

Tracking Progress

Anti-Money Laundering and Countering the Financing of Terrorism in East Africa and the Greater Horn of Africa



BY LIAT SHETRET, TRACEY DURNER, DANIELLE COTTER & PATRICK TOBIN

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The views expressed in this report are those of the authors and do not necessarily reflect the views of the Global Center, its advisory council, or the Government of Denmark.

DEDICATION

This report is dedicated to Simon Davis and Clément Gorrissen, friends and esteemed colleagues who lost their lives while in Galkayo in north-central Somalia on 7 April 2014. Simon and Clément worked tirelessly to support AML/CFT efforts in the Greater Horn of Africa region. They were passionate about their work and deeply committed to the people and the institutions they helped to support in the region.

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ACRONYMS AND ABBREVIATIONS

AfDB	African Development Bank
AML	Anti-money laundering
AMLA	Anti-Money Laundering Act (Tanzania, Uganda)
AMLPOCA	Anti Money Laundering and Proceeds of Crime Act (Zanzibar)
AQAP	Al-Qaida in the Arabian Peninsula
CDD	Customer due diligence
CFT	Countering the financing of terrorism
CGCC	Center on Global Counterterrorism Cooperation
CTR	Cash transaction report
DCT	Doraleh Container Terminal
DNFBP	Designated nonfinancial business and profession
DRC	Democratic Republic of the Congo
EAC	East African Community
EACC	Ethics and Anti-Corruption Commission (Kenya)
ENAMCO	Eritrea National Mining Corporation
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
FATF	Financial Action Task Force
FDI	Foreign direct investment
FGC	Financial Governance Committee (Somalia)
FIA	Financial Intelligence Authority (Uganda)
FIB	Financial Intelligence Board (Uganda)
FIC	Financial Intelligence Center (Ethiopia)
FIU	Financial intelligence unit
FRC	Financial Reporting Center (Kenya)
FSRB	FATF-style regional body
GCTF	Global Counterterrorism Forum
GDP	Gross domestic product
IGAD	Intergovernmental Authority on Development
IMF	International Monetary Fund
Interpol	International Criminal Police Organisation
ISSP	IGAD Security Sector Program
KYC	Know your customer
LRA	Lord's Resistance Army
MENAFATF	Middle East and North Africa Financial Action Task Force
MOU	Memorandum of understanding
NBE	National Bank of Ethiopia
NCTC	National Counterterrorism Center
PFDJ	Popular Front for Democracy and Justice (Eritrea)
POCAMLA	Proceeds of Crime and Money Laundering Act (Kenya)
POCAMLR	Proceeds of Crime and Anti-Money Laundering Regulations (Kenya)
POTA	Prevention of Terrorism Act (Tanzania)
POTR	Prevention of Terrorism Regulations (Kenya)
SRF	Service de Renseignements Financiers (Djibouti)
STR	Suspicious transaction report
TFG	Transitional Federal Government (Somalia)
UAMLC	Uganda Anti-Money Laundering Committee
UNODC	UN Office on Drugs and Crime
URA	Uganda Revenue Authority

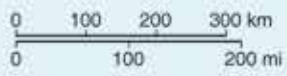
HORN OF AFRICA



- National capital
- Town, village
- Airport
- International boundary
- Road
- Railroad

The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

Final boundary between the Republic of Sudan and the Republic of South Sudan has not yet been determined.



EXECUTIVE SUMMARY

Money laundering and terrorism financing pose a significant threat to security and developmental efforts worldwide and increasingly undermine the integrity of the global financial system and its long-term stability. Many states in the Greater Horn of Africa region are experiencing rapid economic growth and have increasing access to global markets. With predominantly informal and cash-based economies, these states are particularly vulnerable to money laundering and terrorism financing activities. This vulnerability is further enhanced by absent, nascent, or incomplete financial regulatory mechanisms as well as limited law enforcement and judicial capacities to respond to violations. Poverty, weak governance, corruption, porous borders, and political instability all contribute to the enabling environment for transnational organized criminal and terrorist groups in the Greater Horn region. Although overarching regulatory frameworks and institutional capacities remain low, political interest and technical attention and resourcing is growing in the region. In particular, a willingness to engage on these issues at the national level is rising.

This report provides a new assessment of developments related to anti-money laundering and countering the financing of terrorism (AML/CFT) efforts in East Africa and the Greater Horn region and offers a review and analysis of 10 countries: Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan, Tanzania, Uganda, and Yemen. It builds on the 2012 baseline study, titled “ISSP-CGCC Joint Baseline Study on Anti-Money Laundering and Countering the Financing of Terrorism in the IGAD Subregion,” and includes two additional countries, Tanzania and Yemen, because of the geographical and strategic importance of these two countries to the cross-border risks shared among Intergovernmental Authority on Development (IGAD) member states and these non-IGAD members.

This report combined desk research and analysis with limited in-country visits. To the extent possible, each country’s assessment covers similar areas, including a recap of the findings from the 2012 baseline study and a summary of findings and recommendations to date; a broad economic snapshot of the country and relevant political context; progress on AML/CFT efforts, such as the national legal framework and the operationalization of a financial intelligence unit; ongoing risks and vulnerabilities, largely focused on sectoral risks and concrete implementation of legal frameworks; and emergent entry points for action and further development. Below is a summary of findings.

Djibouti

As noted in the 2012 baseline report, Djibouti has an operational financial intelligence unit (FIU) and laws that criminalize terrorism-related offenses, including money laundering and terrorism financing within the country. Djiboutian FIU staff have received training on financial intelligence and analysis from international entities and have engaged relevant actors at regional conferences and workshops on AML/CFT topics. Nevertheless, Djibouti’s AML/CFT framework and infrastructure in 2014 closely resembles that from 2012. Although functional, the FIU does not have sufficient human resources support, limiting its ability to fully execute its mandate. Djibouti lacks observer or member status in a Financial Action Task Force (FATF)-style regional body (FSRB) and has not yet undergone an FATF review. Without membership in an FSRB, formalized cooperation with Djibouti on AML/CFT issues beyond its borders is limited. Although Djibouti has not formally requested observer status within the Middle East and North Africa Financial Action Task Force (MENAFATF), the country continues to work toward fully meeting international AML/CFT standards and demonstrates political will in undertaking those efforts.

Djibouti's important strategic location, small geographic size and population, and relative political stability present it with opportunities for sustained and enhanced economic development. At the same time, like many other jurisdictions, it is increasingly susceptible to potential criminal abuse or misuse of its financial system. The expansion of Djibouti's port infrastructure enables it to process increased trade volumes. Djibouti's legal framework supports an active and growing business sector with a diverse portfolio of incoming and outgoing financial flows. The effectiveness of Djibouti's AML/CFT legislation is limited by minimal oversight and guidance with regard to reporting and exchange of information, potentially rendering Djibouti vulnerable to money laundering and other illicit activities. Such occurrences could threaten future foreign direct investment and international aid, which are instrumental components of the economy.

Further support of the FIU with particular attention to hiring additional analysts would be valuable to ease the workload for existing staff. Once these human resources needs have been met, training and targeted guidance on interactions with nondesignated financial businesses and professions would be beneficial toward fulfilling the FIU's mandate beyond supervision of banking institutions. Additionally, confirmation of observer status in MENAFATF would be beneficial for Djibouti as the country seeks to enhance its cooperation with regional counterparts.

Eritrea

The 2012 baseline report noted Eritrea's economy as being significantly regulated by the state and having a limited formal financial sector. Remittances from its overseas diaspora were cited as a significant contributor to the Eritrean economy, as was the burgeoning mining sector. At that time, no formal law or framework was in place on AML/CFT issues. The UN Security Council continued to impose sanctions against the country, which were challenged by the Eritrean government, but potential entry points were identified through enhanced engagement between Eritrea and its trading partners.

Since 2012, Eritrea has made some progress on developing its AML/CFT framework with the passage of its AML/CFT law in September 2014. The law calls for the formation of a financial intelligence unit, but the establishment of one has not been confirmed. Eritrea is increasingly altering its approach to economic development and is actively trying to create opportunities for cross-border cooperation and coordination. Renewed privatization of several state-owned enterprises, increased mining production and investment opportunities, and heightened engagement in international fora can be viewed as positive steps toward the strengthening of regional and international relations that would encourage economic development and AML/CFT efforts.

Economic development related to mining, particularly as investments in the sector grow, is expected to improve the welfare of the majority of Eritreans in the short term, generating employment opportunities and revenues that can be diverted toward the provision of social services. The Eritrean government, in formulating new policies, is attempting to emulate lessons learned from oil countries that have already undergone developmental growing pains. Eritrea continues to adhere to certain restrictive economic policies, and combined with a decline in diaspora remittances and the continued imposition of UN sanctions, these factors contribute to Eritrea's political isolation from the international system, the lack of foreign investment, and a weak economy.

Eritrea poses limited risk for money laundering and terrorism financing activities. Although independent and reliable information regarding economic activity and vulnerabilities is largely unavailable, additional information on sectors such as mining could be derived from increased international investment. The recently passed AML/CFT law and more public reporting by international mining companies operating in the country now offer at least some potential entry points for engagement with Eritrea by regional and international organizations as well as bilateral donors.

Ethiopia

The 2012 baseline report characterized Ethiopia as a fast-growing economy and a country of primary con-

cern vulnerable to money laundering and terrorism financing activities. Subject to the FATF global AML/CFT monitoring process since 2010, Ethiopia has made substantial progress in the last three years on strengthening its legal framework, building capacity among stakeholders on AML/CFT issues, and improving coordination and information sharing between relevant institutions.

In recognition of these efforts, as of October 2014, Ethiopia is no longer subject to the FATF monitoring process. Although Ethiopia has made substantial improvements in its legal framework and in financial institution compliance, designated nonfinancial businesses and professions remain an area of money laundering and terrorism financing vulnerability, particularly because Ethiopia is a hub for cross-border trade in East Africa and the Greater Horn of Africa region. Additionally, the Financial Intelligence Center (FIC) is still developing its analytical capacity through continued staff training and the implementation of a comprehensive AML/CFT software system. The lack of such software presents one of the biggest challenges to FIC staff in creating a more robust analysis process and streamlining record keeping and case management.

Political will remains high across some institutions, and considerable achievements have been made in the implementation of AML/CFT efforts, but a weak bureaucratic system and the generally slow pace of reform in Ethiopia continue to present challenges. These issues are further compounded by high turnover rates in working-level positions, coupled with the lack of AML/CFT training in the country's graduate-level academic institutions. With Ethiopia's recent removal from the FATF monitoring process, it is important to build on recent momentum and investment to encourage continued capacity building and engagement to sustain the advancements that have been made and address the remaining vulnerabilities. The FIC is committed to achieving membership in the Egmont Group of Financial Intelligence Units.

Kenya

In the 2012 baseline report, Kenya was subject to the FATF global AML/CFT monitoring process. Kenya

had passed an AML/CFT bill in 2009, but its FIU was not yet operational, and overall implementation was limited. Moreover, Kenya was deficient in CFT procedures, lacking a national provision for asset freezing. Overall, Kenya's AML/CFT regime was nascent, and there appeared to be limited levels of political will.

Kenya's emerging economy is projected to grow even more rapidly over the next decade for a variety of reasons, including a recently enacted policy of governmental devolution, potential oil reserves, and increased regional trade cooperation. In the past two years, Kenya has demonstrated a significant increase in political will to address AML/CFT measures. With the passage of AML and terrorism prevention laws in 2012, as well as the enactment of clarifying regulations to assist in their implementation, many deficiencies have been addressed, and Kenya is now considered compliant with international AML/CFT standards. Kenya's FIU, the Financial Reporting Center (FRC), is fully operational and has begun receiving suspicious transaction reports (STRs). In recognition of these efforts, Kenya was removed from the FATF monitoring process in June 2014 and is exploring membership in the Egmont Group.

Common AML/CFT risks, such as corruption, illicit trade flows, and illegal wildlife trafficking, linger. Limited institutional resources may hinder implementation efforts, particularly as the FRC seeks to expand its capacities and increase levels of compliance from reporting entities and supervisory authorities. Furthermore, FRC contributions made by the collection of STRs are diminished by a lack of resources among law enforcement professionals. The few judicial prosecutions related to money laundering and terrorism financing suggest a lack of interaction between the principal agencies. Kenya must maintain high levels of political will as it continues efforts to implement AML/CFT measures. Additionally, these efforts must be situated within a broader push for increasing transparency and accountability by governmental institutions in order to ensure their effectiveness and sustainability.

Somalia

The 2012 baseline report identified Somalia as the “most significant source” of money laundering and terrorism financing risk for the IGAD subregion. The country had neither an infrastructure for governmental financial institutions nor a formal banking sector, and *hawalas* accounted for a considerable portion of the economy. The Transitional Federal Government and Somaliland and Puntland authorities were unable to suppress or prevent money laundering and terrorism financing activities.

The situation in Somalia has evolved over the past two years even though the country remains beset with security and governance challenges. The transitional government was officially replaced by the Federal Government of Somalia in August 2012, and since then, government ministries that would form the backbone of a Somali AML/CFT regime have been reconstituted, including the Ministry of Finance and the Central Bank of Somalia. Persistent challenges, including corruption, continue to hamper sustainable reforms in this area; beyond the reestablishment of these institutions, the federal government has not made progress on AML/CFT matters. Additionally, terrorism threats emanating from Somali-based al-Shabaab continue to concern all countries in the region, although efforts to degrade al-Shabaab’s capabilities in Somalia have yielded some positive results.

The Federal Republic of Somalia is an internationally recognized country and a member of the United Nations, but the federal government has direct control only over some portions of the country’s pre-1991 territory, with its power concentrated in the south and center of the country. The emergence of new regional administrations in Somalia, such as the recently declared Southwestern State of Somalia, minimizes the federal government’s control in various areas that were under its jurisdiction until recently. Additionally, the governance structures in Puntland and the self-declared republic of Somaliland do not fall under the federal government’s authority, and progress on AML/CFT issues in Somalia as a whole therefore must consider measures and actions in these regions. For example,

Somaliland has a central bank and proposed AML legislation awaiting debate in its parliament. Although no formal AML/CFT initiatives have been publicly documented in Puntland, dialogue led by trusted interlocutors has taken place between hawalas and Puntland central bank authorities.

The federal government, Somaliland, and Puntland do not have the requisite capacity to control money laundering and terrorism financing in Somalia, nor do they have sufficient information to effectively coordinate efforts on this issue among themselves. More emphasis is needed to hold accountable those federal government institutions managing domestic and international revenue, including an active zero-tolerance policy on corruption and investigations on reported cases. Furthermore, an AML/CFT component should be included in any broader anticorruption initiatives. Cooperation on suspected money laundering and terrorism financing cases among the federal government and the regional administrations must be prioritized. In the meantime, one encouraging development is the recent induction of Somalia as an observer country to MENAFATF in November 2014.

South Sudan

When the 2012 baseline report was published, South Sudan’s regulatory and political climate was very fluid. As the newest state in the world, South Sudan had a number of vulnerabilities to money laundering and terrorism financing activities but had not established any legal framework to address these crimes. Awareness of each was very low, with key officials unable to articulate a comprehensive definition of the crimes or their practical implications for the economy.

Since that time, the country has made significant improvements in its AML/CFT regime. Still facing a dynamic and complicated political and security situation, South Sudan passed its first AML/CFT law in 2012. The law defined money laundering and terrorism financing and called for the establishment of an FIU. Although it was a notable achievement and demonstration of political will, the law has not been assessed for its level of compliance with international standards due to

its recent passage and South Sudan's lack of membership in an FSRB. Additionally, progress on implementation has likely been limited due to resource constraints and the prioritization of security and humanitarian concerns.

Without an operational AML/CFT regime, South Sudan remains vulnerable. The country has a large foreign currency black market, which could serve as an enabling environment for laundering criminal proceeds. Corruption remains a key concern for South Sudan, although efforts have been made within senior levels of the administration to address these challenges. Additionally, South Sudan is faced with generally low levels of AML/CFT awareness among stakeholders, which will require a substantial investment of political and resource capital to address.

The development and provision of technical assistance to South Sudan's FIU should be the international community's initial focus for building the capacity of the South Sudanese AML/CFT regime. The promotion of membership in FSRBs will be important in enhancing regional cooperation and information sharing, and the process of undergoing mutual evaluation as a requirement for membership will be crucial to the creation of a national action plan to address financial crimes. As South Sudan's AML/CFT regime develops, clear regulatory and inspection processes must be established to ensure adequate and sustained implementation as part of a broader push to improve financial transparency and reduce levels of corruption across the country.

Sudan

The 2012 baseline report noted the difficulty of assessing financial governance in Sudan, given the state's isolation from the global financial system due to long-standing unilateral sanctions and heavy involvement in the private sector. Progress toward institutional reform was noted with the passage of the 2010 Money Laundering and Terrorism Financing Act, but assessment of implementation and the operationalization of its FIU was difficult because of low levels of financial transparency.

Since then, Sudan has taken measurable steps to strengthen its AML/CFT regime. Sudan participated in a mutual evaluation with the Middle East and

North Africa Financial Action Task Force, which assisted in identifying deficiencies in the country's 2010 AML/CFT law. The government has demonstrated political will in addressing these issues and passed an updated AML/CFT law in June 2014, developed a national AML/CFT action plan, and issued decrees related to the freezing and seizure of terrorist assets under UN Security Council Resolutions 1267 and 1373. In addition, the FIU has undertaken efforts to build capacities through training programs for staff and relevant stakeholders.

Sudan remains vulnerable to money laundering and terrorism financing crimes. Its continued isolation from the international financial system due to long-standing U.S. and UN Security Council sanctions contributed to a foreign currency crisis that has fostered the growth of a large black market. A weak and overlapping regulatory structure will present a significant and pressing challenge as the country seeks to expand and diversify its economy following the succession of South Sudan. This deficiency is further compounded by low awareness among reporting entities and enforcement efforts constrained by limited levels of human and capital resources, which have otherwise been prioritized to address Sudan's critical security and humanitarian issues.

In order to ensure continued political commitment, the international community must demonstrate the positive impact of AML/CFT measures on Sudanese economic development and position any capacity-building initiatives within that framework. The FIU, which has shown a willingness and capacity to engage with international actors to strengthen the Sudanese AML/CFT regime and will serve as a key entry point for intervention, would greatly benefit from a coordinated and targeted program of technical assistance.

Tanzania

The 2012 baseline study did not examine Tanzania because the study focused on IGAD countries and Tanzania is not an IGAD member.

Since the FATF listed Tanzania as a jurisdiction with strategic money laundering and terrorism financing

deficiencies in October 2010, Tanzania has been consistently responsive to feedback from regional and international bodies on strengthening its AML/CFT regime. After having met its substantive points for progress and improvement, Tanzania is no longer subject to the FATF global AML/CFT monitoring process as of June 2014.

Tanzania is moving toward effective and enhanced implementation of its AML/CFT laws, primarily through enactment of its national AML/CFT strategy and the strengthening of its FIU operations. Its AML law was amended to include an adequate definition of terrorism financing. Amendments to its terrorism prevention act in January 2014, which further clarified Tanzania's obligation to implement UN Security Council Resolutions 1267 and 1373, were assessed by the FATF and found to be satisfactory. Tanzania should continue to prioritize strengthening and identifying any challenges to the implementation of its legal framework.

Although the FIU has demonstrated its capacity to receive suspicious transaction reports, it could publish further guidance for reporting entities related to customer due diligence expectations. Tanzania's FIU is operational but lacks staff and support in the form of training to enhance their analysis and dissemination capacities. Widespread awareness of money laundering and terrorism financing risks outside of formal financial institutions is lacking, and engagement with the designated nonfinancial business and profession (DNFBP) sector is an opportunity and entry point for further growth. The FIU has issued some guidelines for certain DNFBPs and should prioritize preparing guidelines for other DNFBPs as well as sector outreach. Law enforcement and judicial authorities have a limited understanding of what constitutes money laundering and terrorism financing and could improve their institutional capacities through training and awareness-raising sessions, particularly on investigations and prosecutions of complex financial crimes.

Tanzania's membership in the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) and the Egmont Group remains an important component

of its regional and international cooperation network, and all measures listed above remain ongoing under the ESAAMLG follow-up mechanism. Tanzania should continue to capitalize on these networks and prioritize the exchange of information, particularly with neighboring countries and major trading partners.

Uganda

The 2012 baseline report noted Uganda as one of the most vulnerable countries to money laundering and terrorism financing activities. Without a comprehensive AML law or FIU, the process on addressing AML/CFT issues in Uganda was at a standstill. Officials described money laundering as "rampant" across the country, largely resulting from endemic public corruption. Private sector actors expressed concern that the lack of progress on these issues was posing a real and serious threat to their businesses, offering a competitive advantage to firms with political influence.

The lack of progress on developing an AML/CFT regime capable of stemming the tide of illicit financial activity was attributed to a deficiency in Ugandan political will as much as an absence of resources and capacity. In the past two years, however, Uganda has begun making progress in strengthening its AML/CFT system. Most notable is the passage after 10 years of a comprehensive AML bill. Uganda has established its Financial Intelligence Authority (FIA), an administrative-style FIU responsible for the collection, analysis, and dissemination of STRs and cash transaction reports, which financial institutions and other accountable entities are required to file.

Uganda's predominately informal and cash-based economy presents challenges to effectively monitoring money laundering and terrorism financing activities. Porous borders have left the country vulnerable to cross-border smuggling, particularly of resources extracted from the Democratic Republic of the Congo.

Recently, Uganda has demonstrated increased political will to address AML/CFT issues, but the depth of this commitment is unclear. To maintain the current momentum, a demonstration of the economic benefits to Uganda of effective AML/CFT regulation, particularly

to the country's political and business elites, is important. Foreign and multilateral donors should clearly state that, without effective AML/CFT efforts, Uganda may forgo the economic development opportunities enjoyed by its regional peers. The recent push toward increased integration with the East African Community could potentially serve as a key catalyst for continued political commitment, and discussion on AML/CFT issues should be encouraged as part of the formation of a monetary union.

In the short term, the key entry point will be the newly established FIA. Donors and regional partners should work with the FIA to develop a coordinated package of assistance designed to strengthen and advance the national strategy for addressing AML/CFT issues. Most importantly, these efforts must be situated alongside a broader push for more transparent, accountable, and rule of law-based government reforms in Uganda.

Yemen

The 2012 baseline study did not examine Yemen because the study focused on IGAD countries and Yemen is not an IGAD member.

Yemen confronts a myriad of dynamic, evolving security and economic challenges. This low-income country has not benefited financially from oil revenues to the extent its Arabian Peninsula neighbors have. The combination of limited governmental capacity and its geographic location makes Yemen vulnerable to abuse from transnational criminal networks and terrorism financiers, particularly from smuggling through its vast and strategically important waterways. This risk is further compounded by the existence of a large, informal marketplace in Yemen, encouraged by the prevalence of cash-based transactions in the country and underdeveloped law enforcement capacity.

Recent political instability has exacerbated an already deteriorating humanitarian situation and opened the door for exploitation by violent extremist groups, including Al-Qaida in the Arabian Peninsula. This instability has had a tangible impact on Yemen's economy, including declining gross domestic product rates and oil production due to frequent attacks on pipelines.

Although there have been high-level demonstrations of political will related to AML/CFT issues, ambiguity around the future of the political structure, coupled with the prioritization of security concerns and humanitarian crisis management, may present challenges to continued AML/CFT implementation efforts.

Yemen has been home to a number of high-profile cases related to terrorism financing involving khat smuggling and abuse of its nonprofit sector. These cases underscore the main problem for Yemen: a lack of governmental capacity to address immediate or more long-standing challenges due to continued political and civil unrest. Until the security situation is addressed and a stable government put in place, there is limited capability to support the effective implementation of AML/CFT efforts. Yemen's FIU has made significant strides raising awareness and building its aptitude and that of staff, but scarce institutional resources continue to hinder performance.

As the new administration assumes power, it will be important to continue to promote awareness and engagement on AML/CFT issues. The international community should work to demonstrate the economic and security benefits of effective AML/CFT regulation as a way to encourage continued compliance and political commitment. The FIU serves as a key entry point and would benefit greatly from a coordinated package of technical assistance directed at building specific capacities and institutions, focusing first on the FIU and regulatory authorities.

Looking Ahead

Over the past few years, there have been tangible signs of measurable progress in AML/CFT regimes across East Africa and the Greater Horn region. There are multiple opportunities to capitalize on this progress and build on the momentum, often initiated and sustained by national governments themselves. In particular, Ethiopia, Kenya, and Tanzania have emerged as regional leaders, and their efforts have been recognized by the international community through their removal from the FATF global AML/CFT monitoring process. Progress has been made in Djibouti, Eritrea, Sudan,

and Uganda, including advancements in legal frameworks and technical capacity building as well as demonstrations of high-level political will and awareness-raising efforts. Somalia, South Sudan, and Yemen, despite facing significant challenges to security and periods of political instability, have seen positive developments in establishing AML/CFT controls and building institutional frameworks (table ES1).

Nevertheless, the East Africa and the Greater Horn region remain home to still-developing countries that have newly formed institutions and face a complex myriad of economic, political, and security challenges. In many instances, after the immediate needs related to the founding of these institutions have been fulfilled, sufficient human and financial resources are not allocated to support their ongoing development and performance, and as a result, these institutions cannot be considered fully operational. Although political will to support AML/CFT objectives exists across the region, it can be difficult for governments to justify prioritizing AML/CFT efforts over other pressing economic, security, and humanitarian concerns. The international community is well positioned to support development through partnerships.

A primary entry point for strengthening AML/CFT frameworks remains with national institutions such as FIUs, border and customs control, and law enforcement agencies, among others. Targeted technical assistance on these issues is crucial for countries to

be able to effectively implement legal frameworks and address remaining vulnerabilities. Additionally, efforts should be made to broaden awareness of money laundering and terrorism financing threats and implications beyond the formal financial sector to include all DNFBPs and other key stakeholders. As national AML/CFT regimes advance, sector-specific risk analysis can serve as a useful method for identifying ways to allocate limited resources to effectively address country-specific challenges.

Money laundering and terrorism financing are crimes that can have far-reaching global effects and require comprehensive national, regional, and international approaches and responses. Cooperation and information sharing among national institutions and across jurisdictions remain challenging and present an impediment to comprehensive and coordinated approaches to AML/CFT issues, particularly in East Africa, with cash-intensive economies and low financial inclusion rates. These factors contribute to a core regional vulnerability as large segments of economic activity operate outside of formal financial systems and are not subject to adequate AML/CFT controls. Emerging technologies such as mobile banking and money services offer unique solutions to advance financial inclusion goals, but the burgeoning nature of these new markets has left many regulators struggling to identify ways to mitigate risk while encouraging these technologies, which have positive impacts on many communities in the region. ■

Table ES1. Summary of AML/CFT Arrangements in East Africa and the Greater Horn of Africa Region

Country	Financial intelligence unit (FIU) and year of establishment by law	AML law	CFT law	Participation in FATF-style regional body	FATF global AML/CFT monitoring process status	Egmont Group membership
Djibouti	Service de Renseignements Financiers (2002)	Yes	Yes	No	N/A	No
Eritrea	In progress	Yes	Yes	No	N/A	No
Ethiopia	Financial Intelligence Center (2010)	Yes	Yes	ESAAMLG	Removed in October 2014	No
Kenya	Financial Reporting Center (2009)	Yes	Yes	ESAAMLG	Removed in June 2014	No
Somalia	No	No	No	MENAFATF (observer)	N/A	No
South Sudan	Financial Intelligence Unit (2012) ^a	Yes	Yes	No	N/A	No
Sudan	Financial Intelligence Unit (2010)	Yes	Yes	MENAFATF	"Improving global AML/CFT compliance"	No
Tanzania	Financial Intelligence Unit (2006)	Yes	Yes	ESAAMLG	Removed in June 2014	Yes
Uganda	Financial Intelligence Authority (2013)	Yes	In progress	ESAAMLG	"Improving global AML/CFT compliance"	No
Yemen	Financial Information Unit (2003)	Yes	Yes	MENAFATF	"Improving global AML/CFT compliance"	No

^a Not yet operational.

NOTES: ESAAMLG - Eastern and Southern Africa Anti-Money Laundering Group; FATF - Financial Action Task Force; MENAFATF - Middle East and North Africa Financial Action Task Force.

Source: Global Center staff.

INTRODUCTION

Money laundering and terrorism financing pose a significant threat to security and developmental efforts worldwide and increasingly undermine the integrity and stability of the global financial system. Many states in the Greater Horn of Africa region are experiencing rapid economic growth and have increasing access to global markets. With predominantly informal and cash-based economies, these states are particularly vulnerable to money laundering and terrorism financing activities. This vulnerability is further enhanced by absent, nascent, or incomplete financial regulatory mechanisms as well as limited law enforcement and judicial capacities to respond to violations. Poverty, weak governance, corruption, porous borders, and political instability all contribute to the enabling environment for transnational organized criminal and terrorist groups in the Greater Horn region.

Adequately criminalizing money laundering and terrorism financing and further prioritizing the establishment and implementation of national anti-money laundering and countering the financing of terrorism (AML/CFT) frameworks are increasingly seen as an effective antidote to the rise of terrorism and other organized criminal activity. By taking proactive measures to track and punish illegal financial activity, states are working to dismantle the resource base by which terrorist organizations, such as al-Shabaab and the Islamic State in Iraq and the Levant, are funded. Moreover, strengthening AML/CFT frameworks at the national level contributes to regional efforts to curb illicit financial flows, enhances cross-border cooperation, and helps to reduce risks that hinder overall economic and country development.

Jurisdictions are seeing tangible progress at the national level in terms of enhanced capacities and abilities to prevent and mitigate financial and tactical threats. At the same time, movement toward meeting financial inclusion goals is critical to development, economic growth, gender equality, and the extension of a financial safety net for the rural poor.

For these reasons, national and regional actors and donor governments are investing in regional AML/CFT efforts to advance their economic and security interests while promoting benefits, such as transparency, that shine a light on corruption and contribute to broader good governance goals.

Tracking Progress

In 2012 the Intergovernmental Authority on Development (IGAD) Security Sector Program (ISSP) and the Global Center on Cooperative Security, formerly known as the Center on Global Counterterrorism Cooperation (CGCC), published a joint baseline study on AML/CFT efforts in the IGAD subregion,¹ which produced an initial analysis of Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan, and Uganda.

This report provides an updated analysis of AML/CFT challenges in the Greater Horn region. It takes stock of progress that has been made at the national level on AML/CFT issues across the region and charts the international community's increased focus on AML/CFT activities in the region. This report broadens its focus to include two additional countries, Tanzania and Yemen, because of the geographical and strategic

1 Tu'emay Aregawi Desta and James Cockayne, eds., "ISSP-CGCC Joint Baseline Study on Anti-Money Laundering and Countering the Financing of Terrorism in the IGAD Subregion," CGCC, May 2012, http://globalcenter.org/wp-content/uploads/2012/11/AML_Report.pdf.

importance of these two countries to the cross-border risks shared among IGAD member states and these non-IGAD members.²

This report identifies key entry points for future capacity development interventions and enhancement of practical regional and international cooperation. It offers local context to complement the data and capture AML/CFT regimes as part of a larger picture in which the promise of financial growth and prosperity is viewed alongside a reinvigorated approach to “securing the neighborhood” on AML/CFT issues across the region.

The information and recommendations in this report are intended to inform policy formulation, project design, and implementation in East Africa and the Greater Horn region. The report can be utilized by policymakers, academics, technical personnel, and companies in the private sector, as well as multilateral organizations, and serve as a resource for information sharing among the

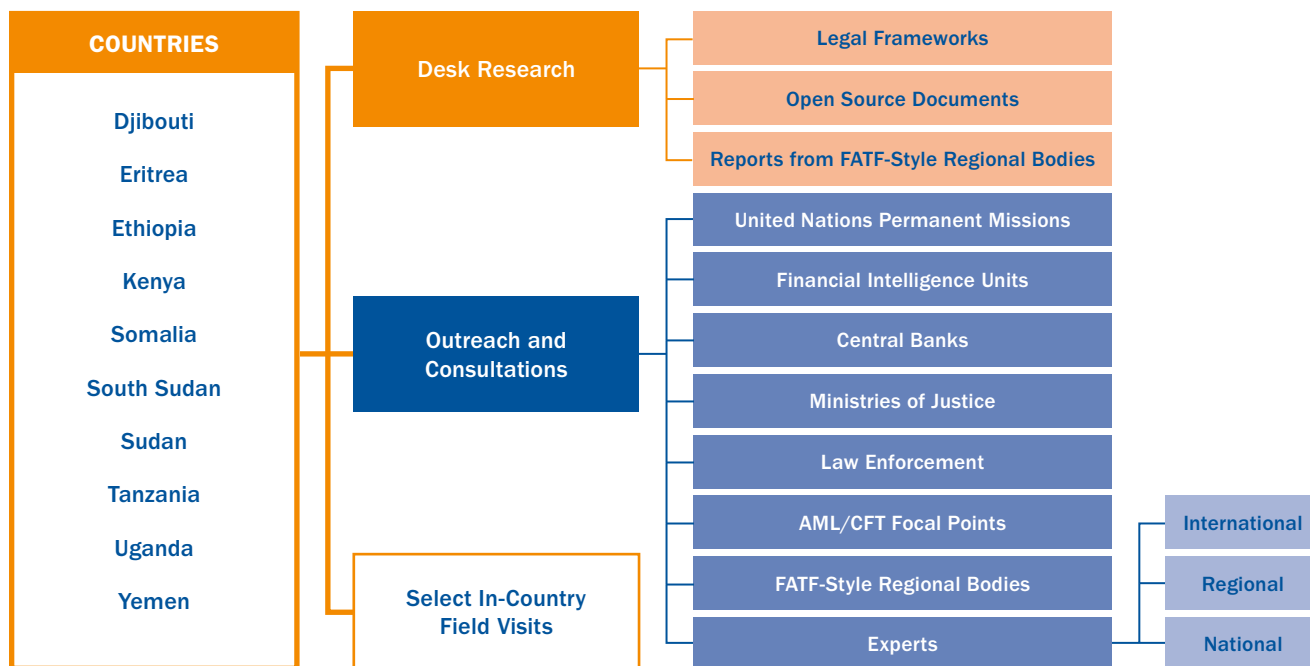
covered jurisdictions on AML/CFT progress, vulnerabilities, and entry points. Similarly, donors and partners can use this report as a coordination tool among stakeholders interested in investing in the region to identify viable opportunities for intervention and cooperation and to avoid duplication of efforts and resource allocation.

Objectives and Methodology

This report is the product of field visits, desk research, and consultations with in-country government and financial sector officials and representatives. A report draft was shared with government and financial officials from each relevant country prior to publication for review and feedback (fig 1).

Research for this report took place during September–December 2014. The project team emphasized local perspectives and national priorities, and outreach and follow-up was conducted with each country’s finan-

Figure 1. Research Formulation* (September – December 2014)



* Graphic is representative of all activities undertaken; the process was not uniform across all jurisdictions.

2 Similarly, Tanzania and Yemen are members of the Global Counterterrorism (GCTF) Forum Horn of Africa Region Capacity-Building Working Group. See GCTF, “Working Groups: Horn of Africa Region Capacity Building,” n.d., <https://www.thegctf.org/web/guest/horn-of-africa-region-capacity-building>.

cial intelligence unit (FIU) if one existed and central bank, as well as representatives of the justice ministry, law enforcement, and other relevant AML/CFT focal points. The team conducted a number of in-country consultations and consulted a range of national, regional, and international experts. The team extensively reviewed open source documents and interviewed senior officials of the Eastern and Southern Africa

Anti-Money Laundering Group (ESAAMLG), as the primary Financial Action Task Force (FATF)-style regional body (FSRB) to which a majority of these jurisdictions belong. Documents and reports of the Middle East and North Africa Financial Action Task Force were consulted to ensure inclusion of updated information for countries that are not covered by ESAAMLG but have an FSRB affiliation (table 1).

Table 1. Schedule of Upcoming AML/CFT Reviews for East Africa and the Greater Horn of Africa Region

Country	Assessment body (FATF-style regional body)	Date of last mutual evaluation	On-site period	Plenary discussion
Djibouti	—	—	—	—
Eritrea	—	—	—	—
Ethiopia	ESAAMLG	—	7–17 April 2014	September 2014
Kenya	ESAAMLG	September 2011	June 2018	March 2019
Somalia	MENAFATF (observer)	—	—	—
South Sudan	—	—	—	—
Sudan	MENAFATF	May 2013	Not scheduled	Not scheduled
Tanzania	ESAAMLG	December 2009	June 2017	March 2018
Uganda	ESAAMLG	August 2007	June 2015	March 2016
Yemen	MENAFATF	September 2009	Not scheduled	Not scheduled

Notes: ESAAMLG - Eastern and Southern Africa Anti-Money Laundering Group; FATF - Financial Action Task Force; MENAFATF - Middle East and North Africa Financial Action Task Force.

Source: Global Center staff.

Structure of the Report

A separate chapter examines each jurisdiction and includes the following sections: (1) an introductory box providing a recap of the findings from the 2012 baseline study and a summary of findings and recommendations; (2) a broad economic snapshot of the country and relevant political context background; (3) progress on AML/CFT efforts, such as the national legislative framework and the operationalization of an FIU; (4) ongoing risks and vulnerabilities, largely focused on sectoral risks and concrete implementation of legislative

frameworks; and (5) emergent entry points for action and further development.

Finally, this report offers a brief analysis of the opportunities presented by the rise of mobile money use in the region to promote financial inclusion goals. The broader issue of financial inclusion is examined within the context of balancing AML/CFT risks against potential socioeconomic gains. For reference purposes, an appendix listing key laws and regulations by country is included at the end of this report.

Djibouti

As noted in the 2012 baseline report, Djibouti has an operational financial intelligence unit (FIU) and laws that criminalize terrorism-related offenses, including money laundering and terrorism financing within the country. Djiboutian FIU staff have received training on financial intelligence and analysis from international entities and have engaged relevant actors at regional conferences and workshops on anti-money laundering and countering the financing of terrorism (AML/CFT) topics. Nevertheless, Djibouti's AML/CFT framework and infrastructure in 2014 closely resembles that from 2012. Although functional, the FIU does not have sufficient human resources support, limiting its ability to fully execute its mandate. Djibouti lacks observer or member status in a Financial Action Task Force (FATF)-style regional body (FSRB) and has not yet undergone an FATF review. Without membership in an FSRB, formalized cooperation with Djibouti on AML/CFT issues beyond its borders is limited. Although Djibouti has not formally requested observer status within the Middle East and North Africa Financial Action Task Force (MENAFATF), the country continues to work toward fully meeting international AML/CFT standards and demonstrates political will in undertaking those efforts.

