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Balancing Compliance and Inclusion: Assessing the Impact of EU and FATF AML/CFT Regulations on Latin America's (M)SMEs.

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<u>Table of Contents</u>

Table of Abbreviations
Chapter 1: Introduction
Chapter 2: What is Money Laundering and Terrorist Financing?
Chapter 3: Who Regulates Money Laundering and Terrorist Financing and How?
3.1 The History behind the FATF
3.2 The FATF's 40 Recommendations
3.3 The FATF's Monitoring Mechanisms
3.4 The EU's AML/CFT Legal Framework
Chapter 4: The Impact of Implementing International AML/CFT Standards on Developing Economies
4.1 The Impact of AML/CFT De-Risking on Financial Inclusion in Emerging Economies
4.2 Investigating the Relationship between Correspondent Banking and Financial Exclusion
Chapter 5: (M)SMEs as Overlooked Stakeholders
5.1 Investigating AML/CFT Barriers for (M)SMEs in Latin American
5. 2 Brazil
5. 2. 1. Brazil's AML/CFT Framework and the Lava Jato Case
5. 2. 2. Investigating the Impact of Brazil's AML/CFT Framework on their (M)SMEs
5. 3 Mexico
5. 3. 1. Mexico's AML/CFT Framework and the Zaragoza Case
5. 3. 2. Investigating the Impact of Mexico's AML/CFT Framework on their (M)SMEs
5. 4 Chile
5. 4. 1. Chile's AML/CFT Framework and its FinTech Cases
5. 4. 2. Investigating the Impact of Chile's AML/CFT Framework on their (M)SMEs
Chapter 6: Investigating Technology as a Solution to the Financial Inclusion Problem under AML/CFT Frameworks
6.1 FinTech in Latin America
6.2 RegTech in Latin America
Chapter 7: Recommendations
7.1 Recommendations for the FATF and International Frameworks
7.2 Recommendations for the EU
7.3 Recommendations for Latin America
Chapter 8: Concluding Remarks
I. Table of Literature
II. Table of Legislation
A. Brazil
B. Chile

C. EU
D. FATF
E. UN
F. US
III. Abstract
A. English
B. German

Table of Abbreviations

AML	Anti-Money Laundering
AMLA	Anti-Money Laundering Authority
AMLD	Anti-Money Laundering Directive
AMLR	Anti-Money Laundering Regulation
BACEN	Central Bank of Brazil
CBR	Correspondent Banking Relationship
CDD	Customer Due Diligence
CFT	Combatting the Financing of Terrorism
CNBV	National Banking and Securities Commission of Mexico
CNSF	National Insurance and Bonding Commission of Mexico
CONSAR	National Retirement Savings Commission of Mexico
COVID-19	Corona Virus Disease 2019
DD	Due Diligence
DFI	Development Finance Institution
DFS	Digital Financial Services
EBA	European Banking Authority
EU	European Union
EUR	Euro
FATF	Financial Action Task Force
FIU	Financial Intelligence Units
FSRB	FATF-Style Regional Bodies
GAFILAT	Financial Action Task Force of Latin America
GDP	Gross Domestic Product

G20	The Group of Twenty
HSBC	The Hongkong and Shanghai Banking Corporation Limited
ICRG	FATF's International Cooperation Review Group
IMF	International Monetary Fund
KYC	Know Your Customer
KYT	Know Your Transaction
LFPIORPI	Mexico's Federal Law for the Prevention and Identification of Operations with Illicit Proceeds
MERCOSUR	South American Trade Bloc and Customs Union
MSME	Micro, Small and Medium-Sized Enterprises
NGO	Non-Governmental Organizations
NPO	Nonprofit Organizations
OECD	Organization for Economic Cooperation and Development
RBA	Risk-based Approach
SAR	Suspicious Activity Report
SDG	Sustainable Development Goals
SEBRAE	Brazilian Micro and Small Business Support Services
SHCP	Mexico's Ministry of Finance and Public Credit
SME	Small and Medium Enterprises
SOCAP	Savings and Loan Cooperative Society
SOE	Selected Obliged Entities
SOFIPO	Popular Financial Society
STR	Suspicious Transaction Reporting

TA	Technical Assistance
UK	United Kingdom
UN	United Nations
US	United States of America
USD	Dollar of the United States of America
VR	Virtual Reality

Chapter 1: Introduction

Anti-money laundering and counter-terrorism financing (AML/CFT) frameworks play a crucial role in securing the integrity of the global financial system, with institutions such as the Financial Action Task-Force (FATF) and the European Union (EU) being instrumental in developing and promoting standards worldwide.[1] As these standards become more stringent across jurisdictions, criticism of existing frameworks has increased, especially when discussing their unintended consequences on developing countries.

