Linkages Between Corruption and Money Laundering:
Developing Complementary Strategies

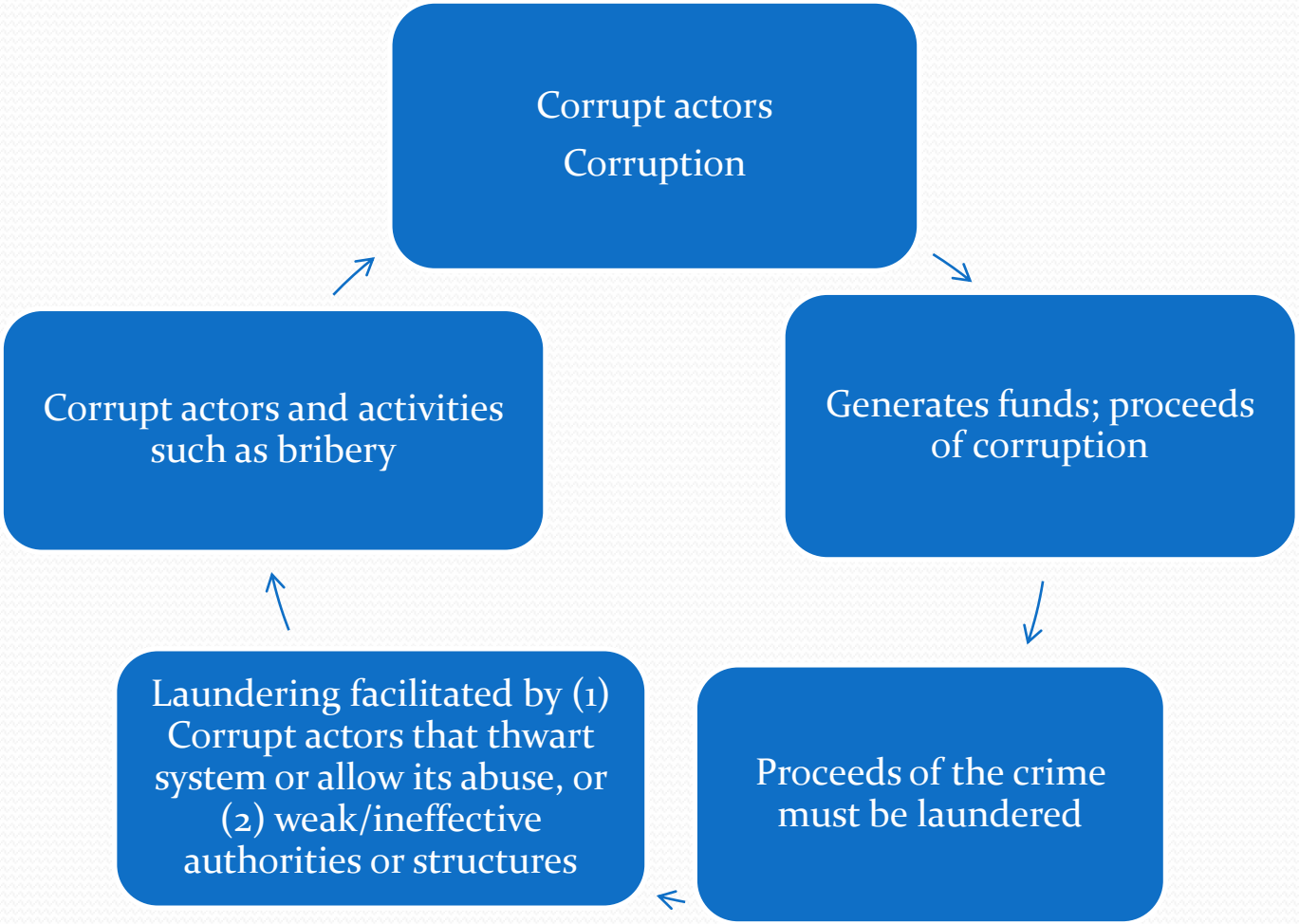
Conference of the Arab Anti-Corruption and Integrity Network
National Anti-Corruption Strategies and the Roles of National Stakeholders

