

# FSG Anti-Money Laundering (AML) Task Force – The Curious Case Of Money-Laundering Controls

**Webinar**

Thursday 25 June 2020



**Financial Services Group of  
Livery Companies**

# Welcome



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**Kate Surala**

Chief Compliance Officer  
Member of FSG AML Task Force



**Graeme Gordon**

CEO Praxity  
Chair of FSG AML Task Force



**Professor Michael Levi**

Professor of Criminology  
Cardiff University



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# Agenda

- 12:00 – 12:03 Welcome
- 12:03 – 12:05 Chairman's Introduction
- 12:05 – 12:30 Professor Michael Levi
- 12:30 – 12:45 Panel Discussion, Q&A



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# Introduction



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# FSG AML Task Force “Purpose”



- To Strengthening and Simplifying Anti-Money Laundering within the UK
- The City of London & UK is “Open For Business”
- Engage with major financial Institutions, ensure they realise the benefits to themselves of implementing revised AML procedures, if not already in place
- Galvanize relevant Trade Bodies to not only support the initiative and promote it well beyond the end of this year
- Galvanize all the Livery Companies of the City to promote and support the initiative in the best ways they feel they can
  - Webinars
  - Website
  - Seminars
  - E-Newsletters



# AML Task Force 2020 Schedule

|         |             |  |
|---------|-------------|--|
| 23 Mar  | Webinar     | Best practice AML implementation                                 |
| 18 May  | Webinar     | The Professions  |
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| TBD Sep | Webinar     | Government View  |
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# FCA fines Commerzbank London £37,805,400 over anti-money laundering failures

Press Releases | Published: 17/06/2020 | Last updated: 17/06/2020

The FCA has today fined Commerzbank AG (London Branch) £37,805,400 for failing to put adequate anti-money laundering (AML) systems and controls in place between October 2012 and September 2017.

Commerzbank London was aware of these weaknesses and failed to take reasonable and effective steps to fix them despite the FCA raising specific concerns about them in 2012, 2015 and 2017.

These weaknesses also persisted during a period when the FCA was publishing guidance on steps firms could take to reduce financial crime risk as well as taking enforcement action against a number of firms in relation to AML controls. Despite these clear warnings, the failures continued.

Firms operating in the UK, including branches of overseas firms, must take reasonable care to organise and control their affairs responsibly and effectively, and to establish and maintain an effective risk-based AML control framework.



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FCA fines Commerzbank London £37,805,400 over anti-money laundering failures

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# FSG Anti-Money Laundering (AML) Task Force – The Curious Case Of Money-Laundering Controls



Professor Michael  
Levi

Professor of  
Criminology

Cardiff University



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# The Curious Case Of Money- Laundering Controls

Mike Levi

Professor of Criminology, Cardiff School of Social Sciences,  
Cardiff University, UK

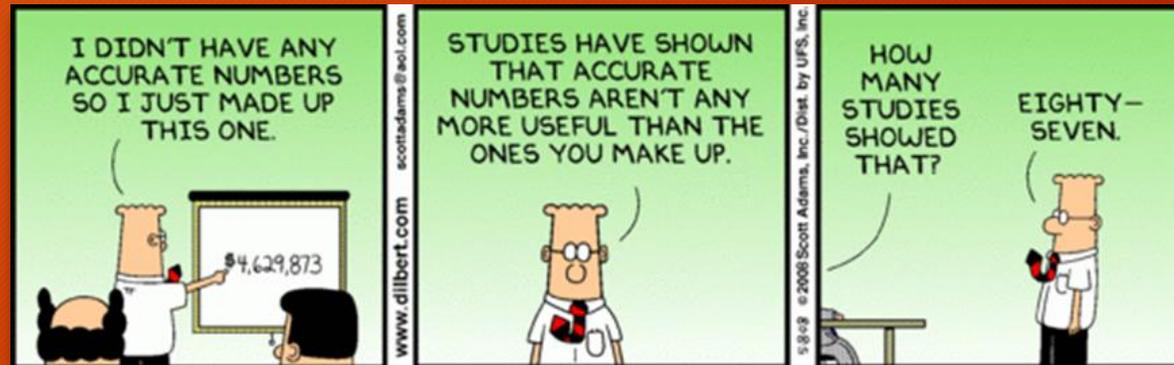
[Levi@Cardiff.ac.uk](mailto:Levi@Cardiff.ac.uk)

# Aims of the presentation

- How dependent is AML on data & evidence, and of what kinds?
- What is meant by AML ‘effectiveness’?
- How satisfactory is the evidence base that lies behind national, supranational, commercial and other risk assessments?
- What might we ‘reasonably’ hope for and currently get evidentially from the system to deal better/optimally with social bads which AML aims to address?

