STUDY

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European Parliament

Reforming EU blacklisting

How to increase the effectiveness and avoid politicisation of the EU list of high-risk jurisdictions for anti-money laundering and counter-terrorism financing: US experience and considerations for EU reform

Policy Department for Economic, Scientific and Quality of Life Policies
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Abstract

The EU blacklist of high-risk jurisdictions for money laundering is being criticised for a lack of autonomy from the FATF lists, politicisation and lobbying, and lack of transparency. The paper shows four ways to change this. More autonomy from the FATF can be reached through grey listing or merging the EU money laundering list with the EU tax list. More transparency can be reached by involving NGOs or academics to do the listing. But all these lists only look at the framework of anti-money laundering policy. When looking at the actual behaviour of launderers, criminological findings should be included. This can be accomplished by leveraging various agencies, like the US International Narcotics Control Strategy Report (INCSR) list. Lists differ substantially from each other and cover more than half of the world. To achieve both autonomy and transparency and to prevent politicisation, a research institute similar to the IMF could be established, for example, in the newly planned anti money laundering agency AMLA. Here an encompassing alert system of money laundering, including persons, sectors, entities, and countries could become an EU support for Member States.

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LIST OF ABBREVIATIONS

AML	Anti-Money Laundering
AML/CFT	Anti-Money Laundering/Counter Financing of Terrorism
AMLA	Anti-Money Laundering Authority
ATAD	Anti-Tax Avoidance Directive
BAMLI	Basel Anti-Money Laundering Indicator
BEPS	Base Erosion and Profit Shifting
BVI	British Virgin Islands
CFT	Counter Financing of Terrorism
COFFERS	Combating Fiscal Fraud and Empowering Regulators
CVs	Corporate Vehicles
DPR	Democratic People's Republic
DR	Democratic Republic
EC	European Commission
ECA	European Court of Auditors
EEA	European Economic Area
EP	European Parliament
EU	European Union
FATF	Financial Action Task Force
FSRB	FATF-style regional body
FIU	Financial Intelligence Unit
FSBR	FATF-Style Regional Body
FSI	Financial Secrecy Index
GDP	Gross Domestic Product
HRTC	High-Risk Third Country
HSBC	Hong Kong and Shanghai Banking Corporation
IARM	International Anti-Money Laundering Risk Assessment
iCOV	infobox Crimineel en Onverklaarbaar Vermogen
ICRG	International Cooperation Review Group of the FAFT
IMF	International Monetary Fund
INCSR	International Narcotics Control Strategy Report

MER	Mutual Evaluation Reports
ML	Money Laundering
ML/TF	Money laundering and terrorist financing
Moneyval	Committee of Experts on the Evaluation of Anti-money laundering measures
MS	Member States
NC	Non-compliant
NGO	Non-governmental Organization
NRA	National Risk Assesment
OCCRP	Organized Crime and Corruption Reporting Project
OECD	Organisation for Economic Cooperation and Development
OFC	Offshore Financial Centres
OFAC	Office of Foreign Assets Control
PC	Partially Compliant
SAR	Suspicious Activity Report
SNRA	Supranational Risk Assessment
SS	Secrecy Score
STR	Suspicious Transaction Reports
TJN	Tax Justice Network
UK	United Kingdom
UN	United Nations
UNTOC	United Nations Convention against Transnational Organized Crime
USD	United States Dollar
US	United States
WODC	Wetenschappelijk Onderzoek- en Documentatiecentrum (Research and Documentation Centre of the Dutch Ministry of Secutiry and Justice)

EXECUTIVE SUMMARY

Background of this Study

The European Union's (EU's) Anti-Money Laundering/Countering Terrorist Financing (AML/CTF) policy is undergoing significant reforms with a trend towards centralisation. The proposed 'EU AML Package' includes the creation of an EU Single Rulebook and a European Anti-Money Laundering Authority (AMLA) for supervision and coordination. Article 9 of the current AML Directive empowers the EU Commission to identify high-risk third countries (HRTCs) having strategic deficiencies in their regime on anti-money laundering and countering terrorist financing. The legislative proposals are currently in the trilogue phase between the Commission, the Council of the European Union and the European Parliament. However, disagreements have arisen among the Commission and the two co-legislators regarding the identification process of the EU HRTC (black)list, and the influence of the Financial Action Task Force (FATF).

In 2016, the Commission adopted the first delegated act, resulting in an autonomous EU HRTC list that initially mirrored the FATF list. However, the European Parliament rejected subsequent delegated acts proposing changes to the EU HRTC list and called for an autonomous assessment instead of replicating FATF lists. The Commission developed a methodology for identifying HRTCs, but the Council rejected the subsequent delegating act due to procedural concerns. Parliament demanded more autonomy, transparency, and independence in the list's screening and decision-making process. In 2020, the Commission published a revised methodology, aiming to consider the FATF list as a starting point and conduct an autonomous assessment of additional countries.

Aim

The requested expertise product aims to assist the ECON Committee in the EU AML reform by providing an analysis on enhancing the effectiveness and depoliticising the EU list of high-risk third jurisdictions for anti-money laundering and counter-terrorism financing. The paper focuses primarily on money laundering and – due to its security complexities less so on terrorism financing – and offers considerations for the reform process of AML/CTF. The chapters cover a methodology for evaluating country listings, highlight shortcomings of the EU HRTC list (also called the EU money laundering blacklist), discuss criticism and recommendations from the European Court of Auditors, and systematically explore alternatives for the EU HRTC list, varying in transparency and evaluation criteria. Recommendations for the EU HRTC money laundering list are drawn from these chapters, weighing the pros and cons of different policy options.

Chapter 1 introduces an evaluation methodology and clarifies terms used in country risk analyses, emphasising the need for a clearer definition of risk. Chapter 2 identifies deficiencies in the EU money laundering blacklist, while Chapter 3 explores the European Court of Auditors' criticism, recommendations for a sector list, and the potential for a grey list. Chapters 4 and 5 examine political/non-transparent lists and transparent lists, respectively, discussing their technical frameworks and evaluations by NGOs, researchers, and institutions like Europol and the US Treasury. Chapter 6 presents political/non-transparent lists accounting for criminal behaviour and evidence, while Chapter 7 showcases transparent lists reproducible by external parties. Finally, Chapter 8 provides recommendations for the EU HRTC money laundering list, considering the insights from each chapter, and analysing the advantages and disadvantages of different policy options.

Key findings of the study

Under the current 5th Anti-Money Laundering Directive (EU) 2018/843, the European Commission is mandated to identify high-risk third countries (HRTCs) with strategic deficiencies in their anti-money laundering and counter-terrorism financing regimes. The Commission adopts and updates an EU list of high-risk jurisdictions called the EU money laundering blacklist. Banks and other gatekeepers are required to apply enhanced vigilance in their dealings with HRTCs, including additional checks and balances. However, reaching an agreement on the HRTC list has been challenging for the European Commission, Council of the European Union, and Parliament for the past three years.

The Commission argues that it needs to establish its own HRTC blacklist alongside the Financial Action Task Force (FATF) list. Initially, the EU list replicated the FATF list but sought to ensure uniformity in how Member States dealt with high-risk jurisdictions by imposing enhanced due diligence requirements. The European Parliament rejected subsequent proposals and called for an autonomous assessment process, transparency, clear benchmarks, and independence from lobbying in creating the HRTC list. In contrast, the Council believed that the Commission should use its FATF membership to influence the FATF ranking instead of establishing its own list. Here problems might emerge if EU members within the FATF do not share the same position as the Commission.

The paper explores various options for the EU HRTC list, including maintaining the current list but addressing the disparity between the EU and FATF lists. Another option is introducing a grey list with fewer compliance requirements. Alternatively, the EU HRTC list could merge with the EU tax list, which is internationally more accepted than the FATF list. Depoliticising the list by leaving rankings to academics and diverse NGOs in a transparent and reproducible way and evaluating countries based on their criminal behaviour rather than on their technical AML framework are also discussed. Including criminal behaviour shows that neighbouring countries with the same culture, language, and religion pose the highest money laundering risks. So, EU MS might face different high-risk jurisdictions. Therefore, information exchange and alert systems might be more effective for AML/CTF than black or grey lists.

Concerns are raised regarding the unintended side effects of blacklists, where blacklisted countries may experience an influx of investors (Seychelles effect) or suffer economic setbacks. Alternatively, a more tolerance-oriented policy that focuses on behaviour change and voluntary compliance is suggested. It is noted that obliged entities currently deal with multiple lists, including the FATF blacklist, FATF grey list, EU HRTC list, EU Sanction list, EU tax list, and Corruption index. The paper suggests concentrating on harmonised EU procedures/measures for dealing with high-risk countries rather than continuously issuing new lists. Additionally, the inclusion of all countries and jurisdictions in high-risk evaluations, the importance of addressing deficiencies in risk identification, the role of experts, and gaining insights into money laundering activities are emphasised. Ex-post evaluations are recommended to assess the appropriateness of the list. An EU research and alert centre on money laundering similar to International Monetary Fund (IMF) and World Bank (WB) within AMLA is suggested.

1. A METHODOLOGY FOR COUNTRY BLACKLISTINGS

KEY FINDINGS

- Blacklists are a form of naming, shaming, and no-tolerance policy, which can have unintended side effects. Blacklisted countries can experience a boom of investors (Seychelles effect) or run out of business because launderers avoid them.
- Countries develop diverse strategies to avoid being blacklisted or to get off a blacklist. This includes statistical tricks.
- The blacklist of the FATF failed and was complemented by a grey list. Whether a hard and no tolerance policy or a reintegrative milder policy is chosen to reduce crime is a matter of policy choice.
- Blacklists can be transparent or non-transparent/politicised, and they can refer to legal, technical, and institutional settings of the AML regime – the law in the books– or they can refer to the actual criminal behaviour – the law in practice.
- The purpose of the blacklist can range from setting up a functioning technical and institutional AML framework to reducing money laundering and/or the underlying crime. For the latter, the behaviour of launderers and criminals also has to be studied.
- To identify high-risk jurisdiction, the term risk has to be better defined. Unfortunately, there is much confusion about what risk means. Such is the case that many national risk analyses and the EU list define risk inappropriately.
- Effectiveness is too vaguely defined in blacklists.
- The role of experts is essential for identifying money laundering risks. But the selection of experts must be made more transparent and follow a predefined methodology of how and why they get selected.

> "When regulators deliberately try to inflict reputational damage, the traditional boundary between criminal sanctions that are imposed by a court, and reputational sanctions that are imposed by the market, is blurred. Public reputational sanctions thus are hybrid in character, which brings about all kinds of questions about their effectiveness, working mechanism, and legitimacy".
>
> *(van Erp, 2007).*

1.1. Definition and problems with blacklists

A blacklist is a comprehensive list that identifies entities or countries deemed unacceptable or untrustworthy, leading to punishment or retribution. Blacklisting involves publicly denouncing and shaming the targeted parties, employing a zero-tolerance approach that relies on stigmatisation. However, Braithwaite's (1989) theory of naming and shaming highlights the unintended consequences of such practices. Stigmatised individuals or countries, when excluded and marginalised, tend to engage in more criminal activities and form alliances with other wrongdoers. Consequently, blacklisting countries can result in unforeseen outcomes such as increased illicit business or a complete loss of business opportunities. As observed by Riccardi (2022), criminals tend to avoid countries on FATF blacklists due to the difficulties associated with operating within them, preferring to conduct their activities in neighbouring countries that are not listed. This dynamic suggests that money laundering

is less likely to happen in countries on the blacklist. In contrast, those with strong anti-money laundering systems adhering to FATF standards become target countries for criminals to launder their money.

The severe repercussions of blacklisting, including heavy sanctions, can have devastating effects on the financial and business sectors, as exemplified by the economic situations in Iran and North Korea. Consequently, countries are strongly motivated to avoid being blacklisted and will take significant measures to prevent inclusion or seek fast removal from such lists. Research by Ferwerda, Deleany and Unger (2019) demonstrates that the FATF blacklist of non-cooperative countries regarding anti-money laundering tends to become empty over time. Countries that fail to meet FATF standards make efforts to comply with the requirements to avoid being listed. However, the authors argue that countries can manipulate statistics and fulfil legal obligations on paper rather than genuinely combat money laundering. This can be observed, for instance, by artificially inflating the number of Suspicious Transaction Reports by collecting them from banks on a daily basis instead of weekly, giving the illusion of compliance.

Consequently, the FATF blacklist has repeatedly become almost empty, with only Myanmar remaining until it was eventually removed due to its unlikely sole involvement in global money laundering. Subsequently, the FATF introduced a grey list. [2]

In contrast to disintegrative shaming, John Braithwaite and Drahos (2002) advocate for reintegrative shaming, allowing accused entities, individuals, or countries to reintegrate into society. They argue that a zero-tolerance policy with blacklisting could result in increased crime by failing to reintegrate the accused into their communities. Blacklisting may encourage strategic compliance rather than genuine efforts to combat money laundering and meet FATF standards. Furthermore, it may redirect money laundering activities from blacklisted countries to non-listed countries that become more attractive to money launderers seeking to avoid the complications and risks associated with blacklisted jurisdictions. In light of these considerations, the concept of a white list, proposed by Braithwaite, could serve as a positive incentive for countries with exemplary anti-money laundering policies, strong international cooperation, and successful law enforcement efforts to be recognised. A white list would allow other countries to learn from and adopt the effective practices of countries with good policies. In addition, white listing aligns with the modern policy approach of nudging, which emphasises creating positive incentives to change the behaviour of citizens/countries rather than solely relying on prohibitions and sanctions.

1.2. Ways to establish country blacklists for money laundering

To establish a country blacklist for money laundering, a significant amount of data and information is required. This includes information on the legal framework, institutions, and procedures to combat money laundering and counter-terrorism financing in each country. Most country ratings and blacklists for money laundering focus on the legal and technical framework of a country's anti-money laundering and countering terrorism financing AML/CTF policy, data which is easily available from FATF evaluations. Also, the EU's anti-money laundering blacklist is based on eight building blocks related to the 40 FATF standards, which concentrate on the legal and technical architecture of a country's AML/CTF regime.

[2] As of February 2023, the following jurisdictions are grey listed Albania, Barbados, Burkina Faso, Cayman Islands, Democratic Republic of Congo, Gibraltar, Haiti, Jamaica, Jordan, Mali, Mozambique, Panama, Philippines, Senegal, South Sudan, Syria, Tanzania, Turkey, Uganda, United Arab Emirates and Yemen. The countries that are blacklisted are the Democratic People's Republic of Korea, Iran, and Myanmar. Russia's membership got suspended. Afghanistan, which is part of the Asian Pacific Group was delisted from the FATF grey list in 2017.

The evaluation criteria for country blacklists for money laundering do not typically consider what criminals are actually doing or which countries they prefer. Such evaluations do not address how criminals launder money and in which country they prefer to do so. It is also unclear how criminals react to blacklists and FATF standards. It is essential to consider these questions when establishing country blacklists for money laundering and terrorism financing to better understand the effectiveness of anti-money laundering policies.

Apart from what is rated, how it is rated is also crucial. Country blacklists should follow clear criteria defined ahead of time and be transparent and reproducible. Transparency requires that anyone can reproduce the ranking and obtain the same results. Lists created by politicians, diplomats, lobbyists, or other people involved in establishing them, cannot be considered transparent. Clear criteria and transparency are necessary to ensure that country blacklists for money laundering are fair and effective.

The following matrix shows the four possibilities for blacklists: they can be transparent or non-transparent/politicised, and they can refer to legal, technical, and institutional settings of the AML regime or to the actual criminal behaviour, the latter being the law in practice and not just the law in the books. In the following chapters, the diverse country lists regarding AML will be analysed using the following matrix. In each chapter the four-field matrix below will be will be filled with each type of lists.

Table 1 - Blacklists' possibilities matrix

	Law in the books/Regulatory	*Law in practice/Criminal behaviour*
Transparent		
Non-transparent/ Politicised	*EU blacklist of high-risk third countries*	

Source: Author's own elaborations.

