



REUTERS / Michaela Rehle

ICPAK 2018 :: Australian Chapter

Financial crime and money laundering: A global perspective

—
Robert Macredie, Head of Current Awareness
Practical Law, Thomson Reuters



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TODAY'S DISCUSSION TOPICS

- 1) Financial crime compliance: protecting the financial system from criminal abuse**
- 2) The global drivers: combating money laundering, terrorism financing and other serious threats to the financial system**
- 3) Case studies: international money laundering and terrorism financing vulnerabilities**
- 4) Identify, mitigate and manage: preparing for “tranche two” of the Australian AML/CTF regime**
- 5) Global sanctions compliance: don't get caught out!**
- 6) Enforcement action: where the rubber hits the road**
- 7) Penalties regime: the cost of non-compliance**
- 7) Offshore banking: the global crackdown on tax evasion**



An aerial photograph of a two-lane asphalt road that curves sharply to the right. A dense forest of green and yellow trees occupies the median and the area to the left of the road. A small dark car is on the left side of the road, and a yellow truck and a blue truck are on the right side, navigating the curve. The road has white dashed lines for the center and solid lines for the edges.

1) Financial crime compliance

“Protecting the financial system from criminal abuse.”



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Money laundering: the global landscape



WHAT IS THE SCALE OF THE PROBLEM?

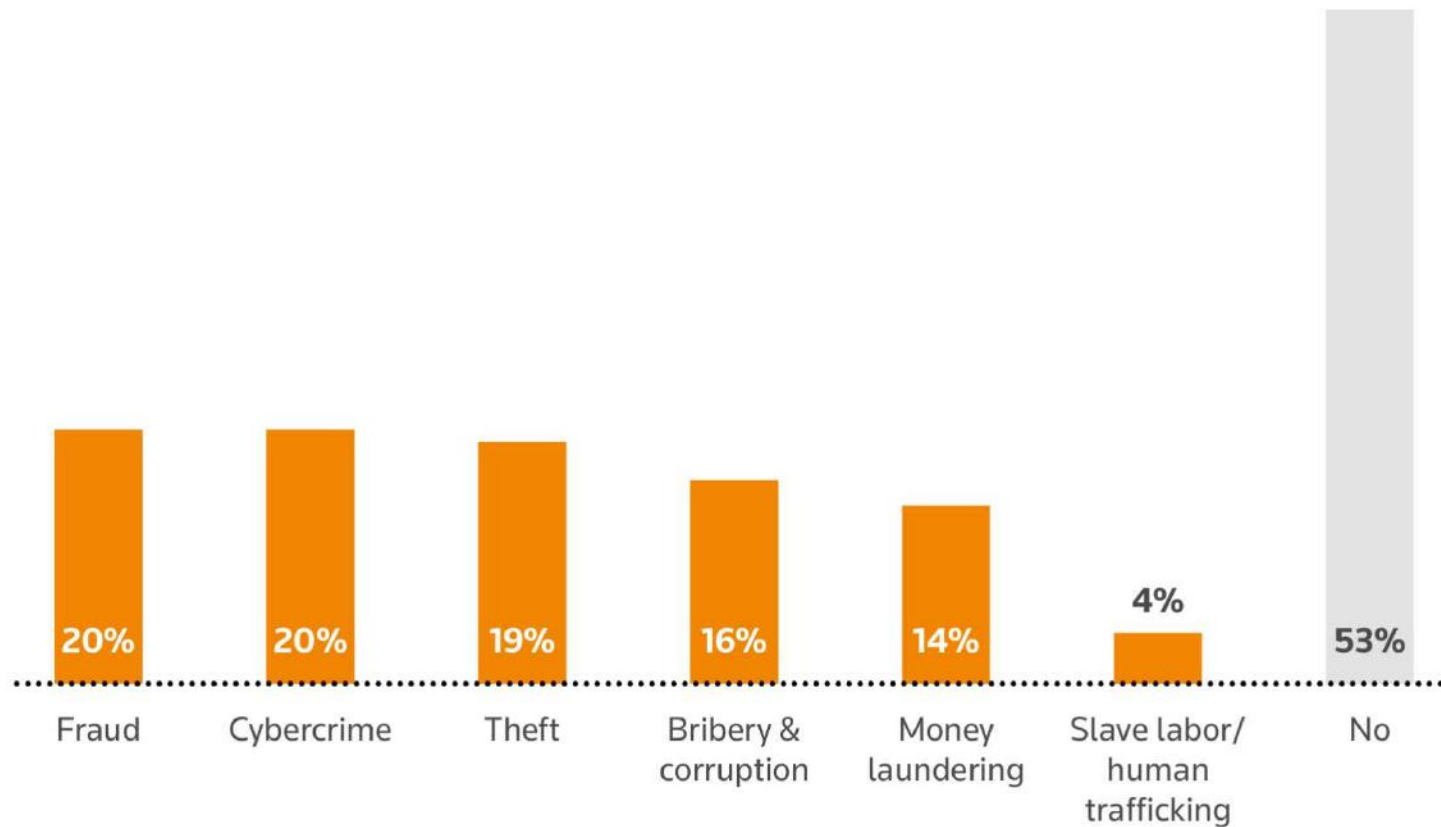
THE ESTIMATED AMOUNT OF
MONEY LAUNDERED GLOBALLY
IN ONE YEAR IS **2-5% OF GLOBAL
GDP (\$800 BILLION TO \$2 TRILLION).**

SOURCE: UNITED NATIONS OFFICE
ON DRUGS AND CRIME



Financial crime: a global challenge

Q: Has your company been the victim of the following 'financial crimes' throughout your global operations over the last 12 months?



The human face of financial crime



**40.3
MILLION**

**PEOPLE ARE VICTIMS OF
MODERN DAY SLAVERY**

**SOURCE
ILO AND
WALK FREE
FOUNDATION**



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2) The global drivers

Combating money laundering, terrorist financing and other threats to the international financial system



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The Financial Action Task Force (FATF)

- Established in 1989 by member countries
- Objective: Set standards and promote the effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system
- FATF is a “policy-making body” not an enforcement agency
- Focus on “generating the necessary political will” to bring about national legislative and regulatory reforms
- Key mechanisms: FATF Recommendations (2012)
- Persuasive tools: **Mutual evaluation** visits, list of **high-risk and non-cooperative jurisdictions**, guidance, “capacity building”, diplomacy



FATF in action: Annual plenary meeting



Predicate crimes: money laundering

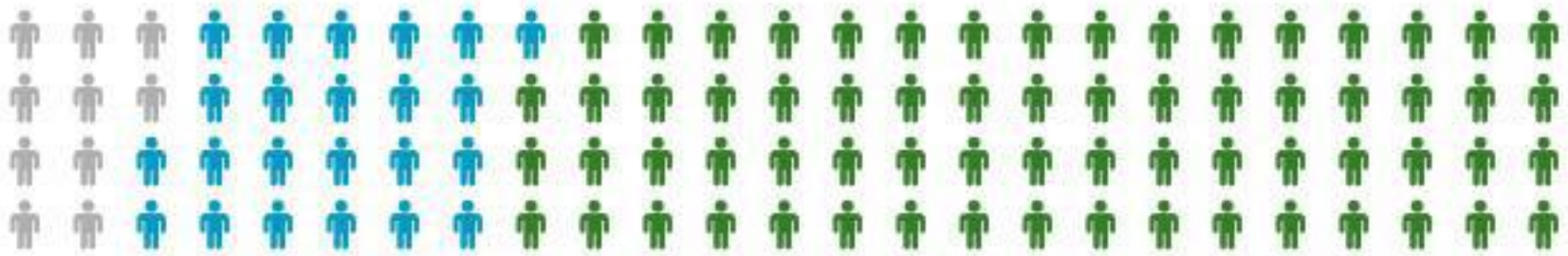
Which crimes are most commonly correlated with money laundering?