# AML and the Problem of 'Facts by Repetition'

The United Nations Office on Drugs and Crime estimates that between 2 and 5% of global GDP is laundered each year: €715-1.87 trillion

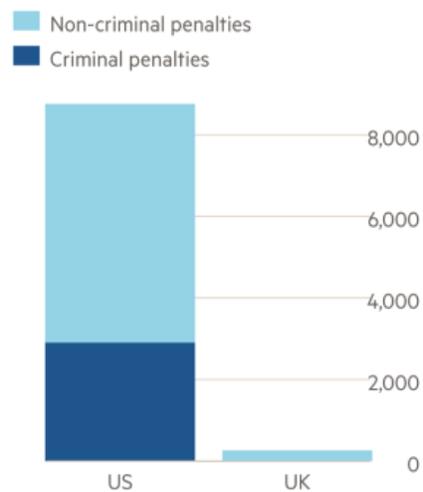


# Some data for England & Wales

- Home Office estimate annual scale of organised crime £13 *billion*
  - Economic crime v business & public sector £7.3 bn; drugs £4.5bn.
- £131.7m. 'denied to [suspected] criminals' (i.e. civilly frozen under Criminal Finances Act 2017) - *not confiscated permanently*
- In 2018/19, nearly £217m of crime proceeds *collected*
- So **annual confiscation gap=£12.8 billion** (plus overseas crimes laundered)
- The UK Financial Intelligence Unit 2018-19 received & processed a record **478,437 SARs**; from around 12,000 in 1993.
  - 85% from banks/building socs; 5,055 accountants/tax; 2,774 lawyers.
- Money laundering convictions 2017: 1,344 POCA 2002 plus 3 for MLRegs
- Awaiting government response to Law Commission on PoC reforms

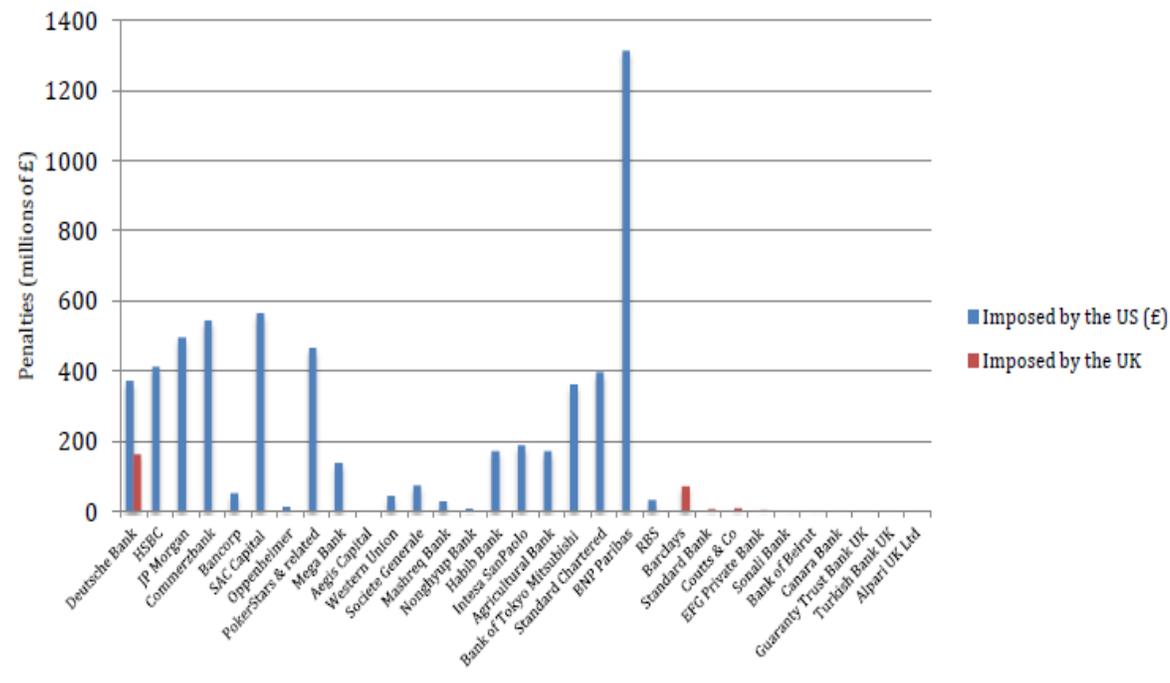
## Money laundering: the trans-Atlantic gap

Penalties imposed for money laundering and sanctions (£m)



