial developments occurring in such companies to ensure transparency and disclosure. In Article 22(4) states the obligation for the listed companies "to present reports and data to the Authority and make the necessary press releases so as to ensure transparency of information and disclosure." In Chapter Five, "Disclosure and Transparency, "Articles (33), (34), and (35) outline the rules of public and private disclosure and powers given to the Authority to conduct investigation if necessary.[1125] The Authority's most recent regulation, which opens the UAE equity market to private joint stock companies, requires, in addition to the financial and managerial disclosure obligations, "any other disclosures, statements or reports."

[1122] Zarzeski, "Spontaneous Harmonization Effects of Culture and Market Forces on Accounting Disclosure Practices," 35.
[1123] Aljifri, "Annual Report Disclosure in a Developing Country: The Case of the UAE."
[1124] Al-Janadi, Rahman, and Omar, "The Level of Voluntary Disclosure Practices Among Public Listed Companies in Saudi Arabia and the UAE: Using a Modified Voluntary Disclosure Index," 194.
[1125] UAE Federal Law No. (4) of 2000 Concerning the Emirates Securities and Commodities Authority and Market.

Furthermore, the new Regulation makes the issuer's Directors liable personally for the accuracy and integrity of the information provided.[1126] One observer comments that these tighter regulations "will come at a cost, in the form of additional compliance requirements, particularly the need for continuous disclosure of developments affecting the company."[1127]

Regardless of these stringent legislative and regulatory requirements, there is a prevalent perception of high level of insider trading on regional stock markets.[1128] Lack of transparency in the public and corporate spheres can be one of the explanations. As mentioned earlier, insufficient transparency may lead to corruption. So, the country's anti-corruption program with its focus on criminal liability for companies and individuals is one of the indicators of transparency.

The Ministerial Resolution No. (225) of 2015 amending certain provisions of the Ministerial Resolution No. (518) of 2009 concerning Governance Rules and Corporate Discipline Standards promulgates that cases concerning company transactions involving fraud will be referred to a criminal court, where the penalty of imprisonment or fine may be impose.[1129] Penalties on company directors are imposed by the Federal Commercial Companies Law No. (8) of 1984 (amended by Federal Law No. (13) of 1988), which inflicts penalties on directors if they, among other things, intentionally state false information in relation to the company's profits and losses.[1130] Federal Law No. (18) of 1993, known as the "Commercial Transactions Law" imposes a penalty on the board of directors if they conceal or destroy the company's books or acknowledge debts that they know are not payable by the company.[1131] Article 65 of the Federal Criminal Penal Code states that juridical persons, with the exception of governmental agencies "shall be criminally responsible for crimes committed by representatives, directors or agents acting in favor of or on behalf thereof." The same Article explicitly

[1126] UAE/SCA, "The Authority's Board of Directors Decision No. (10) of 2014, Concerning the Regulation of Listing and Trading of Private Joint Stock Companies, Articles (9)."
[1127] Ibrahim and Hamad, "A New Pathway to Market for UAE Companies."
[1128] Al Sayegh in *The National*, "GCC's Small Volumes and Insider Trading Keep Hedge Funds at Bay."
[1129] UAE Minister of Economy, Ministerial Resolution No. (225) of 2015 Concerning Governance Rules and Corporate Discipline Standards." Also, UAE/SCA, "Amendment of Governance Rules and Corporate Discipline Standards Stresses the Requirement to Nominate Ladies to Boards of Directors."
[1130] Federal Law No. (8) of 1984 as Amended by Federal Law No. (13) of 1988.
[1131] Federal Law No. (18) of 1993 Commercial Transactions Law.

states that the financial penalty imposed on the corporate offender does not prohibit punishment of the individual offender.[1132]

Despite of the above judiciary mechanisms in place to promote transparency in the corporate field absence of financial disclosure laws for public officials hampers the effectiveness of anti-corruption efforts in the UAE. That being said, bribery is punishable in the UAE under a number of Federal and Dubai legislations, including the Federal Penal Code, Dubai Penal Code, Federal Human Resources Law and Financial Fraud Law.[1133] It is worth to mention that the Federal Penal Code applies to the UAE as a whole, including the free zones without making any distinction between domestic and foreign entities. But UAE has yet to criminalize bribery of foreign public officials and officials of international public organizations. In addition, UAE laws do not make any specific requirements upon auditors to disclose any violation under the anti-bribery laws. The earlier mentioned prevalence of insider trading in the UAE demonstrates that the mere existence of legislative and regulatory requirements for disclosure is not enough to guarantee transparency. This is something that, in the context of international commercial treaties, the World Trade Organization (WTO) stresses. Guarantees that these laws are regulations and administered and implemented are crucial.[1134]

Companies' willingness to disclose information, especially concerning violations associated with their books and records, is also vital. Counter-corruption professionals suggest that, while the regional perception was once that fraud and corruption was acceptable, that is now changing. However, stringent regulatory oversight is not enough to sustain any change in attitude; rather, effective supervision and procedures at company level are also needed to enhance transparency and consequently reduce abuses.[1135]

Another issue concerning disclosure, as Rider points, is "even if the laws and requiring continuous and timely reporting and actually and properly complied with, which of

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[1132] Federal Law No. (3) of 1987 On Issuance of the Penal Code, Article (65).
[1133] Federal Law No. (3) of 1987 On Issuance of the Penal Code, Articles 234–239; Dubai Penal Code 1970, Articles 118–122; Human Resources Management Law No. (27) 2006, Article (11); Federal Human Resources Law (Federal Law No. (11) of 2008), Articles 70-72; Dubai Law No. (37) of 2009 on the Procedures for the Recovery of Illegally Obtained Public and Private Funds (Financial Fraud Law), Articles 2-6.
[1134] WTO/GATT, Article X, WTO/GATS, Article III, and WTO/TRIPS, Part V: Dispute Prevention and Settlement, Article 63.
[1135] Farooq and Brooks, "Arab Fraud and Corruption Professionals' Views in the Arabian Gulf."

course in many cases and countries they are not, there are real issues as to the ability of ordinary investors and others to understand and interpret the relevant information." Hence, disclosure should be accompanied by availability of professional interpretation and analysis dispersed to the public via media and pressure groups. Rider remarks: "few societies, particularly in the developing world, have these luxuries." [1136]

Corruption is more appealing where the risk of detection is low and the punishments are minor. In this case, whistleblowing often appears to be the only approach to expose wrongdoings within an organization.[1137] Whistleblowing is generally considered "the disclosure by organization members (former or current) of illegal, immoral or illegitimate practices under the control of their employers, to persons or organizations that may be able to effect action."[1138] Miceli and Near draw an analogy between a whistleblower and a football referee, "who can blow the whistle to stop actions."[1139]

One of the dimensions to measure transparency is availability of whistleblower protection, which allows individuals to disclose information despite of their personal vulnerability to retaliation from, those in power. The protections offered to whistleblowers vary from fewer whistleblower protections to more comprehensive ones. Only a few countries have adopted comprehensive whistleblowing laws, which facilitate the disclosure of information and provide not only a series of protections but also incentives for people to come forward without a fear of being sanctioned for their disclosures.[1140] But as Bradley observes, "even in the US, where policy-makers have chosen to reward whistleblowing, whistleblowers are still vulnerable to employer retaliation..."[1141] The difference in level of protection exists even among different states in the USA.[1142] The majority of countries, including the UAE, have adopted whistleblower protections in "a piecemeal fashion." These protections can be found in different statutes and are limited in terms of persons or types of information they cover.[1143]

[1136] Rider, "Strategic Tools – For Now and Perhaps the Future?" 730.
[1137] Miceli, Near and Dworkin, Whistle-Blowing in Organizations.
[1138] Near and Miceli, "Organizational Dissidence: The Case of Whistle-Blowing," 4.
[1139] Miceli and Near, *Blowing the Whistle*, 15.
[1140] Callahan and Dworkin, "The State of State Whistleblower Protection." Also see Armstrong and Francis "Protecting the Whistleblower," in Rider, ed., *Research Handbook on International Financial Crime*.
[1141] Bradley, "Rewards for Whistleblowing," in Rider, ed., *Research Handbook on International Financial Crime*, 611.
[1142] Bowden, "A Comparative Analysis of Whistleblower Protection."
[1143] Banisar, "Whistleblowing: International Standards and Developments."

It is also important to recognize the existing discrepancies between legal and actual protection available for whistleblowers. "A legal right of protection is difficult to implement, since an organizations retaliation against 'traitors' can be sophisticated and subtle and therefore difficult to prosecute."[1144] Whistleblowing requires courage, since individuals who decide to blow a whistle often face "demotion, termination, blackballing, isolation, and humiliation."[1145] Organizations can have financial and nonfinancial disincentives to internal whistleblowing, even if there the whistleblowing policies are in place. [1146] Empirical research into the effectiveness of whistleblowing programs suggests that a number of these policies and procedures will actually be ineffective when applied to practice.[1147] Some suggest that whistleblower legislation should include protection against the retaliatory actions of the organization. "Until retaliation has consequences for the organization concerned, persecution of whistleblowers will continue regardless of the public benefit derived from their actions."[1148]

Cultural variation in attitudes toward whistleblowing can also impact the effectiveness of these policies.[1149] In cultures with high power distance, individuals are reluctant to blow a whistle due to the greater fear of retaliation for challenging the established authority.[1150] While there is an obligation to report criminal activity, set out in Article 274 of the UAE Penal Code,[1151] in practice whistleblowing is rare in the UAE. As was mentioned earlier the UAE has a complex cultural, ethnic and socio-economic composition with the majority of its workforce coming from other countries, especially at the labor, lower and middle management levels. Migrant labors can work in the UAE for as long as their employer provides a sponsorship to get a work permit. An individual does not have the legal right to reside in the UAE without a sponsorship, and cannot work in the country without a work permit. Article 15 of the UAE Labor Law states the Ministry of Labour and Social Affairs may cancel work permits in case of unemployment for more than three months, a failure to meet permit's conditions, and if the employee

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[1144] Bauhr and Grimes, "What is Government Transparency? New Measures and Relevance of Quality of Government," 9.
[1145] Berry, "Organizational Culture: A Framework and Strategies for Facilitating Employee Whistleblowing," 8.
[1146] Lipman, Whistleblowers: Incentives, Disincentives, and Protection Strategies, 57-68.
[1147] Pascoe and Welsh, "Whistleblowing, Ethics and Corporate Culture: Theory and Practice in Australia."
[1148] Sawyer, Johnson, and Holub, "The Necessary Illegitimacy of the Whistleblower," 104.
[1149] Oktem and Shahbazi, "Attitudes Toward Different Forms of Whistleblowing in Turkey and Iran"; and Park, Blenkinsopp, Oktem, and Omurgonulsen, "Cultural Orientation and Attitudes toward Different Forms of Whistleblowing"
[1150] Tavakoli, Keenan, and Crnjak-Karanovic, "Culture and Whistleblowing."
[1151] "Whoever becomes aware of a crime and abstains from informing the concerned authorities shall be punished by a fine not exceeding one thousand Dirhams." UAE Federal Law No. (3) of 1987 On Issuance of the Penal Code, Article (274).

can be replaced by a qualified Emirati.[1152] If employment contract is terminated and an expatriate does not find another employment within the required three months, he/she will be forced to leave the country.

Furthermore, according to the UAE Labor Law, employers can terminate a contract when its term has come to an end. In this case, the employee will at least be notified whether his contract would not be extended.[1153] But Article 120 lists 10 circumstances under which the employer can terminate the employee without a notice. One of these reasons is "If he [employee] divulges any secrets of the establishment where he is employed."[1154] What falls under "any secret" is not specified in the law, thus can be broadly interpreted. Additionally, if the employee discloses confidential information about his employer to any regulatory authorities or even to the police, not only may he be in breach of his employment contract, but he may also be in breach of the law. It can be considered a criminal offence under Article 379 of the UAE Penal Code.[1155] In addition to the criminal liability, a disclosure can be viewed by an employer as a breach of the Civil Code, Article 905 (5) of which states that "the employee must keep the industrial or trade secrets of the employer, including after the termination of the contract, as required by the agreement or by custom."[1156] In this case the employer can file a civil suit against the whistleblower for damages.

That being said, workers are granted protection against arbitrary termination. Article 122 of UAE Labor Law states: "Termination by the employer of an employee's service is considered arbitrary if the cause for such termination has nothing to do with the work. In particular, termination is considered arbitrary if the employee's service has been terminated on grounds, or a reasonable complaint lodged by him to the competent

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[1152] Federal Law No. (8) of 1980, UAE Labor Law, Article (15).
[1153] "An employment contract may either be for a limited or an unlimited period. If it is for a limited period, such period shall not exceed four years and the contract may with mutual agreement be renewed one or more times for similar or shorter period/periods." Federal Law No. (8) of 1980, UAE Labor Law, Article (38).
[1154] Federal Law No. (8) of 1980, UAE Labor Law, Article (120).
[1155] "Punishment by detention for a period of not less than one year and by a fine of not less than twenty thousand Dirhams, or by either of these two penalties, shall apply to any one who is entrusted with a secret by virtue of his profession, trade, position or art and who discloses it in cases other than those lawfully permitted, or if he uses such a secret for his own private benefit or for the benefit of another person, unless the person concerned permits the disclosure or use of such a secret. A penalty of imprisonment for a period not exceeding five years shall apply to a culprit who is a public official or in charge of a public service, and has been entrusted with the secret during, because of or on the occasion of the performance of his duty or service." Federal Law No. (3) of 1987 on Issuance of the Penal Code, Article (379).
[1156] Federal Law No. (5) of 1985 On the Civil Transactions Law of the United Arab Emirates, The UAE Civil Code, Article (905)(5).

authorities, or on grounds of a justifiable action brought by him against the employer."[1157]

In the case of arbitrary dismissal, the court has the jurisdiction "to give judgment against the employer for payment of compensation to the employee," amount of which will be determined by the court after considering "the nature of work sustained by the employee, period of service and after investigation of dismissal circumstances."[1158] Most migrant workers move to the UAE in search of employment opportunities due to the unavailability of jobs in their home country. As discussed earlier, often their entire family back home depends on their remitted income. The scenario of losing a job (and the possibility of not finding another one within the required three months to remain in the country) would outweigh the compensation for arbitrary termination.
Johnson in his book purports that "whistleblowers need media coverage," since it assists and encourages whistleblowing. [1159] "Media can provide a key outlet for important information which has been ignored by the persons or organizations charged to respond. The media can also play a vital role when a whistleblower experience retaliation."[1160]

But when discussing the media's role in whistleblowing it is important to examine whether it is provided with a special privilege to protect their sources from disclosure. In the UAE, journalists have the rights to obtain and publish news and commentary "within the limits of the law and in accordance with the following:"

- A journalist may not be pressured and must not be forced to disclose his sources.
- A journalist may be held accountable only within the scope of his professional duties as defined by law.
- A journalist must not be harassed for expressing an opinion or publishing correct information.
- A journalist must not be unduly deprived of writing or publishing information and his name must be mentioned in his reports.[1161]

[1157] Federal Law No. (8) of 1980, UAE Labor Law, Article (122).
[1158] Federal Law No. (8) of 1980, UAE Labor Law, Article (123).
[1159] Johnson, *Whistleblowing*, 10.
[1160] Callahan and Dworkin, "Who Blows the Whistle to the Media, and Why: Organizational Characteristics of Media Whistleblowers," 152.
[1161] Quinn and Walters, *Bridging the Gulf*, 56.

However, the UAE Penal Code states: "Whoever publishes news, pictures or comments related to the secrets of private or family life of persons even if they are true, shall be punished by detention for a period not exceeding one year and by a fine not exceeding ten thousand Dirhams, or by one of these two penalties."[1162] Alexander points out that often whistleblowers' reports are based on mere suspicion rather than facts. However, the whistleblower protection is applied only when suspicion is proven to be correct, a limitation that may dissuade many employees from reporting.[1163] It is an especially major concern in the UAE, since potential whistleblowers can be accused of defamation, which is a criminal offence in the country.[1164] Internal critics argue that the UAE's loose defamation and libel laws have been used to stifle criticism of businesses (such as developers),[1165] and generally prevent serious reporting.[1166] The country also has strict laws on the use of social media, limiting its attractiveness to whistleblowers.[1167]

Until recently, there has been no statutory protection for whistleblowers in the UAE law. As one author points out that it is "a very rare case among the MENA countries" to have legal and regulatory provisions to protect whistleblowers.[1168] However, the UAE is an exception from this case. [1169]

For the first time, whistleblowers were protected for voluntarily reporting money laundering to the authorities under the New AML Law, which requires the relevant authorities to provide protection for witnesses or the accused in offences of Money Laundering, Financing of Terrorism and/or Financing of Unlawful Organizations, whenever it is required or in case of fear for the lives of the witness or accused.[1170] The most recent development in this field was the Law No. (4) of 2016 on the Dubai Economic Security Centre (commonly referred to as the Financial Crime Law) which

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[1162] Federal Law No. (3) of 1987 On Issuance of the Penal Code, Article (378).
[1163] Alexander, "The Role of Whistleblowers in the Fight Against Economic Crime," 134.
[1164] "Shall be sentenced to detention for a term not exceeding two years, or to a fine not in excess of twenty thousand Dirhams, whoever attributes to another, through a means of publicity, a fact that makes him object of punishment or contempt. The penalty shall be detention and/or a fine in case the libel is perpetrated against a public servant, or a person in charge of a public service, during or because of the discharge of his duties or performing the public service, or if it affects honor or the reputation of the families, or if it is expected to fulfill an illicit purpose. In case the libel is done by means of publication in one of the newspapers or printed material, this shall be considered an aggravating circumstance." UAE Federal Law No. (3) of 1987, Concerning the Penal Code, Article 372.
[1165] Brass, "Defamation Laws Keep the Aggrieved Quiet."
[1166] Duffy, "UAE Journalists Need More Legal Protections."
[1167] For summaries of cases, plus links to news stories on them, see "How Social Media Can Turn an Average Person into a UAE Criminal."
[1168] Braendle, "Corporate Governance in the Middle East – Which Way to Go?," 59.
[1169] OECD, "Survey on Corporate Governance Frameworks in the Middle East and North Africa (draft)," 24.
[1170] Federal Law No. (9) of 2014, Article (13)(3) and Article (20)

included protection for those that report crimes to the newly established Dubai Economic Security Centre (DESC). The text of the law has not yet (at this writing) been published in English, but the official website of Dubai Government indicates that it guarantees protection to whistleblowers. The site states:

> The Centre will also provide protection and ensure the safety of individuals collaborating with it for the purpose of maintaining the economic security of the emirate by not disclosing information about the identity and whereabouts of the collaborator. For the purposes of this Law, providing information on matters affecting the economic security of the emirate shall not be considered a violation. Any person providing the information shall not be subject to any legal or disciplinary action unless proven to be providing false information.[1171]

According to Glyde & Co. law firm, the law stipulates that "the reporter's freedom, security and protection shall be guaranteed, and that no legal or disciplinary action may be taken against the reporter unless the report is false."[1172]

Since the DESC has not been formally established yet, it is premature to assess its role and effectiveness. But its applicability in other emirates and protection for whistleblowers, which report the wrongdoings not to the DESC but to the police and the public prosecutor, as required under the UAE Penal Code, is not clear.

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It is also worth noting that the DESC's tasks are said to include "Preparing and publishing periodical reports and statistics on the financial and economic position of Dubai.[1173] It may be presumed that this is meant to rectify criticisms contained in past MENA/FATF evaluations (particularly that published in 2008), which emphasized the need for statistics and data as signs of accountability and transparency. That document presented these concepts as desirable ones it hoped the country would embrace. Among 212 entities surveyed in the World Bank Worldwide Governance Indicators, the report noted, the UAE ranked in the top third in five of the six categories surveyed: political stability and absence of violence, regulatory quality, rule or law, and control of corruption. However, the UAE "lags behind in voice and accountability."[1174]

After 2008, likely in response to such concerns, and as part of the UAE's efforts to meet FATF recommendations, the terms *accountability* and *transparency* became increasingly

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[1171] Government of Dubai, Media Office, Mohammed issues Law on Dubai Economic Security Centre
[1172] Ford and Braganza, "New Protection for Whistleblowers in Dubai."
[1173] Lassoued and Eissa, "An Insight into the Newly-Formed Dubai Economic Security Centre."
[1174] MENA/FATF, "Mutual Evaluation Report" (2008), 15.

visible. One example concerns the evolution of an Abu Dhabi-specific body, on which the DESC may be partly modeled. Now known as the Abu Dhabi Accountability Authority, it originated as the Financial Audit Authority in 1985. A passage from a UAE government website explains both the original body's origins, and why it was deemed insufficient:

> The first law to establish The Financial Audit Authority stated that it be established as an independent body reporting to the Crown Prince and limited its mandate to include performing a financial audit on the funds of Public Entities and ensuring that these funds are managed efficiently and legitimately, with no reference to the provision of performance and risk reviews or advisory and assistance and it did not include training and development of UAE Nationals in Accounting and Audit.[1175]

Presumably because of these limitations, the body was replaced in 2008 with the Abu Dhabi Accountability Authority, or ADAA. According to a short description provided by the Abu Dhabi-owned, English-language newspaper *The National*, it "was set up in December 2008 to promote accountability and transparency in the public sector. Among those under their purview are government departments, local councils and all companies or projects in which the Government owns more than a 50 per cent share. ADAA says it aims to ensure all of these entities use their resources and funds efficiently, effectively, economically, ethically and in line with the overall vision of Abu Dhabi. It also has a training centre, where Emirati graduates are trained in auditing. The authority audits Government bodies, investigates corruption and sets up anti-fraud programmes. In 2011, ADAA was appointed to the advisory council of the International Forum of Independent Audit Regulators, making the UAE the first Arab member. Last year, the authority hosted a workshop for the forum."[1176]

The ADAA's annual reports provide some background on the organization's efforts vis-à-vis economic crime regulation. Some examples are written in ways that appear to exemplify the indirect rhetoric, common in the UAE, described above. Consider the following from the 2014 annual report, concerning a 2013 investigation: "The case relates to what was attributed to a number of staff and officials of a Subject Entity who concluded several contracts with several consulting firms with an amount of AED 2,136,000 in violation of laws. ADAA formed a work team to conduct an examination of these contracts …" After determining there were flaws in the tendering process, "the Subject Entity was notified with the examination results to take the necessary actions in

[1175] ADAA, "History."
[1176] Uncredited in *The National*, "What is the Abu Dhabi Accountability Authority?"

light of such results."[1177] Neither the 2014 or 2015 reports make reference to money laundering, although the latter document mentions two 2014 embezzlement cases.[1178] No bodies similar to the ADAA appear to have emerged in the other emirates until the April 2016 creation of the DESC was announced. Nor is there any sign as of this writing that a nationwide, federal accountability-focused body will emerge.

Media Themes

Transparency and accountability have also been popular topics for business discussion. In 2010, the US software services firm SunGard organized an event in Abu Dhabi that (to cite a media report) "focused on transparency, efficiency and networks as drivers of change in the Middle East."[1179] Other contemporary press articles dealt with, for example, transparency as a factor in modernizing family owned businesses.[1180] The benefits coming from the 2013 introduction of a Direct Debit System (DDS) in the UAE included "boost[ing] transparency."[1181] Following accepted indirect rhetorical practice, many articles tended to raise local problems with transparency cautiously. These showed the UAE in comparatively good light against regional examples, such as a 2012 article, which examined flaws with GCC (though non-UAE) businesses in transparency and accountability.[1182] In similar vein, consider this 2013 opinion piece in *Gulf News*, submitted by an outside contributor:

> Transparency is a sensitive topic, particularly for companies when disclosing information that can be critical to the image and life of the firm.
>
> Industry participants tend to conceal critical information from the market assuming it's in their best interest, being naive about the way information flow affects the return and risk pattern of an asset. It is necessary for a company to have optimum transparency to attract outside investment.
>
> However, transparency remains elusive to property investors and occupiers in any country. Although the UAE has consistently outperformed other GCC markets in transparency rankings, there is still a lot to be done to get investor confidence back to the market.[1183]

A relatively rare example of a more direct approach came in a 2012 article that used fluctuation on the UAE stock market as the "hook" for a discussion of transparency, or lack thereof:

[1177] ADAA, "Accountability Report" (2014), 52.
[1178] ADAA, "Accountability Report" (2015), 46.
[1179] Scott, "Transparency in Focus at Abu Dhabi Meeting."
[1180] Rahman, "Transformation in Region's Corporate Culture."
[1181] Rahman, "Direct Debit System will Change the Way Payments are made."
[1182] Crowcroft, "Changing Corporate Ways Across the GCC."
[1183] Teh, "Firms offering transparency in an opaque GCC marketplace."