1.3. What is the purpose of the money laundering blacklist(s)?

The purpose of an AML/CTF blacklist is to ensure that third countries have a solid AML framework, with the assumption that it will help reduce money laundering and terrorism financing. However, this assumption doesn't always hold true. The effectiveness of the EU list cannot be judged since the ultimate goal of the blacklist is not explicitly stated, whether it is reducing money laundering, minimising laundering cases or terrorist attacks, decreasing the volume of money laundering, reducing criminals involved in laundering, or combating crimes like drugs, corruption, and tax evasion. The original intention of combating money laundering was to tackle drug crime, but this connection has somewhat been lost in the current debate.

The implicit assumption is that there are threats to the EU, which are the same for all EU MS, and that deficiencies in the AML regime of the third country are the reason for this threat. So, if Angola has a lax AML regime, Angolan drug money will target an EU country. If Angolan drug dealers prefer to keep the money in their country or transfer their money to Singapore, this would not pose a threat to the EU at all.

So far, it has not been demonstrated whether and how setting up a solid FATF-conform AML regime affects money laundering and the behaviour of criminals.

1.4. What are threats, vulnerabilities, and risks?

To identify high-risk Jurisdictions, it is worth investigating the concepts of risk, threats, vulnerabilities, and consequences (Unger et al., 2014). Implementing a risk-based approach requires a common understanding of risk. There is currently a big confusion about these terms. Originally the FATF came up with a seemingly very clear concept that incorporates the likelihood of a risk multiplied by its consequences, as can be seen below:

Figure 1 - FATF definition of risk

Source: Author's own elaborations based on Unger et al., 2014.

In this formulation, threats to a country and its vulnerabilities to face these threats determine the likelihood (or in some concepts the frequency) of money laundering. If the consequences are minor, then the risk will be low. Terrorism financing usually has a low likelihood of occurring but high consequences. Consequences of money laundering are more difficult to identify. Organised crime, which follows the money, can become a consequence of money laundering while simultaneously posing a threat to society, e.g. in terms of street shootings and general insecurity (Unger, 2014).

The FATF defines threats very broadly as individuals, groups, objects, or activities that have the potential to cause harm to the state, society, or economy by producing illicit proceeds or engaging in money laundering (FATF, 2013b). Threats often correspond to predicate offences for money laundering, such as drug trafficking, human trafficking, corruption, and tax evasion (Dawe, 2013; FATF, 2013).

Vulnerabilities, on the other hand, are circumstances or factors that attract, facilitate, or allow threats to occur. In its risk assessment guidelines, the FATF identifies more than 60 vulnerabilities that are grouped into six categories (the so-called P-E-S-T-E-L approach - see FATF, 2013, p. 42), i.e.:

- **P** Political factors (e.g., "stability of the government", "level of political commitment to AML");
- **E** Economic factors (e.g., the "opacity of the financial system", "prevalence of cash-based transactions");
- **S** Social factors (e.g., "social inclusiveness", "ethnic diversity", "significant population shifts");
- **T** Technological factors (e.g., "use of technology in money transfers", "new communication methods");
- **E** Environmental factors (e.g., "availability of water", "re-use of resources");
- **L** Legislative factors (e.g., "strengths and weaknesses in AML legislation", "adequacy of AML controls", "limited regulation of money value transfer systems").

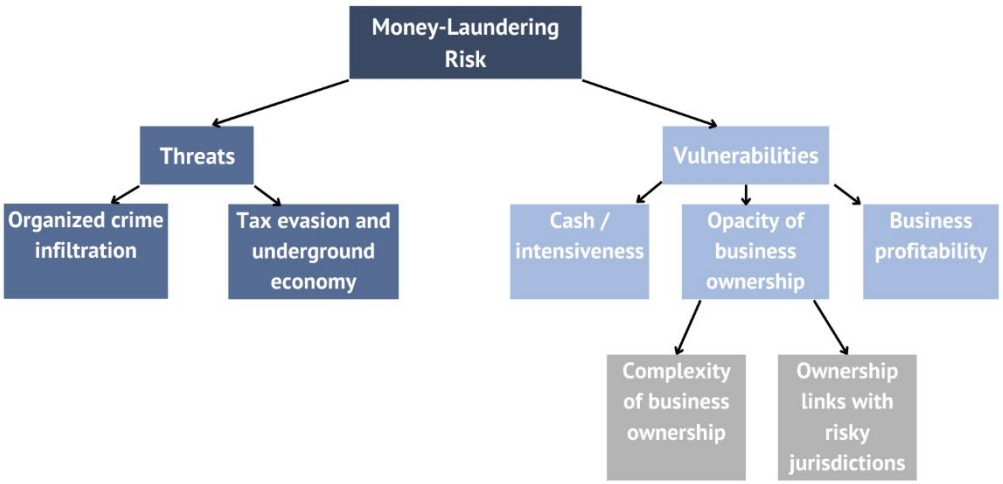
When determining 'high-risk' countries, the focus is primarily on their vulnerabilities, using terms like "weaknesses," "lack of [something]," "strategic deficiencies," and "secrecy factors". While some measures claim to account for international threats, they mainly concentrate on vulnerabilities (see Riccardi, 2022 Chapter 2).

Consequences, except for terrorism financing, are often excluded from assessments due to the difficulty in measuring them. The literature identifies a total of twenty-five consequences of money laundering, such as unfair competition, distorted imports and exports, honest individuals being drawn into criminal activities, and the undermining of politics (Unger, 2007). However, empirical evidence for these consequences remains scarce, except for Ferwerda's (2016) analysis of the impact of money laundering on Gross Domestic Product (GDP) growth.

The case of the EU Anti-Money Laundering (AML) blacklist is noteworthy, as it excludes Member States, assuming that all Member States pose the same level of vulnerability, threats, and ML risk (Riccardi, 2022).

A simplification of the FATF scheme and good an operationalisation of the variables to define risk can be found in Ferwerda and Kleemans (2017). They leave out consequences and define money laundering risk only by threat and vulnerability. So, risk is the likelihood that money laundering occurs. In their study on organised crime groups in the Netherlands, they define as threats the infiltration of organised crime in society, tax evasion and the underground economy. Vulnerabilities are cash intensiveness, opacity of business ownership (which they operationalise with complexity of business ownership structure and with ownership links with risky jurisdictions) and business profitability.

Figure 2 – Money laundering risks, threats, and vulnerabilities



Source: Author's own elaborations based on Kleemans and Ferwerda (2017).

1.5. What is effectiveness?

To identify high-risk third countries, Article 9 of Directive (EU) 2015/8493 requires the Commission to take into account 'the effectiveness of the third country's AML/CFT system in addressing money laundering or terrorist financing[4] risk'. However, determining what constitutes effectiveness can be a complex and challenging task. While effectiveness is the capability of producing a desired result, it is often difficult to measure and evaluate. In the case of AML/CTF policy, effectiveness would be demonstrated by a reduction in money laundering or the underlying crime, or by the establishment of

[3] Article 9 is available at: https://lexparency.org/eu/32015L0849/ART_9/#1.

[4] For further insights see Article 1. Available at: https://lexparency.org/eu/32015L0849/ART_1/#5.

an adequate AML/CTF regime in third countries. However, measuring effectiveness requires clear criteria and quantifiable goals. Riccardi's (2022) analysis of the evaluation of the FATF between 2014 and 2020 shows that the most arbitrary decisions on country blacklists are the judgements of 'effectiveness'. The FATF evaluates effectiveness in terms of achieving eight so-called immediate outcomes, such as the ability to prevent the misuse of legal persons and arrangements or the capacity to investigate, prosecute, and sanction money laundering activities. However, the process of operationalising judgments of effectiveness into scores can be unclear and ambiguous. Understanding why a certain country receives a rating of low effectiveness or substantial effectiveness on the four-point scale for a particular recommendation can be challenging.

Judgments of effectiveness are a sensitive point when it comes to setting up a transparent country list that can be reproduced by others and tested for robustness. To ensure that the criteria for effectiveness are clear and measurable, these need to be quantified. For example, measuring the reduction in money laundering or the establishment of anti-money laundering regimes in third countries would provide clear and measurable goals for evaluating effectiveness. By setting clear criteria and quantifiable goals, the EU can ensure that the process of evaluating the effectiveness of third countries' anti-money laundering and counter-terrorism financing systems is transparent, effective, and proportionate.

1.6. The role of experts

'In the course of the development/update of the list, the Commission consults Member States' experts and reports to Parliament and the Council'.[5] However, the selection and reliability of these experts are important factors to consider. Reuter and Ferwerda (2022) suggest a methodologically sound way of selecting and testing the reliability of experts. One approach is to let them rank projects pairwise and then evaluate whether they contradict themselves. This method can help ensure that experts are appropriately selected and have the necessary knowledge and expertise to provide reliable input.

Reuter and Ferwerda (2022) also recommend expert elicitation, a structured approach to systematically consult experts on uncertain topics. This approach can help ensure that experts are selected based on their knowledge and expertise in specific areas related to ML/TF. By using a systematic approach to select and test the reliability of experts, the EU can ensure that the mitigating measures and "EU Benchmarks" are evaluated by individuals with the necessary knowledge and expertise. This can help ensure that the process is transparent, effective, and proportionate.

[5] Methodology for identifying high-risk third countries under Directive (EU) 2015/849 COMMISSION STAFF WORKING DOCUMENT 2020. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52019IP0022.

2. THE POTENTIAL SHORTCOMINGS OF THE CURRENT EU APPROACH AND WAYS TO ADDRESS THEM

KEY FINDINGS

The EU blacklist accumulates many problems:

- It is not an autonomous list. The EU blacklisted countries overlap about 80% with FATF listed countries between 2016 and 2023.
- The EU blacklist does not rank EU MS, nor EEA nor EU candidate countries. This means it is incomplete and most likely misses important risk countries which the FATF includes.
- The ranking criteria in principle follow the FATF Recommendations and focus on the AML framework of a country. Hence it neglects law in practice and what criminals are actually doing.
- The procedure has many steps and involves many actors. The way experts are chosen is not transparent, nor is the quality of the experts checked with objective criteria.
- Diplomatic interventions make the list vulnerable to political influence.
- The procedure of making the list lasts for at least 12 months – which is three times longer than the FATF list.
- The challenge to find out to which high-risk Member States are exposed and from which countries, sectors, groups, or people remains. Here the EU could take a new path of developing a feasible, understandable common risk methodology for its MS.

The EU blacklist of third high-risk jurisdictions accumulates many of the problems a blacklist can have, as shown in Chapter 1 of this report. Firstly, there are problems inherent to blacklists, including their naming and shaming character, stigmatisation, and unintended side effects, such as the "Seychelles effect" (Unger and Rawlings 2005) or the higher attraction of non-listed countries due to less enhanced due diligence measures (Riccardi, 2022). The EU list has some additional problems, as it aimed to be an autonomous blacklist but remains largely attached to the FATF list (Unger, 2020).

Comparing the countries on the FATF list with those on the EU list for the years 2016-2023, a noticeable overlap between FATF-listed and EU-listed countries is observed. 9 of the 11 jurisdictions on the EU list were also listed by the FATF in 2016. In 2023, out of 26 jurisdictions on the EU list, 22 matched with the FATF list (Riccardi, 2022 and FATF, 2023). He sees this as a strong bias of the EU blacklist towards FATF-listed countries.

While it would be expected from the EU to also screen its Member States, these are not included in the EU blacklist, unlike the FATF blacklist (Riccardi, 2022). The EU blacklist only focuses on high-risk third countries, excluding FATF-listed countries, Member States, EEA countries, and de facto EU candidates (Riccardi, 2022). Between 2016 and 2023, it only included 147 jurisdictions and herewith excluded about one third of the jurisdictions, especially rich countries.

The fact that the EU blacklist consists of three parts: accepting FATF-listed countries, not including EU MS, and then only listing high-risk third jurisdictions make it problematic and vulnerable both from a methodological and a content-wise angle.

To be complete and acceptable, a serious listing must rank all countries. Lists where for example the US never appears, have little credentials and lack legitimacy (see Riccardi, 2022 who sees the listing of the US in INCSR lists as one positive credential for the credibility of this approach).

The EU blacklist assesses the technical and institutional requirements for an adequate AML framework; however, these criteria mainly evaluate the willingness of countries to comply with the law in the books rather than the law in practice or the actual behaviour of criminals (Riccardi, 2022; Rossel et al., 2021).

The EU blacklist, therefore, fits into the left bottom of our methodology, shown in the 2x2 matrix throughout the chapters: it assesses the technical and institutional framework, and it is a political list emerging from many steps of dialogues between MS. During the development/update of the list, the Commission consults Member State experts and reports to Parliament and the Council. In terms of process, listing countries is used as a last resort. Beforehand, the Commission engages in dialogues[6] with the relevant jurisdiction on its preliminary findings and prepares jurisdiction-specific targets that it considers necessary to remedy identified deficiencies. It also seeks the third country's commitment to implementing those jurisdiction-specific targets. A listing would only occur if the country is uncooperative (i.e. refuses to undertake commitments) or if it fails to implement the agreed targets within the agreed time-frame (see EU Commission Revised Methodology, 2020).

Regarding timing, the EU blacklist takes at least 12 months to be established, since it also seeks the third country's commitment to implementing those jurisdiction-specific targets. A country would only be listed if it is uncooperative. Compared to the EU list, the FATF listing takes only four months to be finalised (see Riccardi, 2022).

In summary, the EU blacklist faces many challenges and limitations, including its reliance on FATF standards and rankings, the exclusion of Member States, and a selective focus on high-risk third countries. These factors raise concerns about the effectiveness and credibility of the EU blacklist as a tool for combating money laundering and terrorist financing.

As Reuter and Ferwerda (2022) concluded from assessing National Risk Assessments of eight countries, we would need 'increased clarity about the conceptualisation of risk, transparency about data and methods so that each country can learn from the others, and the adoption of more formal and standardised methods of eliciting expert opinion' (Ferwerda and Reuter, 2022). So, one idea is that the EU develops a clear concept of risk for the Member States and creates a methodology which fulfils the requirements for transparency, inter-subjectivity, and evidence-based robustness.

In the following chapters, diverse ways of evaluating risk and listing countries will be discussed.

[6] For an overview of the workflow of the EU autonomous assessment see: https://finance.ec.europa.eu/system/files/2020-05/anti-money-laundering-third-countries-engagement-approach-workflow-overview_en.pdf.

Table 2 – EU and FATF lists compared 2016, 2020, and 2023

2016			2020			2023		
EU	**FATF**	**EU Countries not in FATF**	**EU**	**FATF**	**EU Countries not in FATF**	**EU**	**FATF**	**EU Countries not in FATF**
Afghanistan	Afghanistan	Guyana	Afghanistan	Albania	Afghanistan	Afghanistan	Albania	Afghanistan
Bosnia and Herzegovina	Bosnia and Herzegovina		The Bahamas	The Bahamas	Iraq	Barbados	Barbados	Cambodia*
Guyana	Iraq		Barbados	Barbados	Mongolia	Burkina Faso	Burkina Faso	Morocco*
Iraq	Lao PDR		Botswana	Botswana	Trinidad and Tobago	Cambodia	Cayman Islands	Trinidad and Tobago
Lao PDR	Syria		Cambodia	Cambodia	Vanuatu	Cayman Islands	DR Congo	Vanuatu
Syria	Uganda		Ghana	Ghana		DR Congo	Gibraltar	
Uganda	Vanuatu		Iraq	Jamaica		Gibraltar	Haiti	
Vanuatu	Yemen		Jamaica	Mauritius		Haiti	Jamaica	
Yemen	Iran		Mauritius	Myanmar		Jamaica	Jordan	
Iran	DPR Korea		Mongolia	Nicaragua		Jordan	Mali	
DPR Korea			Myanmar/Burma	Pakistan		Mali	Mozambique	
			Nicaragua	Panama		Morocco	Nigeria	
			Pakistan	Syria		Mozambique	Panama	
			Panama	Uganda		Myanmar	Philippines	
			Syria	Yemen		Panama	Senegal	
			Trinidad and Tobago	Zimbabwe		Philippines	South Africa	
			Uganda	DPR Korea		Senegal	South Sudan	

2016			2020			2023		
EU	**FATF**	**EU Countries not in FATF**	**EU**	**FATF**	**EU Countries not in FATF**	**EU**	**FATF**	**EU Countries not in FATF**
			Vanuatu	Iran		South Sudan	Syria	
			Yemen			Syria	Tanzania	
			Zimbabwe			Tanzania	Türkiye	
			Iran			Trinidad and Tobago	Uganda	
			DPR Korea			Uganda	United Arab Emirates	
						United Arab Emirates	Yemen	
						Vanuatu	DPR Korea	
						Yemen	Iran	
						Iran	Myanmar	
						DPR Korea		
						South Africa**		
						Nigeria**		

Source: Author's own elaboration based on data from the EU and FATF. The EU list is from 2016 is from 14 July, and the 2020, 1 October, the 2023 list incorporates both information available on 16 March and 17 May. All retrieved from: https://eur-lex.europa.eu/eli/reg_del/2016/1675/oj/eng and https://ec.europa.eu/commission/presscorner/detail/en/mex_23_2805. FATF data has been retrieved from: (2016) https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Fatf-compliance-october-2016.html; (2020) https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-october-2020.html; (2023) https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-February-2023.html.