Djibouti's important strategic location, small geographic size and population, and relative political

stability present it with opportunities for sustained and enhanced economic development. At the same time, like many other jurisdictions, it is increasingly susceptible to potential criminal abuse or misuse of its financial system. The expansion of Djibouti's port infrastructure enables it to process increased trade volumes. Djibouti's legal framework supports an active and growing business sector with a diverse portfolio of incoming and outgoing financial flows. The effectiveness of Djibouti's AML/CFT legislation is limited by minimal oversight and guidance with regard to reporting and exchange of information, potentially rendering Djibouti vulnerable to money laundering and other illicit activities. Such occurrences could threaten future foreign direct investment and international aid, which are instrumental components of the economy.

Further support of the FIU with particular attention to hiring additional analysts would be valuable to ease the workload for existing staff. Once these human resources needs have been met, training and targeted guidance on interactions with nondesignated financial businesses and professions would be beneficial toward fulfilling the FIU's mandate beyond supervision of banking institutions. Additionally, confirmation of observer status in MENAFATF would be beneficial for Djibouti as the country seeks to enhance its cooperation with regional counterparts.

State of Play

Under the leadership of President Ismail Omar Guelleh, Djibouti has experienced real gross domestic product (GDP) growth rates of 4.4–5.4 percent over the past five years, with 2013 GDP estimated at about \$1.5 billion. The Djiboutian franc remains stable and pegged to the U.S. dollar as it has been since 1973, which has helped to keep inflation rates low in recent years.³ Economic growth is expected to increase in 2015 to 6.5 percent and is attributed to the expansion of Djibouti's port capacities and foreign direct investment (FDI).⁴

Djibouti remains an import-heavy economy, primarily of oil and foodstuffs.⁵ Although it has few natural resources, the country's position on high-traffic shipping lanes between the Red Sea and the Gulf of Aden has greatly bolstered the trading influence of the Port of Djibouti and the Doraleh Container Terminal (DCT), establishing the country as a burgeoning trade hub for the rest of the Greater Horn of Africa region, in particular Ethiopia, and the Arabian Peninsula. The Djiboutian government manages the port,⁶ and the DCT is currently managed by Dubai-based DP World. A \$300 million expansion to double the terminal's capacity is scheduled to end by 2015.⁷

Djibouti recently unfurled a development plan titled “Djibouti Vision 2035” and expressed its desire to become the Dubai or Singapore of Africa in the next 20 years. As part of this plan, \$6 billion will be invested in six new ports, railways, roads, aqueducts, and a desalination plant.⁸ There are plans to build four additional regional ports in the next two years, one of which is intended to serve as Djibouti's third “transport corridor,” providing port access to landlocked Burundi, Rwanda, South Sudan, and Uganda and enhancing Djibouti's integration with the other economies of the Common Market for Eastern and Southern Africa.⁹

This healthy growth trajectory and potential for expansion has attracted the interest of international private sector actors. The two free zones in Djibouti incentivize private sector financial engagement with the country with 100 percent foreign ownership, a 5- to 10-year licensing exemption, no corporate taxes, and no import duties.¹⁰ In 2013, FDI represented 18.6 percent of Djibouti's GDP, with the majority coming from Chinese companies.¹¹ Much of the funding for “Djibouti Vision 2035” activities will originate primarily from Chinese, Indian, Brazilian, and Persian Gulf sources.¹²

Additionally, Djibouti benefits from the strategically located military outposts of its major allies, including the United States, France, Japan, and China. The

3 Banque Centrale de Djibouti, “Rapport Annuel 2013,” n.d., pp. 10, 23, https://banque-centrale.dj.s3.amazonaws.com/uploads/document/attachment/133/Rapport_Annuel_2013.pdf.

4 Economist Intelligence Unit (EIU), “Country Report: Djibouti,” 30 October 2014, p. 13 (copy on file with authors).

5 Trading Economics, “Djibouti Exports,” n.d., <http://www.tradingeconomics.com/djibouti/exports>; African Development Bank Group, “Djibouti: Country Strategy Paper 2011–2015,” August 2011, p. 3, <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/Djibouti%20-%20CSP%202011-15.pdf>.

6 Teguest Yilma, “Strengthening Djibouti Port's Strategic Position,” Port de Djibouti, 1 November 2014, <http://www.portdedjibouti.com/Pages/ReadNews.php?NID=30>.

7 Aboubakar O. Hadi, “Infrastructure and Investment of Ports and Free Zones,” n.d., pp. 5, 16, 30, http://www.icafrica.org/fileadmin/documents/ICA_sponsored_events/IGAD_HoA_Conf_2012/DJIBOUTI_IGAD_Conf_March2012.pdf. Hadi presented this material at the Intergovernmental Authority on Development Horn of Africa Conference in Nairobi on 12–13 March 2012.

8 Ambassade de la République de Djibouti en Éthiopie, “Djibouti Vision 2035,” n.d., <http://www.ambassadedjibouti-eth.net/m-139-les-grands-projets.html>; Romil Patel, “Djibouti Plans LNG, Oil Terminals to Develop Regional Trade,” Bloomberg, 7 November 2014, <http://www.bloomberg.com/news/2014-11-06/djibouti-plans-ling-oil-terminals-to-develop-regional-trade-ties.html>.

9 Aidan Grange, “In With the New,” Port Strategy, 13 August 2014, <http://www.portstrategy.com/news101/world/africa/horn-of-africa>; Port de Djibouti, “Port of Tadjourah,” n.d., <http://www.portdedjibouti.com/Pages/NewProjects.php?ProjectID=1>; Sarah McGregor, “Djibouti to Double Capacity at Doraleh Container Terminal,” Bloomberg, 12 March 2012, <http://www.bloomberg.com/news/2012-03-12/djibouti-to-double-capacity-at-doraleh-container-terminal-1-.html>.

10 Djibouti Free Zone, “Incentives and Benefits,” n.d., <http://www.djiboutifz.com/en/our-offerings/incentives-and-benefits.html>; “Global Vision: Djibouti,” Fortune, n.d., http://www.timeincnewsgrupecustompub.com/sections/071015_Djibouti.pdf.

11 Audrey Emmanuelle Vergnes, “Djibouti 2014,” *African Economic Outlook*, 2014, p. 6, http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/2014/PDF/CN_Long_EN/Djibouti_EN.pdf.

12 Maria Levitov, “Djibouti to Raise \$5.9 Billion From Investors for Infrastructure,” Bloomberg, 8 May 2013, <http://www.bloomberg.com/news/2013-05-08/djibouti-to-raise-5-9-billion-from-investors-for-infrastructure.html>.

United States, France, and Japan pay a combined total of roughly \$150 million annually for basing privileges.¹³ In 2014, China and Djibouti agreed to a partnership in which Djibouti offered military facilities in exchange for Chinese strategic guidance and equipment. This foreign presence makes a dual contribution to the country's economic health as those stationed in Djibouti become economic players.

National economic growth is not reflected evenly across the population. In 2013, Djibouti ranked 170 out of 187 countries in the Human Development Index, with human inequality and multidimensional poverty contributing to this low ranking.¹⁴ During 2014, approximately 48 percent of the population was unemployed, and of those employed, 41 percent worked for the government. The private sector, however, is projected to create more jobs as it continues to develop.¹⁵

The challenge presented by food insecurity has arisen from multiple periods of drought and fresh water shortages, leading to a decrease in crop yields and already limited livestock production and an increased need for imported foods at higher prices.¹⁶ Landlocked Ethiopia has emerged as one of Djibouti's closest allies in confronting this challenge by providing underground fresh water to Djibouti for free.¹⁷ This relationship was institutionalized with a 2002 agreement to boost bilateral trade that stipulated that Ethiopia could use Djibouti's

maritime ports.¹⁸ Today, more than 80 percent of goods moving through Djibouti's ports originates in Ethiopia.¹⁹ Ethiopia is also active in the development of a new railroad along the two countries' trade route, which is expected to be completed in 2015.²⁰

Progress and AML/CFT Efforts

The Djiboutian government expressed its political commitment to national counterterrorism efforts in 2001 with the creation of the Comité National de Lutte contre le Terrorisme, a national committee dedicated to countering terrorism.²¹ The committee's formation was followed in December 2002 by passage of legislation on money laundering and confiscation of the proceeds of crime.²² The government updated that law in 2011, sharpening the definition of money laundering in accordance with international standards, such as those of the Financial Action Task Force (FATF).²³

The 2002 law and subsequent legislation called for the establishment of the Service de Renseignements Financiers (SRF), the financial intelligence unit (FIU) of Djibouti. The SRF is charged with receiving, analyzing, and processing declarations from credit institutions, financial intermediaries, and persons. It is also responsible for receiving other relevant information from judicial authorities and certain other entities. A related decree in 2006²⁴ clarified that the SRF would

13 In 2014 the United States signed a new 20-year lease for its military base Camp Lemonnier, agreeing to \$63 million in leasing fees plus \$7 million in development aid annually. Roble Olhaye, "Government of Djibouti Refutes a Congress Blog," *Hill*, 24 October 2014, <http://thehill.com/opinion/oped/221726-government-of-djibouti-refutes-a-congress-blog>. France pays approximately \$39 million annually for its military bases, and Japan reportedly pays a similar amount for its naval base. "Djibouti: China Planning Military Base, Increased Co-operation," *African Armed Forces*, 28 March 2014, <http://www.aafonline.co.za/news/djibouti-china-planning-military-base-increased-co-operation>.

14 UN Development Programme, explanatory note on the 2014 Human Development Report composite indices for Djibouti, n.d., p. 3, http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/DJI.pdf.

15 Vergnes, "Djibouti 2014," p. 11.

16 World Food Programme, "Djibouti: Drought and High Food Prices Plague Djibouti," n.d., <https://www.wfp.org/countries/djibouti>.

17 Beyene Geda, "Ethiopia to Give Djibouti Underground Water for Free," *Africa Report*, 4 July 2014, <http://www.theafricareport.com/East-Horn-Africa/ethiopian-to-give-djibouti-underground-water-for-free.html>.

18 "Djibouti-Ethiopia: Accord Signed to Use Djibouti Port," *IRIN*, 15 April 2002, <http://www.irinnews.org/report/31135/djibouti-ethiopia-accord-signed-to-use-djibouti-port>.

19 EIU, "Country Report: Djibouti," p. 10.

20 William Davison, "Ethiopia-to-Djibouti Rail to Be Complete in a Year, PM Says," *Bloomberg*, 17 October 2014, <http://www.bloomberg.com/news/2014-10-17/ethiopia-to-djibouti-rail-to-be-complete-in-year-s-time-pm-says.html>.

21 "Décret n°2001-0193/PRF portant création d'un Comité National de lutte contre le Terrorisme," *Journal Officiel de la République de Djibouti*, 3 October 2001, https://www.unodc.org/tldb/pdf/Djibouti_Dcret_n2001-0193.pdf.

22 Loi n°196/AN/02/4ème L Sur le Blanchiment, la Confiscation et la Coopération Internationale en matière de produits du crime, *Journal Officiel de la République de Djibouti*, 29 December 2002, <http://www.presidence.dj/LES%20TEXTES/loi196an02.htm>.

23 Loi n° 112/AN/11 sur la lutte contre le financement du terrorisme, *Journal Officiel de la République de Djibouti*, 25 May 2011, http://www.presidence.dj/jo/texte.php?num=112&date_t=2011-05-25&nature_t=Loi.

24 "Décret n°2006-0083/PR/MJAPM portant application de la loi n°196/AN/02/4ème L sur le Blanchiment, la Confiscation et la Coopération Internationale en matière de produits du crime et portant organisation et modalités de fonctionnement du Service de Renseignements Financiers," *Journal Officiel de la République de Djibouti*, 27 March 2006, art. 2, <http://www.presidence.dj/jo/2006/decr0083pr06.php>.

fall under the authority of the Banque Centrale de Djibouti and that staff members would include appointments designated by the minister of justice and human rights and the governor of the central bank.

The 2002 law states that SRF agents are bound by confidentiality agreements in the execution of their duties and calls for the eventual “assuring or strengthening (of the SRF’s) independence.” This institutional autonomy and confidentiality is necessary for FIU staff to fulfill their duties. Currently, however, the SRF does not enjoy operational independence from the central bank. It is organizationally located within the central bank and physically housed within the central bank’s building. The SRF does not have a specific budget line for its operational expenses but instead has access to the administrative, human, and material resources of the central bank as needed.

The efficacy of the SRF as an institution has been called into question. For example, the central bank’s 2013 annual report stated that “the operational capacity of the SRF has been judged insufficient with regards to the missions that are assigned to it.”²⁵ As of 2013, the SRF had only one dedicated staff member to perform its core functions, down from three in 2012 as one person was on long-term leave and another was moved to the central bank’s supervision department.

The SRF was awaiting material and human resource reinforcements and was in talks with the World Bank regarding a long-term technical assistance program that would give the SRF “new capabilities.” Following an August 2012 visit by Interpol, the UN Office on Drugs and Crime (UNODC), and the World Bank, UNODC designated an international expert to evaluate the SRF’s institutional needs from a capacity-building standpoint as a first phase of such a project. This evaluation was scheduled for a period of three months between December 2013 and June 2014, and as part of this

work, preliminary financial investigation training was delivered in Djibouti in March 2014. The results from this mission have not been made public.

The SRF was designed to serve as the nucleus of the country’s anti-money laundering and countering the financing of terrorism (AML/CFT) regime, but the central bank’s supervision department for banks, financial institutions, and auxiliaries, created in 2011 and supported by the International Monetary Fund through July 2013, has received significant attention for its contributions on this front.²⁶ In 2013, the central bank reorganized with the goal of “reinforcing” the supervision department. The department is staffed with eight people: three inspectors charged with monitoring activities of banks and financial auxiliaries and five supervisors who conduct monitoring and periodic on-site checks on these financial establishments. As indicated in the central bank’s 2013 annual report, which is the most recently published governmental document to reference the SRF, the purpose of the SRF is to “preserve the integrity of financial activities in the national territory of Djibouti,”²⁷ and the SRF therefore works closely with the supervision department. Staff of the SRF and the supervision department have attended regional training sessions related to regulatory supervision in Ethiopia and Yemen and an Intergovernmental Authority on Development training on AML/CFT issues in Djibouti.²⁸

According to central bank Governor Ahmed Osman Ali, as of 2014, Djibouti has 11 banks, four of which are Islamic banking institutions. The central bank’s 2013 annual report indicated that the SRF has worked with the supervision department to conduct on-site and ongoing reviews of these institutions. Other types of institutions requiring equal attention include three microfinance institutions, one public institution that finances small and medium-sized enterprises,²⁹ 17 registered bureaux de change and money transfer businesses,

25 Banque Centrale de Djibouti, “Rapport Annuel 2013,” p. 73.

26 International Monetary Fund (IMF) Communications Department, “IMF Executive Board Concludes 2013 Article IV Consultation With Djibouti,” no. 13/289, 31 July 2013, <https://www.imf.org/external/np/sec/pr/2013/pr13289.htm>.

27 Banque Centrale de Djibouti, “Rapport Annuel 2013,” pp. 64, 72–73.

28 IMF Communications Department, “IMF Executive Board Concludes 2013 Article IV Consultation With Djibouti.”

29 “Small Country, Big Ideas,” *Banker Africa*, no. 008 (2013), pp. 11–15, <http://www.cpifinancial.net/flipbooks/BA/2013/8/#11/z>.

and designated nonfinancial businesses and professions (DNFBPs) such as insurance companies, investment firms, real estate agents, notaries, dealers in precious metals and stones, auditors, travel agencies, casinos and gaming establishments, and nongovernmental organizations.³⁰ The 2011 law is explicit in its requirements for DNFBPs, indicating that the requirement to report suspicious transactions supersedes client–service provider confidentiality.

Enhanced cooperation among agencies other than the supervision department and the SRF is needed. The 2011 law does not stipulate information-sharing mechanisms or provide detail on the information entities are required to report beyond the reason for the transaction and the date, and as a result, the SRF had only identified seven possible money laundering cases between the time of its establishment and the 2012 baseline report. The SRF has not submitted any cases to law enforcement agencies for terrorism financing.³¹ Despite this lack of progress in developing cases, there are currently no sanctions in place on Djibouti, as the FATF and the Organisation for Economic Co-operation and Development have not formally reviewed Djibouti's performance.³²

The SRF needs staffing reinforcement, but it has been asked on occasion to operate beyond its mandate. For example, when the Warka Bank for Investment and Finance in Djibouti faced a liquidity crisis in 2012, the SRF was tasked with implementing precautionary measures and monitoring the bank under the supervision of the central bank governor, which it did. Requests

such as this—performance of duties beyond the typical expectations of an administrative-style FIU—place a strain on an already understaffed SRF.

Ongoing Risks and Vulnerabilities

In a region where most of its neighbors have experienced significant terrorist activity, Djibouti has not been a major target.³³ Money laundering is currently a more pressing concern for the country and a significant challenge for its AML/CFT regime.

One major vulnerability originates in Somalia. Somalia has many historical, cultural, geographic, and trade linkages with Djibouti, and several Djibouti-based financial institutions operate in Somalia.³⁴ With the government's AML/CFT jurisdictional oversight limited to formal banking institutions, a significant cross-section of economic activity is not subject to appropriate Djiboutian regulatory standards. For instance, Djiboutian banking institutions commonly refer to relevant UN sanctions lists and the U.S. Office of Foreign Assets Control's Specially Designated Nationals List as part of their know your customer (KYC) and customer due diligence (CDD) procedures, but the level to which money transfer businesses conduct these checks cannot be verified. In one such international money laundering case, ransom from piracy was smuggled from Somalia into Djibouti and sent out of Djibouti via a money transfer service.³⁵

Djibouti and its central bank continue to identify piracy, primarily from Somalia, as a major money laun-

30 Banque Centrale de Djibouti, "Rapport Annuel 2013," p. 64.

31 Bureau of Counterterrorism, U.S. Department of State, "Country Report on Terrorism 2013," April 2014, pp. 20–22, <http://www.state.gov/documents/organization/225886.pdf>.

32 Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State, "International Narcotics Control Strategy Report (INCSR)—Volume II: Money Laundering and Financial Crimes Country Database," June 2014, pp. 133–136, <http://www.state.gov/documents/organization/222700.pdf> (hereinafter U.S. State Department June 2014 INCSR on Djibouti).

33 Although it contributed forces to the African Union Mission to Somalia in December 2011, Djibouti was not attacked by the Somalia-based terrorist organization al-Shabaab until May 2014 when the organization orchestrated a suicide bombing in a restaurant frequented by Westerners. "Al Shabaab Claims Responsibility for Djibouti Suicide Attack," Reuters, 27 May 2014, <http://www.reuters.com/article/2014/05/27/uk-djibouti-attacks-idUSKBN0E72AA20140527>. Since this attack, several foreign diplomatic missions have issued warnings that additional terrorist activities are likely to occur in the country. See Australian Department of Foreign Affairs and Trade, "Djibouti," 5 December 2014, <http://www.smartraveller.gov.au/zw-cgi/view/Advice/Djibouti>; UK Foreign Commonwealth Office, "Foreign Travel Advice: Djibouti; Terrorism," n.d., <https://www.gov.uk/foreign-travel-advice/djibouti/terrorism> (accessed 1 February 2015); Bureau of Consular Affairs, U.S. Department of State, "Djibouti Travel Warning," 25 November 2014, <http://travel.state.gov/content/passports/english/alertswarnings/djibouti-travel-warning.html>.

34 U.S. State Department June 2014 INCSR on Djibouti, p. 133.

35 World Bank, *Pirate Trails: Tracking the Illicit Financial Flows From Pirate Activities Off the Horn of Africa*, 2013, p. 49, http://siteresources.worldbank.org/EXTFINANCIALSECTOR/Resources/Pirate_Trails_World_Bank_UNODC_Interpol_report.pdf.

dering and terrorism financing risk for the nation. As expanding trade brings more international attention and business to Djibouti, it increases the number of piracy targets and the likelihood of attacks. Overall incidents of piracy decreased from 2012 to 2013, but the World Bank, UNODC, and Interpol estimate that \$339–413 million in ransom payments were made between April 2005 and December 2012. These funds reportedly were likely laundered through legal businesses, such as catering, transportation, real estate, and khat trade, and funneled into illegal activities such as smuggling of drugs, arms, and individuals.³⁶

Although corruption may also pose a challenge to the overall economic landscape in Djibouti, measurements of this activity in Djibouti are primarily limited to perceptions of corruption in the public sector. In 2014, Djibouti ranked in the third quartile in the Transparency International Corruption Perceptions Index.³⁷ In response to concerns about corruption, the government responded with several concrete actions, including through its continued support for the Chamber of Accounts and Fiscal Discipline of the Supreme Court (Chambre des Comptes et de Discipline Budgétaire de la Cour Suprême), charged with auditing state-owned enterprises.³⁸

In terms of cooperation with international counterparts, Djibouti's FIU has not yet signed an agreement covering information exchanges with other FIUs. Djibouti is not a member of the Middle East and North Africa Financial Action Task Force (MENAFATF), although its formal request for observer status is pending. Also, the SRF is not a member of the Egmont Group of Financial Intelligence Units. As Djibouti increases its economic influence in the region, it will be necessary for the country not only to improve its domestic AML/CFT capacities, but also to look beyond its borders. Its linkages to Somalia, Kenya, and the United Arab Emirates in particular will require formalized

mechanisms of information sharing related to potential money laundering and terrorism financing cases.

Entry Points

With projections of sustained economic growth in the coming years, Djibouti's expanding economy will likely continue to attract investment from international counterparts. Increased volumes of trade passing through Djibouti will necessitate development of a strong and autonomous SRF, equipped to perform its duties of receipt, analysis, and dissemination of declarations to relevant authorities, as the next step in the progression of strengthening Djibouti's AML/CFT regime.

Based on our findings and the input we received from Djiboutian stakeholders and other partners, we offer a number of recommendations for the international community and the Djiboutian government.

- Fulfill the recruitment and retention needs to place and keep permanent staff in the SRF.
- Select international trainers, preferably French speakers, to offer formal instruction and informal guidance to new SRF staff members.
- Designate a separate office space for the SRF outside of the central bank as a symbolic step toward establishing institutional separation of powers.
- Conclude a memorandum of understanding between the two institutions to designate mandates and formalize the working relationship between the two bodies.
- Amend existing law or issue a clarifying decree to provide for increased institutional autonomy of the SRF from the central bank and designate a separate budget line indicating a specific amount of funding for SRF operations.
- Amend existing law to empower the SRF to select its own staff, other than the head of the SRF,

³⁶ See generally *ibid.*

³⁷ Transparency International, "Corruption by Country/Territory: Djibouti," 2014, <http://www.transparency.org/country#DJI> (107 out of 175 jurisdictions, but only a 34 percent score).

³⁸ Loi n°136/AN/97/3ème L portant création d'une Chambre des Comptes et de Discipline Budgétaire de la Cour Suprême, *Journal Officiel de la République de Djibouti*, 2 July 1997, <http://www.track.unodc.org/LegalLibrary/LegalResources/Djibouti/Law/Act%2520Creating%2520a%2520Chamber%2520of%2520Auditors%2520%28Judicial%2520Discipline%2520of%2520the%2520Supreme%2520Court%29%2520%281997%29.pdf+&cd=1&hl=en&ct=clnk&gl=us>.

who would still be confirmed by the central bank governor.

- Hold educational and awareness-raising programs for reporting institutions, particularly DNFBPs, on identification of suspicious activity and the submission of useful reports to improve cooperation among stakeholders.
- Continue its pursuit of observer status and eventually full membership in MENAFATF,

requesting assistance if necessary to achieve this end.

- Conduct a sectoral risk assessment in cooperation with the central bank once accepted as a member in MENAFATF to inform the preparation of specific CDD and KYC procedures, particularly for the bureaux de change and money transfer, DNFBP, and telecommunications sectors.
- Prepare for an FATF mutual evaluation after acceptance as a member in MENAFATF.

Eritrea

The 2012 baseline report noted Eritrea's economy as being significantly regulated by the state and having a limited formal financial sector. Remittances from its overseas diaspora were cited as a significant contributor to the Eritrean economy, as was the burgeoning mining sector. At that time, no formal law or framework was in place on anti-money laundering and countering the financing of terrorism (AML/CFT) issues. The UN Security Council continued to impose sanctions against the country, which were challenged by the Eritrean government, but potential entry points were identified through enhanced engagement between Eritrea and its trading partners.

Since 2012, Eritrea has made some progress on developing its AML/CFT framework with the passage of its AML/CFT law in September 2014. The law calls for the formation of a financial intelligence unit, but the establishment of one has not been confirmed. Eritrea is increasingly altering its approach to economic development and is actively trying to create opportunities for cross-border cooperation and coordination. Renewed privatization of several state-owned enterprises, increased mining production and investment opportunities, and heightened engagement in international fora can be viewed as positive steps toward the strengthening of regional and international relations that would encourage economic development and AML/CFT efforts.

Economic development related to mining, particularly as investments in the sector grow, is expected to improve the welfare of the majority of Eritreans in the short term, generating employment opportunities and revenues that can be diverted toward the provision of social services. The Eritrean government, in formulating new policies, is attempting to emulate lessons learned from oil countries that have already undergone developmental growing pains. Eritrea continues to adhere to certain restrictive economic policies, and combined with a decline in diaspora remittances and the continued imposition of UN sanctions, these factors contribute to Eritrea's political isolation from the international system, the lack of foreign investment, and a weak economy.

Eritrea poses limited risk for money laundering and terrorism financing activities. Although independent and reliable information regarding economic activity and vulnerabilities is largely unavailable, additional information on sectors such as mining could be derived from increased international investment. The recently passed AML/CFT law and more public reporting by international mining companies operating in the country now offer at least some potential entry points for engagement with Eritrea by regional and international organizations as well as bilateral donors.

State of Play

An estimated two-thirds of Eritrea's 3.5–4.0 million people live in rural areas, where rain-fed agriculture is one of the predominant economic activities and food security remains a concern due to periodic drought.³⁹ Improvements have been made in the education and health sectors due to increased government investment, yet significant challenges remain as the government builds a more enabling business environment.⁴⁰ In 2013, Eritrea ranked near the bottom on the UN Development Programme Human Development Index but has successfully met Millennium Development Goals for reducing child mortality, improving maternal health, and combatting HIV/AIDS, malaria, and other diseases.⁴¹

Publicly available information about the Eritrean economy is limited, as is information that could be gleaned from the low levels of foreign direct investment in Eritrea, complicating accurate assessments of risk and the level of vulnerability to money laundering and terrorism financing. Eritrea is not a regional financial center,⁴² and its economic growth is constrained by trade embargoes and other punitive measures. The UN Security Council has imposed strict economic sanctions on the country since 2009, including territorial and targeted arms embargoes and travel bans and asset freezes on listed individuals.⁴³ The imposition of sanctions on Eritrea originally stemmed from concerns that

it was providing support to armed opposition groups in neighboring countries, such as al-Shabaab in Somalia, but a recent report by the UN Monitoring Group on Somalia and Eritrea stating there was no evidence of such activity has not affected the sanctions regime.⁴⁴

The government has prioritized economic development and postconflict rehabilitation following international recognition of Eritrea as an independent and sovereign country in 1993. One of the key components of Eritrea's economy is the mining sector, with 14 mining and exploration companies operating in the country as of 2011 from Australia, Bermuda, Canada, China, Libya, the United Arab Emirates, and the United Kingdom.⁴⁵ The Eritrean government has developed a clear legal framework for mining and related operations, including laws on licensing, operations and taxation. Eritrea has a 10 percent free carried interest of total mining operations and has the right to purchase an additional 30 percent, bringing the government's potential ownership share to 40 percent.⁴⁶

Development of the mining sector has led to an influx of capital and export earnings from gold and copper,⁴⁷ and revenue is expected to increase in 2015 as additional mines become productively operational. For example, feasibility studies completed in May 2013 by the Sunridge Gold Corp. on the Asmara Mine estimated a net present value of \$692 million with an internal rate of return of 34 percent. The state-owned Eritrea

39 An Eritrean census completed in 2014 provided this population estimate. The World Bank estimated Eritrea's population to be 5.3 million in 2012. World Bank, "Eritrea Overview," September 2012, <http://www.worldbank.org/en/country/eritrea/overview>. The Eritrean government disputes this estimate, which was not based on an in-country consultation.

40 Magjdu Nyende and Luka Okumu, "Eritrea 2014," *African Economic Outlook*, 2014, p. 2, http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/2014/PDF/CN_Long_EN/Erithr%C3%A9e_EN.pdf.

41 UN Development Programme, "Table 1: Human Development Index and Its Components," n.d., <http://hdr.undp.org/en/content/table-1-human-development-index-and-its-components> (accessed 18 December 2014) (182 out of 187 countries).

42 Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State, "International Narcotics Control Strategy Report (INCSR)—Volume II: Money Laundering and Financial Crimes Country Database," June 2014, pp. 148–150, <http://www.state.gov/documents/organization/222700.pdf> (hereinafter U.S. State Department June 2014 INCSR on Eritrea).

43 UN Security Council, "Security Council Committee Pursuant to Resolutions 751 (1992) and 1907 (2009) Concerning Somalia and Eritrea," n.d., <http://www.un.org/sc/committees/751/> (accessed 1 December 2014).

44 UN Security Council, *Letter Dated 10 October 2014 From the Chair of the Security Council Committee Pursuant to Resolutions 751 (1992) and 1907 (2009) Concerning Somalia and Eritrea Addressed to the President of the Security Council, S/2014/727*, 13 October 2014, p. 6 (*Report of the Monitoring Group on Somalia and Eritrea Pursuant to Security Council Resolution 2111 (2013)*) (hereinafter 2014 UN Monitoring Group report on Eritrea).

45 "Exploration and Mining Companies Operating in Eritrea," TesfaNews, 26 August 2011, <http://www.tesfanews.net/exploration-and-mining-companies-operating-in-eritrea/>.

46 Thomas R. Yager and Harold R. Newman, "The Mineral Industry of Eritrea," *USGS 2012 Minerals Yearbook: Eritrea*, U.S. Geological Survey, August 2014, <http://minerals.usgs.gov/minerals/pubs/country/2012/myb3-2012-er.pdf>.

47 U.S. State Department June 2014 INCSR on Eritrea. See Eritrean Ministry of Energy and Mines, "Eritrea Mining Journal," 1–5 October 2014, <http://www.hornofafrica.de/data/pdfs/eritrea-MiningJournal-2014.PDF>.

National Mining Corporation (ENAMCO) owns a 40 percent stake in the mine, and production is set to begin in 2015 with full production achieved in three years.⁴⁸

The Bisha Mine is one of the most lucrative mines in the country and contains large deposits of gold, silver, copper, and zinc. Nevsun Resources, Ltd., the mine operator from Canada, has released certain financial results of its work in Eritrea, including net income of \$126 million in the first three quarters of 2014.⁴⁹ ENAMCO owns 40 percent of the Bisha Mine, and the Nevsun Resources financial information provides some insight into government revenues from mining, even though sector profitability remains uncertain. One estimate of total mining revenues from 2011 to 2013 is approximately \$200 million annually,⁵⁰ while another source placed the revenues in 2011 alone at \$614 million.⁵¹ Regardless of the data's accuracy, one source indicated that these amounts are a fraction of what it would cost the government to offer widespread, adequate social and health services.⁵² The government has argued that revenues from the mining sector will enhance the lives of Eritreans because they will be dedicated to supporting long-term, strategic projects, such as the construction of necessary megaprojects and infrastructure such as roads and dams, contributing to job creation and increasing access to social services. The direct impact on or benefit to Eritreans remains to be determined as the government allocates and distributes the funds.

The Eritrean fishing and agricultural sectors also have substantial potential for growth. With a Red Sea coastline of more than 1,000 kilometers, Eritrea has a maximum sustainable yield of 80,000 metric tons of fishery and marine resources, but only 13 percent of this potential was being utilized as of 2013.⁵³ Chinese firms have been investing in agricultural-related infrastructure, including food storage and manufacturing facilities and pipeline plants.⁵⁴ The expansion of these industries may help address food security issues in Eritrea. Eritrean developmental principles, rooted in the philosophy of the unitary ruling party, continue to broadly emphasize self-reliance and home-grown development and resourcing, contributing to the government's decision not to accept external food aid for the past 10 years.⁵⁵

A direct source of revenue for the government is the 2 percent Recovery and Rehabilitation Tax, more commonly referenced as the "diaspora tax" and a point of controversy.⁵⁶ Enacted in 1994, it is an assessment on the net income of Eritrean citizens in the diaspora and is characterized by the government as an act of "active and voluntary participation" by the diaspora "in the affairs and development of their country."⁵⁷ Envisioned as a short-term measure to provide support for the rehabilitation of Eritrea, it does not have a definitive sunset clause.⁵⁸ Eritrean citizens living abroad who do not pay this tax forfeit such entitlements as access to urban land and power of attorney to process inheri-

48 Sunridge Gold Corporation, "Investment Highlights," n.d., <http://www.sunridgegold.com/s/Home.asp> (accessed 17 December 2014).

49 Nevsun Resources, Ltd., "Management's Discussion & Analysis - 2014 Third Quarter," n.d., p. 2, http://www.nevsun.com/docs/financials/0914-NRL_MDA.pdf.

50 Permanent Mission of Eritrea to the United Nations, "Eritrea's Response to the Information Request Contained in the Letter S/AC.29/2014/SEMG/C.14," 14 July 2014, p. 6, <http://www.scribd.com/doc/243141200/Eritrea-s-Response-to-SEMG> (hereinafter Eritrea 2014 UN Mission response).

51 Bertelsmann Stiftung, "BTI 2014: Eritrea Country Report," 2014, http://www.bti-project.de/uploads/tx_itao_download/BTI_2014_Eritrea.pdf.

52 Former UN official, interview with authors, New York, November 2014.

53 Michael Kashu Tesffzgi, "Marine Sources in Eritrea: Performance, Potential, and Prospectus" (remarks at the International Conference on Oceanography, Orlando, 21–23 August 2013), http://omicsonline.org/speaker/Michael_Kashu_Tesffzgi_Eritrea_Fisheries_Corporation_Eritrea_Oceanography2013/.

54 Nyende and Okumu, "Eritrea 2014," p. 12.

55 Embassy of the State of Eritrea to the Nordic Countries, "Eritrea at Present," n.d., <http://www.eritrean-embassy.se/about-eritrea/eritrea-at-present/> (accessed 17 December 2014).

56 Canada and Germany have challenged Eritrean consular representatives in their countries about the tax, and Australia has recently condemned the tax. The UN Monitoring Group on Somalia and Eritrea noted that Eritrea uses extortion, threats of violence, fraud, and other means to collect taxes from its expatriates. 2014 UN Monitoring Group report on Eritrea, p. 36. The Monitoring Group collected a number of credible, anecdotal testimonies of Eritrea resorting to coercive methods to extract payment from Eritrean nationals and noted that Eritrea will deny the issuance of a passport and block individuals from shipping goods to Eritrea unless proof of tax payment is provided. *Ibid.*, p. 37.

57 Eritrea 2014 UN Mission response, p. 4.

58 *Ibid.*, p. 3.

tances.⁵⁹ The Eritrean government states it has not collected more than \$73 million during 2010–2013, while expenditures from the fund had reached \$112 million in that time period. Although the Eritrean government indicates it has made these transactions transparent to the Eritrean public through television and media outlets,⁶⁰ information about the government’s budget is limited, so the degree to which these funds finance governmental spending remains unclear. Given the lack of readily available information and conclusive data, tax collection from the diaspora has an indeterminate bearing on money laundering and terrorism financing issues, although it remains a source of income for financing governmental operations.

The most current public information indicates that Eritrea has neither a stock exchange nor a stock market and the state appears to own all financial institutions.⁶¹ Eritrean monetary policy has largely been geared toward accommodating the fiscal deficit, and the central bank continues to print money to finance the deficit.⁶² The Eritrean nakfa is pegged to the U.S. dollar at an official rate of 15.38 to 1,⁶³ but steady growth in the nakfa supply has undermined price stability across the country, and the black market exchange centers valued the nakfa at 52 to 1 in mid-2014.⁶⁴ Until recently, the nakfa was nonconvertible to any foreign currency, but the government moved to liberalize these transactions, which can now be conducted through Eritrean banks or financial institutions authorized by the National Bank of Eritrea.⁶⁵

Market-based competition and private sector activities are growing in Eritrea. Building on privatization efforts in the 1990s, the Eritrean government in late 2012 announced a restart of the privatization process for many of the remaining state-owned enterprises, such as the Asmara Brewery, Red Sea General Mills, and Children’s Food Factory, as well as the sale of equity in some of the most profitable companies, such as the Eritrean Telecommunications Corp. and the National Insurance Corp. of Eritrea.⁶⁶ The resumption of privatization marks a shift in policy and political commitment toward increasing engagement with international financial markets. Yet, private sector development may be hindered by the number of highly skilled workers that have left Eritrea due to limited economic prospects domestically and to Eritrean political conditions. Eritrean officials have agreed that this is a critical challenge.⁶⁷ Annual seminars hosted by the government to strengthen diaspora commitment might be one way to combat this problem.⁶⁸

The economic and political landscape in Eritrea continues to be led by President Isais Afewerki and members of the ruling People’s Front for Democracy and Justice (PFDJ), the only legal party in the country.⁶⁹ The last presidential election was planned for 1998 but indefinitely postponed due to conflict on the border and limited political space for dissent. A date has not been set for a presidential election, although Eritrea continues to hold local and regional elections.⁷⁰

59 Eritrean Ministry of Foreign Affairs, “Eritrea’s Response to the Queries Contained in the Letter S/AC.29/2014/SEMG/OC.64,” 12 August 2014, p. 5, <http://www.innercitypress.com/smeg1eritrea080114.pdf> (hereinafter Eritrea 2014 foreign ministry response). Some international observers have referred to these conditions as a form of coercion, and the UN Security Council has “decided Eritrea should cease these practices.” 2014 UN Monitoring Group report on Eritrea, p. 36.

60 Eritrea 2014 UN Mission response, p. 6.

61 “Eritrea 2012,” *African Economic Outlook*, n.d., p. 9, <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/Eritrea%20Full%20PDF%20Country%20Note.pdf>.

