

## Study reveals issues with the Kyrgyz Republic's AML/CFT ratings

Findings in a leading peer-reviewed journal call into question the latest evaluation of the Kyrgyz Republic's anti-money laundering regime, released 26 September 2018.

EAG, the Eurasian anti-money laundering agency, gave the Kyrgyz Republic lowly 'moderate' ratings on nine of 11 areas assessed for 'effectiveness' and the lowest possible scores for the other two. Assessors "praised" Kyrgyzstan's "efforts to conduct a national risk assessment" and noted "many signs" of effective international co-operation yet declared the country's level of understanding of money laundering risks "limited".

The Republic's international reputation and access to financial markets will be affected by these ratings for years to come.

But, independent research finds that the criteria used doesn't properly assess the effectiveness of anti-money laundering regimes as claimed.

### **New criteria seek to assess effectiveness**

The Paris-based Financial Action Task Force introduced a new 'effectiveness' methodology in 2013 because compliance with its "40 recommendations" (previously the sole focus of evaluations since 1990) gave no assurance that money laundering regulations were effective.

An extensive process demanding significant resources and preparation by authorities, evaluations now assess anti-money laundering regimes based on two sets of rules: 'technical compliance' with FATF's 40 recommendations, and 'effectiveness' based on 11 'outcome' measures. But the new study reveals major flaws with the effectiveness criteria.

### **Measuring effort, not outcomes**

According to the study's author, Dr Ron Pol from international consultancy AMLassurance.com, "misapplication of outcome labels for what are, in truth, simplistic output and activity measures miss an opportunity to evaluate the real impact of anti-money laundering rules."

He says that FATF's new methodology doesn't evaluate outcomes in the sense generally understood as the *effect* or *impact* of rules. "More meaningful outcome measures, for example, might include the extent to which the system better allows authorities to reduce and prevent crime, and cut the social and economic harms caused by serious crime like drugs-trafficking, corruption, fraud and tax evasion."

"Some of those measures are difficult to evaluate" says Pol, "but assessing anti-money laundering regimes by superficial 'easy-to-measure' metrics" suggests that the intensive rating exercise conveys

value more as a rhetorical device than any real measure of effectiveness."

"That's because the current measures largely reflect the efforts of regulatory and enforcement authorities, not whether those efforts have any meaningful impact on serious crime."

### **'Tick-box' compliance extended**

"Moreover", adds Pol, "assessors often use the same evidence to assess both the old and new criteria. But, compressing FATF's 40 recommendations into an abbreviated yet broadly equivalent list of so-called 'outcomes' adds little new evaluative capability beyond 11 more boxes to tick."

"The nature of any 'tick-box' system means that it's possible for jurisdictions to get high ratings without much impact on crime, and vice versa" says Pol. "To their credit, authorities often appear to focus more on crime prevention than better ratings, although close examination of more than 50 evaluations to date reveal ways to achieve both. Nonetheless, although the new ratings system arguably lacks much meaning, low scores have a very real impact on any jurisdiction's access to financial markets."

### **Effectiveness gap evidence mounting**

Another academic paper also notes "enormous" frustration that, despite nearly 30 years of money laundering obligations (now imposed on millions of firms in nearly 200 countries) the "huge and growing cost of compliance has been accompanied by little observable effect". Professors Levi, Reuter and Halliday say that the modern anti-money laundering system is "highly cost-inefficient" and has failed "to produce credible evidence of [its] effectiveness."

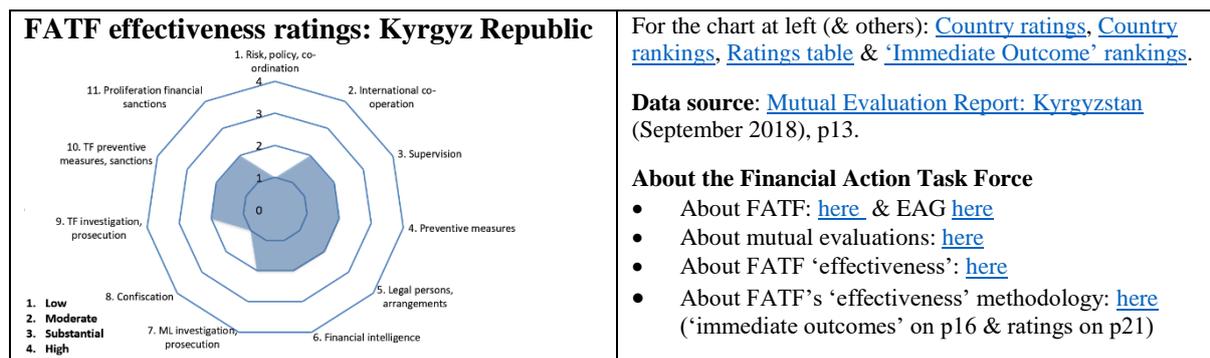
The new study's detailed analysis makes similar findings. It concludes that FATF's new methodology offers few reliable indicators about the effectiveness of money laundering controls.