Note: In the EU list, Iran and DPR Korea are categorised as "high-risk third countries" that have shown a political commitment to address identified deficiencies and are seeking technical assistance from the FATF. These countries are also identified in the FATF Public Statement. Myanmar is also included in the FATF blacklist in 2023. The table provided consolidates these listings for comparison. In 2016, jurisdictions were subjected to a FATF call for counter-measures to protect the international financial system from money laundering and terrorist financing risks. The EU updates its list regularly, with Cambodia and Morocco being delisted in May 2023 and Nigeria and South Africa being added on the same date.

3. SUGGESTIONS OF THE EUROPEAN COURT OF AUDITORS OF A SECTOR LIST, AND POSSIBILITIES OF A GREY LIST

KEY FINDINGS

- The European Court of Auditors (ECA) identified weaknesses in the autonomy and transparency of the EU blacklist, as well as shortcomings in risk assessment, communication with listed countries, and cooperation with the European External Action Service.
- The ECA recommended that the European Commission prioritize money laundering and terrorist financing (ML/TF) risks more clearly, improve data collection and statistics, and focus on sector-level risk assessments.
- Country-specific academic studies show a variety of vulnerable sectors, but establishing a methodology to assess sector risks is possible. Enhanced national risk assessments, improved Supranational Risk Assessments (SNRAs) with sector-specific data, and utilizing suspicious transaction reports for research are needed.
- To rank sectors and professional groups rather than countries will face opposition from associations of professionals and will not be immune to lobbying.
- The history of the FATF grey list shows changes in its classification and implications over time, with the language becoming softer and less prescriptive. Presently, from the diverse many shades of grey lists only one light grey list is left.
- Tensions exist between the EU blacklist and the FATF grey list, as countries grey-listed by the FATF are blacklisted by the EU, and delisting by the FATF does not automatically lead to delisting by the EU. An EU grey list could ease this tension.
- Establishing a grey list in addition to the EU blacklist seems the easiest and fastest solution and might also allow the EU blacklist getting closer to the EU tax list or merge with it.
- Grey lists give unclear signals, and their impact is more difficult to predict than the one of blacklists. Grey lists imply less or no sanctions for countries. But market participants react diversely. As Koker et al., 2023 show, especially the lending behaviour of institutions gets more cautious. This can lead to similar effects as blacklists for developing countries.

In its special report on AML/CFT of 2021 on 'EU efforts to fight money laundering in the banking sector are fragmented and implementation is insufficient', the European Court of Auditors identified weaknesses of the AML/CFT system in general, and of the EU's blacklist of high-risk third countries/ jurisdictions (HRTC) in particular. The following chapter will discuss the potential benefit of the recommendations for identifying HRTC and implementing tools to mitigate MT/TF risk from third countries at the level of sectors or entities, followed by the pros and cons of grey lists.

3.1. Criticism of the EU blacklist by the European Court of Auditors (2021)

Art. 9 of the 4th AMLD (EU) 2015/849[7], which was subsequently amended by Directive 2018/843, (the 5th EU AML Directive[8]) requires the EU to establish a list of third countries (i.e., countries outside the EU) that are at high risk of ML/TF, and which "pose significant threats to the financial system of the Union". The European Commission is in charge of this task and has to identify these jurisdictions (art. 9(2)) in a delegated act[9]. However, this delegated act can only enter into force if no objections are expressed by either the European Parliament or the Council (art. 64(5)). This is precisely what has happened on several occasions, leading to an ongoing ping-pong game between the Commission, the European Parliament, and the Council. The Council and Parliament rejected three proposed delegated regulations (C(2019)1326, C(2016)7495 and C(2017)1951) on the grounds of insufficient transparency and autonomy ((European Parliament Resolution of 19 September 2019 (P9_TA (2019)0022) on the state of implementation of the Union's anti-money laundering legislation (2019/2820(RSP), Point E). [10]

The European Court of Auditors identified weaknesses in the autonomy and transparency of the EU blacklist, as well as shortcomings in risk assessment, communication with listed countries, and cooperation with the European External Action Service. The ECA recommended that the Commission prioritise money laundering and terrorist financing (ML/TF) risks more clearly, improve data collection and statistics, and focus on sector-level risk assessments.

3.2. Identifying sector of high risk of money laundering

The European Court of Auditors' recommendation to identify vulnerable sectors and entities for an EU-wide risk analysis is an important alternative to country listings. The International Anti-Money Laundering Risk Assessment (IARM) Project financed by the EU, DG Home (HOME/2013/ISEC/AG/FINEC/4000005193), developed a standardised methodology for money laundering risk assessment, including a composite indicator of ML risk at sub-national regional level and business sector level. It tested this for the Netherlands, Italy and the UK. It shows that sectoral risks of money laundering can be measured in a transparent and reproducible way, but that risky sectors differ among Member States (see Savona, 2017). The IARM project defined risk as being dependent from threats to a country/region or sector (threats from organised crime and underground economy in illicit markets like drugs, sexual exploitation, counterfeiting, and organised property crime) and vulnerabilities (cash intensiveness, opacity of business ownership operationalised as the complexity of business structure and links with risky jurisdictions, and business profitability).

For Italy, the riskiest sectors were bars and restaurants (high cash-intensiveness, irregular labour, opacity of business ownership and relatively high levels of organised crime infiltration), followed by computer repair services. In the Netherlands, gambling and hotels were leading. The vulnerability of sectors and entities differ substantially among EU MS. Bars and restaurants in Austria and Italy are a cash intense business, whereas in the Netherlands or Estonia, payments are usually done with a debit

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7 The Fourth AML Directive, Directive (EU) 2015/849 of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

8 The Fifth AML Directive, Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU of 19th of June 2018 Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law, referred to in praxis as 6th AMLD, but not to be mixed up with Proposed follower of 5th AMLD in the new AML package proposed by EC 2021.

9 See here for an explanation of the process of adoption of delegated acts: https://commission.europa.eu/law/law-making-process/adopting-eu-law/implementing-and-delegated-acts_en.

10 Moneyval is a monitoring body of the Council of Europe that is in charge of assessing compliance with international standards to counter money laundering. It was established in 1997 and has 47 member states.

card. In some EU MS, cash holding is five times higher than in others (in Austria, there are five times more automated teller machines per million inhabitants than in the Netherlands), as shown by a recent survey of consumers' payment attitudes in the EU made by the European Central Bank in 2022.

The suggestion of the ECA to focus on the sectoral level is an important ingredient for SNRAs and National Risk Assessments. If a high-risk sector list would replace the EU HRTC, and if sectors and professional groups were ranked rather than countries, this list would have to face opposition from a diversity of vulnerable sectors and from associations and professional groups and would not be immune to lobbying.

3.3. Grey listing

3.3.1. FATF black and grey list

Over the years, more than 200 countries and jurisdictions have committed towards implementing the FATF standards, more or less voluntarily, often under the pressure of severe economic sanctions, when being blacklisted (see Unger and Rawlings, 2005). Today almost all countries are direct or indirect (through regional bodies) members of the FATF. The EU is a member of the FATF, and so are 14 of its Member States. The other Member States (e.g., many Eastern European countries) are members of Moneyval[11] (Committee of Experts on the Evaluation of Anti-money laundering measures), which itself is a member of the FATF.

If a country repeatedly fails to implement FATF standards, it can either end up on the blacklist, the so-called "high-risk jurisdiction"[12] where other countries are expected to apply enhanced due diligence or, in serious cases, counter-measures to protect the international financial system (e.g., no banking relations with this country). Or the country ends up on the grey list, the so-called "Jurisdiction under Increased Monitoring"[13], and is expected to consider FATF requirements in implementing a risk-based AML/CTF approach. [14]

3.3.2. The history of the FATF grey list

The history of the FATF grey list shows that grey listing can be a long way of trial and error. The crucial issue about grey listing is what grey listing implies. The FATF has substantially changed the reasons why a country is grey listed and the consequences of this over time. It could be said that FATF listing moved from a failed blacklist in 2006, followed by a short period of no listing, to a dark grey list in 2009 and to (too many confusing) lists with different shades of grey. Over time the many shades of grey lists were again reduced to one light grey list next to the blacklist for the usual candidates: Iran, North Korea and Myanmar.

As Koker et al. (2023) show, from 2016 onwards, the language and implications of the FATF grey list have become softer. One significant change in 2019 was that the FATF explicitly stated that it does not call for the application of enhanced due diligence measures to be applied to grey listed jurisdictions, but to include the information in their risk analysis. The listed countries were no longer 'strategically deficient' but 'jurisdictions under increased monitoring' (see FATF 2020). This change in language and

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11 See: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52019IP0022#ntr10-C_2021171EN.01003001-E0010.

12 See: https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-February-2023.html.

13 See: https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Increased-monitoring-february-2023.html.

14 As of February 2023, the following jurisdictions are grey listed Albania, Barbados, Burkina Faso, Cayman Islands, Democratic Republic of Congo, Gibraltar, Haiti, Jamaica, Jordan, Mali, Mozambique, Panama, Philippines, Senegal, South Sudan, Syria, Tanzania, Turkey, Uganda, United Arab Emirates and Yemen. The countries that are blacklisted are the Democratic People's Republic of Korea, Iran, and Myanmar. Russia's membership got suspended. Afghanistan, which is part of the Asian Pacific Group, was delisted from the FATF grey list in 2017. The last statement of the FATF in 2021 shows concerns about it but – contrary to the EU - does not list it.

implications has led to questions about the proportionality of the EU's approach, as it has grossly exceeded the precautions called for by the FATF.

3.3.3. Tensions between the EU blacklist and the FATF grey list

The fact that grey listed countries from the FATF are turned black in the EU and that a delisting by the FATF does not automatically lead to a delisting by the EU creates tensions between the two listing processes (and institutions).

The director of the Caribbean FATF (Dalip, 2020) regrets that the EU methodology (2020) assumes a country poses a risk to the financial system and is consequently blacklisted by the EU, even when it is only placed on the FATF's grey list. As a result, a country willing to cooperate with the FATF to implement an action plan for addressing its strategic AML deficiencies can still be blacklisted by the EU. According to him, the European Commission double-checks the FATF's work in adding or omitting a country from the grey list. It may also participate in developing FATF action plans but can develop its own benchmarks if unsatisfied. Additionally, it may conduct its own assessment before the FATF's observation period is completed. Delisting from the grey list does not automatically lead to delisting by the EU, and the EU can place countries on its AML list even if they are not prioritised for an action plan by the FATF. The European Commission may also "top up" the FATF's requirements when drafting EU benchmarks.

While the FATF grey list suggests no countermeasure but precaution, the EU blacklist implies enhanced due diligence measures. The proportionality of the approach is questioned by the Caribbean FATF, as the EU seems to have grossly exceeded the precautions called for by the FATF (Dalip, 2020). The EU's counter-measures can range from requiring EU financial institutions to apply enhanced due diligence to transactions involving designated countries, to prohibiting EU financial institutions from establishing branches in those countries (see Article 18a of the Fifth AML Directive (Directive EU 2018/843). The impact on these Member States ranges from de-risking individual citizens and respondent banks, to curtailing foreign direct investment in their national economies, which can be catastrophic (Dalip, 2020).

The criticisms against the EU's 2020 methodology include the practice of the European Commission to double-check the work of the FATF and add a country to or omit it from the grey list. According to Dalip (2020), this creates an additional layer of bureaucracy. According to the Council (Preamble AMLR point 50), double lists are a waste of resources. The Council wants the Commission to delegate the identification of High-Risk Third Countries (HRTC) to the FATF and work with each country to determine the specific special measures that need to be implemented. This is different from the usual one-size-fits-all approach. Groen and van den Broek (2023) see problems when EU MS are put on the FATF list. Grey lists suffer a similar fate as blacklists. Countries will act strategically to get delisted, so new criteria have to be developed. The many shades of grey added to the FATF list over time demonstrate this. For the EU blacklist, it can also be questioned whether it would not make more sense to create an autonomous EU AML policy by adding content to the evaluation process, helping MS to evaluate risk, creating a risk evaluation methodology to support MS, rather than creating conflict with the FATF.

The advantage of the grey list for the EU would be its ability to incorporate countries that are grey listed by the FATF onto its own grey list, while retaining the freedom to apply either no requirements or different due diligence measures to them. As a result, the heightened treatment experienced by countries when transitioning from the FATF grey list to the EU blacklist would be alleviated. Additionally, this approach would streamline the delisting processes. Furthermore, the EU would have the option to supplement the grey list with high-risk countries of its own choosing, subjecting them to less severe implications compared to those on the EU blacklist.

3.3.4. Effects of grey listing

Grey listing signals that a country may pose risks to the global AML system, but the interpretation of this signal varies. Governments may tighten regulations, firms may face increased compliance checks, and financial markets may react negatively. The effects of grey listing are disputed, with studies showing mixed results. De Koker (2023) sees negative impacts on developing countries, including reduced development aid and funding.

3.3.5. An autonomous EU grey list?

Creating an autonomous EU grey list could help address the conflicts between the EU and FATF listing processes. It would allow the EU to include countries grey listed by the FATF without imposing harsh requirements. Grey listing would also make merging the EU money laundering list with the EU tax list easier. However, it may result in a duplication of efforts. Clear signals to market participants and stakeholders are crucial, and efforts should be made to avoid an inflation of country lists with unclear messages.

4. AN OVERVIEW OF POLITICAL REGULATORY BLACK AND GREY LISTS

KEY FINDINGS

This chapter analysis several grey and black lists in order to have a clearer picture of how these compare amongst each other and to the EU list.

- Regulatory black or grey lists focus on evaluating countries' Anti-Money Laundering Architecture and their adherence to FATF standards.
- The FATF list encompasses nearly all countries and jurisdictions worldwide, as approximately 200 jurisdictions have made commitments to implementing FATF standards.
- Blacklisted countries are those that fail to meet FATF requirements, while grey-listed countries are expected to implement a risk-based approach.
- As of February 2023, grey-listed jurisdictions includes amongst others Albania, Barbados, Cayman Islands, Panama, Philippines, Turkey.
- The EU tax list aims for transparency, fairness, and anti-BEPS measures, with criteria such as tax transparency and exchange of information.

Regulatory black or grey lists of countries related to money laundering focus on law in the books. They judge the Anti-Money Laundering Architecture of countries, whether they fulfil the 40 Recommendations of the FATF, and whether they have set up all the necessary institutions and procedures to combat money laundering. This regulatory and institutional check has the advantage that data is available for almost all countries, since virtually all countries and jurisdictions of the world are directly (or indirectly through a regional body) member of the FATF.

4.1. The methodology of the FATF list

As already mentioned in Chapter 3, if a country repeatedly fails to implement FATF standards, it can either end up on the blacklist, the so-called "high-risk jurisdiction"[15] where other countries are expected to apply enhanced due diligence or, in serious cases, counter-measures to protect the international financial system (e.g. no banking relations with this country). Or the country ends up on the grey list, the so-called "Jurisdiction under Increased Monitoring"[16], where jurisdictions are expected to consider information provided by FATF in implementing a risk-based AML/CTF approach.