62 Economist Intelligence Unit (EIU), “Country Report: Eritrea,” 30 October 2014, p. 11 (copy on file with authors).

63 *Ibid.*, p. 12.

64 U.S. Department of State, “2014 Investment Climate Statement,” June 2014, <http://www.state.gov/documents/organization/227167.pdf>.

65 Proclamation No. 173/2013 Pertaining to the Opening of Foreign Currency Deposit Accounts, Domestic Commercial Transactions and/or Contracts, Currency Remittance and Exchange and the Declaration of Currency of Travelers Arriving Into and Departing From Eritrea, *Gazette of Eritrean Laws*, vol. 21/2013, no. 1 (20 February 2013), http://www.eritreanembassy-japan.org/data/Proclamation_1732013_Liberalizing_Foreign_Currency_Movement_ToFrom_Eritrea_Issued_Feb_20_2013.pdf.

66 “Eritrea to Re-Start Aggressive Privatization Program,” TesfaNews, 27 December 2012, <http://www.tesfanews.net/eritrea-to-re-start-aggressive-privatization-program/>.

67 U.S. State Department June 2014 INCSR on Eritrea.

68 Tajudin, “Decline in Diaspora Remittances to the Eritrean Ruling Party,” Diplomat News Network, 8 October 2014, <http://diplomat.so/2014/10/08/report-decline-in-diaspora-remittances-to-the-eritrean-ruling-party/>.

69 EIU, “Country Report: Eritrea,” p. 5.

70 Daniel Connell, “Countries at the Crossroads: Eritrea,” Freedom House, 2011, <https://freedomhouse.org/report/countries-crossroads/2011/eritrea#.VJGhCvF9Zs>.

Eritrea has taken steps toward increased regional and international engagement, including on economic issues. Eritrea is a member of the Intergovernmental Authority on Development, African Union, and UN Economic Commission for Africa. In October 2014, President Afewerki received 25 ambassadors in Asmara, briefing them on Eritrea's achievements and discussing opportunities for further development of existing partnerships.⁷¹ Similarly, there have been high-level visits to Eritrea in the past few years from UN agencies such as the Office for the Coordination of Humanitarian Affairs, UN Development Group, Department of Political Affairs, and the Office of the UN High Commissioner for Human Rights, as well as from the African Development Bank (AfDB) and ministers and private sector companies. An enhanced, high-level political commitment to transparency and accountability should be an integral component in Eritrea's regional and international engagements.

Progress and AML/CFT Efforts

Eritrea enacted its fundamental legislation criminalizing money laundering and terrorism financing in September 2014.⁷² It institutes reporting requirements and know your customer (KYC) rules and mandates the establishment of a financial intelligence unit (FIU), although it is unclear if the FIU has been launched. Moreover, the law emphasizes international cooperation and encourages the exchange of information. This new law is the most important action taken by Eritrea to advance and strengthen its anti-money laundering and countering the financing of terrorism (AML/CFT) regime and presents a unique opening for cooperation and engagement.

Part I of the law offers useful, context-specific definitions such as beneficial owner, cross-border transfer, predicate offenses, and supervisory authority. Among the law's several listed objectives are to detect, deter, and prosecute AML/CFT offenses and encourage

financial institutions to establish and maintain policies and procedures to guard against AML/CFT offenses.

Part II covers customer due diligence and identification, providing specific guidelines for financial institutions on customer acceptance policies, procedures, and compliance arrangements. It also addresses account monitoring, cross-border correspondent banking, wire transfers, exemptions, record keeping, and the establishment of training programs for financial institutions.

Part III focuses on the detection of money laundering and terrorism financing and the establishment of an FIU whose head is appointed by the President of Eritrea, although the law does not stipulate the operational independence of the FIU: the "composition, organization, operation and resources of the FIU shall be prescribed by Government directive." The language regarding the powers and functions of the FIU are encouraging, particularly with regard to its core functions and openness to cooperation with and assistance from foreign jurisdictions seeking information or collaboration. The law mandates that the FIU compile statistics and records and provide periodic feedback to the supervisory authority, financial institutions, and other relevant agencies.

Part IV addresses the criminalization of money laundering and terrorism financing and includes guidance on measures, offenses, and penalties (imprisonment and fines) for covered entities and perpetrators. It also provides for the provisional seizure of property, provisional freezing of funds, and the confiscation of property.

Part V directs Eritrean courts and competent authorities to cooperate with courts in other jurisdictions, "taking appropriate measures to provide assistance in matters" concerning money laundering and terrorism financing. It discusses the establishment of a Central Seizure and Confiscation Agency to "manage and administer properties subject to seizure and confiscation." The role of the agency is designed to be primarily administrative, but there are opportunities to have the

71 "President Isaias Received the Credentials of 25 Ambassadors," *Eri-News*, no. 20 (18 October 2014), <http://www.tesfanews.net/wp-content/uploads/Eri-News-1.20.pdf>.

72 Proclamation No. 175/2014 Anti-Money Laundering and Combating Financing of Terrorism, *Gazette of Eritrean Laws*, vol. 22/2014, no. 1 (8 September 2014) (copy on file with authors).

agency collect and maintain data associated with the management of seized or frozen properties and assets.

The reporting of suspicious and cash transactions are detailed at length in the proclamation, although the guidance is limited to financial institutions and not designated nonfinancial businesses and professions, such as accountants and lawyers. Because progress is apparent on the legislative front, the next step for Eritrea is the law's implementation, particularly through the development of the FIU, which will require external expertise and support.

Ongoing Risks and Vulnerabilities

Like its regional peers, Eritrea is home to a large, informal, cash-based economy susceptible to money laundering and terrorism financing activities. Additionally, the nascent nature of Eritrea's AML/CFT regime and proximity to areas of ongoing criminal and terrorist behavior present additional challenges to the identification of and effective response to these crimes.

Eritrea has a noteworthy remittance corridor, relying on informal money service businesses and *hawalas*. These financial flows serve as one source of income for Eritreans and help alleviate poverty rates and encourage postconflict rehabilitation. In 2011 the UN Security Council expanded the existing sanctions regime on Eritrea,⁷³ which may have contributed to the temperance of remittances. One estimate suggests that remittances to the Eritrean ruling party have dropped by about one-third in the first half of 2014 compared to the same period in 2013.⁷⁴ Assessments of the accuracy of these figures are difficult because a high volume of remittances do not pass through formal, regulated financial institutions and oversight over *hawalas* is

minimal. This lack of oversight makes remittances particularly vulnerable to abuse by money launderers and terrorism financiers.

Cross-border smuggling and trafficking, although common vulnerabilities in the region, remain contested issues in Eritrea. Recent reports have claimed that Eritrean government and military officials are benefiting from these crimes.⁷⁵ Information on this issue remains limited, and Eritrean officials, citing the highly centralized nature of the state and characterizing its borders as tightly controlled, dispute the allegations as “unfounded,”⁷⁶ particularly those in the reports of the UN Monitoring Group on Somalia and Eritrea and of governments and international organizations that reference the Monitoring Group's claims.⁷⁷

A sharp increase in corruption among the bureaucracy and especially the military has been noted by some sources, which are difficult to corroborate because of a general national lack of transparency. The 2014 UN Monitoring Group report notes that senior Eritrean officials “continue to collect millions of dollars per year through unofficial revenues by means of private business arrangements involving PFDJ-run companies domestically and abroad.” The report further notes that the government “maintains a global financial structure that is not registered in the name of [the] PFDJ and that includes tax havens, secret trusts and companies under the names of officials and, in most cases, the names of private individuals.” The report states that because the country's annual budget is not publicly available, the “lack of financial transparency creates structural ambiguities.”⁷⁸ There has been some disagreement about this characterization of corruption in the country, and some sources dispute it entirely.

73 UN Security Council, S/RES/2023, 5 December 2011. This resolution condemned Eritrea's violations of Security Council Resolutions 1844, 1907, and 1982 and imposed new measures to prevent Eritrea from using the Recovery and Rehabilitation Tax or revenues from its mining sector to commit further violations. Eritrea disputes the credibility of the UN Monitoring Group on Somalia and Eritrea report and its findings.

74 Tajudin, “Decline in Diaspora Remittances to the Eritrean Ruling Party.”

75 2014 UN Monitoring Group report on Eritrea, p. 148; Mirjam van Reisen, Meron Estefanos, and Conny Rijken, “Human Trafficking in the Sinai: Refugees Between Life and Death,” October 2012, http://www.eepa.be/wcm/dmdocuments/publications/Report_Human_Trafficking_in_the_Sinai_Final_Web.pdf.

76 Eritrea 2014 foreign ministry response, p. 5.

77 A U.S. Department of State human rights report in 2012 noted that the UN Monitoring Group on Somalia and Eritrea cited allegations that Eritrean armed forces leaders “were involved in trafficking in persons. Members of the armed forces were also said to engage in illicit trade in arms and black market sales of goods such as diesel fuel and cement.” Bureau of Democracy, Human Rights and Labor, U.S. Department of State, “Eritrea 2012 Human Rights Report,” n.d., <http://www.state.gov/documents/organization/204328.pdf>.

78 2014 UN Monitoring Group report on Eritrea, p. 7.

Eritrea has made tangible progress in building an AML/CFT legal framework, but implementation remains uncertain. The mechanism for action against these crimes is unclear, and Eritrea does not publish national statistics on these matters. Unstable political conditions, strict regulations regarding imports, and a lack of consistency regarding exit visas for Eritrean nationals have encouraged money laundering and bribery among those responsible for customs and immigration.

Ongoing challenges to economic growth contribute to potential Eritrean vulnerability to money laundering and terrorism financing. Beyond the mining sector, continued governmental aversion to foreign investment is expected to reinforce the lack of financial transparency in the country. Ongoing and large-scale diversion of resources and manpower to the military, as well as indefinite conscription, leads to growth suppression and a slow yet steady stream of Eritreans leaving the country. The continued peg of the nakfa to the U.S. dollar has negative developmental and economic implications. Overall, continued governmental mismanagement of the economy coupled with negligible foreign investment outside of the mining sector means that Eritrea's economy will continue to underperform drastically.

A variety of other challenges remain. The majority of Eritrean imports come from Sudan, and smuggling of consumer goods occurs regularly across the border. Eritrea may serve as a smuggling transit country through eastern Africa for goods and migrants.⁷⁹ Furthermore, the new AML/CFT law will need to be supported by a widespread awareness-raising campaign to encourage compliance among stakeholders. Eritrea has demonstrated a high-level political commitment to addressing AML/CFT issues, but that commitment has not included a print, television, and radio campaign on state-run media.

Entry Points

Eritrea has made tangible progress on AML/CFT issues with the passage of its first legislation and has

demonstrated increasing political will to engage the international financial system, despite the continued imposition of UN sanctions and ongoing regional tensions. The international community should capitalize on this momentum by identifying opportunities for outreach and fostering partnerships between the Eritrean government and international bodies to promote AML/CFT standards and incentivize compliance. Eritrea's increasing focus on business and trade in recent years provides a key entry point to discussions that ensure these preliminary attempts at liberalizing practices are implemented in line with AML/CFT best practices.

The drafting of a new constitution, announced by President Afewerki in May 2014, could be another opening for engagement with Eritrea. Although additional public information regarding a new constitution is quite limited, the international community should be aware of the opportunities that a new constitution could provide for Eritrean economic development and international AML/CFT engagement.

Based on our findings and the input we received from Eritrean stakeholders and other partners, we offer a number of recommendations for the international community and the Eritrean government.

- Invest in a mission to Eritrea in coordination with its government to discuss money laundering and terrorism financing risks and AML/CFT opportunities.
- Hold preliminary discussions on technical issues related to the establishment and operationalization of an FIU.
- Invest in the training of a specialized financial crimes unit.
- Publish national audits to inform discussions on fiscal transparency and national AML/CFT priority sectors, perhaps with the AfDB.
- Encourage Eritrea to become a party to international anticorruption agreements.
- Use the recent passage of AML/CFT legislation as an opportunity for engagement with international

79 The Global Initiative Against Transnational Organized Crime, "Smuggled Futures: The Dangerous Path of the Migrant From Africa to Europe," May 2014, <http://www.globalinitiative.net/download/global-initiative/Global%20Initiative%20-%20Migration%20from%20Africa%20to%20Europe%20-%20May%202014.pdf>.

experts from the Financial Action Task Force (FATF) and FATF-style regional bodies, including the Eastern and Southern Africa Anti-Money Laundering Group and the Middle East and North Africa Financial Action Task Force.

- Conduct outreach on implementation of Eritrea's new AML/CFT law and establish a date for an in-country FATF assessment.

- Develop the FIUs of Eritrea and Sudan under one technical assistance program, given their close relations and shared risks on smuggling, trafficking, and other economic crimes.
- Develop memoranda of understanding between the National Bank of Eritrea and the central banks of relevant jurisdictions, particularly those of neighboring countries and jurisdictions involved in mining exploration and production in Eritrea.

Ethiopia

The 2012 baseline report characterized Ethiopia as a fast-growing economy and a country of primary concern vulnerable to money laundering and terrorism financing activities. Subject to the Financial Action Task Force (FATF) global anti-money laundering and countering the financing of terrorism (AML/CFT) monitoring process since 2010, Ethiopia has made substantial progress in the last three years on strengthening its legal framework, building capacity among stakeholders on AML/CFT issues, and improving coordination and information sharing between relevant institutions.

In recognition of these efforts, as of October 2014, Ethiopia is no longer subject to the FATF monitoring process. Although Ethiopia has made substantial improvements in its legal framework and in financial institution compliance, designated nonfinancial businesses and professions remain an area of money laundering and terrorism financing vulnerability, particularly because Ethiopia is a hub for cross-border trade in East Africa and the Greater Horn of Africa region. Additionally, the Financial Intelligence Center (FIC) is still developing its analytical capacity through

continued staff training and the implementation of a comprehensive AML/CFT software system. The lack of such software presents one of the biggest challenges to FIC staff in creating a more robust analysis process and streamlining record keeping and case management.

Political will remains high across some institutions, and considerable achievements have been made in the implementation of AML/CFT efforts, but a weak bureaucratic system and the generally slow pace of reform in Ethiopia continues to present challenges. These issues are further compounded by high turnover rates in working-level positions, coupled with the lack of AML/CFT training in the country's graduate-level academic institutions. With Ethiopia's recent removal from the FATF monitoring process, it is important to build on recent momentum and investment to encourage continued capacity building and engagement to sustain the advancements that have been made and address the remaining vulnerabilities. The FIC is committed to achieving membership in the Egmont Group of Financial Intelligence Units.

State of Play

Ethiopia had the 12th-fastest growing economy in the world in 2012⁸⁰ and has experienced annual economic growth rates averaging 10.9 percent over the past 10 years, compared to a regional average of 5.3 percent.⁸¹ Ethiopia's growth-oriented economic policy, coupled with the comparatively long absence of domestic armed conflict, has enabled the government to focus on investment in industry and infrastructure development, such as road construction, sugar production, the building of the Grand Ethiopian Renaissance dam on the Blue Nile River, and an electrified rail link along the country's major trade route to Djibouti.⁸²

In August 2012, the country transitioned as it mourned the death of Prime Minister Meles Zenawi, who had led the government since 1991.⁸³ Prior to his death, there had been concerns that his passing would impact economic growth, given the large role state-owned enterprises play in domestic commerce.⁸⁴ Yet, the country experienced a peaceful and constitutional transfer of power and continued economic progress, led by expansion in the agricultural and services sectors, which account for nearly 88 percent of Ethiopian gross domestic product and grew at rates of 7–10 percent in 2012/2013.⁸⁵ This momentum is expected to continue in the coming years, although some estimate that limited private sector growth may hinder the

pace slightly.⁸⁶ The Ethiopian government imposed a tight monetary policy to contain inflation, successfully reducing the rate to 7.9 percent in November 2013 compared to 15.6 percent and 39.2 percent one and two years earlier.⁸⁷ The government also has enacted policies designed to encourage private sector development, such as an income tax holiday and exemptions from import duties for investment capital goods.⁸⁸

Given its strategic location within the Horn of Africa, Ethiopia is vulnerable to transnational smuggling activities and trafficking in narcotics, persons, arms, and animal products.⁸⁹ Additionally, Ethiopia is home to high tariffs that may further encourage customs fraud and trade-based money laundering.⁹⁰ These vulnerabilities have contributed to a huge loss of revenue for the growing nation via illicit financial outflows. Ethiopia was ranked 39th out of 144 countries in terms of the value of these illicit flows, and although adequately measuring these flows is difficult, some have estimated a loss of \$5.6 billion in 2010 alone.⁹¹ This revenue loss presents a serious challenge as Ethiopia seeks to continue its economic growth and pursue middle income status pursuant to the government's 2010 "Growth and Transformation Plan."⁹² Illicit financial flows also represent a large vulnerability for the AML/CFT regime as much of these funds may be the result of money laundering, tax evasion, and international bribery.⁹³

80 Admit Wondifraw Zerihun, Haile Kibret, and James Wakiaga, "Ethiopia 2014," *African Economic Outlook*, 2014, p. 2, http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/2014/PDF/CN_Long_EN/Ethiopia_EN.pdf.

81 World Bank, "Ethiopia Overview," 31 August 2014, <http://www.worldbank.org/en/country/ethiopia/overview>.

82 Emeline Wuilbercq, "Ethiopia's Nile Dam Project Signals Its Intention to Become an African Power," *Guardian*, 14 July 2014, <http://www.theguardian.com/global-development/2014/jul/14/ethiopia-grand-renaissance-dam-egypt>; William Davison, "Ethiopia-to-Djibouti Rail to Be Complete in a Year, PM Says," *Bloomberg*, 17 October 2014, <http://www.bloomberg.com/news/2014-10-17/ethiopia-to-djibouti-rail-to-be-complete-in-year-s-time-pm-says.html>.

83 "Ethiopian PM Meles Zenawi Dies After Illness," *BBC*, 21 August 2012, <http://www.bbc.com/news/world-africa-19328356>.

84 Argaw Ashine, "Ethiopia Suspends Forex Reserves," *Daily Monitor*, 16 August 2012, <http://www.monitor.co.ug/News/World/Ethiopia-suspends-forex-reserves/-/688340/1480392/-/46b9f6z/-/index.html>.

85 Zerihun, Haile Kibret, and James Wakiaga, "Ethiopia 2014," p. 2.

86 *Ibid.*

87 *Ibid.*

88 Government of Ethiopia, "Investment Incentives," n.d., <http://www.ethiopia.gov.et/investmentincentives> (accessed 4 December 2014).

89 Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State, "International Narcotics Control Strategy Report (INCSR)—Volume II: Money Laundering and Financial Crimes Country Database," June 2014, p. 151, <http://www.state.gov/documents/organization/222700.pdf> (hereinafter U.S. State Department June 2014 INCSR on Ethiopia).

90 *Ibid.*

91 Dev Kar and Brian LeBlanc, "Illicit Financial Flows From Developing Countries: 2002–2011," *Global Financial Integrity*, December 2013, pp. 24, 27, http://gointegrity.org/wp-content/uploads/2014/05/Illicit_Financial_Flows_from_Developing_Countries_2002-2011-HighRes.pdf.

92 Ethiopian Ministry of Finance and Economic Development, "Growth and Transformation Plan 2010/11–2014/15; Volume II: Policy Matrix," November 2010, <http://www.mofed.gov.et/English/Resources/Documents/GTP%20Policy%20Matrix%20%28English%292.pdf>.

93 Organisation for Economic Co-operation and Development (OECD), *Illicit Financial Flows From Developing Countries: Measuring OECD Responses*, 2014, pp. 1–2, http://www.oecd.org/corruption/Illicit_Financial_Flows_from_Developing_Countries.pdf.

Progress and AML/CFT Efforts

With a fast-growing economy, Ethiopia has been a country of primary concern vulnerable to money laundering and terrorism financing activities. Subject to the Financial Action Task Force (FATF) global AML/CFT monitoring process since 2010, Ethiopia has made substantial but not always rapid progress on strengthening its legal framework, building capacity among AML/CFT stakeholders, and improving coordination and information sharing between relevant institutions. Research suggests that progress has been limited not by a lack of political will, but by the generally slow process of institutional reform resulting from the country's cumbersome and underdeveloped bureaucratic system.

Ethiopia has ratified the Intergovernmental Authority on Development (IGAD) Convention on Extradition, the IGAD Convention on Mutual Legal Assistance in Criminal Matters, and the UN Convention for the Suppression of the Financing of Terrorism. The country passed its first AML/CFT legislation in November 2009, which called for the establishment of an inter-ministerial AML/CFT committee and the Financial Intelligence Center (FIC).⁹⁴ This first law was identified as having a number of deficiencies related to the effective criminalization of money laundering and terrorism financing offenses and the implementation of sanctions and asset freezing measures in line with UN Security Council Resolutions 1267 and 1373.

Ethiopia updated the law in February 2013, effectively and comprehensively criminalizing money laundering and terrorism financing and expanding the FIC's mandate.⁹⁵ In June 2014, Ethiopia passed regulation no. 306/2014 detailing procedures for freezing terrorist assets in order to address one of the key remaining FATF-identified deficiencies in the country's AML/CFT regime. These two legal instruments, com-

bined with the existing customer due diligence (CDD) directive from the FIC,⁹⁶ have served to make Ethiopia fully compliant with all international requirements as determined by the FATF.

In September 2013, Ethiopia was accepted as a full member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG). As part of the membership process, the FIC is participating in an ongoing mutual evaluation with the assistance of the World Bank and ESAAMLG, which included an on-site visit involving an evaluation team and relevant stakeholders to assess the country's compliance with international AML/CFT standards. As a full member of the ESAAMLG, the FIC gains access to a regional network of AML/CFT professionals and benefits from opportunities for enhanced cooperation with other financial intelligence units (FIUs). In addition, full membership helps to advance Ethiopia's reputation in the international AML/CFT community and its journey toward joining the Egmont Group of Financial Intelligence Units.

In September 2014, Ethiopia participated in an on-site visit with the FATF for a determination on whether it had fully implemented the required legislative measures and should no longer be subject to the FATF monitoring process. The FATF acknowledged the substantial progress made over the past few years and removed Ethiopia from the monitoring process.⁹⁷ The removal represents a big achievement for Ethiopia and provides important recognition from the international community.

Established in 2010, the FIC is directly accountable to the prime minister and is responsible for the collection and analysis of suspicious transaction reports (STRs) and cash transaction reports (CTRs) and their dissemination to law enforcement agencies and regulatory bodies, as well as oversight of reporting entities' com-

94 Proclamation No. 657/2009: Prevention and Suppression of Money Laundering and the Financing of Terrorism, *Federal Negarit Gazeta*, no. 1 (16 December 2009), pp. 5089–5104.

95 Proclamation No. 780/2013: Prevention and Suppression of Money Laundering and Financing of Terrorism, *Federal Negarit Gazeta*, no. 25 (4 February 2013), pp. 6755–6802.

96 Ethiopian FIC, "Anti-Money Laundering and Countering the Financing of Terrorism Compliance Directives," no. 01/2014, January 2014 (copy on file with authors).

97 FATF, "Improving Global AML/ CFT Compliance: On-Going Process," 24 October 2014, <http://www.fatf-gafi.org/countries/s-t/sudan/documents/fatf-compliance-oct-2014.html>.

pliance. Now fully operational, the FIC consists of 22 core personnel and reported receiving 667 STRs and almost 1.1 million CTRs between July 2013 and 7 July 2014.⁹⁸ Ethiopia imposes reporting requirements on banks, foreign exchange bureaus, customs and revenue authorities, microfinance institutions, and designated nonfinancial businesses and professions (DNFBPs) such as lawyers, notaries, accountants, real estate agents, and precious stones and metal dealers. Only the country's 19 public and private banks are submitting reports presently, but the microfinance and insurance sectors are set to begin submitting reports in 2015.⁹⁹ Also, the FIC is developing reporting guidelines for DNFBPs in collaboration with international experts, and these entities will be expected to begin reporting in 2015.

The Ethiopian government is receiving support from the international community to strengthen its AML/CFT regime, including targeted technical assistance for the FIC and the Ministry of Justice, such as the development of an AML/CFT training manual for ministry staff and a series of intensive training sessions and workshops in the capital and rural regions during May 2013–December 2014. Participants in this training have included a broad range of Ethiopian government and civil society stakeholders and covered topics such as financial intelligence, data analysis, regulatory standards and compliance, standard operating procedures, and information sharing and coordination. Following this training, the FIC is developing clear standard operating procedures related to the receipt, analysis, and dissemination of financial intelligence. Additionally, the FIC has signed memoranda of understanding to promote information sharing and collaboration with the Ministry of Justice, National Bank of Ethiopia (NBE), Ethiopian Revenue and Customs Authority, Federal Police Commission, Federal Ethics and Anti-Corruption Commission, and Ethiopian Bankers Association.¹⁰⁰

This collaborative training has led to a marked improvement in cooperation and information sharing, particularly between the FIC and the banking sector. The FIC has prioritized and developed clear procedures for the submission of STRs and CTRs from financial institutions, and all Ethiopian banks have created an AML/CFT compliance department that has demonstrated higher levels of capacity related to these issues. Senior FIC staff indicated that they meet regularly with banking officials to discuss comparative discrepancies in reporting statistics or quality of reports and are receiving copies of each bank's AML/CFT policies in order to ensure full compliance with laws and regulations.¹⁰¹

The FIC has developed a brochure to help raise awareness among the public about the impact of these crimes on the financial system and to inform the public about the role of the FIC and has produced short segments for TV and radio. The Ministry of Justice has collaborated on three radio programs on money laundering and terrorism financing issues, and discussions are underway to film a special AML/CFT episode of the legal television show "Amicus."¹⁰² Efforts have expanded beyond the capital as well, with the Ministry of Justice and FIC collaborating on a series of regional training sessions for more than 300 participants designed to improve AML/CFT capacities in the rural areas of the country.

Ongoing Risks and Vulnerabilities

In recent years, Ethiopia has embraced a managed but more market-oriented system that included an expansion in the number of domestic banks. Yet, the country's financial system remains closed to foreign investment and is comparatively less liberal than its regional peers. There are 18 commercial banks, two of which are state owned, and one state-owned development bank. The largest bank is the state-owned Commercial Bank of Ethiopia, which held approximately 70 percent

98 Tu'emay Aregawi Desta and Biniam Shiferaw Ayalew, "The Anti-Money Laundering/Countering Financing of Terrorism (AML/ CFT) Regime in Ethiopia: Progress, Achievements and Remaining Challenges; Third Assessment Report," Global Center on Cooperative Security, pp. 12, 21 (draft) (copy on file with authors).

99 Senior FIC officials, interviews with authors, Addis Ababa, June 2014.

100 Senior FIC officials, interviews with authors, Addis Ababa, December 2014.

101 Ibid.

102 Ethiopian Ministry of Justice staff and senior FIC officials, interviews with authors, Addis Ababa, May and December 2014.

of the industry's total holdings as of May 2013.¹⁰³ In light of this tightly controlled, formal financial sector, stakeholders believe that the risk of money laundering and terrorism financing cannot lie within the country's financial institutions and instead resides in informal value-transfer services such as *hawala*. Total remittance inflows to Ethiopia have increased drastically from \$33 million in 2002 to \$624 million in 2012.¹⁰⁴ Ethiopia continues to closely monitor remittance organizations for money laundering or terrorism financing abuse and has closed a number of illegal hawala operations in recent years.¹⁰⁵

The vulnerability of DNFBPs, largely within the gold and livestock trades, to money laundering and terrorism financing is a particular concern in Ethiopia. Because the country is a hub for cross-border trade in East Africa and the Greater Horn of Africa region, engaging practitioners and businesses in these sectors is increasingly important in combating money laundering and terrorism financing crimes at a regional level. Ethiopian law categorizes real estate agents and brokers, precious metal and stones dealers, independent accountants, lawyers, notaries, and certain other legal professionals as DNFBPs and empowers the FIC to designate other businesses and professions as DNFBPs as it deems appropriate, making them subject to specific oversight and compliance measures.¹⁰⁶

The FIC reported low levels of compliance from DNFBPs related to suspicious transaction reporting. This is due to the prioritization of financial institution compliance, limited awareness about reporting requirements among DNFBPs, ambiguity about the transactions that can be classified as suspicious, a lack of understanding of sector-specific risks for money laundering and terrorism financing offenses, and constraints on FIC capacity to receive and process reports. Senior FIC officials indicated they have begun developing a CDD guidance note for DNFBPs, and reporting

is slated to begin for high-risk sectors in 2015.¹⁰⁷ The FIC has attempted to engage DNFBPs and regulatory authorities to raise awareness and promote compliance, including by hosting a training seminar in 2014 on regulatory standards and sector-specific risks for more than 40 representatives from the Federal Ethics and Anti-Corruption Commission, Revenues and Customs Authority, Ministry of Transport, Ethiopian Professional Association of Accountants and Auditors, Ethiopia Commodity Exchange, and Postal Service, as well as representatives of the construction, legal, real estate, mining, and automobile sectors, among others.

Ethiopian financial institutions have shown strong political commitment to enhancing AML/CFT compliance in the past few years. The remaining impediments are possibly in part the result of limited resources and institutional capacity. For example, the country has just recently undertaken a process to install software that would link accounts across different branches of the same bank. Most financial institutions do not have AML/CFT software and struggle to monitor and track transactions comprehensively. Financial institutions, particularly in rural regions, continue to submit STRs on paper, presenting logistical challenge for the FIC, which is struggling to process thousands of reports each year.

The FIC continues to develop its analytical capacity through staff training and the implementation of a comprehensive AML/CFT software system. Currently, the FIC relies on an internally developed database system that lacks a comprehensive analytical capacity and is nearing its storage limits,¹⁰⁸ presenting one of the biggest challenges to FIC staff in effectively analyzing STRs and CTRs. A comprehensive AML/CFT software system would enable the FIC to streamline record keeping and case management, create a more robust analysis process, support continued analysis growth capacity, provide feedback to reporting institutions, and better identify and respond to patterns, trends, and

103 International Monetary Fund (IMF), "The Federal Democratic Republic of Ethiopia: 2013 Article IV Consultation," *IMF Country Report*, no. 13/308 (October 2013), p. 20 (data as of May 2013).

104 World Bank, "Prospects - Migration and Remittances Data," <http://go.worldbank.org/092X1CHHDO> (accessed 2 December 2014).

105 U.S. State Department June 2014 INCSR on Ethiopia, p. 152.

106 Proclamation No. 780/2013, pp. 6758–6759.

107 Senior FIC officials, interviews with authors, Addis Ababa, December 2014.

108 *Ibid.*

typologies. As the FIC seeks to expand DNFBP reporting, such a software management system will become increasingly more important to the detection and analysis of suspicious transactions and to combating money laundering and terrorism financing crime.

Rising concern about terrorist activity has led to increased attention on terrorism financing cases from law enforcement. Many criminal justice practitioners, however, still struggle to understand the connection between money laundering and predicate offenses, and “follow the money” techniques are not routinely employed in criminal justice investigations. During January–October 2013, suspicious transaction and cash transaction reporting resulted in the prosecution of six cases involving 13 people.¹⁰⁹ The low prosecution rates likely stem in part from a lack of coordination between public prosecutors and police investigators. Prosecutors have indicated that they feel the information received was not sufficient to bring money laundering cases to trial, while police have expressed reticence in pursuing crimes that do not result in convictions. This disconnect presents a major challenge to Ethiopia as it seeks to tackle money laundering and terrorism financing within its borders.

Entry Points

Although political will remains high across the Ethiopian government and considerable achievements have been made relative to the implementation of AML/CFT efforts, limited commitment at the working level in some institutions, coupled with a weak bureaucratic system and the generally slow pace of reform in Ethiopia, continues to present challenges. High turnover rates in select working-level positions, coupled with the lack of AML/CFT training in the country’s graduate-level academic institutions, compound the difficulties in carrying out AML/CFT initiatives.

As the FIC prepares to expand the number of reporting institutions to include DNFBPs, the need for efficient and comprehensive AML/CFT software becomes even more acute. The Ethiopian government and FIC leadership indicated that the selection of a comprehensive

database was a high priority for 2014, particularly as its existing software system approaches capacity. Ethiopia places a high priority on database security and has sought advice on the selection and implementation of a system from its peers, involving on-site visits with China, Denmark, India, Mauritius, South Africa, and South Korea. The selection of such a system will help improve analytical capacities and the quality of financial intelligence the FIC is able to provide police, investigators, and prosecutors.

With Ethiopia’s recent removal from the FATF monitoring process, it is important to build on recent momentum and investment to encourage continued capacity building and engagement to sustain the advancements that have been made and address the remaining vulnerabilities. Based on our findings and the input we received from Ethiopian stakeholders and other partners, we offer a number of recommendations for the international community and the Ethiopian government.

- Work with the FIC to effectively implement a software system and to enhance analytical capacities through continued training and capacity building.
- Encourage engagement with DNFBPs and conduct sector-specific risk assessments in order to best allocate resources.
- Continue work with the interministerial committee and practitioner-level officials to encourage information sharing and coordination among agencies.
- Support the development of effective regulatory structures for emerging technologies, such as mobile banking, to help promote financial inclusion goals.
- Continue forging informal and formal working relationships among reporting entities, the FIC, NBE, judiciary, and law enforcement bodies.
- Expand awareness raising and training efforts to rural regions.
- Seek active membership in the Egmont Group in the near term.

109 U.S. State Department June 2014 INCSR on Ethiopia, p. 153.

Kenya

In the 2012 baseline report, Kenya was subject to the Financial Action Task Force (FATF) global anti-money laundering and countering the financing of terrorism (AML/CFT) monitoring process. Kenya had passed an AML/CFT bill in 2009, but its financial intelligence unit (FIU) was not yet operational, and overall implementation was limited. Moreover, Kenya was deficient in CFT procedures, lacking a national provision for asset freezing. Overall, Kenya's AML/CFT regime was nascent, and there appeared to be limited levels of political will.

Kenya's emerging economy is projected to grow even more rapidly over the next decade for a variety of reasons, including a recently enacted policy of governmental devolution, potential oil reserves, and increased regional trade cooperation. In the past two years, Kenya has demonstrated a significant increase in political will to address AML/CFT measures. With the passage of AML and terrorism prevention laws in 2012, as well as the enactment of clarifying regulations to assist in their implementation, many deficiencies have been addressed, and Kenya is now considered compliant with international AML/CFT standards. Kenya's FIU, the

Financial Reporting Center (FRC), is fully operational and has begun receiving suspicious transaction reports (STRs). In recognition of these efforts, Kenya was removed from the FATF monitoring process in June 2014 and is exploring membership in the Egmont Group of Financial Intelligence Units.

Common AML/CFT risks, such as corruption, illicit trade flows, and illegal wildlife trafficking, linger. Limited institutional resources may hinder implementation efforts, particularly as the FRC seeks to expand its capacities and increase levels of compliance from reporting entities and supervisory authorities. Furthermore, FRC contributions made by the collection of STRs are diminished by a lack of resources among law enforcement professionals. The few judicial prosecutions related to money laundering and terrorism financing suggest a lack of interaction between the principal agencies. Kenya must maintain high levels of political will as it continues efforts to implement AML/CFT measures. Additionally, these efforts must be situated within a broader push for increasing transparency and accountability by governmental institutions in order to ensure their effectiveness and sustainability.

State of Play

Kenya's steady economic growth in recent years has positioned Nairobi, already an important regional commercial hub, to become a major center of international finance. Growth in gross domestic product (GDP) was estimated at 5 percent in 2013/2014 and may increase even more rapidly in the future.¹¹⁰ Among the factors contributing to this environment is a strong monetary policy enacted by the Central Bank of Kenya, helping to keep inflation expectations stable despite rising fuel and food costs. Decentralization of governmental responsibilities, the potentially vast amounts of oil within the country, and expansion of East African cooperation and common markets influence the favorable economic projections.

In August 2010, Kenya adopted a new constitution, which established a plan for decentralization of some governmental authority to help redistribute wealth and reduce poverty. Wealth inequality is a concern in Kenya, where 40 percent of the country's income is received by the top 10 percent of the population. For the majority, poverty remains a major problem; recent estimates indicate four out of 10 Kenyans live below the poverty line.¹¹¹ Implemented in 2013, this new system created 47 county governments, to which 15 percent of the national budget was allocated based on a formula involving population, land mass, and poverty levels. This devolution of authority established mechanisms to supply important services and resources to the more needy areas and allowed counties to customize their approach toward local concerns, such as

education and health care,¹¹² and better border controls to reduce trafficking and money laundering. The new constitution gave some control to local authorities, but this change has not been uniformly or effectively implemented in all regions, especially those outside Nairobi.

The discovery of additional oil reserves and the need for new pipeline routes may further impact regional resource sharing, could augment funds allocated to the devolution process, and may lead to more investment in development and social infrastructure projects.¹¹³

Kenya has displayed its commitment to the development of the subregion through its involvement in the East African Community (EAC) Monetary Union. The union, implemented by a protocol signed in November 2013,¹¹⁴ establishes a regional exchange rate and other mechanisms over a 10-year period to help oversee and administer policies geared toward deep economic integration and the harmonization of laws, such as those on anti-money laundering and countering the financing of terrorism (AML/CFT) issues. In addition, the East African Payment System, implemented by Kenya, Rwanda, Tanzania, and Uganda, may streamline business transactions and increase regional trade, enabling countries to track money and goods exchanged across borders more accurately.¹¹⁵ By liberalizing trade and synchronizing financial laws, the countries could move closer to the protocol's main goal of a single EAC currency by 2024.¹¹⁶

Violent political unrest has been subdued in Kenya since the post-presidential election period in 2007–

110 International Monetary Fund (IMF), "Kenya: Staff Report for the 2014 Article IV Consultation," *IMF Country Report*, no. 14/302 (8 September 2014), p. 32, <http://www.imf.org/external/pubs/ft/scr/2014/cr14302.pdf>.

111 World Bank Group, *Kenya Country Partnership Strategy FY2014–2018*, June 2014, p. iii, http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2014/06/25/000442464_20140625105403/Rendered/PDF/889400CASOP1440KenyaOCPS000Volume02.pdf.

112 Mwangi S. Kimenyi, "Devolution and Resource Sharing in Kenya," Brookings Institution, 22 October 2013, <http://www.brookings.edu/research/opinions/2013/10/22-devolution-resource-sharing-kenya-kimenyi>.