Money laundering: high-risk individuals

How often is money laundering connected to other crimes?

Out of the **72,255** individuals in Thomson Reuters World-Check identified as connected with money laundering, about **90%** are connected with at least one other crime, and **67%** are connected with at least two other crimes.



- Money Laundering only
- Money Laundering plus one other crime
- Money Laundering plus at least two other crimes





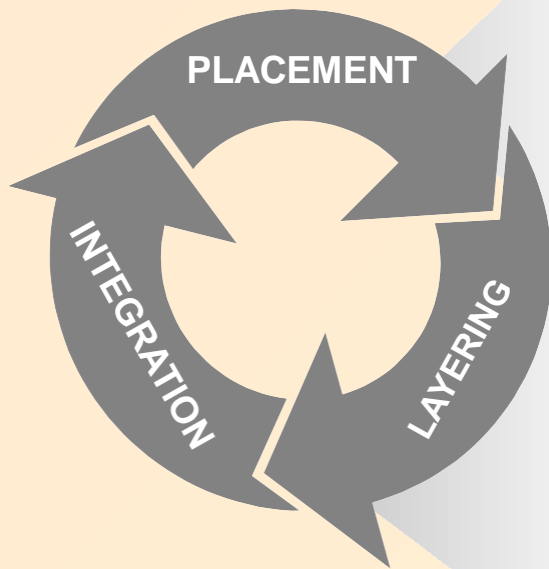
3) Case studies: International money laundering operations

The anatomy of a financial crime operation



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AML for accountants: three-stage model



THE MONEY LAUNDERING CYCLE

PLACEMENT: The first stage

- Paying cash for accounting services
- Setting up cash-intensive businesses
- Moving funds from high-risk sectors (e.g., casinos, bullion)

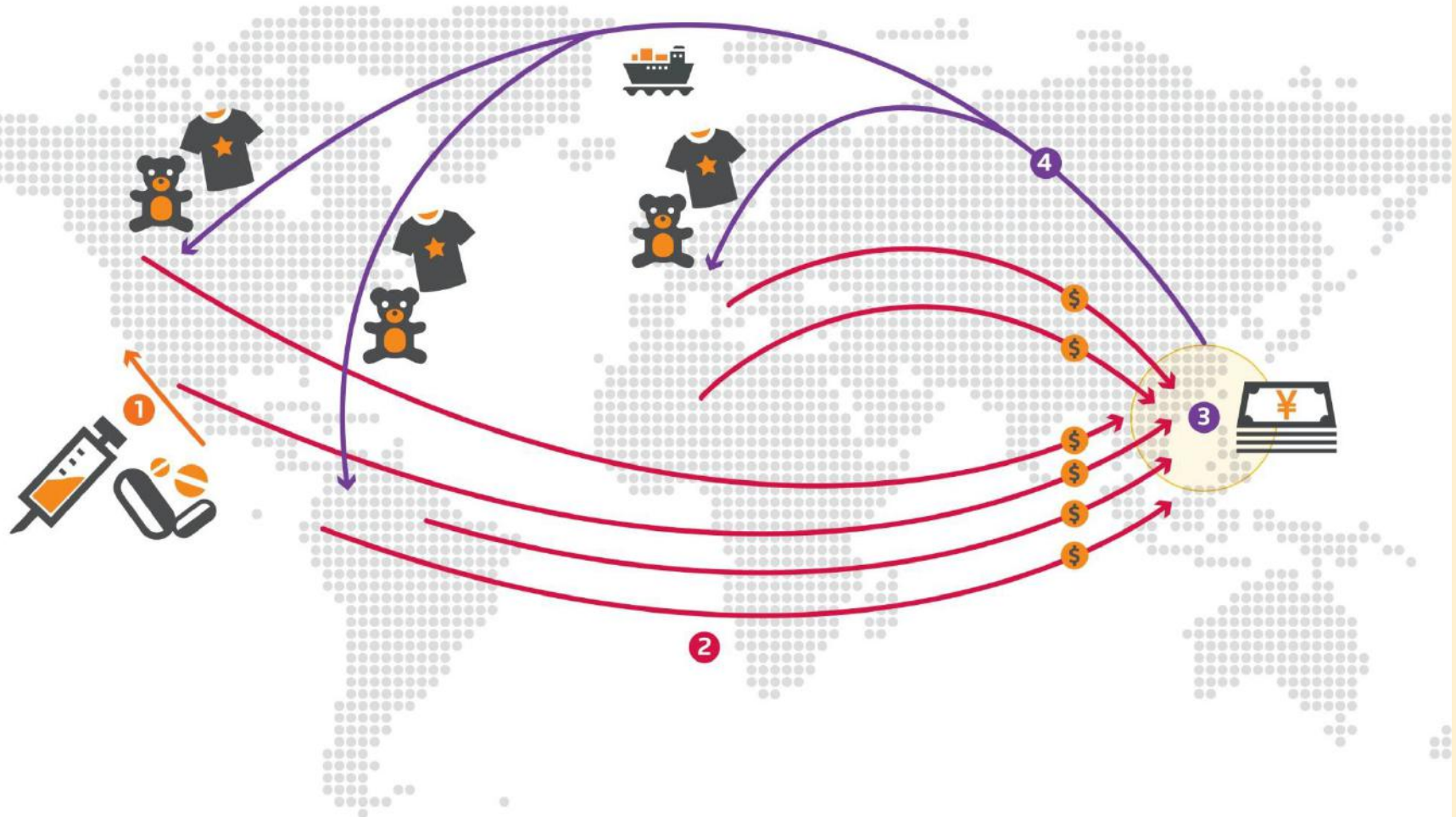
LAYERING: The second stage

- Complex business arrangements
- Trade-based laundering activity
- Purchases and movement of funds (no apparent reason)

INTEGRATION: The third stage

- Investments, move funds offshore
- Real-estate and other real property purchases
- Intellectual property, investments, superannuation, etc