> DUBAI: Local investors have been left bemused in recent months as UAE-listed firms make sharp movements up and down the stock market for no apparent reason.
> As a result, the much-bemoaned issue of a lack of transparency has once again come into sharp focus as traders question whether both the market regulator — the Securities and Commodities Authority (SCA) — and public companies are fulfilling their financial disclosure requirements.
> In one of the most eye-catching instances, construction firm Arabtec Holding's share price jumped more than 128 per cent in the first two months of the year on unsubstantiated rumours, including speculation the company is on the verge of winning several key infrastructure contracts.
> The firm's chief financial officer, Ziad Makhzoumi, told *Gulf News* last month the stock surge was purely a result of market conditions and, in particular, an increase in trading volumes. But it has since emerged the intense buying interest was driven by Aabar Investments, an Abu Dhabi-based sovereign wealth fund, increasing its stake in the builder. ... [1184]

In 2014, JLL Consultants, on its "Global Real Estate Transparency Index," ranked the Dubai property market the "most transparent" in the region (Abu Dhabi came in a few rungs lower). While local media made much of this, both emirates still ranked as "semi transparent" on the larger scale.[1185]

Wealth transparency and information sharing related to taxes is another area the UAE has to demonstrate its commitment to capabilities. The UAE is a signatory to the Global Forum of Transparency and Exchange of Information for Tax Purposes and FATCA. These require smooth information flow to and from the UAE. To facilitate it, there should be a system in place for information sharing internally between the private sector and the regulatory bodies or between different government offices.

Work in Progress

Based on such reports from various other ranking organizations, the UAE has a varied track record on transparency and accountability issues. The Transparency International (TI) 2016 Corruption Perceptions Index gave it a 66 on a scale in which zero means "highly corrupt" and 100 "very clean."[1186] More directly as far as transparency goes, the Tax Justice Network's Financial Secrecy Index in 2015 assessed the emirate of Dubai on its own, giving it a 77 score on a scale in which 31-40 meant "moderately secretive" and 91-100 was "Exceptionally secretive." It summarized the situation like this:

> Dubai is unquestionably one of the world's best known tax havens or secrecy jurisdictions built on an increasingly complex array of offshore facilities: free-trade zones; a low-tax environment; multiple secrecy facilities and lax enforcement. In addition, Dubai has a strong culture of an ask-no-questions, see-no-evil approach to commercial or financial regulation or foreign financial crimes. It

[1184] Scott, "UAE Stock Market: Working to Ensure Full Disclosure."
[1185] Nair, "Dubai Property Market is Most 'Transparent' in Region."
[1186] Transparency International, "Corruption Perception Index 2016."

> has consequently attracted large financial flows and some of the world's most high profile criminals.[1187]

That this perception remained prevalent in 2015, just a year after the country implemented a comprehensive AML legislative overhaul, shows how much work the UAE needs to do.

Conclusion

The UAE has a long way to go to implement a culture of transparency in its government operations, let alone its AML/CFT regimen. The latter is marked by the country's lack of publicly available data, reticence to acknowledge or discuss AML/CFT issues, and an inherent reluctance even to report economic crimes but to address them "in house." With that said, efforts have been made to introduce the concept of transparency (and the related term accountability) to the business and governmental worlds, and to promote it via agencies such as the ADAA and DESC and the media. The UAE currently shows signs of improvement on some relevant world rankings, but even after implementing comprehensive new AML legislation the country is still perceived as opaque and lax on many financial crime issues.

[1187] Tax Justice Network/Financial Secrecy Index, "Narrative Report on Dubai," 1.

10. Conclusion

This doctoral thesis has involved the creation of a methodology aimed at assessing the effectiveness of the AML/CFT efforts in the United Arab Emirates. The preceding chapters have applied five "markers of success" (as determined by AML/CFT professionals) to the UAE's AML/CFT framework. While viewed separately, each shows progress over time; however, it must be admitted that the final result is inconclusive. This is primarily due to the country's lack of transparency (itself a marker under analysis herein). This factor -- an often-criticized characteristic of the UAE's AML/CFT regimen since at least its 2008 MENA/FATF evaluation -- overlaps in several key areas covered by other markers. While there is impressive outreach and private sector commitment, the apparent paucity of ML cases in the UAE, for example, seems to signal a lack of commitment to AML, a lack of interest in pursuing such cases, or both. With that said, the country as of this writing (2016) has undertaken new steps (detailed in the last chapter) which ostensibly address this element.

When assessing effectiveness of AML/CFT legislation it is important to understand how it gets actually translated into real life, how it manifests and impacts reality. Simply put, its applicability, rather than mere existence on paper, was of prime interest to this research. In this context, to distinguish between "normative compliance" and "functional compliance" as Unger labeled them, becomes crucial in the assessment.[1188] The FATF draws this distinction in separating "technical compliance" and "effectiveness assessment" as two components of its new methodological assessment.[1189] While at the "normative" or "technical" level, it is fairly easy to assess the country's compliance with international AML/CFT standards, practice suggests mere existence of laws might not reflect commitment and produce the desired impact.

Therefore, this thesis employed assessment criteria proposed by individuals working in the AML/CFT spheres, rather than borrowed from earlier developed methodologies, was applied to avoid ambiguities and disconnect between different players'

[1188] Unger, *The Scale and Impact of Money Laundering*, 191.
[1189] See FATF, "Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems."

understandings of and approach to the issue. Views of representatives of academia, regulatory authorities, compliance departments, law enforcement officials, intergovernmental institutions, software developers, and government officials – coming from different jurisdictions and with a range of working experience – formed "markers of success" for the AML regime. The principal ones they supplied have been described in earlier chapters as comprising *Robust Regulatory Framework*; *AML Legislation Enforcement*; *AML Legislation Awareness*; *Private Sector Commitment and Cooperation*; and *Transparency*. The previous chapters have tried to apply these criteria against a variety of sources, including UAE laws of 2002 and 2004 and their amendments/replacements of 2014; various regulatory documents and policies enacted by the UAE Central Bank and other UAE bodies; expert opinion when available; and other materials from both official bodies and the country's media.

Observations/Evaluations

The results show that the UAE reached, in 2014, a new level of international acknowledgement for its AML/CFT framework via its desired change in MENA/FATF review status. The path toward attaining that goal can be seen as starting in 1987, with the first efforts to criminalize money laundering, followed by linear though uneven progress. That was when the international community was faced with the fact that money laundering is amorphous. It rapidly spills over national borders evolving into transnational phenomena. Money launderers were capitalizing on existence of weak links in the global financial chain, lack of or poor AML controls in various jurisdictions, and overall differences in perception of and attitude toward the issue.[1190] By the late 1980s and early 1990s, "internalization" of money laundering gained international attention, which encouraged the harmonization of AML laws. Within this period, domestic regulations gradually expanded into criminal statutes with extraterritorial reach and further into major international conventions with global standards.

While AML efforts began largely in response to drug trafficking concerns, post-9/11 AML legislative efforts encompassed combating the financing of terrorism (CFT) and weapons proliferation. International cooperation in all areas and at every stage and level of AML domain has since become essential and was solidified in the FATF

[1190] Savona and De Feo, "International Money Laundering Trends and Prevention/Control Policies," 54-55.

standards. That framework was created, among several of its functions, to identify weak links in the chain open to criminal abuse. FATF labels these as "high risk and non-cooperative jurisdictions," the "blacklisting" or "greylisting" of which has been seen to be largely effective, though criticized by some.[1191]

In today's global financial interdependencies, the consequences of being identified as a weak link can be dire for a country's economy and development. This is especially true for a country, such as the UAE, that counts on continuously increasing direct foreign investments to sustain its economic diversification program and ensure political security. The UAE's creation of economic free zones as a demonstration of the country's commitment to economic liberalization has served this goal. There was a significant inflow of foreign capital into the UAE from 2003 to 2007. While 2007 saw the largest sum, US $14.187 billion, a sharp plunge followed in the following two consecutive years.[1192] This was crowned by the Nov. 2009 announcement that Dubai World and its main property subsidiary, Nakheel, were seeking repayment delay on billions of dollars of debt. At that time, one journalist observed: "restoring the trust of investors is now a critical challenge," suggesting legal clarifications accompanied by transparency as a remedy. The latter was then identified as a major concern in the region.[1193] As this study demonstrates it remains an issue now. Investor confidence places a large role in capital allocation. When making decisions on country allocation, investors' perception of corruption becomes an investment obstacle. An underdeveloped legal system also discourages foreign financial institutions from entering the market due to higher perceived risks.[1194] We can speculate that the return of the UAE's capital prosperity after the global financial crisis circa 2008 can not only be linked to high oil prices, but also by its initiatives to tighten legislative controls to promote economic stability and security. The UAE's economic diversification policy largely depends on inflow of foreign capital, especially as oil prices decline. The new AML Law of 2014 came into force on 30 October of that year, at the time when oil prices had begun to free fall, plunging from US$115 per barrel in June 2014 to under US$35 at the end of February 2016.[1195] This weakened the

[1191] FATF, "Annual Report" (2011-2012), 29-31.
[1192] World Bank, "Foreign Direct Investment, Net Inflows (BoP, Current US$)," United Arab Emirates.
[1193] Philips, "Centers of Attention," 42.
[1194] Groh and Liechtenstein, Determinants for Allocations to Central Eastern Europe Venture Capital and Private Equity Limited Partnerships"; Johan and Najar, "The Role of Corruption, Culture, and Law in Investment Fund Manager Fees"; and Hain, Johan, and Wang, "Determinants of Cross-Border Venture Capital Investments in Emerging and Developed Economies: The Effects of Relational and Institutional Trust."
[1195] World Economic Forum, "What's Behind the Drop in Oil Prices?"

country's growth outlook and increased uncertainties.[1196] As a countermeasure, the Central Bank announced "the UAE regulatory framework will continue to be progressively enhanced in line with international standards and best practice," proposing a plan for new regulatory initiatives in the areas of liquidity, digital payments, risk management, non-bank financial institutions, financial reporting, internal controls, compliance and internal audit.[1197] That was followed by the announcement of a Dubai legislative initiative, Law No. (4) of 2016 – the Dubai Economic Security Centre (DESC) Law – which aimed "to provide investors with an attractive economic environment."[1198]

It is clear that it is in the UAE's best interest to portray itself as a stable and secure country with low-crime, low-corruption, and a robust AML/CFT legal framework. Potential criticism of being a weak link, resulting in punishments of "blacklisting" or "greylisting," would have significant consequences for the UAE"s economic development and consequently political stability. The UAE cannot afford to be seen as a weak state, because another big concern for the country is preventing any possibility of terror attacks on its own soil, which with no doubt would have long-term direct and indirect consequences.

Markers 1 and 2: Robust Regulatory Framework and AML Legislation Enforcement
Driven by external pressure coupled with internal self-interest, the UAE's efforts to establish a robust AML/CFT regime can be seen in the country's (albeit uneven) progress in *Robust Regulatory Framework* and *AML Legislation Enforcemen*t, the first two "markers of success," from 1987 to 2014. The country's objective to be internationally recognized for its efforts was achieved in an acknowledgment to it in the change in MENA/FATF review status in late 2014. By obtaining MENA/FATF approval, the UAE can be shown to have hit the pre-defined *Robust Regulatory Framework* and *AML Legislation Enforcement*. However, measuring the latter especially remains problematic given the lack of hard statistical data for much this period, something the MENA/FATF team commented on in 2014, essentially repeating a concern raised in 2008. To assess the effectiveness of money laundering reporting in respect to its ultimate impact on reduction of predicate and ML crimes is inconclusive, because there

[1196] UAE Central Bank, "Financial Stability Report 2015."
[1197] UAE Central Bank, "Financial Stability Report 2015," 49.
[1198] Lassoued and Eissa, "An Insight into the Newly-Formed Dubai Economic Security Centre."

is little data available on how many ML investigations, prosecutions and convictions have been made as a result of reports filed by financial institutions.

During that period of legislative/regulatory development, the UAE gradually created a strong outreach program via official bodies such as the Anti-Money Laundering and Suspicious Cases Unit (AMLSCU), making significant efforts to educate its financial sector about AML (and later CFT) laws. These efforts ran parallel with the UAE's efforts to comply with fluid FATF Recommendations. Initially, the AMLSCU was the principal engine to promote legislative and regulatory awareness and outreach in the UAE by conducting courses and seminars for the financial industry. But outside evaluators viewed these trainings as insufficient in depth for the compliance officers. MENA/FATF criticism of low STRs prompted UAE officials to new outreach efforts focusing on recognizing suspicious fiscal activities and filing of reports. The Central Bank often conducted these trainings jointly with the Dubai Financial Service Authority, and the Emirates Security and Commodities Authority. In addition to trainings, the AMLSCU provided face-to-face technical assistance to representatives from the private and public sector entities.

Markers 3 and 4: AML Legislative Awareness/Private Sector Commitment and Cooperation
By 2015 at least, an intensive outreach program, seemingly fully in cooperation and coordination with the private sector, was in place. The UAE emphasis on building *AML Legislative Awareness* across various economic sectors is evident in the growing number of conferences, forums, and training courses dedicated to this topic that have been hosted in the country. Professional organizations such as ACAMS, Thompson Reuters, the Institute of International Finance (among others) regularly host summits and other outreach-type events in the UAE; some (such as ACAMS) also offered professional certification.

These educational and training platforms continue to draw interest of the private sector in the UAE. It is noticeable in the growing number of attendees and of educational and training opportunities being offered in the country. Moreover, as the head of ACAMS MENA noticed, the attendees are now more diversified across different industries, beyond the financial sector only. It does not necessarily prove *Private Sector Commitment and Cooperation* regarding AML/CFT efforts. Rather it can be attributed to increasing attention companies give given to stay compliant with the tighter AML/CFT

legislative and regulatory framework, which require regulated businesses to include a training component into their compliance functions and across other departments. Hence, it is important to stress that while the study was assessing *Private Sector Commitment and Cooperation* as labeled in the process of the interviews, under *commitment* it presumed *obligation* and *duty* rather than dedication to the AML/CFT legislative efforts. Though some may argue that the dedication rather than compliance with requirements actually contributes to the legislative effectives. However, due to the subjectivity of its nature, the concept of dedication was not assessed in this research. The rise in the numbers of STR filings from 2004 to 2013 may be seen as broadly indicating positive change in *Private Sector Commitment and Cooperation*.

Marker 5: Transparency

While similar efforts have been made to encourage a culture of *transparency* (and the related concept of accountability), this has been harder to find positive results in. The reluctance of government bodies to share data – not just with the public, but also with FATF evaluators – does not point to a significant cultural shift over this time. Recent academic studies have found, akin to this one, a reluctance to discuss AML/CFT issues, combined with the perhaps erroneous paradigm that the low numbers of reported AML/CFT incidents and prosecution cases indicates excellent law enforcement. The UAE remains (as of 2015 at least) perceived as a largely non-transparent jurisdiction when it comes to financial crimes, including AML/CFT.

It is worth mentioning that the country's lack of transparency was also an impediment for reaching a definitive conclusion in assessment of other markers of success. It especially played a negative role in evaluating *AML Legislative Enforcement*. Despite an image of prevailing transparency, access to "public" information is blocked at various stages and levels. There is always someone who has to grant permission to release the information. The reluctance of public officials (and private sector representatives) to share data and provide insight was encountered regularly during this research. Generally, individuals in the UAE are afraid to disclose information. This is due not only to the essentially secretive nature of the society, but also to the lack of protection for those providing sensitive information, who may face prosecution for releasing such data to the public. Only recently, Dubai granted legal protection to whistleblowers under its DESC Law of 2016. But it seems to have limited coverage. It is not clear whether this

protection extends to UAE jurisdictions beyond Dubai. It remains to be seen how it will actually be applied.

Unavailability of access to public information is often concealed and obscured. This is evident in the example with court cases, where unattainability of case numbers to conduct the search, prevents the public, including this researcher, from viewing 'publicly' available information on the prosecutor's website. Albeit, by the looks of it, the access is provided via the case search option on the public prosecutors website. The problem is the search can be conducted only by entering the case number, date and location.[1199]

Lack of transparency in the UAE, according to Allen, can be explained by "traditional secrecy" that "provides perfect cover," noting that many "are frustrated by government secrecy over basic economic data and the lack of audited figures for all but one state-owned enterprise."[1200] Silos in information, whether within different Emirates or among various departments and sectors of each emirate, without doubt impede the country's AML/CFT efforts. With that said, efforts have been made to introduce the concept of transparency (and the related term accountability) in the public and private sectors by promoting it via agencies such as the ADAA, and a more recent, the DESC. It is important to point out that both of these agencies have jurisdiction only over their emirates: the ADAA is responsible to promoting transparency and accountability across government and private entities in Abu Dhabi, while the DESC has jurisdiction over government agencies and businesses in Dubai.

Fifteen years into its much-publicized AML/CFT campaign, and even after implementing comprehensive new legislation in that field, the UAE is still (understandably) perceived as opaque and lax on many financial crime issues. The country's dependency on foreign direct investments requires it to take a tougher measure to curtail financial crime, which threatens not only its economic and political stability, but also national security, given the country's geo-political state. The UAE has acted to address ML issues largely in response to international pressure, often denying or downsizing its relevance to the

[1199] https://www.pp.gov.ae/apps/cases/searchCasesForPublic.do?Action=searchPublicCases.
[1200] Allen, "The Veil Over Dirty Money in Dubai."

UAE. As the country gets further integrated financially into the global economy, safeguarding its economy from criminal abuse has to become a priority if it is to sustain its role as a major economic player.

Bibliography

- Abdullah, E. (2000, 9 Nov.), "Faster Flow of Information Needed to Fight Money Laundering," *Gulf News,* available at http://gulfnews.com/news/uae/general/faster-flow-of-information-needed-to-fight-money-laundering-1.434559.
- Abernathy, W. (2006, 21 June), testimony in "Bank Secrecy Act's Impact on Money Services Businesses: Hearing Before the Subcommittee on Financial Institutions and Consumer Credit of the Committee on Financial Services, U.S. House of Representatives," (Washington, DC: US Government Printing Office), available online at https://www.gpo.gov/fdsys/pkg/CHRG-109hhrg31529/html/CHRG-109hhrg31529.htm.
- Abu Dhabi Accountability Authority [ADAA]
    - ADAA (2014) "Accountability Report" (Abu Dhabi: Abu Dhabi Accountability Authority 2014).
    - ADAA (2015) "Accountability Report" (Abu Dhabi: Abu Dhabi Accountability Authority 2015).
    - ADAA (2016), "History" available at http://www.adaa.abudhabi.ae/En/AboutUs/Pages/History.aspx.
- Agrast, M., Botero, J., Martinez, J., Ponce, A., and Pratt, C. (2012), "The Rule of Law Index," *The World Justice Project*, 1-241, available at http://eprints.ugd.edu.mk/3345/1/__ugd.edu.mk_private_UserFiles_strasko.stojanovski_Desktop_wjproli2012-web.pdf.
- Ahmad, A. (2011, March), "New UAE Emiratisation Regulations," *International Financial Law Review,* retrieved from http://ezproxy.aus.edu/login?url=http://search.proquest.com/docview/860080243?accountid=16946.
- Ahmed, A. (2016, 19 Sept.), "Expats Make Up 99% of Private Sector Staff in UAE," *Gulf News*, available at http://gulfnews.com/business/sectors/employment/expats-make-up-99-of-private-sector-staff-in-uae-1.96744.
- Ahmad, Z. (1991), *Islam, Poverty and Income Distribution* (Leicester: The Islamic Foundation.)
- Al Abed, I., and P. Hellyer (2001), eds., *United Arab Emirates: A New Perspective* (London: Trident Press).
- Al Agha, S. (2007), "Money Laundering from Islamic Perspective," *Journal of Money Laundering Control* 10:4, 406-411.
- Al-Alkim, H. (1989), The Foreign Policy of the United Arab Emirates (London: Saqi Books).
- Alam, M. Shafi (2009), "Islamic Finance; An Alternative to the Conventional Financial System?," *Korea Review of International Studies* 12:1, 37-53.
- Al Amir, S. (2014, 12 Nov.), "Former Deyaar Chief Jailed in Dubai Over Dh20m Bribery Case," *The National*, available at http://www.thenational.ae/uae/courts/former-deyaar-chief-jailed-in-dubai-over-dh20m-bribery-case.
- Alder, P. S., and Borys, B. (1996), "Two Types of Bureaucracy: Enabling and Coercive," *Administrative Science Quarterly* 41:1, 61-89.
- Alexander, R. (2005), "The Role of Whistleblowers in the Fight Against Economic Crime," *Journal of Financial Crime* 12:2, 131-138.
- Alexander, R. (2007), *Insider Dealing and Money Laundering in the EU : Law and Regulation* (Aldershot: Ashgate).
- Al Ghalib, E. (2009, 22 July), "Two Ex-Nakheel Employees Sent for Trial," *The National*, available at http://www.thenational.ae/business/property/two-ex-nakheel-employees-sent-for-trial.
- Al-Hamiz, S. (2005), "Hawala: A UAE Perspective," in International Monetary Fund, *Regulatory Frameworks For Hawala and Other Remittance System*, 30-34.
- Ali, A. (2001, 19 March), "Oman Money-Laundering Law Nears Completion," *Gulf News*, available at http://gulfnews.com/news/uae/general/oman-money-laundering-law-nears-completion-1.411074.
- Ali, S. A. (2015), "Economic Crime and Terror: Spinning a Web of Greed and Fear," in Rider, ed., *Research Handbook on International Financial Crime*, 86-99.
- Al-Janadi, Y., Rahman, R. A., and Omar, N. H. (2012), "The Level of Voluntary Disclosure Practices Among Public Listed Companies in Saudi Arabia and the UAE: Using a Modified Voluntary Disclosure Index," *International Journal of Disclosure and Governance* 9:2, 181-201.
- Aljifri, K., and Khasharmeh, H. (2006), "An Investigation into the Suitability of the International Accounting Standards to the United Arab Emirates Environment," *International Business Review* 15:5, 505-526.
- Aljifri, K. (2008), "Annual Report Disclosure in a Developing Country: The Case of the UAE," *Advances in Accounting* 24:1, 93-100.