Source: Corruption Watch  
© FT

## Non-criminal penalties imposed by the US and UK for money laundering and sanctions



**A Crude Transatlantic Comparison 2008-18**  
If Fines were a crucial deterrent, then less ML in the US than in the UK?

# Money Laundering Penalties 2019

## But what does this sort of data tell us?

| country*       | 1 January to 31 December 2019   |                     |
|----------------|---------------------------------|---------------------|
|                | total value of penalties (US\$) | number of penalties |
| Belgium        | \$ 336,779,000                  | 3                   |
| Bermuda        | \$ 500,000                      | 1                   |
| France         | \$ 5,100,000,000                | 1                   |
| Germany        | \$ 16,500,000                   | 1                   |
| Hong Kong      | \$ 1,600,000                    | 1                   |
| India          | \$ 455,000                      | 5                   |
| Ireland        | \$ 310,000                      | 1                   |
| Latvia         | \$ 4,810,000                    | 3                   |
| Lithuania      | \$ 1,000,000                    | 1                   |
| Netherlands    | \$ 0                            | 1                   |
| Norway         | \$ 1,003,532                    | 2                   |
| Tanzania       | \$ 435,000                      | 1                   |
| United Kingdom | \$ 388,396,000                  | 12                  |
| USA            | \$ 2,286,531,383                | 25                  |

\* Refers to country where the regulator/government agency that issued the penalty is based.

*Encompass:* 'All data was compiled from reputable national news sources and cross referenced against regulator websites where available. Penalties and actions from active jurisdictions where cross-border financial transactions are high were included in the research.'

While, occasionally, there are smaller, less active jurisdictions or agencies that impose penalties, these amounts are typically smaller and do not necessarily affect overall trends and were not included in this research.'

# Some issues to consider

- Is the term 'data' spuriously objective?
  - SARs and Enforcement data  $\neq$  ML data
- Before 2013, data irrelevant to evaluations: all about the process
- Now used as *activity* or 'effectiveness' indicators, *but not using ratios*
- What benefits has AML brought?
  - The AML Transnational Legal Order has prospered without much evidence
- Whose criminality is significantly inhibited by the AML regime?
  - By type of crime and proceeds (cash/non-cash)
- What evidence *do* we use & *could* we use to evaluate 'success'?
  - Popular, political legitimacy, and scientific criteria of 'success' differ

# Adverse outputs and outcomes

- Private sector costs of CDD/EDD are higher than public sector costs of analysis and investigation - but these + rising domestic and external *evaluation* costs are justified *only if outcomes* improve
- Costs to FinTech growth and civil liberties of AML implementation
- De-risking clampdowns on remittances and NPOs may be counter-productive and generate more poverty and support for terrorism - e.g. Somalia (Trinidad?)
- Using PoC recoveries to finance law enforcement can lead to:
  - Chasing the 'low hanging fruit' and avoiding higher risk investigations
  - A focus on income generation instead of CJ outputs and outcomes
  - Reduced appreciation of wider benefits of financial investigation

# Developing a Strategy



# Towards Better Learning and Data

- The term ‘Organised Crime’ is *not* fit for purpose conceptually
- ‘Placement, layering and integration’ outdated for much cash and non-cash laundering
- Poor historic learning culture on AML police and prosecution cases
- Impact of regulatory & criminal sanctions on criminals/intermediaries?
- Price data on illicit commodities and on laundering - but price points?
  - And what laundering costs are collected and what can we deduce from changes?
- Better efforts at mapping the organisation of crimes and identifying the marginal threats of different forms thereof

# Some Issues of Balance for Ways Forward

- **More clarity about objects of control?**
  - Efficiency gains from data fusion/sharing should help - but *only if followed up*
  - Financial investigation/confiscation can affect (a) public reassurance (b) financial intermediaries and (c) predicate offenders differently
    - Need *evidence* for and against these aims being achieved
  - Is all 'dirty money' the same, irrespective of its predicate crimes?
- **Proportionality and/or effectiveness of sanctions**
  - Are large headline fines on financial institutions just/unjust/solely punishment or are they effective in changing their behaviour *at the time when their staff contemplate violating AML regulations?*
  - What is *disproportionate* & how can resistance to more controls be less futile?
  - Don't expect help from the courts: *Friends of Antique Cultural Treasures Ltd v Department of Environment for Food, Cultural and Rural Affairs [2020] EWCA Civ 649*
- More clear-sighted assessments of financial & social costs as well as benefits of continued AML - reducing assertions about success
- More crime problem-solving approach needed in which AML is just a tool

# Questions, Comments & Answer(s)?



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