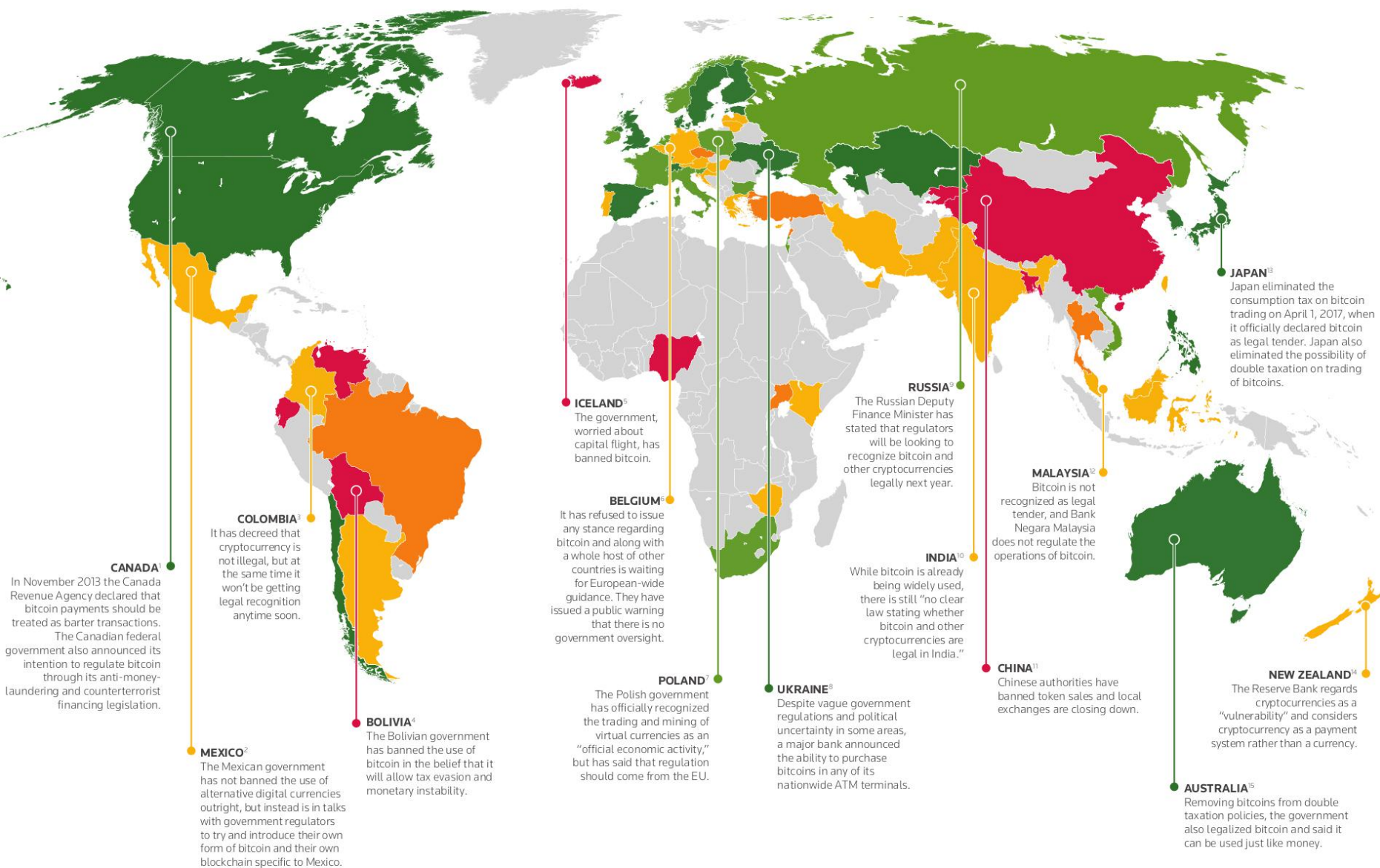
Chinese laundry: inside a global scheme



- 1 Drugs from Latin America and the Caribbean are trafficked to the United States and sold.
- 2 Proceeds from these transactions are passed through multiple accounts around the world before being sent to Hong Kong and finally, China.

- 3 The funds are often withdrawn in cash by exporters and used to purchase goods such as clothes and toys.
- 4 Goods are sent to Latin America or the United States and are sold. The now-legitimate profits are used to pay for the trafficked narcotics.

A WORLD OF CRYPTOCURRENCIES



● GLOBAL ADVOCATES

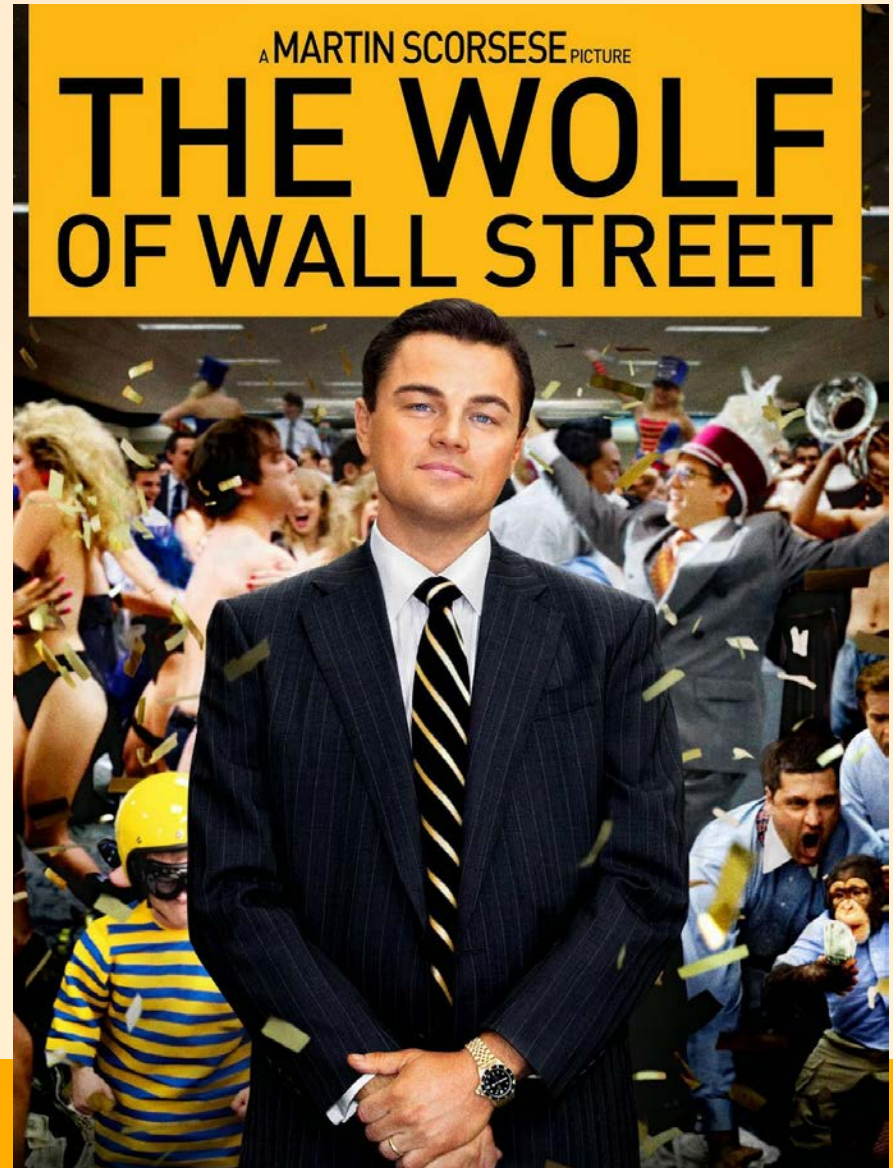
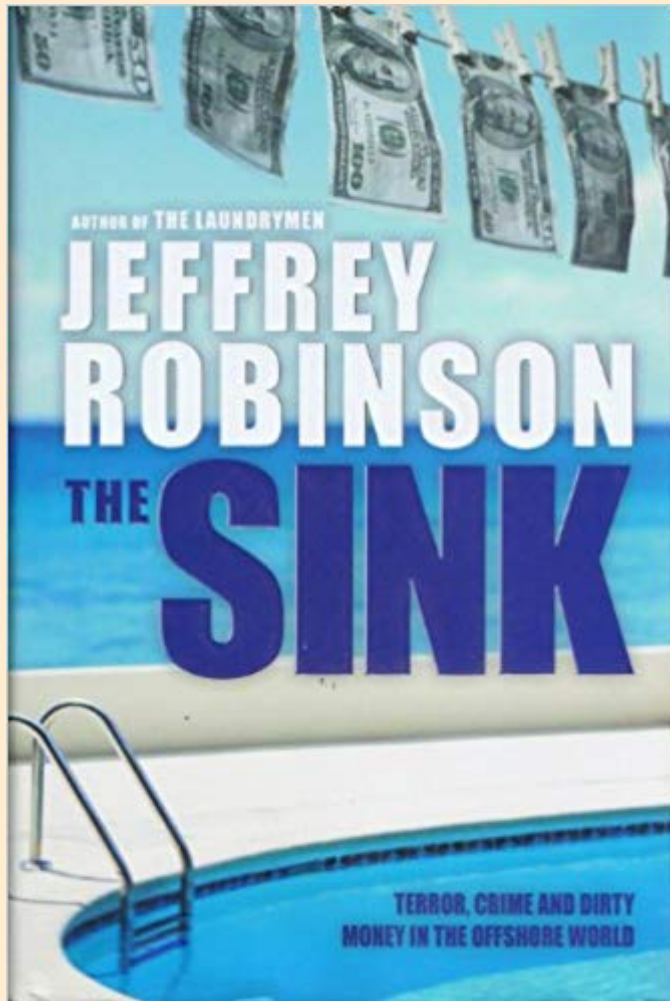
● DEVELOPING