- Alkaabi, A., Mohay, G., McCullagh, A., and Chantler, N. (2010), "A Comparative Analysis of the Extent of Money Laundering in Australia, UAE, UK and the USA," Finance and Corporate Governance Conference, electronic copy available at: http://ssrn.com/abstract=1539843.
- Alldridge, P. (2008), "Money Laundering and Globalization," *Journal of Law and Society*, 35:4, 437-463.
- Alldridge, P. (2015), "Tax Avoidance, Tax Evasion, Money Laundering and the Problem of 'Offshore'," in Rose-Ackerman, and Lagunes, (eds.), *Greed, Corruption, and the Modern State,* 317-335.
- Alldridge, P. (2016), *What Went Wrong With Money Laundering Law?* (London: Palgrave Macmillan).
- Allen, R. (2001, 24 Feb.) "The Veil Over Dirty Money in Dubai," *Financial Times* (London edition), 9.
- Ali, A. (2017, 23 Jan.), "Drugs Worth Dh46m Seized in Sharjah," *Gulf News*, available at http://gulfnews.com/news/uae/crime/drugs-worth-dh46m-seized-in-sharjah-1.1966694.
- Al Mal Capital (2008, 9 March), "UAE Real Estate Sector," available at http://www.gulfbase.com/ScheduleReports/UAERE090308.pdf.
- Al-Malkawi, H. M. (2012), "Financial Development and Economic Growth in the UAE: Empirical Assessment Using ARDL Approach to Co-Integration," *International Journal of Economics and Finance*, 4:5, 105-115.
- Al-Muhairi, B. (1996), "The Position of Shari'a Within the UAE Constitution and the Federal Supreme Court's Application of the Constitutional Clause concerning Shari'a," *Arab Law Quarterly, 11*(3), 219-244.
- Al-Muhairi, B. (1996), "The Islamisation of Laws in the UAE: The Case of the Penal Code," *Arab Law Quarterly, 11*(4), 350-371.
- Al-Mashat, A. (2008), "Politics of Constructive Engagement: The Foreign Policy of the United Arab Emirates," in Korany and Dessouki, eds., *Foreign Policies of Arab States: The Challenge of Globalization* (Cairo: American University in Cairo Press).
- Almezaini, K. (2013), "Private Sector Actors in the UAE and Their Role in the Process of Economic and Political Reform," in Hertog, Luciani and Valeri, eds., *Business Politics in the Middle East.*
- Almezel, M. and A. Ahmed (2009, 19 April), "'Dubai a Global Model for Success,'" *Gulf News*, 1.
- Al Maktoum, Sheikh M.b.R. (2004, 16 May), "Sheikh Mohammed's speech at the 2004 World Economic Forum, Sunday, May 16, 2004," (English translation), not directly linkable but searchable at http://sheikhmohammed.ae/en-us/Pages/Speeches.aspx.
- Al-Mulla, I. (2009), *Al-muwajaha al-jenaeiah leqadaya ghasl al-amwal* [Criminal Confrontation of the Crime of Money Laundering] (Dubai: Dar Al-Kalam), portions summarized and translated for the author by Hamda Faidallah Abdulkarim.
- Al-Mulla, I. (2010), *Al-masoleya al-jenaeiah lelbonok wa dawroha fe jaraem ghasl al-amwal* [Criminal Responsibility of the Banks and Their Role in Money Laundering Crimes], (Dubai: Future Bookshop), portions summarized and translated for the author by Hamda Faidallah Abdulkarim.
- Al-Qānūnīyah, M.A.L. (2008), *UAE Federal Laws, English-Arabic* [Markaz al-Abḥāth wa-al-Istishārāt al-Qānūnīyah], (Beirut: Sadr Almnshwrat Alḥqwqyh).
- Al-Sadig, A. (2009), "The Effects of Corruption on FDI Inflows," *Cato Journal* 29:3, 267-294.
- Al Sayegh, H. (2014, 23 Oct.), "GCC's Small Volumes and Insider Trading Keep Hedge Funds at Bay," *The National*, available at http://www.thenational.ae/business/markets/gccs-small-volumes-and-insider-trading-keep-hedge-funds-at-bay.
- Al Sheikh, E. (2002, 22 Oct.), ["Emirati lawyer: Cases of money laundering are increasing and their size reaches up to $100 million"] *Aawsat*, available at http://archive.aawsat.com/details.asp?article= 131248&issueno=8729#.VUz0-Pmqqko. Translated by Mira Saeed Lootah and Hamda Faidallah Abdulkarim.
- Al Tamimi, E. (2003), *Practical Guide to Litigation and Arbitration in the United Arab Emirates* (New York: Kluwer Law International).
- Al Theeb, A. (2007, 30 Oct.) "Huge Money-Laundering Ring Smashed," *Gulf News*, available at http://gulfnews.com/news/uae/crime/huge-money-laundering-ring-smashed-1.208523.
- Al-Waqfi, M., and Forstenlechner, I. (2012), "Of Private Sector Fear and Prejudice," *Personnel Review* 41:5, 609–629.
- *American Banker* (2015), "Regulatory Risk Takes Center Stage," available at http://www.americanbanker.com/research/regulatory-risk-takes-center-stage-1073651-1.html.
- Anand, A. (2015, 14 Dec.), "When Compliance Becomes the Watchword for Banks," *Gulf News*, available at http://gulfnews.com/business/sectors/banking/when-compliance-becomes-the-watchword-for-banks-1.1426441.
- Andean Community Income and Capital Tax Convention (2004, 5 May; English Translation), Decision 578, "Arrangement to Avoid Double Taxation And Prevent Fiscal Evasion," available at

http://internationaltaxtreaty.com/download/bolivia/dtc/Andean%20Community-DTC-May-2004.pdf.
- Andrew, Christopher (2010), *The Defence of the Realm: The Authorized History of MI5* (London: Penguin).
- Ang, S., Linn, V.D., and Begley, T.M. (2003), "The Employment Relationships of Foreign Workers Versus Local Employees: A Field Study of Organizational Justice, Job Satisfaction, Performance, and OCB," *Journal of Organizational Behavior* 24:5, 561-583.
- Arlacchi, P. (2002), "Address at the United Nations Convention Against Transnational Organized Crime" (Palermo: United Nations).
- Armstrong, A., and Francis, R.D. (2015), "Protecting the Whistleblower," in Rider, ed., *Research Handbook on International Financial Crime*, 583-601.
- Arnold, T. (2014, 1 May), "UAE Strengthens Enforcement Against Money Laundering," *The National*, 1 May 2014, available at http://www.thenational.ae/business/industry-insights/finance/uae-strengthens-enforcement-against-money-laundering.
- Arnone, M., and L. Borlini (2010), "International Anti-Money Laundering Programs: Empirical Assessment and Issues in Criminal Regulations," *Journal of Money Laundering* 13:3, 226-271.
- Arsenault, C. in *Al Jazeera,* (1 June, 2013), "Dubai Booms Again on Back of the Arab Spring,"Business and Economy, available at http://www.aljazeera.com/indepth/features/2013/05/201352911311160616.html.
- Ashin, P. (2012), "Dirty Money, Real Pain," *Finance and Development* 49:2, 38-41.
- Augustine, B. (2015, 11 Oct.), "Money Exchanges Seek Standardisation of Anti-Money Laundering Efforts," *Gulf News,* Banking, available at http://gulfnews.com/business/sectors/banking/money-exchanges-seek-standardisation-of-anti-money-laundering-efforts-1.1598848.
- Austin, K. (2002), "Illicit Arms Brokers: Aiding and Abetting Atrocities," *Brown Journal of World Affairs* 9:1, 203-216.
- Australian Government/Australian Transaction Reports and Analysis Centre (2016), "Money Laundering Methods," available at http://www.austrac.gov.au/sa-brief-peps-ml-methods.
- Badar, M. E. (2011), "Islamic Law (Shari'a) and the Jurisdiction of the International Criminal Court," *Leiden Journal of International Law*, *24*(02), 411-433.
- Baker, R. W. (2005), *Capitalism's Achilles Heel: Dirty Money and How to Renew the Free-Market System* (Hoboken, NJ: John Wiley and Sons).
- Bajrektarevic, A. H. (2011), "The Justice-Home Affairs Diplomacy: The Palermo Convention, Ten Years After - Towards the Universal Criminal Justice," *Geopolitics, History and International Relations* 3:1, 119-154.
- Banisar, D. (2011), "Whistleblowing: International Standards and Developments," in I. Sandoval, ed., Corruption and Transparency: *Debating the Frontiers between State, Market and Society*, World Bank-Institute for Social Research, UNAM, Washington, D.C., 2011, available at https://ssrn.com/abstract=1753180.
- Barbopoulos, L., Marshall, A., MacInnes, C., and McColgan, P. (2014), "Foreign Direct Investment in Emerging Markets and Acquirers' Value Gains," *International Business Review* 23:3, 604-619.
- Bauhr, M., and Grimes, M. (2012),"What is Government Transparency? New Measures and Relevance of Quality of Government," *QOG the Quality of Government Institute, Working Paper Series 2012:16*, University of Gothenburg, available at http://www.sahlgrenska.gu.se/digitalAssets/1418/1418047_2012_16_bauhr_grimes.pdf.
- Bauhr, M., and Grimes, M. (2014), "Indignation or Resignation: The Implications of Transparency for Societal Accountability," *Governance,* 27:2, 291-320.
- Basel Committee on Bank Supervision (2001, Oct.), "Customer Due Diligence for Banks" available at http:///www.bis.org/publ/bcbs85.pdf.
- Bassiouni, M. C. (1982), *Quesas Crimes (From Islamic Criminal Justice System)* (Dobbs Ferry, NY: Oceana Publications).
- Bassiouni, M. (1997), "Crimes and the Criminal Process," *Arab Law Quarterly, 12*(3), 269-286.
- Bates, B. (2014, 2 July), "Dubai Under Fire," *JCK Magazine*, available at http://www.jckonline.com/blogs/cutting-remarks/2016/01/20/dubai-under-fire.
- Bathish, H. (2004, 4 Oct.), **"**Court Upholds Prison Terms of Three Criminals**,"** *Khaleej Times*, available at http://www.khaleejtimes.com/nation/general/court-upholds-prison-terms-of-three-criminals.
- Beale, K. D. and Esposito P. (2009), "Emergent International Attitudes Towards Bribery, Corruption and Money Laundering." *Arbitration* 75, 360-373.
- Beardsley, B., Holley, B., Jaafar, M., Kessler, D., Muxi, F., Naumann, M., Tang, T., Xavier, A., Zakrzewski, A. (June, 2016), "Global Wealth 2016: Navigating the New Client Landscape," (Boston: Boston Consulting Group), available at https://www.bcgperspectives.com/Images/BCG-Navigating-the-New-Client-Landscape_June_2016_tcm80-210080.pdf.

- Becker, G. S. (1968), "Crime and Punishment: An Economic Approach," in Fielding, Clarke and Witt, eds., *The Economic Dimensions of Crime*, 13-68.
- Beckett, P. (2001, 12 Nov.), "Informal Money-Movement System in UAE is Likely Uncontrollable," *Wall Street Journal,* Eastern Edition, A6.
- Bello, A.U., (2017), *Improving Anti-Money Laundering Compliance: Self-Protecting Theory and Money Laundering Reporting Officers* (London: Palgrave Macmillan).
- Benson, B., and Zimmerman, P.R. (2010), eds., *Handbook on the Economics of Crime* (Cheltenham: Edward Elgar).
- Bergreen, L. (1994), *Capone: The Man and the Era* (New York: Simon and Schuster Paperbacks).
- Bernardi, L., Fraschini, A., and Shome, P., eds. (2006), *Tax Systems and Tax Reforms in South and East Asia* (New York: Routledge.)
- Bernasconi, P. (1997), "Obstacles in Controlling Money Laundering," in Savona ed., *Responding to Money Laundering: International Perspectives*, 249-258.
- Berry, B. (2004), "Organizational Culture: A Framework and Strategies for Facilitating Employee Whistleblowing," *Employee Responsibilities and Rights Journal* 16:1*,* 1-11.
- Berti, B. (2008, Spring), "The Economics of Counterterrorism: Devising a Normative Regulatory Framework for the Hawala System," *MIT International Review*, 14-21.
- Betti, S. (2003), "New Prospects for Inter-State Co-Operation in Criminal Matters: The Palermo Convention," *International Criminal Law Review* 3:2, 151-167.
- Bianchi, S. (2008, 13 Aug.), "Dubai Property Sector Loses Luster; As Rampant Flipping Triggers Price Surge, Scandals Mar Confidence," *Wall Street Journal,* Europe, Brussels, 17, available at http://ezproxy.aus.edu/login?url=http://search.proquest.com/docview/308740782?accountid=16946.
- Bianchi, S. (2009, 26 Jan.), "Dubai Property Scandal Expands," *Wall Street Journal,* Europe, Brussels, 20.
- Bianchi, S., and D. Nair (2016, 3 Feb.), "Barclays Said to Cut About 150 Dubai Corporate Banking Jobs," Bloomberg News, available at http://www.bloomberg.com/news/articles/2016-02-03/barclays-said-to-restructure-middle-east-corporate-banking-unit-ik6iscxr.
- Bilicka, K., and Fuest, C. (2014), "With Which Countries do Tax Havens Share Information?," *International Tax and Public Finance 21*:2, 175-197.
- Bin Belaisha, B., and Brooks, G. (2014), "Money Laundering in Dubai: Strategies and Future Directions," *Journal of Money Laundering Control* 17:3, 343-354.
- Bithar, Z. (2006, 23 April), "Spike in Money Laundering Cases Poses New Problem," *Gulf News*, available at http://gulfnews.com/news/uae/general/spike-in-money-laundering-cases-poses-new-problem-1.234020.
- Blankenburg, S. and Khan, M. (2012), "Governance and Illicit Flows," in Reuter, (ed.), *Draining Development?, 2*1-68.
- Blum, J. A., Levi, M., Naylor, R., and Williams, P. (1998), *Financial Havens, Banking Secrecy and Money-Laundering* (New York: United Nations).
- Boatright, J. (2001), "Financial Services," in Davis and Stark, eds., *Conflict of Interest in the Professions*, 217-236.
- Boran, C. (2003), "Money Laundering," *The American Criminal Law Review* 40:2, 847-871.
- Borders, M.J., (2009), "Regulating and Combating Underground Banking," *Criminal Law Forum* 20, 97-111.
- Bosworth-Davies, R. (2007), "Money Laundering-Chapter Five: The Implication of Global Money Laundering Laws," *Journal of Money Laundering Control* 10:2, 189-208.
- Bowden, P. (2005), "A Comparative Analysis of Whistleblower Protection," Australian Association for Professional and Applied Ethics 12th Annual Conference, 28–30 Sept. 2005, Adelaide, Australia, available at http://www.unisa.edu.au/Documents/EASS/HRI/GIG/bowden-whistleblower.pdf.
- Bowers, C.B. (2009), "*Hawala*, Money Laundering, and Terrorism Finance: Micro-Lending as an End to Illicit Remittance," *Denver Journal of International Law and Policy* 37:3, 379-419.
- Bowles, S. (2016), *The Moral Economy: Why Good Incentives are no Substitute for Good Citizens* (New Haven: Yale University Press).
- Bradley, C. (2015), "Rewards for Whistleblowing," in Rider, ed., *Research Handbook on International Financial Crime*, 602-611.
- Braendle, U.C. (2013), "Corporate Governance in the Middle East – Which Way to Go?," *Journal of Governance and Regulation* 2:1, 57-64.
- Brass, K (2011, 8 Nov.) "Defamation Laws Keep the Aggrieved Quiet," *The National*, available at http://www.thenational.ae/business/industry-insights/property/defamation-laws-keep-the-aggrieved-quiet.
- Braun, J., and Zagler, M. (2014), "An Economic Perspective on Double Tax Treaties With(In) Developing Countries," *World Tax Journal* 6:3, 242-281.

- British Virgin Islands Financial Services Commission (2013, 20 Nov.), "Public Statement No. 8 of 2013, 20 November, 2013," available at http://www.bvifsc.vg/News/tabid/160/articleType/ArticleView/articleId/1388/language/en-GB/FATF-Public-Statement--Public-Statement-No-8-of-2013-20-November-2013.aspx.
- Brodzka, A. (2013), "FATCA from the European Union Perspective," *Journal of Governance and Regulation* 2:3, 7-13.
- Buchanan, B. (2004), "Money Laundering – A Global Obstacle," *Research in International Business and Finance* 18:1, 115-127.
- Buddenberg D. and Byrd W. eds. (2006), *Afghanistan's Drug Industry: Structure, Functioning, Dynamics and Implications for Counter-Narcotics Policy* (Washington DC: United Nations Office on Drugs and Crime and The World Bank).
- Buscaglia, E. (2008), "The Paradox of Expected Punishment: Legal and Economic Factors Determining Success and Failure in the Fight Against Organized Crime," *Review of Law and Economics* 4:1, 290-317.
- Bush, G.W. (2001, 23 Sept.), "Executive Order 13224 of Sept. 23, 2001, Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism," available at http://fas.org/irp/offdocs/eo/eo-13224.htm.
- Buehn, A., and Schneider, F. (2013), "A Preliminary Attempt to Estimate the Financial Flow of Transnational Crime Using the MIMIC Method," in Unger and van der Linde, eds., *Research Handbook on Money Laundering*, 172-189.
- Bafella, M, Busato, F., and Argentiero, A., (2013), "Using Dynamic Macroeconomics for Estimative Money Laundering: A Simulation for the EU, Italy and the United States," in Unger and van der Linde, eds., *Research Handbook on Money Laundering*, 207-231.
- Brettl, J. (2013), "Measuring Money Laundering Threat," in Unger and van der Linde, eds., *Research Handbook on Money Laundering*, 95-108.
- Callahan, E. S., and Dworkin, T. M. (1994), "Who Blows the Whistle to the Media, and Why: Organizational Characteristics of Media Whistleblowers," American *Business Law Journal* 32:2, 151-184.
- Callahan, E. S., and Dworkin, T. M. (2000), "The State of State Whistleblower Protection," *American Business Law Journal* 38:1, 99-175.
- Cantley, B. G. (2011), "The UBS Case: The US Attack on Swiss Banking Sovereignty," *Brigham Young University International Law & Management Review* 7:2, 1-29.
- Camdessus, M. (1998, 10 Feb.) "Money Laundering: the Importance of International Countermeasures," address at the Plenary Meeting of the Financial Action Task Force on Money Laundering, Paris, available at https://www.imf.org/external/np/speeches/1998/021098.htm.
- Campbell, A. and Campbell, E. (2015), "Money Laundering and the Consent Regime in the United Kingdom – Time For Change," in B. Rider, ed., *Research Handbook on International Financial Crime*, 485-495.
- Campbell, P. (2012, 6 Dec.), "2,500 New Inspectors To Chase Tax Evaders," *Daily Mail*, available at http://ezproxy.aus.edu/login?url=http://search.proquest.com/docview/1222250343?accountid=16946.
- Carey, J. M. (2008), *Legislative Voting and Accountability* (New York: Cambridge University Press).
- Carroll, L. (1999), *Alternative Remittance Systems*. FOPAC Bulletin/Interpol Secretariat, No. 20.
- Carvalho, S. (2000, 5 Nov.) "Abu Dhabi Trading Floor Set to Open," *Gulf News*, available at http://gulfnews.com/news/uae/general/abu-dhabi-trading-floor-set-to-open-1.434308.
- Carvalho, S. (2001, 9 Sept.), "Anti-Money Laundering Law by Year-End," *Gulf News*, available at http://gulfnews.com/news/uae/general/anti-money-laundering-law-by-year-end-1.424493.
- Carvalho, S. (2001, 11 Oct.), "New Law to Boost UAE's Financial Hub Status," *Gulf News*, available at http://gulfnews.com/news/uae/general/new-law-to-boost-uae-s-financial-hub-status-1.426861.
- Carvalho, S., (2001, 12 Oct.), "Suwaidi Sees No Terrorist Assets in UAE," *Gulf News*, available at http://gulfnews.com/news/uae/general/suwaidi-sees-no-terrorist-assets-in-uae-1.427013.
- Carvalho, S. (2001, 25 Oct.), "Official Says UAE Not Used For Money Laundering," *Gulf News*, available at http://gulfnews.com/news/uae/general/official-says-uae-not-used-for-money-laundering-1.428243.
- Carvalho, S. (2002, 25 Jan.), "GCC in Talks to Check *Hawala* Deals," *Gulf News*, available at http://gulfnews.com/news/uae/general/gcc-in-talks-to-check-hawala-deals-1.376432.
- Carvalho, S. (2002, 8 March), "U.S. Lauds UAE Role in Fighting Terrorist Funds," *Gulf News*, available at http://gulfnews.com/news/uae/general/u-s-lauds-uae-role-in-fighting-terrorist-funds-1.380337.
- Carvalho, S. (2002, 23 May), "Meet Highlights the Need to Regulate, But Not Ban, *hawala*," *Gulf News*, available at http://gulfnews.com/news/uae/general/meet-highlights-the-need-to-regulate-but-not-ban-hawala-1.387976.

- Carvalho, S. (2002, 4 Nov.), "Central Bank Begins Registering Hawala Operators," *Gulf News*, available at http://gulfnews.com/news/uae/general/central-bank-begins-registering-hawala-operators-1.402517.
- Carvalho, S. (2004, 15 Feb.),"Anti-Money Laundering Law 'Highly Effective'," *Gulf News*, available at http://gulfnews.com/cmlink/old-gulfnews/news/gulf/uae/general/anti-money-laundering-law-highly-effective-1.313698.
- Carvalho, S. (2004, 6 April), "UAE to Introduce New Law Against Terror Financing," *Gulf News*, available at http://gulfnews.com/news/uae/general/uae-to-introduce-new-law-against-terror-financing-1.318599.
- Carvalho, S. (2005, 7 March), "UAE Freezes Suspicious Accounts," *Gulf News*, available at http://gulfnews.com/cmlink/old-gulfnews/business/banking/uae-freezes-suspicious-accounts-1.279825.
- Cassara, J. A. (2015), *Trade-Based Money Laundering: The Next Frontier in International Money Laundering Enforcement* (Hoboken, NJ: John Wiley & Sons).
- Cassella, S. (2003., "Reverse Money Laundering," *Journal of Money Laundering Control* 7:1, 92-94.
- Cassella, S. (2007, Sept.), "The Money Laundering Statutes (18 U.S.C. § § 1956 and 1957)," *United States Attorneys' Bulletin*, 21-33.
- Chaikin, D.A. (1991), "Money Laundering: An Investigatory Perspective," *Criminal Law Forum* 2:3, 467-510.
- Chaikin, D. (2008),"Commercial Corruption and Money Laundering: A Preliminary Analysis," *Journal of Financial Crime* 15: 3, 269-281.
- Chaikin, D., and Sharman, J. (2009), *Corruption and Money Laundering: A Symbiotic Relationship* (1st ed.), (New York: Palgrave Macmillan).
- Chand, E.R. (2001, 3 Jan.) "In 2000, Banks Jumped on IT Bandwagon, Kept Eye on Money-Laundering," *Gulf News*, available at http://gulfnews.com/news/uae/general/in-2000-banks-jumped-on-it-bandwagon-kept-eye-on-money-laundering-1.407139.
- Cherian, D., (2016), "45 Free Zones in the UAE: Find the Right One for Your Business," Property section, *Gulf News*, 23 August 2016, available at http://gulfnews.com/guides/life/property/45-free-zones-in-the-uae-find-the-right-one-for-your-new-business-1.1716197.
- Chohan, H. (2009), "Dubai Property Scandal Claim Emerges Amid Media Blackout," *Independent*, available at http://www.independent.co.uk/news/world/middle-east/dubai-property-scandal-claim-emerges-amid-media-blackout-1691537.html.
- Chong, A., and Lopez-De-Silanes, F. (2015), "Money Laundering and its Regulations," *Economics and Politics* 27:1, 78-123.
- Choi, F.D.S., (1973), "Financial Disclosure and Entry to the European Capital Market," *Journal of Accounting Research* 11:2, 159-175.
- Christensen, J. (2011), 'The Looting Continues: Tax Havens and Corruption," *Critical Perspectives on International Business* 7:2, 177–196.
- Christians, A. and Cockfield, A. (2014, 10 March), "Submission to Finance Department on Implementation of FATCA in Canada: Submission on Legal Proposals Relating to the Canada—United States Enhanced Tax Information Exchange Agreement," available at https://ssrn.com/abstract=2407264 or http://dx.doi.org/10.2139/ssrn.2407264.
- Cocheo, S. (1990), "Money Laundering Panel: Stop the Smurfs," *ABA Banking Journal* 82:3, 32-36
- Colton, K. W., et al (1982), *Computer Crime: Electronic Fund Transfer Systems and Crime* (Washington, D.C.: U.S. Dept. of Justice, Bureau of Justice Statistics).
- Connett, D. (1992, 18 Aug.), "Police Traced Laundered Money Around the World," *The Independent,* available at http://www.independent.co.uk/news/uk/police-traced-laundered-money-around-the-world-detectives-described-it-as-a-typical-old-kent-road-armed-robbery--except-that-this-gang-had-pounds-26m-worth-of-gold-to-dispose-of-david-connett-reports-1540983.html.
- Crowcroft, O. (2012, 31 Jan.), "Changing Corporate Ways Across the GCC," *Gulf News*, available at http://gulfnews.com/business/sectors/general/changing-corporate-ways-across-the-gcc-1.973518.
- Cullison, A. (2007, May 18), "Russia Sues Bank of New York Over 1990s Scandal," *Wall Street Journal*, retrieved from http://ezproxy.aus.edu/login?url=http://search.proquest.com/docview/398972755?accountid=16946.
- Cutler, L. (2009, Sep 15), "Benign Shariah Finance," *National Post*, online at http://ezproxy.aus.edu/login?url=http://search.proquest.com/docview/330838216?accountid=16946.
- Dafterdar, Hisham (2009), "Towards Effective Legal Regulations And Enabling Environment For Awqaf," (Bahrain: Unicorn Investment Bank), paper available online at www.kantakji.com/media/4784/z116.doc.
- Davidson, C. (2005) *The United Arab Emirates: A Study in Survival* (London: Lynne Rienner).