The FATF has a clear procedure and methodology described on its homepage.[17] It identifies and reviews jurisdictions with strategic AML/CFT deficiencies that present a risk to the international financial system and closely monitors their progress. The FATF's International Cooperation Review Group (ICRG) oversees the process. The evaluation of countries and jurisdictions can be consulted on the FATF homepage:

The FATF reviews jurisdictions based on threats, vulnerabilities, or particular risks arising from the jurisdiction. Specifically, a jurisdiction will be reviewed when:

[15] See: https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-February-2023.html.

[16] See: https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Increased-monitoring-february-2023.html.

[17] See https://www.fatf-gafi.org/en/topics/high-risk-and-other-monitored-jurisdictions.html.

1. It does not participate in a FATF-style regional body (FSRB) or does not allow mutual evaluation results to be published in a timely manner; or
2. It is nominated by a FATF member or an FSRB. The nomination is based on specific money laundering, terrorist financing, or proliferation financing risks or threats coming to the attention of delegations; or
3. It has achieved poor results on its mutual evaluation, specifically:
4. it has twenty or more non-Compliant (NC) or partially compliance (PC) ratings for technical compliance; or
5. it is rated NC/PC on three or more of the following Recommendations: 3, 5, 6, 10, 11, and 20; or
6. it has a low or moderate level of effectiveness for nine or more of the eleven immediate Outcomes, with a minimum of two lows: or
7. it has a low level of effectiveness for six or more of the eleven immediate outcomes.

A jurisdiction that enters the ICRG review process as a result of its mutual evaluation results has a one-year Observation Period to work with the FATF or its FATF-style regional body (FSRB) to address deficiencies before possible public identification and formal review by the FATF. During the review process, the FATF considers the strategic AML/CFT deficiencies identified both in terms of technical compliance and effectiveness of measures in place, and any relevant progress made by the jurisdiction. If the FATF deems the progress insufficient to address its strategic deficiencies, the FATF develops an action plan with the jurisdiction to address the remaining strategic deficiencies. As Riccardi (2022) showed (see also chapter 1.5.), the evaluation of effectiveness seems quite arbitrary and makes the list less transparent than it aims to be.

Table 3 - Blacklists' possibilities matrix with non-transparent/politicised lists

	Law in the books/Regulatory	Law in practice/Criminal behaviour
Transparent		
Non-transparent/ Politicised	EU tax list FATF, EU money laundering list	

Source: Author's own elaborations.

4.2. The EU tax list

The EU's efforts to combat tax evasion and tax avoidance date back almost thirty years, with the establishment of the Code of Conduct Group in 1998. This group was created to assess tax measures that may fall within the scope of the Code of Conduct and is composed of high-level representatives of Member States and the European Commission. The EU has played a pivotal role in facilitating this compression and acceleration, particularly in information exchange. In contrast, the lead in combating money laundering came from the US, and the EU had less chance to develop an autonomous policy

due to several factors, including a lack of historical experience, the absence of civil society involvement, and a greater focus on raising revenue from taxes than on combating money laundering (see Unger et al., 2020).

The ECOFIN Council, in its Conclusions of 25 May 2016 on an "External Strategy for Effective Taxation and Commission Recommendation on the implementation of measures against tax treaty abuse", invited "the Code of Conduct Group to start work [...], to establish an EU list of non-cooperative jurisdictions and explore defensive measures at EU level to be endorsed by the Council in 2017.[18] The Code of Conduct group started with the screening of 92 jurisdictions.

The EU tax list aims to promote transparency, fairness, and the implementation of OECD minimum standards for Base Erosion and Profit Shifting (BEPS). The Code of Conduct Group screens and lists countries based on a neutral scoreboard of indicators produced by the Commission, which includes variables on the economic connectedness of countries with the EU, the relative size of their financial sector, and corruption. The EU tax list is not intended to name and shame countries but to encourage positive change in their tax legislation and practices through cooperation.

The advantage of the tax list is that it is based on understandable indicators, and the methodology is transparent and measurable. The Member States are committed to promoting good tax governance principles in third countries and territories where the EU treaties do not apply. Overall, the EU's efforts to combat tax fraud and promote good tax governance demonstrate its commitment to tackling financial crime and promoting transparency in the global financial system.

By promoting transparency, fairness, and the implementation of international standards, the EU is helping to create a level playing field for businesses and individuals alike. It is also encouraging other jurisdictions to adopt similar measures, thereby promoting global cooperation in the fight against tax fraud and other financial crimes.

The EU List of non-cooperative jurisdictions has significant implications for the application of EU-wide measures, including mandatory disclosure rules, public country-by-country reporting rules, and the framework for securitisation. The European Anti-Tax Avoidance Directive (ATAD) aims to establish a minimum level of protection for the EU market and ensure a coordinated approach in implementing recommendations under the OECD BEPS project. Member States have committed to implementing at least one of the defensive measures suggested by the EU Code of Conduct Group, such as non-deductibility of costs and withholding tax measures. The EU tax List, consisting of a blacklist and a grey list, is updated bi-annually and serves as a reference for Member States' legislation. However, there are practical challenges, including the existence of national lists that differ among Member States and are not always linked to a non-cooperative jurisdiction list (see Deloitte, 2023).

To address these issues, one option is that the EU money laundering list is integrated with the EU tax list, enabling the development of more tailored measures against listed countries, specifically targeting money laundering activities. Empirically, it looks like the FATF list and the EU tax list cover all the countries listed. The current EU money laundering list is basically a copy of the FATF list, plus two countries from the EU tax list (Trinidad and Tobago, as well as Vanuatu) minus Turkey from the FATF list. The only country on the EU money laundering list which is not on the EU tax list and not on the FATF list is Afghanistan. Afghanistan was delisted from the FATF in 2017, and apparently not by the EU. For all the efforts for an autonomous EU money laundering blacklist, this seems a very poor result.[19]

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[18] See Doc. 9452/16 FISC 85 ECOFIN 502, point 10 https://data.consilium.europa.eu/doc/document/ST-14784-2017-INIT/en/pdf.

[19] Following this latest revision on 14 February 2023, the EU list of non-cooperative jurisdictions (EU black tax list) includes the following sixteen jurisdictions: American Samoa, Anguilla, the Bahamas, British Virgin Islands, Costa Rica, Fiji, Guam, Marshall Islands, Palau, Panama, Russian Federation, Samoa, Trinidad and Tobago, Turks and Caicos Islands, US Virgin Islands, Vanuatu. In addition, the grey list now

Table 4 - EU ML list, EU tax list and FATF list for 2023

2023		
EU money laundering list	**EU Tax list**	**FATF list**
Afghanistan	American Samoa	Albania
Barbados	Anguilla	Barbados
Burkina Faso	Bahamas	Burkina Faso
Cambodia*	British Virgin Islands	Cayman Islands
Cayman Islands	Costa Rica	DR Congo
DR Congo	Fiji	Gibraltar
Gibraltar	Guam	Haiti
Haiti	Marshall Islands	Jamaica
Jamaica	Palau	Jordan
Jordan	Panama	Mali
Mali	Russia	Mozambique
Morocco *	Samoa	Nigeria
Mozambique	Trinidad and Tobago	Panama
Myanmar	Turks and Caicos	Philippines
Nigeria **		
Panama	US Virgin Islands	Senegal
Philippines	Vanuatu	South Africa
Senegal		South Sudan
South Africa**		
South Sudan		Syria
Syria		Tanzania
Tanzania		Türkiye
Trinidad and Tobago		Uganda
Uganda		United Arab Emirates
United Arab Emirates		Yemen
Vanuatu		DPR Korea
Yemen		Iran
Iran		Myanmar
DPR Korea		

includes the following eighteen jurisdictions: Albania, Armenia, Aruba, Belize, Botswana, Curaçao, Dominica, Eswatini, Hong Kong (SAR) China, Israel, Jordan, Malaysia, Montserrat, Qatar, Seychelles, Thailand, Turkey and Vietnam.

Source: Author's own elaboration based on data from the EU and FATF. The EU list and updated retrieved from: https://eur-lex.europa.eu/eli/reg_del/2016/1675/oj/eng.https://ec.europa.eu/commission/presscorner/detail/en/mex_23_2805. Tax list from: https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/#countries . FATF data retrieved from https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-February-2023.html.

Note: In the EU list, Iran and the Democratic People's Republic of Korea are categorised as "high-risk third countries" that have shown a political commitment to address identified deficiencies and are seeking technical assistance from the FATF. These countries are also identified in the FATF Public Statement. Myanmar is also included in the FATF blacklist in 2023. The table consolidates these listings for comparison. The EU updates its list regularly, with Cambodia and Morocco being delisted in May 2023 and Nigeria and South Africa being added on the same date.

4.3. Comparing the EU money laundering and tax list

Compared to the EU money laundering blacklist, the EU tax list has a different scope, including important European secrecy jurisdictions. Iceland, Liechtenstein and Norway, which rank relatively high in secrecy, are EEA but not EU countries and can in principle be included in the tax list, but not in the money laundering list. Expanding the money laundering list to match the tax list's scope would allow the inclusion of high-secrecy European countries outside the EU. The UK and Switzerland should be within the scope of both lists, as they are no longer part of the EEA.

The differences between both lists are:

a. Softer requirements

The money laundering list imposes enhanced due diligence on all obliged entities, while the tax list allows countries to choose from various sanctions (from levying different tax rates, creating different exemption possibilities, doing stricter monitoring or performing more auditing). This adds to complexity in tax rules within the EU.

b. Target of the list and its potential

Shifting the money laundering list's focus to align with the tax list would shift the emphasis from catching serious crimes to targeting tax evaders and unethical tax avoiders. Since tax crime was incorporated as a predicate crime in the Fourth AML Directive (and considering that tax fraud was already included in earlier AML Directives), this represents a viable step in AML policy and potentially opens up new avenues for expanding non-FATF dependent initiatives.

c. Political influence

The EU Tax list is more transparent than the EU blacklist but still not reproducible. When compared to the findings of NGOs, the countries on the list differ from the world's top secrecy jurisdiction (see next chapter). But it could be ranked in the upper box of our scheme, if it would consider and openly discuss differences with NGO lists on secrecy-offering countries.

The EU tax list is more transparent than the blacklist but still subject to political influence. The list has been criticised for not including economically significant countries like the US, Japan, Canada, Singapore, and China. Over time, the list shows a decrease in the number of countries listed. The current grey list no longer aligns with the top 15 secrecy list of the Tax Justice Network (see Jansky 2022, EU grey list by 23 March 2023).

Table 5 - EU tax lists 2017-2023 and Bilateral Financial Secrecy Index for the EU, Jansky et al. (2022)

2017	2018	2019	2020	2021	2022	2023	2022 BFSI for EU
American Samoa	American Samoa	American Samoa	American Samoa	American Samoa	American Samoa	American Samoa	United States
Bahrain	Guam	Fiji	Anguilla	Fiji	Anguilla	Anguilla	Cayman Islands
Barbados	Samoa	Guam	Barbados	Guam	Bahamas	Bahamas	Switzerland
Grenada	Trinidad and Tobago	Oman	Fiji	Palau	Fiji	British Virgin Islands	Japan
Guam	US Virgin Islands	Samoa	Guam	Panama	Guam	Costa Rica	Bermuda
Republic of Korea		Trinidad and Tobago	Palau	Samoa	Palau	Fiji	Jersey
Macao		US Virgin Islands	Panama	Trinidad and Tobago	Panama	Guam	Guernsey
Marshall Islands		Vanuatu	Samoa	US Virgin Islands	Samoa	Marshall Islands	Hong Kong
Mongolia			Seychelles	Vanuatu	Trinidad and Tobago	Palau	UAE
Namibia			Trinidad and Tobago		Turks and Caicos	Panama	Canada
Palau			US Virgin Islands		US Virgin Islands	Russia	British Virgin Islands
Panama			Vanuatu		Vanuatu	Samoa	Singapore
St. Lucia						Trinidad and Tobago	South Korea

2017	2018	2019	2020	2021	2022	2023	2022 BFSI for EU
Samoa						Turks and Caicos Islands	China
Trinidad and Tobago						US Virgin Islands	Thailand
Tunisia						Vanuatu	
UAE							

Source: Author's own elaboration based on data from the EU https://www.consilium.europa.eu/media/31945/st15429en17.pdf ; https://data.consilium.europa.eu/doc/document/ST-14114-2019-INIT/en/pdf; https://data.consilium.europa.eu/doc/document/ST-14114-2019-INIT/en/pdf; https://www.consilium.europa.eu/en/press/press-releases/2020/10/06/eu-list-of-non-cooperative-jurisdictions-for-tax-purposes-anguilla-and-barbados-added-cayman-islands-and-oman-removed/; https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/timeline-eu-list-of-non-cooperative-jurisdictions/; https://www.consilium.europa.eu/en/press/press-releases/2022/10/04/taxation-anguilla-the-bahamas-and-turks-and-caicos-islands-added-to-eu-list-of-non-cooperative-jurisdictions-for-tax-purposes/ ; https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/#countries and Jansky et al., 2020.

5. REGULATORY TRANSPARENT LISTS

KEY FINDINGS

Regulatory transparent lists share with political regulatory ones (Chapter 4) the focus on the architecture of the AML framework, on indicators referring to law in the books. But they use these indicators in a more transparent and reproducible way. Many NGOs and academic studies fall under this category. They all try to rank countries regarding secrecy and/or money laundering using data from official statistics.

- The Financial Secrecy Index of Tax Justice Network ranks 141 countries and jurisdictions according to 20 secrecy criteria, some relating to tax avoidance and evasion, some to ML.
- The BAMLI, ranks 128 countries and jurisdictions according to money laundering indicators from 20 public sources.
- For the Attractiveness Index Walker and Unger (2009) rank 190 countries according to public statistics regarding their attractiveness for launderers. This ranking can also estimate the amounts of money laundered in each country.

The advantage of either approach is that it provides rankings for nearly all countries and jurisdictions worldwide, making these indicators valuable for evaluating blacklists. As observed, many European countries, Member States, and EEA states (such as Norway and Liechtenstein, to a lesser extent Iceland) do not appear on the list, along with other notable European countries or financial centres like Switzerland and now, the UK. Similarly, significant countries or financial centres such as the US and Singapore are not included in the blacklists.

Their disadvantage is low data quality and a lack of information on real criminal behaviour.

Regulatory Transparent lists of money laundering include all approaches that use transparent methods. This means that the methodology with which they are produced is reproducible with the criteria and data used for the listing. Therefore, any outsider applying the same criteria should obtain the same list of countries or jurisdictions (see Chapter 1).

With the political-regulatory lists (see previous Chapter 4) they share the focus on the architecture of the AML framework, on indicators referring to law in the books. Many NGOs and academic studies fall under this category. In our methodological 2x2 scheme, they rank at the left top of the matrix. The following chapter will present the Financial Secrecy Index of Tax Justice Network, the BAMLI, Gravity Models (Walker and Unger,) and other academic studies ranking countries according to their secrecy, or money laundering risk.

Table 6 - Blacklists' possibilities matrix including transparent lists

	Law in the books/Regulatory	Law in practice/Criminal behaviour
Transparent	TJN, BAMLI, Walker-Unger attractiveness index	
Non-transparent/ Politicised	FATF, EU lists	

Source: Author's own elaborations.

5.1. The Financial Secrecy Index

The Tax Justice Network was founded in the UK in 2003 and has since become a global network. For listing countries, it creates the biannual Financial Secrecy Index. The FSI 2022 covers 141 jurisdictions. According to TJN, the index is a "politically neutral ranking […] tool for understanding global financial secrecy, tax havens or secrecy jurisdictions, and illicit financial flows or capital flight". The FSI aims to rank "jurisdictions according to their secrecy and the scale of their offshore financial activities" (Tax Justice Network, 2020). Since money laundering is closely linked to secrecy and a part of illicit financial flows (the others being unethical tax avoidance and tax evasion), this encompassing indicator can be used as a benchmark to test other rankings and lists.

The Financial Secrecy Index comprises two components: Secrecy Scores and a Scale Index. The Secrecy Scores (SS) are multiplied by the Scale Index to account for the size of countries. Consequently, if two countries have identical AML architecture, a larger country such as Germany would consistently receive a higher ranking than a smaller country like Austria. Similarly, the United States would always rank higher than a small island with the same AML architecture due to its larger scale. The idea behind this is that the volume of transactions and the possibilities to use diverse services and ways of hiding money are higher in a big country. Since size is important, but perhaps not simply proportional to the money laundering risk, it seems useful to look both at the secrecy scores (independent of country size) and the Financial Secrecy Indicator (dependent on country size). The sub-indicators for the Secrecy Index refer to tax and to AML regulation.