● FENCE-SITTERS

● HOSTILE

● BANNED

ML/FT in securities markets: an old story





4) Identify, mitigate and manage

Complying with the Australian AML/CTF regime



The Australian AML/CTF regime

- **Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act)**
 - Introduced between 2007 and 2011 (“Policy Principles” period)
 - Gave suite of new powers to AUSTRAC
 - Based around “designated services”
 - Circa 14,000 reporting entities
 - Delivered in two tranches (second tranche yet to be passed)
- **AML/CTF Regulations**
- **AML/CTF Rules**
 - AML/CTF Rules are administered by AUSTRAC



AML/CTF compliance: The core elements

- Conduct a risk assessment
- Appoint an AML/CTF compliance officer
- Mandatory enrolment — Reporting Entities Roll, Remittance Sector Register
- Develop and maintain an AML/CTF program — Part A and Part B
- Identify and verify customer identity – KYC and OCDD
 - 1) Identify and verify a customer's identity before providing a designated service
 - 2) Carry out ongoing due diligence on all customers
- Transaction monitoring
- Reporting to AUSTRAC — the regulator and Financial Intelligence Unit (FIU)
- Record keeping
- Training
- Independent reviews — Part A of the AML/CTF program



Compliance cont: Reporting obligations

The types of transaction reports that must be submitted to AUSTRAC:

- Suspicious matter reports
 - Money laundering (three business days)
 - Terrorism financing (24 hours)
- Threshold transactions
 - Transactions over \$10,000
- International funds transfer instructions (IFTIs)
 - There is no dollar threshold for IFTIs
 - IFTIs include things such as movements of funds between casino Foreign Holding Accounts (FHAs)

* NOTE: AUSTRAC may share this information with domestic regulatory, national security and law enforcement agencies and certain international counterparts



The financial crime compliance regime

- Bribery and corruption:
 - U.K. — Bribery Act 2010
 - U.S. — Foreign Corrupt Practices Act 1977
 - Australia — s70.2 of the Criminal Code Act 1995 (Cth)



Other key financial crime regimes

- Modern Slavery
 - U.K. — Modern Slavery Act 2015
 - Australia — Inquiry into establishing a Modern Slavery Act (2017)



“The Committee recommends that the Australian Government introduce a Modern Slavery Act in Australia.”

— “Hidden in Plain Sight”,
Parliamentary Report

PHOTO: Nathan Lynch / THOMSON REUTERS

The background of the slide features two stacks of banknotes. On the left, there are several thick stacks of US dollar bills, with the top one clearly showing a \$5 bill. On the right, there are stacks of Brazilian Real banknotes in various colors, including yellow, green, and pink, with the word 'Banco' visible on them. A semi-transparent white box is overlaid on the bottom half of the image, containing the title and subtitle text.

5) Global sanctions compliance

An arm of foreign policy: Don't get caught out!



Sanctions: Don't get caught out!

DISCUSSION TOPICS:

- 1) Overview of sanctions laws: who's on the list and why does it matter for accountants?
- 2) What constitutes a breach
- 3) The penalties regime
- 4) How can organisations conduct risk assessments to determine their exposure to sanctions-related issues?
- 5) What are the best methods for developing protocols for the escalation and investigation of sanctions risks?
- 6) What are the best ways to create objective metrics to mitigate sanctions risks (client profile, geography and business activity)?



Sanctions: Blunt tool, or guided weapon?



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WORLD NEWS MAY 21, 2018 / 9:33 PM / UPDATED AN HOUR AGO

U.S. toughens stance on Iran, lists sweeping demands

WASHINGTON/ANKARA (Reuters) - The United States on Monday demanded Iran make sweeping changes — from dropping its nuclear program to pulling out of the Syrian civil war — or face severe economic sanctions as the Trump administration hardened its approach to Tehran.



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Iran: "The strongest sanctions in history"



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U.S. threatens Iran with "strongest sanctions in history"

Published 21-May-2018 by [Lesley Wroughton, Reuters](#)

Reuters and Accelus News

The United States on Monday demanded Iran make sweeping changes -- from dropping its nuclear program to pulling out of the Syrian civil war -- or face severe economic sanctions as the Trump administration hardened its approach to Tehran.

Iran dismissed Washington's ultimatum and one senior Iranian official said it showed the United States is seeking "regime change" in Iran.

Weeks after President Donald Trump pulled out of an international nuclear deal with Iran, his administration threatened to impose "the strongest sanctions in history," and vowed to "crush" Iranian operatives abroad, setting Washington and Tehran further on a course of confrontation.

U.S. Secretary of State Mike Pompeo demanded sweeping changes that would force Iran effectively to reverse the recent spread of its military and political influence through the Middle East to the shores of the Mediterranean Sea.