- Davis, M., and Stark, A. eds., (2001), *Conflict of Interest in the Professions* (New York: Oxford University Press).
- Daudi, A.A. (2005), "The Invisible Bank: Regulating the Hawala System in India, Pakistan and the United Arab Emirates," *Indiana International and Comparative Law Review* 15, 619-654.
- Dawe, S. (2013), "Conducting National Money Laundering Risk Assessment," in Unger and van der Linde, eds., *Research Handbook on Money Laundering*, 114-126.
- Dawson, S. (2013, 13 Dec.), "Corrupt Money Hides in Dubai, Officials Turn Blind Eye – Eva Joly," *Thompson Reuters Foundation*, available at http://news.trust.org//item/20131213143038-zrhlb?view=print.
- De Bel-Air, F., "Demography, Migration, and the Labour Market in the UAE," Explanatory Note No. 7/2015, Gulf Labour Market and Migration (GLMM) programme of the Migration Policy Center (MPC) and the Gulf Research Center (GRC), available at http://gulfmigration.eu.
- Deloitte and Thomson Reuters Acelus (2015), "Financial Crime in the Middle East and North Africa 2015: The Need for Forward Planning," available at http://www2.deloitte.com/kw/en/pages/finance/articles/financial-crime-in-mena-2015.html.
- Dennehy, J. (2014, 4 Sept.), "Shrouded in Mystery: The Russian Cargo Plane Abandoned in Umm Al Quwain," *The National*, online at http://www.thenational.ae/arts-lifestyle/the-review/shrouded-in-mystery-the-russian-cargo-plane-abandoned-in-umm-al-quwain.
- de Willebois, E. V., Halter, E. M., Harrison, R. A., Park, J. W., and Sharman, J. C. (2011), *The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It* (Washington, D.C.: The World Bank).
- Dharmapala, D., and Hines, J. (2009), "Which Countries Become Tax Havens?," *Journal of Public Economics* 93:9, 1058-1068.
- Dharmapala, D. (2016), "Cross-Border Tax Evasion Under A Unilateral FATCA Regime," *Journal of Public Economics* 141, 29-37.
- Dias, S. (2015, 15 Feb.), "UAE Banks to Comply with FTCA Before Deadline," *Gulf News*, available at http://gulfnews.com/business/economy/uae-banks-to-comply-with-fatca-before-deadline-1.1457588.
- Diemers, D. and Khalil, J. (2015), "GCC Private Banking Study 2015: Seizing the Opportunity," (*Strategy&/Pwc)*, available at http://www.strategyand.pwc.com/media/file/GCC-private-banking-study-2015.pdf.
- di Gennaro, G. (2001), "Strengthening the International Legal System in Order to Combat Transnational Crime." in Williams, and Vlassis, eds., *Combating Transnational Crime: Concepts, Activities and Responses,* 259-268.
- Dinstein, Y. (2012), *War, Aggression and Self-Defence*, 5th ed. (Cambridge: Cambridge University Press).
- Doi, A.R.I. (1990), *Shari'ah: The Islamic Law* (Ibadan: Iksan Islamic Publishers).
- Doran, J. (2013, 9 Apr.), "Dubai Gold Trade Grows to $70bn," *The National,* available at http://www.thenational.ae/business/industry-insights/economics/dubai-gold-trade-grows-to-70bn.
- Dow Jones (2015), *2015 Global Anti-Money Laundering Survey Results*, available at http://images.dowjones.com/company/wp-content/uploads/sites/15/2015/03/Dow-Jones-ACAMS-AML-Survey-2015.pdf.
- Drabek, Z. and Payne, P. (2001), "The Impact of Transparency on Foreign Direct Investment," Staff Working Paper, World Trade Organization, Economic Research and Analysis Division, available at www.wto.org/english/res_e/reser_e/erad-99-02.doc.
- Dubai Casinos (2016), "Dubai Casinos," available at www.casinosdubai.com.
- Dubai Foreign Direct Investment Office (2012), *Why Dubai?*, (Dubai: Department of Economic Development).
- Dubai International Financial Center (DIFC)(2007), "Non Financial Anti Money Laundering/Anti Terrorism Financing (AML/CFT) Regulations," available at https://www.difc.ae/files/2914/5449/8313/DIFC_Non_Financial_AML_CFT_Regulations_0_0.pdf.
- Dubai Financial Service Authority (DFSA)
  NB: DFSA annual reports and "DFSA in Action" newsletters are available at https://www.dfsa.ae/Your-Resources/Publications-Reports.
    - DFSA (2011, 27 January), "The DFSA letter to the Senior Executive Officers of Authorised Firms and the AMLOs of Ancillary Service Providers, Subject: Recent Events in MENA Region and Politically Exposed Persons (PEPs)," available at https://www.dfsa.ae/Documents/SEO%20Letters%202011/MENA%20Region%20PEPs%2027Jan%202011.pdf.
    - DFSA (2015, 2 Nov.), "Decision Notice," F001198, available at https://www.dfsa.ae/getattachment/4efb2c0c-1678-436c-bbde-55a37089bb19/attachment.

    - DFSA (2015, 4 Nov.), "DFSA Fines ABN AMRO for Anti-Money Laundering Deficiencies," available at https://www.dfsa.ae/en/News/News-Detail/DFSA-fines-ABN-AMRO-for-Anti-Money-Laundering-Defi.
    - DFSA (2016), "Anti-Money Laundering, Counter-Terrorist Financing and Sanctions Compliance," available at https://www.dfsa.ae/en/What-We-Do/Supervision/AML-CTF-Sanctions-Compliance.
    - DFSA (2016), *DFSA Rulebook: Anti-Money Laundering and Counter-Terrorist Financing and Sanctions Module*, AML/VER12/08-16 (Dubai: Dubai Financial Service Authority), available at http://dfsa.complinet.com/net_file_store/new_rulebooks/a/m/AML_VER12_08-16.pdf.
    - DFSA (2016, 9 May), Decision Notice, Mr Kapparath Muraleedharan, Reference No. 1002061, available at https://www.dfsa.ae/getattachment/7217351d-3aa9-42e4-bccf-0eb586e72313/attachment
    - DFSA (2016, 9 May) Decision Notice, Mr. Raphael Lilla, Reference No. 1003946, available at https://www.dfsa.ae/getattachment/8ea57600-9910-48b6-876a-7725573118cb/attachment.
- Dubai Multi Commodities Center (DMCC) (2011), "U.A.E. Kimberley Process 2011 Annual Report," (Dubai: UAE Kimberley Process Office), 1-12.
- Dubai Multi Commodities Center (DMCC) (2016, 1 June), "Anti-Money Laundering and Combating the Financing of Terrorism Policy and Process," Version 2, available at https://www.dmcc.ae/open-a-business-support-rules-and-regulations-and-compliance.
- Duffy, M. (2011, 17 Dec.), "UAE Journalists Need More Legal Protections," *Gulf News*, available at http://gulfnews.com/opinion/thinkers/uae-journalists-need-more-legal-protections-1.952204.
- Duffy, M. (2014), *United Arab Emirates – Media Law Supplement 12* (Alphen aan den Rijn: Kluwer Law International).
- Earlam, K. and Armstrong, L. (2016, 11 Jan.), "Top Boss of £180m Drugs Cash Ring Slips Net after NCA Arrest 32," *The Sun*, 11 January, available at https://www.google.at/?gfe_rd=cr&ei=SeR9WKnlNfLG8AeBp6rYBw&gws_rd=ssl#q=2016+180+million+Money+laundering+cases+links+to+Dubai.
- *Economist* Intelligence Unit (2008, 13 May), "Economic Performance: Scandals Hit the Dubai Property Scene," *The Economist*, available at http://country.eiu.com/article.aspx?articleid=1823372567.
- *Economist* Intelligence Unit (2009, 6 Feb.), "United Arab Emirates: Economic Performance: Downturn in Dubai Housing Market Less Sharp Than Feared," *The Economist*, available at http://country.eiu.com/article.aspx?articleid=664257051.
- Editorial Board in *New York Times*, (2013, 7 Sept.), "The Group Of 20 Tackles Tax Avoidance," Late Edition (East Coast), A22.
- El Banna, Badr N. (2011, 29 Aug.), "Islamic Finance, Money Laundering and Terrorist Financing," online at http://www.acamstoday.org/islamic-finance-money-laundering-and-terrorist-financing.
- El-Ghonemy, M.R. (1998), *Affluence and Poverty in the Middle East* (London: Routledge).
- Price, R., and Al Tamimi, E. (1998), *United Arab Emirates Court of Cassation Judgments, 1989-1997* (London: Kluwer Law International).
- El Qorchi, M., Maimbo, S., and Wilson, J. (2003), *Informal Funds Transfer Systems: An Analysis of the Informal Hawala System* (Washington, DC: International Monetary Fund).
- El Sheikh, F.E.R.A, (2004), "Money Laundering Through Underground Systems and Non-Financial Institutions," *Journal of Money Laundering Control* 7:1, 9-14.
- Egger, P., and Winner, H. (2005), "Evidence on Corruption as an Incentive for Foreign Direct Investment," *European Journal of Political Economy* 21:4, 932-952.
- Egmont Group (2016), "About the Egmont Group," available at http://www.egmontgroup.org/about.
- Ehrlich, Isaac (2010), "The Market Model of Crime: A Short Review and New Direction," in Benson and Zimmerman, eds., *Handbook on the Economics of Crime*, 3-23.
- Ehrlich, I. (1973), "Participation in Illegitimate Activities: A Theoretical and Empirical Investigation," *Journal of Political Economy* 81:3, 521-565.
- Ehrlich, I. (1996), "Crime, Punishment, and the Market for Offenses," *The Journal of Economic Perspectives* 10:1, 43-67.
- Emirates Investment Bank (2014), "GCC Wealth: Insight Report" (Dubai: Emirates Investment Bank), available at *https://www.eibank.com/download.ashx?imageid=2178.*
- Emirates Investment Bank (2015), "GCC Wealth: Insight Report" (Dubai: Emirates Investment Bank), available at *https://www.eibank.com/download.ashx?imageid=2715.*
- Emirates Racing Authority, "Frequently Asked Questions," available at http://www.emiratesracing.com/industry/frequently-asked-questions.

- Ernst & Young (2013),"Tax Transparency: Seizing the Initiative," Ernst & Young L.L.P., United Kingdom, 16.
- Estep, J. (2006, 13 June), "Factoring - Credit Card Laundering," available at http://www.merchantequip.com/merchant-account-blog/140/factoring-credit-card-laundering.
- European Union (2015, 20 May), "Directive (EU) 2015/849 of the European Parliament and of the Council," *Official Journal of the European Union*, L 141/95.
- Europol (2013), EU Serious and Organised Crime Threat Assessment (The Hague: Europol).
- Even-Zohar, C. (2005, 21 April), "Under-valued Rough Diamond Imports into Dubai Trigger Filing of Suspicious Activities Reports," *IDEX*, available at http://www.idexonline.com/Memo?id=23936.
- Everington, J. (2013, 17 Nov.), "Dubai Investigates Deutsche Bank Over Anti-Money-Laundering Practices," T*he National*, available at http://www.thenational.ae/business/banking/dubai-investigates-deutsche-bank-over-anti-money-laundering-practices#ixzz34d6d9gEW.
- Farah, D. (2001, 30 Dec.), "Digging up Congo's Dirty Gems," *The Washington Post*, A1.
- Farah, D. (2002, 17 Feb.), "Al Qaeda's Road Paved with Gold; Secret Shipments Traced Through a Lax System in United Arab Emirates," *The Washington Post*, A1.
- Farer, T., ed., (1999), *Transnational Crime in the Americas: An Inter-American Dialogue Book* (New York: Routledge).
- Farooq, K., and Brooks, G. (2013), "Arab Fraud and Corruption Professionals' Views in the Arabian Gulf," *Journal of Financial Crime*, 20:3, 338-347.
- Favarel-Garrigues, G. (2011), *Policing Economic Crime in Russia* (New York: Columbia University Press).
- Farlex (2012), *The Free Dictionary*, available at http://www.thefreedictionary.com/
- Federal Reserve Bank Services (2016), "Fedwire Fund Service – Monthly Statistics," available at https://www.frbservices.org/operations/fedwire/fedwire_funds_services_statistics.html.
- Ferwerda, J. (2009), "The Economics of Crime and Money Laundering: Does Anti-Money Laundering Policy Reduce Crime?," *Review of Law and Economics* 5:2, 903-929.
- Ferwerda, J. (2013), "The Effects of Money Laundering," in Unger and van der Linde, eds., *Research Handbook on Money Laundering*, 35-46.
- Ferwerda, J., and B. Unger (2013), "Detecting Money Laundering in the Real Estate Sector," in Unger and van der Linde, eds., *Research Handbook on Money Laundering*, 268-282.
- Fielding, N.G., A. Clarke and R. Witt (1968) eds., *The Economic Dimensions of Crime* (London: Palgrave Macmillan).
- Financial Action Task Force (FATF) publications; see also below under Middle East and North Africa/Financial Action Task Force (MENA/FATF]. Most publications are available in PDF format from www.fatf-gafi.org.
    - FATF (1990), "Financial Action Task Force on Money Laundering – Report "[Annual Report 1990] (Paris: FATF-GAFI).
    - FATF (1996), "The Forty Recommendations" (Paris: FATF-GAFI).
    - FATF (2001), "Annual Report 2000-2001" (Paris: FATF-GAFI).
    - FATF (2004), "Report on Money Laundering Typologies, 2003-2004" (Paris: FATF-GAFI).
    - FATF (2006), "Report on New Payment Methods" (Paris: FATF-GAFI).
    - FATF (2006), "The Misuse of Corporate Vehicles, Including Trust and Company Service Providers" (Paris: FATF-GAFI).
    - FATF (2006), "Trade Based Money Laundering "(Paris: FATF-GAFI).
    - FATF (2007), "Money Laundering and Terrorist Financing through the Real Estate Sector "(Paris: FATF-GAFI).
    - FATF (2007, 12 Oct.), "Annual Review of Non-Cooperative Countries and Territories 2006-2007: Eighth NCCT Review" (Paris: FATF-GAFI).
    - FATF (2008), "Terrorist Financing "(Paris: FATF-GAFI).
    - FATF (2010), "Money Laundering Using Trust and Company Service Providers" (Paris: FATF-GAFI).
    - FATF (2012), "The FATF Recommendations: International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation" (Paris: FATF-GAFI).
    - FATF (2012), "Annual Report 2011-2012" (Paris: FATF-GAFI).
    - FATF (2012), "International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation: The FATF Recommendations" (Paris: FATF-GAFI).
    - FATF /Egmont Group of Financial Intelligence Units (2013), "Money Laundering and Terrorist Financing through Trade in Diamonds," available at http://www.fatf-gafi.org/media/fatf/documents/reports/ML-TF-through-trade-in-diamonds.pdf.
    - FATF (2013), "FATF Guidance – Politically Exposed Persons (Recommendations 12 and 22)" (Paris: FATF-GAFI).
    - FATF (2013), "Annual Report 2012-2013" (Paris: FATF-GAFI).

    - FATF (2013, 22 Feb.), "FATF Issues new Mechanism to Strengthen Money Laundering and Terrorist Financing Compliance," available at http://www.fatf-gafi.org/topics/fatfrecommendations/documents/fatfissuesnewmechanismtostrengthenmoneylaunderingandterroristfinancingcompliance.html.
    - FATF (2013), "International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation: The FATF Recommendations," February 2012 (Paris: FATF-GAFI).
    - FATF (2015, 27 Feb.) "FATF Public Statement – 27 February 2015," available at http://www.fatf-gafi.org/documents/news/public-statement-february-2015.html.
    - FATF (2014),"FATF Guidance to Transparency and Beneficial Ownership," (Paris: FATF-GAFI/OECD).
    - FATF (Brisbane) (2015, 26 June), "Drivers for 'De-Risking' Go Beyond Anti-Money Laundering/Terrorist Financing," available at http://www.fatf-gafi.org/documents/news/derisking-goes-beyond-amlcft.html.
    - FATF (2015), "Global Assessment Calendar," July 2015, available at http://www.fatf-gafi.org/media/fatf/documents/assessments/Global-assessment-calendar.pdf.
    - FATF (2016), "Members and Observers," available at http://www.fatf-gafi.org/pages/aboutus/membersandobservers/.
    - FATF (2016), Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems, updated October 2016, (Paris: FATF-GAFI).
- Financial Stability Board (2015, 6 Nov.), "Report to the G20 on Actions Taken to Assess and Address the Decline in Correspondent Banking," available at http://www.fsb.org/wp-content/uploads/Correspondent-banking-report-to-G20-Summit.pdf.
- Findley, M., Nielson, D., and Sharman, J.C. (2012), "Global Shell Games: Testing Money Launderers' and Terrorist Financiers' Access to Shell Companies," Griffith University Centre for Governance and Public Policy, available at https://www.griffith.edu.au/__data/assets/pdf_file/0008/454625/Oct2012-Global-Shell-Games.Media-Summary.10Oct12.pdf.
- Fiorentini, G., and Peltzman, S., eds., (1997), *The Economics of Organised Crime* (Cambridge, UK: Cambridge University Press).
- Fitch, A. (2011, 7 July), "Dubai to Take Over Limitless, Nakheel," *The National*, available at http://www.thenational.ae/business/property/dubai-to-take-over-limitless-nakheel.
- Fitch, A. (2016, 23 Sept.), "UAE Central Bank Hits Refresh with New Governor," *Wall Street Journa*l, available at http://blogs.wsj.com/middleeast/2014/09/23/uae-central-bank-hits-refresh-with-new-governor/.
- Ford, R. and Braganza, N. (2016, 10 July), "New Protection for Whistleblowers in Dubai," Clyde & Co/*Insight*, available at http://www.clydeco.com/insight/article/new-protection-for-whistleblowers-in-dubai.
- Fouda, M. in *Emarat Alyoum* (2013, 27 June) ["Arab World disorders increase the risk of drug smuggling crimes"] available at http://www.emaratalyoum.com/local-section/accidents/2013-06-27-1.587116. Translated for the author by Mira Saeed Lootah and Hamda Faidallah Abdulkarim.
- Franco, J. (2008, 23 Aug.), "Police Arrest 4 Sama Dubai Employees Over Alleged Corruption," *Khaleej Times*, available at http://www.khaleejtimes.com/article/20080822/ARTICLE/308229985/1036.
- Friedman, M. "The Social Responsibility of Business is to Increase its Profits," in Zimmerli, Richter, and Holzinger, *Corporate Ethics and Corporate Governance*, 173-178.
- Frost, A. (2003) "Restoring Faith in Government: Transparency Reform in the United States and the European Union," *European Public Law* 9:1, 87-104.
- Frost, C.C. (1986), "Drug Trafficking, Organized Crime, and Terrorism: The International Cash Connection," in Ra'anan et al, eds., *Hydra of Carnage*, 189-198.
- Gallant, M. (2005), *Money Laundering and the Proceeds of Crime* (Cheltenham, UK:, Edward Elgar).
- Geiger, H., and Wuensch, O. (2007), "The Fight Against Money Laundering: An Economic Analysis of a Cost-Benefit Paradoxon," *Journal of Money Laundering Control* 10:1, 91-105.
- Geis, G. (2011), White-*Collar and Corporate Crime (*Santa Barbara, CA: Greenwood).
- George, B. C., and K.A. Lacey (2003), "Crackdown on Money Laundering: A Comparative Analysis of the Feasibility and Effectiveness of Domestic and Multilateral Policy Reform." *Northwestern Journal of International Law and Business* 23:2, 263-351.
- Gérard, M., and Granelli, L. (2013), "From the EU Savings Directive to the US FATCA, Taxing Cross Border Savings Income," Discussion Papers (IRES-Institut de Recherches Economiques et Sociales).
- Gilmore, W.C. (1995), *Dirty Money: The Evolution of Money Laundering Countermeasures* (Strasbourg: Council of Europe Publishing)

- Gittleman, C.G., and Sacks, R.D., (2005), "Anti-Money Laundering Regulations: Treasury Department Enacts Final Rules Implementing Section 312 of the PATRIOT Act Relating to Foreign Correspondent Accounts and Private Banking Accounts," *Journal of Investment Compliance* 6:4, 13-24.
- Global Investor report (2013), "GCC private banking developing rapidly," retrieved from http://ezproxy.aus.edu/login?url=http://search.proquest.com/docview/1468868371?accountid=16946.
- Gnutzmann, H., McCarthy, K.J., and Unger, B. (2010), "Dancing with the Devil: Country Size and the Incentive to Tolerate Money Laundering," *International Review of Law and Economics* 30:3, 244-252.
- Goldstraw-White, J., and M.Gill (2014), "Bribery, Corruption and Fraud in the Middle East: First Middle East Bribery, Corruption and Fraud Survey," (Ernst and Young report) available at http://www.ey.com/Publication/vwLUAssets/EY-bribery-corruption-and-fraud-in-the-me/$FILE/EY-bribery-corruption-and-fraud-in-the-me.pdf
- Gordon, R. K. (2009 and 2011), "Laundering the proceeds of public sector corruption," Case Research Paper Series in Legal Studies Working Paper 09-10, March, 2009 (updated April, 2011), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1371711.
- Government of Dubai, (no date), "Dubai Real Estate Legislation" (Dubai: Land Department), available at https://www.dubailand.gov.ae/Style%20Library/download/Legislation_En.pdf.
- Government of Dubai (2013), "The State of Small and Medium Enterprises (SMEs) in Dubai" (Dubai: Dubai SME Agency of the Department of Economic Development), available at http://www.sme.ae/StudiesAndResearchDocument/SME_Report_English.pdf.
- Grant, J. (2017), "It Is About Control: Progressivism, FATCA and Global Law," *Perspectives On Federalism* 8:3, E87-E104.
- Greenberg, T.S., L. Gray, D. Schantz, M. Latham, and C. Gardner (2009), Stolen Asset Recovery: Politically Exposed Persons, A Policy Paper on Strengthening Preventive Measures, The International Bank for Reconstruction and Development, {Washington, DC: The World Bank), available at http://siteresources.worldbank.org/EXTSARI/Resources/5570284-1257172052492/PEPs-ful.pdf?resourceurlname=PEPs-ful.pdf.
- Groh, A. P., and Liechtenstein, H. v. (2011), "Determinants for Allocations to Central Eastern Europe Venture Capital and Private Equity Limited Partnerships," *Venture Capital* 13:2, 175-194.
- Groot, L. (2013), "Money Laundering, Drugs and Prostitution as Victimless Crimes," in Unger and van der Linde, eds., *Research Handbook on Money Laundering,* 57-67.
- G20, (2013, 20 July, 2013), Communiqué: "G20 Meeting of Finance Ministers and Central Bank Governors," available at http://www.g20.utoronto.ca/2013/2013_Final_Communique_FM_July_ENG.pdf.
- Guiora, A.N., and B.J. Field, (2007, Fall), "Using and Abusing the Financial Markets: Money Laundering as the Achilles' Heel of Terrorism," *University of Pennsylvania Journal of International Law* 29, 59-105.
- Guzman, D., (2015, 8 June), Podcast interview with Global Financial Integrity Managing Director Tom Cardamone, available at http://www.acfcs.org/illicit-financial-flows-have-outsized-impact-on-poorest-countries/.
- Habib, M., and Zurawicki, L. (2002), "Corruption and Foreign Direct Investment," *Journal of International Business Studies* 33:2, 291-307.
- Habisch, A. (2012), "The Broken Tables of Stone: A Decalogue Approach to Corporate Compliance Practice," *The Journal of Management Development* 31:9, 912-924.
- Hain, D., Johan, S., and Wang, D. (2016), "Determinants of Cross-Border Venture Capital Investments in Emerging and Developed Economies: The Effects of Relational and Institutional Trust," *Journal of Business Ethics* 138:4, 743-764.
- Hakim, I.I. (2005), *UAE Central Bank and 9/11 Financing* (No Publishing Location Listed: GAAP Publishing).
- Hamoudi, H. A. (2010), "Death of Islamic Law," *The Georgia Journal of International and Comparative Law***,** 38(2), 293-338.
- Hardy, P. D., Michel, M., and Murray, F. (2016), "Is the United States still a tax haven? The government acts on tax compliance and money laundering risks," *Journal of Tax Practice and Procedure* 18:3, 25-31, 48-50.
- Harvey, J. (2004), "Compliance and Reporting Issues Arising for Financial Institutions from Money Laundering Regulations: A Preliminary Cost Benefit Study," *Journal of Money Laundering Control* 7:4, 333–346.
- Harvey, J. (2008), "Just How Effective is Money Laundering Legislation?," *Security Journa*l 21, 189-211.
- Harvey, J., and Lau, S. F. (2009), Crime-Money, Reputation and Reporting," *Crime, Law and Social Change* 52:1, 57-72.