Table 7 - Dimensions and sub-indicators of the Financial Secrecy Index

Dimension A: Ownership Registration	Dimension B: Legal Entity Transparency	Dimension C: Integrity of Tax and Financial Regulation	Dimension D: International Standard and Tax Cooperation
1. Banking Secrecy	6. Transparency of Company Ownership	11. Tax Administration Capacity	17. Anti-Money Laundering
2. Trusts and Foundations Register	7. Public Company Accounts	12. Consistent Personal Income Tax	18. Automatic Information Exchange
3. Recorded Company Ownership	8. Country-by-Country Reporting	13. Avoids Promoting Tax Evasion	19. Exchange of Information on Request
4. Other Wealth Ownership	9. Corporate Tax Disclosure	14. Tax Court Secrecy	20. International Legal Cooperation
5. Limited Partnership Transparency	10. Legal Entity Identifier	15. Harmful Structures	
		16. Public Statistics	

Source: Author's own elaboration based on information from: https://fsi.taxjustice.net/secrecy-indicators/.

The index is transparent, can be reproduced by anyone and has also been under (voluntary) audit by the joint research centre of the European Commission (see Riccardi, 2022).

Comparing the Financial Secrecy Index with the EU lists shows that mainly Western European and rich countries rank on top of the FSI. The US, Switzerland, Singapore are leading the list. But also EU MS Luxembourg, Germany, the Netherlands and Cyprus are among the top 15 ranked countries. The UK, along with its territories such as the British Virgin Islands (BVI) and Guernsey, is also included in the Financial Secrecy Index. The ranking based on Secrecy Scores, which is independent of country size, highlights the significance of smaller jurisdictions in terms of providing secrecy. For instance, the Bahamas, which is featured on the EU tax list, and Vanuatu, which is present on both the EU tax list and the EU money laundering list, demonstrate the importance of smaller jurisdictions in these contexts.

Once again, there is limited alignment between the lists. Jurisdictions providing the highest secrecy are either too small, or too poor to rank at the top of the Financial Secrecy Index. Countries ranking top in the Financial Secrecy Index are either not eligible for EU HRTC listing (Member States, EEA countries and de facto EU candidates) or for the EU tax list (Member States), or are politically immune (e.g., US).

Table 8 - EU ML list, EU tax list, FSI and SS

2022			
EU ML list	**EU Tax list**	**FSI - TJN**	**Secrecy Scores - TJN**
Afghanistan	American Samoa	United States	Vietnam
Barbados	Anguilla	Switzerland	Angola
Burkina Faso	The Bahamas	Singapore	Bolivia
Cambodia*	Fiji	Hong Kong	United Arab Emirates
Cayman Islands	Guam	Luxembourg	Algeria
Haiti	Palau	Japan	Puerto Rico
Jamaica	Panama	Germany	St. Kitts and Nevis
Jordan	Samoa	United Arab Emirates	Antigua and Barbuda
Mali	Trinidad and Tobago	British Virgin Islands	Curacao
Morocco*	Turks and Caicos	Guernsey	Vanuatu
Myanmar	US Virgin Islands	China	Sri Lanka
Nicaragua	Vanuatu	Netherlands	Turks and Caicos
Pakistan		United Kingdom	Bahamas
Panama		Cayman Islands	Anguilla
the Philippines		Cyprus	Maldives
Senegal			
South Sudan			
Syria			
Trinidad and Tobago			
Uganda			
Vanuatu			
Yemen			
Zimbabwe			
South Africa**			
Nigeria**			
Iran			
DPR Korea			

Source: Author's own elaboration based on information from the EU, the FATF and the Tax Justice Network. The EU list and corresponding updated information was retrieved from: https://eur-lex.europa.eu/eli/reg_del/2016/1675/oj/eng and https://ec.europa.eu/commission/presscorner/detail/en/mex_23_2805. The tax list was retrieved from: https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/#countries . FATF data has been retrieved from (2023) https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-February-2023.html . TJN data available at https://taxjustice.net.

Note: In the EU list Iran and the Democratic People's Republic of Korea appear as a "high-risk third countries which have provided a high-level political commitment to address the identified deficiencies, and have decided to seek technical assistance in the implementation of the FATF Action Plan, which are identified by FATF Public Statement" and a High-risk third countries which present ongoing and substantial money-laundering and terrorist-financing risks, having repeatedly failed to address the identified deficiencies and which are identified by FATF Public Statement, respectively *The EU updates the list multiple times a year Cambodia and Morocco were still listed in March 2023 and have been delisted as of 17 May 2023. **Likewise, Nigeria and South Africa have were added to the list on 17 May 2023.

The Financial Secrecy Index, similar to the EU lists and the FATF list, assesses both the tax and AML frameworks. It examines whether countries have implemented the necessary legal framework, established the required institutions, and fulfilled the recommendations of the FATF, OECD, and EU. Many researchers study law in the books (see Rossel et al., 2021), but not law in practice (does the public prosecutor follow the guidelines, do obliged entities check the ultimate beneficial owner, would a mystery shopper trying to launder be caught, etc.).

The Financial Secrecy Index (FSI) is a comprehensive and transparent index that could serve as a foundation for country ratings. This could be achieved by enhancing it with additional variables related to money laundering risks. Furthermore, evaluating the FSI could facilitate discussions on less transparent political lists such as the EU HRTC list.

5.2. THE BAMLI

The Basel Anti-Money Laundering Index (BAMLI) is produced by the Basel Institute on Governance in Switzerland since 2012. The Institute is registered as a Swiss foundation and a non-profit organisation. Experts involved include members of the Wolfsberg group, so the index seems more related to the banking sector than the previously mentioned index, FSI. It provides money laundering and terrorist financing (ML/TF) risk scores based on data from 18 publicly available sources, such as the Financial Action Task Force (FATF)**,** Transparency International, the World Bank, the World Economic Forum and the INCSR). This index gives scores to countries based on an independent annual assessment of the risk of money laundering. The BAMLI is based on five domains: the quality of the countries' AML framework, the occurrence of bribery or corruption, financial transparency and standards, public transparency, and accountability, as well as rules of law and political risks [20]. The Basel AML Index 2022 covers 128 jurisdictions with sufficient data to calculate a reliable ML/TF risk score. [21]

Like the FSI, the BAMLI is an indicator that measures the law in the books. It collects data from diverse public sources from 128 countries, but does not take into account law in practice.

[20] See: https://baselgovernance.org/basel-aml-index.

[21] See: https://index.baselgovernance.org/methodology.

Table 9 - Unger and Walker attractiveness index, BAMLI and EU ML list

Unger and Walker Attractiveness (Unger 2009)	BAMLI (2022)	EU ML list (2022)
Luxembourg	DR Congo	Afghanistan
Bermuda	Haiti	Barbados
Switzerland	Myanmar	Burkina Faso
Cayman Islands	Mozambique	Cambodia*
Norway	Madagascar	Cayman Islands
Hong Kong	Guinea-Bissau	Haiti
Austria	Cambodia	Jamaica
Liechtenstein	Mali	Jordan
Belgium	Senegal	Mali
Aruba	Vietnam	Morocco*
Jersey	Sierra Leone	Myanmar
Iceland	Eswatini	Nicaragua
Canada	Mauritania	Pakistan
Ireland	Cameroon	Panama
Singapore	Uganda	the Philippines
Australia	Benin	Senegal
Isle of Man	Nigeria	South Sudan
Vatican City (Holy See)	Tonga	Syria
France	Nicaragua	Trinidad and Tobago
San Marino	Zimbabwe	Uganda
		Vanuatu
		Yemen
		Zimbabwe
		South Africa**
		Nigeria**
		Iran
		DPR Korea

Source: Author's own elaboration based on information from the EU, BAMLI and Unger and Walker, 2009. The EU list and corresponding updated information was retrieved from: https://eur-lex.europa.eu/eli/reg_del/2016/1675/oj/eng and https://ec.europa.eu/commission/presscorner/detail/en/mex_23_2805. The BAMLI https://index.baselgovernance.org/ranking.

Note: In the EU list Iran and the Democratic People's Republic of Korea appear as a "high-risk third countries which have provided a high-level political commitment to address the identified deficiencies, and have decided to seek technical assistance in the implementation of the FATF Action Plan, which are identified by FATF Public Statement" and a High-risk third countries which present ongoing and substantial money-laundering and terrorist-financing risks, having repeatedly failed to address the identified deficiencies and which are identified by FATF Public Statement, respectively *The EU updates the list multiple times a year Cambodia and Morocco were still listed in March 2023 and have been delisted as of 17 May 2023. **Likewise, Nigeria and South Africa have were added to the list on 17 May 2023.

5.3. The Walker Unger attractiveness index

The Walker model, enhanced by Unger into a gravity model, examines the factors influencing money laundering between countries. It considers the proceeds of crime that need to be laundered, the economic size and population of the countries involved, and the geographic and cultural distance between them (Walker and Unger, 2009). Subsequent versions of the model have allowed for econometric testing of country attractiveness and distance indicators (Ferwerda et al., 2020). This approach provides rankings for almost all countries and jurisdictions, revealing the presence of European countries, Member States, EEA States, and other significant countries and financial centres on the list. However, these models rely on law in the books variables rather than real criminal behaviour, utilising data from public sources such as UNODC statistics, OECD, World Bank, and IMF.

The existing lists and indices related to money laundering and country attractiveness present different perspectives and cover various regions. The EU blacklist, BAMLI, and attractiveness scores by Walker and Unger show minimal overlap. The inclusion of one index as a subindex within another, as seen in BAMLI and FSI, adds complexity to interpreting the ranking process. These different rankings and indices address distinct issues, such as money laundering, financial risks, and lack of transparency for tax purposes, emphasising the need for differentiation based on specific factors. Benchmarking countries using the Walker-Unger attractiveness scores could provide insights into their attractiveness for money laundering. However, this model requires a substantial amount of data and an improved crime database to achieve accurate estimations of money laundering charges over time. Establishing a robust crime database, similar to UNODC's efforts for drug-related crimes, would enhance the basis for evaluating money laundering both within the EU and worldwide.

Subcomponents of rankings, like the BAMLI or the FSI, could be used to differentiate between pure money laundering, drugs, and corruption risks and between financial risks due to secrecy and lack of transparency. Also, the Walker Unger attractiveness score could be used for benchmarking countries. The advantage of these scores is that they explicitly focus on the attractiveness of countries for money laundering and are calculated from proceeds of crime and launderers' preferences for particular countries. The disadvantage of this model is that it is very big (for 200 jurisdictions, it consists of 200x 200 matrices, hence 40.000 entries for each indicator). An annual update would need some automatic, electronic update.

If the EU were to focus on developing a robust crime database, similar to the one maintained by the UNODC for drugs, encompassing various types of crimes and their associated proceeds across different countries, it would provide an enhanced foundation for estimating money laundering activities and related charges over time at both the country and global levels.

6. POLITICAL LISTS INCLUDING CRIMINAL BEHAVIOUR

KEY FINDINGS

Political lists – lists that do not follow a transparent reproducible methodology, can not only focus on law in the books, but also include practical experience from police, FIUs, public prosecution, and other authorities and actors, to also cover law in practice.

This chapter shows how the list becomes more cumbersome as criminal behaviour is included into the methodology. Reasons of this are for example:

- The results can be so secret that it is impossible to find a methodology (see Europol).
- They can follow other strategic goals (such as the US Treasury list which is a more a sanction than a money laundering list).
- They involve so many actors that half of the world ends up being listed (see INCSR list).

However, the advantage of this type of list is that they do not only rate the AML framework, but deal with real money laundering. Considering this, the methodology of this list type could be improved and made more transparent.

Political lists – lists that do not follow a transparent reproducible methodology, do not only focus on law in the books, but also include practical experience from police, FIUs, public prosecution, and other authorities and actors, to also cover law in practice. In the following chapter, three types of lists– all ranging in the right lower corner of our 2x2 matrix – will be presented: Europol identifying suspicious activities, the US Treasure list, and the US INCSR list.

Table 10 - Blacklists' possibilities matrix including political lists

	Law in the books/Regulatory	Law in practice/Criminal behaviour
Transparent	FSI, BAMLI, Walker and Unger Attractiveness Score	
Non-transparent/ Politicised	FATF list, EU money laundering blacklist, EU tax list	Europol, US Treasury list, US INCSR list

Source: Author's own elaborations.

6.1. EUROPOL

According to Europol (2017), between 0.7 and 1.28% of the EU's annual Gross Domestic Product (GDP) is involved in suspicious financial activity related to money laundering connected to various illicit activities. Europol participates in identifying countries that should be assessed for their money laundering risks. The EU Commission uses criteria such as Europol's identification of countries exposed to money laundering or terrorist financing threats to prioritise which countries to assess. This country list could also figure as a starting point based on criminological knowledge, but lacks transparency. If

Europol would be involved in building a database of suspicious transaction reports could also help identify money laundering countries. The role of Europol in this process and its methodology should be explored further and made more transparent.

6.2. The US Treasury list

The US Treasury's[22] Specially Designated Nationals and Blocked Persons List prohibits individuals, companies, and groups from doing business with US residents and businesses due to their involvement in terrorism, narcotics trafficking, or association with sanctioned nations or industries. The list is established by the Office of Foreign Assets Control, which enforces economic and trade sanctions based on US foreign policy and national security goals. While these sanctions intersect with the counter-terrorism-financing regime, they have little direct connection with money laundering.

Riccardi's (2022) comparison of the FATF, EU money laundering blacklist, OFAC US Treasury sanction list, and the UN Security Council's sanction list for 2020, found that countries under OFAC sanctions were five times more likely to be on the FATF and EU blacklists. This suggests that official AML blacklists may reflect the balance of political power and influence at the global level and are more related to the US and EU sanction regimes than those of the UN Security Council.

Riccardi concludes that the AML/CTF blacklisting process can be used to reinforce the prevailing international sanctioning regime, and the enhanced due diligence related to the EU blacklist can lead to a harmonised way of implementing international sanctions across the EU. The US Treasury List's methodology is not transparent, but it includes cases related to criminal behaviour, such as narcotics and arms trafficking, which explains why it it is ranked in the lower row of our 2x2 scheme.

6.3. The INCSR list

The United States Department of State, Bureau of International Narcotics and Law Enforcement Affairs publishes the INCSR list, which identifies "major money laundering jurisdictions" in its International Narcotics Control Strategy Report Volume II.[23] The INCSR list, mandated by the Foreign Assistance Act, focuses on countries' adoption of laws and regulations to prevent narcotics-related money laundering. It is based on contributions from various US government agencies, including the White House Office of National Drug Control Policy, the Department of the Treasury's Office of Terrorist Financing and Financial Crimes, the Financial Crimes Enforcement Network, the Internal Revenue Service, Office of the Comptroller of the Currency, and Office of Technical Assistance; Department of Homeland Security's Immigrations and Customs Enforcement and Customs and Border Protection, Department of Justice's Money Laundering and Asset Recovery Section, Office of International Affairs, Drug Enforcement Administration, Federal Bureau of Investigation, and Office for Overseas Prosecutorial Development, Assistance, and Training[24].

The INCSR list primarily addresses money laundering related to narcotics trafficking, defining "major money laundering countries" as those whose financial institutions engage in significant currency transactions involving proceeds from international narcotics trafficking.

The INCSR list, released in March 2022, includes 79 countries, of which five Member States (Belgium, Cyprus, Italy, the Netherlands and Spain), the United Kingdom, and the world's largest country for money laundering (Walker and Unger 2009), the United States.

[22] See https://www.investopedia.com/terms/u/ustreasury.asp.

[23] See https://ofac.treasury.gov/specially-designated-nationals-and-blocked-persons-list-sdn-human-readable-lists.

[24] See https://www.state.gov/wp-content/uploads/2022/03/22-00768-INCSR-2022-Vol-2.pdf.