113 Enthusiasm about the petroleum discoveries has led to increased demand for machinery and equipment imports. If evaluations are correct, Kenya could dramatically reduce its petroleum import expenditures, currently approximately \$3 billion. Sarah McGregor, "Kenyan Trade Gap Widens on Machinery Imports After Oil Discovery," Bloomberg, 28 January 2013, <http://www.bloomberg.com/news/2013-01-28/kenyan-trade-gap-widens-on-machinery-imports-after-oil-discovery.html>; Tullow Oil, "2013 Annual Report and Accounts; Special Feature: Kenya," n.d., p. 28, http://www.tullowoil.com/files/pdf/special_feature_kenya.pdf; Observatory of Economic Complexity, "Kenya," n.d., <http://atlas.media.mit.edu/profile/country/ken/> (accessed 7 November 2014).

114 See http://www.eac.int/legal/index.php?option=com_docman&task=doc_download&gid=204&Itemid=47.

115 Enos S. Bukuku, "Launch of the East African Payment System (EAPS)," East African Community, n.d., http://www.eac.int/index.php?option=com_content&view=article&id=1590:press-statement-launch-of-the-east-african-payment-system-eaps-&catid=147:speeches-a-statements; "Rwanda Joins Speedy Regional Payments System," Ventures, 10 December 2014, <http://www.ventures-africa.com/2014/12/rwanda-joins-speedy-regional-payments-system/>.

116 Clara Mira, "New Pacts Ease Path Toward East African Single Currency," *IMF Survey Magazine*, 30 December 2013, <http://www.imf.org/external/pubs/ft/survey/so/2013/car123013a.htm>.

2008, but the threat of terrorism presents a serious security risk. An attack on a shopping mall in the Westlands district of Nairobi in September 2013 and subsequent attacks nearer to the Somali border were carried out by al-Shabaab, intensifying security concerns concerning Kenya's eastern and coastal border with Somalia. By 2012, almost one-quarter of al-Shabaab's terrorist attacks had taken place in Kenya, which al-Shabaab blamed on the involvement of Kenyan troops in the ongoing Somali conflict.¹¹⁷ The Kenyan government has adopted a strong stance against terrorism, forming such institutions as the National Counterterrorism Center and the Anti-Terrorism Police Unit. Recent reports, however, have expressed concern over potential abuses of counterterrorism laws.¹¹⁸ Kenyan authorities dispute these allegations and indicate that a number of terrorist plots have been thwarted as a result of these efforts.¹¹⁹

Progress and AML/CFT Efforts

Kenya has made slow but significant progress in strengthening its AML/CFT regime. In 2009 it enacted watershed AML legislation, the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA),¹²⁰ which established Kenya's Financial Reporting Center (FRC) and the Anti-Money Laundering Advisory Board (AML Board). The board can recommend approval of an FRC director, monitor the performance of the FRC, and counsel the director on decisions. Board members include the governor of the central bank, permanent secretary of the Ministry of Finance, inspector general of police, attorney general, and two private sector members. Implementation of this law remained limited in the initial years due to a lack of political will.

In February 2010, Kenya became subject to the Financial Action Task Force (FATF) global AML/CFT monitoring process. As a long-standing member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), Kenya underwent an on-site mutual evaluation visit in 2010 to measure compliance with international AML/CFT standards. In a September 2011 report, ESAAMLG officials identified a number of areas for improvement, including the criminalization of terrorism financing, establishment of a fully operational financial intelligence unit (FIU), creation of an effective asset-freezing framework for terrorist assets, awareness raising in the law enforcement community, and improved sanctioning powers.¹²¹ The ESAAMLG visit was instrumental in developing Kenya's action plan for strengthening its AML/CFT regime, and the government has made a high-level political commitment to addressing these deficiencies with the support of the ESAAMLG and FATF.

Kenya enhanced the capacity of the FRC through passage of amendments to the POCAMLA in 2012, giving the FRC the power to delegate compliance monitoring to supervisory bodies and allow them to issue guidelines to their licensees on AML/CFT matters. The amendments clarified the conduct of reporting institutions when investigating a suspicious transaction and authorized the FRC to make requests that a reporting institution maintain records beyond seven years.¹²² In April 2012, the central bank donated office space in the Central Business District of Nairobi to the FRC to commence its operations. Additionally, central bank secondary staff were sent to the FRC to provide additional administrative support toward operationalization. The staff remains at 17 seconded

117 See Erin Miller, "Al-Shabaab Attack on Westgate Mall in Kenya," *START Background Report*, September 2013, p. 1, http://www.start.umd.edu/sites/default/files/publications/local_attachments/STARTBackgroundReport_alShabaabKenya_Sept2013.pdf.

118 See Open Society Justice Initiative, "We're Tired of Taking You to the Court: Human Rights Abuses by Kenya's Anti-Terrorism Police Unit," 2013, <http://www.opensocietyfoundations.org/sites/default/files/tired-taking-you-court-11-19-2013.pdf>.

119 Daniel Howden, "Kenyan Rights Group Accuses Anti-Terror Police of Unlawful Killings," *Guardian*, 19 November 2013, <http://www.theguardian.com/world/2013/nov/19/kenya-human-rights-anti-terror-police-killings>.

120 The Proceeds of Crime and Anti-Money Laundering Act, no. 9, 2009, <http://frc.go.ke/legislation/download/16>.

121 ESAAMLG, *Mutual Evaluation Report; Anti-Money Laundering and Combating the Financing of Terrorism: Republic of Kenya*, September 2011, [http://www.esaamlg.org/userfiles/Kenya_Mutual_Evaluation_Detail_Report\(2\).pdf](http://www.esaamlg.org/userfiles/Kenya_Mutual_Evaluation_Detail_Report(2).pdf).

122 The Proceeds of Crime and Anti-Money Laundering Act, no. 51, 2012, <http://frc.go.ke/legislation/download/19>. As defined under POCAMLA, reporting institutions consist of formal financial institutions, such as banks, securities firms, insurance firms, microfinance institutions, and foreign exchange bureaus, and designated nonfinancial institutions, such as casinos, real estate agencies, dealers of precious stones and metals, and nongovernmental organizations.

staff, with the recruitment of permanent staff set to begin in 2015.¹²³

The FRC began receiving suspicious transaction reports (STRs) in October 2012 and had received a total of 345 as of December 2014. These have been analyzed, and those STRs that met the criteria or threshold for dissemination—85 reports—were sent to law enforcement agencies, including the Criminal Investigations Department of the police and the Ethics and Anti-Corruption Commission (EACC).¹²⁴ More than 40 percent of the reported cases involved fraud, followed by smuggling, terrorism, and drug trafficking. Of the 85 reports transmitted to law enforcement, one case involved money laundering and one case involved terrorism financing, and both are moving through the Kenyan judiciary.¹²⁵

In line with the FATF action plan, the FRC gained additional power in 2013 through implementation of the Proceeds of Crime and Anti-Money Laundering Regulations (POCAMLR) and Prevention of Terrorism Regulations (POTR). POCAMLR contains the forms all reporting institutions must use to register with the FRC and report suspicious transactions.¹²⁶ The regulations highlighted customer due diligence (CDD) standards to be applied by reporting institutions. There are currently 242 registered reporting institutions, including commercial banks, deposit-taking microfinance institutions, foreign exchange bureaus, stock brokers, insurance companies, telecommunication companies, and remittance providers. Recently, sensitization meetings have been held with the Betting Control and Licensing Board, and as a result, the registration of casinos has begun. The registration of real estate entities will follow through liaison with the Estates Agents Registration Board.¹²⁷

In coordination with the Prevention of Terrorism Act, the POTR was issued by the Ministry of Interior and Coordination of National Government to combat terrorism financing and implement UN Security Council Resolutions 1267, 1373, 1718, 1988, and 1989. The regulations call for the establishment of a governmental collective enforcement body known as the Counter Financing of Terrorism Inter-Ministerial Committee, of which the FRC director is a member, and gives the committee the ability to freeze assets.¹²⁸ Once assets have been frozen, an STR must be completed and sent to the FRC.

Kenya's diligent progress to meet international AML/CFT standards was recognized in June 2014 when it was announced Kenya was no longer subject to the FATF global AML/CFT monitoring process. After more than four years, Kenya had made significant progress in tackling deficiencies identified in February 2010 by establishing an adequate legal and regulatory framework. As the FATF proclamation states, "Kenya will work with ESAAMLG as it continues to address the full range of AML/CFT issues identified in its mutual evaluation report."¹²⁹ Kenya is taking steps to become a member of the Egmont Group of Financial Intelligence Units, and South Africa and Mauritius have agreed to serve as sponsors for Kenya's application. An on-site assessment visit is tentatively scheduled for mid-2015, with the FRC's admission to the Egmont Group targeted for June 2016.¹³⁰

Kenya has strengthened its domestic and international cooperation on AML/CFT matters by concluding memoranda of understanding (MOUs) to encourage information sharing and improved coordination. The FRC has signed MOUs with the central bank, Insurance Regulatory Authority, Capital Markets

123 FRC and central bank officials, e-mail communication with authors, December 2014.

124 Nondisseminated STRs are saved in a database for future reference. *Ibid.*

125 *Ibid.*

126 *Ibid.*

127 *Ibid.*

128 "The Prevention of Terrorism (Implementation of the United Nations Security Council Resolution on Suppression of Terrorism) Regulations," legal notice no. 211, 12 November 2013, <http://www.frc.go.ke/legislation/download/18>.

129 FATF, "Improving Global AML/ CFT Compliance: On-Going Process," 27 June 2014, <http://www.fatf-gafi.org/countries/j-m/kenya/documents/fatf-compliance-june-2014.html#Kenya>.

130 FRC and central bank officials, e-mail communication with authors, December 2014.

Authority, and EACC and with the FIUs of Lesotho, Malawi, and Tanzania. In addition, cooperation among domestic AML/CFT stakeholders has been enhanced through monthly AML roundtable meetings hosted by the U.S. embassy in Nairobi.¹³¹

Ongoing Risks and Vulnerabilities

Although Kenya has passed legislation that satisfies international AML/CFT standards and made progress toward effective implementation of those laws, as a regional and international commercial hub, it is vulnerable to ongoing money laundering and terrorism financing activity. With Kenya's recent AML/CFT achievements and the government's prioritization of devolution under its new constitution, Kenya must ensure that current levels of political will for implementation of AML/CFT measures are sustained.

Like many of its regional peers, perhaps the most overarching risk to the integrity of Kenya's AML/CFT regime is corruption, which appears to have worsened in recent years, placing Kenya near the bottom of international evaluations for corruption.¹³² Kenya has taken steps to address this environment, establishing the EACC in 2011 following amendment of the 2003 Anti-Corruption and Economic Crimes Act.¹³³ It is tasked with combating corruption and economic crime through a variety of methods, including law enforcement, education, and prevention. To complement these efforts, President Uhuru Kenyatta launched a website in October 2013 through which Kenyans, 97 percent of whom indicated in a survey that they do not report their payment of bribes, can report these experiences of corruption directly to his office. Despite these positive

steps, corruption remains a problem.¹³⁴ As the EACC seeks to “establish, maintain, and strengthen partnerships and networks against corruption and unethical practices,”¹³⁵ it should partner with other national AML/CFT stakeholders, including the FRC.

Because Kenya is a major transit point for goods traveling to East Africa, illicit trade remains an ongoing problem for Kenyan authorities, particularly in the port city of Mombasa. Trade misinvoicing is a common tactic for money launderers and a concern for Kenyan officials. Kenya has lost on average an estimated \$1.5 billion per year during 2002–2010 from trade misinvoicing, representing about 7.8 percent of GDP.¹³⁶ Due in part to the implementation of an electronic customs clearance system in 2005, these losses were estimated to be much improved during 2005–2010.¹³⁷ Efforts to curb these financial flows, however, must be situated within a broader push for increased accountability and transparency among Kenyan government officials.

Like many of its East African neighbors, Kenya's economy remains predominantly cash based, impeding investigations of possible money laundering and terrorism financing transactions. In addition, a significant amount of international cash transfers passes through Kenya. Many of these transactions come from neighboring Somalia, as well as from the Kenyan Somali community that remains connected to the diaspora in North America and Europe.

These linkages remain intact through *hawala* transfers. Prior to 2013, Kenya did not require hawala agents to have licenses, and several informal remitters were operating without record-keeping requirements. In response

131 Ibid.

132 The World Bank's aggregation of governance indicators placed Kenya in the 12–13th percentile for its ability to control corruption within the state in 2013, a drop from the 21st percentile in 2003. World Bank, “Worldwide Governance Indicators: Country Data Report for Kenya, 1996–2013,” n.d., <http://info.worldbank.org/governance/wgi/pdf/c116.pdf>. Transparency International (TI) ranked Kenya at 145 out of 175 countries in its 2014 Corruption Perception Index. TI, “Corruption Perceptions Index 2014,” n.d., <http://www.transparency.org/cpi2014/results>.

133 The EACC is the current iteration of Kenya's anticorruption commission. EACC, “The Anti-Corruption and Economic Crimes Act 2003 Explained,” n.d., <http://www.eacc.go.ke/Docs/IEC/ACECA2.pdf>.

134 “Kenyan President Kenyatta Sets Up Anti-Bribery Website,” BBC News, 31 October 2013, <http://www.bbc.com/news/world-africa-24756493>. There is also a nongovernmental anticorruption site. Wamani Trust, “I Paid a Bribe,” <http://ipaidabribe.or.ke/> (accessed 19 December 2014).

135 EACC, “Strategic Plan (2013–2018),” n.d., p. xi, <http://www.eacc.go.ke/docs/EAAC-strategic-plan-2013-2018.pdf>.

136 Raymond Baker et al., “Hiding in Plain Sight,” *Global Financial Integrity*, May 2014, p. 19, http://iff.gfintegrity.org/hiding/Hiding_In_Plain_Sight_Report-Final.pdf.

137 Ibid., pp. 19, 22.

to concerns that money laundering and terrorism financing could occur via these outlets, the central bank implemented the Money Remittance Regulations in 2013, which require remittance firms to register, pay a licensing fee of 100,000 Kenyan shillings, and maintain a minimum core capital of 20 million Kenyan shillings at all times.¹³⁸ The regulations require these firms to maintain transactions records for at least seven years and report any transactions of \$10,000 or more.¹³⁹ In addition, remittance transfer operators cannot exchange gold,¹⁴⁰ which has been identified as one means by which to launder money.

The regulations are nascent and require further support in implementation and adaptation to emerging typologies. For example, the relatively high core capital requirement of 20 million Kenyan shillings (approximately \$200,000) could lead to arrangements in which agents of companies that cannot fulfill the requirements for a Kenyan license operate under a larger licensed company through an agreement between the two companies, even though those agents may not adhere to the same CDD procedures. Additionally, targeted outreach with hawalas in Kenya on behalf of the central bank and the FRC will be necessary to ensure that agents of all licensed companies in Kenya understand the regulations and the reporting requirements.

Although the use of cash and informal banking is still widespread, mobile financial services such as M-Pesa are leading to less reliance on physical cash. Only 3 percent of financial transactions in Kenya are currently made electronically,¹⁴¹ but the mobile banking industry is growing in Kenya. One AML/CFT control that M-Pesa

has implemented is a limit of 35,000 Kenyan shillings per transaction, although M-Pesa agents overwhelmingly indicated that the major risk the mobile platform faces is fraud, a main predicate offense for money laundering and terrorism financing.¹⁴² One AML/CFT control that the central bank has implemented is an individual electronic transaction limit of 75,000 Kenyan shillings and an aggregate limit of one million Kenyan shillings per month on amounts electronically transferred into an account.¹⁴³ Safaricom, the provider that offers the M-Pesa service, has a Money Laundering Reporting office that is responsible for assessing and addressing such risks.

The Kenyan government is seeking to reduce its citizens' reliance on cash, and one step has been its December 2014 rollout of the cashless fare system for passenger service vehicles, in which commuters will use prepaid cards at specific terminals.¹⁴⁴ Kenya will likely shift toward this cash-lite categorization gradually, leading the way for its neighbors in the Greater Horn of Africa region.¹⁴⁵

The precipitous growth and rising prices in Kenya's real estate sector have raised questions about whether property ownership is being used to launder money from Somali pirates and other criminals. The FRC has admitted that due to the lack of a regulatory body in the real estate industry, the ability to monitor suspicious transactions in the sector is extremely difficult. FRC officials have noted that they "will soon start tracking down real estate developers through records at the Ministry of Lands."¹⁴⁶

138 "Money Remittance Regulations, 2013" *Kenya Gazette Supplement*, no. 56 (19 April 2013), pp. 276–279, <https://www.centralbank.go.ke/images/docs/legislation/The%20Money%20Remittance%20Regulations%202013.pdf>.

139 *Ibid.*, pp. 287–288.

140 *Ibid.*, p. 283.

141 Claudia McKay and Rafe Mazer, "10 Myths About M-Pesa: 2014 Update," Consultative Group to Assist the Poor, 1 October 2014, <http://www.cgap.org/blog/10-myths-about-m-pesa-2014-update>.

142 Mike McCaffrey et al., "Agent Network Accelerator Survey: Kenya Country Report 2013," Helix Institute of Digital Finance, June 2014, http://helix-institute.com/sites/default/files/Publications/Agent%20Network%20Accelerator_Kenya%20Country%20Report_2013.pdf.

143 Central Bank of Kenya, "E-Money Regulation," n.d., p. 9, <https://www.centralbank.go.ke/images/docs/NPS/Regulations%20and%20Guidelines/Regulations%20-%20E-%20Money%20Regulations%202013.pdf>.

144 "Cashless Fare System Deadline Pushed to December 1," *Daily Nation*, 23 September 2014, <http://mobile.nation.co.ke/business/Cashless-fare-system-deadline-pushed-to-December-1-/1950106/2460898/-/format/xhtml/-/jgublg/-/index.html>.

145 Better Than Cash Alliance, "The Journey Toward 'Cash Lite,'" n.d., pp. 3–4, <http://betterthancash.org/wp-content/uploads/2012/09/betterthancashalliance-journey-toward-cash-lite.pdf>.

146 Constant Munda, "Kenya Still on Watch List for Laundering," *Star*, 26 May 2014, <http://www.the-star.co.ke/news/article-168597/kenya-still-watch-list-laundering>.

The FRC's lack of institutional resources may present challenges as the country seeks to expand and strengthen its AML/CFT regime. In 2013, Kenya reduced budgets for many governmental departments because 15 percent of national spending was diverted to establish regional authorities under the devolution initiative. Although devolution may enhance AML/CFT efforts in the long term by enabling local authorities, this initial cut presented challenges to the FRC as it tries to enhance its capacities, become fully staffed, and install AML/CFT software systems. The FRC has indicated they plan to bridge the funding gap through support from international donors,¹⁴⁷ but it is important to ensure that political will and momentum resulting from removal from the FATF monitoring process is sustained.

Additionally, the FRC is an administrative unit and has no ability to perform independent investigations or prosecute cases on its own. The FRC must work closely with law enforcement to ensure that suspicious transactions and other abuses of the financial sector are developed as cases and prosecuted.¹⁴⁸ There have been no prosecutions or convictions for money laundering crimes in Kenya, which suggests a lack of coordination among the relevant agencies. As the FRC increases its operations and enhances its analysis of financial intelligence, improved cooperation and information-sharing efforts will become vital to ensuring an effective and enforceable AML/CFT regime.

Entry Points

In recent years, Kenya has demonstrated a high level of political will and made strident efforts to establish AML/CFT frameworks in line with international standards, which is a marked improvement since 2012. As an emerging economy and a key financial center for East Africa, some key vulnerabilities remain and must be addressed in order to ensure that AML/CFT practices are correctly implemented and serious economic

crime is punished proportionally within the criminal justice system.

The practical implementation of governmental devolution will require sustained attention and could help strengthen the AML/CFT efforts of the FRC through the development of county-specific law enforcement. The appointment of county police commanders will be an important step in the decentralization of governmental powers.¹⁴⁹ The ability of each county to tailor their law enforcement responses and resources to address specific concerns could facilitate trust and cooperation between the police and their communities. For example, Mandera County, which borders Ethiopia and Somalia, could concentrate its resources to bolster weak border security and enhance intelligence gathering in a fight to eradicate possible money laundering and terrorism activities.

Following removal from the FATF monitoring process, it will become increasingly important that Kenya retain a high level of political momentum to continue efforts to improve the efficiency and productivity of the existing AML/CFT regime. Based on our findings and the input we received from Kenyan stakeholders and other partners, we offer a number of recommendations for the international community and the Kenyan government.

- Coordinate with the FRC to develop a comprehensive package of advanced technical assistance designed to strengthen AML/CFT core capacities.
- Capitalize on momentum from Kenya's governmental devolution to conduct regional and sector-specific risk assessments to identify key vulnerabilities and ensure effective allocation of resources utilizing a risk-based approach.
- Support awareness-raising efforts on licensing and reporting requirements for AML/CFT stakeholders, particularly designated nonfinancial

147 Geoffrey Irungu, "Anti-Money Laundering Agency Gets Sh250m in Budget," *Business Daily*, 10 June 2013, <http://www.businessdailyafrica.com/Anti-money-laundering-agency-gets-Sh350m-in-Budget/-/539552/1878264/-/nxg0s9/-/index.html>.

148 FRC and central bank officials, e-mail communication with authors, December 2014.

149 Louise Waitthaka, "Devolved Policing Key to Promoting Security in Counties," *Business Daily*, 16 September 2013, <http://www.businessdailyafrica.com/Opinion-and-Analysis/Devolved-policing-promoting-security/-/539548/1994784/-/item/0/-/s438imz/-/index.html>.

businesses and professions, to encourage higher levels of compliance.

- Continue efforts to enhance communication and working relationships among the judiciary and other governmental entities, such as the central bank, Ministry of Finance, and Kenya Revenue Authority.
- Continue to build cooperation and information-sharing practices between the FRC and the federal police.

- Continue work with Kenya's mobile banking industry to ensure effective implementation of AML/CFT standards within this rising sector.
- Continue to foster international engagement and information sharing through regional and international platforms such as the ESAAMLG and FATF and membership in the Egmont Group.

Somalia

The 2012 baseline report identified Somalia as the “most significant source” of money laundering and terrorism financing risk for the Intergovernmental Authority on Development subregion. The country had neither an infrastructure for governmental financial institutions nor a formal banking sector, and *hawalas* accounted for a considerable portion of the economy. The Transitional Federal Government and Somaliland and Puntland authorities were unable to suppress or prevent money laundering and terrorism financing activities.

The situation in Somalia has evolved over the past two years even though the country remains beset with security and governance challenges. The transitional government was officially replaced by the Federal Government of Somalia in August 2012, and since then, government ministries that would form the backbone of a Somali anti-money laundering and countering the financing of terrorism (AML/CFT) regime have been reconstituted, including the Ministry of Finance and the Central Bank of Somalia. Persistent challenges, including corruption, continue to hamper sustainable reforms in this area; beyond the reestablishment of these institutions, the federal government has not made progress on AML/CFT matters. Additionally, terrorism threats emanating from Somali-based al-Shabaab continue to concern all countries in the region, although efforts to degrade al-Shabaab’s capabilities in Somalia have yielded some positive results.

The Federal Republic of Somalia is an internationally recognized country and a member of the United Nations, but the federal government has direct control only over some portions of the country’s pre-1991

territory, with its power concentrated in the south and center of the country. The emergence of new regional administrations in Somalia, such as the recently declared Southwestern State of Somalia, minimizes the federal government’s control in various areas that were under its jurisdiction until recently. Additionally, the governance structures in Puntland and the self-declared republic of Somaliland do not fall under the federal government’s authority, and progress on AML/CFT issues in Somalia as a whole therefore must consider measures and actions in these regions. For example, Somaliland has a central bank and proposed AML legislation awaiting debate in its parliament. Although no formal AML/CFT initiatives have been publicly documented in Puntland, dialogue led by trusted interlocutors has taken place between *hawalas* and Puntland central bank authorities.

The federal government, Somaliland, and Puntland do not have the requisite capacity to control money laundering and terrorism financing in Somalia, nor do they have sufficient information to effectively coordinate efforts on this issue among themselves. More emphasis is needed to hold accountable those federal government institutions managing domestic and international revenue, including an active zero-tolerance policy on corruption and investigations on reported cases. Furthermore, an AML/CFT component should be included in any broader anticorruption initiatives. Cooperation on suspected money laundering and terrorism financing cases among the federal government and the regional administrations must be prioritized. In the meantime, one encouraging development is the recent induction of Somalia as an observer country to the Middle East and North Africa Financial Action Task Force in November 2014.

State of Play

More than two decades of conflict, humanitarian crisis, and underdevelopment have contributed to numerous social, political, and economic challenges in Somalia. Despite the formation of the Federal Government of Somalia in 2012 and the public unfurling of the newly established government's stated priorities in the Somali Compact,¹⁵⁰ formal institutions are weak and often unable to fulfill the basic needs of its vulnerable population.

In many instances, actors outside of the Somali government contribute to filling these gaps. In 2012 the United States, the European Union, the United Kingdom, and Turkey, among others, provided almost \$1 billion in developmental aid to support Somali education, health, and humanitarian needs.¹⁵¹ The majority of these funds were distributed through the federal government, but many aid programs engage Puntland and Somaliland regional authorities even if such collaborations are informal in nature. International organizations such as the International Monetary Fund (IMF) and the World Bank act similarly, supporting the development of fledgling federal institutions and collecting economic data, where available, in Puntland and Somaliland. Local and international nongovernmental organizations¹⁵² and private sector entities offer vital social and financial services, such as supplementary community, health, and education programs and remittance services.

Somalia's gross domestic product (GDP) in 2012 was approximately \$6.3 billion, primarily livestock (59

percent of GDP) and wholesale and retail trade and services (34 percent).¹⁵³ Somalia's main trading partners are Oman, the United Arab Emirates, Yemen, Ethiopia, and India, and trade occurs primarily through the various regional administrations' ports.¹⁵⁴ Major Somali exports are livestock and foodstuffs, and imports include sugar and khat. The country's formal trade volumes, however, remain limited by international sanctions, although these are frequently evaded. For example, demand for Somali charcoal is high because it burns longer than other charcoal types, but the United Nations has banned trade in Somali charcoal since 2012 because its sale has been a main source of funding for al-Shabaab. The ban may have had an unintended result, increasing revenues for al-Shabaab, which has smuggled charcoal from Somalia.¹⁵⁵

In 2011, foreign direct investment (FDI) in Somalia was estimated at \$102 million.¹⁵⁶ Although FDI is not an overwhelming component of Somali GDP, substantial Somali oil reserve estimates will likely entice foreign companies to invest in this field, particularly following a Somali oil and gas summit in October 2014. Such investment will require formalized cooperation among the regional administrations through the passage of oil and gas revenue-sharing legislation.¹⁵⁷

The majority of Somalis are not directly involved in trade or investment-based economic activity, and Somalia remains a predominantly cash-based economy. Individual regions may vary, but the primary livelihood for many Somalis is derived from livestock.¹⁵⁸ Apart from a limited number of formalized financial institutions in Somalia, including two Islamic

150 Federal Republic of Somalia, "The Somali Compact," n.d., <http://www.pbsdialogue.org/The%20Somali%20Compact.pdf>.

151 "Somalia," n.d., <http://www.oecd.org/dac/stats/documentupload/SOM.JPG> (accessed 18 December 2014).

152 For a sampling of nongovernmental organizations (NGOs) operating within Somalia, see Somalia NGO Consortium, "Consortium Members," n.d., <http://somalianoconsortium.org/about/members>.

153 Central Bank of Somalia, "Annual Report 2012," n.d., <http://www.docdroid.net/fjeo/beb93a-28d547aa03b1b5ba025b4f6aa679cbaa.pdf.html>.

154 Observatory of Economic Complexity, "Learn More About Trade in Somalia," n.d., <http://atlas.media.mit.edu/profile/country/som/> (accessed 10 January 2015).

155 UN Security Council, *Letter Dated 10 October 2014 From the Chair of the Security Council Committee Pursuant to Resolutions 751 (1992) and 1907 (2009) Concerning Somalia and Eritrea Addressed to the President of the Security Council, S/2014/726*, 13 October 2014, p. 43 (*Report of the Monitoring Group on Somalia and Eritrea Pursuant to Security Council Resolution 2111 (2013): Somalia*) (hereinafter 2014 UN Monitoring Group report on Somalia); "A Charred Harvest," *Economist*, 11 October 2014, <http://www.economist.com/news/middle-east-and-africa/21623793-unlikely-link-between-gulf-lounges-and-somalias-jihadists-charred-harvest>.

156 World Bank, "Foreign Direct Investment, Net Inflows," n.d., <http://data.worldbank.org/indicator/BX.KLT.DINV.CD.WD> (accessed 10 January 2015).

157 Jillian Ward, "Somalia Plans to Start Producing Oil Offshore in Six Years," *Bloomberg*, 21 October 2014, <http://www.bloomberg.com/news/2014-10-21-somalia-plans-to-start-producing-oil-offshore-within-six-years.html>.

158 Food Security and Nutrition Analysis Unit—Somalia (FSNAU), "Somalia: Livelihood Zones," February 2012, <http://www.fsnau.org/downloads/Somalia-Livelihood-Zones-Updated-February-2012.pdf>.

banks—East Africa Bank, with branches in Hargeisa and Mogadishu, and Salaam Somali Bank, which established its headquarters in Mogadishu in 2009¹⁵⁹—the majority of financial transactions are conducted outside formal tracking mechanisms. Additional commercial banks, including foreign institutions, are expected to begin operations once the Central Bank of Somalia grants licenses to them.

Remittance payments, often hailed as the saving grace for Somalia, flow from the Somali diaspora in Australia, Europe, other Greater Horn of Africa countries, and North America at a higher volume than international humanitarian aid, with about \$1.4 billion annually. Somali money service businesses (*hawala*) are the conduit for these transactions, and nearly 40 percent of households have relied on these funds to fulfill basic needs.¹⁶⁰ More than 20 Somali-owned and -operated hawalas link the diaspora to Somalia through branches in some of the most rural areas that would otherwise have no access to such financial services.

Progress and AML/CFT Efforts

Despite being charged with the responsibility to “issue currency, regulate the banking and credit system and manage the external reserves” of Somalia, the central bank does not have financial regulatory control over all of Somalia.¹⁶¹ The Somali shilling is the official currency, but the U.S. dollar is accepted and used, with the exception of small purchases, for most economic transactions. Similarly, Somaliland’s official currency is the Somaliland shilling, and Puntland started in May 2013 to collect taxes and pay government salaries in U.S. dollars.¹⁶² A sole regulatory authority is necessary to increase compliance within Somalia with anti-money

laundering and countering the financing of terrorism (AML/CFT) measures, and the central bank could play this role. Given the current lack of a standardized national identification system in Somalia and the limited capacity and reach of the federal government, however, regional administrations may present a more practical solution in the near term and provide entry points for supporting AML/CFT efforts.

Only the federal government can be analyzed for compliance with international standards. Although Somalia has not conducted a risk assessment or a mutual evaluation with the Financial Action Task Force, it is an observer country to the Middle East and North Africa Financial Action Task Force (MENAFATF).¹⁶³ As a first step toward improving Somalia’s severely underdeveloped financial system, the Ministry of Finance and the central bank were reopened under the 2012 federal government. Support for these institutions through the appointment of new senior leadership and international developmental assistance have helped prepare an environment conducive to the implementation of AML/CFT standards and the development of departments specifically tasked with handling cases related to money laundering and terrorism financing.

The banking supervision department of the central bank is mandated to supervise hawalas and foreign exchange bureaus, credit institutions, and commercial banks,¹⁶⁴ but its effectiveness has not been measured by an independent institution. Somalia has no AML/CFT laws or functional financial intelligence unit (FIU). In addition to the absence of a dedicated FIU that could process suspicious transaction reports, the central bank lacks financial information technology capacities, such as software systems, that could detect such activity.

159 Dahabshil Bank International rebranded itself as East Africa Bank in January 2015. For East Africa Bank locations in Somalia, see <http://www.eastafricabank.com/Overview.html>. For the establishment of Salaam Somali Bank, see <http://www.salaamsombank.com/pages.php?id=5>.

160 James Cockayne and Liat Shetret, “Capitalizing on Trust: Harnessing Somali Remittances for Counterterrorism, Human Rights and State Building,” Center on Global Counterterrorism Cooperation, April 2012, p. 15, <http://globalcenter.org/wp-content/uploads/2012/07/CapitalizingOnTrust.pdf>.

161 Central Bank of Somalia, “Chapter II: Establishment, Constitution and Objectives,” n.d., art. 2(2), http://www.somalbanca.org/laws_and_regulation/chapter_ii_establishment_constitution_and_objectives.html.

162 “Somalia: Citing Currency Crisis, Puntland to Pay Govt Salaries in U.S. Dollars,” Garowe Online, 3 May 2013, <http://allafrica.com/stories/201305040134.html>.

163 MENAFATF, “20th MENAFATF Plenary Meeting and 10th Anniversary Celebration,” 25 November 2014, <http://www.menafatf.org/ArticleDetail.asp?rid=1192/>.

164 Central Bank of Somalia, “Banking Supervision: Overview,” n.d., http://www.somalbanca.org/banking_supervision.html.

The Central Bank of Somaliland has been operational since 1994, but its authority was expanded in 2012 to include powers commonly ascribed to national central banks. In late 2012, the Somaliland parliament passed legislation providing for the licensing of Islamic banking institutions through the Somaliland central bank.¹⁶⁵ One report at the end of 2014 indicated that the Somaliland parliament would soon vote on a commercial banking law.¹⁶⁶ The Somaliland central bank has drafted AML legislation, which was provided to ministers and international entities such as the World Bank for review at a 2014 central bank–organized workshop on remittances, compliance, and financial crime.¹⁶⁷ Although not available for review by the general public, the legislation reportedly calls for the establishment of an FIU, which will likely require regional and international assistance to begin operations.

The Puntland central bank has been operational for more than a decade¹⁶⁸ but has not made any AML directives or legislation publicly available. No Puntland institutions have been tasked specifically with AML/CFT responsibilities. One problem particular to Puntland is the continued illegal circulation of counterfeit Somali shillings.¹⁶⁹ Although no formal AML/CFT initiatives have been publicly documented in Puntland, dialogue led by trusted interlocutors has taken place between hawalas and Puntland central bank authorities.¹⁷⁰

In addition to lacking AML/CFT laws, the federal government, Puntland, and Somaliland do not have law enforcement and judicial systems equipped to investigate and prosecute AML/CFT cases. Law enforcement officials have not been trained to effectively gather

information that could be used for the prosecution of money laundering and terrorism financing cases; ensuring citizen security from “criminal behavior” remains the primary concern of police forces.¹⁷¹ The absence of documented information on instances of money laundering and terrorism financing crime hinders any estimation of the extent or severity of these crimes that occur within the three jurisdictions.

Even if law enforcement officials collected such information, the federal government’s judicial systems are weak and fragmented, leaving courts ill equipped to process money laundering and terrorism financing cases. The federal government’s 2012 constitution provides for multiple levels of courts, which as of 2014 had not been established.¹⁷² Moreover, President Hassan Sheikh Mohamud’s October 2014 decision to suspend 21 judges throughout the country calls into question the ability of the judicial system to function independently. Somaliland has three separate legal systems in place based on Islamic law, civil law, and customary law. Yet, as of 2014 there were only 100 judges in Somaliland, and many of them did not have formal legal training.¹⁷³ In Puntland, whose judicial system faces a similar issue as Somaliland, the UN Development Programme in particular is attempting to increase the number of lawyers and judges with “formal legal education.”¹⁷⁴

Following the implementation of AML/CFT laws, all authorities within Somalia will need to strengthen law enforcement capacities to effectively respond to and investigate financial crime and the capacity of the judicial system to prosecute these crimes.

165 Islamic Banking Law, no. 55/2012, September 2012, http://www.somalilandlaw.com/xeerka_baananka_islaamiga_ah.pdf (in Somali).

166 Yusuf M. Hasan, “As the Chief Government Banker Abdi Dirir Abdi Says, Forex Raise Is Economically Healthy,” *Somaliland Sun*, 11 October 2014, <http://somalilandsun.com/index.php/politics/government/6559-somaliland-central-bank-wants-parliament-to-expedite-approval-of-commercial-banking-laws->.

167 Scott Paul, “New Anti-Money Laundering Law in Somaliland May Help Shore Up Remittance Lifelines,” Oxfam America, 29 August 2014, <http://politicsofpoverity.oxfamamerica.org/2014/08/new-anti-money-laundering-law-somaliland-may-help-shore-remittance-lifelines/>.

168 Puntland Regional Government, “Transitional Constitution of Puntland Regional Government,” n.d., <http://www.puntlandgovt.com/puntland-constitution/>.

169 “Somalia: Puntland Government Sets Fire to Counterfeit Somali Shilling,” Garowe Online, 28 August 2013, <http://allafrica.com/stories/201308290246.html>.

170 Abdirahman Mohamed Mohamud, statement at the meeting on money/value transfer service, Garowe, Puntland State of Somalia, 12–14 August 2013, <http://www.puntlandpost.com/pp/wp-content/uploads/2013/08/Money-Transfer-Speech.pdf>.

171 Somali Police, “About,” n.d., <http://www.police.somaligov.net/about.html> (accessed 19 December 2014).

172 Freedom House, “Freedom in the World 2014: Somalia,” n.d., <https://freedomhouse.org/report/freedom-world/2014/somalia-0#.VJNNqtLF98E>.

173 Freedom House, “Freedom in the World 2014: Somaliland,” n.d., <https://freedomhouse.org/report/freedom-world/2014/somaliland-0#.VJNOedLF98E>.

174 UN Development Programme, “Strengthening the Justice Sector in Puntland,” n.d., <http://www.so.undp.org/content/somalia/en/home/ourwork/democraticgovernance/successstories/Puntland/>.

Ongoing Risks and Vulnerabilities

The terrorist group al-Shabaab continues to maintain a presence within Somalia and carry out attacks despite several successful “takebacks” by the African Union Mission to Somalia of major cities that were previously al-Shabaab strongholds.¹⁷⁵ Recent attacks within Somalia attributed to the group not only indicate that the group is still receiving funds but place the security of Somali officials and international organizations at risk. Even as the federal government and the regional administrations focus more on AML/CFT issues, al-Shabaab’s continued activity may dissuade qualified individuals from accepting employment with relevant AML/CFT units or task forces and hinder reporting institutions from cooperating with information requests due to personal safety concerns.