This thesis uses qualitative data from primary and secondary legal sources, including legislations, academic literature, and institutional reports, to analyze how the FATF and EU AML/CFT frameworks affect MSMEs' (Micro, Small and Medium-Sized Enterprises) access to finance in Latin America. This discussion is especially relevant in light of the EU's new AML package and evolving trade dynamics with MERCOSUR, creating regulatory and economic incentives to revisit the issue. The paper argues that a flexible, risk-based approach, alongside technological innovations like FinTech and RegTech, could help bridge the gap between financial integrity and financial inclusion in Latin America and across the world.[2]

The first chapter of this thesis provides an overview of how money laundering and terrorist financing operate in practice. Chapter Three and Four focus on the FATF and EU's AML/CFT standards, analyzing their development and implementation on developing economies. Chapter Five focuses on MSMEs in Latin America, examining Brazil, Mexico and Chile as case studies to illustrate the impact on financial inclusion, while Chapter Six further evaluates FinTech as a tool to enhance financial inclusion in the regulation of AML/CFT. Finally, Chapter Seven

1 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 115 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.

2 Douglas W. Arner et al., 'FinTech, RegTech, and the Reconceptualization of Financial Regulation' [2017] 37(3) *Northwestern Journal of International Law & Business* <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1817&context=njilb> accessed 16 January 2026, 373.

discusses policy recommendations and concluding thoughts in efforts to better align financial integrity with inclusive development for MSMEs in Latin America.

Chapter 2: What is Money Laundering and Terrorist Financing?

Money laundering is the widespread practice of concealing illicit funds' origin.[3] It is an extensive global business, with laundered funds accounting for 2-5% of the world's GDP every year.[4] In the EU alone, the amount ranges between EUR 117-210 billion annually,[5] with roughly 70% of criminal networks in the region relying on money laundering to carry out their crimes.[6] Although money laundering may seem harmless in comparison to other crimes, its effects are globally disruptive, and have the power to damage a country's financial stability by facilitating corruption and eroding trust in financial institutions.[7] The financing of terrorism is closely linked to money laundering and often discussed hand-in-hand in academic literature. As both crimes share key characteristics and techniques, they are often also regulated through the same legal frameworks.[8]

Traditionally, money laundering consists of three stages: placement, layering, and integration.[9] First, profits made from illicit activity are placed in the financial system to begin obfuscating their origin.[10] The money is then layered to avoid detection, transferring quickly across jurisdictions and through multiple transactions.[11] Finally, integration occurs when the funds are

3 Council of the EU, *What is Money Laundering* (European Council, 5 February 2025) <https://www.consilium.europa.eu/en/infographics/anti-money-laundering/> accessed 1 February 2026.
4 Felix I. Lessambo, *Anti-Money Laundering, Counter Financing Terrorism and Cybersecurity in the Banking Industry: A Comparative Study within the G-20* (1st edn, Palgrave Macmillan 2023) 1.
5 Council of the EU, *What is Money Laundering* (European Council, 5 February 2025) <https://www.consilium.europa.eu/en/infographics/anti-money-laundering/> accessed 1 February 2026.
6 Ibid.
7 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 112 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.
8 Felix I. Lessambo, *Anti-Money Laundering, Counter Financing Terrorism and Cybersecurity in the Banking Industry: A Comparative Study within the G-20* (1st edn, Palgrave Macmillan 2023) 5.
9 Council of the EU, *What is Money Laundering* (European Council, 5 February 2025) <https://www.consilium.europa.eu/en/infographics/anti-money-laundering/> accessed 1 February 2026.
10 Felix I. Lessambo, *Anti-Money Laundering, Counter Financing Terrorism and Cybersecurity in the Banking Industry: A Comparative Study within the G-20* (1st edn, Palgrave Macmillan 2023) 3.
11 Ibid.

returned to the criminal as seemingly legitimate income.[12] This is often achieved through profits from businesses purchased by the illicit funds themselves, like restaurants, stores, and laundromats, while ensuring they comply with other financial regulations to avoid attracting authorities' attention.[13]

Chapter 3: Who Regulates Money Laundering and Terrorist Financing and How?