### **Positive signs**

But the new study ends optimistically. "FATF's frank acknowledgement that evaluating for effectiveness was missing, and important, is a positive step", says Pol. "Likewise, that outcomes matter. FATF also frequently adjusts its standards and guidance as circumstances change. If it accepts that some principles and practices underpinning its effectiveness framework might be improved, that tradition might reasonably be expected to continue."

In the meantime, however, the Republic is stuck with poor ratings which offer little meaningful indication about the effectiveness of authorities' efforts to combat the harms from serious profit-motivated crime such as drugs-trafficking, corruption, illegal business activities and tax evasion.

## Additional notes



### Supplementary material: Kyrgyzstan

The new study used ‘immediate outcome 7’ (money laundering investigations and prosecutions) to illustrate differences between *outputs* and *outcomes*, and why it matters.

Kyrgyzstan was given a lowly ‘moderate’ rating on this measure, despite other countries not responding to requests for mutual assistance was the “main reason” for investigative delays. In contrast, Kyrgyz authorities successfully conducts international investigations involving the laundering of criminal proceeds in other countries. Assessors noted that authorities understand the severity of the drugs-trafficking problem and are “primarily dedicated to cutting off supply routes” without a “commensurate” effort to seize financial proceeds. Money laundering investigations are conducted in conjunction with predicate offences and “it is much more common for criminals to be convicted for predicate offences”, so assessors concluded that “combating money laundering is not a priority” for law enforcement agencies. Evidently, if authorities conduct more stand-alone and parallel money laundering

investigations, it would likely increase the country’s scores.

“But,” says Pol, “more money laundering prosecutions (an *activity* or *output* measure) might, or might not, help achieve the (crime prevention) *outcomes* that authorities seek.” He gave a hypothetical example where enforcement agencies detect and prosecute twice as much serious crime but, with prosecutors overwhelmed, no money laundering charges are laid.

Authorities would of course promote their doubling of crime detection to influence ratings, but with fewer money laundering cases, Kyrgyzstan’s ‘effectiveness’ rating might stay low, or even fall.

“Bizarrely”, says Pol “the prospect of lower ‘effectiveness’ ratings if authorities successfully disrupt significantly *more* serious crime is an unintended consequence of focusing on simple output measures rather than crime prevention outcomes. Presumably, that would not be the intention of Kyrgyz authorities, or FATF.”

1. **The full study:** Pol, R, F., *Anti-money laundering effectiveness: Assessing outcomes or ticking boxes?* Journal of Money Laundering Control (2018), Vol 21 No 2: <http://dx.doi.org/10.1108/JMLC-07-2017-0029>. About *Journal of Money Laundering Control*: [here](#)
2. **Companion study:** Pol, R. F., *Uncomfortable truths? ML=BS and AML=BS<sup>2</sup>*, Journal of Financial Crime (2018), Vol 25 No 2: <http://doi.org/10.1108/JFC-08-2017-0071>. About the *Journal of Financial Crime* [here](#).
3. **Other study referenced.** Levi, M., Reuter, P., Halliday, T., *Can the AML system be evaluated without better data?* Crime, Law and Social Change (2017), available [here](#)
4. **Acknowledgements.** An earlier version of the analysis which formed this article (in the author’s PhD thesis) was reviewed by supervising Professors [Jason Sharman](#) (now at Cambridge) and [AJ Brown](#) and [Duncan McDonnell](#) (Griffith), and examined by Professors [Michael Levi](#) (Cardiff) and [Louis de Koker](#) (La Trobe), before the *Journal of Money Laundering Control*’s own peer-review process. The author is grateful for their invaluable assistance. Any errors are the author’s alone.

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