Sana'a, Republic of Yemen, 26-27 July 2010

Corruption and Money Laundering

- Corrupt actors/criminals recognize the complementary nature of corruption and money laundering
- In the USG we have begun to take a similar approach
- Symbiotic nature of corruption and money laundering

Crime Cycle


Corrupt actors
Corruption
Generates funds; proceeds of corruption
Proceeds of the crime must be laundered
Laundering facilitated by (1) Corrupt actors that thwart system or allow its abuse, or (2) weak/ineffective authorities or structures
Corrupt actors and activities such as bribery

International Anti-Money Laundering Community

- Financial Action Task Force (FATF)



  - Established by G7 as AML Task Force in 1990
  - Forty Recommendations and Nine Special Recommendations
  - Acknowledged by UN as international standard setting body for ML (and, subsequently, TF) – Mutual Evaluations
  - Corruption a Predicate Offence for ML, history of discussion within FATF on corruption
  - 2009 G20 Call on FATF "to help detect and deter the proceeds of corruption by prioritizing work to strengthen standards on customer due diligence, beneficial ownership, and transparency". Current initiatives detailed, nexus explored, future work outlined
  - Recommendation 35 – UNCAC to be included in R35
  - FATF-style Regional Bodies (FSRBs) - MENAFATF

International Anti-Money Laundering Community

- MENAFATF

  - Middle East and North Africa Financial Action Task Force – region-specific approach
  - Members commit to adopt, implement FATF Standard (49 Recommendations)
  - Mutual Evaluations - assess one another according to the international standards
  - Typologies studies
  - Best Practices
  - Technical assistance

Money Laundering Fits into Anticorruption Strategies*

- In principle
  - Transparency is key!
- In implementation
  - Institutional restraints on power, public sector management - Independent governmental structures free from influence
  - Civil society participation - Non-Profit Organizations/Charities
  - Competitive private sector - Financial Sector

** World Bank, "Multi-pronged Strategies for Combating Corruption"*

Institutional Restraints on Power, Public Sector Management

Need for independence, should be free to exercise authorities without political influence or fear of reprisal

Budget management mechanisms and adequately compensated civil servant workforce, audit function, transparent decision-making

- Independent government structures
- Supervisory/regulatory authorities
- Financial information/investigation units (FIUs)
- Investigative authorities
- Judicial/prosecutorial authorities

Institutional Restraints on Power

According to World Bank, addressing money laundering is a necessary component of an Anticorruption strategy

- Legal and Regulatory Framework
- Suspicious Transaction Report (STR) regime, compliance procedures and policies for obliged entities
- Common weaknesses:
  - Failure to criminalize transfer or possession of funds obtained through illicit activities
  - Failure to include financial institutions and mechanisms outside "formal financial sector"; failure to include non-financial sectors
  - Failure to provide legal basis for seizure of proceeds from illegal transactions
  - Lack of capacity or resources to enforce law

Competitive Private Sector

Example: Financial Sector

- Good Corporate Governance
- Business Associations
- International Cooperation and Action
- Regulatory Measures
- Oversight/Supervision
- Customer Due Diligence
- New initiatives

Fighting Corruption Under FATF

- Assessing impact of corruption on AML/CFT system
- R1 – corruption as a predicate offense to ML
- R3 – confiscation and provisional measures
- R6 – PEPs
- R13 – STR reporting
- R15 – screening procedures to ensure high standards in hiring employees
- R23-24 – preventing criminals from managing/owning casinos
- R26 – operational independence of FIU
- R30 – integrity standards of competent authorities
- R36-40 – international cooperation

Current FATF work with links to Anticorruption

- Effectiveness on implementation of standards
- Incorporation of risk based approach, including use of R21 for jurisdictions failing to apply the standards
- R3 – improving effectiveness of confiscation regimes, including revising R38 to require countries to consider how they can recognize certain foreign confiscation orders
- Increased focus on law enforcement operations – typologies and indicators on PEPs; project team revising, strengthening R27-28
- Understand reason for low ratings on R5, 33-34, clarify requirements for compliance on beneficial ownership and CDD obligations relating to beneficiaries, transparency of corporate vehicles
- International cooperation – timeliness, effectiveness of these Recommendations, inclusion of UNCAC in R35 (with possible consequential change to R6)

Potential for AC Work in FATF

Potential to examine issues central to leveraging AML/CFT regimes for AC, but not covered by FATF or fully realized by AC perspective (can't do everything, however!)