3.1 The History behind the FATF

Money laundering has only recently been criminalized when the United States (US), compelled by an intensifying concern around illicit narcotic trafficking, first introduced the Money Laundering Control Act of 1986.[14] [15] Meanwhile, concern was spreading throughout the West, with major actors criticizing the international drug smuggling crisis.[16] The United Nations (UN) established its first definition of money laundering in 1988, in the Vienna Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.[17] Article 3.1 of the Convention describes money laundering as "the conversion or transfer of property, knowing that such property is derived from any offense(s), for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in such offense(s) to evade the legal consequences of his actions."[18] Although this was the first international framework against money laundering, prolonged negotiations among UN members due to conflicting national interests resulted in a decade passing before its enforcement.[19]

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12 Felix I. Lessambo, *Anti-Money Laundering, Counter Financing Terrorism and Cybersecurity in the Banking Industry: A Comparative Study within the G-20* (1st edn, Palgrave Macmillan 2023), 4.
13 Ibid.
14 United States, Money Laundering Control Act of 1986, Pub L No 99-570, 100 Stat 3207.
15 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 114 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.
16 Ibid.
17 *United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* (adopted 20 December 1988, entered into force 11 November 1990) 1582 UNTS 95.
18 Ibid, art 3.1.
19 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 114 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.

This delay represents the first struggle to regulate the fast-paced world of financial crime within the international community, resulting in a framework many experts deemed far too simplistic to effectively combat money laundering and terrorism financing.[20] Consequently, the US proposed to moderate the regulatory gap with a fact finding task force entrusted to record and catalogue anti-money laundering (AML) statutes worldwide.[21] Thus, a key international instrument of economic and security-oriented foreign policy, the Financial Action Task Force (FATF), was created.[22] What once began as an eleven member task force with a one-year narcotic trade mandate, broadened to include other financial integrity components, such as terrorist financing, proliferation of weapons of mass destruction and other modes of transnational organized crime.[23]

Although several institutions, including the OECD and IMF, work in tandem to combat money laundering and the financing of terrorism, the FATF is widely regarded as the most important actor in this space. Named as a "vital player"[24] by the G20 following the 2008 global financial crisis, the FATF's framework aided in stabilising the integrity of the international financial system by breaking the veil of banking secrecy and implementing compliance obligations on financial institutions to help detect and prevent illicit financial activity.[25]

Today, the FATF is comprised of 37 full members, including the European Commission, nine regional bodies (FSRBs) and 28 observer organizations, ensuring global participation in its processes.[26] The multilevel, transnational structure of the FATF differs greatly from traditional

20 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 113 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.
21 Ibid.
22 Ibid.
23 Ibid, 115.
24 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 110 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.
25 European Center for Not-for-Profit Law and Human Security Collective, 'At the Intersection of Security and Regulation: Understanding the Drivers of De-Risking and the Impact on Civil Society Organizations' [2018] ICNL 14<https://www.icnl.org/post/report/understanding-the-drivers-of-de-risking-and-the-impact-on-civil-society-organizations> accessed 16 January 2026.
26 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 115 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.

international organizations.[27] The task-force was developed to encourage communication and cooperation, not only between members with aligned interests, but through an environment where a blend of actors with different economic realities can participate in tandem.[28] Information exchange has been facilitated through this structure to find innovative solutions to long-standing and emerging regulatory problems in the AML/CFT world. Scholars argue moreover, that the reason behind the FATF's success beyond its one year mandate was precisely its distinctive blending of public-private cooperation and transnational security spaces, all with the aligned vision of collective security.[29]