Similarly, piracy presents an ongoing threat to stability within Somalia and an entry point for money laundering and terrorism financing activity. Piracy ransoms are paid in cash that must be removed from Somalia by air, land, or sea or through trade or financial systems.¹⁷⁶ The majority of ransoms exit Somalia via cross-border cash smuggling, facilitated by the long, porous border that Somalia shares with many of its neighbors. This money sometimes leaves Somalia via trade-based money laundering activities, in which traders overinvoice or falsely invoice goods. Investigations into the origin of piracy proceeds can be complicated by conflict between individuals or entities of different Somali regional, political, or clan affiliations. For instance, two business partners in 2009 were unable to divide a ransom payment, and the resulting interclan clash became a violent, two-year-long conflict.¹⁷⁷ Regionally, piracy is a major concern for Puntland and its expansive coastline, with allegations that piracy proceeds are often laundered through

investments in factories, retail stores, restaurants, and gas stations.¹⁷⁸

In the absence of formal financial institutions and with significant volumes of transactions entering Somalia through hawalas, the hawala sector is at risk for being abused for money laundering and terrorism financing purposes, especially following a few isolated cases in which funds were remitted to support al-Shabaab.¹⁷⁹ Varying levels of customer due diligence (CDD) practices in hawala branches across Somalia have been cited as one of the sector’s greatest vulnerabilities.¹⁸⁰ Similar to many other countries in the region, the lack of a Somali national identification system required and provided by the government increases the difficulty of conducting due diligence. The federal government implemented a new biometric identification card and electronic passport system in 2013, with high costs of approximately \$98.50, only one operating distribution center in Mogadishu, and significant background documentation requirements. As a result, processing has been substantially delayed, and the service will only be available to a small segment of the population. Additionally, with hawalas embracing mobile platforms to conduct transactions, many of them must identify the risks these new technologies present and implement customer identification systems suitable to these types of technology.

The majority of these hawalas are headquartered in the United Kingdom or the United Arab Emirates, and the renewal of their licenses requires the confirmation of high-level AML/CFT compliance. They have demonstrated a willingness to comply but are understandably reluctant to engage in compliance efforts that would have an adverse effect on business in terms of high costs and loss of customers. If compliance standards in their

175 See Omar Nor, “Al-Shabaab Blamed for Five Beheadings,” CNN, 15 December 2014, <http://www.cnn.com/2014/12/15/world/africa/somalia-violence/>. Al-Shabaab reportedly is seeking to conduct more “complex and spectacular large attacks” on a regional level, reassigning its operatives to cells in Somalia and other countries. 2014 UN Monitoring Group report on Somalia, p. 20.

176 World Bank, *Pirate Trails: Tracking the Illicit Financial Flows From Pirate Activities Off the Horn of Africa*, 2013, p. 5, http://siteresources.worldbank.org/EXTFINANCIALSECTOR/Resources/Pirate_Trails_World_Bank_UNODC_Interpol_report.pdf.

177 *Ibid.*, pp. 64–65.

178 *Ibid.*, p. 61.

179 Faith Karimi, “2 Minnesota Women Sentenced for Funding Somali Militants,” CNN, 17 May 2013, <http://www.cnn.com/2013/05/17/us/minnesota-somalis-sentenced/>.

180 Beechwood International, “Safer Corridors Rapid Assessment,” September 2013, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/283826/SAFER_CORRIDORS_RAPID_ASSESSMENT_2013_SOMALIA_UK_BANKING.PDF.

Somali branches are deemed inadequate, however, they could be subject to high financial and legal penalties in the countries in which they are headquartered or lose their operational licenses altogether. Furthermore, such risks have led various financial institutions to refuse hawala banking business. Without these bank accounts, hawalas will be unable to send remittances to recipients in Somalia in the short period of time necessary for these transactions, which will likely push the remittance sector underground and completely outside of the purview of regulatory frameworks.

Corruption is a pervasive challenge in Somalia that threatens internally collected and externally received revenues from being spent according to their intended use. In 2014, Somalia was ranked almost last in the Transparency International Corruption Perceptions Index because of the widespread nature and severity of corruption.¹⁸¹ Misappropriation of governmental funds, as well as limited transparency regarding the Somali national budget and its individual allocations, not only prevent crucial resources from reaching the Somali people, but also threaten the provision of future aid to the country. Additionally, sustainable development solutions remain elusive as the resources that are not mismanaged often go toward the most pressing, immediate issues, such as drought and famine.¹⁸² With grave concerns such as these, issues that require structural adjustments, such as AML/CFT efforts, are underfunded and understandably not prioritized.

Allegations in the past two years of corruption within major Somali institutions have dealt a significant blow to the credibility that the federal government intended to restore, despite such symbolic actions as the 2012 establishment of a Joint Financial Management Board

staffed by Somalis and others to manage Somali revenues as well as international aid payments and the reorganization of crucial governmental bodies. Perhaps the most notable example is the resignation of the governor of the central bank after less than seven weeks in office because of financial arrangements she felt could open “the door to corruption” involving the federal government’s attempt to recover an estimated \$100 million in frozen Somali assets held overseas.¹⁸³

Following public statements of concern regarding mismanagement of funds deposited in the central bank, Turkey—one of Somalia’s biggest donors—announced in February 2014 that it had stopped providing direct budgetary support to Somalia at the end of 2013. This aid had been paid directly to the central bank in monthly increments of \$4.5 million.¹⁸⁴ The establishment of a Financial Governance Committee (FGC), which has an IMF-appointed advisor and released its most recent report in June 2014 on the achievements and shortcomings of Somali public financial management reform, is a positive step,¹⁸⁵ but if a review of the FGC’s efficacy has been completed, it has not been made public.

Although levels of corruption in Puntland and Somaliland are not documented to the same extent as those in the federal government, AML/CFT developments in those regional administrations have been limited despite continuing concern over money laundering and terrorism financing crime in both jurisdictions. The Penal Code of Somalia, instituted in December 1962 and still applicable in Puntland and Somaliland, criminalizes certain forms of financial crimes, such as embezzlement and public corruption, but does not explicitly address money laundering.¹⁸⁶

181 Transparency International, “Corruption by Country/Territory: Somalia,” 2014, <http://www.transparency.org/country#SOM>. (174 out of 175 jurisdictions).

182 The food security situation in Somalia significantly deteriorated between June and December 2014, according to one estimate. FSNAU, “FSNAU Releases the Quarterly Food Security and Nutrition Brief – Focus on Post Gu Season Early Warning,” 25 June 2014, <http://www.fsnau.org/in-focus/fsnau-releases-quarterly-food-security-and-nutrition-brief-focus-post-gu-season-early-warni>.

183 Heidi Vogt, “In Hunt for Funds, Somalia Found Trouble,” *Wall Street Journal*, 30 September 2014, <http://www.wsj.com/articles/in-hunt-for-funds-somalia-found-trouble-1412129572>.

184 Drazen Jorgic and Tulay Karadeniz, “Biggest Donor Turkey Stops Direct Budget Support to Somalia,” Reuters, 13 February 2014, <http://uk.reuters.com/article/2014/02/13/uk-somalia-budget-turkey-idUKBREA1C1SF20140213>.

185 Financial Governance Committee of Somalia, “Periodic Report #2,” June 2014, <http://www.mof.gov.so/wp-content/uploads/2014/04/FGC-Second-Periodic-Monthly-Report-June-30-2014-v3.pdf>.

186 Penal Code, Legislative Decree no. 5, 16 December 1962, arts. 241, 245, http://www.somalilandlaw.com/Penal_Code_English.pdf.

Entry Points

As the regional administrations in Somalia look to more effectively address threats posed by money laundering and terrorism financing, regionally tailored solutions and cooperation between administrations will be necessary despite different work plans and legislative frameworks.

Corruption has been nearly universally highlighted as an inhibitor to progress for the federal government in particular. The lead-up to the 2016 presidential elections could be an important opportunity for the federal government and relevant governmental, private sector, and civil society interlocutors to place an increased emphasis on and demand accountability and transparency from various ministries and departments, particularly as international actors decide how to continue supporting them. Implementation of a program to build confidence in these institutions could further a broader culture of accountability in Somalia, as well as encourage regional administrations to engage one another.

The influence of the Somali diaspora cannot be overstated. Engaged and highly educated Somalis living in Australia, East Africa and the Greater Horn region, North America, and Europe have demonstrated that they can be mobilized to assist their homeland on a moment's notice in the form of remittances. The federal government and the regional administrations will benefit from the financial and human capacity support of diaspora members' diverse experiences and knowledge. Programs that can encourage diaspora engagement in enhancing the financial transparency infrastructure across the regional administrations, independent of clan or regional affiliation, would be worthwhile. For example, AML/CFT advisors from the diaspora, whose background included work for another country's more developed FIU, could be housed within each regional administration's bank supervision department or FIU and offer guidance to staff members as part of a rotational program.

Based on our findings and the input we received from Somali stakeholders and other partners, we offer a number of recommendations for the international community and the Somali federal government and the Puntland and Somaliland regional administrations.

- Reform the security sector to bolster national law enforcement capacity and map the sector's capabilities and gaps in various parts of Somalia.
- Issue and circulate AML/CFT strategic plans, which include timelines for expected completion of initial steps such as passage of legislation criminalizing money laundering and terrorism financing, to reconcile political commitment with capacity for action.
- Issue guidance notes for financial institutions within the country, primarily hawalas, on AML/CFT expectations.
- Pass AML/CFT legislation that adequately criminalizes money laundering and terrorism financing and provides for the establishment of an FIU, which can be a federal-level example for such legislation in neighboring states.
- Engage Islamic banking institutions and incentivize sufficient know your customer and CDD policies as being good for business, especially when they are not explicitly required.
- Offer training to banking supervision departments on recognition of potential money laundering and terrorism financing crime.
- Create a law enforcement department specializing in money laundering and terrorism financing investigations, with expertise on corruption, piracy, and al-Shabaab issues.
- Establish a dialogue on AML/CFT issues with any new regional entities, for example the recently established Southwestern State of Somalia, and institutionalize working relationships with them to facilitate information sharing.
- Formalize cooperation among the three central banks through memoranda of understanding to increase oversight across jurisdictions.

Additionally, because of the unique political situation within Somalia and the federal government's limited territorial control, we offer individual recommendations to the federal government, Somaliland, and Puntland.

Recommendations for the federal government—

- Demonstrate commitment to anticorruption and AML initiatives by signing the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the UN Convention Against Transnational Organized Crime, laying the groundwork for sufficient AML/CFT legislation to be developed in all regional administrations.
- Earmark financial and technical support for specific departments within the central bank, for instance the Central Bank Training Institute of Somalia, that comes with reporting conditions.
- Encourage direct payments whenever possible, such as payment of central bank staff salaries via a hawala or Islamic banking institution.
- Establish a financial information technology division within the central bank.
- Establish anticorruption initiatives, including an active zero-tolerance policy, protection of funds at the central bank, and clearance of funds through a central system or through the central bank.
- Expedite the accessibility of the national identification system to complement CDD efforts and work with regional administrations to ensure their citizens are eligible to receive identification cards and that sensitive citizen identity information is safeguarded.
- Introduce a national anticorruption and anticrime digital campaign to highlight the benefits of tackling these challenges for the benefit of the Somali nation and people.
- Exercise the central bank's ability to license commercial banks and strengthen its supervision department with best practices and guidelines,

including risk management guidelines in the areas of money laundering and terrorism financing and reporting guidelines to the central bank and an FIU, once one has been established.

Recommendations for Somaliland in coordination with the federal government—

- Pass AML legislation after incorporating feedback from international and East African AML/CFT leaders, ensuring clear definitions of money laundering, terrorism financing, and financial institutions.
- Establish an FIU.
- Engage continually with regional financial institutions, including hawalas and designated nonfinancial businesses and professions (DNFBPs).
- Enhance criminal justice capacities to properly investigate suspected money laundering and terrorism financing crime and prosecute it accordingly.

Recommendations for Puntland in coordination with the federal government—

- Clarify and enforce a consistent policy on the use of U.S. dollars and Somali shillings as currency.
- Pass AML/CFT legislation that adequately criminalizes money laundering and terrorism financing and provides for the establishment of an FIU.
- Establish an FIU, perhaps within the Puntland central bank, in conjunction with the extensive antipiracy initiatives currently being funded in the region.
- Engage the central bank with DNFBPs apart from hawalas.
- Institutionalize working relationships between the central bank and hawalas.

South Sudan

When the 2012 baseline report was published, South Sudan's regulatory and political climate was very fluid. As the newest state in the world, South Sudan had a number of vulnerabilities to money laundering and terrorism financing activities but had not established any legal framework to address these crimes. Awareness of each was very low, with key officials unable to articulate a comprehensive definition of the crimes or their practical implications for the economy.

Since that time, the country has made significant improvements in its anti-money laundering and countering the financing of terrorism (AML/CFT) regime. Still facing a dynamic and complicated political and security situation, South Sudan passed its first AML/CFT law in 2012. The law defined money laundering and terrorism financing and called for the establishment of a financial intelligence unit (FIU). Although it was a notable achievement and demonstration of political will, the law has not been assessed for its level of compliance with international standards due to its recent passage and South Sudan's lack of membership in a Financial Action Task Force-style regional body (FSRB). Additionally, progress on implementation has likely been limited due to resource constraints and the prioritization of security and humanitarian concerns.

Without an operational AML/CFT regime, South Sudan remains vulnerable. The country has a large foreign currency black market, which could serve as an enabling environment for laundering criminal proceeds. Corruption remains a key concern for South Sudan, although efforts have been made within senior levels of the administration to address these challenges. Additionally, South Sudan is faced with generally low levels of AML/CFT awareness among stakeholders, which will require a substantial investment of political and resource capital to address.

The development and provision of technical assistance to South Sudan's FIU should be the international community's initial focus for building the capacity of the South Sudanese AML/CFT regime. The promotion of membership in FSRBs will be important in enhancing regional cooperation and information sharing, and the process of undergoing mutual evaluation as a requirement for membership will be crucial to the creation of a national action plan to address financial crimes. As South Sudan's AML/CFT regime develops, clear regulatory and inspection processes must be established to ensure adequate and sustained implementation as part of a broader push to improve financial transparency and reduce levels of corruption across the country.

State of Play

South Sudan remains a nascent nation confronted with a number of evolving political, economic, security, and humanitarian concerns. After nearly 50 years of Sudanese civil war, South Sudan was given regional autonomy in 2005 and gained full independence in July 2011 following a referendum.¹⁸⁷ Since its establishment, the government has taken preliminary steps to establish core administrative structures and provide basic services to the population.¹⁸⁸ An attempted coup d'état in December 2013, however, reignited political and ethnic tensions and led to violence that consumed government attention.¹⁸⁹ South Sudan is participating in peace talks in Ethiopia mediated by the Intergovernmental Authority on Development (IGAD), but they have encountered frequent delays.¹⁹⁰

South Sudan is the most oil revenue–dependent country in the world, with the sector accounting for 80 percent of gross domestic product (GDP) and nearly all of the country's exports.¹⁹¹ In a dispute with Sudan over pipeline transit fees, South Sudan shut down oil production in January 2012, costing the government as much as \$2 billion in lost revenues.¹⁹² South Sudan cut spending by nearly 40 percent and drew heavily on its reserves, raising concerns about foreign currency shortages in the country.¹⁹³ Resumption of oil production was projected to improve South Sudan's GDP, but the revival of civil conflict has dampened prospects for economic recovery and development.¹⁹⁴

The conflict has displaced more than one million people and left an estimated 4.9 million in need of humanitarian assistance.¹⁹⁵ In 2012, South Sudan was the second-largest recipient of humanitarian aid worldwide and was pronounced eligible for concessional lending from the International Monetary Fund (IMF).¹⁹⁶ South Sudanese government officials have appealed to foreign investors to offset the loss of oil revenue and help alleviate budgetary deficits, but businesses have shied away from working in the country due to its unclear regulatory framework and unstable political and security situation.¹⁹⁷ The situation is further complicated by the imposition of bilateral sanctions by the United States in May 2014 designed to freeze the assets and ban the travel of two individuals associated with the ongoing political instability.¹⁹⁸

These considerations have led to severe shortages in human, resource, and political capital to address issues outside of the security and economic spheres. Rising political and ethnic tensions have consumed large amounts of political attention, and the South Sudanese budget continues to prioritize spending on security over infrastructure development and social services.¹⁹⁹ The implications for the development of the country's anti–money laundering and countering the financing of terrorism (AML/CFT) regime are clear, with increased competition for already scarce resources presenting a formidable challenge to the effective operationalization of the financial intelligence unit (FIU) and implementation of AML/CFT measures.

187 "South Sudan Profile," BBC, 6 August 2014, <http://www.bbc.com/news/world-africa-14019202>.

188 World Bank, "South Sudan," <http://www.worldbank.org/en/country/southsudan> (accessed 12 November 2014).

189 Richard Downie, "A Coup in South Sudan?" Center for Strategic and International Studies, 17 December 2013, <http://csis.org/publication/coup-south-sudan>.

190 Maximilian Borowski, "No End in Sight for South Sudan Peace Talks?" Deutsche Welle, 9 October 2014, <http://dw.de/p/1DSXV>.

191 World Bank, "South Sudan."

192 "South Sudan Shuts Off Oil in Dispute With Sudan," Reuters, 23 January 2012, http://www.nytimes.com/2012/01/24/world/africa/south-sudan-shuts-off-oil-in-dispute-with-sudan.html?_r=0; Nicholas Bariyo, "South Sudan Struggles as Foreign Currency Dries Up," *Wall Street Journal*, 22 July 2012, <http://online.wsj.com/articles/SB10000872396390444097904577538980303372056>.

193 Joseph Muvawala and Frederick Mugisha, "South Sudan," *African Economic Outlook*, 2014, p. 2; Bariyo, "South Sudan Struggles as Foreign Currency Dries Up."

194 Muvawala and Mugisha, "South Sudan," p. 2.

195 "UN: Over One Million Displaced by South Sudan Conflict," BBC, 29 March 2014, <http://www.bbc.com/news/world-africa-26798721>.

196 Global Humanitarian Assistance, "South Sudan," n.d., <http://www.globalhumanitarianassistance.org/countryprofile/south-sudan>; IMF External Relations Department, "IMF Executive Board Deems South Sudan Eligible for Concessional Lending," no. 12/298, 27 August 2012, <https://www.imf.org/external/np/sec/pr/2012/pr12298.htm> (provision of a zero interest rate on loans made through the IMF Poverty Reduction and Growth Trust).

197 Bariyo, "South Sudan Struggles as Foreign Currency Dries Up."

198 Michael R. Gordon, "U.S. Imposes First Sanctions in South Sudan Conflict," *New York Times*, 6 May 2014, http://www.nytimes.com/2014/05/07/world/africa/us-imposes-first-sanctions-in-south-sudan-conflict.html?_r=0.

199 Economist Intelligence Unit (EIU), "Sudan," n.d., <http://country.eiu.com/sudan> (accessed 12 November 2014).

Progress and AML/CFT Efforts

Just one year after gaining independence, South Sudan took a first step toward the establishment of an effective AML/CFT framework with the passage of its 2012 Anti-Money Laundering and Counter Terrorist Act. The law contains several key elements of an AML/CFT regime, including definitions of money laundering and terrorism financing, identification of predicate offenses, establishment of penalties, and the creation of an FIU and the National Multi-Disciplinary Committee on Anti-Money Laundering (National Committee).²⁰⁰ This landmark achievement for the new country represents key governmental recognition of the importance of AML/CFT issues.

South Sudanese financial and government officials had lacked a consensus on the definition of money laundering,²⁰¹ and with this new law, the government has provided the first comprehensive definition. In addition, the law adopts a listing approach toward predicate offenses: trafficking in drugs, arms, and persons; terrorism and terrorism financing; corruption; counterfeiting; robbery and theft; smuggling; extortion; forgery; and piracy, among others.²⁰² Previously, South Sudanese officials did not adequately understand the connection between money laundering and predicate offenses, instead perceiving money laundering as being limited to the crime exclusively related to the money itself (e.g., forgery).²⁰³ The new law, coupled with future awareness-raising efforts on its implementation, should help address this knowledge gap and promote a better understanding of money laundering and its broader connection to transnational crime and economic development.

Another important achievement under the new law is the establishment of an FIU as an interministerial department under the Ministry of Finance and

Economic Planning. The legislation specifies that the National Legislative Assembly will appropriate the FIU's budget,²⁰⁴ but it is unclear whether funds have been allocated. Although this funding structure is common for many FIUs, it may present a challenge for the South Sudanese FIU as it seeks to operationalize, given the government's recent focus on security expenditures.²⁰⁵ The resources allocated to the FIU could indicate the current administration's prioritization of AML/CFT measures.

The FIU's mandate includes the receipt and analysis of suspicious transactions, dissemination of reports to law enforcement agencies, inspections of reporting entities, compilation of statistics and records for dissemination, and the issuance of guidelines to reporting entities in consultation with regulatory authorities. Additionally, the FIU is empowered to exchange information with peer FIUs and create training requirements and provide training for reporting entities, judicial authorities, and law enforcement officials. The law outlines staffing guidelines for the FIU, stating that the South Sudanese President will appoint the commissioner and that all other staff will be appointed for five-year terms and have "experience in law, finance, customs, and law enforcement."²⁰⁶ Whether any staff appointments have been made is unclear.

The law clearly defines reporting entities subject to AML/CFT compliance, including banks, financial institutions, accountants, real estate agents, dealers in precious stones or metals, regulators, customs officers, attorneys, notaries, and other independent legal professionals. The law also lists "cash dealers," a term that includes insurers, money transmitters, gaming operators, and foreign exchange bureaus. Reporting entities are legally required to follow certain procedures related to record keeping, reporting, and verification of a cus-

200 Anti-Money Laundering and Counter Terrorist Act, 2012, <http://www.icnl.org/research/library/files/South%20Sudan/AntiMoneyLaundering.pdf>.

201 Tu'emay Aregawi Desta and James Cockayne, eds., "ISSP-CGCC Joint Baseline Study on Anti-Money Laundering and Countering the Financing of Terrorism in the IGAD Subregion," Center on Global Counterterrorism Cooperation, May 2012, p. 38, http://globalcenter.org/wp-content/uploads/2012/11/AML_Report.pdf (hereinafter 2012 baseline study).

202 Anti-Money Laundering and Counter Terrorist Act, 2012.

203 2012 baseline study, p. 38.

204 Anti-Money Laundering and Counter Terrorist Act, 2012.

205 IMF and World Bank, *Financial Intelligence Units: An Overview*, 23 July 2004, <http://www.imf.org/external/pubs/ft/FIU/fiu.pdf>; EIU, "Sudan."

206 Anti-Money Laundering and Counter Terrorist Act, 2012.

tomers' identity. When cause arises, the law requires that a suspicious transaction report (STR) be prepared and submitted to the FIU within 24 hours.²⁰⁷

The law states that the National Committee will be comprised of the FIU commissioner and representatives from the Bank of South Sudan; the ministries of finance, justice, interior, and foreign affairs; and the National Security Service, each appointed by the finance minister for a three-year term. Once established, the National Committee will be tasked with assessing and making suggestions to improve the effectiveness of AML/CFT policies and advising the South Sudanese government on AML/CFT legislative, regulatory, and policy reforms.²⁰⁸ Coordination between the FIU and National Committee will be important, particularly as South Sudan strives to tackle low levels of AML/CFT awareness across the country. The current legal framework does not explicitly define a clear relationship between the bodies, creating the potential for a practical disconnect between the institutions.

South Sudan has indicated that the minister of finance and economic development will issue regulations necessary for the implementation of the new law, but no such regulations have been made public. Similarly, the FIU has been tasked with issuing guidelines to reporting entities, but without dedicated staff, no apparent progress on this front has occurred.

South Sudan's new AML/CFT law represents an important step for the country in addressing its vulnerability to money laundering and terrorism financing activities. The law's degree of compliance with international standards has not been evaluated. Given the experience of its regional peers and the complicated and evolving nature of AML/CFT law, additional regulation will likely be required in order build an effective and

comprehensive AML/CFT framework. For example, notably absent from the current law are procedures addressing sanctions and the freezing, seizure, and confiscation of funds or assets related to money laundering and terrorism financing offenses, a key component of the recommendations of the Financial Action Task Force (FATF). South Sudan should be applauded for its initiative in passing an AML/CFT law, but continued engagement is essential for the development of a comprehensive regime.

Ongoing Risks and Vulnerabilities

Because South Sudan is a newly formed nation with limited capacity for data collection and low levels of financial transparency, a full assessment of its level of vulnerability to financial crimes is difficult. The country has a relatively small formal financial system; 26 banks reportedly operate in South Sudan, and a source suggests that many of these operate in name only.²⁰⁹ The country experiences high levels of public corruption, and its geographic location and long, porous borders expose it to those seeking overland routes for smuggling. South Sudan requires that reports be made to customs authorities on the cross-border transport of cash or certain bearer negotiable instruments, but the finance ministry has not specified a report-triggering threshold. Furthermore, without a functioning FIU, there is no central agency to analyze and investigate these reports.²¹⁰

High levels of official corruption magnify South Sudanese resource constraints. Transparency International ranked the country near the bottom in its 2013 Corruption Perceptions Index.²¹¹ President Salva Kiir, acknowledging the situation, has accused more than 75 senior government officials of stealing at least \$4 billion.²¹² Corrupt behavior at such high levels poses

207 Ibid.

208 Ibid.

209 Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State, "International Narcotics Control Strategy Report (INCSR)—Volume II: Money Laundering and Financial Crimes Country Database," June 2014, p. 384, <http://www.state.gov/documents/organization/222700.pdf> (hereinafter U.S. State Department June 2014 INCSR on South Sudan).

210 In the earlier study, senior officials reportedly were caught crossing into neighboring states carrying millions of dollars in cash of unclear origins. 2012 baseline study, p. 39.

211 Transparency International, "Corruption Perceptions Index 2013," n.d., <http://www.transparency.org/cpi2013/results> (173 out of 177 jurisdictions).

212 David Smith, "South Sudan President Accuses Officials of Stealing \$4bn of Public Money," *Guardian*, 5 June 2012, <http://www.theguardian.com/world/2012/jun/05/south-sudan-president-accuses-officials-stealing>.

a particular threat to budding AML/CFT efforts in the country because officials will be reluctant to enforce measures that make it more difficult for them to conceal the illicit source of their funds. In trying to reduce corruption, the government issued a decree requiring all public officials to declare their assets to the newly established South Sudanese Anti-Corruption Commission. President Kirr's office claims that about 5,000 public officials have already done so and asserts that the public airing of corruption accusations has resulted in the return of about \$60 million in inappropriately used funds.²¹³ The initiative to develop more transparency and fiscally accountable institutions will have a positive impact on the development of AML/CFT measures.

South Sudan is home to a large foreign currency black market due in part to recent devaluations and concerns about low foreign exchange reserve levels. According to the U.S. Department of State, the Central Bank of South Sudan distributed \$1.3 million per week in early 2014 to South Sudanese banks for withdrawal by private businesses and citizens with children abroad. Reportedly, only \$450,000 of these funds were disbursed, with the remainder diverted into the parallel market.²¹⁴ Such a large, unregulated market could create an enabling environment for money launderers, who may capitalize on the high demand for foreign currency as a way to launder illicit proceeds. Because this process is highly lucrative, with black market exchange rates often reaching much higher than state-controlled rates, foreign exchange bureaus may have been involved in the black market, utilizing their access to foreign currency at the state-controlled rate. Interviewees have suggested there was a connection between the increasing number of foreign exchange bureaus and political patronage, indicating that licenses had been granted to those connected with the ruling party.²¹⁵ South Sudan announced a plan in October 2014 to close these black

markets in an effort to control the strength of the South Sudanese pound relative to the dollar,²¹⁶ but the effectiveness of this plan is unknown.

One of the biggest challenges facing South Sudan in addressing these vulnerabilities is the generally low levels of AML/CFT awareness among stakeholders, but the passage of the new AML/CFT law represents an important step in addressing money laundering and terrorism financing crimes and can promote a broader understanding of AML/CFT measures and compliance requirements. As of 2012, awareness appeared to be highest in the private sector due to experiences in international banking and lowest among law enforcement and judiciary authorities.²¹⁷ A segment of South Sudanese security forces have been tentatively identified to handle money laundering and terrorism financing investigations, but no courts or prosecutors are designated specifically for financial crimes. Understaffing and a lack of training present a further complication, particularly given the developing nature of the South Sudanese legal system,²¹⁸ as does a lack of human and resource capital and the prioritization of security concerns in government expenditures.

As a new state, South Sudan is working generally to strengthen its governmental institutions and is in the process of developing its banking and finance regulatory structure, a key component for measuring compliance with AML/CFT requirements and assessing the risk of money laundering and terrorism financing abuse among reporting entities. Currently, the only designated financial regulatory authority is the central bank, but the new AML/CFT law includes a provision for designation by the finance minister of future regulatory agencies. In 2012 the government announced its intention to begin training bank employees in AML and STR activities,²¹⁹ but the scope of these programs

213 Ibid.

214 U.S. State Department June 2014 INCSR on South Sudan.

215 2012 baseline study, p. 39.

216 Charlton Doki, "South Sudan Government Plans to Ban Currency Black Market," Voice of America, 3 October 2014, <http://www.voanews.com/content/south-sudan-forex-black-market-ban/2471600.html>.

217 2012 baseline study, p. 39.

218 U.S. State Department June 2014 INCSR on South Sudan, p. 383.

219 "South Sudan Criminalizes Money-Laundering," Sudan Tribune, 17 March 2012, <http://www.sudantribune.com/spip.php?article41936>.

has not been announced and may be hindered by the recent surge of political insecurity.

Entry Points

South Sudan's development of its AML/CFT regime is in its preliminary stages. Although passage of the AML/CFT law represents a notable achievement, enforcement capacity is insufficient to address financial crimes. The FIU has not been fully staffed and operationalized, and regulations to assist in the implementation of laws have not been issued. As South Sudan builds its AML/CFT framework, it must establish clear regulatory and inspection processes to address any money laundering or terrorism financing vulnerabilities as part of a broader push to improve financial transparency and reduce levels of corruption across the country.

As one of the newest nations, South Sudan has made tangible efforts to engage on the international political scene. It has become a member of the United Nations, the African Union, IGAD, and Interpol²²⁰ but has rarely engaged the international community on AML/CFT issues. It is not a member of any FATF-style regional body (FSRB) and has not been reviewed by the FATF so that deficiencies may be identified. Membership in regional organizations such as the Eastern and Southern Africa Anti-Money Laundering Group or Middle East and North Africa Financial Action Task Force could be highly beneficial for South Sudan because these groups could conduct technical assessments of South Sudan's AML/CFT frameworks and provide information and best practices for strengthening its regime. Given the numerous other pressing challenges facing this nascent country, all AML/CFT developments should be positioned within the broader framework of economic development.

The international community should work to demonstrate the economic and security-related benefits of effective AML/CFT action as a way to encourage continued compliance and political commitment from South Sudan. Based on our findings and the input we received from South Sudanese stakeholders and other partners, we offer a number of recommendations for the international community and the South Sudanese government.

- Promote continued high-level political commitment for AML/CFT efforts by positioning them within the broader security and economic development framework.
- Provide assistance to the Ministry of Finance and Economic Planning and other governmental institutions in developing implementation guidelines pursuant to the new AML/CFT law and in identifying and defining a regulatory framework for reporting entities.
- Develop a coordinated package of assistance to support the FIU in becoming fully operational, including targeted technical assistance programs on staffing and core FIU competencies.
- Support South Sudanese membership in FSRBs to promote regional cooperation and information sharing.
- Encourage South Sudan to undergo a mutual evaluation to inform the development of a national AML/CFT action plan.
- Support awareness-raising efforts and advanced technical training to build capacity among AML/CFT stakeholders.

220 Bureau of Counterterrorism, U.S. Department of State, "Country Reports on Terrorism 2013," April 2014, pp. 49–50, <http://www.state.gov/documents/organization/225886.pdf>.

Sudan

The 2012 baseline report noted the difficulty of assessing financial governance in Sudan, given the state's isolation from the global financial system due to long-standing unilateral sanctions and heavy involvement in the private sector. Progress toward institutional reform was noted with the passage of the 2010 Money Laundering and Terrorism Financing Act, but assessment of implementation and the operationalization of its financial intelligence unit (FIU) was difficult because of low levels of financial transparency.

Since then, Sudan has taken measurable steps to strengthen its anti-money laundering and countering the financing of terrorism (AML/CFT) regime. Sudan participated in a mutual evaluation with the Middle East and North Africa Financial Action Task Force, which assisted in identifying deficiencies in the country's 2010 AML/CFT law. The government has demonstrated political will in addressing these issues and passed an updated AML/CFT law in June 2014, developed a national AML/CFT action plan, and issued decrees related to the freezing and seizure of terrorist assets under UN Security Council Resolutions 1267 and 1373. In addition, the FIU has undertaken efforts to build capacities through training programs for staff and relevant stakeholders.

Sudan remains vulnerable to money laundering and terrorism financing crimes. Its continued isolation from the international financial system due to long-standing U.S. and UN Security Council sanctions contributed to a foreign currency crisis that has fostered the growth of a large black market. A weak and overlapping regulatory structure will present a significant and pressing challenge as the country seeks to expand and diversify its economy following the succession of South Sudan. This deficiency is further compounded by low awareness among reporting entities and enforcement efforts constrained by limited levels of human and capital resources, which have otherwise been prioritized to address Sudan's critical security and humanitarian issues.

In order to ensure continued political commitment, the international community must demonstrate the positive impact of AML/CFT measures on Sudanese economic development and position any capacity-building initiatives within that framework. The FIU, which has shown a willingness and capacity to engage with international actors to strengthen the Sudanese AML/CFT regime and will serve as a key entry point for intervention, would greatly benefit from a coordinated and targeted program of technical assistance.

State of Play

In recent years, Sudan has experienced major geographic, political, economic, and social upheaval. On 9 July 2011, approximately one-quarter of the country's land mass seceded to form the new nation of South Sudan.²²¹ South Sudan's territory contained three-quarters of Sudan's productive oil fields, which had accounted for one-half of Sudanese government revenues and 95 percent of exports.²²² As a result of this loss, Sudan's economy suffered a shock in 2012, with inflation levels reaching as high as 45 percent and gross domestic product (GDP) shrinking by 10 percent.²²³ In an attempt to preserve economic stability, the government implemented an emergency austerity program that was met with sporadic antigovernment protests. These measures have been extended into 2015. Although inflation was forecast to remain high at 27 percent in 2014, real GDP growth has shown signs of revival, reaching 3.6 percent in 2013.²²⁴

Economic growth will continue to be affected by Sudan's high levels of public debt, totaling more than \$45 billion in 2013, of which approximately 85 percent is in arrears.²²⁵ Some creditor countries, including France and the Netherlands, have recently indicated an intention to cancel or reduce portions of Sudan's debt, although Sudan is not yet eligible for the International Monetary Fund (IMF)–World Bank debt relief program.²²⁶ A deadline for an agreement on the division between Sudan and South Sudan of pre-2011 debt was postponed from 27 September 2014, possibly to avoid complications in ongoing negotiations about the export

of South Sudanese oil through Sudan or in the hope that additional debt reduction plans can be established prior to the agreement.²²⁷

In addition to slowing economic growth, high levels of Sudanese debt cut into available funding for social and infrastructure development. The loss of oil as a major source of revenue will continue to present challenges as the Sudanese government strives to find a balance between security and developmental spending. This is likely to have an impact on the resources available for anti-money laundering and countering the financing of terrorism (AML/CFT) efforts across the country, particularly as Sudan moves toward effective implementation of new laws and the further operationalization of its financial intelligence unit (FIU).

In an effort to rebound from the loss of oil revenues, the government has shifted its focus to the mining, agricultural, and livestock industries. Gold has become Sudan's largest export, totaling \$2.2 billion in 2012.²²⁸ Additionally, a recent report confirmed the existence of large reserves of manganese and chrome in the country.²²⁹ The agricultural and livestock industries play a critical role in the creation of employment opportunities, as nearly 80 percent of Sudan's workforce is employed in agriculture and the two sectors account for 35–40 percent of Sudanese GDP.²³⁰ The government has committed to spending 20 percent of public expenditures on infrastructure and technical advancements to enhance productivity and growth in these sectors.²³¹ As these industries expand, they will pose greater risks to effective AML/CFT issue management, particularly

221 "Sudan Fast Facts," *CNN*, 18 April 2014, <http://www.cnn.com/2013/10/30/world/africa/sudan-fast-facts/>.

222 World Bank, "Sudan Overview," 10 October 2014, <http://www.worldbank.org/en/country/sudan/overview>.

223 "Sudan Inflation Rises to 45 Percent in Oct," *Reuters*, 8 November 2012, <http://www.reuters.com/article/2012/11/08/ozabs-sudan-inflation-idAFJ0E8A701U20121108>; World Bank, "Sudan," n.d., <http://data.worldbank.org/country/sudan>.

224 African Development Bank Group, "Sudan," n.d., <http://www.afdb.org/en/countries/east-africa/sudan/> (accessed 18 December 2014).

225 World Bank, "Sudan Overview." Sudan has been in nonaccrual status with the World Bank since 1994.

226 Economist Intelligence Unit (EIU), "Sudan and South Sudan Delay Apportionment of Debt," 3 October 2014, <http://country.eiu.com/article.aspx?articleid=922349476&Country=Sudan&topic=Economy>; IMF Communications Department, "Debt Relief Under the Heavily Indebted Poor Countries (HIPC) Initiative," September 2014, p. 4, <https://www.imf.org/external/np/exr/facts/pdf/hipc.pdf>.

227 EIU, "Sudan and South Sudan Delay Apportionment of Debt."

228 As of 2013, 91 firms were exploring for gold at 138 locations, and the government has indicated an intention to increase exploration with the assistance of Russian and Chinese companies. "Sudan Made \$2.2 Billion From Gold Exports in 2012," *Reuters*, 1 April 2013, <http://www.reuters.com/article/2013/04/01/sudan-gold-idUSL5N0COOVX20130401>.

229 "Sudan Has Large Reserves of Various Minerals: Report," *Sudan Tribune*, 7 October 2014, <http://www.sudantribune.com/spip.php?article52665>.

230 U.S. Central Intelligence Agency, "World Factbook: Sudan," 20 June 2014, <https://www.cia.gov/library/publications/the-world-factbook/geos/su.html>;

World Bank, "Sudan Overview."

231 World Bank, "Sudan Overview."

as they are currently in a regulatory gray area. Sudan's porous borders and limited customs capacities, coupled with low levels of awareness and limited operational reporting capacity, make Sudan particularly vulnerable to money laundering and terrorism financing abuse within these sectors.