It evaluates countries based on drug-related money, adherence to FATF standards, and vulnerabilities related to specific trade patterns. While the INCSR ranking is utilised in the Basel Money Laundering Indicator (BAMLI) for risk scoring, the Tax Justice Network stopped using INCSR data for their Financial Secrecy Index in 2016. It is important to note that being on the INCSR money laundering list implies no sanctions.

The United States INCSR lists 14 risk factors (Volume 2-2022 version): 1. Criminalisation of Money Laundering; 2. Know-Your-Customer Provisions; 3. Report Suspicious Transactions; 4. Maintain Records Over Time; 5. Cross-Border Transportation of Currency; 6. Beneficial Ownership Data Collection & Retention Provisions; 7. International Law Enforcement Cooperation; 8. System for Identifying/Forfeiting Assets; 9. Arrangements for Asset Sharing; 10. Information exchange agreements with non-U.S. government; 11. States Party to 1988 UN Drug Convention; 12. States Party to UNTOC; 13. States Party to UNCAC; and, 14. Financial Institutions transact in proceeds from international drug trafficking that significantly affects the US. In a Comparative table all countries are evaluated with a Y for yes or N for no regarding these 14 criteria. The European countries (except Spain, which gets a no for Beneficial Ownership Provision too) do not meet criterium 14.

The methodology and transparency of the INCSR list have been subject to criticism. The criteria for inclusion are not entirely clear, nor are the political intentions (for example, in 2022, Russia was delisted while Ukraine stayed on it), and the evaluation of risk factors lacks clarification on whether they are assessed from a technical compliance or effectiveness perspective. The involvement of multiple public agencies and the lack of reproducibility make the list non-transparent. Furthermore, listing almost half of the world's countries raises questions about its effectiveness in targeting money laundering. The complexity and multitude of contributors may undermine the overall reliability and clarity of this list.

Table 11- INCSR list 2022

INCSR 2022			
Afghanistan	Colombia	Jamaica	Saint Lucia
Albania	Costa Rica	Kazakhstan	St. Vincent and the Grenadines
Algeria	Cuba	Kenya	Senegal
Antigua and Barbuda	Curacao	Kyrgyz Republic	Seychelles
Argentina	Cyprus	Laos	Sint Maarten
Armenia	Dominica	Liberia	Spain
Aruba	Dominican Republic	Macau	Suriname
Bahamas	Ecuador	Malaysia	Tajikistan
Barbados	El Salvador	Mexico	Tanzania
Belgium	Georgia	Morocco	Thailand
Belize	Ghana	Mozambique	Trinidad and Tobago
Benin	Guatemala	Netherlands	Turkey
Bolivia	Guyana	Nicaragua	Turkmenistan
Brazil	Haiti	Nigeria	Ukraine
British Virgin Islands	Honduras	Pakistan	United Arab Emirates
Burma	Hong Kong	Panama	United Kingdom
Cabo Verde	India	Paraguay	United States
Canada	Indonesia	Peru	Uzbekistan
Cayman Islands	Iran	Philippines	Venezuela
China	Italy	St. Kitts and Nevis	Vietnam

Source: Author's own elaboration based on information from INCSR https://rb.gy/ubvih; https://www.state.gov/wp-content/uploads/2019/04/2017-INCSR-Vol-II.pdf; https://www.state.gov/wp-content/uploads/2019/03/INCSR-Vol-INCSR-Vol.-2-pdf.pdf.

7. TRANSPARENT LIST INCLUDING LAW IN PRACTICE

KEY FINDINGS

- Transparent lists which include law in practice include criminal behaviour. Four types of studies can be distinguished:
    - Crime studies such as the so-called Puppet Masters report from the World Bank, which consists of a review of some 150 court cases from various jurisdictions covering USD 50 billion of corruption money, and which look at top countries used to launder.
    - Leaks from diverse sources, e.g. the Panama and Paradise papers, included in the ICIJ database which can be used to establish country rankings.
    - A new world-wide gravity model which uses evidence from Suspicious Transaction Reports in order to find out to which countries laundering money is sent, and in what quantities.
    - Bilateral Approaches like the Bilateral Financial Secrecy Index and Riccardi's (2022) model, to analyse which countries are most relevant for criminals.
- Some important critical findings of this chapter differ from other approaches:
    - Borders matter: EU MS are among the most important secrecy providers to each other, so focusing only on third countries might be highly misleading.
    - The EU tax list has evolved in the wrong direction, as it covers less important countries than in the 2018 list, according to a test with the Bilateral Financial Secrecy Index.
    - Automatic Exchange of Information networks might be an important way of combating tax evasion and money laundering and should be expanded all over the world. To improve Automatic Exchange of Information networks could also become an alternative to the existing EU lists destined to combat money laundering and tax evasion.

Investigators, FIUs and academics study criminal behaviour and law in practice. Some of them can be used for country lists. The first group of studies refers to in-depth crime studies on predicate crimes and money laundering. They are mainly done by criminologists and anthropologists.

Table 12 - Complete blacklists' possibilities matrix

	Law in the books/Regulatory	Law in practice/Criminal behaviour
Transparent	FSI, BAMLI, Walker-Unger Attractiveness Indicator	Crime studies, Leaks, Gravity model using STRs, Bilateral studies
Non-transparent/ Politicised	FATF list, EU money laundering blacklist, EU tax black and grey list	Europol, US Treasury list, US INCSR list

Source: Author's own elaborations.

7.1. Crime studies

Crime studies are evidence-based and use official police or judicial files. The World Bank and UNODC published a report called the Puppet Masters in 2011, which reviewed 150 court cases across various jurisdictions involving a total of USD 50 billion of corruption money. The report identified how corporate vehicles are misused to conceal the proceeds of grand corruption, and how banks, financial institutions, lawyers, accountants, and other professionals known as trust and company service providers (TCSPs) facilitate these schemes. The report also includes interviews with practitioners and evidence from a solicitation exercise. The report lists the top ten jurisdictions frequently used by corrupt, politically exposed persons to set up corporate vehicles and bank accounts, but it does not specify the number of incorporated vehicles or bank accounts.

Table 13 lists the top ten jurisdictions that appear most frequently within the 150 cases in terms of the locations where the corrupt politically exposed persons set up corporate vehicles (CVs) and CVs' bank accounts.

Table 13 - The "Puppet master's" report: top foreign jurisdictions involved

	Jurisdictions of incorporation of CVs- Top 10	Jurisdictions setting up CVs' bank accounts – Top 10
1	United States	United States
2	BVI	Switzerland
3	Panama	United Kingdom
4	Liechtenstein	Nigeria
5	Bahamas	Bahamas
6	United Kingdom	Cyprus
7	Hong Kong SAR	Hong Kong SAR
8	Nigeria	Antigua and Barbuda
9	South Africa	Jersey
10	Cayman Islands	Liechtenstein

Source: Author's own elaborations based on Willebois et al. (2011) Puppet Master Report.

The Puppet Master Report's advantage is that it covers many jurisdictions. Many criminological studies choose case studies from one or two countries – or focus on a specific organised crime group. More of these studies can be found in Riccardi (2022), who gives an excellent overview of the pros and cons of them.

7.2. Leaks

Leaks have become an important source of evidence, with prominent examples such as the Lux Leaks in 2014, Panama Papers in 2016, and Paradise Papers in 2017. However, there have been many more leaks, but they received less media attention. Table 14 shows leaks from 2001 to 2020, and leaks continue to occur, as evidenced by the recent Credit Suisse Leak in 2022, which revealed the bank's dealings with human rights abusers, corrupt politicians, and businessmen under sanctions. The publicly accessible database from ICIJ (International Consortium of Investigative Journalists, which started with the Panama Papers, has been enlarged and includes by now 810.000 offshore companies, foundations and trusts from the Pandora Papers, Paradise Papers, Bahamas Leaks, Panama Papers and Offshore Leaks investigations[25].

Table 14 - Overview of leaks since 2001-2020: uncovering dirty finances

Year	Name of the leak	Source of the leak
2001	KBLux	KreditBank Luxembourg
2007	UBS	Bank Switzerland
2009	Anonymous	Rabobank SA Luxembourg
2013	Offshore Leaks	Two Trust and Company Service Providers from BVI and Asia
2014	Lux Leaks	Tax Advisor PWC in Luxembourg
2015	Swiss Leaks	HSBC Bank in Switzerland
2016	Panama Papers	Trust and Company Service Provider Mossack & Fonseca
2016	Bahama Leaks	Company Registry Bahamas
2017	Football Leaks	Unknown
2017	Credit Suisse	Swiss bank
2017	Paradise Papers	Offshore law firm Appleby Bermuda / Company registries
2017	Azerbaijani Laundromat	OCCRP/Danske Berlingske
2018	Dubai Leak	Property records land-registry Dubai
2019	Mauritius Leaks	Law firm Conyers Dill & Pearman
2019	Cayman bank Leaks	Daughter on Isle of Man
2019	29 Leaks	Company formation agent UK
2019	Troika Leak	Banks from Lithuania
2020	Luanda Leaks	Unknown

Source: Author's own elaborations based on data from Koningsveld (2018).

[25] See https://offshoreleaks.icij.org/.

7.3. A new gravity model using Suspicious Transaction Reports

Ferwerda, van Saase, Unger, and Getzner (2022) conducted a gravity model analysis using data from Suspicious Transaction Reports (STRs) provided by the Netherlands (Information box of undeclared wealth iCOV), which allowed for the first-time evidence-based estimates of money laundering flows. By incorporating information from money laundering authorities and utilising UN crime statistics and average proceeds per reported crime, they were able to determine the amount of crime money generated in each country that requires laundering. The study found that factors such as country size, geographical proximity, shared language, cultural background, religion, and trade relations significantly influence money laundering flows.

For OECD countries, the study could distinguish how much money is laundered in each country domestically, how much money only flows through, and how much money is sent from abroad to then stay in the country. The latter can pose a big problem when crime follows the money and settles in the country.

The study highlighted that large, wealthy countries, including the United States and European nations, experience significant volumes of money laundering. This focus on money laundering volumes, rather than unweighted potential risks, reveals a different perspective on country rankings. The research indicated that 26% of money laundering in OECD countries and 10% of global money laundering occurs in the United States alone. It emphasised that money laundering is primarily a problem for affluent countries, with more substantial occurrences in larger and wealthier nations, a factor often overlooked by lists focussing on AML frameworks only.

Table 15 - Money laundering estimates, including throughflows.

Country	Laundering of domestic criminal money (A)		Throughflows of criminal money (B)		Laundering of foreign criminal money (C)		Total money laundering (A + B + C)	
	USD Billion	% of GDP	USD Billion	% of GDP	USD Billion	% of GDP	USD Billion	% of GDP
Australia	25.0	1.7	7.0	0.5	1.8	0.1	33.9	2.3
Austria	2.5	0.6	7.7	1.7	0.7	0.2	11.0	2.5
Belgium	8.0	1.5	22.1	4.2	2.5	0.5	32.6	6.1
Canada	19.8	1.1	14.6	0.8	3.5	0.2	37.8	2.1
Chile	0.8	0.3	3.0	1.2	0.9	0.3	4.7	1.8
Czechia	1.1	0.5	1.8	0.9	0.3	0.1	3.1	1.5
Denmark	4.7	1.3	1.6	0.5	0.2	0.0	6.4	1.8
Estonia	0.2	0.6	0.6	2.3	0.1	0.2	0.8	3.1
Finland	2.8	1.0	2.7	1.0	0.2	0.1	5.7	2.1
France	27.9	1.0	41.3	1.4	11.2	0.4	80.4	2.8
Germany	55.5	1.4	12.6	0.3	1.4	0.0	69.6	1.8
Greece	1.0	0.4	1.4	0.6	0.3	0.1	2.7	1.1
Hungary	0.7	0.5	2.8	2.0	0.3	0.2	3.8	2.7
Iceland	0.2	1.2	0.2	1.0	0.0	0.1	0.4	2.3
Ireland	1.0	0.4	5.9	2.3	1.3	0.5	8.2	3.2
Israel	4.0	1.3	9.0	2.9	2.4	0.8	15.4	5.0
Italy	16.6	0.8	10.6	0.5	1.2	0.1	28.5	1.3
Japan	9.6	0.2	5.0	0.1	0.9	0.0	15.4	0.3
Latvia	0.1	0.5	0.7	2.2	0.1	0.3	0.9	3.0
Lithuania	0.2	0.4	0.9	1.9	0.1	0.3	1.3	2.6
Luxembourg	0.5	0.8	2.8	4.2	0.3	0.5	3.6	5.5

Country	Laundering of domestic criminal money (A)		Throughflows of criminal money (B)		Laundering of foreign criminal money (C)		Total money laundering (A + B + C)	
	USD Billion	% of GDP	USD Billion	% of GDP	USD Billion	% of GDP	USD Billion	% of GDP
Mexico	6.2	0.5	26.7	2.0	8.4	0.6	41.3	3.1
Netherlands	8.8	1.0	4.7	0.5	0.6	0.1	14.1	1.6
New Zealand	3.0	1.5	2.9	1.4	0.7	0.3	6.5	3.2
Norway	11.0	2.2	1.0	0.2	0.1	0.0	12.2	2.4
Poland	4.1	0.8	4.7	0.9	0.6	0.1	9.4	1.7
Portugal	0.9	0.4	7.4	3.2	1.5	0.6	9.7	4.2
Slovakia	0.3	0.3	1.6	1.6	0.2	0.2	2.1	2.1
Slovenia	0.3	0.5	0.8	1.6	0.1	0.2	1.2	2.3
South Korea	1.8	0.1	4.7	0.3	0.7	0.0	7.2	0.5
Spain	6.5	0.5	16.5	1.2	4.7	0.3	27.6	2.0
Sweden	12.7	2.2	2.8	0.5	0.2	0.0	15.8	2.8
Switzerland	11.3	1.6	13.3	1.9	1.6	0.2	26.1	3.7
Turkey	1.1	0.1	10.3	1.1	2.3	0.2	13.7	1.5
United Kingdom	37.2	1.2	74.4	2.5	17.8	0.6	129.4	4.3
United States	157.8	0.9	66.4	0.4	17.9	0.1	242.1	1.4
OECD total	445.1	0.9	392.5	0.8	87.2	0.2	924.9	1.9
World total	540.6	0.7	1433.6	1.8	358.4	0.5	2332.6	3.0

Source: Author's own elaborations based on Ferwerda, Saase, Unger, and Getzner (2020).

7.4. Bilateral studies

Bilateral studies put emphasis on the fact that for each country, specific other countries pose a threat. Several recent studies support this view.

One of these studies is the Bilateral Financial Secrecy Index developed by Tax Justice Network. They look at which country offers the most secrecy to which country by considering economic links between these countries. (Compared to the Financial Secrecy Index, shown in Chapter 5, the weightings countries get do not depend any more on their global share in world financial services, but on their bilateral links).

For Germany, they show that many European countries are far more attractive for German tax evader and launderers than Panama or other so-called "high-risk jurisdiction". Germans prefer their neighbouring countries like the Netherlands, Luxembourg, France, Switzerland, and Austria, plus the US, Cayman Islands, UAE, Guernsey and Japan.

Table 16 - Top 10 Bilateral Secrecy providing countries

Top 10 Bilateral Secrecy Providing Countries			
Italy	**Germany**	**United States**	**Japan**
San Marino	Netherlands	Cayman Islands	Cayman Islands
Luxembourg	United States	Switzerland	United States
Netherlands	Switzerland	Japan	Netherlands
Austria	Luxembourg	Bermuda	Switzerland
Switzerland	Cayman Islands	Netherlands	Germany
Malta	France	Canada	Bermuda
France	Japan	Hong Kong	Hong Kong
Slovenia	Austria	Taiwan	Thailand
Germany	United Arab Emirates	Curacao	Luxembourg
Ireland	Canada	British Virgin Islands	France

Source: Author's own elaboration based on information from Riccardi (2022) for Italy; Jansky (2018) for Japan; and Jansky et al., (2020) for Germany and the United States.

Riccardi (2022) develops a model where opacity and closeness play a crucial role in identifying countries posing a threat to Italy, with San Marino, Luxembourg, and the Netherlands being the most important. He compares his findings with official blacklists and concludes that being on a FATF or EU blacklist indicates a low risk of money laundering in Italy.

