



Summit for Democracy Financial Transparency and Integrity (FTI) Cohort

Considerations for Governments Working Alongside Civil Society to Address Corruption and Money Laundering Risks in Various “Gatekeeper” Professions and Sectors

The following reflections are based on inputs from FTI Cohort participants during spotlight meetings in March and December 2023 on countering the misuse of the professional services industry to facilitate, encourage, and enable corruption. Participants in the meetings highlighted the following observations:

1. A common understanding is key

It is important to have a common understanding of the terms “gatekeepers” and “enablers” and how they are distinct from one another. Participants agreed that, for discussions within the context of the cohort, gatekeepers are certain professions and sectors that can serve as entry points to domestic and international financial systems or markets and who may not be subject to comprehensive anti-money laundering and counter-terrorist financing (AML/CFT) obligations. These professions and sectors include, but are not limited to, lawyers, trust and company service providers, accountants, real estate professionals, and investment advisors. Of those professions and sectors, participants agreed that “enablers” refers to the small subset of gatekeepers who use their professional services to perform or facilitate illicit activity that enables corruption, including laundering the proceeds of corruption. Most gatekeepers are not involved in unlawful or improper activity but the subset of “enablers” inherently is.

Furthermore, participants discussed the tension in understanding enablers either by profession or by behavior, noting that there can be some unique dynamics within sectors but also consistent behaviors across sectors that merit consistent and coordinated considerations for response.

Key policy questions:

- Which professions and sectors are most vulnerable to misuse for corrupt and other illicit acts?
- In your context, what gatekeeping professions and sectors are not subject to comprehensive AML/CFT obligations?
- What dynamics require unique sectoral responses? What would benefit from a cross-sector behavioral analysis and response?

2. Enablers pose a threat to democratic resilience and contribute to harming sustainable economic growth and economic opportunity

Those who facilitate corruption and launder, move, or hide the proceeds of corruption help corrupt actors to continue to benefit from their ill-gotten gains. When those corrupt actors are government officials, this facilitation can deprive governments of critical resources, weaken the provision of public services, and hollow out institutions. Furthermore, enablers of corruption can reinforce systems of

governance in which politicians need not be responsive to the people, as, for example, officials can tap into illicitly acquired funds to maintain patronage networks and manipulate elections.

When it comes to economic implications, money laundering—whether or not it involves gatekeepers, and whether or not it involves corruption—has a host of potential negative effects, including weakening the business environment and decreasing investment. Additionally, the influx of laundered proceeds of corruption can warp and distort markets. These economic consequences can create challenges for democratic leaders trying to deliver for their citizens.

The issue of complicit gatekeepers has long been a focus of global AML/CFT efforts. However, discussion of their role in undermining democracy is far more nascent and would benefit from consensus building to muster political will to address it.

Key policy questions:

- How can enablers be elevated as a democracy challenge?
- Where are opportunities to bridge technical discussions on discrete anti-corruption and anti-money laundering reforms and regulations and broader governance policy conversations?
- How should this problem be framed to get traction in broader policy conversations?
- What are the coalitions we need to build to achieve progress?

3. The risk profiles of professions in the professional service industry are dynamic and can vary across jurisdictions

The risks associated with certain gatekeeping professions and sectors vary considerably across jurisdictions. This variation reflects the size and prominence of these sectors in different contexts, the diversity of governments' existing AML/CFT frameworks and obligations, the quality of authorities' supervision of non-financial sectors, the nature of the illicit finance activities present in a given jurisdiction, and the distinct functions that these professions and sectors may carry out, among many other factors.

Trends in the misuse of various gatekeeping professions and sectors can also change, including in response to political and economic conditions and technological advances. For example, when sanctions and other economic restrictions are imposed on certain countries or actors, those who are affected may try to adapt their money laundering methodologies to avoid the detection, freezing, or seizure of their assets—including by relying on gatekeepers that are not subject to comprehensive AML/CFT obligations or supervision.

Participants agreed that governments should employ a risk-based approach as they seek to address the money laundering risks associated with gatekeepers, in line with FATF Recommendations. To prevent the exploitation of vulnerable sectors by corrupt actors and other criminals, financial intelligence units, law enforcement agencies, and watchdog organizations should work together to better understand the risks associated with the various gatekeeping professions.

Key policy questions:

- How are authorities assessing risks associated with sectors or gatekeeping professions that may be vulnerable to corruption? How often are they assessing these risks?