- Ḥasan, A. (1968), "The Sources of Islamic law," *Islamic Studies, 7*(2), 165-184.
- He, P. (2010), "A Typological Study on Money Laundering," *Journal of Money Laundering Control* 13:1, 15-32.
- Hellyer, P. (2001), "Evolution of UAE Foreign Policy," in Al-Abed and Hellyer, eds., *United Arab Emirates: A New Perspective*, 161-178.
- Henry C.M., and Wilson, R., (2004), eds., *The Politics of Islamic Finance* (Edinburgh: Edinburgh University Press).
- Henry, J. (2012, 5 July), "The Price of Offshore Revisited: New Estimates for Missing Global Private Wealth, Income, Inequality, and Lost Taxes" (Tax Justice Network), 5, available at http://www.moneyscience.com/pg/file/Admin/read/391539/the-price-of-offshore-revisited-new-estimates-for-missing-global-private-wealth-income-inequality-and-lost-taxes.
- Hertog, S. (2013), "The Role of MENA Business in Policy Making and Political Transitions," in Hertog, Luciani, G., and Valeri, M., eds., *Business Politics in the Middle East*.
- Hertog, S., Luciani, G., and Valeri, M. (2013), eds., *Business Politics in the Middle East* (London: Hurts & Company).
- Hirschfeld, P. R. (2013), "FATCA Update: Navigating the Electronic Registration Portal," *Tax Management International Journal* 42*:*11, 687-693.
- Hodges, M., Kirton, J., and Daniels, J., (1999) eds., *The G8's Role in the New Millennium* (Aldershot: Ashgate Press).
- Houston, D. (2007), "Can Corruption Ever Improve an Economy," *Cato Journa*l 27:3, 325-342,
- "How Social Media Can Turn an Average Person Into a UAE Criminal" (2016), available at http://www.detainedindubai.org/single-post/2016/07/19/How-Social-Media-can-turn-an-average-person-into-a-%E2%80%AA%E2%80%8EUAE-Criminal%E2%80%AC.
- Hudson, A. (1999), "Money as Property in Financial Transactions," *Journal of International Banking Law* 14:6, 170-176.
- Hudson, R. A.,. Berry, L., Curtis, G.E., and Kollars, N.A. (2002), *A Global Overview of Narcotics-Funded Terrorist and other Extremist Groups* (Washington, DC: Library of Congress).
- Huang, C.C., M. S. Amirrudin, N. A. Ahamad Noruddin, and R. Othman, "Anti-Money Laundering Requirements – Perceived Effectiveness," *International Journal of Social, Business, Psychological, Human Science and Engineering* 7:6 (2013), 609-612.
- Hudson, A. (1999), "Money as Property in Financial Transactions," *Journal of International Banking Law* 14:6, 170-176.
- Hvidt, M. (2009), "The Dubai Model: An Outline of Key Development-Process Elements in Dubai," *International Journal of Middle East Studies* 41:3, 397-418.
- Hydell, M.K. (2006), *Understanding Arabs: A Guide for Modern Times*, 4th ed., (London: Intercultural Press).
- Ibrahim, A. and Hamad, A. (2014, May), "A New Pathway to Market for UAE Companies," Al Tamimi & Co. *Law Updates*, available at http://www.tamimi.com/en/magazine/law-update/section-8/may-7/a-new-pathway-to-market-for-uae-companies.html.
- Ilias, S. (2010), *Islamic Finance: Overview and Policy Concerns* (Washington, DC: Congressional Research Service).
- International Consortium of Investigative Journalists (2016), "The Panama Papers," available at https://panamapapers.icij.org/.
- International Monetary Fund (2005), *Regulatory Frameworks for Hawala and Other Remittance Systems* (Washington, DC: International Monetary Fund, Monetary and Financial Systems Department).
- International Monetary Fund (2008), "United Arab Emirates: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism," IMF Country Report No. 08/305.
- Islamic Financial Services Industry Stability Report 2015, Islamic Financial Service Board, Kuala Lumpur, Malaysia, May 2015, available at http://www.ifsb.org/docs/IFSB%20Islamic%20Financial%20Services%20Industry%20Stability%20Report%202015_final.pdf.
- Issaoui, F., Hassen, T., and Wassim, T. (2017), "The Effects of Money Laundering (ML) on Growth Application to the Gulf Countries," *International Journal of Cyber Warfare and Terrorism 7*:1, 13-24.
- Jabbar, S.F.A. (2010),"Financial Crimes: Prohibition in Islam and Prevention by the Shari'a Supervisory Board Of Islamic Financial Institutions," *Journal of Financial Crime* 17:3, 287-294.
- Jabbar, S. F. A. (2011), "Money Laundering Laws and Principles of Shari'ah: Dancing to the Same Beat?," *Journal of Money Laundering Control* 14:3, 198-209.
- Jamal, M.A. (2015), "The 'Tiering' of Citizenship and Residency and the 'Hierarchization' of Migrant Communities: The United Arab Emirates in Historical Context," *International Migration Review* 49:3, 601-632.

- Johan, S., and Najar, D. (2010), "The Role of Corruption, Culture, and Law in Investment Fund Manager Fees," *Journal of Business Ethics* 95 (Supplement 2: Entrepreneurship, Governance and Ethics), 147-172.
- Johannesen, N. and Zucman , G. (2014), "The End of Bank Secrecy? An Evaluation of the G20 Tax Haven Crackdown," *American Economic Journal: Economic Policy* 6:1, 65-91.
- Johnson, J. (2001), "Blacklisting: Initial Reactions, Responses and Repercussions," *Journal of Money Laundering Control* 4:3, 211–225.
- Joint Money Laundering Steering Group (JMLSG) (2014), "Prevention of Money Laundering/Combating Terrorist Financing," revised version. (London)
- Johnson, R. A. (2003), *Whistleblowing: When It Works and Why* (Colorado: Lynne Rienner Publishers).
- Johnston, R.B., and Nedelsescu, O.(2005), "The Impact of Terrorism on Financial Markets," International Monetary Fund, Working Paper WP/05/60.
- Jose, C.L. (2001, 18 Aug.) "Region 'Faces Risk of Dirty Money Flow,'" *Gulf News*, available at http://gulfnews.com/news/uae/general/region-faces-risk-of-dirty-money-flow-1.423203.
- Jose, C.L. and Rao, S. (2002, 24 Jan.), "Anti-Money Laundering Law Draws Big Applause," *Gulf News*, available at http://gulfnews.com/news/uae/general/anti-money-laundering-law-draws-big-applause-1.376329.
- Jose, C.L. (2002, 24 July), "High-Level Panel on Auditing Set Up," *Gulf News*, available at http://gulfnews.com/news/uae/general/high-level-panel-on-auditing-set-up-1.394734.
- Jost, P.M., and Sandhu, H.S. (2000), *"The Hawala Alternative Remittance System and its Role in Money Laundering"* (Lyon, France: Interpol General Secretariat), available at https://www.treasury.gov/resource-center/terrorist-illicit-finance/Documents/FinCEN-Hawala-rpt.pdf.
- Kaieteur News report (2014, 13 March), "25th CARICOM Intersessional…'Blacklisted' Guyana will have repercussions across the Region," available at http://www.kaieteurnewsonline.com/2014/03/13/25th-caricom-intersessional-blacklisted-guyana-will-have-repercussions-across-the-region/.
- Kammer, A., Norat, M., Piñón, A., Prasad, A., Towe, C., and Zeidane, A., et al, "Islamic Finance: Opportunities, Challenges, and Policy Options," International Monetary Fund Staff Discussion Note, April 2015, SDN/15/05.
- Kar, D. and Cartwright-Smith, D. (2009), *Illicit Financial Flows from Developing Countries: 2002-2006*, Report, Global Financial Integrity, Washington DC., available at http://www.gfintegrity.org/storage/gfip/executive%20-%20final%20version%201-5-09.pdf.
- Kar, D., and Spanjers, J., *Illicit Financial Flows from Developing Countries: 2004-2013* (Washington, DC: Global Financial Integrity, 2015), available at http://www.gfintegrity.org/wp-content/uploads/2015/12/IFF-Update_2015-Final-1.pdf.
- Kassem, M. (2014, 22 Sept.), "UAE Central Bank Says Goodbye to Long-Serving Governor," *The National*, available at http://www.thenational.ae/business/banking/uae-central-bank-says-goodbye-to-long-serving-governor.
- Kassem, M. (2016, 11 Dec.), "UAE Banks Warn Customers On New International Tax Compliance Measures," *The National,* available at http://www.thenational.ae/business/banking/uae-banks-warn-customers-on-new-international-tax-compliance-measures.
- Katzman, K. (2010), *United Arab Emirates (UAE): Issues for US Policy* (Washington, DC: Congressional Research Service).
- Kawach, N. (2002, 10 May), "UAE Free of Organised Suspect Cash Activities," *Gulf News*, available at http://gulfnews.com/news/uae/general/uae-free-of-organised-suspect-cash-activities-1.385914.
- Kawach, N. (2002, 1 Oct.) "Anti-Money Laundering Law in Final Stage," *Gulf News*, available at http://gulfnews.com/news/uae/general/anti-money-laundering-law-in-final-stage-1.399822.
- Keene, S. (2007), "*Hawala* and Related Informal Value Transfer Systems – An Assessment in the Context of Organized Crime and Terrorist Finance: Is There Cause for Concern?," *Security Journal*, 185-196.
- Kerr, S. (2009, 11 Feb.), "Three Held in Dubai Corruption Probe," *Financial Times*, Middle East and North Africa, available at https://www.ft.com/content/1e120b28-f7c5-11dd-a284-000077b07658.
- Kerry, J., and Brown, H. (1992), "The BCCI Affair: A Report to the Committee on Foreign Relations" (Washington, DC: Government Printing Office).
- Kerzner, D. and Chodikoff, D. (2016), *International Tax Evasion in the Global Information Age* (Cham, Switzerland: Springer).
- Kobor, E. (2007, Sept.), "Money Laundering Trends," *United States Attorneys' Bulletin*, 14-19.
- Kocieniewskji, D. (2011), "But Nobody Pays That," *New York Times*, available at http://topics.nytimes.com/top/features/timestopics/series/but_nobody_pays_that/index.html.

- Koh, J., (2006), Suppressing Terrorist Financing and Money Laundering (Berlin: Springer).
- Korany B., and Dessouki, A.E.H. (2008), eds., *Foreign Policies of Arab States: The Challenge of Globalization* (Cairo: American University in Cairo Press).
- Koslowski, R. (2011), "Economic Globalization, Human Smuggling, and Global Governance," in Kuly and Koslowski, eds., *Global Human Smuggling: Comparative Perspectives*, 60-107.
- KPMG (2011), "Global Anti-Money Laundering Survey 2011: How Banks are Facing up to the Challenge," available at https://www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/Documents/anti-money-launderingv2.pdf.
- KPMG (2014), "Global Anti-Money Laundering Survey 2014," available at https://www.kpmg.com/KY/en/IssuesAndInsights/ArticlesPublications/PublishingImages/global-anti-money-laundering-survey-v3.pdf.
- Krishna, V. (2008, 29 August), "The Legacy of Al Capone in Tax Law," *The Lawyers' Weekly*, available at http://www.lawyersweekly.ca/articles/748.
- Kristof, K. (2011, 31 Aug.), "Top 25 Corporate Tax Dodgers.," *CBS Moneywatc*h, available at http://www.cbsnews.com/ 8301-505144_162-36945095/top-25-corporate-tax-dodgers.
- Kristoffersson, E., and Pistone, P. (2013),"Policy Issues, Historical Development, General Legal Framework," in Kristoffersson et al, eds., *Tax Secrecy and Tax Transparency: The Relevance of Confidentiality in Tax Law*, 1-6.
- Kristoffersson, E., Lang, M., Pistone, P., Schuch, J., Staringer, C., and Storch, A., eds., *Tax Secrecy and Tax Transparency: The Relevance of Confidentiality in Tax Law,* Part 1 and II, (Frankfurt am Main: Peter Lang Academic Research).
- Kuly, D., and R. Koslowski (2011), eds., *Global Human Smuggling: Comparative Perspectives* (Baltimore: Johns Hopkins University Press).
- Kumar, H.M. (2011, 14 March), "Banks Detect An Increase In The Number Of Suspicious Transactions," *Gulf News,* available at http://gulfnews.com/cmlink/old-gulfnews/business/banking/banks-detect-an-increase-in-the-number-of-suspicious-transactions-1.776146.
- Kyle, D., and Koslowski, R., eds. (2011), *Global Human Smuggling: Comparative Perspectives.* (Baltimore: Johns Hopkins University Press).
- Kyriakos-Saad, N, Vasquez, M., El Khoury, C., and El Murr, A. (2016), "Islamic Finance and Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT)," International Monetary Fund Legal Department Working Paper, available at https://www.imf.org/external/pubs/ft/wp/2016/wp1642.pdf.
- Lahey, H. (2005), "Money Laundering," *The American Criminal Law Review* 42:2, 699-720.
- Lal, R. (2005), "South Asian Organized Crime and Terrorist Networks," *Orbis* 49:2, 293-304.
- Landesman, P. (2003, 17 Aug.), "Arms and the Man," *New York Times Magazine,* 28-57.
- Landsburg, S. (1993), The Armchair Economist: Economics and Everyday Life (New York: The Free Press).
- Langevoort, D.C. (2010), "Chasing the Greased Pig Down Wall Street: A Gatekeeper's Guide to the Psychology, Culture and Ethics of Financial Risk-Taking," *Cornell Law Review* 96, 1209-1246.
- Lassoued, I and Eissa, M. (2016), "An Insight into the Newly-Formed Dubai Economic Security Centre," available at http://www.tamimi.com/en/magazine/law-update/section-14/jun-jul/an-insight-into-the-newly-formed-dubai-economic-security-centre.html.
- Ledyaeva, S., Karhunen, P., and Whalley, J. (2013), "Offshore Jurisdictions (Including Cyprus), Corruption Money Laundering And Russian Round-Trip Investment," Working Paper 19019, *National Bureau of Economic Research*, Cambridge, USA, available at http://www.nber.org/papers/w19019.pdf.
- Lee, D. (2014, 28 Jan.), "How Bitcoins Work," BBC, available at http://www.bbc.com/news/technology-25919482.
- Lee, D. (2014, 28 Jan.), "US Makes Bitcoin Exchange Arrests After Silk Road Closure," BBC, available at http://www.bbc.com/news/technology-25919482.
- Lee, B. (2015, 20 Aug.), "Retired Worcester Priest Faces Money Laundering Charges," *Telegram & Gazette*, 20 August 2015, available at http://www.telegram.com/article/20150819/NEWS/150819107.
- Letzing, J. (2014, 18 July), "Swiss Banks Use Carrot and Stick in Addressing Hidden Accounts," *Wall Street Journal,* P1.
- Levi, M. (2002), "Money Laundering and its Regulation," *Annals of the American Academy of Political Science* 582:1, 181-194.
- Levi, M. (2003), "Following the Criminal and Terrorist Money Trails," in van Duyne et al, eds., *Criminal Finances and Organizing Crime in Europe*, 105-119.

- Levi, M. (2013), "E-Gaming, Money Laundering and the Problem of Risk Assessment," in Unger and van der Linde, 332-345.
- Levi, M., and P. Reuter, (2006), "Money Laundering," *Crime and Justice* 34:1, 289-375.
- Levitt, S. (1997), "Juvenile Crime and Punishment," *Journal of Political Economy*, 106:6. 1156-1185.
- Levitt, M., and Jacobson, M. (2008), "The U.S. Campaign To Squeeze Terrorists' Financing," *Journal of International Affairs*, 62(1), 67-85.
- Levy, S. M. (2016), *Federal Money Laundering Regulation: Banking, Corporate and Securities Compliance* (New York: Kluwer).
- Lilley, P. (2006), Dirty Dealing: The Untold Truth About Global Money Laundering, International Crime and Terrorism, 3rd ed., (London: Kogan Page).
- Lipman, F.D. (2012), Whistleblowers: Incentives, Disincentives, and Protection Strategies (Hoboken, NJ: Wiley and Sons).
- Lipset, S.M., and Lenz, G.S. (2000), "Corruption, Culture and Markets," in Lawrence E. Harrison and Samuel P. Huntington, eds., *Culture Matters* (New York: Basic Books), 112-124.
- Looney, R.E. (2003), "Hawala: The Terrorist's Financial Mechanism," *Middle East Policy* 10:1, 164-167.
- Lusher, A. (2016, 5 April), "Panama Papers: 12 World Leaders Linked to Offshore Dealings – and the Full Allegations Against Them," *The Independent*, available at http://www.independent.co.uk/news/world/politics/panama-papers-assad-putin-poroshenko-mubarak-al-saud-pm-iceland-sigmundur-davio-gunnlaugsson-a6967411.html.
- Maayeh, S. (2007, 26 Aug.), "*Hawala* Money Transfers Defy Regulation Efforts," *The National*, available at http://www.thenational.ae/news/uae-news/hawala-money-transfers-defy-regulation-efforts.
- Maceda, C. (2015, 15 April), "Bank in DIFC Fined Dh30 Million," *Gulf News*, available at http://gulfnews.com/business/sectors/investment/bank-in-difc-fined-dh30-million-1.1492406.
- Maceda, C. (2016, 13 Dec.), "UAE Banks Notify Expats On Anti-Tax Evasion Policy," *Gulf News*, available at http://gulfnews.com/business/sectors/banking/uae-banks-notify-expats-on-anti-tax-evasion-policy-1.1944267.
- Maimbo, S. M. (2003), *The Money Exchange Dealers of Kabul: A Study of the Hawala System in Afghanistan*, (Washington DC: World Bank Publications).
- Malekian, F. (2011), *Principles of Islamic International Criminal Law: A Comparative Search*, Second Edition, Leiden, NL: Koninklijke Brill NV).
- Markovska, A. and Adams, N. (2015), "Political Corruption and Money Laundering: Lessons from Nigeria," *Journal of Money Laundering Control* 18:2, 169–181.
- Martinez-Moyano, I.J.; McCaffrey, D.P., and Oliva, R. (2014), "Drift and Adjustment in Organizational Rule Compliance: Explaining the 'Regulatory Pendulum' in Financial Markets," *Organization Science*, 25:2, 321-338, available at http://dx.doi.org/10.1287/orsc.2013.0847.
- Masciandaro, D. (1999), "Money Laundering: The Economics of Regulation," *European Journal of Law and Economics* 7:3, 225-240.
- Masciandaro, D. (2004), ed., *Global Financial Crime: Terrorism, Money Laundering and Offshore Centres* (Aldershot: Ashgate).
- Masciandaro, D. (2013), "Money Laundering and its Effects On Crime: A Macroeconomic Approach," in Unger and van der Linde, eds., *Research Handbook on Money Laundering*, 47-56.
- Masudi, F. (2007, 22 March), "Money Laundering Sweeps UAE," *Gulf News*, available at http://gulfnews.com/news/uae/general/money-laundering-sweeps-uae-1.462879.
- Masudi, F. (2008, 28 May), "DFSA: The Watchdog Fighting Financial Crimes," *Gulf News*, available at http://gulfnews.com/news/uae/general/dfsa-the-watchdog-fighting-financial-crimes-1.453624.
- Mathiason, N. (2010, 24 Jan.), "Dubai's Dark Side Targeted By International Finance Police," *The Guardian*, available at https://www.theguardian.com/business/2010/jan/24/dubai-crime-money-laundering-terrorism.
- Matulich, S., and Currie, D. M. (2009) eds., *Handbook of Frauds, Scams, and Swindles: Failure of Ethics in Leadership* (Boca Raton, FL: CRC Press).
- McCarthy, K. (2013), "Why Do Some Countries Tolerate Money Laundering? On the Competition for Illegal Money," in Unger and van der Linde, eds., *Research Handbook on Money Laundering*, 127-142.
- McCormick, K., and Stekloff, B.(2000) "Money Laundering," *The American Criminal Law Review*, 37:2, 729-756.
- McGinley, S. (2013, 30 May), "Lloyds to Close Dubai Private Banking Business," *Arabian Business*, available at http://www.arabianbusiness.com/lloyds-close-dubai-private-banking-business-503528.html.

- McIntosh, C., chief ed., *Cambridge Business English Dictionary* (Cambridge: Cambridge University Press, 2016), available at http://dictionary.cambridge.org/dictionary/business-english/.
- McIntosh, D. (2016), "The Costs of Anti-Money Laundering Enforcements to Noncompliant Banks," *Journal of Finance and Bank Management* 4:1, 1-14.
- McLean, D. (2012), *International Cooperation in Civil and Criminal Matters*, 3rd ed., (Oxford: Oxford University Press).
- McDonald, M.R. (2001), *Money Laundering: An International Issue* (Abu Dhabi: Emirates Center for Strategic Studies and Research).
- Meek, G. K., Roberts, C. B., and Gray, S. J. (1995), "Factors Influencing Voluntary Annual Report Disclosures by US, UK and Continental European Multinational Corporations," *Journal of International Business Studies* 26:3, 555-572.
- Meilich, O. (2005), "Are Formalization and Human Asset Specificity Mutually Exclusive? A Learning Bureaucracy Perspective," *Journal of American Academy of Business* 6:1, 161-169.
- Meloen, J., et al (2003), *Buit en Besteding: Een Empirisch Onderwoek Naar de Omvang, de Kenmerken en de Besteding van Misdaadgeld* (The Hague: Reed Business Information).
- *Merriam-Webster's Collegiate Dictionary* (1997), 10th ed., [Springfield, MA: Merriam-Webster]
- Middle East and North Africa/Financial Action Task Force (MENA/FATF]
    - MENA/FATF (2008), "Mutual Evaluation Report: Anti-Money Laundering and Combating the Financing of Terrorism (United Arab Emirates)" (Manama: MENA/FATF, FATF, and the International Monetary Fund).
    - MENA/FATF (2014), "Mutual Evaluation Report: 7th Follow-Up Report for the United Arab Emirates: Anti-Money Laundering and Combating the Financing of Terrorism" (Manama: MENA/FATF).
    - MENA/FATF (2014), "20th MENAFATF Plenary Meeting and 10th Anniversary Celebration, Bahrain Conference Center, Crowne Plaza Hotel – Kingdom of Bahrain, 18 – 20 November 2014," available at http://www.menafatf.org/ArticleDetail.asp?rid=1192.
- Miceli, M. P., Near, J. P., and Dworkin, T. M. (2013), *Whistle-Blowing in Organizations* (Hove, UK: Psychology Press.)
- Miceli, M. P., and Near, J. P. (1992), Blowing the Whistle: The Organizational and Legal Implications for Companies and Employees (New York: Lexington Books).
- Mill, J.S. (1978 reprint), *On Liberty*, E. Rapaport, ed., (Indianapolis: Hackett.)
- Minkes J., and L. Minkes, eds. (2008), *Corporate and White Collar Crime* (London: SAGE.)
- Monahan, J. (2015), "Private Banking: Wealth Management - Private Banking: In Flux?," *The Banker,* retrieved from http://ezproxy.aus.edu/login?url=http://search.proquest.com/docview/1680713001?accountid=16946.
- Monahan, J. (2016), "Anti-Money Laundering: US - US Takes Aim at Shell Companies Anti-Money Laundering," *The Banker,* retrieved from http://ezproxy.aus.edu/login?url=http://search.proquest.com/docview/1802214203?accountid=16946.
- Morris, L. (2008, 28 Oct.), "Diamond Smuggler Caught in Dubai," *The National*, available at http://www.thenational.ae/news/uae-news/diamond-smuggler-caught-in-dubai.
- Morris-Cotterill, N. (2001), "Money Laundering," *Foreign Policy* (124), 16-22.
- Morse, S. (2016, 13 Oct.), "PwC Comments on the Implications of the Criminal Finance Bill - Corporate Offences of Failure to Prevent Facilitation of Tax Evasion," Press Release, PWC, available at http://pwc.blogs.com/press_room/2016/10/pwc-comments-on-the-implications-of-the-criminal-finance-bill-corporate-offences-of-failure-to-preve.html.
- Mossadak, A. and Lahlou, K. (2013), "Empirical Investigation on the Illicit Financial Flow from MENA Region," *British Journal of Social Science* 1:9, 1-11.
- Muhammad, N., Islam, A. R. M., and Marashdeh, H. A. (2016), "Financial Development and Economic Growth: An Empirical Evidence from the GCC Countries Using Static and Dynamic Panel Data," *Journal of Economics and Finance*, 40:4, 773-791.
- Mugarura, N. (2016), "Uncoupling the Relationship Between Corruption and Money Laundering Crimes," *Journal of Financial Regulation and Compliance* 24:1, 74–89.
- Mugarura, N. (2016), "Does the Broadly Defined Ambit of Money Laundering Offences Globally, a Recipe for Confusion than Clarity?," *Journal of Money Laundering Control* 19:4, 432-446.
- Murphy, R. (2010, 7 June), "World's Best Tax Havens," *Forbes*, available at http://www.forbes.com/2010/07/06/tax-havens-delaware-bermuda-markets-singapore-belgium.html.
- Mustafa, A. (2011, 15 Nov.), "Nine Deyaar Executives Charged in Dh237m Fraud Case," *The National*, available at http://www.thenational.ae/news/uae-news/courts/nine-deyaar-executives-charged-in-dh237m-fraud-cause.