Sanctions against Sudan further complicate the economic landscape. The United States has had a comprehensive trade embargo in place against Sudan since 1997, citing that government's continued support for international terrorism and prevalence of human rights violations.²³² The United States has joined the United Nations and the European Union in the implementation of other, targeted sanctions over human rights violations in Darfur.²³³ These have made foreign investors wary of doing business in Sudan, and the resulting financial isolation has contributed to a foreign currency crisis and a large black market.²³⁴ These developments present a serious risk for money laundering and terrorism financing offenses as many Sudanese scramble to obtain foreign currency in light of recent devaluations of the Sudanese pound and the reduction of fuel subsidies,²³⁵ often without concern as to the potential illicit sources of these funds.²³⁶

Sudan has actively sought to intensify its economic engagement with Persian Gulf countries, who represent more than one-half of foreign investment in Sudan. The Sudanese government is hoping that increased partnership with these wealthy countries will help stabilize

the economy and drive infrastructure development.²³⁷

In April 2014, Qatar deposited \$1 billion in aid into the Central Bank of Sudan and reportedly plans to invest in large agricultural and energy projects.²³⁸ Sudan has opted to align itself with the Middle East on AML/CFT issues, joining the Middle East and North Africa Financial Action Task Force (MENAFATF) as its Financial Action Task Force (FATF)-style regional body. Sudan remains active within the regionally focused Intergovernmental Authority on Development (IGAD),²³⁹ but cultural and economic linkages with the Gulf, coupled with lingering historical tensions among other East African states, may prove challenging to broader East African regional cooperation on AML/CFT issues.

Progress and AML/CFT Efforts

Sudan's first substantive, legislative progress on AML/CFT issues came with the 2010 passage of the Money Laundering and Terrorism Financing Act. A notable demonstration of political will, this legislation established an FIU and criminalized elements of money laundering and terrorism financing.²⁴⁰ Following an on-site assessment on 18–29 December 2011 and additional review, however, MENAFATF identified a number of key deficiencies in Sudan's legal framework. In particular, the law failed to include a full range of predicate offenses for money laundering, including smuggling, illicit trade, human and arms trafficking, and

232 Office of Foreign Assets Control, U.S. Department of the Treasury, "Sudan Sanctions Program," 5 November 2013, p. 3, <http://www.treasury.gov/resource-center/sanctions/Programs/Documents/sudan.pdf>.

233 UN Security Council, "Security Council Committee Established Pursuant to Resolution 1591 (2005) Concerning the Sudan," n.d., <http://www.un.org/sc/committees/1591/>; European Commission, "Restrictive Measures (Sanctions) in Force," 2 September 2014, p. 62, http://eeas.europa.eu/cfsp/sanctions/docs/measures_en.pdf.

234 Ahmed Feteiha, "Sudan Pound Sinks in Black Market As Oil Fields at Risk," Bloomberg, 30 April 2014, <http://www.bloomberg.com/news/2014-04-29/sudan-pound-sinks-in-black-market-as-rebels-threaten-oil-fields.html>.

235 "Sudan Devalues Currency Amid Economic Crisis," Reuters, 11 November 2013, <http://www.aljazeera.com/news/africa/2013/11/sudan-devalues-currency-amid-economic-crisis-20131111182219329947.html>.

236 Tu'emay Aregawi Desta and James Cockayne, eds., "ISSP-CGCC Joint Baseline Study on Anti-Money Laundering and Countering the Financing of Terrorism in the IGAD Subregion," Center on Global Counterterrorism Cooperation, May 2012, p. 48, http://globalcenter.org/wp-content/uploads/2012/11/AML_Report.pdf (hereinafter 2012 baseline study).

237 Asa Fitch, "Sudan Makes Gulf Investment Pitch," *Wall Street Journal*, 10 April 2014, <http://blogs.wsj.com/middleeast/2014/04/10/sudan-makes-gulf-investment-pitch/>.

238 "Sudan Says Qatar to Deposit \$1 Bln as Part of Aid Package," *Reuters*, 2 April 2014, <http://www.reuters.com/article/2014/04/02/sudan-qatar-idUSL5N0MU35G20140402>.

239 "IGAD Says South Sudan Peace Talks Adjourned Until 16 October," *Sudan Tribune*, 5 October 2014, <http://www.sudantribune.com/spip.php?article52647>.

240 MENAFATF, *Mutual Evaluation Report: Anti Money Laundering and Combating the Financing of Terrorism; Sudan*, 28 November 2012, p. 4, http://www.menafatf.org/mer/mer_sudan_english.pdf (hereinafter 2012 MENAFATF mutual evaluation report on Sudan). This report contains copies of Sudan's 2010 AML/CFT law and the central bank's implementing regulations. *Ibid.*, pp. 224–257.

corruption. In addition, MENAFATF expressed concern over Sudanese processes for freezing and seizing terrorist assets, indicating an insufficient capability to effectively implement UN Security Council Resolutions 1267 and 1373.²⁴¹

Sudan committed to addressing these issues through the passage of an updated AML/CFT law drafted by the Ministry of Justice in collaboration with the IMF in June 2014.²⁴² In addition, Sudan issued three decrees related to the implementation of Resolutions 1267 and 1373 and the establishment of a technical committee.²⁴³ Because these measures were concluded recently, they have not been assessed for their effectiveness in addressing the remaining deficiencies.

The Sudanese AML/CFT administrative committee is the most senior AML/CFT body and focuses on developing public policies, facilitating information exchange, and coordinating among authorities at the operational and policy levels. The committee consists of representatives from major AML/CFT stakeholders, including the ministries of justice, finance, trade, foreign affairs, investment, and interior; the central bank; the Taxation Chamber; the National Information Center; and the FIU. The committee helped develop the FIU staffing structure and has developed a 2012–2016 national strategy to strengthen the country's AML/CFT regime.²⁴⁴

Established 1 October 2010, Sudan has an administrative-style FIU with the responsibility to receive, analyze, and disseminate to the competent authorities suspicious transaction reports (STRs). It is supervised by the central bank. Sudan's 2010 law did not indicate the availability of an independent budget for the FIU, which created a structural flaw in the AML/CFT regime. The central bank has been providing financial and logistical support, raising concerns about FIU autonomy. The 2014 legislation sought to address this issue by clearly establishing the FIU as an independent unit,²⁴⁵ which helps ensure

that FIU practices are not impacted by the business or political climate of the central bank and helps preserve adequate measures of information security.

The FIU has made substantial strides in building staff capacities. During 2009–2010, it facilitated 16 AML/CFT training sessions for FIU, customs, and border security officials. Additional training has been offered for compliance officers at banks and financial institutions. FIU staff has indicated that training is continuing, although specific information regarding the number and topics covered was not available. This focus on training represents a commitment to fully operationalizing the FIU and building a capable and educated staffing structure.

As of 2012, Sudan was a member of a number of international organizations such as the Common Market for Eastern and Southern Africa, World Trade Organization, Technical Regional Committee for Governors of Northern African Banks, the Near East–North Africa Regional Agricultural Credit Association, IMF, World Bank, and the African Development Bank. Additionally, the FIU had memoranda of understanding in place with a number of Sudanese agencies and international counterparts. Sudan had indicated that it plans to seek membership in the Egmont Group of Financial Intelligence Units.²⁴⁶

With notable progress, Sudan continues to be described by the FATF as a country undergoing an “on-going process” related to its AML/CFT compliance. The FATF noted Sudan's high-level political commitment to addressing its AML/CFT deficiencies, including the development of an action plan, and the country's strong partnership and cooperation with MENAFATF. In October 2014, the FATF recognized Sudan for bringing into force three decrees related to UN Security Council Resolutions 1267 and 1373 and their asset freezing obligations. The FATF noted, however,

241 *Ibid.*, p. 37.

242 Sudanese Financial Information Unit, “Financial Information Unit Efforts to Develop Anti-Money Laundering and Combatting of Financing of Terrorism System (AML/ CFT),” July 2014, p. 2.

243 Sudanese FIU officials, e-mail communication with authors, November 2014.

244 2012 MENAFATF mutual evaluation report on Sudan, p. 19.

245 Sudanese FIU officials, e-mail communication with authors, November 2014.

246 2012 MENAFATF mutual evaluation report on Sudan, p. 45.

ongoing deficiencies related to predicate offenses for money laundering, adequate procedures for identifying and freezing terrorist assets, a fully operational FIU, improvement of customer due diligence measures, and adequate laws and procedures related to mutual legal assistance.²⁴⁷ The Sudanese government indicated that mutual legal assistance procedures are currently being reviewed by the IMF and will be issued in 2015.²⁴⁸

Ongoing Risks and Vulnerabilities

Sudan is a country of tremendous and diverse resources, but prolonged conflict and international sanctions have left the financial sector largely underdeveloped. The country is not considered to be a regional financial hub. Assessments of the prevalence of financial crime in Sudan are complicated by the government's heavy presence in the private sector, a lack of economic transparency, and continued Sudanese emphasis on Sharia-compliant financial systems. Sharia law strongly prohibits money laundering, and individuals interviewed for the 2012 baseline study indicated they feel its application across the economy improves individual conduct and substantially reduces risk.²⁴⁹

Between 2005 and 2009, the administrative committee charged with monitoring financial crimes received reports of 12 suspicious transactions, all of which originated from law enforcement agencies. Sudan's FIU was established in 2010, and 51 STRs were filed during 2010–2011.²⁵⁰ Although significantly improved, these levels remain comparatively low due to limited awareness among reporting entities and a lack of clarity around reporting procedures.

Sudan has made efforts to raise awareness and provide guidance to reporting entities, but there has been a lack of coordination and clarity regarding the mandates for doing so. A number of supervisory agencies, including

the central bank and the Khartoum Stock Exchange Board of Directors, initially issued AML/CFT guidelines, which were later cancelled because the FIU is the sole entity with the mandate to issue such guidelines.²⁵¹ The FIU had issued circulars to designated nonfinancial businesses and professions (DNFBPs), including the unions for car dealership owners, jewelers and gold traders, auction houses, lawyers public, and real estate office owners; the Commission for Voluntary and Humanitarian Works; and Accountancy and Audit Profession Organization Council. MENAFATF noted, however, that the 2010 law did not apply to some entities that received circulars and that there were some contradictions between the requirements outlined in the law and those included in the circulars.²⁵² As a result, these circulars were similarly cancelled. The 2014 law included an expanded definition inclusive of these entities.²⁵³ These measures represent a positive step in raising awareness and ensuring compliance and demonstrate strong political will and commitment across a broad range of AML/CFT stakeholders. Yet, these duplicative efforts may prove confusing for reporting entities as they strive to enhance their capacity and understanding of AML/CFT requirements.

Numerous Sudanese law enforcement authorities are authorized to conduct investigations on predicate offenses and money laundering and terrorism financing crimes. They include the criminal investigation unit of the police, the drug combating unit, public and specialized prosecution investigations, national security and intelligence services, and public and specialized prosecutions. Additionally, Sudan established an AML Directorate in 2007 that includes the banking violations investigations department, tax evasion combating investigation department, suspicious fund sources investigation department, and information and operations management. Nevertheless, only five STR cases

247 FATF, *High-Risk and Non-Cooperative Jurisdictions; Improving Global AML/CFT Compliance: On-Going Process*, 24 October 2014, pp. 5–6, <http://www.fatf-gafi.org/media/fatf/documents/statements/Compliance-24-October-2014.pdf>.

248 Sudanese FIU officials, e-mail communication with authors, November 2014.

249 2012 baseline study, pp. 47–48.

250 2012 MENAFATF mutual evaluation report on Sudan, p. 42.

251 Sudanese FIU officials, e-mail communication with authors, November 2014; 2012 MENAFATF mutual evaluation report on Sudan, p. 43.

252 2012 MENAFATF mutual evaluation report on Sudan, pp. 5, 43.

253 Sudanese FIU officials, e-mail communication with authors, November 2014.

were referred for prosecution during 2010–2011, with an additional 37 under investigation as of late 2012.²⁵⁴ Sudanese legal authorities may not be focused on money laundering and terrorism financing crimes, and with high levels of state engagement in the private sector, enforcement can be subject to political pressures.²⁵⁵ Law enforcement has likely prioritized ongoing security concerns, particularly given limited levels of human and capital resources.

Entry Points

The recent progress on AML/CFT legislation in Sudan may not result in a deep and sustained commitment to effective implementation. Faced with mounting humanitarian issues and a substantive decrease in government revenues, adequate resources may not be available to support broad execution of these measures. Furthermore, impending elections scheduled for 2015 may mark a shift in the political environment regarding the favorability of AML/CFT prioritization. The international community must continue to engage Sudan on these issues and promote the continued and effective implementation of its legal framework. In order to ensure continued political commitment, the international community must demonstrate the positive impact of AML/CFT measures on economic development and position any capacity-building initiatives within that framework.

The Sudanese FIU has shown a willingness and capacity to engage with international actors to strengthen its AML/CFT regime and will serve as a key entry point for international intervention. Given the ongoing ambiguity over division of labor issues among the FIU, central bank, and supervisory authorities, capacity-building initiatives must be conducted with a coordinated and holistic approach inclusive of all relevant stakeholders. This method will help clarify roles, promote coordination and cooperation, and expand

awareness across the board. Operationalization of the FIU, including staffing and technical training, should be prioritized and followed by awareness-raising efforts among AML/CFT stakeholders.

Based on our findings and the input we received from Sudanese stakeholders and other partners, we offer a number of recommendations for the international community and the Sudanese government.

- Support and promote continued progress on implementing the Sudanese AML/CFT national strategy in order to address remaining legal deficiencies and implement best practices in line with international standards.
- Develop a coordinated package of assistance that offers targeted technical capacity-building programs directed at strengthening AML/CFT institutions, focusing first on clarifying roles and building supervisory capacities in the FIU, central bank, and regulatory authorities.
- Conduct sector-specific risk assessments to identify areas for strengthening the regulatory frameworks for vulnerable sectors, including DNFBPs.
- Continue awareness-raising efforts among stakeholders in order to raise compliance and reporting levels.
- Continue to engage regional counterparts in training and relationship building with international experts and peer FIUs.
- Expand formal structuring of memoranda of understanding for regional cooperation.
- Encourage continued and deepened cooperation and partnership with regional and international actors such as MENAFATF, the Egmont Group, IGAD, the World Bank, and IMF to enhance international engagement and information sharing.

254 2012 MENAFATF mutual evaluation report on Sudan, pp. 21, 49.

255 Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State, “International Narcotics Control Strategy Report (INCSR)—Volume II: Money Laundering and Financial Crimes Country Database,” June 2014, p. 398, <http://www.state.gov/documents/organization/222700.pdf>.

Tanzania

The 2012 baseline study did not examine Tanzania because the report was focused on the Intergovernmental Authority on Development (IGAD) countries and Tanzania is not an IGAD member.

Since the Financial Action Task Force (FATF) listed Tanzania as a jurisdiction with strategic money laundering and terrorism financing deficiencies in October 2010, Tanzania has been consistently responsive to feedback from regional and international bodies on strengthening its anti-money laundering and countering the financing of terrorism (AML/CFT) regime. After having met its substantive points for progress and improvement, Tanzania is no longer subject to the FATF global AML/CFT monitoring process as of June 2014.

Tanzania is moving toward effective and enhanced implementation of its AML/CFT laws, primarily through enactment of its national AML/CFT strategy and the strengthening of its financial intelligence unit (FIU) operations. Its AML law was amended to include an adequate definition of terrorism financing. Amendments to its terrorism prevention act in January 2014, which further clarified Tanzania's obligation to implement UN Security Council Resolutions 1267 and 1373, were assessed by the FATF and found to be satisfactory. Tanzania should continue to prioritize strengthening and identifying any challenges to the implementation of its legal framework.

Although the FIU has demonstrated its capacity to receive suspicious transaction reports, it could publish further guidance for reporting entities related to customer due diligence expectations. Tanzania's FIU is operational but lacks staff and support in the form of training to enhance their analysis and dissemination capacities. Widespread awareness of money laundering and terrorism financing risks outside of formal financial institutions is lacking, and engagement with the designated nonfinancial business and profession (DNFBP) sector is an opportunity and entry point for further growth. The FIU has issued some guidelines for certain DNFBPs and should prioritize the preparation of guidelines for other DNFBPs as well as sector outreach. Law enforcement and judicial authorities have a limited understanding of what constitutes money laundering and terrorism financing and could improve their institutional capacities through training and awareness-raising sessions, particularly on investigations and prosecutions of complex financial crimes.

Tanzania's membership in the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) and the Egmont Group of Financial Intelligence Units remains an important component of its regional and international cooperation network, and all measures listed above remain ongoing under the ESAAMLG follow-up mechanism. Tanzania should continue to capitalize on these networks and prioritize the exchange of information, particularly with neighboring countries and major trading partners.

State of Play

The United Republic of Tanzania is a union consisting of the mainland of Tanzania and the group of islands that form the semiautonomous Zanzibar.²⁵⁶ Since 2008, Tanzania's economy has experienced annual growth of more than 6 percent.²⁵⁷ Major sectors include agriculture, manufacturing, trade, transport, communications, and financial services.²⁵⁸ The agricultural sector is the largest, comprising 45 percent of overall gross domestic product (GDP) from crops such as coffee, tea, cotton, cashews, tobacco, and cloves. Agricultural production reportedly would greatly increase if not for the high percentage of small-scale subsistence farming, some of which contributes to Tanzania's so-called informal economy.²⁵⁹ The government has identified mining, which accounts for approximately 3 percent of GDP, as a sector for continued growth, although low gold prices would affect this estimate.²⁶⁰ Continued economic growth has drawn increased foreign direct investment (FDI), with \$1.9 billion entering the country in 2013.²⁶¹

This economic growth has not affected the majority of Tanzania's population; as of 2013, one-third lived in severe poverty.²⁶² The sustained growth of Tanzania's economy can be partially attributed to the international

assistance it receives as development aid,²⁶³ of which Tanzania was the second-largest recipient in sub-Saharan Africa in 2013.²⁶⁴ International actors, including the World Bank and the International Monetary Fund (IMF), have noted Tanzania's commitment to promoting economic growth and have approved debt relief measures. Inflation rates have seesawed over the years, with 2012 rates estimated to be 12 percent, although rates are lower when monetary policy has been controlled by international bodies such as the IMF.²⁶⁵

Tanzania serves as an important transport link among eastern, central, and southern Africa, and the government prioritizes increasing its trading capacities regionally and internationally while reducing such trade barriers as tariffs.²⁶⁶ As a member of the East African Community (EAC), Tanzania has applied the EAC Common External Tariff, which has contributed to increased regional trade.²⁶⁷ Between 2010 and 2012, the Tanzania Ports Authority, which manages the mainland's ports, saw a 10 percent increase in cargo traffic.²⁶⁸ The major port city of Dar es Salaam handles these increasing volumes of trade—in 2012 about \$15 billion worth of goods—and provides port access to landlocked countries such as Uganda.²⁶⁹ The Zanzibar Port Corporation manages the operations of Zanzibar's five ports and continues to expand them.²⁷⁰ These ports

256 Tanzania's jurisdictional division for governance—the mainland-based government handling national and mainland matters and the Revolutionary Government of Zanzibar handling non-national matters for Zanzibar—favors the mainland in terms of influence. Economic issues including “all matters concerning coinage and currency for the purposes of legal tender, banks, foreign exchange,” external borrowing and trade, and mineral oil resources fall under the purview of the mainland government. Constitution of the United Republic of Tanzania, <http://www.judiciary.go.tz/downloads/constitution.pdf>.

257 Bertelsmann Stiftung, “BTI 2014: Tanzania Country Report,” 2014, http://www.bti-project.de/uploads/tx_itao_download/BTI_2014_Tanzania.pdf.

258 Prosper Charle, Rogers Dhliwayo, and Josef Loening, “Tanzania 2014,” *African Economic Outlook*, 2014, http://www.africaneconomicoutlook.org/fileadmin/uploads/aeo/2014/PDF/CN_Long_EN/Tanzanie_EN.pdf.

259 Denise Wolter, “Tanzania – Why a Potential Food Exporter Is Still Importing Food,” n.d., <http://www.oecd.org/dev/41302291.pdf>.

260 Bertelsmann Stiftung, “BTI 2014: Tanzania Country Report,” p. 21.

261 UN Conference on Trade and Development (UNCTAD), “World Investment Report 2014; Country Fact Sheet: United Republic of Tanzania,” n.d., http://unctad.org/sections/dite_dir/docs/wir2014/wir14_fs_tz_en.pdf.

262 UN Development Programme, explanatory note on the 2013 Human Development Report composite indices for Tanzania, n.d., p. 2, <http://hdr.undp.org/sites/default/files/Country-Profiles/TZA.pdf>. In 2013 the Human Development Index ranked Tanzania at 152 out of 187 countries.

263 For example, the agricultural sector receives internationally funded agricultural input subsidies. World Bank, “Boost for Tanzania's Agriculture Sector,” 2013/117/AFR, 23 October 2012, <http://www.worldbank.org/en/news/press-release/2012/10/23/boost-for-tanzania-agriculture-sector>.

264 James Stewart, “Unintended Consequences: Foreign Aid in Tanzania,” United Nations University, 26 February 2013, <http://unu.edu/publications/articles/unintended-consequences-of-foreign-aid-tanzania.html>.

265 Bertelsmann Stiftung, “BTI 2014: Tanzania Country Report,” p. 19.

266 *Ibid.*, p. 17.

267 *Ibid.*

268 Tanzania Ports Authority, “Annual Report and Accounts for the Year Ended 30th June 2012,” July 2013, http://www.tanzaniaports.com/index.php?option=com_docman&task=doc_download&gid=533&Itemid=259.

269 Fumbuka Ng'wanakilala, “Tanzania Receives \$565 Mln Financing to Expand Port,” Reuters, 12 September 2014, <http://www.reuters.com/article/2014/09/12/tanzania-transportation-idUSL5N0RD1V220140912>.

270 “Zanzibar to Build New Port,” *Africa Review*, 11 June 2012, <http://www.africareview.com/Business-Finance/Zanzibar-to-build-new-port/-/979184/1425174/-/ff1hb3/-/index.html>.

allow for increased local and foreign trade, and infrastructure development presents several opportunities for Tanzania, including increased FDI.

Discoveries in recent years of natural gas reserves will likely provide a boost for Tanzania's economy. Known gas reserves are valued at \$430 billion, and the World Bank estimates that investment in the development of those reserves will be \$20–40 billion.²⁷¹ Pipeline construction and plans for natural gas exports will contribute to the growth of the Tanzanian transport and construction sectors, although international donors have indicated that the energy sector could be vulnerable to corruption.²⁷² In addition, the distribution of natural gas revenue between mainland Tanzania and Zanzibar could be challenging.

Progress and AML/CFT Efforts

Tanzania recognizes that money laundering and terrorism financing affect the attainment of the national goals outlined in the Tanzania Development Vision 2025²⁷³ and has committed to proactively fighting these crimes. The Financial Action Task Force (FATF) first highlighted Tanzania in October 2010 after a number of strategic deficiencies were identified in its anti-money laundering and countering the financing of terrorism (AML/CFT) regime, including the need to adequately criminalize money laundering and terrorism financing, implement UN Security Council Resolutions 1267 and 1373, establish effective customer due diligence (CDD) measures, fully operationalize the Tanzanian Financial Intelligence Unit (FIU), and ratify relevant mutual legal assistance legislation. In June 2014, the FATF noted Tanzania's significant progress in improv-

ing its AML/CFT regime and removed Tanzania from the FATF global AML/CFT monitoring process.²⁷⁴ This progress is particularly evident in the alignment of laws and operations with international standards.

The Tanzanian government has demonstrated its willingness and ability to amend its AML/CFT laws to keep pace with ever-evolving international standards. The Proceeds of Crime Act in 1994 and the Mutual Assistance in Criminal Matters Act in 1991²⁷⁵ criminalized money laundering and related underlying crimes and provided for international cooperation on criminal matters but did not directly align with international standards. In response, Tanzania enacted the Drugs and Prevention of Illicit Traffic in Drugs Act in 1995 and the Prevention of Terrorism Act (POTA), which provided definitions of offenses related to funds or property in support of or controlled by terrorist groups and criminalized such activity, in 2002.²⁷⁶

In 2006 the Anti-Money Laundering Act (AMLA) established a National Multi-Disciplinary Committee on Anti-Money Laundering, which included the commissioner of this FIU.²⁷⁷ The Tanzanian FIU became operational in 2007 and began issuing regulations to implement AMLA. In 2009, Zanzibar enacted its own AML and proceeds of crime act (AMLPOCA) for cases falling under its jurisdiction.²⁷⁸ To bring AMLPOCA into compliance with international standards, a 2011 amendment helped strengthen the identity of Tanzania's FIU, which was previously seen as an institution primarily serving the mainland, by stating that the FIU would be responsible for receiving, analyzing, and disseminating information received from reporting entities in Zanzibar.²⁷⁹ Similarly, a 2012 AMLA amendment

271 See Amne Suedi Kagasheki, "Tanzania – Oil and Gas Regulation 2014," International Comparative Legal Guides, n.d., <http://www.iclg.co.uk/practice-areas/oil-and-gas-regulation/oil-and-gas-regulation-2014/tanzania>; Nicholas Bariyo, "Tanzania Looks to Review Gas and Mining Sector Agreements," *Wall Street Journal*, 4 September 2014, <http://blogs.wsj.com/frontiers/2014/09/04/tanzania-looks-to-review-gas-and-mining-sector-agreements/>.

272 Fumbuka Ng'wanakilala, "Donors Delay Some Aid to Tanzania Over Graft Claims," Reuters, 11 October 2014, <http://www.reuters.com/article/2014/10/11/us-tanzania-donors-idUSKCN0IO0E720141011>.

273 Tanzanian Ministry of Finance, "The Tanzania Development Vision 2025," n.d., <http://www.mof.go.tz/mofdocs/overarch/Vision2025.pdf>.

274 For the June 2014 statement, see <http://www.fatf-gafi.org/countries/s-t/tanzania/documents/fatf-compliance-june-2014.html>. For the October 2010 statement, see <http://www.fatf-gafi.org/countries/s-t/tanzania/documents/improvingglobalamlcftcomplianceupdateon-goingprocess-october2010.html>.

275 Proceeds of Crime Act, 1994, <http://www.lrct.go.tz/download/translated-laws%20/engliash-vision/CAP.pdf>; Mutual Assistance in Criminal Matters Act, 1994, https://www.unodc.org/tldb/pdf/Tanzania_Mutual_Assistance_in_Criminal_Matters_Act_1991_-_Act_No._24-1991.pdf.

276 Prevention of Terrorism Act, 2002, <https://www.fiu.go.tz/POTA.pdf>.

277 The Anti-Money Laundering Act, 2006, <https://www.fiu.go.tz/AMLA.pdf>.

278 Anti Money Laundering and Proceeds of Crime Act, 2009, <https://www.fiu.go.tz/AMLPOCA.pdf>.

279 The Written Laws (Miscellaneous Amendment) Act, 2011, <https://www.fiu.go.tz/Znz-MiscellaneousAmendment-Act-No-12-2011.pdf>.

criminalized money laundering in full compliance with FATF Recommendation 3,²⁸⁰ established the FIU's autonomy, and ensured that all financial institutions are subject to AML/CFT requirements as reporting entities and are required to undertake CDD measures.²⁸¹

In June 2012, Tanzania amended POTA to define terrorism financing with regard to “funds” in accordance with international standards, but POTA did not address issues related to UN Security Council Resolutions 1267 and 1373. In September 2012, regulations were issued by the authorities to address inadequacies that the amendments did not cover.²⁸² Tanzania amended POTA again in 2013. The regulations have been implemented, and the amendments bring the law fully in line with international standards.²⁸³

Since its operationalization in 2007, the FIU has made efforts to fulfill its mandate under the leadership of its commissioner, who is appointed by the President of Tanzania. The FIU currently operates at half of its optimal staffing level and has a permanent staff of 15 professionals and limited office space. Staff training, such as the receipt of suspicious transaction reports (STRs), has enhanced the institutional capacity of the FIU, which receives approximately 150 STRs annually and says that most entities are submitting “happily.”²⁸⁴ Money laundering cases often originate from FIU analysis of STRs whereas potential terrorism financing cases originate with the National Counterterrorism Center (NCTC) and are cross-checked in FIU and NCTC databases for relevant background information. The quality of STRs vary and are slowly improving, although the challenge of timely reporting is ongoing. In prioritizing the accurate assessment of STRs, the

FIU is working on technical capacity building aimed at improving the quality and depth of its analysis.²⁸⁵ Improving the capacities of conducting on-site inspections of financial institutions and strengthening the capacities of the compliance department are also priorities for the FIU, but operational capability remains low, with a small number of staff and a lack of sectoral awareness regarding money laundering and terrorism financing issues.²⁸⁶

The Bank of Tanzania, the country's central bank, has regulatory authority over the 45 commercial banks registered in the country as of 2011, the majority of which have some foreign connection. Of those banks, three control about 40 percent of the banking sector.²⁸⁷ The central bank and the FIU have a good working relationship, and each will have an important role to play in the upcoming AML/CFT national risk assessment. The central bank and FIU share annual work plans, supervise banks, and conduct joint on-site examinations. Commercial banks report to the FIU and the central bank and provide AML status reports. The central bank aspires to implement a risk-based supervision model, but a lack of resources prevents this granularity of analysis, leading to a focus on institutions that appear to pose a risk.

The designated nonfinancial businesses and professions (DNFBPs) sector in Tanzania is large, with the majority of DNFBP transactions conducted in cash, and this area remains largely uncovered by the FIU.²⁸⁸ A small number of STRs are submitted from the insurance and accounting sectors and from brokers and lawyers. AMLA requires real estate agents to submit STRs, but due to limited manpower, regulation of the financial

280 FATF, *International Standards on Combating Money Laundering and Financing of Terrorism and Proliferation: The FATF Recommendations*, February 2012, http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf.

281 Anti-Money Laundering (Amendment) Act, 2012, <https://www.fiu.go.tz/AMLAmendmentAct2012.pdf>.

282 “Anti-Money Laundering Regulations, 2012,” *Gazette of the United Republic of Tanzania*, vol. 93, no. 36 (7 September 2012), <https://www.fiu.go.tz/AMLARegulations-2012.pdf>.

283 Written Laws (Miscellaneous Amendments) No. 3 Act, 2013, <https://www.fiu.go.tz/MiscellaneousAmendmentsAct%202013.pdf>.

284 Tanzanian FIU officials, interview with authors, Dar es Salaam, September 2014.

285 *Ibid.*

286 *Ibid.*

287 Bertelsmann Stiftung, “BTI 2014: Tanzania Country Report,” p. 18.

288 Tanzanian FIU officials, interview with authors, Dar es Salaam, September 2014; Tanzanian central bank officials, interview with authors, Dar es Salaam, September 2014.

sector has been prioritized. Reporting entities find using the goAML software system to be challenging²⁸⁹ and face issues related to technological platforms more generally. In response, the FIU is beginning development of an outreach program for reporting financial entities to assure compatibility and interoperability. The FIU is seeking additional technical assistance and support in order to facilitate training for stakeholders beyond financial sector institutions and across DNFBP sectors, with priority for the booming real estate sector and lawyers, and to ensure that training is offered outside Dar es Salaam.²⁹⁰

To emphasize the need for interagency cooperation on AML/CFT matters, Tanzania issued a national strategy for 2010–2013, organized around five areas of implementation: legal, law enforcement, financial sector, governance, and regional and international cooperation.²⁹¹ The Ministry of Finance and Economic Affairs is the focal point for coordinating and overseeing the national strategy. The FIU noted that the implementation of the national strategy has been working well and that partners are attempting to coordinate as much as possible, although capacity limitations remain. Partners are trying to emphasize financial inclusion and are beginning preparations for an AML/CFT national risk assessment in 2017, for which the FIU is expected to take a leading role.²⁹²

The national strategy allows for inclusion of multiple stakeholders, but operations among agencies remain informal and challenging, given the varying levels of capacity and awareness about money laundering and terrorism financing issues. The FIU struggles to refer complete cases to law enforcement for further investigation, and awareness about money laundering and terrorism financing issues remain low with receiving

investigators, as do related investigative and forensic capacities. In addition, police officials do not have the necessary equipment for surveillance and investigation of AML/CFT crimes, such as basic software, cameras, secure computer systems, or wiretapping devices.²⁹³

Prosecutors, magistrates, and judges have similarly low levels of awareness and capacity, and judges have dismissed a number of cases because they did not fully grasp money laundering offenses. There has not been a terrorism financing case in the Tanzanian courts yet. Charge sheets will often list predicate offenses as well as the money laundering offense, but charges will only be brought on the predicate offense because the evidence base for the money laundering charge would be weak, inadmissible, or simply not understood. Furthermore, judges and prosecutors do not understand that requesting FIU staff to testify in court may compromise their personal security. The director of public prosecutions should consider issuing guidance and conducting training on these issues to raise awareness, ease working relations with the FIU, and strengthen the national AML/CFT regime.

Similar issues exist with the Revenue Authority, which oversees customs and is responsible for collecting information on cross-border movements. In cases referred by the FIU, one FIU official noted that the Revenue Authority simply does not “investigate further.”²⁹⁴ A declaration system option has been issued for any amount of \$10,000 or more, but an official threshold of funds has not been established.

As an example of regional cooperation, commercial banks in Kenya, Tanzania, and Uganda have launched the East African Payments System in 2013, which allows for faster cross-border payments and risk con-

289 GoAML is the standard software system developed by the UN Office on Drugs and Crime (UNODC) to support FIUs in AML/CFT efforts. For more information, see <http://goaml.unodc.org/>.

290 Tanzanian FIU officials, interview with authors, Dar es Salaam, September 2014; Tanzanian central bank officials, interview with authors, Dar es Salaam, September 2014.

291 “Strategy for Anti-Money Laundering and Combating Terrorist Financing, July 2010–June 2013,” 2010, p. 8 (copy on file with authors).

292 Tanzanian FIU officials, interview with authors, Dar es Salaam, September 2014.

293 Alessandra Fontana and Pedro Gomes Pereira, “Using Money Laundering Investigations to Fight Corruption in Developing Countries,” U4 Issue, no. 9 (November 2012), p. 10, <http://www.u4.no/publications/using-money-laundering-investigations-to-fight-corruption-in-developing-countries-domestic-obstacles-and-strategies-to-overcome-them/downloadasset/2924>.

294 Tanzanian FIU official, interview with authors, Dar es Salaam, September 2014.

trol mechanisms. Rwanda has joined, and Burundi is expected to join.²⁹⁵ Tanzania has become a member of regional and international bodies that foster AML/CFT cooperation, such as the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), undergoing its first mutual evaluation in 2009. The ESAAMLG Council of Ministers approved and adopted the mutual evaluation report in December 2009,²⁹⁶ thus facilitating the implementation follow-up for the country. The Tanzanian FIU became a member of the Egmont Group of Financial Intelligence Units in June 2014.²⁹⁷

Ongoing Risks and Vulnerabilities

Tanzania is proactive in its assessment of national vulnerabilities to money laundering and terrorism financing activities as it seeks to enhance the institutional capacities of Tanzania's AML/CFT regime. Since the July 1998 attack on the U.S. embassy in Dar es Salaam, the terrorism threat has expanded as organizations such as al-Shabaab have firmly rooted their operations within the region, with attacks occurring in Kenya and Uganda. Tanzania's location, multiple points of entry by land and sea, and lack of limits on cash transactions compound its vulnerability to domestic or international money laundering and terrorism financing crime.

Tanzania has limited fund-tracking mechanisms in its predominantly cash-based economy; only 17 percent of the population had formal bank accounts in 2012.²⁹⁸ In addition to the formal sector, remittance payments to Tanzania through the *hawala* system totaled an estimated \$75 million in 2013.²⁹⁹ This number may be small compared to the country's 2013 \$33.2 billion

GDP, but it is not insignificant. Many countries within the Greater Horn of Africa region have cash-based economies, but Tanzania's proximity to al-Shabaab strongholds and reputation as a center of trade creates vulnerabilities for cash to pass through these channels for illicit purposes, especially complicated by the limited ways to trace the origins of funds. The approximately 170 bureaux de change in the country³⁰⁰ and the routine acceptance of international currencies adds a layer of complexity to establishing the source of funds.³⁰¹ Transactions made by individuals on sanctions lists may not be detected, given Tanzania's location, which draws investment from various regions, and the country's open door policy, which does not always lead to the routine and effective scrutiny of funds.³⁰²

Although predicate crimes in Tanzania currently include drug trade, forgery, armed robbery, and poaching, the government has indicated that the country is vulnerable to the "escalation" of these offenses as evidenced by a measured increase in offenses linked to money laundering and terrorism financing, including prostitution, bank robberies, car thefts, cell phone thefts, corruption, counterfeiting, and trafficking of illegal substances, such as drugs. With easy accessibility via porous borders or multiple ports, Tanzania is at risk for being a link in a transnational chain for one or more of these types of offenses. A primary vulnerability for money laundering in Tanzania begins with Tanzania's role as a transit hub for drugs smuggled primarily from Mexico and Pakistan and destined for the South African market,³⁰³ as well as consumed locally.³⁰⁴ Further compounding the problem is the lack of official thresholds for cross-border funds movement or mobile banking transactions.

295 Enos S. Bukuku, "Launch of the East African Payment System (EAPS)," East African Community, n.d., http://www.eac.int/index.php?option=com_content&view=article&id=1590:press-statement-launch-of-the-east-african-payment-system-eaps-&catid=147:speeches-a-statements; "Rwanda Joins Speedy Regional Payments System," Ventures, 10 December 2014, <http://www.ventures-africa.com/2014/12/rwanda-joins-speedy-regional-payments-system/>.

296 ESAAMLG, *Mutual Evaluation Report: Anti-Money Laundering and Combating the Financing of Terrorism; United Republic of Tanzania*, December 2009, http://www.esaamlg.org/userfiles/Tanzania_Mutual_Evaluation_Detail_Report.pdf.

297 Egmont Group of Financial Intelligence Units, "List of Members," n.d., <http://www.egmontgroup.org/about/list-of-members/by-region/africa> (accessed 3 January 2015).

298 Thouraya Triki and Issa Faye, eds., "Financial Inclusion in Africa," African Development Bank, 2013, p. 59, http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/Financial_Inclusion_in_Africa.pdf.

299 UNCTAD, *The Least Developed Countries Report 2014*, 2014, p. 158, http://unctad.org/en/PublicationsLibrary/Ldc2014_en.pdf.