4. Regulation is an important tool...

Participants agreed that regulation can be an important tool in addressing the illicit finance risks associated with gatekeeping professions and sectors. Doing so can help deny corrupt actors and their

enablers opportunities to launder proceeds of corruption. Participants agreed that it is important to look at cross-sector engagement and to be informed by risk- based prioritization. They also underscored the value of self-regulation, including the development of professional standards, to reinforce a culture of accountability in gatekeeper professions.

Key policy questions:

- How can we balance regulation of gatekeeper industries without unduly burdening the vast majority of legitimate service providers?
- What lessons can we learn from already regulated industries in applying AML/CFT requirements to gatekeeper sectors?
- What is the business case for regulation of gatekeeper industries?
- What are the building blocks of an effective and sustainable self-regulation regime within gatekeeper industries? What are the limits of self-regulation?

5. ...But regulation alone is not the answer

Regulation alone will not address the challenges posed by enablers if a jurisdiction's broader AML/CFT regime is not effective. To be effective, AML/CFT frameworks, as described in the FATF Recommendations, need to incorporate a variety of qualities and mechanisms such as: adequate understanding of money laundering and terrorist financing risk; international cooperation; strong supervision and monitoring; application of preventive measures; prevention of the misuse of legal persons and arrangements; appropriate use of financial intelligence and information; investigation, prosecution, and sanctioning of money laundering offenses; confiscation of the proceeds and instrumentalities of crime; among other capabilities and characteristics.

Participants acknowledged that civil society can play a critical and complementary role in rooting out corruption facilitated by financial crime involving gatekeepers, including by investigating and bringing to light high-profile examples of enablers facilitating the movement of ill-gotten gains. Cohort participants further considered the importance of ethics training for members of gatekeeper professions.

Key policy questions:

- What reforms need to be implemented to effectively implement the gatekeeper
- AML/CFT regulation and/or oversight? What kind of resources would be necessary
- to enforce the gatekeeper AML/CFT system effectively?
- What models are available to governments undertaking a holistic enablers
- response? Where can we learn from different countries and actors in broadening
- the approach to enablers?

6. More empirical data on enablers could help in understanding and addressing their role and impact

The lack of data on enablers makes it difficult to hold a wide-ranging dialogue about the issue and to develop appropriate policy responses. Furthermore, information about enablers in civil society and media investigations can get lost when it does not fit into the main story about corrupt actors or kleptocrats and may be excluded from a published report.

Key policy questions:

- What ancillary data about enablers can be found in past reports or case files? And how can such information be retained and usable even if not for a current report or case?

7. There are opportunities and a growing interest to engage on enablers of corruption in anti-corruption fora, building upon and learning from long-standing AML/CFT conversations

There are clear opportunities to address the enabling of corruption and laundering of the proceeds of corruption in anti-corruption fora. For example, the UNCAC contains provisions addressing aiding and abetting corruption, money laundering, accessories to crimes, and standards set in other bodies, including the FATF. The UN Convention against Transnational Organized Crime, the OECD Anti-Bribery Convention, and regional instruments may also offer avenues to explore. Participants noted potential for future resolutions and side events to address the enablers issue within the context of the UNCAC.

Additional Resources

While not formally endorsed by the FTI Cohort co-leads, the following documents provide additional information and analysis pertaining to some of the key considerations outlined above, which could guide further thinking on this topic.

- Financial Action Task Force: “[FATF Guidance for a Risk-Based Approach for the Accounting Profession](#)”
- Financial Action Task Force: “[FATF Guidance for a Risk-Based Approach for Trust and Company Service Providers](#)”
- Financial Action Task Force: “[FATF Guidance for a Risk-Based Approach Guidance for Legal Professionals](#)”
- Transparency International: “[Professional Enablers of Economic Crime during Crises](#)”
- Transparency International: “[Professional Enablers of Illicit Financial Flows and High-Risk Services and Jurisdictions](#)”
- Transparency International: “[Supervisory and Professional Bodies Dealing with Professional Enablers of IFFs](#)”
- Transparency International: “[How Enablers Facilitate Illicit Financial Flows: Evidence from Africa](#)”
- World Bank/UN Office of Drugs and Crime - Stolen Asset Recovery Initiative: “[The Role and Responsibilities of Gatekeepers in the Fight against Illicit Financial Flows: A Unifying Framework](#)”