- Naim, M. (2006), *Illicit: How Smugglers, Traffickers, and Copycats Are Hijacking the Global Economy* (New York: Random House).
- Nair, M. (2002, 9 April), "Insurers to Monitor Money Laundering," *Gulf News*, available at http://gulfnews.com/news/uae/general/insurers-to-monitor-money-laundering-1.384197.
- Nair, M. (2014, 2 June), "Dubai Property Market is Most 'Transparent' in Region," *Gulf News*, available at http://gulfnews.com/business/property/dubai-property-market-is-most-transparent-in-region-1.1350681.
- Nanavati, J. R., and Thornton, J. A. (2014), "DOJ and IRS Use 'Carrot 'N Stick' to Enforce Global Tax Laws," *Criminal Justice* 29:2, 4-8.
- Nawaz, S., R. McKinnon and R. Webb (2002), "Informal and Formal Money Transfer Networks: Financial Service or Financial Crime?," *Journal of Money Laundering Contro*l 5:4, 330-337.
- Naylor, R. T. (2004), *Wages of Crime: Black Markets, Illegal Finance, and the Underworld Economy* (London: Cornell University Press).
- Nazzal, N. (2000, 10 Dec.), "Tougher Laws Needed Against Money Laundering," *Gulf News*, available at http://gulfnews.com/news/uae/general/tougher-laws-needed-against-money-laundering-1.436553.
- Near, J. P., and Miceli, M. P. (1985), "Organizational Dissidence: The Case of Whistle-Blowing," *Journal of Business Ethics* 4:1, 1-16.
- Nelen, H., and F. Lankhorst (2008), "Facilitating Organized Crime: The Role of Lawyers and Notaries," in Siegel and Nelen, eds, *Organized Crime: Culture, Markets and Policies*, 127-142.
- Newland, L. S. (2008), "Money Laundering," *American Criminal Law Review*, 45:2, 741-764.
- Nicaso, A., and L. Lamothe, (2006), *Angels, Mobsters and Narco-Terrorists (*Mississauga, Canada: Wiley).
- Nilsson, H., (1992) "The Council of Europe Laundering Convention: A Recent Example of a Developing International Criminal Law," *Criminal Law Forum*, 419, 423.
- Owais, R. (2002, 21 Oct.), "Money Laundering Cases 'Under Scrutiny,'" *Gulf News*, available at http://gulfnews.com/news/uae/general/money-laundering-cases-under-scrutiny-1.401410.
- 9/11 Commission [National Commission on Terrorist Attacks Upon the United States] (2004), *The 9/11 Commission Report* (New York: Norton).
- 9/11 Commission [National Commission on Terrorist Attacks Upon the United States] (2004), *Monograph on Terrorist Financing*, (Washington, DC: National Commission on Terrorist Attacks Upon the United States), available at http://govinfo.library.unt.edu/911/staff_statements/911_TerrFin_Monograph.pdf.
- Noonan, L. (2015), "Banks Face Pushback Over Surging Compliance and Regulatory Costs," *Financial Times*, available at http://ezproxy.aus.edu/login?url=http://search.proquest.com/docview/1691441959?accountid=16946.
- Nydell, M.K., (2006), *Understanding Arabs: A Guide for Modern Times* (London: Intercultural Press).
- Obama, B. (2011), "Executive Order 13581--Blocking Property of Transnational Criminal Organizations," available at https://www.whitehouse.gov/the-press-office/2011/07/25/executive-order-13581-blocking-property-transnational-criminal-organizat.
- O'Brien, T.L. (2005, Nov 09), "Bank Settles U.S. Inquiry into Money Laundering," *New York Times,* retrieved from http://ezproxy.aus.edu/login?url=http://search.proquest.com/docview/433212503?accountid=16946.
- Oduor, J. A., and J. Oduor (2014), *Left Out of the Bargain: Settlements in Foreign Bribery Cases And Implications For Asset Recovery* (Stolen asset recovery series) (Washington, DC: The World Bank), available at http://public.eblib.com/choice/publicfullrecord.aspx?p=1578335.
- Ogus, Anthony (2010), "Regulation and its Relationship With The Criminal Justice Process," in Quirk, Seddon, and Smith, eds., *Regulation and Criminal Justice: Innovations in Policy and Research,* 27-41.
- Office of the High Commissioner for Human Rights (OHCHR) (2001) "Trafficking in People: The Human Rights Dimension," in Williams and Vlassis, eds., *Combating Transnational Crime: Concept, Activities and Responses*, 243-250.
- Oktem, M. K., and Shahbazi, G. (2012), "Attitudes Toward Different Forms of Whistleblowing in Turkey and Iran," *Middle-East Journal of Sci*entific *Research* 12:7, 945-951.
- Olatunde J.O. and S. Lauwo. (2012), "The Role of Offshore Financial Centres in Elite Money Laundering Practices: Evidence from Nigeria," *Journal of Money Laundering Control* 15:3, 336-361.
- OnlineBetting.Com (2016), "Betting Laws in the United Arab Emirates," available at http://www.onlinebetting.com/legal/uae/.

- Oren, L., Tziner, A., Sharoni, G., Amor, I., and Alon, P. (2012), "Relations Between Leader-Subordinate Personality Similarity and Job Attitudes," *Journal of Managerial Psychology* 27:5, 479-496.
- Organ, D.W., Podsakoff, P.M. and MacKenzie, S.B. (2006), *Organizational Citizenship Behavior* (London: Sage).
- Organisation for Economic Co-operation and Development (OECD) publications:
    - (no date), "Survey on Corporate Governance Frameworks in the Middle East and North Africa (draft)," available at https://www.oecd.org/corporate/ca/corporategovernanceprinciples/49012924.pdf.
    - (2009), "Money Laundering Awareness Handbook," available at http://www.oecd.org/ctp/exchange-of-tax-information/money-laundering-awareness-handbook.htm.
    - (2010), "Article 26 of the OECD Model Tax Convention on Income and on Capital and its Commentary," in *Implementing the Tax Transparency Standards: A Handbook for Assessors and Jurisdictions*, 81-98.
    - (2010), *Implementing the Tax Transparency Standards: A Handbook for Assessors and Jurisdictions* (Paris: OECD Publishing).
    - (2010) "The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol, Chapter III, Section I, Article 6, 14, available at http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/the-multilateral-convention-on-mutual-administrative-assistance-in-tax-matters_9789264115606-en#.WKkwMxCezAo#page16.
    - (2014), "Standard for Automatic Exchange of Financial Account Information in Tax Matters" (OECD Publishing, Paris), available at http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/standard-for-automatic-exchange-of-financial-account-information-for-tax-matters_9789264216525-en#.WKke3hCezAo.
    - (2015), "Improving Co-Operation Between Tax and Anti-Money Laundering Authorities: Access by Tax Administrations to Information Held by Financial Intelligence Units for Criminal and Civil Purposes" (Paris: OECD Publishing), available at http://www.oecd.org/ctp/crime/report-improving-cooperation-between-tax-anti-money-laundering-authorities.pdf.
    - (2016), "Tax Transparency 2016: Report on Progress," Global Forum on Transparency and Exchange of Information for Tax Purposes, available at http://www.oecd.org/tax/transparency/GF-annual-report-2016.pdf
    - (2016), "Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: United Arab Emirates 2016, Phase 2:Implementation of the Standard in Practice," available at http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews-united-arab-emirates-2016_9789264258891-en#.WKYFLBCezAo#page1.
    - (with Council of Europe) (2017, January), "Convention on Mutual Administrative Assistance in Tax Matters," available at http://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm.
- Orttung, R. W., and A. Latta, eds., (2008), *Russia's Battle with Crime, Corruption, and Terrorism* (New York: Routledge).
- Osborne, D. (1997), "Corruption as Counter-Culture: Attitudes to Bribery in Local and Global Society, in Rider, B.A.K., ed., *Corruption: The Enemy Within* (The Hague: Kluwer, 1997), 9-33.
- Oxford Business Group, "The Report: Dubai 2013," (Dubai: Oxford Business Group).
- Partnership Africa Canada (2013), "United Arab Emirates," available at http://www.pacweb.org/en/united-arab-emirates.
- Park, H., Blenkinsopp, J., Oktem, M., and Omurgonulsen, U. (2008), "Cultural Orientation and Attitudes Toward Different Forms of Whistleblowing: A Comparison of South Korea, Turkey, and the U.K.," *Journal of Business Ethics* 82:4, 929-939.
- Pascoe, J., and Welsh, M. (2011), "Whistleblowing, Ethics and Corporate Culture: Theory and Practice in Australia," *Common Law World Review* 40:2, 144-173.
- Pasley, R.S., ed. (2012), *Study Guide for the CAMS Certification Examination*, 5th ed., (Miami: ACAMS).
- Passas, N. (2003), "Hawala and Other Informal Value Transfer Systems: How to Regulate Them?," *Risk Management* 5:2, 49-59.
- Passas, N. (2005), "Formalizing the Informal? Problems in the National and International Regulation of *Hawala*," in *Regulatory Frameworks for Hawala and Other Remittance Systems* (Washington, DC: International Monetary Fund), 7-16.

- Passas, N. (2005), "Hawala and Money Laundering: a Malaysian Perspective," *Journal of Money Laundering Control* 8:1, 37-47.
- Passas, N. (2006), "Setting Global CFT Standards: A Critique and Suggestions," *Journal of Money Laundering Control* 9:3, 281-92.
- Passas, N., & Jones, K. (2006), "Commodities and Terrorist Financing: Focus On Diamonds," *European Journal on Criminal Policy and Research* 12:1, 1-33.
- Passas, N. (2008, March), "Dirty Money? Tracing the Misuse of Hawala Networks," *Jane's Intelligence Review*, 40-45.
- Pavoni, S. (2014), "Private Banking: Wealth Management - Is Private Banking a Global or Local Game? *The Banker,* available at http://ezproxy.aus.edu/login?url=http://search.proquest.com/docview/1512338568?accountid=16946.
- Paine, L. (1994), "Managing for Organizational Integrity," *Harvard Business Review* 72:2, 106-117.
- Platt, S. (2015), Criminal Capital: How the Finance Industry Facilitates Crime (London: Palgrave-MacMillan).
- Pathak, R. (2004), "The Obstacles to Regulating the *Hawala*: A Cultural Norm or a Terrorist Hotbed?," *Fordham International Law Journal* 27:6, 2007-2061.
- Perkel, W. (2004), "Money Laundering and Terrorism: Informal Value Transfer Systems." *The American Criminal Law Review* 41:1, 183-211.
- Peters, G. (2010), *Seeds of Terror: How Heroin is Bankrolling the Taliban and Al Qaeda* (New York: Thomas Dunne).
- Philips, M.K. (2010), "Centers of Attention," *CFA Magazine* 21:2, 40-42.
- Phillips, T. R. (2008, 26 March), "Anti-Money Laundering Initiatives Under the USA Patriot Act," available at http://corporate.findlaw.com/litigation-disputes/anti-money-laundering-initiatives-under-the-usa-patriot-act.html.
- Phua, S. (2015), "Convergence in Global Tax Compliance," *Singapore Journal of Legal Studies*, 77-104.
- Pickett, K. H., and Pickett, J. (2002), *Financial Crime Investigation and Control* (New York: John Wiley and Sons).
- Pickworth, J., Carroll, J. and Anderson, J. (2016, 9 Nov.), "Follow the Money – The Criminal Finance Bill," available at https://www.whitecase.com/publications/alert/follow-money-criminal-finances-bill.
- Pieth, M., and G. Aiolfi, (2004), "Synthesis: Comparative International Standards and their Implementation," in Pieth and Aiolfi, eds., *A Comparative Guide to Anti-Money Laundering*, 415-456.
- Pieth, M., and Aiolfi, G. (2004) eds., A Comparative Guide to Anti-Money Laundering: A Critical Analysis of Systems in Singapore, Switzerland, and the UK and the USA (Cheltenham: Edward Elgar)
- Ping, D. (2013), "Iranian Black Market Currency Exchange," *Analytics*, (Toronto: ManchesterCF Consulting Co.), available at http://manchestercf.com/Files/201310_ManchesterCF_Analytics.pdf.
- Pinto, P., and Zhu, B. (2017), "Fortune or Evil? The Effect of Inward Foreign Direct Investment on Corruption," *International Studies Quarterly* 60:4, 693-705,
- Pomodoro, L. (2001), "Trafficking and Sexual Exploitation of Women and Children," in Williams and Vlassis, eds., *Combating Transnational Crime*.
- Posner, Richard A. (2007), *Economic Analysis of Law* (7th ed.), (Austin, TX: Wolters Kluwer for Aspen Publishers).
- Posner, R. A. (2001), *The Economics of Public Law: The Collected Economic Essays of Richard A. Posner*, Vol. 3, (Cheltenham, UK and Northampton, MA: Edward Elga).
- PricewaterhouseCoopers [PwC] and HSBC (2013), "Doing business in the UAE," 3rd ed., available at https://www.pwc.de/de/internationale-maerkte/assets/doing-business-in-the-uae.pdf.
- PricewaterhouseCoopers (2014), "Economic Crime in the UAE," available at http://www.pwc.com/m1/en/publications/gecs2014reportuae.pdf
- PricewaterhouseCoopers (2014, 26 Feb.), "PwC's Global Economic Crime Survey shows fraud reported by 21% of organisations in the Middle East compared to 37% globally," available **at** http://www.pwc.com/m1/en/media-centre/2014/global_economic_crime_survey_shows_fraud_reported.jhtml.
- PricewaterhouseCoopers (2016, 29 Feb.), "Independent Auditor Report," available at http://dubaiholding.com/en/investors.
- Qader, S.A. in *Akhbar Al-Khaleej* (2014, 5 Feb.), ["Biggest issue of money laundering in the Gulf,"] available at http://www.akhbar-alkhaleej.com/13102/article_touch/5594.html. Translated for the author by Mira Saeed Lootah and Hamda Faidallah Abdulkarim.
- Quayson, A., and Arhin, A. (2012), eds., Labour Migration, Human Trafficking and Multinational Corporations: The Commodification of Illicit Flows (New York: Routledge).

- Quinn, S., and Walters, T. (2002), *Bridging the Gulf: Communications Law in the UAE* (Melbourne: IdeasLab).
- Quirk, H., Seddon, T., and Smith, G. (2010), eds., *Regulation and Criminal Justice: Innovations in Policy and Research* (New York: Cambridge University Press), 27-41.
- Qureshi, A.I. (1979), *The Economic and Social System of Islam* (Lahore: Islamic Book Service).
- Ra'anan, R., et al, eds. (1986), Hydra of Carnage: The International Linkages of Terrorism and Other Low-Intensity Operations (Lexington, MA: Lexington Books).
- Rahman, S. (2002, 5 Feb.), "UAE's Anti-Money Laundering Law Hailed," *Gulf News*, available at http://gulfnews.com/news/uae/general/uae-s-anti-money-laundering-law-hailed-1.377449.
- Rahman, S. (2006, 26 Feb.), "UAE Central Bank Freezes Hawala Operators Accounts," *Gulf News*, available at http://gulfnews.com/business/sectors/banking/uae-central-bank-freezes-hawala-operators-accounts-1.159134
- Rahman, S. (2011, 27 June), "Transformation in Region's Corporate Culture," *Gulf News*, available at http://gulfnews.com/business/sectors/features/transformation-in-region-s-corporate-culture-1.829300.
- Rahman, S. (2013, 10 April), "Direct Debit System will Change the way Payments are Made," *Gulf News*, available at http://gulfnews.com/business/sectors/banking/direct-debit-system-will-change-the-way-payments-are-made-1.1169119.
- Rahman, F. (2016, 25 Jan.), "Experts Stress on Complying With Anti-Money Laundering Regulations," *Gulf News*, available at http://gulfnews.com/business/sectors/banking/experts-stress-on-complying-with-anti-money-laundering-regulations-1.1659882.
- Ramus, C.A.. and Oppegaard, K. (2007), "Integrating Compliance-based and Commitment-based Approaches in Corporate Sustainability Management," (Lausanne: International institute for Managerial Development (IMD), paper IMD 2007-04, available at http://193.5.22.213/research/publications/upload/Ramus_Oppegaard_WP_2007_04_Level_1.pdf.
- Rao, S., (2001, 9 Jan.),"Finance Houses Lack Effective Money-Laundering Detection Systems," *Gulf News*, available at http://gulfnews.com/news/uae/general/finance-houses-lack-effective-money-laundering-detection-systems-1.407501.
- Rashid, M. (2004, 5 May), "No Money Laundering in the UAE, Says Official," *Khaleej Times,* available at http://www.khaleejtimes.com/kt-article-display-1.asp?section=theuae&xfile=data/theuae/2004/may/theuae_may101.xml.
- Rashed, M. (2006, 30 Aug.), "19 on Trial Over Record 2,500kg Drugs Haul," *Khaleej Times*, available at http://www.khaleejtimes.ae/kt-article-display-1.asp?section=theuae&xfile=data/theuae/2006/august/theuae_august915.xml.
- Raveendran, K. (2003, 15 Sept.), "UAE Plays Perfect Host with Reforms in Banking Sector," *Gulf News*, available at http://gulfnews.com/cmlink/old-gulfnews/in-focus/dubai-2003-2.1291/uae-plays-perfect-host-with-reforms-in-banking-sector-1.365944
- Raveendran, K. (2012, 22 Oct.), "A Salute to DIFC Regulators," *Gulf News*, available at http://gulfnews.com/business/analysis/a-salute-to-difc-regulators-1.1092378.
- Razavy, M. (2005), "Hawala: An Underground Haven for Terrorists or Social Phenomenon?," *Crime, Law and Social Change* 44, 277-299.
- Reed, S (2009, 28 Nov.) "The Sheikh's New Clothes? Dubai's Desert Dream Ends," Bloomberg story available at http://www.bloomberg.com/news/articles/2009-11-27/the-sheikhs-new-clothes-dubais-desert-dream-ends.
- Reider-Gordon, M. (2011), "U.S. and International Anti Money Laundering Development," *International Lawyer* 45:1, 365-379.
- Reider-Gordon, M., and T.K. Butler (2013), "Anti-Money Laundering," *The International Lawyer* 47:7, 387-405.
- Remo, M.V. (2013, 23 Feb.), "Int'l Body Wants More Teeth in PH Anti-Money Laundering Law," *Philippine Daily Inquirer*, available at http://globalnation.inquirer.net/65359/intl-body-wants-more-teeth-in-ph-anti-money-laundering-law/#ixzz3WRQ2znWr.
- Repenning, N. R., and Sterman, J. D. (2002), "Capability Traps and Self-Confirming Attribution Errors in the Dynamics of Process Improvement," *Administrative Science Quarterly* 47:2, 265-295.
- Reus, D. (2012, 16 July), "Anti-Money Laundering: A Guide For UAE Companies," available at http://www.emiratesbusinesslaw.com/anti-money-laundering-a-guide-for-uae-companies.
- Reuter, P., and Edwin M. Truman (2004), *Chasing Dirty Money: The Fight Against Money Laundering* (Washington: Institute for International Economics).
- Reuter, P and World Bank, (2012), *Draining Development?: Controlling Flows of Illicit Funds from Developing Countries,* (Washington, DC: World Bank), available at http://public.eblib.com/choice/publicfullrecord.aspx?p=868329.

- Reuters report (2015, 9 December), "Regulation Hits UAE Banks' Dealing with US Banks," *Gulf News* (banking section), available at http://gulfnews.com/business/sectors/banking/regulation-hits-uae-banks-dealings-with-us-banks-1.1634424.
- Reuters report (2001, 10 Jan.), "Lebanon Bows to World Pressure On Banking Secrecy," *Gulf News*, available at http://gulfnews.com/news/uae/general/lebanon-bows-to-world-pressure-on-banking-secrecy-1.407559.
- Reuters report (2016, 11 January), "UAE Revokes Licence of Al Zarooni Exchange on Anti-Money Laundering Violations," *The National*, available at http://www.thenational.ae/business/banking/uae-revokes-licence-of-al-zarooni-exchange-on-anti-money-laundering-violations.
- Richards, J. (1999), *Transnational Criminal Organizations, Cybercrime, and Money Laundering: A Handbook for Law Enforcement Officers, Auditors, and Financial Investigators* (London: CRC Press).
- Rider, B.A.K. (1997), ed., *Corruption: The Enemy Within* (London: Kluwer Law).
- Rider, B.A.K. (1998), "The Control of Money Laundering: A Bridge Too Far?," 5 EUR. J. FIN. SERV. 27.
- Rider, B.A.K. (2004), "Law: The War on Terror and Crime and the Offshore Centres: The 'New' Perspective?," in Masciandaro, ed., *Global Financial Crime*, 61-95.
- Rider, B.A.K. (2015), ed., *Research Handbook on International Financial Crime* (Cheltenham, UK: Edward Elgar).
- Rider, B.A.K. (2015), "Strategic Tools – For Now and Perhaps the Future?," in Rider, ed., *Research Handbook of International Financial Crime,* 726-754.
- Rifkin, D. (2009), "A Primer on the Tax Gap and Methodologies for Reducing It," *Quinnipiac Law Review* 27, 375-424.
- Rioux, S. M., and Penner, L. A. (2001), "The Causes of Organizational Citizenship Behavior: A Motivational Analysis," *Journal Of Applied Psychology* 86:6, 1306-1314.
- Roberts, A. (2006), "Chapter 5: Soft States," *Blacked Out: Government Secrecy in the Information Age* (New York: Cambridge University Press), 107-126.
- Rose-Ackerman, S., and Lagunes, P., (eds.), *Greed, Corruption, and the Modern State: Essays in Political Economy*, (Cheltenham: Edward Elgar Publishing).
- Ryder, N., U. Turksen and S. Hassler (2015), *Fighting Financial Crime in the Global Economic Crisis* (London: Routledge).
- Robinson J. (1996), The Laundrymen: Inside Money Laundering, the World's Third-Largest Business (New York: Arcade).
- Rolnick, A.J. and Weber, W.E. (1986), "Gresham's Law or Gresham's Fallacy?," *Journal of Political Economy* 94:1, 185-199.
- Rovnick, N. (2013, 26 March), "Most Foreign Investment In Brics Isn't Foreign At All – It's Tycoons Using Tax Havens," *Quartz*, Atlantic Media, available at https://qz.com/66944/the-brics-biggest-investment-sources-are-tax-havens-which-mostly-shows-the-rich-stealing-from-the-poor.
- Rushe, D. (2014, 20 August), "Standard Chartered fined $300m by US financial watchdog," *The Guardian*, available at https://www.theguardian.com/business/2014/aug/20/standard-chartered-fined-300m-money-laundering-compliance.
- Saleem, N. (2008, 17 Sept.), "Sound Compliance Framework Needed," *Gulf News*, available at http://gulfnews.com/business/sectors/general/sound-compliance-framework-needed-1.131796.
- Sambidge, A. and Billing, S. (2008, 17 Aug.), "Dubai Zero Tolerance Pledge on Corruption," *Arabian Busines.com*, available at http://www.arabianbusiness.com/dubai-s-zero-tolerance-pledge-on-corruption-44960.html.
- Santangelo, B., Lorah, T. O., and Murray, M. E. (2001), *Summary of Anti-Money Laundering Provisions of USA Patriot Act of 2001*, Schulte Roth and Zabel LLP.
- Saunders, A. and Cornett, M. (2003), *Financial Institutions Management: A Risk Management Approach*, 4th ed. (New York: McGraw Hill).
- Savona, E. and De Feo, M. (1997), "International Money Laundering Trends and Prevention/Control Policies," in Savona ed., *Responding to Money Laundering: International Perspectives*, 9-69.
- Savona, E. ed. (1997), *Responding to Money Laundering: International Perspective* (Amsterdam: Harwood Academic Publishers).
- Sawyer, K. R., Johnson, J., and Holub, M. (2010), "The Necessary Illegitimacy of the Whistleblower," *Business and Professional Ethics Journal* 29:1, 85-107.
- Sayan, S., ed. (2011), *Economic Performance in the Middle East and North Africa: Institutions, Corruption and Reform* (London: Routledge).
- Schacht, J. (1960), "Problems of Modern Islamic Legislation," *Studia Islamica,* (12), 99-129.