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In pictures: Visualising a geopolitical tool



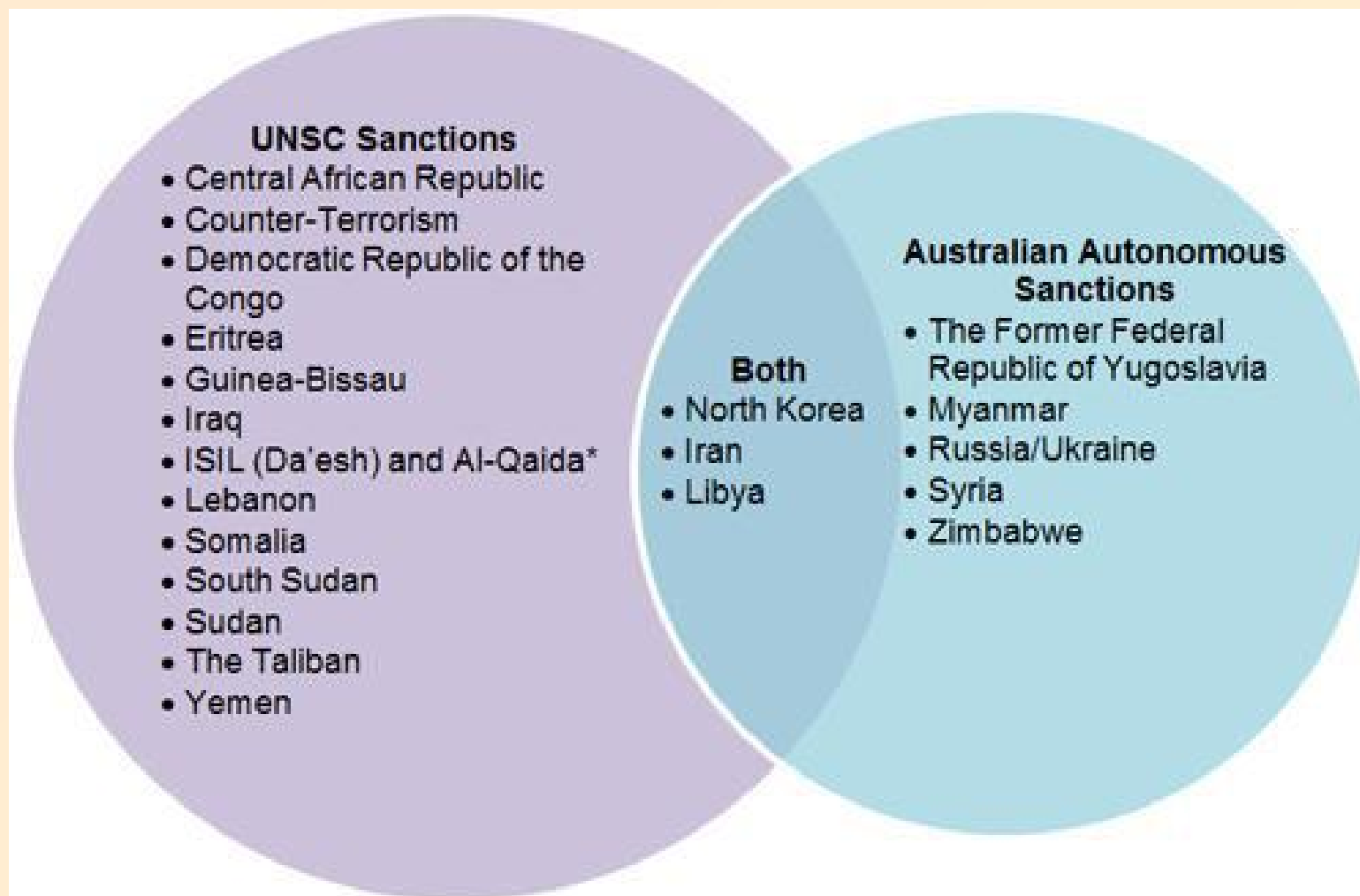
Australian sanctions laws

- Sanctions: Terrorism Financing (TF) and Proliferation Financing (PF)
 - Defined in EM to the Autonomous Sanctions Act 2011:

“Measures not involving the use of armed force imposed ‘in situations of international concern’, including ‘the grave repression of the human rights or democratic freedoms of a population by a government, or the proliferation of weapons of mass destruction or their means of delivery, or internal or international armed conflict’.”
- Charter of the United Nations Act 1945 (CotUNA)
- Australian autonomous sanctions are implemented under the **Autonomous Sanctions Act 2011** and the **Australian Autonomous Sanctions Regulations 2011**.
- DFAT administers the United Nations Act, the Autonomous Act and their regulations.



Australian sanctions regime



Sanctions: What is an offence?

The Australian and international sanctions regimes include general prohibitions on:

- making a **sanctioned supply** of export sanctioned goods
- making a **sanctioned import** of import sanctioned goods
- providing a **sanctioned service**
- engaging in a **sanctioned commercial activity**
- dealing with a **designated person or entity**
- using or dealing with a **controlled asset**
- the entry into or transit through Australia of a **designated person** or a **declared person**

SOURCE: The Department of Foreign Affairs and Trade

<http://dfat.gov.au/international-relations/security/sanctions/Pages/about-sanctions.aspx#permits>



Sanctioned goods and services

Targeted sanctions cover the supply, sale, transfer, maintenance, provision of training etcetera of sanctioned goods, services and commodities. Examples may include:

- Funds transfers related to trade (goods, services and commodities)
- Trading in weapons
- Aviation fuel
- 'Rough' diamonds
- Higher education
- Dual-use goods — e.g., washing machine parts (same international code for centrifuges), and aluminium tubes
- Helicopters and boats
- Wheat and other food products
- "Luxury goods" — e.g., North Korean sanctions



OSAS: Online Sanctions Admin System



Australian Government

Department of Foreign Affairs and Trade

Countries and
regions



International
relations



Trade and
investment



Aid



People-to-
people

Online Sanctions Administration System - Login

User Id

Password



Login



New Account



Reset Password

Welcome to the Online Sanctions Administration System (OSAS)

On OSAS you can:

- Make inquiries about whether a proposed transaction is subject to Australia's sanctions laws
- Apply for authorisations to engage in transactions regulated under Australia's sanctions laws

To apply for access to OSAS, click on "New Account".

If you already have an account with OSAS, enter your User ID and Password and click "Login".

If you have an account, but have forgotten your password, click on "Reset Password".

Helpful tools - User Guide & DFAT website

For instructions on how to use OSAS, please refer to the [OSAS User Guide](#).

General information on sanctions and their application under Australian law is available on the [Sanctions pages on the DFAT website](#).



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FATF Mutual Evaluation: Australia

SANCTIONS SCORECARD:

- 1) Australia demonstrates a number of characteristics of an **effective system** for targeted financial sanctions (TFS) both for TF and PF.
- 2) However, the **effectiveness** of the overall framework for targeted financial sanctions both for TF and PF is heavily impacted by **the lack of financial supervision** of the financial and DNFBP sectors, to ensure compliance with the domestic framework.
- 3) Due to the lack of financial supervision or monitoring, the lack of practical examples of implementation issues from the financial sector, and the lack of frozen assets, assessors were unable to establish that the framework is effectively implemented by the financial sector and DNFBPs.

SOURCE: The Financial Action Task Force, Fourth Round Mutual Evaluation on Australia
<http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/Mutual-Evaluation-Report-Australia-2015.pdf>





6) Enforcement: the rubber hits the road

“Australia should focus more on effective supervision and **enforcement** of individual reporting entities’ compliance with AML/CTF obligations ...” — FATF, 2015



Enforcement action: an extensive toolkit

AUSTRAC has used a range of enforcement powers:

- Civil penalty orders — Tabcorp, Commonwealth Bank
- Enforceable undertakings — 15 cases
- Infringement notices — Ria, MoneyGram, ClassicBet
- Remedial directions — Little Persia, Allsafe, Acacia Ridge Hotel, ClassicBet
- De-registration — Removal from the Remittance Sector Register
- Written notices

Enforcement: AUSTRAC v Tabcorp



Australian Government
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Record \$45 million civil penalty ordered against Tabcorp

16 March 2017

The highest ever civil penalty in corporate Australian history was today ordered against Tabcorp by the Federal Court of Australia.