300 Fontana and Gomes Pereira, "Using Money Laundering Investigations to Fight Corruption in Developing Countries," p. 14.

301 "Tanzania: Shilling Steadies as Dollar Demand Fall," *Tanzania Daily News*, 19 November 2014, <http://www.dailynews.co.tz/index.php/biz/38417-shilling-steadies-as-dollar-demand-fall>.

302 "Strategy for Anti-Money Laundering and Combating Terrorist Financing, July 2010–June 2013," pp. 19–20.

303 UNODC, "Drug Trafficking Patterns to and From Eastern Africa," n.d., <https://www.unodc.org/easternfrica/en/illicit-drugs/drug-trafficking-patterns.html>.

304 Tanzanian NCTC official, interview with authors, Dar es Salaam, September 2014.

Allegations of corruption in government spending threaten international developmental aid, as recently demonstrated by the October 2014 decision of a group of 12 donors to suspend nearly \$500 million in aid that had been earmarked for general support of the government budget.³⁰⁵ Tanzania has a national Prevention and Combating of Corruption Bureau, has anticorruption laws in place, and outpaces several regional neighbors in comparative corruption measurements,³⁰⁶ but corruption still challenges economic growth. Corruption allegations often point toward Tanzanian taxation and customs authorities, although state monopolies over resources and public services, including water, railway, ports, and electricity, have also been cited.³⁰⁷

Tanzania has adopted measures to improve the effectiveness and quality of statistical collection by the National Bureau of Statistics, including a restructuring in 2009.³⁰⁸ Although the bureau publishes several categories of statistics that are indicative of the country's overall economic progress, it lacks crime statistics, particularly financial crime. Among those statistics that are available, data collection may not be reliable. This overall lack of information stems from the bureau's limited capacity to collect such data and awareness of what kind of data would be beneficial to enhance AML/CFT efforts.

Entry Points

Having established an AML/CFT legal framework as a foundation, Tanzania is focused on strengthening its implementation and effectiveness through the capacity development of its FIU, engagement beyond the formal financial sector with reporting entities such as DNFBPs, involvement of law enforcement and judiciary officials as critical partners in the country's AML/CFT regime, and formalization of international cooperation.

Expanding the reach of the AML/CFT regime beyond Dar es Salaam should remain a governmental priority and will require outreach to and cooperation across the country's 26 administrative regions. A mutual understanding on AML/CFT issues between Zanzibar and the mainland will be a crucial step in achieving this objective. Because each is an important center of economic activity and trade, better coordination and integration of AML/CFT procedures will further improve the existing AML/CFT regime. Although Zanzibar's law has been amended to reflect the FIU's role in national oversight, additional outreach should be conducted with particular emphasis on reporting entities in Zanzibar.

Based on our findings and the input we received from Tanzanian stakeholders and other partners, we offer a number of recommendations for the international community and the national government and Revolutionary Government of Zanzibar.

- Strengthen the FIU analysis unit in preparation for the national AML/CFT risk assessment, on which the FIU and the central bank are likely to take a leading role, and a sectoral assessment, with particular typology studies on suspected areas of concern, such as minerals and precious stones.
- Deliver specific and focused training to FIU staff on data analysis and record keeping.
- Encourage private financial institutions, such as Tanzanian and international banks, to conduct their own risk assessments.
- Increase outreach to DNFBPs, with specific emphasis on the real estate sector and lawyers as immediate priorities, as well as on actors in the mining sector.
- Host training on financial intelligence for reporting entities outside Dar es Salaam and have material available in Swahili and English,

305 Mark Anderson, "UK and International Donors Suspend Tanzania Aid After Corruption Claims," *Guardian*, 13 October 2014, <http://www.theguardian.com/global-development/2014/oct/13/uk-and-international-donors-suspend-tanzania-aid-after-corruption-claims>.

306 Transparency International, "Corruption Perceptions Index," n.d., <http://www.transparency.org/cpi2014/results> (ranking Tanzania 111 out of 177 countries).

307 Bertelsmann Stiftung, "BTI 2014: Tanzania Country Report," p. 16.

308 Tanzanian National Bureau of Statistics, "About Us," n.d., http://www.nbs.go.tz/nbs/index.php?option=com_content&view=article&id=85&Itemid=142.

providing timely feedback to these entities on whether existing STRs have been helpful and guidance and feedback to these entities on the quality of their STRs.

- Issue additional regulations and pass laws pertaining to DNFBPs and the informal financial sector.
 - Strengthen the criminal justice and judiciary system, emphasizing cooperation between investigators and magistrates, judges, and prosecutors.
- Train financial crime units within the police, as well as customs and tax authorities, on topics such as forensic investigation.
 - Work toward the formalization of information exchange and the development of memoranda of understanding with key counterparts, including jurisdictions along known transnational illicit trafficking routes, bordering jurisdictions, and Tanzania's largest trading partners.

Uganda

The 2012 baseline report noted Uganda as one of the most vulnerable countries to money laundering and terrorism financing activities. Without a comprehensive anti-money laundering (AML) law or financial intelligence unit (FIU), the process on addressing AML and countering the financing of terrorism (CFT) issues in Uganda was at a standstill. Officials described money laundering as “rampant” across the country, largely resulting from endemic public corruption. Private sector actors expressed concern that the lack of progress on these issues was posing a real and serious threat to their businesses, offering a competitive advantage to firms with political influence.

The lack of progress on developing an AML/CFT regime capable of stemming the tide of illicit financial activity was attributed to a deficiency in Ugandan political will as much as an absence of resources and capacity. In the past two years, however, Uganda has begun making progress in strengthening its AML/CFT system. Most notable is the passage after 10 years of a comprehensive AML bill. Uganda has established its Financial Intelligence Authority (FIA), an administrative-style FIU responsible for the collection, analysis, and dissemination of suspicious transaction and cash transaction reports, which financial institutions and other accountable entities are required to file.

Uganda’s predominately informal and cash-based economy presents challenges to effectively monitor-

ing money laundering and terrorism financing activities. Porous borders have left the country vulnerable to cross-border smuggling, particularly of resources extracted from the Democratic Republic of the Congo.

Recently, Uganda has demonstrated increased political will to address AML/CFT issues, but the depth of this commitment is unclear. To maintain the current momentum, a demonstration of the economic benefits to Uganda of effective AML/CFT regulation, particularly to the country’s political and business elites, is important. Foreign and multilateral donors should clearly state that, without effective AML/CFT efforts, Uganda may forgo the economic development opportunities enjoyed by its regional peers. The recent push toward increased integration with the East African Community could potentially serve as a key catalyst for continued political commitment, and discussion on AML/CFT issues should be encouraged as part of the formation of a monetary union.

In the short term, the key entry point will be the newly established FIA. Donors and regional partners should work with the FIA to develop a coordinated package of assistance designed to strengthen and advance the national strategy for addressing AML/CFT issues. Most importantly, these efforts must be situated alongside a broader push for more transparent, accountable, and rule-of-law-based government reforms in Uganda.

State of Play

Uganda has historically placed a low priority on improvement of its regime for anti-money laundering and countering the financing of terrorism (AML/CFT) issues,³⁰⁹ focusing instead on economic development, inflation, unemployment, and electricity rationing. Growth rates for Ugandan gross domestic product (GDP) hovered around 7 percent annually from 1990 to 2010, led by high levels of private investment, particularly in the construction sector, and diverse and profitable agricultural exports.³¹⁰ After a brief period of slower growth and high inflation, the growth rate increased in 2013,³¹¹ and the economic outlook remains robust with faster than anticipated implementation of infrastructure projects in the transport and energy sectors.³¹²

Like many of its neighbors, Uganda has a predominantly informal and cash-based economy that presents challenges to effective monitoring of money laundering and terrorism financing activities. Porous borders with South Sudan, Kenya, Tanzania, and the Democratic Republic of the Congo (DRC) have left the country vulnerable to cross-border smuggling, particularly of resources extracted from the DRC. Uganda has no anticounterfeiting laws and has developed a large black market, which is further fueled by the country's lack of customs and tax enforcement capacities.³¹³

Uganda has no restrictions on or mechanisms to monitor the amount of currency that individuals carry into or out of the country, and Rwanda, South Sudan, and the eastern region of the DRC often utilize the Ugandan shilling as a second currency.³¹⁴ In November 2013, Uganda joined Burundi, Kenya, Rwanda, and Tanzania in signing the East Africa Community (EAC) Monetary Union Protocol, an important step toward increasing monetary and economic integration among EAC states.³¹⁵ Integration is particularly important for Uganda, which conducts more than 45 percent of its commerce within regional markets, the EAC, and the Common Market for Eastern and Southern Africa.³¹⁶ In addition, it will have implications for AML/CFT efforts as financial laws are standardized across the region. Renewed focus on this process could serve as a key catalyst for efforts to strengthen AML/CFT measures within newly developed legislation and could help promote broader regional cooperation and cohesiveness on these issues.

Uganda has suffered from a lengthy history of violent conflict, including a prolonged war with the Lord's Resistance Army (LRA), which operates primarily in northern Uganda and South Sudan and has abducted at least 20,000 children. The conflict has displaced an estimated 1.9 million.³¹⁷ Efforts by the Uganda People's Defense Force to capture LRA warlord Joseph Kony,

309 The Basel AML Index—an annual ranking of a country's AML/ CFT frameworks, corruption levels, financial transparency, and judicial strength—has consistently placed Uganda in the top one-third of “at risk” countries. Basel Institute on Governance, “Basel AML Index 2014,” 13 August 2014, p. 3, <http://index.baselgovernance.org/sites/default/files/documents/aml-index-project-report-2014.pdf>.

310 World Bank, *Uganda Economic Update: Unleashing Uganda's Regional Trade Potential*, February 2013, p. 1, <https://openknowledge.worldbank.org/bitstream/handle/10986/16541/753240v20WPOug00Box374323B00PUBLIC0.pdf?sequence=1>. In addition to the customary products of coffee, tea, and cotton, Uganda exports crops such as flowers, tobacco, and maize. During many of the years between 2000 and 2009, Uganda enjoyed 16 percent growth per year in agricultural exports. *Ibid.*

311 Inflation reached double digits and the GDP growth rate slowed to 2.8 percent in 2012 before rebounding to 5.2 percent in 2013. African Development Bank Group, “Uganda Economic Outlook,” n.d., <http://www.afdb.org/en/countries/east-africa/uganda/> (accessed 18 December 2014).

312 World Bank, “Uganda,” <http://www.worldbank.org/en/country/uganda> (accessed 4 November 2014). The continued development of hydropower, including the commission of the Bujagali hydropower plant in 2012, has helped to stabilize the power supply, reduce energy prices, and spur the manufacturing sector. *Ibid.*

313 Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State, “International Narcotics Control Strategy Report (INCSR)—Volume II: Money Laundering and Financial Crimes Country Database,” June 2014, pp. 435–437, <http://www.state.gov/documents/organization/222700.pdf> (hereinafter U.S. State Department June 2014 INCSR on Uganda).

314 Tu'emay Aregawi Desta and James Cockayne, eds., “ISSP-CGCC Joint Baseline Study on Anti-Money Laundering and Countering the Financing of Terrorism in the IGAD Subregion,” Center on Global Counterterrorism Cooperation, May 2012, p. 53, http://globalcenter.org/wp-content/uploads/2012/11/AML_Report.pdf (hereinafter 2012 baseline study).

315 For the text of the protocol, see http://www.eac.int/legal/index.php?option=com_docman&task=doc_download&gid=204&Itemid=47. A single currency is expected to be introduced by 2024, with joint monetary policy governed by an independent EAC central bank. Clara Mira, “New Pacts Ease Path Toward East African Single Currency,” *IMF Survey Magazine*, 30 December 2013, <http://www.imf.org/external/pubs/ft/survey/so/2013/car123013a.htm>.

316 World Bank, *Uganda Economic Update*, p. 30.

317 Human Rights Watch, “Who Is Joseph Kony? Questions and Answers on the Lord's Resistance Army,” March 2012, p. 2, http://www.hrw.org/sites/default/files/related_material/Kony%20QA%203%2021%202012.pdf.

who was expelled from Uganda and is believed to be in the Central African Republic, have resulted in conflict with armed groups in that country.³¹⁸

Relatedly, Uganda has committed troops to the African Union Mission to Somalia. Somali-based terrorist group al-Shabaab cited this engagement as the motivation behind two July 2010 bombings in Kampala that left 74 people dead.³¹⁹ In September 2014, Ugandan police arrested 19 people and seized large amounts of explosives allegedly intended for use in additional attacks on Kampala.³²⁰

With increasing concerns about terrorism within Uganda and the region, the need becomes more acute to implement a comprehensive AML/CFT regime that would effectively track and counter terrorism financing, especially financing involving LRA rebels, whose funding sources have been linked to illegal poaching and cross-border trade in ivory.³²¹ Increasing focus on security concerns within Uganda, however, may represent a challenge to maintaining or increasing political will and resource allocation in support of the country's nascent AML/CFT regime.

Progress and AML/CFT Efforts

The Uganda Anti-Money Laundering Committee (UAMLC) was formed in 2000, comprised of representatives from several ministries and chaired by the Bank of Uganda, the central bank. It put together

a comprehensive AML/CFT bill in 2003,³²² which was approved by the Cabinet in 2005. The bill was introduced in Parliament only in 2009, and it remained there for years. In 2007 the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) released a mutual evaluation report for Uganda citing the lack of a comprehensive AML law and a functional financial intelligence unit (FIU) as key deficiencies in urgent need of attention. Three years later, the UAMLC developed and published a six-point national AML/CFT strategy for Uganda but was not able to make real progress on its objectives. Frustrated by an inability to move the legislative process forward, the UAMLC temporarily ceased meeting during 2011. Later that year, the ESAAMLG chairperson wrote to the Ugandan minister of finance, planning, and economic development, expressing dissatisfaction with the slow pace of implementation and urging the country to expedite its AML/CFT efforts.³²³

In the last two years, Uganda has made progress in strengthening its AML/CFT regime, most notably with the passage after 10 years of a comprehensive AML bill, the Anti-Money Laundering Act, 2013 (AMLA).³²⁴ Previously, Uganda had been reliant on stopgap measures such as 2010 financial institution regulations issued by the central bank,³²⁵ which had created know your customer, customer due diligence, and AML/CFT record keeping requirements but were applicable only to entities overseen by the bank.³²⁶ AMLA effectively

318 "UN Says Joseph Kony's Whereabouts Known," Al Jazeera, 12 May 2014, <http://www.aljazeera.com/news/africa/2014/05/un-says-joseph-kony-whereabouts-known-2014512125350196322.html>; Adam Nossiter, "President Is Said to Flee As Rebels Seize Capital of the Central African Republic," *New York Times*, 24 March 2013, http://www.nytimes.com/2013/03/25/world/africa/rebels-seize-capital-of-central-african-republic.html?_r=0; Elias Biryabarema, "Uganda Clashes With Central Africa Republic's Seleka Rebels," Reuters, 1 July 2014, <http://uk.reuters.com/article/2014/07/01/uk-uganda-security-idUKKBN0F643120140701>.

319 Nicholas Bariyo, "Ugandan Troops Clash With Rebels in Central African Republic," *Wall Street Journal*, 1 July 2014, <http://online.wsj.com/articles/ugandan-troops-clash-with-rebels-in-central-african-republic-1404221641>.

320 The arrests came after the U.S. embassy issued warnings about possible retaliatory attacks in Uganda following the death of al-Shabaab leader Ahmed Abdi Godane during U.S. air strikes in Somalia. "Uganda Police Seize 'Explosives From al-Shabab Cell,'" BBC, 14 September 2014, <http://www.bbc.com/news/world-africa-29201312>.

321 Kasper Agger and Jonathan Hutson, "Kony's Ivory: How Elephant Poaching in Congo Helps Support the Lord's Resistance Army," Enough Project et al., June 2013, p. 11, <http://www.enoughproject.org/files/KonysIvory.pdf>.

322 The Anti-Money Laundering Act, 2013, https://www.bou.or.ug/opencms/bou/bou-downloads/acts/supervision_acts_regulations/FI_Act/The-Anti-money-Laundering-Act-2013.pdf.

323 2012 baseline study, p. 54.

324 The Anti-Money Laundering Act, 2013.

325 "Financial Institutions (Consolidated Supervision) Regulations, 2010," *Uganda Gazette*, vol. 103, no. 67 (12 November 2010), https://www.bou.or.ug/export/sites/default/bou/bou-downloads/acts/supervision_acts_regulations/FI_Regulations/FI_Consolidated_2010.pdf.

326 Financial Institutions Act, 2004, *Uganda Gazette*, vol. 97, no. 14 (26 March 2004), https://www.bou.or.ug/bou/bou-downloads/acts/supervision_acts_regulations/FI_Act/FIAct2004.pdf (sections 129 and 130).

criminalizes money laundering in line with international standards; codifies regulatory preventative measures; provides for the seizure, freezing, and forfeiture of assets linked to money laundering and terrorism financing; and includes provisions for mutual legal assistance. With AMLA's passage, UAMLC meetings have resumed.³²⁷

AMLA provided for the creation of two agencies: the Financial Intelligence Authority (FIA) and its supervisory agency, the Financial Intelligence Board (FIB). The FIB is responsible for coordination of national efforts to combat money laundering, AMLA implementation, and oversight of the FIA. The Ugandan Cabinet, however, has not appointed the FIB in accordance with AMLA. The FIA was established as an administrative-style FIU responsible for the collection, analysis, and dissemination of suspicious transaction reports (STRs) and cash transaction reports (CTRs). Provisions for funding the FIA were included for the first time in the 2014 national budget. The FIA has secured office space and hired nine staff members,³²⁸ including an interim executive director. The FIA is considered fully operational, and financial institutions and other accountable entities have begun filing STRs and CTRs.³²⁹

Proposed amendments to the 2002 Anti-Terrorism Act³³⁰ were submitted to the Ministry of Internal Affairs and the Financial Action Task Force (FATF) regional review group for comment, and on 29 October 2014, these amendments were approved by the Cabinet. The Office of the First Parliamentary Counsel then was instructed to draft the 2014 Anti-Terrorism (Amendment) Act.³³¹ These amendments will expand the definition of “funds” to include legitimate and illegitimate sources and provide for domestic implementation

of UN Security Council Resolutions 1267 and 1373 related to sanctions and asset freezing. Once passed, Uganda should be fully compliant with all legislative standards as outlined by the FATF.³³²

Uganda took preliminary steps to raise awareness about its AML/CFT legislation among high-level stakeholders. In December 2012, the Ministry of Finance, Planning and Economic Development in conjunction with the central bank and the UAMLC organized a meeting on the AMLA bill, which was attended by the World Bank, Financial Intelligence Authority of Malawi, and several members of the Ugandan Parliament. The central bank also sponsored a study tour of the Mauritius and Malawi FIUs for members of Parliament during 11–15 February 2013. With the assistance of the U.S. Department of the Treasury, World Bank, the International Monetary Fund, and other technical assistance providers, a number of training programs have begun to build the AML/CFT technical capacities of financial sector supervisory authorities, law enforcement agencies, public prosecutors, and reporting institutions. On the international stage, Uganda has signed bilateral memoranda of understanding with China, Egypt, Malawi, and EAC member states.³³³

Ongoing Risks and Vulnerabilities

Uganda has been working in recent years to expand and liberalize its banking sector. There are 25 commercial banks operating in Uganda, the majority of which are foreign owned.³³⁴ In the last five years, Uganda has reportedly experienced an average of 60 new bank branches opening per year, rising in total to 495 branches in 2012.³³⁵ Yet, access to formal financial services remains

327 Bank of Uganda officials, e-mail communication with authors, November 2014.

328 Samuel Nabwiso, “Uganda Anti-Money Laundering Agency Starts,” *East African Business Week*, 28 September 2014, <http://www.busiweek.com/index1.php?Ctp=2&pl=1935&pLv=3&srl=68&spl=107&cl=10>.

329 Bank of Uganda officials, e-mail communication with authors, November 2014.

330 Anti-Terrorism Act, 2002, <https://www.unodc.org/tldb/showDocument.do?documentUid=6589>.

331 Bank of Uganda officials, e-mail communication with authors, November 2014.

332 ESAAMLG, *Progress Report on Uganda's Implementation of the 2005 Mutual Evaluation Report on Uganda's Compliance With the FATF 40+9 Recommendations on AML/ CFT*, 2014, pp. 13–18 (copy on file with authors).

333 *Ibid.*, p. 8.

334 Bank of Uganda, “BoU Licenses Two New Commercial Banks,” n.d., https://www.bou.or.ug/bou/media/statements/BoU_licenses_two_new_commercial_banks.html.

335 Louis Kasekende, “Uganda's Financial Sector at 50 – Achievements, Challenges, and Expectations for the Future” (speech, Uganda Institute of Banking and Financial Services, Kampala, 1 March 2013), p. 1, <http://www.bis.org/review/r130306h.pdf>.

limited, with only 13 percent of the population having a deposit account,³³⁶ leaving the majority of the population reliant on informal value transfer systems, such as *hawalas* and the growing mobile money market. Annual remittances are a large source of foreign currency for Uganda, bringing in \$932 million in 2013 and accounting for 4.3 percent of the country's GDP.³³⁷ Although they are an important lifeline for the population, these funds have traditionally been viewed by the international community as vulnerable to money laundering and terrorism financing activities due in part to concerns about recipient customer identification procedures.

Further compounding these concerns is the lack of a comprehensive national identification program in Uganda. Previous attempts at national identification systems have collapsed under accusations of corruption and disagreement between government agencies regarding ownership of the collected data. The program was recently revitalized in light of the EAC integration process, with the first registration phase running from April 2014 to February 2015. Ugandans over the age of 16 are required to register for an identification card that includes their photo, signature, and a thumb print. As part of the enrollment process, information is collected on the individual's family, tribe, clan, village, and district. Because Uganda has experienced frequent violations of civil liberties, there remain concerns about the security of the data and the potential for government abuse in targeting ethnic minorities or political dissidents. In order to encourage compliance, the Ugandan government linked registration to access to education and health care services and employment.³³⁸ After two weeks of enrollment, nearly 290,000 Ugandans had begun the process, and enrollment officers reported registering 31,000 people per day. If registration continues

at this pace, only 4.6 million citizens will have registered by the close of the first phase, or 25 percent of the estimated 18 million citizens ages 16 or older.³³⁹

Designated nonfinancial businesses and professions (DNFBPs) present a particular area of vulnerability to the AML/CFT regime in Uganda, which has a predominantly cash-based economy. Under AMLA, remittance and foreign exchange institutions will be subject to AML/CFT customer identification and reporting requirements, as will DNFBPs such as real estate brokers, legal practitioners, casinos, dealers in precious metals and gems, and insurance companies. The FIA, however, does not have the capacity to receive and process STRs and CTRs from DNFBPs, which also are not required to submit reports to the central bank. These businesses exist in a jurisdictional gray area presently, covered by an incomplete patchwork of regulatory structures with varying levels of enforcement. For example, in 2011 the Uganda Revenue Authority (URA) introduced a policy requiring parties involved in real estate purchases valued at more than \$20,000 to declare the income source. This policy proved controversial, and it is unclear when or if the URA will begin implementation and enforcement.³⁴⁰

Another key vulnerability for Uganda is corruption, which is widely perceived as endemic across the country. Transparency International ranked Uganda on its 2013 Corruption Perceptions Index in the bottom quarter with such countries as Honduras, Kazakhstan, and Laos.³⁴¹ Most laundered money comes from domestically generated proceeds of crime, largely as a result of government corruption, misappropriation of public funds and foreign assistance, and abuse of the public procurement process.³⁴² Research suggests that

336 Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State, "Countries/Jurisdictions of Primary Concern – Uganda," n.d., <http://www.state.gov/j/inl/rls/nrcrpt/2014/supplemental/227883.htm> (accessed 7 January 2015).

337 World Bank, "Annual Remittances Data Inflows," October 2014, http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1288990760745/RemittanceData_Inflows_Oct2014.xls.

338 "At Last, a National ID?" Independent, 19 April 2014, <http://www.independent.co.ug/news/news-analysis/8891-at-last-a-national-id>.

339 Shifa Mwesigye and Yudaya Nangonzi, "National ID Registration Survey Finds Loopholes," *Observer*, 6 May 2014, http://observer.ug/index.php?option=com_content&view=article&id=31609:feature-national-id-registration-survey-finds-loopholes&catid=57:feature&Itemid=69.

340 U.S. State Department June 2014 INCSR on Uganda, p. 437.

341 Transparency International, "Corruption Perceptions Index 2013," n.d., <http://www.transparency.org/cpi2013/results>.

342 U.S. State Department June 2014 INCSR on Uganda, p. 435.

public and official opposition to corruption is growing and that the renewed political focus on AML/CFT measures implies a growing understanding among government officials of the link between money laundering and public corruption.

Entry Points

Since the 2012 baseline study, Uganda has demonstrated increased political will to address AML/CFT issues. After significant delays, legislative progress was finally achieved with the passage of comprehensive AML legislation in 2013. Uganda has established a fully operational FIU. With the proper legal framework in place, Uganda must now shift its focus to effective implementation and enforcement of these new AML/CFT measures.

The depth of the government's commitment to AML/CFT efforts, as well as how sustained that commitment will be, is unclear. To maintain the current momentum, a demonstration of the economic benefits to Uganda of effective AML/CFT regulation, particularly to the country's political and business elites, is important. Foreign and multilateral donors should clearly state that, without effective AML/CFT efforts, Uganda may forgo the economic development opportunities enjoyed by its regional peers. The recent push toward increased integration with the EAC could potentially serve as a key catalyst for continued political commitment, and discussion on AML/CFT issues should be encouraged as part of the formation of a monetary union.

In the immediate future, the key entry point for AML/CFT efforts will be the newly established FIA. As

capacities are improved within the institution, efforts can transition to strengthening regulatory frameworks and promoting information sharing and regional cooperation. Most importantly, these efforts must be situated alongside a broader push for more transparent, accountable, and rule of law–based government reforms in Uganda. Without them, there is a danger that AML/CFT efforts will become hollow, present in name but lacking any real enforcement mechanisms or political support.

Based on our findings and the input we received from Ugandan stakeholders and other partners, we offer a number of recommendations for the international community and the Ugandan government.

- Coordinate with the FIA to develop a comprehensive and cohesive package of technical assistance designed to strengthen AML/CFT capacities.
- Promote the development of a national AML/CFT action plan to address any remaining institutional deficiencies outlined in the FATF review process.
- Conduct sector-specific risk assessments, providing assistance to clarify and strengthen the regulatory frameworks for vulnerable sectors, including DNFBPs and mobile money companies.
- Support awareness-raising efforts among AML/CFT stakeholders, particularly among DNFBPs and other vulnerable sectors.
- Encourage regional and international engagement on AML/CFT issues, including membership in the Egmont Group of Financial Intelligence Units.

Yemen

The 2012 baseline study did not examine Yemen because the study focused on Intergovernmental Authority on Development (IGAD) countries and Yemen is not an IGAD member.

Yemen confronts a myriad of dynamic, evolving security and economic challenges. This low-income country has not benefited financially from oil revenues to the extent its Arabian Peninsula neighbors have. The combination of limited governmental capacity and its geographic location makes Yemen vulnerable to abuse from transnational criminal networks and terrorism financiers, particularly from smuggling through its vast and strategically important waterways. This risk is further compounded by the existence of a large, informal marketplace in Yemen, encouraged by the prevalence of cash-based transactions in the country and underdeveloped law enforcement capacity.

Recent political instability has exacerbated an already deteriorating humanitarian situation and opened the door for exploitation by violent extremist groups, including Al-Qaida in the Arabian Peninsula. This instability has had a tangible impact on Yemen's economy, including declining gross domestic product rates and oil production due to frequent attacks on pipelines. Although there have been high-level demonstrations of political will related to anti-money laundering and countering the financing of terrorism (AML/CFT) issues, ambiguity around

the future of the political structure, coupled with the prioritization of security concerns and humanitarian crisis management, may present challenges to continued AML/CFT implementation efforts.

Yemen has been home to a number of high-profile cases related to terrorism financing involving khat smuggling and abuse of its nonprofit sector. These cases underscore the main problem for Yemen: a lack of governmental capacity to address immediate or more long-standing challenges due to continued political and civil unrest. Until the security situation is addressed and a stable government put in place, there is limited capability to support the effective implementation of AML/CFT efforts. Yemen's financial intelligence unit (FIU) has made significant strides raising awareness and building its aptitude and that of staff, but scarce institutional resources continue to hinder performance.

As the new administration assumes power, it will be important to continue to promote awareness and engagement on AML/CFT issues. The international community should work to demonstrate the economic and security benefits of effective AML/CFT regulation as a way to encourage continued compliance and political commitment. The FIU serves as a key entry point and would benefit greatly from a coordinated package of technical assistance directed at building specific capacities and institutions, focusing first on the FIU and regulatory authorities.

State of Play

Although Yemen is not considered a regional financial hub, its strategic geographic location makes it vulnerable to abuse from transnational criminal networks and terrorism financiers.³⁴³ The country has a lengthy coastline that borders the Gulf of Aden, one of the most important waterways in the world and one of the most trafficked routes for international smuggling of arms, drugs, and people.³⁴⁴ The risk Yemen faces from these criminal activities is compounded by a large, informal Yemeni marketplace sustained by the prevalence of cash-based transactions.³⁴⁵ Unregulated markets such as these represent a key vulnerability because money launderers perceive them to be an attractive haven.

Yemen has confronted a myriad of dynamic security and economic challenges in recent years. In 2011 it became the third Middle Eastern or North African country, after Egypt and Tunisia, to experience a popular uprising. Following a year of widespread and often violent popular demonstrations, President Ali Abdullah Saleh stepped down in February 2012.³⁴⁶ The National Dialogue Conference, consisting of more than 600 delegates³⁴⁷ from all parts of the country and representing all political parties, as well as youth, women, and civil society organizations, was tasked with devising an

inclusive, transitional process to a new government over a 10-month period.³⁴⁸

The outcome was a National Dialogue Document, endorsed in early 2014 and addressing many key polarizing issues, such as a system of regional states.³⁴⁹ A northern insurgency group called the Houthis rejected this proposal, arguing that the agreement does not provide an equal distribution of wealth.³⁵⁰ Following months of protests sparked by a reduction in fuel subsidies, Houthi forces took control of the Yemeni capital in September 2014.³⁵¹ A peace deal has been brokered between the Houthis and the Yemeni government, but the country's political future remains unclear.³⁵²

Although there have been high-level demonstrations of political will on anti-money laundering and countering the financing of terrorism (AML/CFT) issues, ambiguity around the future of the political structure, coupled with the prioritization of security concerns and humanitarian crisis management, may present challenges to continued AML/CFT implementation efforts.³⁵³ The 2011 uprising severely set back Yemen's economy, with gross domestic product (GDP) shrinking by nearly 13 percent. Its GDP grew 4.8 percent in 2013 but was projected at less than 2 percent for 2014.³⁵⁴ Yemen's economy is largely reliant on oil production, which

343 Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State, "International Narcotics Control Strategy Report (INCSR)—Volume II: Money Laundering and Financial Crimes Country Database," June 2014, pp. 454–456, <http://www.state.gov/documents/organization/222700.pdf> (hereinafter U.S. State Department June 2014 INCSR on Yemen).

344 "Yemen Faces Increasing Weapons, Drugs Smuggling Problem," Al-Monitor, 14 March 2014, <http://www.al-monitor.com/pulse/originals/2014/03/yemen-smuggling-drugs-weapons-human-trafficking.html#>.

345 U.S. State Department June 2014 INCSR on Yemen, p. 454.

346 "Yemen's President Ali Abdullah Saleh Cedes Power," BBC, 27 February 2012, <http://www.bbc.com/news/world-middle-east-17177720>.

347 Yemeni Financial Information Unit staff, e-mail communication with authors, November 2014.

348 For more information on Yemen's National Dialogue Conference, see "Outcomes of Yemen's National Dialogue Conference: A Step Toward Conflict Resolution and State Building?" Arab Center for Research and Policy Studies, February 2014, <http://english.dohainstitute.org/file/get/a6de2897-5e7e-417d-953a-90f10a527da9.pdf>. The conference was mostly successful in its inclusiveness. See Stephen W. Day, "The 'Non-Conclusion' of Yemen's National Dialogue," Foreign Policy, 27 January 2014, http://mideastafrica.foreignpolicy.com/posts/2014/01/27/the_non_conclusion_of_yemen_s_national_dialogue_0.

349 Economist Intelligence Unit (EIU), "Yemen," n.d., <http://country.eiu.com/yemen> (accessed 5 November 2014).

350 "Yemen's Houthi Shiites Reject Six-Region Plan," World Bulletin, 11 February 2014, <http://www.worldbulletin.net/todays-news/128700/yemens-houthi-shiites-reject-six-region-plan>.

351 "Yemen's Violent Politics: Houthis Take Over," *Economist*, 27 September 2014, <http://www.economist.com/news/middle-east-and-africa/21620284-are-they-ansar-houthis-take-over>.

352 "Yemen Rivals Sign Peace Agreement," Al Jazeera, 22 September 2014, <http://www.aljazeera.com/news/middleeast/2014/09/houthis-control-government-buildings-sanaa-2014921141611393880.html>.

353 EIU, "Yemen."

354 World Bank, "Yemen Overview," 1 October 2014, <http://www.worldbank.org/en/country/yemen/overview>.

accounts for nearly three-quarters of government revenue and 90 percent of exports.³⁵⁵ Between March 2011 and March 2013, repeated attacks on oil pipelines have cost Yemen's economy an estimated \$4.8 billion.³⁵⁶ In the longer term, the viability of Yemen's oil sector is questionable as projections indicate that the country may deplete its existing reserves in 10–12 years.³⁵⁷

Nearly 54 percent of Yemen's population of 25 million live below the poverty line, making Yemen one of the poorest countries in the Arab world.³⁵⁸ Food is scarce, with the United Nations estimating that 40 percent of the population is classified as "being either hungry or on the edge of hunger."³⁵⁹ Additionally, Sana'a may become the first world capital to exhaust its viable water supply,³⁶⁰ possibly within the next 10 years.³⁶¹ Declining resources stand to fuel the already tenuous political situation even further as competition increases among groups.³⁶²

Escalating violence has accompanied political and economic tumult across the country. Al-Qaida in the Arabian Peninsula (AQAP), exploiting the fragile security situation, has used Yemen as a base for numerous attacks on national and international targets.³⁶³ Similarly, as the Houthis have gained political influence, they have clashed with AQAP forces over territorial and sectarian issues.³⁶⁴ The declining security situation has led to a rise in kidnappings and demands for ransom, which is considered a key source of AQAP funding. For example, in May 2013, AQAP reportedly received \$20 million in ransom for three people who

had been held in Yemen for 140 days.³⁶⁵ An effective AML/CFT regime would serve as a complimentary measure to enhanced security, helping to identify, track, and stop these flows in order to effectively combat terrorist organizations in the region.

Progress and AML/CFT Efforts

Due to its political and economic instability, Yemen has long been an area of concern for the international community on money laundering and terrorism financing issues. The Financial Action Task Force (FATF) has noted the Yemeni government's high-level political commitment to addressing these issues and the substantial progress made on fulfillment of its AML/CFT action plan. Subject to the FATF global AML/CFT monitoring process since 2010, Yemen has taken numerous steps toward building its AML/CFT framework even though it remains challenged with an operationally difficult working environment. In recognition of these efforts, Yemen was removed from the list of high-risk jurisdictions by the FATF in June 2014 and identified as one undertaking an "on-going process" related to AML/CFT issues. Observers have been unable to conduct an on-site visit to assess the implementation structures due to the security situation.³⁶⁶ Until a proper assessment can take place, it appears that the FATF will continue to include Yemen in its monitoring process.

Yemen enacted its first AML law in 2003, establishing the Data Collection Unit of the Central Bank

355 World Bank, "Facing the Hard Facts in Yemen," 26 September 2012, <http://www.worldbank.org/en/news/feature/2012/09/26/yemen-talking-points>.

356 "Half of Yemenis Live Below Poverty Line," Al-Monitor, 6 January 2014, <http://www.al-monitor.com/pulse/security/2014/01/yemen-poverty-conflict-food-insecurity.html>.

357 World Bank, "Facing the Hard Facts in Yemen."

358 "Half of Yemenis Live Below Poverty Line."

359 EIU, "Yemen."

360 "Yemen: Time Running Out for Solution to Water Crisis," IRIN, 13 August 2012, <http://www.irinnews.org/report/96093/yemen-time-running-out-for-solution-to-water-crisis>.

361 Rami Ruhayem, "Yemen Facing Water Shortage Crisis," BBC, 21 August 2013, <http://www.bbc.com/news/world-middle-east-23777176>.

362 "Yemen: Time Running Out for Solution to Water Crisis."

363 Jonathan Masters and Zachary Laub, "Al-Qaeda in the Arabian Peninsula (AQAP)," *Council on Foreign Relations Backgrounder*, 22 August 2013, <http://www.cfr.org/yemen/al-qaeda-arabian-peninsula-aqap/p9369>.

364 "Houthi and al-Qaeda Fighters Clash in Yemen," Al Jazeera, 17 October 2014, <http://www.aljazeera.com/news/middleeast/2014/10/houthi-al-qaeda-fighters-clash-yemen-201410178283970675.html>.

365 "NY Times: Multi-Million Dollar Ransom Paid for Finnish Hostages," Yle Uutiset, 30 July 2014, http://yle.fi/uutiset/ny_times_multi-million_dollar_ransom_paid_for_finnish_hostages/7384213.