- R1 – further definition of corruption as predicate offense
- Capturing the "supply side" of bribery
- PEPs – augmenting existing work, new work
- Fit and Proper Tests – possible input into existing work
- FIU and interagency cooperation
- Effectiveness
- Integrate corruption into risk based approach for governmental and financial sectors
- Typologies work
- International cooperation – for example, improving capacity to locate proceeds of corruption

Civil Society: Protect against abuse

Parallel to political process – transparency is key

NPOs/Charitable Sector sought by criminals to exploit

- NPOs enjoy the public trust, have access to considerable sources of funds, and are often cash-intensive.
- NPOs often have a global presence
- Depending on the legal form of the NPO and the country, NPOs may often be subject to little or no governmental oversight (for example, creation registration, record keeping, reporting and monitoring)

Criminal Abuses (U.S. example)

EX-LEADER GUILTY OF TAKING $600,000 FROM UNITED WAY

- Former United Way of America president William Aramony was convicted Monday of stealing nearly $600,000 from the nation's biggest charity and lavishing it on young women, some in their teens.
- Aramony was charged, along with Thomas J. Merlo and Stephen J. Paulachak, with siphoning off money that had been donated to the charity by businesses and individuals. Merlo was convicted of 17 counts; Paulachak, of eight.
- Merlo was the charity's chief financial officer from 1990 to 1991, and Paulachak was a United Way executive from 1971 to 1988. William Aramony was convicted of 25 felony counts, including charges of conspiracy, fraud, money laundering and filing false tax returns.

FATF Best Practices – Four legs of the table

- ***Outreach to the NPO sector***

- Raise Awareness of Potential Abuse and Risks and Mitigation Strategies
- Work with NPO sector to refine International Best Practices
- Encourage the NPO sector to use regulated financial channels whenever possible

- ***Supervision or monitoring of the NPO sector***

Oversight Bodies but also, effective self regulation

NPOs should maintain information on:

- the objectives of their stated activities;
- the identity of the key person(s).
- This information should be publicly available either directly from the NPO or through appropriate authorities.
- NPOs should issue annual financial statements with detailed breakdowns
- NPOs should be licensed or registered. This information should be available to competent authorities.
- NPOs should have internal controls in place to ensure that all funds are fully accounted for and are spent in a manner that is consistent with stated objectives
- NPOs should follow a "know your beneficiaries and associate NPOs, which means that the NPO should make best efforts to confirm the identity, credentials and good standing of their beneficiaries and associate NPOs
- NPOs should also undertake best efforts to document the identity of their significant donors and to respect donor confidentiality
- NPOs should maintain, for a period of at least five years, and make available to appropriate authorities, records of domestic and international transactions detailed enough to verify funds have been spent consistent with stated objectives
- Appropriate authorities should monitor the compliance of NPOs with applicable rules and regulations
- ***Financial Transparency*** - Financial Accounting and Bank Accounts
- ***Programmatic verification*** - Solicitations and Oversight, Field Examinations and Foreign Operations
- ***Administration*** - Board of Directors

- ***Effective information gathering and investigation***
- ***Effective mechanisms for international cooperation***

MENAFATF Best Practices - NPOs

- ***Legal Aspects***
  - Delineating the Supervisory Authority
  - Verification Measures
- ***Supervision and Control***
  - Transparency, Selection and Reinforcement
- ***Financial***
  - Use of Bank Accounts
- ***External Operations***
  - "Must" be approved by competent supervisory body
  - No Cash transactions

Which returns us to…
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Questions?

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