3.2 The FATF's 40 Recommendations

The FATF's 40 Recommendations act as the foundation of the institution's legal framework for combatting money laundering and terrorist financing. Each Recommendation consists of soft law standards to help guide legislative and regulatory development across the world.[30] Evaluation of the Recommendations is ongoing, with input encouraged from all members of the FATF to ensure their effectiveness.[31] Following collective consultations, the FATF often publishes Interpretive Notes that help clarify their standards to members to ensure effective implementation. If successful, these notes can be incorporated into official Recommendations following a trial period.[32]

Although it can appear that members have relative flexibility in implementing FATF's Recommendations, Interpretive Notes, and other related guidance, critics often argue that intense lobbying during negotiations makes it difficult for the consideration of all perspectives.[33] As a result, certain states are often seen as having disproportionate influence on the outcomes of

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27 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 115 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.
28 Ibid.
29 Ibid, 120.
30 Ibid, 115.
31 Ibid.
32 Ibid.
33 Ibid, 117.

decisions, leading to an otherwise unbalanced regulative process with potential to severely negatively impact sectors and states alike. Failure to comply with FATF standards has significant consequences on a member's reputation and economy, as is further discussed in Chapter 4.

An example of the FATF's Recommendations' evolving nature can be seen in the case of non-profit organizations (NPOs). After the 9/11 Twin Tower bombings in 2001, some FATF members lobbied intensively to include counter-terrorism in the previously drug-trafficking related mandate of the FATF.[34] Eight Special Recommendations on Terrorist Financing were incorporated into the original 40, with the 8th specifically addressing the vulnerability of the non-profit sector in the context of terrorism financing.[35]

NPOs were viewed as easy targets for the laundering of money to fund terrorist activities.[36] The increased vigilance on NPOs by both private and public institutions had significant consequences for the sector, including reduced access to banking services, increased compliance cost, and even restriction of human rights operations, like financial institutions refusing to process transactions including foreign aid meant to alleviate vulnerable populations in countries like Afghanistan and Syria.[37]

In 2016, only after sustained criticism from NGOs and the general public, did the FATF revise its approach.[38] The Recommendation was amended to promote a Risk-Based Approach (RBA) to

34 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 121 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.

35 Ibid.

36 Ibid.

37 European Center for Not-for-Profit Law and Human Security Collective, 'At the Intersection of Security and Regulation: Understanding the Drivers of De-Risking and the Impact on Civil Society Organizations' [2018] ICNL 24 <https://www.icnl.org/post/report/understanding-the-drivers-of-de-risking-and-the-impact-on-civil-society-organizations> accessed 16 January 2026.

38 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 121 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.

compliance measures, emphasizing that NPOs should be evaluated proportionately, rather than imposing blanket restrictions across the entirety of the sector.[39]

3.3 The FATF's Monitoring Mechanisms

Instead of a central agreement outlining how decisions are to be taken, the FATF relies primarily on Plenary Meetings to decide on an action plan for the future. Occurring two or three times a year, Plenary Meetings are run by the task-force's President.[40] Presidents are elected by consensus, and serve a two year term.[41]

Although votes may occur during the plenary, they are primarily symbolic, and often negotiated during smaller working groups or informal gatherings, reflecting a flexible approach to global governance.[42] While this process can encourage creativity in problem solving, it has also drawn criticism regarding the lack of transparency and procedure in vital decision making efforts.[43]

Member compliance is monitored through Mutual Evaluations, during which a team of FATF representatives conduct an in-depth evaluation of a given jurisdiction's AML/CFT framework.[44] Mutual Evaluations assess both technical compliance to and practical effectiveness of FATF rules.[45] Specifically designed to be "apolitical and technocratic,"[46] evaluations are conducted by expert consultants trained specifically for the role.[47]

39 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 121 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.
40 Ibid, 116.
41 Ibid.
42 Ibid.
43 Ibid.
44 Ibid.
45 Ibid.
46 Sumedha Deshmukh and Leonardo S. Borlini, 'Developing economies and the implementation of global anti-money laundering standards: An empirical investigation' [2025] *Bocconi Legal Studies Research Paper* No. 5231647, 6 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5231647> accessed 15 January 2026.
47 Ibid.