Jansky, Meinzer, and Palansky (2022) use the Bilateral Financial Secrecy Index to quantify the financial secrecy provided to 82 countries by 131 secrecy jurisdictions and test the EU's tax haven black and grey list. They find that 30.1% of the secrecy faced by EU countries is supplied by other member state, primarily the Netherlands and Luxembourg, which means excluding Member States from the listing process creates a significant bias. They also critique the deterioration of the tax haven list over time and suggest covering more of the most relevant secrecy jurisdictions with Automatic Information Exchange to mitigate the harm of secrecy. They provide a list of the top 15 countries outside the EU that are attractive due to their secrecy.

Jansky et al., (2022) also provide a list of top 15 non-EU countries relevant for EU MS, which are attractive because of their secrecy.

Table 17 - Countries relevant for EU MS outside the EU according to Jansky et al., 2022

Top 15 Countries relevant for EU MS outside the EU
United States
Cayman Islands
Switzerland
Japan
Bermuda
Jersey
Guernsey
Hong Kong
United Arab Emirates
Canada
British Virgin Islands
Singapore
South Korea
China
Thailand

Source: Author's own elaborations based on Jansky et al., 2022.

For the EU blacklist, this suggests that rather than creating a single list for all MS, it may be more beneficial for the EU to develop a common methodology for the National Risk Assessment of the Member States, making their National Risk Assesments (NRAs) comparable. This approach would be better accepted by, and more helpful to, the Member States, rather than they being burdened with yet another list that requires enhanced due diligence.

8. CONCLUSIONS AND RECOMMENDATIONS

The effectiveness of anti-money laundering policies in the EU remains uncertain, with limited evidence of their success in reducing money laundering and convicting offenders (see Unger and Ferwerda, 2020). The EU's attempt to harmonise its AML policies and adopt a centralised approach in order to counter global geopolitical and technological challenges is facing resistance from Member States. These face concerns from the private sector related to the additional burden due to the implementation and compliance with AML requirements. The existence of multiple blacklists and varying compliance requirements further complicates matters for banks and other obliged entities.

Rather than adding even more blacklists, the EU should focus on assisting Member States in properly identifying risks and managing existing lists. Developing knowledge, data exchange and software to streamline procedures, and adopting a unified risk-based approach to dealing with listed countries would be beneficial. Defining the purpose and goals of blacklisting is essential, as different types of money laundering and crimes require different priorities. Striking a balance between combating serious drug and corruption crimes, countering terrorism and addressing issues like tax evasion and inequality poses a significant challenge. Drug criminals and terrorists amount to only a small minority of the population, but a very large part of the population are thought to be tax evaders. When targeting specific countries or specific types of money laundering, sanctions for non-compliance with AML/CTF regulations must take the legitimacy of politics into account.

In conclusion, the effectiveness of the EU's AML policies in reducing money laundering remains unknown, while the costs and burdens on the private sector are evident. Harmonising policies and managing existing lists, along with defining clear goals and priorities, would enhance the efficiency and effectiveness of AML efforts in the EU.

Properly defining risk for high-risk third countries is crucial for the EU listing. The EU HRTC list implicitly assumes that a country's high vulnerability (its weak AML architecture) poses a high risk to the EU. But risk also depends on the threat a country poses to the EU (its predicate crimes affecting the EU), and on the consequences that money laundering has on the EU (e.g. crowding out honest business; and criminals taking over the financial sector or politics). Identifying common threats and consequences regarding money laundering to the whole EU, as the EU HRTC list implicitly assumes, is a big challenge, since launderers tend to target specific countries or regions depending on where the criminal money comes from, and where it is going. The Italian organised crime has a preference for Italian-speaking countries like San Marino (Riccardi, 2022), while German criminals prefer their neighbours over Panama or other remote jurisdictions (Jansky, 2022), and all launderers prefer to put their money in countries they are familiar with (see Unger et al., 2014 and Ferwerda, van Saase et al., 2020). From the behaviour of criminals, a common threat to all Member States emanating from specific jurisdictions is very difficult to identify. It would be easier to establish bilateral country lists, and then regulate how each Member State has to react towards the, say, top ten jurisdictions endangering that Member State's financial stability. Should some countries appear on many bilateral lists, or with large volumes, these could then be put on a joint EU list, as Jansky (2018) showed.

The following matrix illustrates the possibilities for identifying high-risk jurisdictions and shows options for policy reforms of EU blacklisting on two dimensions: regarding transparency and politicisation, and regarding evaluation criteria (regulatory framework versus law in practice).

Table 18 - Possibilities for Reforming EU High Risk Third Countries listings

	Law in the books/Regulatory	Law in practice/Criminal behaviour
Transparent	EU money laundering list becoming a ranking done by NGOs such as Tax Justice Network with FSI, or Basel Institute with BAMLI. Benchmarking using objective indicators (see Chapter 5).	EU money laundering high-risk identification being done by an EU research department having access to all relevant criminal information and Suspicious Transaction Reports of FIUs. AMLA could be the place to do this. Helping MS to develop their NRAs and the SNRA. Helping to build up an alert system regarding countries, sectors, entities, and products (see Chapter 7).
Non-transparent/ Politicised	EU money laundering blacklist joining the EU tax list (see Chapter 4). EU money laundering list staying where it is. Adding a grey list. Continuing to disentangle from FATF list. Abandoning own EU listing.	US Treasury and US INCSR list. Letting Europol identify risks in cooperation with stakeholders. Establishing a money laundering and crime database for the EU at Europol in cooperation with FIUs. Warning EU MS about high-risk transactions, persons, sectors and countries (see Chapter 6)

Source: Author's own elaborations.

The left bottom corner of the matrix shows that staying not transparent and focusing on the regulatory framework, the EU could either abandon its own listing and stay with the FATF list, or it could stay where it is and add some new steps to its methodology. However, it is important to acknowledge that this proposed approach of increased independence may face opposition from established institutions like the FATF who may object to these changes. Additionally, the European External Action Service, being a diplomatic service, may not show significant enthusiasm for cooperation in transmitting sanctions to blacklisted high-risk third countries. That the EU can do this, and that it found a way to partly disentangle from the heavy FATF influence can be seen in the new methodology (2020), and in the strong reaction from the Caribbean FATF (Dalip, 2020).

A grey list should be the next step if the EU wants to continue with its own listing, doubling FATF efforts and giving it a European twist. The advantage for the EU of a grey list would be that it could automatically include the countries grey listed by the FATF, and it could impose different due diligence or other requirements to this. By adopting this approach, the existing tension faced by countries on the FATF's grey list, who experience more severe treatment upon inclusion in the EU blacklist, would be alleviated and streamline delisting. In addition, the EU could top up the FATF list with high-risk countries of its own choice with milder implications than on the blacklist. However, De Koker (2023) shows that grey lists are less predictable concerning the signals they send to financial market participants and can have large negative effects on developing countries' possibilities to get loans and conditionality.

Another proposal suggests merging the EU money laundering list with the EU tax list to create a more harmonised set of measures for Member States to take against listed countries, by adding some

variables specific to money laundering. This could further help reduce the confusion for companies facing divergent tax compliance requirements across Member States, as shown by Deloitte (2023). The disadvantage is that the focus on serious crime, such as drugs and terrorism financing, might get too little attention.

Moving upwards to the top left corner of the matrix, adopting objective indicators developed by NGOs and academics to rank countries based on their anti-money laundering (AML) architecture, would be another option. The Financial Secrecy Index of Tax Justice Network and the Basel Anti-Money Laundering Index are examples of this. This approach would allow for the inclusion of EU MS in the rankings and provide benchmarks for evaluating AML policies. However, it is important to note that such indicators do not directly consider criminal activities or the actual reduction of money laundering and underlying crimes. The rankings can be openly discussed and reproduced.

Another proposal would be to move to the bottom right corner of the matrix and involve crime practitioners and experts, such as Europol, in assessing and ranking high-risk jurisdictions. By creating an encompassing crime database and encouraging Member States to share relevant data, this approach could provide valuable insights in identifying money laundering risks. Furthermore, learning from the lists maintained by the United States, particularly the somehow transparent methodology of the INCSR list, could offer a more transparent approach to ranking countries in the EU list. However, the extensive inclusion of countries on the INCSR list and its potential political implications highlight the need for exercising caution in its adoption.

In the top right side of the matrix, the most comprehensive suggestion for improving anti-money laundering measures within the EU is to establish a research centre on money laundering, similar to the IMF and the World Bank. This centre could develop a joint methodology for National Risk Assessments and Supranational Risk Assessments, utilising accessible crime statistics and would involve relevant stakeholders and academics to enhance transparency and objectivity in the rankings. Moreover, it could establish an alert system for detecting money laundering and terrorist financing transactions associated with specific countries, individuals, professions, sectors, and products. This approach would render the reliance on country lists redundant. The upcoming EU anti-money laundering authority, AMLA, could be tasked to contribute to the risk assessment of countries and jurisdictions, and serve as a research and supervision centre on money laundering. While this proposal would be more expensive than others, it could substantially enhance the overall effectiveness of anti-money laundering measures within the EU.

A significant weakness of the EU list is the exclusion of the Member States. The assumption that all Member States have the same level of vulnerability, threats, and money laundering risks has been refuted by academic research. Non-political lists, focusing on either the legal framework, or the actual practice of money laundering, indicate that European countries play a crucial role for money laundering inside Europe. The legitimacy and accuracy of an EU money laundering list would be enhanced by including softer legal means of indicating high-risk countries of European concern, and by reconsidering Article 9 of Directive (EU) 2015/84926 and the Principle of Mutual Trust of Member States.

The effectiveness of AML policies for both high-risk third countries and the EU remains unclear. Clear criteria are needed to determine when a certain goal has been achieved. The selection of experts involved in the process should be more transparent, with their competencies being assessed based on the required expertise domain. Experts should be tested for consistency in their judgments.

[26] Article 9 is available at: https://lexparency.org/eu/32015L0849/ART_9/#1.

Challenging times call for innovative policy solutions, and introducing European values into the AML policy style could be a starting point. This involves advising Member States on the procedures to follow when facing risks, rather than merely copying blacklisting and grey listing instruments from the FATF. Policy options range from maintaining a blacklist, to expanding it into a grey list, or to merging it with the EU tax or sectoral list. Changes in institutions, procedures, and content should be considered, with regular ex-post evaluations to fine-tune future assessments.

REFERENCES

- Basel Institute on Governance., 2019. Basel AML Index https://baselgovernance.org/publications/basel-aml-index-2019.
- Basel Institute on Governance., 2020. Basel AML Index https://baselgovernance.org/publications/basel-aml-index-2020.
- Basel Institute on Governance., 2021. Basel AML Index https://baselgovernance.org/publications/basel-aml-index-2021.
- Basel Institute on Governance., 2022. Basel AML Index https://index.baselgovernance.org/ranking.
- Borlini, L. S., & Montanaro, F., 2017. *The Evolution of the EU Law Against Criminal Finance: The "Hardening" of FATF Standards within the EU* (SSRN Scholarly Paper ID 3010099). Social Science Research Network. https://papers.ssrn.com/abstract=3010099.
- Braithwaite J., 1989 *Crime, Shame and Reintegration*. 1st Edition. Cambridge Cambridgeshire; New York: Cambridge University Press.
- Braithwaite J. and Drahos, P., 2002, *Zero Tolerance, Naming and Shaming: Is there a Case with it for the Crimes of the Powerful?* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=330443.
- Commission staff working document., 2002 *Methodology for identifying high-risk third countries under Directive (EU) 2015/849,* https://finance.ec.europa.eu/system/files/2020-05/200507-anti-money-laundering-terrorism-financing-action-plan-methodology_en.pdf.
- Cox, L., 2008. *Some Limitations of 'Risk = Threat × Vulnerability × Consequence' for Risk Analysis of Terrorist Attacks.* Risk Analysis: An International Journal 28 (6): 1749–62. https://onlinelibrary.wiley.com/doi/pdf/10.1111/j.1539-6924.2008.01142.x?casa_token=Y-csH_aqYc0AAAAA:dHN0ViwNfRymwxjtr1CCUArcCl4XySn-73WFMZO0Gcql94_mh8GdRussS-rvzkREUXLr_pGtE-M6JFX8gw.
- Dalip, A., 2020, *The EU's 2020 Methodology vs. the FATF Greylist*. ACAMS Today. Available online: https://www.acamstoday.org/the-eus-2020-methodology-vs-the-fatf-greylist/.
- Dawe, S., 2013, *Conducting National Money Laundering or Financing of Terrorism Risk Assessment.* In Research Handbook on Money Laundering, edited by Brigitte Unger and Daan van der Linde, 110–26. Cheltenham, United Kingdom: Edward Elgar.
- De Koker, L., Howell, N., and Morris, J., 2023, *Economic Consequences of Grey Listing*, 23.4.2023, MPDI, https://www.mdpi.com/2227-9091/11/5/81 .
- Deleanu, I., 2017, *Do Countries Consistently Engage in Misinforming the International Community about Their Efforts to Combat Money Laundering? Evidence Using Benford's Law*. PLOS ONE. 2(1). https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0169632.
- Deloitte ., 2023, *EU list of non -cooperative jurisdictions, national defensive tax measures towards non – cooperative jurisdiction* https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/gx-tax-eu-list-ncj-national-defensive-tax-measures-towards-ncjs.pdf.
- Europol., 2017, *Financial Intelligence Group Report: From suspicion to Action*, https://www.europol.europa.eu/cms/sites/default/files/documents/ql-01-17-932-en-c_pf_final.pdf.

- Erp, J., 2011, *Naming without shaming: The publication of sanctions in the Dutch financial market*. Regulation & Governance. 5:287–308. https://onlinelibrary.wiley.com/doi/pdf/10.1111/j.1748-5991.2011.01115.x?casa_token=6FMcrRvoO64AAAAA:90z-h7KAJxPQuLeiHj5rKVwm2tD8j1FzUGDVvpNpUlUrmahiSIfHsbEWkVKFtmRs4ri5pEdUC1fvieU2xA.
- European Central Bank , 2022, *SPACE II: Study on the Payment Attitudes of Consumers in the European Union,* https://www.ecb.europa.eu/stats/ecb_surveys/space/html/ecb.spacereport202212~783ffdf46e.en.html.
- European Commission., 2016, *EU financial regulations database*. Retrieved from https://webgate.ec.europa.eu/regdel/#/delegatedActs/1689?lang=en.
- European Commission., 2021, *Anti-money laundering and countering the financing of terrorism legislative package*. Retrieved from https://finance.ec.europa.eu/publications/anti-money-laundering-and-countering-financing-terrorism-legislative-package_en.
- European Commission., 2021, *Proposal for a Regulation of the European Parliament and of the Council on the Prevention of the Use of the Financial System for the Purposes of Money Laundering or Terrorist Financing COM/2021/420 final*. Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0420.
- European Commission., 2022, *Methodology for identifying high-risk third countries under Directive (EU) 2015/849*. Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52019IP0022#ntr10-C_2021171EN.01003001-E0010.
- European Commission., 2022, *Anti-Money Laundering Commission updates its list of high-risk third country jurisdictions to strengthen*. Retrieved from https://finance.ec.europa.eu/news/anti-money-laundering-commission-updates-its-list-high-risk-third-country-jurisdictions-strengthen-2022-12-20_en.
- European Commission., 2023, *EU list of non-cooperative jurisdictions*. Retrieved from https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/#what.
- European Court of Auditors., 2021, EU efforts to fight money laundering in the banking sector are fragmented and implementation is insufficient, Special Report 13/2021 https://www.eca.europa.eu/en/publications?did=58815.
- European Commission., 2023, Commission implements updated list of countries with strategic deficiencies in anti-money laundering and countering terrorist financing, https://ec.europa.eu/commission/presscorner/detail/en/mex_23_2805.
- European Union., 2015, Article 9 is available at: https://lexparency.org/eu/32015L0849/ART_9/#1.
- European Union., 2016, Regulation (EU) 2016/1675 amending Implementing Regulation (EU) No 282/2011 as regards supplies of goods or services not exceeding certain thresholds. https://eur-lex.europa.eu/eli/reg_del/2016/1675/oj/eng.
- European Parliament., 2019, European Parliament resolution of 19 September 2019 on the state of implementation of the Union's anti-money laundering legislation (2019/2820(RSP)). Retrieved from https://finance.ec.europa.eu/system/files/2020-05/200507-anti-money-laundering-terrorism-financing-action-plan-methodology_en.pdf.