AUSTRAC CEO Paul Jevtovic said that the record \$45 million civil penalty serves as a stark reminder to all reporting entities that there are serious consequences for non-compliance with the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act).

“Today the court found that Tabcorp had contravened the AML/CTF Act on 108 occasions over a period of more than five years,” said Mr Jevtovic.



Enforcement: AUSTRAC v CommBank



Australia's CBA says CEO Narev to stand down amid money-laundering scandal

Paulina Duran, Byron Kaye

4 MIN READ



SYDNEY (Reuters) - Commonwealth Bank of Australia (CBA.AX) CEO Ian Narev will retire by next June, Australia's No. 2 lender said on Monday, after a week of damaging publicity about a money-laundering lawsuit led to calls for the long-serving chief to resign.



Regulatory headwinds facing Commonwealth Bank in the wake of AUSTRAC litigation:

- AUSTRAC AML/CTF civil litigation
- Criticism from RBA governor
- ASIC continuous disclosure inquiry
- APRA inquiry into bank culture (Laker)
- Class action lawsuit
- Royal Commission

Potential overseas investigations:

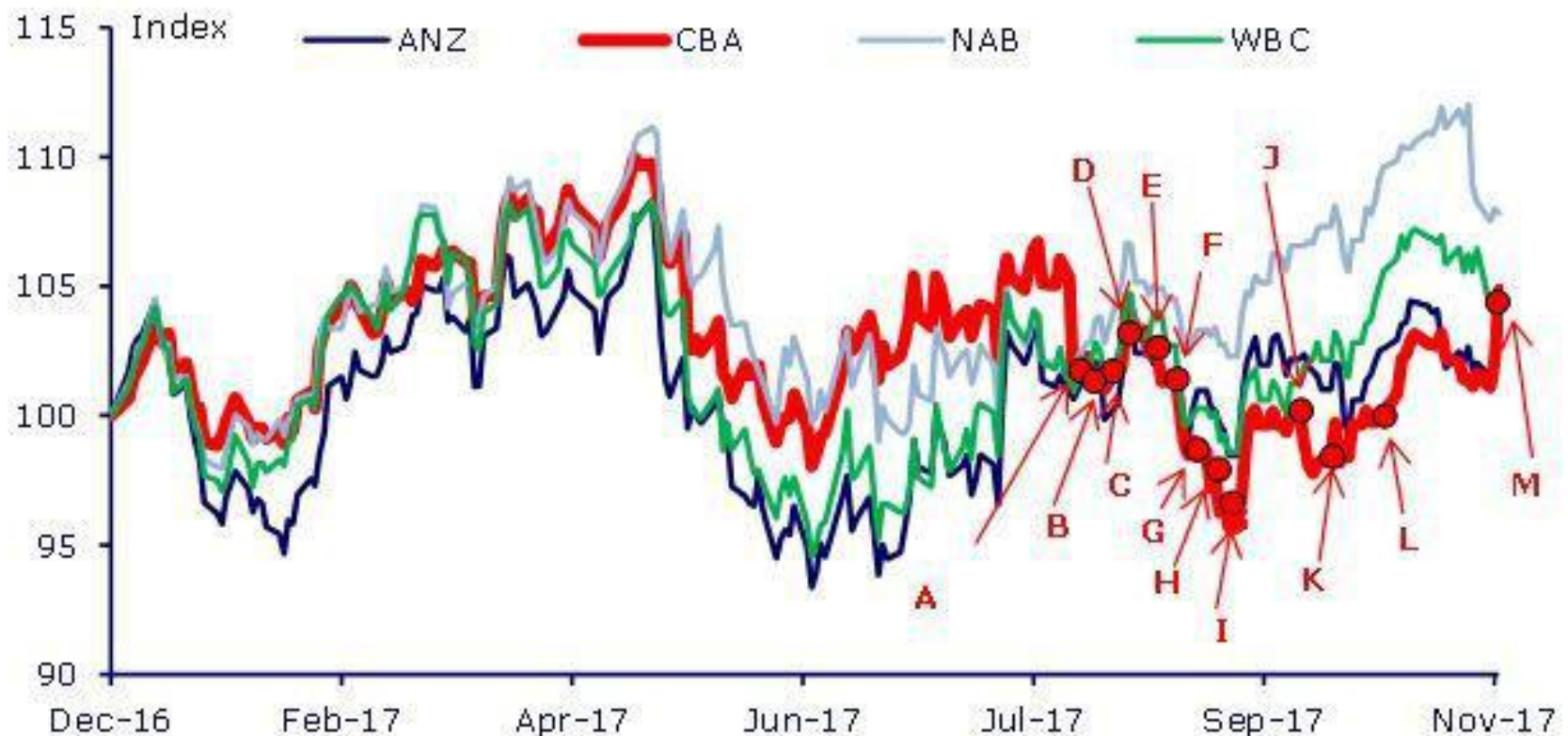
- United States
- Hong Kong
- Malaysia
- New Zealand

CLSA data: Impact on CBA share price

AUSTRAC derating discounts CBA's premium ROE

Figure 25

Major accumulation banks' performance since beginning of 2017



Sanctions: The Australian penalties regime

SANCTIONS: STRICT LIABILITY

Sanctions breaches are strict liability offences for companies. There is no need to establish a fault element (intent, knowledge, recklessness or negligence) for a body company to be found guilty.

PENALTIES:

Individuals: up to 10 years' jail, \$450,000 fines or three times the value of the transaction