Lasting roughly one week, the first stage of Evaluation involves interviews with relevant actors, site visits, and the application of the Common Methodology Form to evaluate compliance with the FATF's legal standards.[48] The findings are discussed in a plenary peer review, and if found unsatisfactory, lead to closer monitoring and the obligation to re-report in the following plenary meeting.[49]

The FATF also involves typology exercises as monitoring tools, where money laundering experts around the world congregate to discuss current issues, including emerging money laundering techniques and enforcement challenges.[50] This is particularly effective as it allows for the facilitation of information exchange and supports the development of better countermeasures relatively quickly.[51]

Member states are usually evaluated every 6-10 years,[52] however, due to the structure of the system, middle and low income countries are evaluated more often, even though high income jurisdictions host larger volumes of illicit activity.[53] Interestingly, field studies have found higher technical compliance in developing economies compared to some developed ones.[54] In response to the concerns, the FATF revised its evaluation criteria, aiming to "ensure the listing process better targets the countries that pose the greatest risk (...) and contributes to more adequate support to low-capacity countries."[55] This approach means that a least-developed country will not be prioritized for review unless it poses a significant risk of illicit finance. If this is the case, the country will be given a longer period to demonstrate progress after its evaluation.[56]

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48 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 116 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.
49 Ibid.
50 Ibid.
51 Ibid.
52 Sumedha Deshmukh and Leonardo S. Borlini, 'Developing economies and the implementation of global anti-money laundering standards: An empirical investigation' [2025] *Bocconi Legal Studies Research Paper* No. 5231647, 6 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5231647> accessed 15 January 2026.
53 Ibid.
54 Ibid, 4.
55 Ibid, 7.
56 Ibid.

Following a call by the G20 for the strengthening of FATF's regulatory efforts, including publicly naming jurisdictions with deficient AML/CFT systems, an addition to the monitoring process was implemented.[57] The International Cooperation Review Group (ICRG) now reviews Mutual Evaluations, alongside any response published by the evaluated jurisdiction, before confirming an outcome.[58] If placed under increased monitoring, jurisdictions must develop a comprehensive reform plan alongside high-level political commitments to improve their AML/CFT legal framework.[59] The jurisdiction is then placed on a public list, the Grey List, until deemed compliant again,[60] the purpose of which is to subject the listed jurisdictions to enhanced monitoring and increased scrutiny from both private and public actors. Although the aim of the FATF's Grey List is a soft law strategy to persuade jurisdictions to better their AML/CFT systems, being listed also leads to reduced investment and reputational harm.[61]

More severe cases of incompliance result in jurisdictions being placed on the Black List, which significantly increases their economic isolation and dramatically restricts access to international financial markets. This usually occurs if jurisdictions do not publicly express political commitment to reform their frameworks.[62] As of late, North Korea, Myanmar and Iran have been the primary jurisdictions included in the FATF Black List.[63]

3.4 The EU's AML/CFT Legal Framework

The EU is a key actor in the international AML/CFT landscape. As one of the most influential participants in the FATF's processes, the EU serves as an example of FATF success, shaping and operationalizing its standards. The current EU AML/CFT system reflects over three decades of

57 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 116 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.
58 Ibid.
59 Ibid, 117.
60 Ibid.
61 Global Partnership for Financial Inclusion, 'Global Standard-Setting Bodies and Financial Inclusion The Evolving Landscape' [GPFI White Paper, 2016] 25 <https://www.gpfi.org/sites/default/files/documents/GPFI_WhitePaper_Mar2016.pdf> accessed 16 January 2026.
62 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 117 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.
63 Ibid.

legislative progress, much of which has been influenced by the FATF's Recommendations, both in legislative design and in the risk assessment of third countries.[64] The EU often aligns its internal AML/CFT watchlist with that of the FATF's. The Union additionally considers jurisdictions which are particularly threatening to the region, including those in close proximity and/or influential in its financial systems.[65]

Similar to the FATF, the EU's AML/CFT framework is preventative in nature,[66] and is harmonized across jurisdictions by its Directive 2018/1673,[67] which establishes minimum rules across Member States on the criminal definition of money laundering and applicable deterrents.[68] Similarly, Directive 2017/541 harmonizes the EU's legal standards on terrorist financing.[69] [70]