- FATF., 2016. Improving Global AML/CFT Compliance: Ongoing Process—21 October 2016. Available online: https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/fatf-compliance-october-2016.html#Guyana (accessed on 10 August 2022).
- FATF. 2020. *Jurisdictions under Increased Monitoring—21 February 2020*. Available online: https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-february-2020.html (accessed on 10 August 2022).
- FATF. 2022a. *More about the International Co-operation Review Group (ICRG)*. Available online: http://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/more/more-on-high-risk-and-non-cooperative-jurisdictions.html?hf=10&b=0&s=desc(fatf_releasedate).
- FATF (Financial Action Task Force)., 2023, (February). Call for Action – February 2023. https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-February-2023.html.
- Ferwerda, J., 2016, The *Multidisciplinary Economics of Money Laundering*, LAP LAMBERT Academic Publishing https://dspace.library.uu.nl/bitstream/handle/1874/257920/ferwerda.pdf;sequence=1.
- Ferwerda, J., & Kleemans, E. R., 2017, *Money laundering risks in the Netherlands. Assessing the risk of money laundering in Europe, Final report of project IARM. Milano:* Transcrime Retrieved from www.transcrime.it/iarm.
- Ferwerda J., Deleanu, I., and Unger, B., 2019, *Strategies to avoid blacklisting: the case of statistics on money launderin*g, PLOS ONE 14. https://www.researchgate.net/publication/334060143_Strategies_to_avoid_blacklisting_The_case_of_statistics_on_money_laundering.
- Ferwerda, J., van Saase, A., Unger,B and Getzner, M., 2020. *Estimating Money Laundering Flows with a Gravity Model-Based Simulation*, Scientific Reports 10 (1):1–11. https://www.nature.com/articles/s41598-020-75653-x.
- Ferwerda, J. and Unger ,B., 2021, *How Big are Illicit Financial Flows? The hot phase of IFF estimations* in Unger, Rossel and Ferwerda Combating Fiscal Fraud and Empowering Regulators, Oxford University Press 2021 https://library.oapen.org/bitstream/handle/20.500.12657/47105/1/9780198854722.pdf#page=106.
- Ferwerda, J., and Reuter, P., 2019. *Learning from Money Laundering National Risk Assessments: The Case of Italy and Switzerland*. European Journal on Criminal Policy and Research 25 (1): 5–20. https://link.springer.com/article/10.1007/s10610-018-9395-0.
- Ferwerda, J. and Reuter,P., 2022, National Assessments of Money Laundering Risks: Learning from 8 Advanced Countries' NRAs, 2022 International Bank for Reconstruction and Development / The World Bank https://openknowledge.worldbank.org/bitstream/handle/10986/37305/IDU02386c9b80f623045e70bf8a09a30b6162595.pdf?sequence=1.
- Financial Action Task Force (FATF)., 2003. *The Forty Recommendations*. Paris: FATF/OECD. https://www.fatfgafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202003.pdf.

- Financial Action Task Force (FATF)., 2012. *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations*. Paris: FATF/OECD https://www.fatfgafi.org/media/fatf/documents/recommendations/pdfs/fatf%20recommendations%202012.pdf.
- Financial Action Task Force (FATF)., 2013a. *FATF Guidance: National Money Laundering and Terrorist Financing Risk Assessment*. Paris: FATF/OECD. http://www.fatf-gafi.org/media/fatf/content/images/National_ML_TF_Risk_Assessment.pdf.
- Financial Action Task Force (FATF)., 2016. Fatf compliance - October 2016 https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Fatf-compliance-october-2016.html.
- Financial Action Task Force (FATF)., 2020. Call for Action – October 2020. https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-october-2020.html.
- Financial Action Task Force (FATF)., 2019. *Terrorist Finance Risk Assessment Guidance*. FATF, Paris. www.fatf-gafi.org/publications//methodsandtrends/documents/Terrorist-Financing-RiskAssessment- Guidance.html.
- Financial Action Task Force (FATF)., 2023, Call for Action – February 2023. https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-February-2023.html.
- Groen, L. and van den Broek, M., 2023, *Ontwikkelingen in het Europese anti witwasbeleid: het Single Rulebook*, Tijdschrift voor Sanctierecht en Onderneming, April 2023.
- Hopkins, M. and Shelton, N., 2019. *Identifying Money Laundering Risk in the United Kingdom: Observations from National Risk Assessments and a Proposed Alternative Methodology*. European Journal on Criminal Policy and Research 25 (1): 63–82. https://link.springer.com/article/10.1007/s10610-018-9390-5.
- INCSR., 2022, Volume 2 https://www.state.gov/wp-content/uploads/2022/03/22-00768-INCSR-2022-Vol-2.pdf.
- Jansky, P; Meinzer, M; and Palansky, M., 2022, *Is Panama really your tax haven? Secrecy jurisdictions and the countries they harm*, in Risse, T. and Unger, B. (eds), Taxation: a Regulatory Multilevel Governance Perspective, Special Issue Regulation and Governance, 16 p.673-704. https://onlinelibrary.wiley.com/doi/pdf/10.1111/rego.12380.
- Kida, M., & Paetzold, S., 2021, The *Impact of Gray-Listing on Capital Flows: An Analysis Using Machine Learning*. International Monetary Fund. https://www.elibrary.imf.org/openurl?genre=articlel&issn=1018-5941&volume=2021&issue=153&artnum=A001.
- Koningsveld, J. van., 2015, *De offshore wereld ontmaskerd : een studie naar aard en omvang van het misbruik maken van offshore vennootschappen door nederlandse* (rechts) personen (dissertation). Uitgeverij Kerckebosch bv.
- Koningsveld, J. van., 2018, *De Paradise Papers: Incident of trend?* Compliance Officer, 28, 24-7. https://okcnl.nl/wp-content/uploads/2021/04/Jan-van-Koningsveld-Paradisepapers-incident-of-trend2018.pdf.

- KPMG., 2023, Tax defensive measures against non-cooperative jurisdictions, *The latest developments related to the EU list and its Impact defensive measures*. https://kpmg.com/xx/en/home/insights/2022/01/tax-defensive-measures-implemented-by-european-states-against-non-cooperative-jurisdictions.html.
- Levi, M., Reuter, P. and Halliday, T., 2018. *Can the AML System Be Evaluated without Better Data?* Crime, Law and Social Change 69 (2): 307–28. https://link.springer.com/article/10.1007/s10611-017-9757-4.
- Masse, T., O'Neil, S., and Rollins, J., 2007. *The Department of Homeland Security's Risk Assessment Methodology: Evolution, Issues, and Options for Congress*. Washington, DC: Congressional Research Service. https://apps.dtic.mil/sti/pdfs/ADA462494.pdf.
- Granger, M. 2014. *Use (and Abuse) of Expert Elicitation in Support of Decision Making for Public Policy*. Proceedings of the National Academy of Sciences 111 (20): 7176–84. https://www.pnas.org/doi/full/10.1073/pnas.1319946111.
- Myers, D., and Lamm, H., 1975. *The Polarizing Effect of Group Discussion: The Discovery That Discussion Tends to Enhance the Average Pre-discussion Tendency Has Stimulated New Insights about the Nature of Group Influence.* American Scientist 63 (3): 297–303.
- Naheem, M., 2015. *AML Compliance–A Banking Nightmare? The HSBC Case Study*, International Journal of Disclosure and Governance 12 (4): 300–310. https://link.springer.com/article/10.1057/jdg.2015.4.
- National Research Council., 2010. *Review of the Department of Homeland Security's Approach to Risk Analysis*. Washington, DC: National Academies Press.
- Oxford Dictionary ., 2023 , https://www.oxfordreference.com/display/10.1093/oi/authority.20110803095510835;jsessionid=0FE41EEF85816D935BF870CEB30F8345.
- Picciotto, S., 2022, *Technocracy in the Era of Twitter: Between intergovernmentalism and supranational technocratic politics in global tax governance*. Regulation & Governance, 16(3), 634-652. https://onlinelibrary.wiley.com/doi/pdfdirect/10.1111/rego.12351.
- Radaelli, C. M., 2003. *The Code of Conduct Against Harmful Tax Competition: Open Method of Coordination in disguise?* Public Administration, 81, 3, 513-531. https://onlinelibrary.wiley.com/doi/pdf/10.1111/1467-.9299.00359?casa_token=8_RvCZcTRuEAAAAA:4PZRazVXoBTrJ4ufTthdcYvy1P91_ijDSStT6SMzJq9v4EcUZxSPJ9XP9kw8ln2jeD_YsCe022SVxracjA.
- Rausand, M. 2013. *Risk Assessment: Theory, Methods, and Applications*. (Vol. 115 of Statistics in Practice). Hoboken, NJ: John Wiley & Sons.
- Riccardi M., 2022, *Money laundering blacklists*; New York, NY: Taylor and Francis/Routledge; DOI:10.4324/9781003212867, https://www.routledge.com/Money-Laundering-Blacklists/Riccardi/p/book/9781032080871.
- Rixen, T., 2008. *The Political Economy of International Tax Governance*, Basingstoke: Palgrave/MacMillan 2008.
- Savona, E., and Riccardi, M, eds., 2017. *Assessing the Risk of Money Laundering in Europe*. Final Report of Project IARM. Milano, Italy: Transcrime–Università Cattolica del Sacro Cuore. https://publicatt.unicatt.it/bitstream/10807/121517/1/ProjectIARM-FinalReport.pdf.

- Sharman, J.C., 2006. *Havens in a storm: The struggle for global tax regulation*, Ithaca, NY: Cornell University Press.
- Sharman, Jason C., 2010. *Shopping for Anonymous Shell Companies: An Audit Study of Anonymity and Crime in the International Financial System*. Journal of Economic Perspectives 24 (4): 127–40. https://pubs.aeaweb.org/mobile/doi/pdfplus/10.1257/jep.24.4.127.
- Takats E., 2011, *A Theory of "Crying Wolf": The Economics of Money Laundering Enforcement*. Journal of Law, Economics, & Organization; 27(1):32–78. https://academic.oup.com/jleo/article/27/1/32/892219?casa_token=ddzEwlBwAPEAAAAA:Nm8YU6tFYrCEGTMK5UvwT_CYDnSktbAN9dc-fsUQhwpYRj3jFe_bY6f9BJm_lpCaBIZ3To26ZWVMRaKl.
- Tax Justice Network, *Corporate Tax Haven Index* (CTHI) 2019. Retrieved at https://www.corporatetaxhavenindex.org/introduction/cthi-2019-results.
- Thaler, R. H., & Sunstein, C. R., 2009. *Nudge: Improving decisions about health, wealth, and happiness*. Penguin.
- Transparency International., 2023, *A new Anti-Money Laundering Authority AMLA*, see Transparency International https://transparency.eu/european-parliament-vote-strengthens-proposals-to-fight-money-laundering/.
- U.S. Department of State., 2016. International Narcotics Control Strategy Report (Vol. 2).
- U.S. Department of State., 2019, International Narcotics Control Strategy Report (Vol. II) https://www.state.gov/wp-content/uploads/2019/04/2017-INCSR-Vol-II.pdf.
- Unger, B., 2007. *The Scale and Impact of Money Laundering*. Cheltenham, UK: Edward Elgar.
- Unger, B. and Rawlings, G., 2008, *Competing for criminal money*, in Global Business and Economics Review, Vol. 10, No. 3, http://www2.econ.uu.nl/users/unger/publications/Competing%20for%20criminal%20money.pdf.
- Unger, B., and Ferwerda, J., 2009, *Regulating Money Laundering and Tax Havens: The Role of Blacklisting*. In: Sabitha A, editor. Combating Money Laundering–Transnational Perspectives. Icfai University Press; 2009. (Corporate Law series of Amicus Books).
- Unger B., Ferwerda J., Broek M van den, Deleanu I., 2014 *The Economic and Legal Effectiveness of the European Union's Anti-Money Laundering Policy*. Cheltenham, UK; Northampton, MA, USA: Edward Elgar Pub; 2014. 264 p.
- Unger, B. and Van Waarden, F., 2013. *How to Dodge Drowning in Data? Rule – and Risk-Based Anti-Money Laundering Policies Compared.* Chapter 29 in Research Handbook on Money Laundering, edited by Brigitte Unger and Daan van der Linde, 399–425. Cheltenham, United Kingdom: Edward Elgar.
- Unger, B. and den Hertog, J., 2012, J. *Water always finds its way: Identifying new forms of money laundering*. Crime Law Soc Change 57, 287–304 (2012). https://link.springer.com/article/10.1007/s10611-011-9352-z.
- Unger, B., 2013, Can Money Laundering Decrease? Public Finance Review, Volume 41 issue 5 https://journals.sagepub.com/doi/abs/10.1177/1091142113483353?journalCode=pfrb.
- Unger B., 2017 *Workshop Panama Inquiry Committee of the European Parliament Presentation* 26.1.2017.https://www.europarl.europa.eu/cmsdata/113607/Workshop%20European%20Palrliament%20Panama%20Committee.pdf.

- Unger, B; Getzner,M and van der Linde,D., 2017, *Public or Private Goods? Redefining Res Publica,* Edward Elgar, Cheltenham 2017.
- Unger, B., 2020 *Improving Anti-Money Laundering Policy Blacklisting, measures against letterbox companies, AML regulations and a European executive*, Study requested by the ECON Committee, Policy Department for Economic, Scientific and Quality of Life Policies, Directorate-General for Internal Policies https://www.europarl.europa.eu/RegData/etudes/STUD/2020/648789/IPOL_STU(2020)648789_EN.pdf.
- Unger,B., Rossel, L. and Ferwerda, J., 2021,*Combating Fiscal Fraud and Empowering Regulators*, Oxford University Press 2021 https://library.oapen.org/bitstream/handle/20.500.12657/47105/9780198854722.pdf? sequence=1.
- van der Veen, H and Heuts, L., 2018. *National Risk Assessment: Witwassen en Terrorismefinanciering* 2021, Bonaire, Sint Eustatius en Saba. The Hague, the Netherlands: WODC (Research and Documentation Centre). https://www.wodc.nl/onderzoeksdatabase/2689gnational-risk-assessment-bes-eilanden.aspx.
- Volksbegehren fuer uneingeschraenkte Bargeldzahlung., 2022, *Referendum for unlimited cash payment* , Austria available at: https://www.bmi.gv.at/411/Volksbegehren_der_XX_Gesetzgebungsperiode/FUER_UNEINGESCHRAENKTE_BARGELDZAHLUNG/start.aspx.
- Walker, J and Unger, B., 2009, *Measuring Global Money Laundering: "The Walker Gravity Model"* in Review of Law and Economics, Special Issue Money laundering (ed Unger) be press http://www2.econ.uu.nl/users/unger/publications/RLE2.pdf.
- Van der Does, E.; de Willebois, E.; Halter, M; Harrison, R., Won Park, J. and Sharman, J.C., 2011, *The Puppet Masters. How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It, Stolen Asset Recovery Initiative*, World Bank and UNODC https://www.unodc.org/documents/congress/background-information/Corruption/Puppet_Masters.pdf.

The EU blacklist of high-risk jurisdictions for money laundering is being criticised for a lack of autonomy from the FATF lists, politicisation and lobbying, and lack of transparency. The paper shows four ways to change this. More autonomy from the FATF can be reached through grey listing or merging the EU money laundering list with the EU tax list. More transparency can be reached by involving NGOs or academics to do the listing. But all these lists only look at the framework of anti-money laundering policy. When looking at the actual behaviour of launderers, criminological findings should be included. This can be accomplished by leveraging various agencies, like the US International Narcotics Control Strategy Report (INCSR) list. Lists differ substantially from each other and cover more than half of the world. To achieve both autonomy and transparency and to prevent politicisation, a research institute similar to the IMF could be established, for example, in the newly planned anti money laundering agency AMLA. Here an encompassing alert system of money laundering, including persons, sectors, entities, and countries could become an EU support for Member States.

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