Companies: \$1.8m fines or three times the value of the transaction

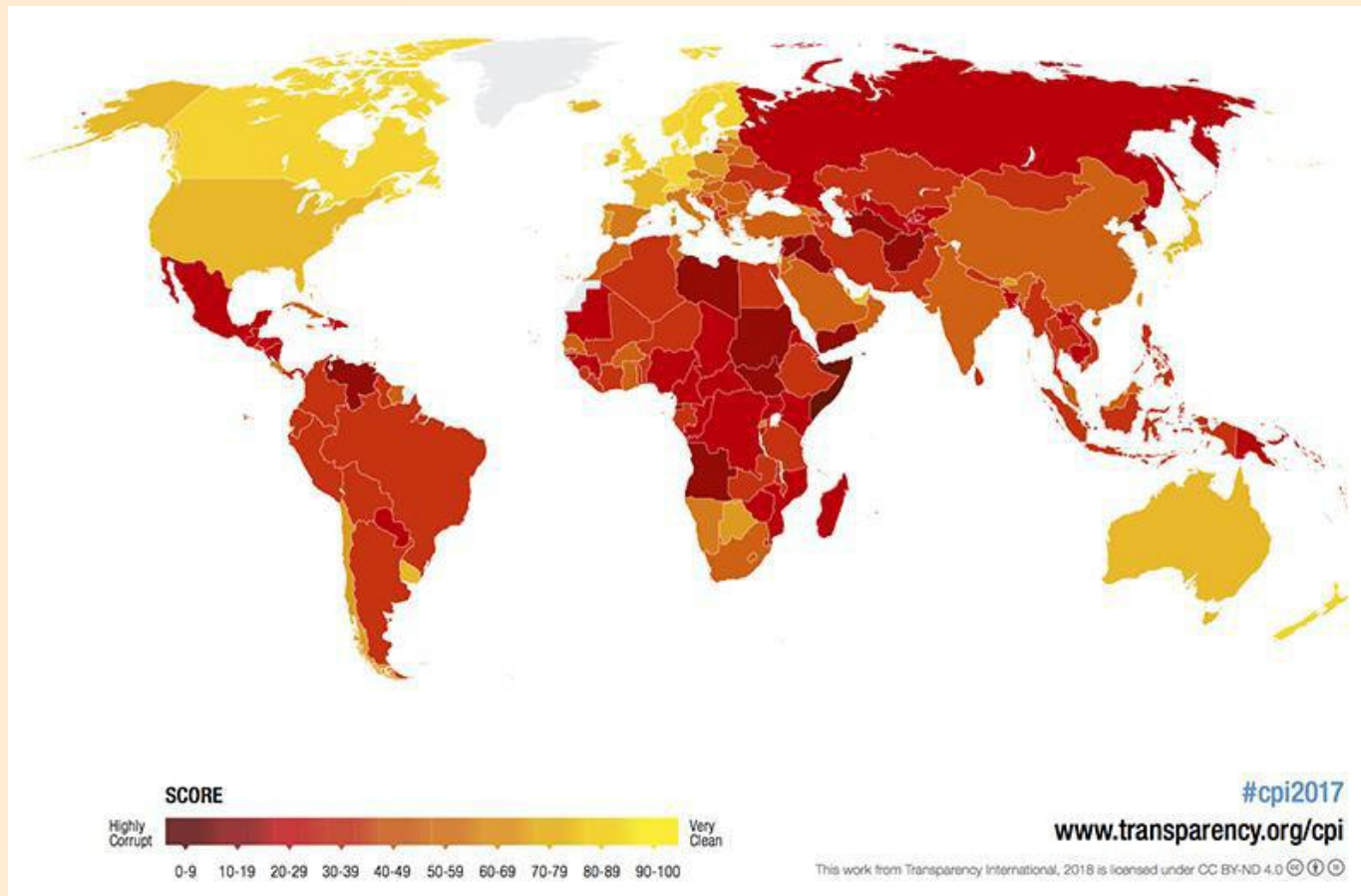


7) The costs of non-compliance

“Assessors were unable to establish that the framework is effectively implemented” — FATF



Global corruption perceptions



“In 2012, Australia scored 85 out of 100. Today ... Australia has slipped 8 points, receiving a score of 77, and remains outside the top 10 countries.”

— Transparency International, 2018

The cost of non-compliance: global

Scrutiny around compliance is rapidly increasing as regulators look to ensure that companies are putting policies and procedures in place to effectively respond to and mitigate risk. The most obvious consequence of non-compliance is the huge monetary penalties and fines that can occur as a result of misconduct.



\$204 BILLION

Banks have paid more than **\$204 billion in fines and settlements since the financial crisis.**¹



\$185 MILLION

A New York bank was fined \$185 million for **failing to comply with rules intended to protect client assets** in 2015.²



\$18 BILLION

A German car manufacturer is now facing fines up to \$18 billion for **allegedly cheating on emissions tests** in a scandal that erupted in 2015.³



\$60 MILLION

A Japanese-based electronics and industrial company, was hit with a record \$60 million dollar fine for an **accounting scandal** in 2015.⁴

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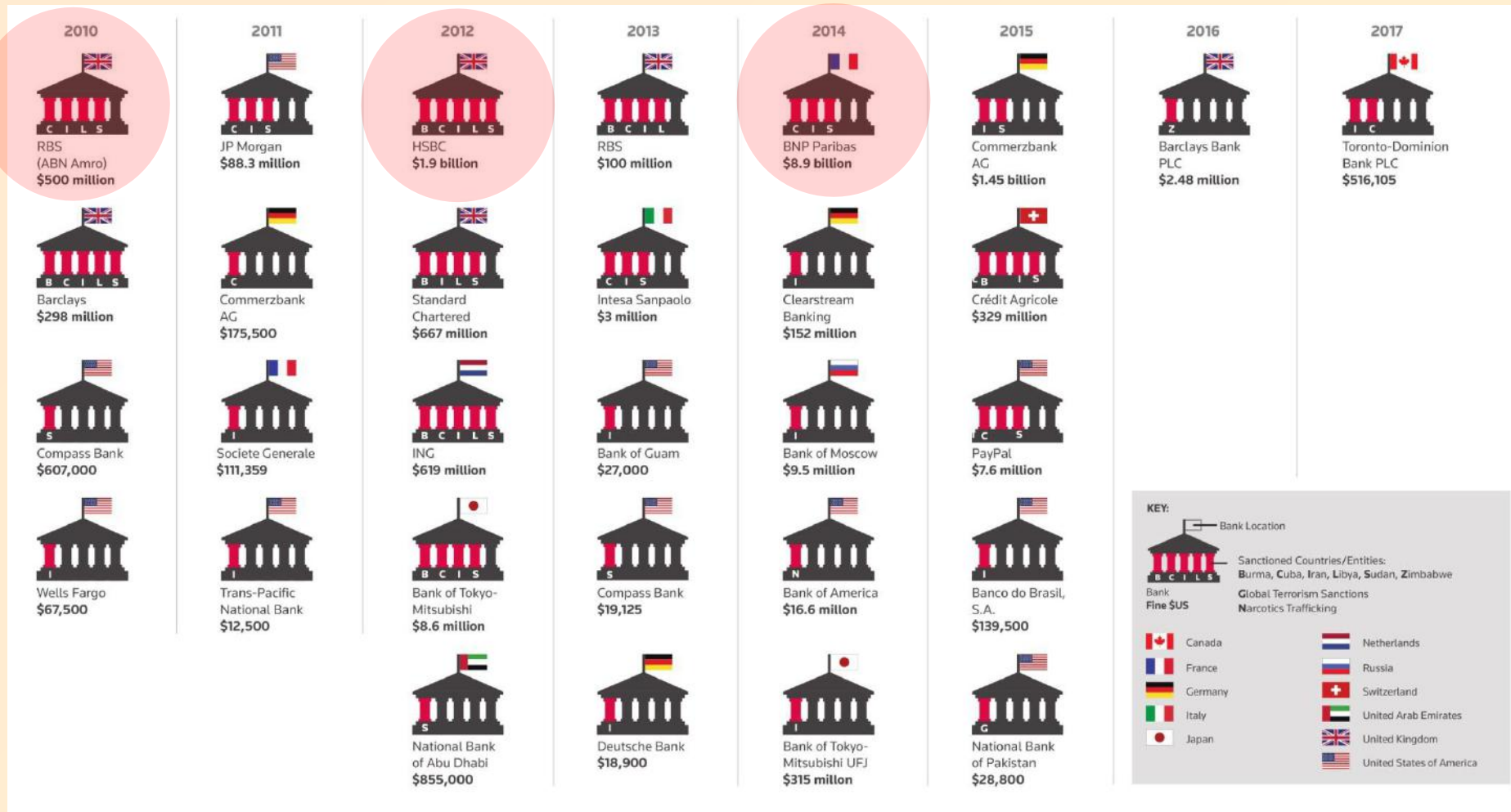


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US sanctions: The cost of breaches



An aerial photograph of a beach with turquoise water and white waves. Several people are visible in the water and on the sand. The image is used as a background for the title slide.