366 Financial Action Task Force (FATF), "High-Risk and Non-Cooperative Jurisdictions; Improving Global AML/ CFT Compliance: On-Going Process," 24 October 2014, p. 7, <http://www.fatf-gafi.org/media/fatf/documents/statements/Compliance-24-October-2014.pdf>.

of Yemen and the national Anti-Money Laundering Committee.³⁶⁷ It was an important step toward addressing money laundering crimes, but the law did not criminalize terrorism financing. Additionally, a mutual evaluation report released by MENAFATF in April 2008 highlighted a number of areas in the legislation that were not compliant with international standards, and these issues remain a work in progress.³⁶⁸ The key deficiencies included issues related to predicate offenses and customer due diligence (CDD) procedures and a lack of reporting requirements for designated non-financial businesses and professions (DNFBPs), as well as concerns about confiscation of the instrumentalities involved in money laundering and the efficiency of the freezing and seizure mechanisms. MENAFATF also viewed the Data Collection Unit as problematic because it was not fully autonomous, lacked an inspection mandate, and was empowered to report only when there was concrete evidence on money laundering crimes not based on suspicious transactions. Additionally, the mutual evaluation report pointed out a “clear overlap” between the work of the Data Collection Unit and the Anti-Money Laundering Committee, noting that the unit was not authorized to share information with counterpart authorities unless the sharing was facilitated through the committee and was limited in its access and ability to request information to only those institutions who were subject to central bank supervision.³⁶⁹

In 2010, Yemen released an updated AML/CFT law³⁷⁰ and a resolution³⁷¹ that served to address several of the previous law’s deficiencies. The updated law reconstituted the Financial Information Unit as an administrative-style financial intelligence unit (FIU). Although still housed under the central bank, the FIU was given

financial and administrative independence that same year via a prime ministerial decree,³⁷² which helps insulate it from the political and business environment of the central bank. The FIU is responsible for the receipt, analysis, and dissemination of suspicious transaction reports (STRs) from financial institutions, DNFBPs, and supervisory and oversight authorities. It is empowered to conduct on-site inspections, sign memoranda of understanding with foreign counterparts, and to prepare STR and cash transaction report (CTR) forms and guidelines.³⁷³ This law and the newly constituted FIU were significant advancements in Yemen’s AML/CFT framework, but a review by the FATF and MENAFATF still found a number of areas in which Yemen was not fully compliant.

In consultation with the World Bank, Yemen passed additional amendments to its AML/CFT law in early September 2013 and issued a set of implementation guidelines in January 2014.³⁷⁴ They addressed the remaining deficiencies related to the scope of predicate offenses and CDD obligations, the definition of regulatory and supervisory authorities, adequate criminalization of terrorism financing, and a requirement to report based on suspicious transactions rather than concrete evidence of a crime. Additionally, the amended law created a mechanism for freezing, seizing, and confiscating funds related to cases referred for prosecution as well as mechanisms to adequately implement UN Security Council Resolutions 1267 and 1372 on sanctions and asset freezing. Although a mutual assessment visit has yet to be conducted, desk research conducted as part of a MENAFATF report released in June 2014 has indicated that Yemen’s legal framework is now largely compliant on all key and core recommendations.³⁷⁵ With

367 Anti-Money Laundering Law No. 35 of 2003, 5 April 2003, https://www.unodc.org/res/cld/document/law-no-13-concerning-the-criminal-procedures_html/Law_No._35_Anti-Money_Laundering_2003_ENG.pdf.

368 Middle East and North Africa Financial Action Task Force (MENAFATF), “Mutual Evaluation Report: Anti-Money Laundering and Combating the Financing of Terrorism; Yemen,” 9 April 2008, p. 7, http://www.menafatf.org/images/UploadFiles/MER_Republic_of_Yemen.pdf.

369 Ibid.

370 Law No. 1/2010 on Combating Money Laundering and Financing of Terrorism, http://www.fiu.gov.ye/doc/Law_en_2010.pdf (hereinafter 2010 Yemen AML/ CFT law).

371 Republican Resolution No. 226 for 2010 on the Regulations of Law No. 1 for 2010 on Combating Money Laundering and Terrorism Financing, <http://www.amlcyemen.org/files/eng.pdf>.

372 Financial Information Unit (Yemen), “Annual Report 2013,” p. 3, http://www.fiu.gov.ye/doc/Annual_Report_2013_en.pdf.

373 2010 Yemen AML/ CFT law.

374 For the text of the amendments, see Financial Information Unit (Yemen), “Annual Report 2013,” p. 53.

375 MENAFATF, “Seventh Follow-Up Report for Yemen: Application to Move From Regular Follow-Up to Biennial Updates,” June 2014, pp. 3, 29 (copy on file with authors).

the legal building blocks in place, Yemen has begun to focus on effective and comprehensive implementation of these efforts.

The FIU currently has 11 staff members, seven of whom work in the analysis department, and has indicated it plans to increase staffing to 30 in the coming year. Since its founding, the FIU has seen a dramatic increase in the number of cases reported each year, rising from 29 in 2011 to 166 in 2013.³⁷⁶ The FIU's definition of "cases," however, includes STRs and CTRs as well as local and foreign requests for assistance. In 2013, STRs filed by Yemeni banks and exchange companies accounted for 96 of the 166 cases, with the remaining cases being requests for assistance from government agencies, law enforcement, counterpart FIUs, and foreign authorities.³⁷⁷ The most common of these cases was related to money laundering, accounting for 11.4 percent of the total, followed by corruption at 6.6 percent. In 2013, only six cases were related to terrorism financing, and two cases were related to terrorism.

Yemen attributes this modest rise in reporting to awareness-raising efforts among stakeholders. Yet, the overall number of reported cases is still perceived as low. To that end, the central bank has issued guidelines for banks and exchange companies and basic indicators for suspected transactions involving money laundering and terrorism financing. Yemen has referred a large number of cases to judicial authorities and governmental and law enforcement agencies; last year, 97 were referred, and another 17 were put under analysis. This has resulted in four convictions for money laundering and one for terrorism financing.³⁷⁸

The central bank has conducted field inspection visits in 10 of the country's 16 banks and identified violations at four, resulting in the imposition of financial sanctions on three of those four.³⁷⁹ Sources indicate that the

central bank has begun signing Minutes of Agreement with banks where deficiencies were detected and that the FIU is starting to conduct its own more in-depth AML/CFT inspections based on feedback from central bank regulators and their analysis. Inspection visits were conducted in the exchange sector too, identifying violations in 128 offices (out of 483 nationwide) and leading to the referral of 65 companies for prosecution.³⁸⁰

Currently, DNFBPs are not submitting reports to the FIU, but supervisory authorities have begun recently to issue sector-specific guidance notes to their respective industries. These notes have been issued to real estate brokers and agents, dealers of precious metals and precious stones, insurance companies, the post office, and public associations and organizations including charities and nongovernmental organizations.³⁸¹ Sources indicate that the regulatory authorities have begun conducting on-site compliance visits in the insurance and postal sectors, but the scope of AML/CFT policies under review is unclear.³⁸²

Yemen is home to the free trade zone of Aden. Research indicates that this center is tightly regulated by customs authorities, including the strict enforcement of identification requirements and background checks for individuals and entities in the trucking industry, and is not considered to be highly vulnerable to money laundering and terrorism financing activities.³⁸³

Over the past several years, the FIU has undertaken an intensive training process, engaging with AML/CFT professionals from a wide range of countries and institutions. FIU staff members have attended sessions facilitated by the International Monetary Fund (IMF), the UN Office on Drugs and Crime, and the U.S. Department of State and Department of the Treasury on issues including financial investigations, recovery of looted assets, cross-border smuggling, bank fraud, and

376 Financial Information Unit (Yemen), "Annual Report 2013," p. 25.

377 *Ibid.*, p. 19.

378 MENAFATF, "Seventh Follow-Up Report for Yemen," p. 6.

379 *Ibid.*, p. 28.

380 *Ibid.*

381 *Ibid.*, p. 7.

382 *Ibid.*, pp. 25–26.

383 U.S. State Department June 2014 INCSR on Yemen, p. 454.

misuse of the nonprofit sector. In 2013 alone, FIU staff attended 13 training sessions held in Ethiopia, Italy, Lebanon, Qatar, and Saudi Arabia. A delegation from Yemen has participated in an on-site information-sharing visit to the Lebanese Special Investigation Unit and the Saudi Financial Investigations Unit.³⁸⁴ Within Yemen, the Anti-Money Laundering Committee has organized 25 training courses and workshops for nearly 650 participants from regulatory bodies, financial institutions, DNFBPs, and the FIU.³⁸⁵ These trainings have helped to build the technical capacity of FIU and regulatory staff and enhanced general AML/CFT awareness among stakeholders.

Ongoing Risks and Vulnerabilities

As a cross-border trade hub with high vulnerability to illicit smuggling, the strength of Yemeni customs institutions is particularly important to AML/CFT enforcement. The Yemeni government requires persons transiting to declare on request all cash or bearer-transferable financial instruments whose value exceeds 3 million Yemeni rials (approximately \$14,000). The law enables customs officials to seize these funds if unreported, but it does not empower them to conduct target-based investigations or random checks.³⁸⁶ Customs reporting levels remain low, which suggests that enforcement may not be strict or that reports are not being provided to the authorities.³⁸⁷ Additionally, Yemen experiences high levels of government corruption,³⁸⁸ which may complicate AML/CFT implementation efforts due to the potential reluctance to enforce measures that make it more difficult for officials to conceal the illicit source of their funds.

One area of particular concern for Yemen is cross-border khat smuggling. Despite declining water resources, nearly 90 percent of water is directed to agricultural production in Yemen, with the vast majority used to cultivate khat.³⁸⁹ Although the drug remains legal in much of East Africa, it has been banned in the United States, United Kingdom, and across many other European countries. With large East African diaspora communities in North America and western Europe, khat smuggling has become a highly lucrative criminal business.³⁹⁰ Some proceeds from these smuggling rings are being laundered to support terrorism financing. For example, in May 2012 the UK counterterrorism police arrested seven people and charged them with being part of a network that exported khat to Canada and the United States to fundraise for terrorism, with the perpetrators being linked to al-Shabaab networks.³⁹¹

Yemen has been the focus of several high-profile terrorism financing abuse cases involving its nonprofit sector. Most prominent is the recent U.S. designation of Yemeni politician Abdulwahab al-Humayqani as a “specially designated global terrorist” and financier of AQAP in Yemen. Al-Humayqani is the founding member of Yemen’s conservative Salafi Rashad Union Party and served as a delegate at the National Dialogue Conference.³⁹² The United States alleges that he used his prominent status to fundraise through his affiliated charities, then transfer the proceeds to AQAP operatives in Yemen. The U.S. designation enables the U.S. Office of Foreign Assets Control to freeze his assets and prohibit U.S. businesses and citizens from conducting business with him.³⁹³ Critics of this move argue this is

384 Financial Information Unit (Yemen), “Annual Report 2013,” pp. 5–7.

385 MENAFATF, “Seventh Follow-Up Report for Yemen,” p. 50.

386 *Ibid.*, p. 54.

387 *Ibid.*

388 Transparency International, “Corruptions Perception Index 2013,” n.d., <http://www.transparency.org/cpi2013/results>.

389 “Yemen: Time Running Out for Solution to Water Crisis.”

390 Stewart Bell, “British Police Arrest Seven for Exporting Khat to Canada, U.S. to Finance Terrorism,” *National Post*, 1 May 2012, <http://news.nationalpost.com/2012/05/01/british-police-arrest-seven-for-exporting-khat-to-canada-u-s-to-finance-terrorism/>; “5 Sentenced in Khat Drug Smuggling Case,” Associated Press, 10 August 2012, <http://www.foxnews.com/us/2012/08/10/5-sentenced-in-khat-drug-smuggling-case/>.

391 Bell, “British Police Arrest Seven for Exporting Khat to Canada, U.S. to Finance Terrorism.”

392 Joby Warrick and Tik Root, “Islamic Charity Officials Gave Millions to al-Qaeda, U.S. Says,” *Washington Post*, 22 December 2013, http://www.washingtonpost.com/world/national-security/islamic-charity-officials-gave-millions-to-al-qaeda-us-says/2013/12/22/e0c53ad6-69b8-11e3-a0b9-249bbb34602c_story.html.

393 Adam Baron, “U.S. Treasury Labels Prominent Yemeni Politician a Terrorist,” *Christian Science Monitor*, 3 February 2014, <http://www.csmonitor.com/World/Security-Watch/2014/0203/US-Treasury-labels-prominent-Yemeni-politician-a-terrorist>.

a political measure in response to his vocal criticism of continued U.S. drone strikes in Yemen.³⁹⁴

These cases underscore the main problem for Yemen: a lack of governmental capacity to address immediate and long-standing challenges due to continued political and civil unrest. Until the security situation is addressed and a stable government put in place, capacity to support the effective implementation of AML/CFT efforts is limited. The FIU has made significant strides raising awareness and building capacity as an institution and of the regulatory staff, but limited resources continue to hinder performance.³⁹⁵ The lack of reporting from DNFBPs is an area of great concern, as is the nascent state of the inspection and supervisory process for these sectors. Outside of the capital, reporting remains low; in 2013, only 21 cases were reported from areas outside of Sana'a. Dealing with a fragile security situation and in some cases the presence of known terrorism and criminal operatives, these rural regions are highly vulnerable to money laundering and terrorism financing crimes. It is increasingly important that they remain engaged and connected to the broader AML/CFT regime.

Entry Points

With large parts of the country outside of governmental control and some under the control of known terrorist organizations, effectively countering money laundering and terrorism financing crimes in Yemen is challenging. The government has made a substantial political commitment to strengthening its AML/CFT infrastructure, instituting a solid legal framework and making tangible efforts to build staffing capacities and raise awareness among key stakeholders. Yet, with the political system in transition and elections tentatively scheduled for 2015, the sustainability of this commitment remains to be seen.

Additionally, a lack of resources and funding will continue to hinder real, tangible implementation efforts. Yemen continues to receive international aid to help promote stability in the country, including a \$95 million emergency loan from the IMF and a combined \$8 billion humanitarian aid pledge from the Friends of Yemen, a group of nearly 40 nations and international organizations.³⁹⁶ The AML/CFT regime has received attention from international investors, including a \$20 million grant from the World Bank to update the central bank's software system.³⁹⁷ Yet, underfunding and understaffing will continue to be a substantial challenge for effective implementation and expansion of AML/CFT regulatory controls.

As a new administration assumes power, it will be important to continue to promote awareness and engagement on AML/CFT issues. The international community should work to offer examples of good practices that demonstrate the economic and security benefits of effective AML/CFT regulation as a way to encourage continued compliance and political commitment. Based on our findings and the input we received from Yemeni stakeholders and other partners, we offer a number of recommendations for the international community and the Yemeni government.

- Develop a coordinated package of technical assistance directed at building specific capacities and institutions, focusing first on the FIU and regulatory authorities.
- Conduct sector-specific risk assessments and provide assistance in clarifying and strengthening the regulatory frameworks for vulnerable business sectors, including DNFBPs and mobile money companies.

394 Warrick and Root, "Islamic Charity Officials Gave Millions to al-Qaeda, U.S. Says."

395 MENAFATF, "Seventh Follow-Up Report for Yemen," pp. 5–6, 30.

396 Faisal Darem, "Donors Renew Support for Yemen in Its Continuing Transition," Al-Shorfa, 2 May 2014, http://al-shorfa.com/en_GB/articles/meii/features/2014/05/02/feature-01.

397 World Bank, "Financial Infrastructure Project," n.d., <http://www.worldbank.org/projects/P132311/financial-infrastructure-project?lang=en>.

- Continue awareness-raising efforts and support advanced technical trainings for DNFBPs and reporting entities in order to promote a more holistic and comprehensive AML/CFT system.
- Establish a local, grassroots network of trained AML/CFT professionals who can actively seek to engage AML/CFT stakeholders in vulnerable rural regions outside Sana'a.
- Continue to engage Yemeni officials and FIU staff in training and relationship building by means of international experts and peer FIUs.
- Encourage continued engagement with MENAFATF and other international AML/CFT bodies to facilitate information sharing and the promotion of best practices.

On the Horizon and Toward Financial Inclusion: Mobile Money

Formal financial sectors in the Greater Horn of Africa region are largely underdeveloped.³⁹⁸ Cash remains king for most financial transactions, and people rely on it for the purchase of daily items and for investment, including in property and vehicles. A number of factors contribute to the limited expansion of formal financial institutions in the region, including inadequate infrastructure and governance, low and

volatile income levels, distrust in formal banks, and high banking costs.³⁹⁹ The World Bank estimates that nearly one-half the world's population does not have access to a bank account,⁴⁰⁰ but in eastern Africa, that estimate rises to 78 percent (table 2).⁴⁰¹ In states facing complex security and humanitarian challenges, such as South Sudan, Sudan, and Yemen, that number reaches well above 90 percent.⁴⁰²

Table 2. Financial Inclusion and Mobile Penetration Rates (percent)

Country	Population over the age of 15 with access to bank account, 2012	Adults using mobile money during 2011	Mobile cellular subscriptions (per 100 people), 2013	Growth rates in mobile phone penetration, 2010–2014
Djibouti	12.3	7	28	8.8
Eritrea	n/a	n/a	6	18.9
Ethiopia	7.9 ^a	n/a	27	35.5
Kenya	42.3	68	71	3.9
Somalia	31.0	34	49	62.7
South Sudan	1.0 ^b	18	25	13.7
Sudan	6.9 ^c	52	73	14.8
Tanzania	17.3	23	56	4.5
Uganda	20.5	27	44	3.7
Yemen	3.7	2	69	8.9

a 2013 data.

b 2011 data.

c Includes data prior to the 2011 division of Sudan and South Sudan.

Sources: Asli Demirguc-Kunt and Leora Klapper, "Measuring Financial Inclusion: The Global Findex Database," *World Bank Policy Research Working Paper*, no. 6025 (April 2012), <http://elibrary.worldbank.org/doi/pdf/10.1596/1813-9450-6025>; World Bank, "Mobile Cellular Subscriptions (Per 100 People)," n.d., <http://data.worldbank.org/indicator/IT.CEL.SETS.P2>; International Monetary Fund (IMF), "The Federal Democratic Republic of Ethiopia: 2013 Article IV Consultation," *IMF Country Report*, no. 13/308 (October 2013), p. 21; "The United Nations in South Sudan: Helping South Sudan During Its First Two Years," n.d., http://www.un.org/en/ecosoc/julyhls/pdf11/has_lise_grande.pdf; Allison Ehrich Bernstein, "Mobile Money's Newest Outpost," Center for Financial Inclusion, 19 March 2014, <http://cfi-blog.org/2014/03/19/mobile-moneys-newest-outpost/>.

398 Thouraya Triki and Issa Faye, eds. "Financial Inclusion in Africa," African Development Bank, 2013, p. 44, http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/Financial_Inclusion_in_Africa.pdf.

399 Ibid.

400 "A Phoneful of Dollars," *Economist*, 15 November 2014, <http://www.economist.com/news/briefing/21632441-worlds-poor-need-stability-and-security-banks-have-traditionally-offered>.

401 Triki and Faye, "Financial Inclusion in Africa," p. 44.

402 Ibid.

The most common reasons cited for the lack of bank accounts include limited individual revenue and high cost. For example, checking account fees in Uganda are equal to 25 percent of the per capita annual gross domestic product (GDP).⁴⁰³ Additionally, East Africa's low bank-penetration rates⁴⁰⁴ result in patrons traveling long distances to visit a branch, which can be dangerous in countries facing unstable security situations and for travelers with large quantities of cash.

Access to formal banking institutions remains largely a service reserved for a specific demographic in the region, often urban, middle-class elite. Women are particularly affected by financial exclusion, with four out of five African women lacking access to a bank account.⁴⁰⁵ The recent rise of mobile money technologies has greatly expanded the availability of financial services and functions as a clear multiplier for financial inclusion goals. Although mobile money systems have already developed organically in many countries in the region, comprehensive legal structures to mitigate the inherent money laundering and terrorism financing risks have often lagged behind the explosive growth of this sector.

A large “unbanked” population presents significant challenges for the developing economies of East Africa and the Greater Horn region and, in turn, the global financial system. Improved access to financial services can assist a developing country manage cash flows, build assets, and expand lending, savings, and investment practices for small and medium-sized businesses, supporting a growing class of entrepreneurs that helps alleviate high levels of poverty and spur economic growth. On an individual level, access to savings accounts, insurance, and other financial services helps poor populations mitigate economic shocks, manage uneven or seasonal cash flows, and invest in their homes and families.⁴⁰⁶ Furthermore, expanded financial

access presents an opportunity to enhance anti-money laundering and countering the financing of terrorism (AML/CFT) regimes, with more transactions passing through the formal financial system and subject to AML/CFT monitoring and reporting requirements.

Without access to formal banking, the population relies on informal value transfer systems, such as *hawalas*, to conduct transactions. These trust-based systems, although vital, are considered vulnerable to money laundering and terrorism financing abuse due to limited regulatory oversight and, in some cases, inadequate customer identification practices. Also, limited access to banking institutions perpetuates a cash-based society in which the effective identification and tracking of possible money laundering and terrorism financing monetary flows can be difficult due to a lack of oversight and standardized record-keeping practices. Additionally, cash-based societies have often served as enabling environments for the development of large black markets, which are attractive venues for criminals to launder illicit proceeds.

Mobile money systems offer an opportunity to address many of these issues by bringing financial services directly to the unbanked population. In most instances, the only requirements to entry are access to a mobile phone and SIM card, which are becoming increasingly more available as mobile phone penetration rates rise across the East African region. Eritrea, Ethiopia, and Somalia are among the countries in the region that have experienced double-digit growth in mobile phone penetration rates since 2010.⁴⁰⁷ As a result, access to mobile phones has become more common than access to financial institutions for much of East Africa and the Greater Horn region. For example, only 4 percent of the population in Yemen has access to a bank account, but nearly 70 percent have a mobile phone subscription (table 2).⁴⁰⁸

403 Ibid., p. 46.

404 World Bank, “Financial Inclusion Data,” n.d., <http://datatopics.worldbank.org/financialinclusion/> (accessed 3 December 2014).

405 Triki and Faye, “Financial Inclusion in Africa,” p. 75.

406 Alliance for Financial Inclusion, “General FI,” n.d., <http://www.afi-global.org/policy-areas/general-fi>.

407 World Bank, “Mobile Cellular Subscriptions (Per 100 People),” n.d., <http://data.worldbank.org/indicator/IT.CEL.SETS.P2> (accessed 3 December 2014).

408 World Bank, “Country Dashboard: Yemen, Rep.” n.d., <http://datatopics.worldbank.org/financialinclusion/country/yemen.-rep> (accessed 3 December 2014); World Bank. “Mobile Cellular Subscriptions (Per 100 People).”

The expansion of mobile phone usage for financial purposes such as bill payment and the transmission of funds has created a new and unprecedented opportunity for East Africa and the Greater Horn region to align this service with the conceptual goal of financial inclusion. These technologies hold particular promise for rural and impoverished populations, which traditionally see significantly lower levels of financial inclusion.⁴⁰⁹ In Uganda, 65 percent of unbanked households surveyed in 2012 had access to one or more mobile phones and at least one SIM card. Three in five households living below the poverty line of \$2 a day owned a SIM card or had access to a mobile phone.⁴¹⁰

The telecommunications industry has been quick to capitalize on this burgeoning market, with a number of mobile money systems already operational in East Africa and the Greater Horn region. Kenya's M-Pesa, commonly viewed as the first mobile money company in the region, is most well known. M-Pesa was launched in 2007 by telecommunications giant Safaricom and has grown to 15 million users.⁴¹¹ More than 2 million transactions are performed daily⁴¹² with one source estimating that 43 percent of Kenya's annual GDP is channeled through M-Pesa.⁴¹³ Most promising for financial inclusion goals are a report that M-Pesa reaches 84 percent of the population earning less than \$2 per day.⁴¹⁴ M-Pesa has experienced similar success in Tanzania, where it launched in April 2008. Since mobile financial services were introduced in Tanzania in 2007, customers have made nearly 4.3 million mobile

financial transactions through the system, equivalent to 40 percent of Tanzanian annual GDP.⁴¹⁵

Philanthropists and international institutions have also recognized the positive impact that mobile money systems can have on financial inclusion goals and have supported a number of initiatives to encourage the growth of this promising industry. For example, the International Finance Cooperation struck a three-year, \$3.9 million advisory services agreement with Airtel Uganda to help promote its mobile money initiative in rural regions.⁴¹⁶ The Bill and Melinda Gates Foundation has similarly engaged on these issues, funding programs in Kenya, Tanzania, and Uganda.⁴¹⁷

Other companies in the region have sought to capitalize on M-Pesa's success by launching platforms in neighboring states. East Africa reportedly has become one of the most active mobile money markets in the world, representing 34 percent of total accounts registered globally in 2013.⁴¹⁸ Ethiopia, Somalia, Sudan, Tanzania, Uganda, and Yemen all have operational mobile banking platforms. Similar to the Tanzanian figures noted above, more than one-half of Sudanese adults reported using a mobile phone to send or receive funds in 2012,⁴¹⁹ putting the country among the top 10 with the highest reported use of mobile phones.⁴²⁰ South Sudan has been identified as the "next mobile money frontier," with transactions forecasted to cross the \$1 billion mark by 2016.⁴²¹

409 In rural areas, 19 percent are banked compared to 34 percent in urban areas. Triki and Faye, "Financial Inclusion in Africa," p. 84.

410 InterMedia, "Mobile Money in Uganda: Use, Barriers and Opportunities," October 2012, p. 9, http://audiencescapes.org/sites/default/files/FITS_Uganda_FullReport_LowRes.pdf.

411 Erik Heinrich, "The Apparent M-Pesa Monopoly May Be Set to Crumble," *Fortune*, 27 June 2014, p. 2, <http://fortune.com/2014/06/27/m-pesa-kenya-mobile-payments-competition/>.

412 Ibid.

413 Susan Johnson, "Kenyan Mobile Money and the Hype of Messy Statistics," Centre for Development Studies, 15 May 2014, <https://cdsblogs.wordpress.com/2014/05/15/kenyan-mobile-money-and-the-hype-of-messy-statistics/>.

414 International Monetary Fund (IMF), "Kenya: Staff Report for the 2014 Article IV Consultation," *IMF Country Report*, no. 14/302 (8 September 2014), p. 12, <http://www.imf.org/external/pubs/ft/scr/2014/cr14302.pdf>.

415 Triki and Faye, "Financial Inclusion in Africa," p. 110.

416 "Airtel Uganda Partners With IFC in Advisory Service Deal Worth \$3.9 Million," UGO, 20 September 2014, <http://news.ugo.co.ug/airtel-uganda-partners-ifc-advisory-service-deal-worth-3-9-million/>.

417 Bill and Melinda Gates Foundation, "Awarded Grants," n.d., <http://www.gatesfoundation.org/How-We-Work/Quick-Links/Grants-Database#q/k=mobile%20money> (accessed 3 December 2014).

418 Claire Pénicaud and Arunjay Katakam, "State of the Industry 2013: Mobile Financial Services for the Unbanked," Groupe Speciale Mobile Association, 2014, p. 18, http://www.gsma.com/mobilefordevelopment/wp-content/uploads/2014/02/SOTIR_2013.pdf.

419 Triki and Faye, "Financial Inclusion in Africa," p. 48.

420 Ibid., p. 101.

421 Tosin Sulaiman, "Zain and MTN Target South Sudan as Next Mobile-Money Frontier," Reuters, 19 July 2012, <http://in.reuters.com/article/2012/07/19/southsudan-telecoms-banking-idINL6E8IJ5Y320120719>.

Beyond providing banking services within countries, mobile money services could be used by remittance companies to offer services in areas where remittance company outposts are not as common. Across Africa, 41 percent of account holders reported using their account to receive remittances as of 2012; in Somalia, that number is 66 percent.⁴²² Even without a formal mobile money system in place, users in South Sudan have reported using prepaid airtime as an alternative to cash for sending and receiving remittances.⁴²³

The rise of the mobile money industry has proven problematic for AML/CFT regimes. Mobile money providers are often regulated as a telecommunications industry and may not be covered under existing AML/CFT laws. Mobile money transactions are “faceless” by nature, which presents limitations for customer due diligence (CDD) and know your customer measures. Frequently, senders must give only a mobile number to transmit funds, complicating the identification of recipient communities. In addition, few jurisdictions require identification or registration for the purchase of SIM cards, which commonly are themselves exchanged in a region in which nascent national identification programs are not widely applied. As a result, mobile money transmissions are vulnerable to abuse from national and international money laundering and terrorism financing organizations.

Regulators in the region have recognized this risk and taken preliminary steps to address AML/CFT issues in a way that does not hinder the promising growth of the sector. Kenya, possessing the most mature mobile money industry, has sought to be a leader on this front through the issuance of the 2011 National

Payment Systems Act, which imposes the same regulatory requirements for funds transfers and payments on mobile banking providers and formal banking institutions.⁴²⁴ On the private sector level, M-Pesa has provided AML/CFT awareness training for its personnel and implemented transaction monitoring software that imposes limits on the amount and number of transactions conducted (table 3).⁴²⁵

Regulators in other states have taken proactive measures to ensure these technologies develop within the necessary AML/CFT frameworks. The National Bank of Ethiopia (NBE) issued a regulation requiring mobile and agent banking operators to conduct business through NBE-licensed financial institutions, subjecting them to AML/CFT requirements.⁴²⁶ In Yemen, the central bank has issued a number of circulars to financial institutions and exchange companies, highlighting the need to conduct CDD measures on transactions conducted through electronic means or modern technology channels.⁴²⁷ Additionally, both countries have partnered with international experts to host workshops on developing appropriate policy frameworks for branchless banking.⁴²⁸

Mobile money platforms provide great opportunity for financial inclusion in East Africa.⁴²⁹ As regulators struggle to catch up with this quickly evolving and expanding technological landscape, the use of mobile money continues to present challenges to the existing AML/CFT regimes in East Africa and the Greater Horn region. Nevertheless, the promise these mobile banking platforms offer for promoting inclusive finance and economic growth goals cannot be understated. Efforts should be taken to ensure that mobile money systems develop within the requisite AML/CFT framework.⁴³⁰

422 Triki and Faye, “Financial Inclusion in Africa,” p. 47.

423 Allison Ehrich Bernstein, “Mobile Money’s Newest Outpost,” Center for Financial Inclusion, 19 March 2014, <http://cfi-blog.org/2014/03/19/mobile-moneys-newest-outpost/>.

424 Mercy W. Buku and Michael W. Meredith, “Safaricom and M-Pesa in Kenya: Financial Inclusion and Financial Integrity,” *Washington Journal of Law, Technology and Arts* 8, no. 3 (2013): 395, <http://digital.law.washington.edu/dspace-law/bitstream/handle/1773.1/1204/8WJLT375.pdf?sequence=5>.

425 *Ibid.*, p. 398.

426 National Bank of Ethiopia, “Regulation of Mobile and Agent Banking Services,” no. FIS /01/2012, 2012, pp. 3,7, <http://www.nbe.gov.et/pdf/directives/bankingbusiness/FIS-01-2012.pdf>.

427 Middle East and North Africa Financial Action Task Force, “Seventh Follow-Up Report for Yemen: Application to Move From Regular Follow-Up to Biennial Updates,” June 2014, p. 27.

428 Melissa Scudo, “Central Bank of Yemen Reviews Mobile Money and Branchless Banking Regulations,” *Mobile Money for Development*, 12 April 2013, <https://mobilemoneyfordevelopment.wordpress.com/2013/04/12/central-bank-of-yemen-reviews-mobile-money-branchless-banking-regulations/>; Global Center on Cooperative Security, “Training on Risks Associated With New Technologies,” n.d., <http://www.globalcenter.org/events/training-on-risks-associated-with-new-technologies/> (training took place 26–27 June 2014 in Addis Ababa).

429 For comparison, in sub-Saharan Africa, there were 98 million registered mobile money account users in June 2013. Pénicaud and Katakam, “State of the Industry 2013,” p. 18.

430 See Generally Financial Action Task Force, *Guidance for a Risk-Based Approach: Prepaid Cards, Mobile Payments and Internet-Based Payment Services*, June 2013, <http://www.fatf-gafi.org/media/fatf/documents/recommendations/Guidance-RBA-NPPS.pdf>.

Table 3. Overview of Mobile Banking in East Africa and the Greater Horn of Africa Region

Country	Mobile money operators	Regulatory body	Existing laws/ guidelines	Customer due diligence and know your customer procedures?
Djibouti	Mobicash, Ria, Salaam African Bank	Ministry of Communication and Culture	No	No
Eritrea	N/A	Eritrea Telecommunications Services Corporation (EriTel)	No	No
Ethiopia	Belcash, M-BIRR	Ministry of Information and Communication Technology	Yes	Yes
Kenya	Finserve, M-Pesa	Central bank; Communications Authority	Yes	Yes
Somalia	E-Dahab (Somtel), E-maal (NationLink), EVC Plus (Hormuud), Sahal (Golis Telecom), Zaad (Telesom)	National Communications Regulator (not yet established)	No	No
South Sudan	In development	Ministry of Telecommunications and Postal Services (guidelines under review)	Unclear	Unclear
Sudan	Hassa, Saref-Mobile	National Telecommunications Authority	Unclear	Unclear
Tanzania	Airtel Money, Eazzy 24/7, M-Pawa, M-Pesa, TIGO Pesa	Bank of Tanzania; Communications Regulatory Authority	Yes	Yes
Uganda	Airtel-Warid Money, MTN m-money, M-Sente, Orange Money	Guidelines issued by central bank in 2013	Yes	No
Yemen	MTN Mobile Money, Ria	Ministry of Telecommunications and Information Technology	Yes	Yes

Source: Global Center staff.

APPENDIX

Select Laws and Regulations of Examined Countries Relevant to Anti-Money Laundering and Countering the Financing of Terrorism Matters

DJIBOUTI

Act No. 110/AN/11 on the fight against terrorism financing. (*Loi n° 110/AN/11 sur la lutte contre le financement du terrorisme.*)

Act No. 111/AN/11 on the fight against terrorism and other serious offenses. (*Loi n° 111/AN/11/6ème L relative à la lutte contre le terrorisme et autres infractions graves.*)

Act No. 112/AN/11/ supplementing law No. 196/AN/02 on laundering, confiscation, and international cooperation in criminal proceeds. (*Loi n° 112/AN/11 / droit complétant n° 196/AN/02 sur le blanchiment, la confiscation et la coopération internationale dans les produits du crime.*)

Decree No. 2001-0193 establishing the National Committee on the Fight Against Terrorism. (*Décret n° 2001-0193 portant création du Comité national sur la lutte contre le terrorisme.*)

ERITREA

1994 Rehabilitation and Recovery Tax Proclamation

Legal Notice No. 19/1995, regulations on mining operations.

Minerals Proclamation No. 68/1999

Proclamation No. 68/1995, to promote the development of mineral resources.

Proclamation 173/2013, pertaining to the opening of foreign currency deposit accounts, domestic commercial transactions and/or contracts, currency remittance and exchange, and the declaration of currency of travelers arriving into and departing from Eritrea.

Proclamation No. 175/2014, anti-money laundering and combating the financing of terrorism.

ETHIOPIA

Council of Ministers Regulation No. 171/2009, to provide for the establishment of the Financial Intelligence Center.

National Bank of Ethiopia. Customer Due Diligence of Banks Directives No. SBB/46/2010.

———. Circular No. FIS/01/2014.

Proclamation No. 414/2004, the criminal code of the Federal Democratic Republic of Ethiopia.

Proclamation No. 652/2009, a proclamation on antiterrorism.

Proclamation No. 657/2009, prevention and suppression of money laundering and the financing of terrorism.

Proclamation No. 780/2013, prevention and suppression of money laundering and financing of terrorism.

Regulation No. 306/2014.

KENYA

Prevention of Terrorism Act, No. 30 of 2012.

Prevention of Terrorism (Implementation of the United Nations Security Council Resolution on Suppression of Terrorism) Regulations. Legal notice no. 211, 12 November 2013.

Proceeds of Crime and Anti-Money Laundering Act, No. 9 of 2009 (revised 2012).

Proceeds of Crime and Anti-Money Laundering Regulations, 2013.

Security Laws (Amendment) Act, 2014.

SOMALIA

Federal Government of Somalia

Financial Institution Decree Law, No. 37 of 23 November 1989.

Law No. 2 of 13 January 1961.

Law No. 130, April 2012.

Puntland

Transitional Constitution of Puntland Regional Government, 2001.

Puntland Constitution, 2012.

Somaliland

Islamic Banking Law, No. 55/2012.

Somaliland Central Bank Law, No. 54/2012.

SOUTH SUDAN

Anti-Money Laundering and Counter Terrorist Act, 2012.

Code of Criminal Procedure Act, 2008. *Southern Sudan Gazette* 1, no. 1, 10 February 2009.

Penal Code Act, 2008. *Southern Sudan Gazette* 1, no. 1, 10 February 2009.

SUDAN

Bank Information and Rating Act, 2011.
Bank of Sudan Act, 2002.
Combating Terrorism Act, 2000.
Money Laundering and Terrorism Financing Act, 2010.

TANZANIA

Anti-Money Laundering Act, 2006.
Anti-Money Laundering Act Amendment, 2012.
Anti-Money Laundering and Counter-Terrorist Financing Guidelines to Insurers, no. 4.
Anti-Money Laundering and Proceeds of Crime Act, 2009.
Anti-Money Laundering Guidelines for Accountants and Auditors, 2010.
Anti-Money Laundering Guidelines for Bank of Tanzania, no. 3.
Anti-Money Laundering Guidelines for Banking Institutions, no. 2.
Anti-Money Laundering Guidelines to CMSA Licensees, no. 5.
Anti-Money Laundering Guidelines to Collective Investment Schemes, no. 6.
Banking and Financial Institutions Act, 2006.
Capital Market and Securities Act, 1994.
Criminal Procedure Act, 1985.
Criminal Procedure (Amendment) Act, 1988.
Drugs and Prevention of Illicit Traffic in Drugs Act, 1995.
Economic and Organized Crime Control Act, 1984.
Evidence Act, 1967.
Extradition Act, 1965.
Gaming Act, 2003.
Guidelines for Verification of Customers' Identities, no. 1.
Mutual Assistance in Criminal Matters Act, 1991.
Non-Governmental Organisations Act, 2002.
Prevention and Combatting of Corruption Act, 2007.
Prevention of Terrorism Act, 2002.
Prevention of Terrorism General Regulations, 2014.
Proceeds of Crime Act, 1991.
Written Laws (Miscellaneous Amendments) Act, 2007.
Written Laws (Miscellaneous Amendment) Act, 2011.

UGANDA

Anti-Corruption Act, 2009.
Anti-Money Laundering Act, 2013.
Anti-Terrorism Act, 2002.
Bank of Uganda Act.
Financial Institutions Act, 2004. *Uganda Gazette* 47, no. 14 (26 March 2004).
Financial Institutions AML Regulations, 2010.

YEMEN

Circular No. 1/2012, Regulations and Guidelines for Banks Related to Combating Money Laundering and Terrorism Financing.
Circular No. 2/2012, Basic Indicators for Suspected Transactions Involving Money Laundering and Terrorism Financing.
Decree No. 24/2007.
Law No. 35/2003.
Regulations of Law No. (1) for 2010 on Combating Money Laundering and Terrorism Financing, Republican Resolution No. (226).

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