

## Research reveals serious issues with Thailand's AML/CFT ratings

Thailand's anti-money laundering regime has been upgraded on 'technical compliance' ratings. But the country's reputation remains tarnished by unchanged 'effectiveness' ratings with 'major flaws' according to independent research.

The latest re-rating of Thailand's AML/CFT regime, released on 20 September, updated 2 of 40 'technical compliance' ratings. Asia-Pacific money laundering watchdog APG said that Thai authorities "made progress" addressing "technical compliance deficiencies", but didn't upgrade any of the 11 'effectiveness' measures which the Paris-based Financial Action Task Force regards the "[main component](#)" of anti-money laundering evaluations.

This means that Thailand's reputation and access to financial markets continues to be affected by its so-called 'effectiveness' ratings from 2017, which the latest research published in the *Journal of Money Laundering Control* finds doesn't properly evaluate effectiveness. (Thailand was awarded no 'high' ratings, lowly 'moderate' ratings in 4 of 11 'effectiveness' measures, and the lowest possible rating in 3 areas).

### New criteria seek to assess effectiveness

FATF 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 regulations. "More meaningful outcome measures, for example, might include the extent to which the system better allows authorities to reduce and prevent crime, and to 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 appear often to have focused 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

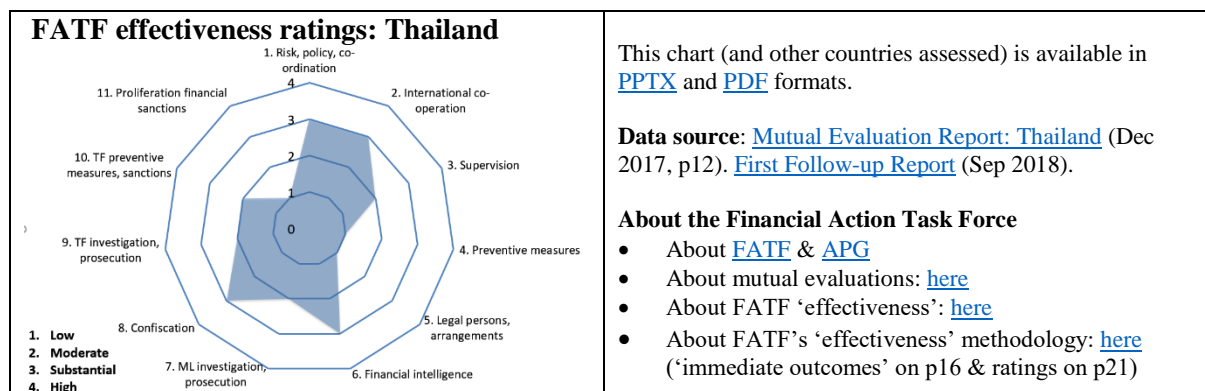
Another academic paper also notes "enormous" frustration that, despite nearly 30 years of money laundering obligations (now imposed on millions of firms in nearly 200 countries) the "huge and growing cost of compliance has been accompanied by little observable effect". Professors Levi, Reuter and Halliday 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."

## Additional notes



### Supplementary material: Thailand

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

FATF-approved assessors noted that Thailand prioritises depriving criminals of their assets rather than money laundering investigations, and that its efforts “to follow money trails to aid investigation of predicate offences...is incidental rather than a central tool” used by authorities. Assessors said that law enforcement authorities regard Thailand’s “harsh criminal penalties [for predicate offences] along with a robust non-conviction-based asset seizure and confiscation regime...sufficient deterrence and punishment.” They accepted that the focus on predicate offences was consistent with Thailand’s risk profile, yet, given low numbers of money laundering prosecutions and convictions, assessors awarded only a ‘moderate’ rating on this measure.

“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 law 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, Thailand’s FATF ‘effectiveness’ rating might conceivably fall.

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

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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