8) Tax evasion as a predicate crime

Inside the global crackdown on offshore tax havens

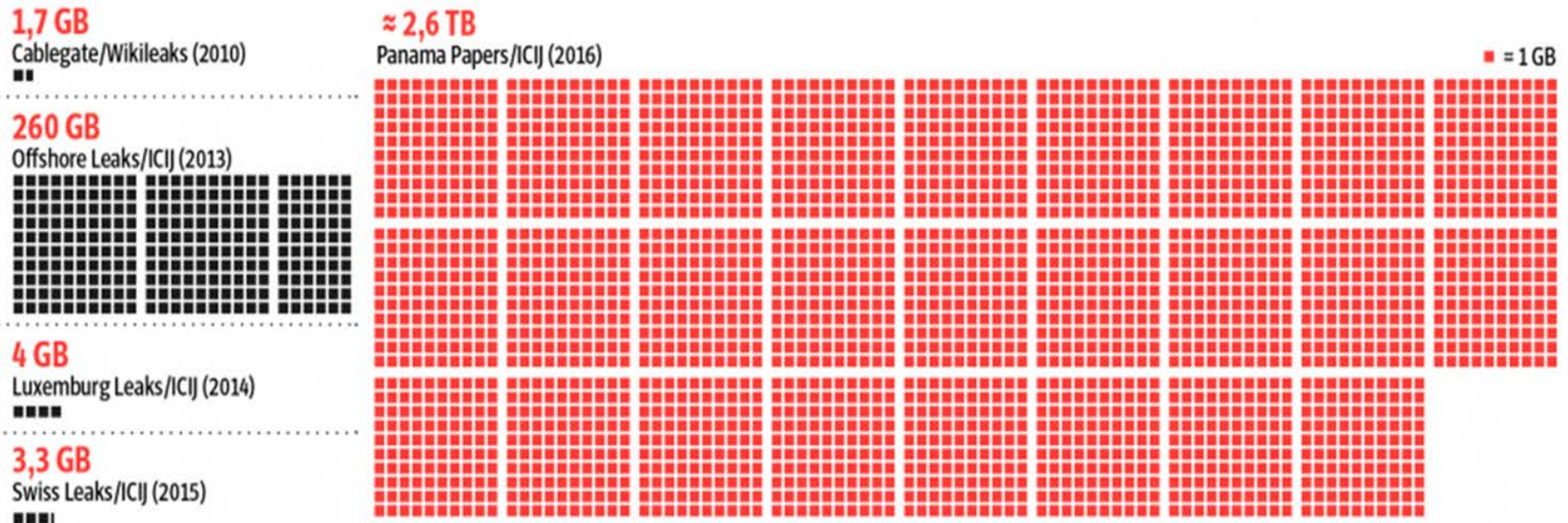


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Panama Papers: The data

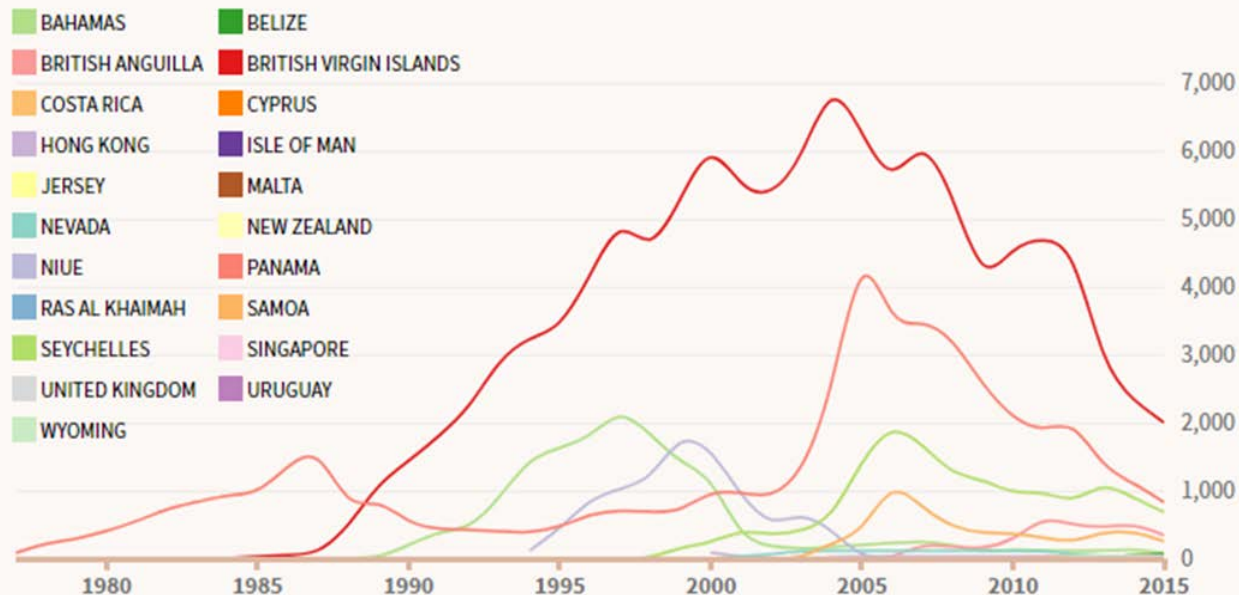
The scale of the leak

Volume of data compared to previous leaks



Panama Papers: The main tax havens

From the Caribbean to the Pacific: tax havens used by Mossack Fonseca



Operating in more than 21 jurisdictions, Mossack Fonseca is considered one of the world's five biggest wholesalers of offshore secrecy. Important changes in legislation between 2004 and 2005 produced significant fluctuations in the offshore market.



Source: The Panama Papers [Read more](#)

Database: offshoreleaks.icij.org



OFFSHORE LEAKS DATABASE

by The International Consortium of Investigative Journalists

EXPLORE OFFSHORE CONNECTIONS OF POLITICAL POWER PLAYERS

Explore the offshore connections of world leaders, politicians and their relatives and associates.

All countries ▼

All sources ▼

Search the profiles



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FOREIGN MINISTER, UGANDA

Sam Kahamba Kutesa

Proposals to prevent the abuse of offshore financial centres

- 1) **Global blacklist** of tax havens (with strong “countermeasures”).
- 2) **Country-by-country reporting** for multinational companies.
- 3) **Central public UBO register** for shell companies, trusts and foundations.
- 4) Ensure **tax treaties** do not exploit developing countries.
- 5) **Global taxation body** to coordinate tax reforms.



Some legitimate reasons to use offshore financial centres

- Lawfully benefit from more favourable taxation regime
- Access a regulatory framework that is simpler or more attractive
- Benefit from simpler company formation and ongoing compliance
- Access legal frameworks that protect principal-agent relations
- Geography — proximity to major economies, capital outflows
- Take advantage of reputation and specialist services or skills
- Freedom from exchange controls
- Safeguarding assets from perceived risk of litigation, etc.

FUTURE-PROOFING YOUR FINANCIAL CRIME & SANCTIONS CONTROLS

- Reach out to your regulator. Become a “**trusted partner**”.
- Embrace **technology and regtech**. Always be learning.
- Link your controls: fraud, anti-bribery, whistleblowers etc.
- Use major enforcement actions as a **learning tool** and a weapon.
- Review your **terrorism financing** controls (as threats change and typologies evolve).
- Review your **transaction monitoring** framework.
- Be creative. Study **typologies**. Embed them in controls.
- The big picture: **motivate and engage** the people in your business.





7) Questions and answers



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What does white-collar crime look like?



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What does white-collar crime look like?



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