- Scheffer, D. and Kaeb, C. (2011), "The Five Levels of CSR Compliance: The Resiliency of Corporate Liability under the Alien Tort Statute and the Case for a Counterattack Strategy in Compliance Theory," *Berkeley Journal of International Law* 29:1, 334-397.
- Schneider, F. (2005), "Shadow Economies Around the World: What do We Really Know?," *European Journal of Political Economy* 21:3, 598-642.
- Schneider, F., and Windischbauer, U. (2008), "Money Laundering: Some Facts," *European Journal of Law and Economics* 26:3, 387-404.
- Schott, P. A. (2003), *Reference Guide to Anti-Money Laundering and Combating the Financing of Terrorism* (First Edition), (Washington, D.C.: World Bank and IMF).
- Schott, P. A. (2006), R*eference Guide to Anti-Money Laundering and Combating the Financing of Terrorism* (Second Edition and Supplement on Special recommendation IX ed.), (Washington, D.C.: World Bank and IMF).
- Schmidle, N. (2012), "Disarming Viktor Bout," *New Yorker* 88:3, 54-65.
- Scott, K. (2010, 5 Nov.), "Transparency in Focus at Abu Dhabi Meeting," *Gulf News*, available at http://gulfnews.com/business/sectors/technology/transparency-in-focus-at-abu-dhabi-meeting-1.706556.
- Scott, K. (2012, 11 March), "UAE Stock Market: Working to Ensure Full Disclosure," *Gulf News*, available at http://gulfnews.com/business/sectors/markets/uae-stock-market-working-to-ensure-full-disclosure-1.992590.
- Scruba, K. (2013), "Money Laundering," *The American Criminal Law Review* 50:4, 1271-1298.
- Securities Industry Association, Compliance, Legal Division, (2005) "The role of compliance," *Journal of Investment Compliance* 6:3, 4-22.
- Serafini, J. (2004), "Money Laundering," *The American Criminal Law Review* 41:2, 887-909.
- Shaheed, A.Q.O. (1987), *Criminal Law of Islam*, Vol. II, (Karachi: International Islamic Publishers.)
- Shanmugam, B., Nair, M., and Suganthi, R. (2003), "Money Laundering in Malaysia," *Journal of Money Laundering Control* 6:4, 373-378.
- Shanmugam, B. (2005), "*Hawala* and Money Laundering: A Malaysian Perspective," *Journal of Money Laundering Control* 8:1, 37–47.
- Shams, H. (2004), *Legal Globalization: Money Laundering Law and Other Cases*, (London: London Centre for Financial Studies and the Rule of Law).
- Shams, H. (2001), "The Fight against Extraterritorial Corruption and the Use of Money Laundering Control, *Law and Business Review of the Americas* 7 (Winter/Spring), 85-133.
- Sharman, J.C. (2011), The Money Laundry: Regulating Criminal Finance in the Global Economy, (London: Cornell University Press).
- Sharman, J. C. (2010), "Shopping for Anonymous Shell Companies: An Audit Study of Anonymity and Crime in the International Financial System. *The Journal of Economic Perspectives* 24:4, 127-140.
- Sharman, J.C. (2009), "The Bark is the Bite: International Organizations and Blacklisting," *Review of International Political Economy* 16:4, 573-596.
- Shehu, A.Y. (2004) "The Asian Alternative Remittance Systems and Money Laundering," *Journal of Money Laundering Control* 7:2, 175-185.
- Shelley, L. (2010), ed., *Human Trafficking: A Global Perspective* . New York: Cambridge University Press.
- Sher, A. (2002, 30 May), "Counter Point: Regulation of *Hawala* is a Step in the Right Direction," *Gulf News*, available at http://gulfnews.com/news/uae/general/counter-point-regulation-of-hawala-is-a-step-in-the-right-direction-1.389063.
- Shome, P. (2006), "The Control of Tax Evasion and the Role of Tax Administration," in Bernardi, Fraschini and Shome, eds, *Tax Systems and Tax Reforms in South and East Asia,* 35-62.
- Siegel, D., and Nelen, H., (2008) eds., *Organized Crime: Culture, Markets and Policies* (New York: Springer).
- Silva, M. (2006), Islamic Banking Remarks, *Law and Business Review of the Americas, 12*:2, 201-211.
- Simser, J. (2013), "Money Laundering: Emerging Threats and Trends," *Journal of Money Laundering Control* 16:1, 41-54.
- Singh, S. (2007), "The Risks to Business Presented by Organised and Economically Motivated Criminal Enterprises," *Journal of Financial Crime* 14:1, 79–83.
- Sjofren, H., and Skogh, G. (2004), eds., *New Perspective on Economic Crime* (Cheltenham, UK: Edward Elgar).
- Smith, R.C., I. Walter, and G. DeLong (2012), *Global Banking*, 3rd ed., (New York: Oxford University Press).
- Smith M. and E. Kiwan, (2009, 25 Nov.) "Dubai Seeks Debt Delay, Some Units Cut to Junk," Reuters story available at http://www.reuters.com/article/2009/11/25/us-dubai-economy-idUSTRE5AO4Z120091125.

- Snider, L. (2008) "Corporate Economic Crimes," in Minkes and Minkes, eds., *Corporate and White Collar Crime*, 39-60.
- Snoj, J. (2015, 12 April), "UAE Population – By Nationality," *Business in Qatar and Beyond*, available at http://www.bq-magazine.com/economy/socioeconomics/2015/04/uae-population-by-nationality.
- Soudijn, M. (2012), "Resolving Excuses in Money Laundering," *Trends in Organized Crime* 15:2, 146-163.
- Soudijn, M. (2014), "Using Strangers for Money: A Discussion on Money-Launderers in Organized Crime," *Trends in Organized Crime* 17:3, 199-217.
- Soudjin, M. (2015), "*Hawala* and Money Laundering: Potential Use of Red Flags for Persons Offering *Hawala* Services," *European Journal on Criminal Policy and Research* 21:2, 257-274.
- Souster, R.J. (2013), *Financial Crime and Money Laundering* (Cranbrook, Kent, UK: Global Professional Publishing).
- Stack, G. (2015), "Shell Companies, Latvian-Type Correspondent Banking, Money Laundering and Illicit Financial Flows from Russia and the Former Soviet Union," *Journal Of Money Laundering Control*, 18:4, 496-512.
- Staple, G., "Combating Transnational Financial Crime," in Hodges, Kirton and Daniels, eds., *The G8's Role in the New Millennium*, 169-180.
- Standard Chartered Bank (2014, 19 August), "New York State Department of Financial Services' Consent Order Relating to Standard Chartered," available at https://www.sc.com/en/news-and-media/news/global/19-08-2014-announcement.html.
- Stansbury, J., and Barry, B. (2007), "Ethics Programs and the Paradox of Control," *Business Ethics Quarterly*, 17:2, 239-261.
- Stessens, G. (2000), *Money Laundering: A New International Law Enforcement Model .* Port Chester , NY, USA: Cambridge University Press.
- Stessens, G. (2001), "The FATF 'Black List' of Non-Cooperative Counries or Territories," *Leiden Journal of International Law* 14:1, 199-207.
- Storm, A. (2014), "Establishing the Link Between Money Laundering and Tax Evasion," The Clute Institute International Academic Conference, Munich, Germany, available at http://cluteinstitute.com/conference-proceedings/2014MUPapers/Article%20138.pdf.
- Stout, L. (2010), *Cultivating Conscience: How Good Laws Make Good People* (Princeton: Princeton University Press).
- Strange, S. (1996), *Retreat of the State: The Diffusion of Power in the World Economy* (Cambridge: Cambridge University Press).
- Stessens, G. (2000), *Money Laundering: A New International Law Enforcement Model.* Port Chester, NY: Cambridge University Press).
- Szarmach, L. (2010), "Piercing the Veil of Bank Secrecy: Assessing the United States' Settlement in the UBS Case," *Cornell International Law Journal* 43, 409-438.
- Tanzi, V., Barreix, A., and Villela, L. (eds.), *Taxation and Latin American Integration* (Cambridge, MA: Harvard University Press), 79-128.
- Tavakoli, A., Keenan, J., and Crnjak-Karanovic, B. (2003), "Culture And Whistleblowing: An Empirical Study of Croatian and United States Managers Utilizing Hofstede's Cultural Dimensions," *Journal of Business Ethics* 43:1, 49-64.
- Tax Justice Network/Financial Secrecy Index (2015), "Narrative Report on Dubai," available at http://www.financialsecrecyindex.com/PDF/UnitedArabEmirates_Dubai.pdf
- TechTarget (2016), www.whatis.com.
- Teh, R. (2013, 13 June), "Firms Offering Transparency in an Opaque GCC Marketplace," *Gulf News*, available at http://gulfnews.com/business/property/firms-offering-transparency-in-an-opaque-gcc-marketplace-1.1196608.
- "The UK Exchange Control: A Short History," *Bank of England Quarterly Bulletin* 7 (1967), 245-260.
- Thomburgh, D. (1995), "The Internalization of Business Crime," *Transnational Organized Crime* 1:1 23-32.
- Thompson, E. A. (2006), "The Nexus of Drug Trafficking and *Hawala* in Afghanistan," in Buddenberg and Byrd (eds), *Afghanistan's Drug Industry,* 155-188*.*
- Thomson Reuters/Compliant Group Report (2012), "The UAE Insurance Law," available at http://www.stalawfirm.com/public/uploads/downloads/UAE-Insurance-Law.pdf.
- Tidwell, A., and Lerche, C. (2004), "Globalization and Conflict Resolution," *International Journal of Peace Studies,* 9:1, 47-59.
- Townshend, S. (2016, 25 April), "Dubai Sets up Body to Fight Fraud, Money Laundering," *Arabian Business*, http://www.arabianbusiness.com/dubai-sets-up-body-fight-fraud-money-laundering-629524.html#.V7MJLLWezAo

- Trading Economics (2016), "United Arab Emirates GDP Growth Rate 2000-2014," available at http://www.tradingeconomics.com/united-arab-emirates/gdp-growth.
- Trading Economics (2016), "United Arab Emirates GDP 1973-2014," available at http://www.tradingeconomics.com/united-arab-emirates/gdp.
- Transparency International (2014), "Corruption Perceptions Index 2014: Results," available at https://www.transparency.org/cpi2014/results.
- Transparency International (2015), "Corruption Perception Index 2015," available at "https://www.transparency.org/cpi2015/.
- Transparency International (2016), "Corruption Perception Index 2016," available at http://www.transparency.org/news/feature/corruption_perceptions_index_2016.
- Transparency International (2016) "Corruption by Country/Territory," available at http://www.transparency.org/country#ARE_DataResearch_SurveysIndices.
- Trautsolt, J., and J. Johnsøn (2012), "International Anti-Money Laundering Regulation of Alternative Remittance Systems: Why the Current Approach does not Work in Developing Countries" *Journal of Money Laundering Control*, *15*:4, 407-420.
- Trehan, J. (2003), "Underground and Parallel Banking Systems," *Journal of Financial Crime* 10:1, 76-84.
- Trichur, R. (2015, April 11), "RBC Weighs More Unit Sales," *Wall Street Journal,* retrieved from http://ezproxy.aus.edu/login?url=http://search.proquest.com/docview/1672252154?accountid=16946
- Turner, J. E. (2011), *Money Laundering Prevention: Deterring, Detecting, and Resolving Financial Fraud* (Hoboken, NJ: John Wiley and Sons).
- Uncredited media articles
    - *Aawsat* (2002, 25 April), ["Emirates Applies Strict Measures To Combat Money Laundering,"] available at http://archive.aawsat.com/details.asp?article=99940&issueno=8549#.VVZYOPmqqko. Translated for the author by Mira Saeed Lootah and Hamda Faidallah Abdulkarim.
    - *Al Bayan* (2007, 16 May) ["Dubai Police Disrupt Largest Networks Of Laundering And Customs Fraud…"], available at http://www.albayan.ae/across-the-uae/1179215152204-2007-05-16-1.770112. Translated for the author by Mira Saeed Lootah and Hamda Faidallah Abdulkarim.
    - *Al Ittihad* (2007, 4 March), ["Central Denies the Use of the *Hawala* System in Money Laundering Operations,"] available at http://www.alittihad.ae/details.php?id=101037&y=2007&article=full. Translated for the author by Mira Saeed Lootah and Hamda Faidallah Abdulkarim.
    - *Alyaum* (2004, 7 June), ["The Success of the UAE's Efforts to Reduce the Suspicious Transfer of Funds"], available at http://www.alyaum.com/article/1180331. Translated for the author by Mira Saeed Lootah and Hamda Faidallah Abdulkarim.
    - A*rabian Business.com* (2014, 12 Nov.), "Ex-Deyaar CEO Sentenced to 10 Yrs in Jail," available at http://www.arabianbusiness.com/ex-deyaar-ceo-sentenced-10-yrs-in-jail-571600.html.
    - *Arabian Gazette* (2013, 3 April), "Dubai Property Market Still Benefiting from Arab Spring, Euro and Cypriot Crisis," available at http://www.arabiangazette.com/dubai-property-market-benefiting-arab-spring-euro-cypriot-crisis-20130403.
    - *Birmingham Mail* (2014, 22 May), "Suspected Fraudster Arrested in Dubai After Worldwide Three-Year Hunt," available at http://www.birminghammail.co.uk/news/suspected-fraudster-richard-ardolino-arrested-7157665.
    - *The Economist* (2014, 3 May), "Trade and Money Laundering: Uncontained," available at http://www.economist.com/news/international/21601537-trade-weakest-link-fight-against-dirty-money-uncontained.
    - *The Economist* (2015, 23 May), "Tackling Tax Evasion: America the Not So Brave," 62-63.
    - *Elaph* (2007, 3 March), ["UAE Disintegration of International Money Laundering Network"] available at http://elaph.com/Web/Economics/2007/3/215761.htm?sectionarchive=Economics. Translated for the author by Mira Saeed Lootah and Hamda Faidallah Abdulkarim.
    - *Emirates 24/7* (2012, 17 May), "Las Vegas-Style Gambling Casino Busted in Dubai," available at http://www.emirates247.com/news/world/las-vegas-style-gambling-casino-busted-in-dubai-2012-05-17-1.459201.
    - *Globe and Mail* (2008, 30 Sept.) "Corruption Scandals Plague Fast-Growing Dubai," B17.
    - *Gulf Business* (2014, 10 Feb.), "JP Morgan Cuts Banking Ties with Emirates NBD," available online at http://gulfbusiness.com/jp-morgan-cuts-banking-ties-emirates-nbd/.
    - *Gulf News:*

- (2000, 11 Nov.), "*Gulf News* Says: Being One Step Ahead," available at http://gulfnews.com/news/uae/general/gulf-news-says-being-one-step-ahead-1.434747.
- (2001, 21 May), "Central Bank Denies Money Laundering Charge," available at http://gulfnews.com/news/uae/general/central-bank-denies-money-laundering-charge-1.417121.
- (2001, 24 May), "GCC Law Against Money Laundering Takes Shape," available at http://gulfnews.com/news/uae/general/gcc-law-against-money-laundering-takes-shape-1.417355.
- (2001, 7 Oct.), "Exchange Houses Hail New Ruling on Money Transfer," available at http://gulfnews.com/news/uae/general/exchange-houses-hail-new-ruling-on-money-transfer-1.426494.
- (2001, 10 Oct.) "*Gulf News* Says: Building Global Trust."
- (2001, 22 Oct.), "U.S. to Train Bank Regulators in Gulf," available at http://gulfnews.com/news/uae/general/u-s-to-train-bank-regulators-in-gulf-1.427918.
- (2001, 31 Oct.), "UAE Shuts Money Exchange House," available at http://gulfnews.com/news/uae/general/uae-shuts-money-exchange-house-1.428783.
- (2001, 14 Nov.), "Pakistanis Urged to Shun Hawala System," *Gulf News*, available at http://gulfnews.com/news/uae/general/pakistanis-urged-to-shun-hawala-system-1.430042.
- (2001, 31 Dec.), "UAE to Enforce Money Laundering Law in January," available at http://gulfnews.com/news/uae/general/uae-to-enforce-money-laundering-law-in-january-1.433565.
- (2002, 7 Jan.), "UAE Set to Enforce Fund Declaration for Visitors," available at http://gulfnews.com/news/uae/general/uae-set-to-enforce-fund-declaration-for-visitors-1.374889.
- (2002, 26 Jan.), "Police Officers Attend Course to Combat Crime," available at http://gulfnews.com/news/uae/general/police-officers-attend-course-to-combat-crime-1.376518.
- (2002, 5 Feb.) "Task Force Recognises UAE's Anti-Money Laundering Efforts," available at http://gulfnews.com/news/uae/general/task-force-recognises-uae-s-anti-money-laundering-efforts-1.377487.
- (2002, 7 Feb.) "UAE efforts to Combat Money Laundering Win Global Praise," available at http://gulfnews.com/news/uae/general/uae-efforts-to-combat-money-laundering-win-global-praise-1.377676.
- (2002, 21 Feb.), "Jewelers Held for Questioning," available at http://gulfnews.com/news/uae/general/jewellers-held-for-questioning-1.379017.
- (2002, 17 March), "Money Laundering Bane of Economies," available at http://gulfnews.com/news/uae/general/money-laundering-bane-of-economies-1.381209.
- (2002, 26 March), "Canadian in UAE to be Extradited," available at http://gulfnews.com/news/uae/general/canadian-in-uae-to-be-extradited-1.382173.
- (2002, 2 June), "Move on Freeze of Accounts Defended," available at http://gulfnews.com/news/uae/general/move-on-freeze-of-accounts-defended-1.389421.
- (2002, 29 July), "23 Piracy Suits Referred to Prosecution," available at http://gulfnews.com/news/uae/general/23-piracy-suits-referred-to-prosecution-1.395150.
- (2002, 10 Dec.), "Jurisdiction of Prosecutions Defined," available at http://gulfnews.com/news/uae/general/jurisdiction-of-prosecutions-defined-1.405301.
- (2005, 28 Sept.), "Esca and DFSA in Accord on Information Sharing," available at http://gulfnews.com/business/sectors/construction/esca-and-dfsa-in-accord-on-information-sharing-1.302379.
- (2006, 23 Jan.), "DIFC Releases Draft Law For Fund Management Firms," available at http://gulfnews.com/business/sectors/markets/difc-releases-draft-law-for-fund-management-firms-1.222467.
- (2006, 1 March), "DFSA Signs Data Sharing Pact with UK Counterpart," available at http://gulfnews.com/business/sectors/banking/dfsa-signs-data-sharing-pact-with-uk-counterpart-1.227100.

- (2006, 14 March), "DFSA in MoU with Jersey Financial," available at http://gulfnews.com/business/sectors/banking/dfsa-in-mou-with-jersey-financial-1.228706.
- (2006, 8 Aug.), "Compliance Specialist Sets Up Shop at DIFC," available at http://gulfnews.com/business/sectors/banking/compliance-specialist-sets-up-shop-at-difc-1.248979.
- (2006, 13 Sept.), "Dubai Financial Services Authority Signs Accord with Australia's ASIC," available at http://gulfnews.com/business/sectors/investment/dubai-financial-services-authoritysigns-accord-with-australia-s-asic-1.136341.
- (2006, 15 Sept.), "DFSA Signs Deal with Greek Regulator," available at http://gulfnews.com/business/sectors/banking/dfsa-signs-deal-with-greek-regulator-1.201107.
- (2007, 25 Oct.) "DFSA Signs Agreement with US Banking Regulators," *Gulf News*, available at http://gulfnews.com/business/sectors/banking/dfsa-signs-agreement-with-us-banking-regulators-1.207892.
- (2008, 22 June), "Tackling Money Launderers Head on," available at http://gulfnews.com/news/uae/crime/tackling-money-launderers-head-on-1.113231.
- (2009, 23 Feb.), "DFSA, Central Bank in Pact," available at http://gulfnews.com/business/sectors/banking/dfsa-central-bank-in-pact-1.52938.
- (2009, 13 Aug.), "DFSA Signs Pact with South African Banking Regulator," available at http://gulfnews.com/business/sectors/banking/dfsa-signs-pact-with-south-african-banking-regulator-1.535374.
- (2010, 8 March), "Dubai Financial Services Authority Inks Accord with French Regulator AMF," available at http://gulfnews.com/business/sectors/banking/dubai-financial-services-authority-inks-accord-with-french-regulator-amf-1.593454.
- (2011, 17 April), "Ask the Expert: Property Registration," available at http://gulfnews.com/business/property/ask-the-expert-property-registration-1.795030.
- (2012, 16 Jan.), "Anti-Money Laundering Role Moved to DFSA," available at http://gulfnews.com/business/sectors/markets/anti-money-laundering-role-moved-to-dfsa-1.966369.
- (2012, 30 Jan.), "DFSA in Deal with US Audit Regulator," available at http://gulfnews.com/business/sectors/banking/dfsa-in-deal-with-us-audit-regulator-1.973076.
- (2012, 28 July), "Man Detained for Suspected Money Laundering," available at http://gulfnews.com/news/uae/crime/man-detained-for-suspected-money-laundering-1.1054504.
- (2012, 25 Nov.), "Customs Agents Catch Diamond Smugglers," available at http://gulfnews.com/news/uae/crime/customs-agents-catch-diamond-smugglers-1.1109857.
- (2014, 27 May), "DFSA Signs Agreement with Egyptian Regulator," available at http://gulfnews.com/business/sectors/markets/dfsa-signs-agreement-with-egyptian-regulator-1.1339570.
- (2015, 29 July), "DFSA Fines Arqaam Capital over Money Laundering Rules," available at http://gulfnews.com/business/sectors/markets/dfsa-fines-arqaam-capital-over-money-laundering-rules-1.1558267.

- *Khaleej Times* (2016, 25 April), "New Law To Protect Dubai's Economy From Financial Crime," available at http://www.khaleejtimes.com/nation/government/new-law-to-protect-dubais-economy-from-financial-crimes.
- *Khaleej Time*s (2011, July), "About the Federal National Council," http://www.khaleejtimes.com/displayarticle.asp?xfile=/data/theuae/2011/July/theuae_July349.xml&section=theuae.
- *Khaleej Times* (2005, 20 Oct.), "Abu Dhabi Islamic Bank to Keep Nortel Funds Freeze Over 'Money Laundering,'" available at http://www.khaleejtimes.com/kt-article-display-1.asp?section=theuae&xfile=data/theuae/2005/october/theuae_october585.xml.
- *Manama Voice News* (2014, 5 Feb.), ["Officials are accused of laundering large funds worth 4 billion riyals and exploitation of records … "] available at http://manamavoice.com/news-news_read-18032-0.html. Translated for the author by Mira Saeed Lootah and Hamda Faidallah Abdulkarim.

- *The National* (2013, 14 Jan.), "What is the Abu Dhabi Accountability Authority?," available at http://www.thenational.ae/news/uae-news/what-is-the-abu-dhabi-accountability-authority.
- *Saudi Gazette* (2015, 26 Oct.), "Abu Dhabi to Host 10th GCC Regulators' Summit," online at http://saudigazette.com.sa/business/abu-dhabi-to-host-10th-gcc-regulators-summit/.
- *Structured Products* (2011), "EU adds voice to protests against US FATCA tax," *7*:8, 4. Retrieved from http://ezproxy.aus.edu/login?url=http://search.proquest.com/docview/868576916?accountid=16946.
- *The Telegraph* (2008, 8 May), "Who's Afraid of Dawood Ibrahim," online at https://www.telegraphindia.com/1050508/asp/opinion/story_4709525.asp.
- *Trade Arabia* (2014, 1 Oct.), "5 Convicted in $922m Money-Laundering Racket in Bahrain," available at http://www.tradearabia.com/news/BANK_266786.html.
- *Vancouver Sun* (2015, 23 Oct.), "Target Tax Evaders," B6.

