
International Groups Say Corrupt PEPs Can Often Loot With Impunity

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Three intergovernmental groups are questioning the effectiveness of anti-money laundering controls meant to curb abuses of corrupt political figures who steal from their countries.

The World Bank and United Nations said in a joint June 21 report that at least 74 of 124 jurisdictions examined have not complied with anti-money laundering (AML) recommendations to quash kleptocracy by political figures. The record indicates that financial institutions and the agencies that regulate them may be “deficient” in enforcing the controls, the report said.

In a separate report published July 29, the Paris-based Financial Action Task Force (FATF) warned banks and other companies that government officials, also known as politically exposed persons (PEPs), can exploit the “natural advantages” of their positions to launder ill-gotten funds through institutions, and then stymie investigations into the crimes.

The three organizations recommended requiring financial institutions to review their PEP accounts annually, sharing suspicious activity reports on the accounts of foreign politically-tied figures with their home country and eliminating the distinction between foreign and domestic PEPs.

“More specific guidance may be needed because there are specific challenges related to the persistent problem of PEPs that we don’t see with drug trafficking and organized crime,” said Vincent Schmoll, principal administrator with the FATF secretariat, in an interview. FATF plans to publish guidance in the next six months on how to identify such funds, he said.

Looting by the former Nigerian dictator Sani Abacha, who siphoned assets out of his country into banks in Switzerland, the United States and the United Kingdom, illustrates how difficult it can be to stop powerful figures from abusing their positions, said Schmoll.

“Even if all the receiving countries of Abacha’s funds had all their PEP laws up to par, and were able to identify the beneficial owners, his control of the country meant that there was no way for Swiss, U.K. and U.S. banks to return the money to his victims,” said Schmoll.

In cases when corrupt foreign officials exercise direct power over a bank, “the hardest part of money laundering, introducing the funds into the financial system, is already done,” said Fred Abrams, a New York-based attorney specializing in asset

recovery. Pavlo Lazarenko of Ukraine and Zine El Abidene Ben Ali of Tunisia both used such means to launder funds they stole from state coffers, he said.

The reports come as FATF considers tweaks to its 49 AML and counterterrorism financing standards, including a potential proposal that financial institutions take “reasonable measures,” including enhanced due diligence, to better monitor accounts held by domestic political figures.

The intergovernmental group, which sets the evaluation standards used by other organizations and governments, is set to disclose changes to its recommendations in February.

In their report, which was issued as part of the joint Stolen Asset Recovery Initiative (STAR), the U.N. and World Bank recommended that FATF adopt the broader definition of “politically exposed persons” under the United Nations Convention Against Corruption (UNCAC).

Unlike the PEP definition currently used by FATF, UNCAC explicitly specifies that politically-tied figures includes both foreign and domestic figures and any individuals or companies “clearly related” to them. Under UNCAC, a PEP can be a middle- or junior-ranking official.

That multiple PEP meanings have been adopted by organizations and jurisdictions has proved frustrating for law enforcement agents, said Abrams. “Everyone can’t agree on the same thing,” he said.

One recommendation made by the intergovernmental groups—to require companies to identify their owners—is under consideration as part of a bill introduced Aug. 2 by Sens. Carl Levin (D-MI) and Charles Grassley (R-IA). The measure, which would require company formation agents to collect beneficial ownership data, is at least the third U.S. lawmakers have tried to pass since 2007.

The vulnerabilities exploited by corrupt officials have contributed to a paltry record on fighting kleptocracy. Of the \$20 billion to \$40 billion stolen from developing countries by corrupt officials annually, only \$5 billion has been seized and repatriated over the last 15 years, according to the STAR report.

A May 2 report by My Private Banking, a research and networking Web site for wealth managers, found that of the \$140 billion thought to be held by the 25 most well-known dictators, only five percent of the assets have been frozen with less than three percent ever returned to the governments the funds were allegedly looted from.

For some jurisdictions, the allure of cash inflows has led them to either turn a blind eye to corrupt funds from foreign sources or openly welcome the funds, as was the case with a 1996 law passed by the Republic of Seychelles that guaranteed immunity from prosecution and asset forfeitures provided individuals invested at least \$10 million locally.

“Even though they quickly removed the law from the books, the spirit and the

intent were still there,” according to an individual who has worked on national AML assessments for an intergovernmental organization.

But while the changes recommended by the STAR report “make sense,” banks may be reluctant to assume a greater regulatory burden in monitoring PEP accounts, said Steffen Binder, co-founder of My Private Banking and the author of the May 2 report.

The reports follow a series of disclosures by governments about U.S. and foreign accounts held for Ben Ali, Libyan leader Muammar Gadhafi and former Egyptian President Hosni Mubarak, among other leaders accused of corruption by the international community.

In June, the U.K.’s chief financial regulator said that the AML compliance departments at three out of every four U.K. banks inadequately scrutinized accounts maintained for risky clients, including PEPs, a situation that hasn’t improved since the publication of a 2001 report that noted similar problems.

“This has been a very public issue—and one that has been officially noted—for the last 10 years, meaning banks here have given FATF and the FSA the middle finger for that long,” Robert Palmer, a campaigner for Global Witness, a London-based anti-corruption advocacy group cited in the report.