- Unger, B., and D. van der Linde, eds., (2013), *Research Handbook on Money Laundering* (Cheltenham, UK: Edward Elgar).
- Unger, B. (2013), "Money Laundering Regulation: From Al Capone to Al Qaeda," in Unger and van der Linde, eds., *Research Handbook on Money Laundering*, 19-32.
- Unger, B. et al (2006), "The Amounts and Effects of Money Laundering" (The Hague: Utrecht School of Economics report to the Ministry of Finance).
- Unger, B. (2007), *The Scale and Impact of Money Laundering* (Cheltenham: Edward Elgar).
- United Arab Emirates (UAE) Federal Institutions
  - UAE Anti-Money Laundering and Suspicious Cases Unit (2012), "Annual Report – 2012" (Abu Dhabi: UAE Financial Intelligence Unit).
  - UAE Anti-Money Laundering and Suspicious Cases Unit (2013), "Annual Report – 2013" (Abu Dhabi: UAE Financial Intelligence Unit).
  - UAE Cabinet, Resolution No. 28 (2007), "On the Implementing Regulations of Federal Law No. 8 of 2004 Concerning Financial Free Zones," available at https://www.difc.ae/files/1614/5449/7478/Cabinet_Resolution_No_28_of_2007_English.pdf.
  - UAE Minister of Economy, Ministerial Resolution No. (225) of 2015 "Concerning Governance Rules and Corporate Discipline Standards," available at https://www.sca.gov.ae/English/legalaffairs/New%20Laws/012.pdf.
  - UAE Central Bank (no date), "Agreement between the Government of the United States and the Government of America United Arab Emirates to Improve International Tax Compliance and to Implement FATCA," available at http://www.centralbank.ae/en/pdf/notices/FATCA-Agreement-UAE.pdf.
  - UAE Central Bank (2008, 17 June), "Addendum to Circular No. 24/2000 - Regulation concerning Procedures for Anti-Money Laundering," Notice No. 2922/2008, available at http://www.centralbank.ae/pdf/amlscu/Central%20Bank%20Notice%20No.2922-2008.pdf.
  - UAE Central Bank (2014), "List of National Banks and Distribution of their branches in the UAE as at 31-10-2014" available at http://www.centralbank.ae/en/pdf/bsed/List-of-Local-Banks-Branches-En_30102014.pdf.
  - UAE Central Bank (2014), "List of Foreign Banks and Distribution of their branches in the UAE as at 31-10-2014" available at http://www.centralbank.ae/en/pdf/bsed/List-of-Foreign-Banks-Branches-En_30102014.pdf.
  - UAE Central Bank (2015), "Financial Stability Report 2015,"available at http://www.centralbank.ae/en/pdf/reports/FinancialStabilityReport2015.pdf.
  - UAE Central Bank (2016), "Commercial Banks," available at http://www.centralbank.ae/en/index.php?option=com_content&view=article&id=117&Itemid=97.
  - UAE Central Bank (2016), "Moneychangers," available at http://www.centralbank.ae/en/pdf/bsed/List-of-Moneychangers30092014_2.pdf.
  - UAE Central Bank, (2016), "Commercial Banks," available at http://www.centralbank.ae/en/index.php?option=com_content&view=article&id=117&Itemid=97.
  - UAE Insurance Authority (2010), "Board Resolution No. 3 of 2010, Concerning the Code of Conduct and Ethics to be Observed by Insurance Companies Operating in the UAE," available at http://www.ia.gov.ae/en/Documents/3%20of%202010%20concerning%20the%20Code%20of%20Conduct%20and%20Ethics.pdf.

    - UAE Insurance Authority (2015), "Board Resolution No. 13 of 2015, Instructions Concerning Anti-Money Laundering and Counter-Terrorism Financing in Insurance Activities," available at http://www.ia.gov.ae/en/Documents/Instructions%20Concerning%20Anti-Money%20Laundry%20and%20Counter-Terrorism%20Financing%20in%20Insurance%20Activities.pdf.
    - UAE Insurance Authority (2009), "Board Resolution No. 1 of 2009," *Willis International Alert*, 42 (April 2010), 1.
    - UAE Prime Minister's Office, "Vision 2021," available at https://www.vision2021.ae/en/our-vision.
    - UAE Ministry of Economy, "Annual Economic Report 2015," available at http://www.economy.gov.ae/EconomicalReportsEn/MOE%20Annual%20Report%20English%20-%202015.pdf.
    - UAE Ministry of Finance (2017), "Tax Compliance," available at https://www.mof.gov.ae/En/strategicPartnership/taxAgreement/Pages/FATCA.aspx.
    - UAE Ministry of Finance (2016, 11 Sept.), "UAE Joins Membership of the Global Forum on Transparency and Exchange of Information," available at https://www.mof.gov.ae/En/Media/News/Pages/9112016.aspx.
    - UAE Ministry of Justice (2008), *UAE Federal Laws English-Arabic*, 10 vols. (Dubai: Sader Legal Publishing).
    - UAE Securities and Commodities Authority [SCA] (2013), "Establishment," available at http://www.sca.gov.ae/English/sca/Pages/establishment.aspx.
    - UAE Securities and Commodities Authority [SCA], The Authority's Board of Directors Decision No. (10) of 2014, Concerning the Regulation of Listing and Trading of Private Joint Stock Companies, Articles (9), available at https://www.sca.gov.ae/English/legalaffairs/New%20Laws/020.pdf.
    - UAE Securities and Commodities Authority [SCA] (2015, 13 May), "Amendment of Governance Rules and Corporate Discipline Standards Stresses the Requirement to Nominate Ladies to Boards of Directors," press release, available at http://www.sca.gov.ae/English/news/Pages/13-05-2015.aspx.
- United Kingdom (UK) Federal Institutions
    - UK Money Laundering Regulations 2007, available at http://www.legislation.gov.uk/uksi/2007/2157/made.
    - UK/G8 (2013), "Trade, Tax and Transparency: the 2013 UK G8 Presidency Report," available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/271676/G8_report_WEB_FINAL.PDF.
    - UK House of Commons Foreign Affairs Committee (2006), Foreign Policy Aspects of the War against Terrorism: Fourth Report of Session 2005-2006 (London: House of Commons)
- United Nations publications
    - (1988), "United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances," (New York: United Nations).
    - (2004) United Nations Convention Against Corruption (UNCAC), (New York: United Nations Office on Drugs and Crime).
    - (2011), "The United Nations Model Double Taxation Convention Between Developed and Developing Countries," (New York: U.N. Department of Economic and Social Affairs), available at http://www.un.org/esa/ffd/documents/UN_Model_2011_Update.pdf.
    - (2013, September), "Number of International Migrants Worldwide Reaches 232 Million," Population Facts, Department of Economic and Social Affaires, Population Division, No. 2013/2, available at https://esa.un.org/unmigration/documents/the_number_of_international_migrants.pdf.
    - (2016, 22 Aug.), "Security Council ISIL (Da'esh) and Al-Qaida Sanctions Committee Amends One Entry on Its Sanctions List," press release, available at https://www.un.org/press/en/2016/sc12483.doc.htm.
- US-UAE Business Council (2012), "Council Report: U.A.E. Ports and Transportation Infrastructure Industry and Opportunities for Partnership," available at http://usuaebusiness.org/council-report-u-a-e-ports-transportation-infrastructure-industry-and-opportunities-for-partnership/
- United States (US) Federal Institutions
    - US Department of Justice (2008, 15 Dec.), "Transcript of Press Conference Announcing Siemens AG and Three Subsidiaries Plead Guilty," available at https://www.justice.gov/archive/opa/pr/2008/December/08-opa-1112.html.

- United States Department of Justice (2014, 18 Dec.), U.S. Attorney's Office, Southern District of New York, "Manhattan U.S. Attorney Sues Thomas E. Haider, Former Chief Compliance Officer of Moneygram International, Inc., for Violating the Bank Secrecy Act," press release, available at https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-sues-thomas-e-haider-former-chief-compliance-officer-moneygram.
- US Department of State (2000), "Money Laundering and Financial Crime," *International Narcotics Control Strategy Report,* 1 March, available at https://www.state.gov/j/inl/rls/nrcrpt/1999/928.htm.
- US Department of State/Bureau for International Narcotics and Law Enforcement Affairs (2005, March), "International Narcotics Control Strategy Report," available at http://www.state.gov/j/inl/rls/nrcrpt/2005/vol2/html/42382.htm.
- US Department of State/Bureau of International Narcotics and Law Enforcement Affairs (2009, 27 Feb.), "International Narcotics Control Strategy Report (INCSR), United Arab Emirates," available at https://www.state.gov/j/inl/rls/nrcrpt/2009/vol2/119823.htm.
- US Department of State/Bureau of International Narcotics and Law Enforcement Affairs (2014), "Countries/Jurisdictions of Primary Concern: United Arab Emirates," International Narcotics Control Strategy Report, available at http://www.state.gov/j/inl/rls/nrcrpt/2014/vol2/222842.htm.
- U.S. Department of State/Bureau of International Narcotics and Law Enforcement Affairs (2016), International Narcotics Control Strategy Report (INCSR), Volume II: Money Laundering and Financial Crime, Countries/Jurisdictions of Primary Concern: United Arab Emirates, available at https://www.state.gov/j/inl/rls/nrcrpt/2016/vol2/253437.htm.
- US Department of the Treasury (2017), "Resource Center/Foreign Account Tax Compliance Act (FATCA)," available at https://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA.aspx.
- US Department of the Treasury/Financial Crimes Enforcement Network (2006), "Feasibility of a Cross-Border Electronic Funds Transfer Reporting System under the Bank Secrecy Act" (Washington, DC: US Department of the Treasury), available at https://www.fincen.gov/reports-congress-0.
- U.S. Department of Treasury (2015, 16 Jan.), "Treasury Sanctions Two Indian Nationals and a Company Based in Pakistan for Ties to the South Asian Criminal Network 'D Company'," press release available at https://www.treasury.gov/press-center/press-releases/Pages/jl9742.aspx.
- US Department of the Treasury/UAE (2015, 17 June), "Memorandum of Understanding," available at https://www.treasury.gov/resource-center/tax-policy/treaties/Documents/Understanding-UAE.pdf.
- US Department of the Treasury/UAE (2016, 19 Feb.), "Agreement between the Government of the United States of America and the Government of the United Arab Emirates to Improve International Tax Compliance and to Implement FATCA," available at https://www.treasury.gov/resource-center/tax-policy/treaties/Documents/FATCA-Agreement-UAE-6-17-2015.pdf.
- US Department of the Treasury (2016, 5 May), "Treasury Announces Key Regulations and Legislation to Counter Money Laundering and Corruption, Combat Tax Evasion," available at https://www.treasury.gov/press-center/press-releases/Pages/jl0451.aspx.
- US Department of the Treasury/Financial Crimes Enforcement Network (2010, 18 Feb.), "Advisory to Financial Institutions on Filing Suspicious Activity Reports Regarding Trade-Based Money Laundering," *US Department of Treasury*, available at https://www.fincen.gov/sites/default/files/advisory/fin-2010-a001.pdf.
- US Department of the Treasury/Financial Crimes Enforcement Network (2016, 31 March), "Imposition of Special Measure Against FBME Bank Ltd., Formerly Known as the Federal Bank of the Middle East Ltd., as a Financial Institution of Primary Money Laundering Concern," *Federal Register* 81:62, Rules and Regulations, 18480–18494, available at https://www.gpo.gov/fdsys/pkg/FR-2016-03-31/pdf/2016-07210.pdf.
- US Department of the Treasury/Financial Crimes Enforcement Network (2014, 22 July), "Notice of Finding That FBME Bank Ltd., Formerly Known as Federal Bank of the Middle East, Ltd., is a Financial Institution of Primary Money Laundering Concern," *Federal Register*, 79:140, Notices, 42639-42641, available at https://www.fincen.gov/sites/default/files/shared/FBME_NOF.pdf.
- US Department of the Treasury/FinCEN (2015, 8 Dec.), "Notice 2015-1 FBAR Filing Requirements – Extending Filing Date Related to Notice 2014-1," available at https://www.fincen.gov/sites/default/files/shared/20151208.pdf.
- US Department of the Treasury/Financial Crimes Enforcement Network (2016, 11 May), "Customer Due Diligence Requirements for Financial Institutions," *Federal Register*

81:91, Rules and Regulations, 29398-29458, available at https://www.federalregister.gov/articles/2016/05/11/2016-10567/customer-due-diligence-requirements-for-financial-institutions.
    - US Department of the Treasury/FinCEN (2017, January),"BSA Electronic Filing Requirements For Report of Foreign Bank and Financial Accounts (FinCEN Form114)," available at https://www.fincen.gov/sites/default/files/shared/FBAR%20Line%20Item%20Filing%20Instructions.pdf.
    - US Department of the Treasury/Press Center (2015, 12 November), "Treasury Sanctions the Khanani Money Laundering Organization*: Action Targets Significant Transnational Criminal Organization Responsible for Laundering Illicit Funds for Terrorists, Drug Traffickers, and Criminal Groups Worldwide,"* available at https://www.treasury.gov/press-center/press-releases/Pages/jl0265.aspx.
    - United States Government Accountability Office (2016, March), "FINANCIAL INSTITUTIONS: Fines, Penalties, and Forfeitures for Violations of Financial Crimes and Sanctions Requirements," *Report to Congressional Requesters* (Washington, DC: US Government Accountability Office).
    - US House of Representatives (2000), *Russian Money Laundering: Hearing before the Committee on Banking and Financial Services … September 21, 22, 1999*, Serial No. 106-38 (Washington, DC: US Government Printing Office); a version attributed to DIANE Publishing is available at https://books.google.ae/books?id=-dPpeeU84h0C&pg=PP1&dq=Russian+Money+Laundering:+Hearing+before+the+Committee+on+Banking+and+Financial+Services&hl=en&sa=X&redir_esc=y#v=onepage&q&f=false.
    - US Internal Revenue Service (2014, 6 June), "IRS Offshore Voluntary Disclosure Efforts Produce $6.5 Billion; 45,000 Taxpayers Participate," available at https://www.irs.gov/uac/newsroom/irs-offshore-voluntary-disclosure-efforts-produce-6-5-billion-45-000-taxpayers-participate.)
    - US Internal Revenue Service (2017), "Current FBAR Guidelines," Report of Foreign Bank and Financial Accounts (FBAR), available at https://www.irs.gov/businesses/small-businesses-self-employed/report-of-foreign-bank-and-financial-accounts-fbar.
    - United States Internal Revenue Service (2017), "FATCA Information for Foreign Financial Institutions and Entities," available at https://www.irs.gov/businesses/corporations/information-for-foreign-financial-institutions.
    - United States Internal Revenue Service (2017), "Summary of FATCA Reporting for U.S. Taxpayers," available at https://www.irs.gov/businesses/corporations/summary-of-fatca-reporting-for-u-s-taxpayers.
    - United States Internal Revenue Service (2017), "FATCA – Regulations and Other Guidance," available at https://www.irs.gov/businesses/corporations/fatca-regulations-and-other-guidance.
- Uppal, R. (2009, 23 June), "UAE Regulators Join Hands to Ensure Probity," *Gulf News,* available at http://gulfnews.com/cmlink/old-gulfnews/business/banking/uae-regulators-join-hands-to-ensure-probity-1.18231.
- Van de Bunt, H. (2008), "A Case Study on the Misuse of Hawala Banking," *International Journal of Social Economics* 35:9, 691-702.
- van der Does de Willebois, Emile, Emily M. Halter, Robert A. Harrison, Ji Won Park, J.C. Sharman (2011), *The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It* (Washington, DC: World Bank).
- van Duyne, P C., K. von Lampe and J.L. Newell (2003), eds., *Criminal Finances and Organising Crime in Europe* (Nijmegen: Wolf Legal Publishers).
- van Duyne, P.C., M.S. Groenhuijsen, and A.A.P. Schudelaro (2005), "Balancing Financial Threats and Legal Interests in Money-Laundering Policy," *Crime, Law and Social Change* 43, 117-147.
- van Duyne, P.C. and M. Levi (2005), *Drugs and Money: Managing the drug trade and crime-money in Europe* (London and New York: Routledge).
- van Duyne, P C. (2003), "Money Laundering Policy: Fears and Facts," in van Duyne, von Lampe, and Newell, eds. *Criminal Finance and Organizing Crime in Europe*, 67-104.
- Velayos, F., Barreix, A., and Villela, L. (2008), "Regional Integration and Tax Harmonization: Issues and Recent Experiences," in Tanzi, Barreix, and Villela (eds.), *Taxation and Latin American Integration*, 79-128.
- Verhage, A. (2009), "Between the Hammer and the Anvil? The Anti-Money Laundering-Complex and its Interactions with the Compliance Industry," *Crime, Law and Social Change* 52:1, 9-32.

- Verhage, A. (2011) *The Anti Money Laundering Complex and Compliance Industry* (London: Routledge).
- Vettori, B (2013), "Evaluating Anti-Money Laundering Policies: Where Are We?," in Unger and van der Linde, *Research Handbook on Money Laundering,* 474-485.
- Walker, L. (2000, 9-10 March), "Corruption in International Banking and Financial Systems," paper presented at the Transnational Crime Conference, Canberra, organized by the Australian Institute of Criminology/Australian Federal Police/Australian Customs Service, available at aic.gov.au/media_library/conferences/transnational/walker.pdf.
- Walker, J., and Unger, B. (2009), "Measuring Global Money Laundering: The Walker Gravity Model," *Review of Law and Economics* 5:2 (2009), 821-853. (This article, in revised form, later appeared as a chapter in Unger and van der Linde, *Research Handbook on Money Laundering*, 159-171.)
- Warde, Ibrahim (2004), "Global Politics, Islamic Finance and Islamist Politics Before and After 11 September 2001," in Henry and Wilson, eds., *The Politics of Islamic Finance*, 37-62.
- WAM (official UAE news agency) report (2001, 10 Oct.), "Law on Money Laundering Gets Cabinet's Nod," *Gulf News*, available at http://gulfnews.com/news/uae/general/law-on-money-laundering-gets-cabinet-s-nod-1.426796.
- WAM (official UAE news agency) report (2002, 24 Jan.), "Anti-Money Laundering Law Signed," *Gulf News*, available at http://gulfnews.com/news/uae/general/anti-money-laundering-law-signed-1.376359.
- WAM (official UAE news agency) report (2005, 3 Oct.), "UAE Keeps Tabs on Inflow of Foreign Funds," *Gulf News*, available at http://gulfnews.com/news/uae/government/uae-keeps-tabs-on-inflow-of-foreign-funds-1.302965.
- Wang, R. (2011), "Regulating Hawala: A Comparison of Five National Approaches," *Journal of Money Laundering Control*, 14:3, 210–224.
- Weaver, G. R., and Treviño, L. K. (1999), "Compliance and Values Oriented Ethics Programs: Influences on Employees' Attitudes and Behavior," *Business Ethics Quarterly* 9:2, 315-335.
- Weaver, G. R., Treviño, L. K., and Cochran, P. L. (1999), "Corporate Ethics Programs as Control Systems: Influences of Executive Commitment and Environmental Factors," *Academy of Management Journal* 42:1,41-57.
- WebFinance Inc. (2016), *BusinessDictionary.com*.
- Wei, S. (2000), "How Taxing is Corruption on International Investors?," *The Review of Economics and Statistics* 82:1, 1-11.
- Weinstein, L. (2008), "Mumbai's Development Mafias: Globalization, Organized Crime and Land Development," *International Journal of Urban and Regional Research* 32:1, 22-39.
- Weisenthal, J. (28 October, 2013), "The Dubai Economy is Going Nuts, and There's a Surprising New Factor Fueling The Boom," *Business Insider*, available at http://www.businessinsider.com/arab-spring-fueling-dubai-boom-2013-10.
- Welling, S.N. (1989), "Smurfing, Money Laundering and the Federal Criminal Law: The Crime of Structuring Transactions," *Florida Law Review* 41, 287 -343.
- Wells, J. T. (2002), "Billing Schemes, Part 1: Shell Companies That Don't Deliver," *Journal Of Accountancy* 194:1, 76-79.
- Wheatley, J. (2005), "Ancient Banking, Modern Crimes: How *Hawala* Secretly Transfers the Finances of Criminals and Thwarts Existing Laws," *University of Pennsylvania Journal of International Economic Law* 26, 347-379.
- Whitehouse, A. (2003), "A Brave New World: The Impact of Domestic and International Regulation on Money Laundering Prevention in the UK," *Journal of Financial Regulation and Compliance* 11:2, 138–145.
- Wilson, J. F. (2002, 16 May), "Hawala and Other Informal Payments Systems: An Economic Perspective," address, Seminar on Monetary and Financial Law, available at http://www.kabul-reconstructions.net/images/wilson.pdf.
- Williams, P., and Vlassis D., (2001), eds., *Combating Transnational Crime: Concepts, Activities and Responses* (London: Frank Cass).
- Williams, T.F. (2009), "Banker as Victim: An Approach to Money Laundering Prosecutions," *Journal of Money Laundering Control* 12:1, 50–58.
- Woodiwiss, M. (2005), *Gangster Capitalism: The United States and the Global Rise of Organized Crime* (New York: Carroll and Graf).
- World Bank (2009), *Combating Money Laundering and the Financing of Terrorism* (Washington, DC: World Bank).
- World Bank (2016), "Foreign Direct Investment, Net Inflows (BoP, Current US$)," United Arab Emirates, available at http://data.worldbank.org/indicator/BX.KLT.DINV.CD.WD?contextual=default&end=201&locations=AE&start=1970&view=chart.

- World Bank (2016), Logistic Performance Index, "Global Ranking 2016," available at http://lpi.worldbank.org/international/global.
- World Economic Forum/Global Agenda Council on Organized Crime (2011), "2010-2011 Term Report," available at http://www3.weforum.org/docs/WEF_GAC_OrganizedCrime_Report_2010-11.pdf.
- World Economic Forum (2016), "What's Behind the Drop in Oil Prices?," available at https://www.weforum.org/agenda/2016/03/what-s-behind-the-drop-in-oil-prices.
- World Trade Organization (WTO)/General Agreement of Tariffs and Trade (GATT) (1994), Article X, available at https://www.wto.org/english/res_e/booksp_e/analytic_index_e/gatt1994_04_e.htm#article10A1.
- World Integrated Trade Solution (2017), "United Arab Emirates Trade at a Glance : Most Recent Values," available at http://wits.worldbank.org/CountrySnapshot/en/ARE.
- World Trade Organization (WTO)/General Agreement of Trade and Service (GATS) (1995), Article III, available at https://www.wto.org/english/docs_e/legal_e/26-gats_01_e.htm;
- World Trade Organization (WTO) (1994), "Uruguay Round Agreement: The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)," Part V: Dispute Prevention and Settlement, Article 63, available at https://www.wto.org/english/docs_e/legal_e/27-trips_07_e.htm.
- Yeandle, M., Mainelli, M., Berendt, A., and Healy, B. (2005), *Anti-Money Laundering Requirements: Costs, Benefits and Perceptions* (City Research Series Number Six, Corporation of London) available at http://www.zyen.com/PDF/AMLR_FULL.pdf.
- Zagaris, B. (2007), "Problems Applying Traditional Anti-Money Laundering Procedures to Non-Financial Transactions, 'Parallel Banking Systems,' and Islamic Financial Systems." *Journal of Money Laundering Control* 10:2, 157-169.
- Zaharna, R.S., "Understanding Cultural Preferences of Arab Communication Patterns," *Public Relations Review* 21:3, 241-255.
- Zarate, J.C. (2013), *Treasury's War*, (New York: Public Affairs.)
- Zarb, B. J. (2011), "Double Tax Treaties," *CPA Journal* 81:3, 50-53.
- Zarzeski, M. T. (1996), "Spontaneous Harmonization Effects of Culture and Market Forces on Accounting Disclosure Practices," *Accounting Horizons* 10:1, 18-37.
- Zawya Dow Jones (2012, 17 Sept.), "Arqaam and Ernst & Young Agree to Pay Fines," *Gulf News*, available at http://gulfnews.com/business/sectors/general/arqaam-and-ernst-young-agree-to-pay-fines-1.1077728.
- Za'Za, B. (2002, 10 Oct.), "Two Arrested for Money Laundering," *Gulf News*, available at http://gulfnews.com/news/uae/general/two-arrested-for-money-laundering-1.400960.
- Za'za, B. (2005, 3 June), "Businessman and Accountant Cleared of Money Laundering," *Gulf News*, available at http://gulfnews.com/news/uae/crime/businessman-and-accountant-cleared-of-money-laundering-1.289774.
- Za'za, B. (2006, 12 June), "UAE Extradites Wanted Russian to Spain," *Gulf News*, available at http://gulfnews.com/news/uae/general/uae-extraditeswanted-russian-to-spain-1.240605.
- Za'za, B. (2007, 29 May), "Dubai Police Arrest 16 Suspects for Money Laundering," *Gulf News*, available at http://gulfnews.com/news/uae/crime/dubai-police-arrest-16-suspects-for-money-laundering-1.180320.
- Za'za, B. (9 March, 2009), "Dubai Islamic Banks, Dh1.8b Fraud Case Referred to Court," *Gulf News*, available at http://gulfnews.com/news/uae/crime/dubai-islamic-bank-dh1-8b-fraud-case-referred-to-court-1.56801.
- Zeidan, M. (2012), 'The Effects of Violating Banking Regulations on the Financial Performance of the US Banking Industry," *Journal of Financial Regulation and Compliance* 20:1, 56–71.
- Zdanowicz, J.S. (2013), "International Trade Mispricing: Trade-Based Money Laundering and Tax Evasion," in Under and van der Linde, eds., *Research Handbook on Money Laundering*, 253-267.
- Zimmerli, W.C., Richter, K., Holzinger, M., eds. (2007), *Corporate Ethics and Corporate Governance* (Berlin: Springer).
- Zucman, G. (2013), "The Missing Wealth of Nations: Are Europe and the U.S. Net Debtors or Net Creditors?," *Quarterly Journal of Economics* 128:3, 1321-1364.
- Zucman, G. (2014), "Taxing Across Borders: Tracking Personal Wealth and Corporate Profits," *Journal of Economic Perspectives* 28:4, 121-148.