EU AML/CFT legislation has evolved in efforts to respond to new trends and risks. The first AML Directive (AMLD) was published in 1991, and marked the foundation of EU AML law by requiring obliged entities, such as banks, to identify customers and monitor transactions.[71] The Second and Third AMLDs were implemented in the 2000s to expand its scope and include terrorist financing, as recommended by the FATF.[72] Subsequently, the Fourth and Fifth AMLDs, respectively adopted in 2015 and 2018, strengthened the supervisory framework and introduced

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64 European Commission, 'Anti-money laundering and countering the financing of terrorism at international level' [European Commission, 2026] <https://finance.ec.europa.eu/financial-crime/anti-money-laundering-and-countering-financing-terrorism-international-level_en> accessed 16 January 2026.

65 Ibid.

66 Stanislaw Tosza and Olivier Voordeckers, 'An anti-money laundering authority for the European Union: a new center of gravity in AML enforcement' [2024] 25 *ERA Forum*, 407 <https://link.springer.com/article/10.1007/s12027-024-00805-9> accessed 16 January 2026.

67 Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law [2018] OJ L284/22.

68 Stanislaw Tosza and Olivier Voordeckers, 'An anti-money laundering authority for the European Union: a new center of gravity in AML enforcement' [2024] 25 *ERA Forum*, 407 <https://link.springer.com/article/10.1007/s12027-024-00805-9> accessed 16 January 2026.

69 Ibid.

70 Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism [2017] OJ L88/6.

71 Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law [2018] OJ L284/22.

72 Stanislaw Tosza and Olivier Voordeckers, 'An anti-money laundering authority for the European Union: a new center of gravity in AML enforcement' [2024] 25 *ERA Forum*, 409 <https://link.springer.com/article/10.1007/s12027-024-00805-9> accessed 16 January 2026.

provisions addressing the regulation of virtual currency services.[73] For example, Article 18a of the Fifth AMLD requires obligated entities to apply EDD (Enhanced Due Diligence) in high risk jurisdictions.[74]

Additionally, an important development of the EU's AML/CFT system was the strengthening of the European Banking Authority (EBA) under Regulation (EU) 2019/2175, which gave the establishment the power to coordinate and supervise National Supervisory Authorities (NSAs) across the EU.[75] This mandate includes issuing decisions directly to financial institutions where national oversight is deemed as insufficient.[76] The EBA is critical in ensuring transparency and effectiveness throughout the EU's financial markets by promoting consistent RBAs to AML/CFT, and ensuring information exchange among relevant authorities to effectively mitigate emerging risks.[77]

Taking a closer look at the EU's AML/CFT framework, it can be organized into two main parts; the criminal law rules set out in Directives 2018/1673 and 2017/541,[78] [79] and the preventative measures designed to avert the misuse of the financial system.[80] The latter impose duties on obliged entities, like banks and financial firms, to conduct Customer Due Diligence (CDD), Know Your Customer (KYC), Know Your Transaction (KYT), and Suspicious Activity

73 Stanislaw Tosza and Olivier Voordeckers, 'An anti-money laundering authority for the European Union: a new center of gravity in AML enforcement' [2024] 25 *ERA Forum*, 408 <https://link.springer.com/article/10.1007/s12027-024-00805-9> accessed 16 January 2026.

74 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 [2018] OJ L156/43, art 18(a).

75 Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1093/2010... [2019] OJ L334/1.

76 Stanislaw Tosza and Olivier Voordeckers, 'An anti-money laundering authority for the European Union: a new center of gravity in AML enforcement' [2024] 25 *ERA Forum* 409 <https://link.springer.com/article/10.1007/s12027-024-00805-9> accessed 16 January 2026.

77 Felix I. Lessambo, *Anti-Money Laundering, Counter Financing Terrorism and Cybersecurity in the Banking Industry: A Comparative Study within the G-20* (1st edn, Palgrave Macmillan 2023), 79.

78 Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law [2018] OJ L284/22.

79 Directive (EU) 2017/541 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA [2017] OJ L88/6.

80 Stanislaw Tosza and Olivier Voordeckers, 'An anti-money laundering authority for the European Union: a new center of gravity in AML enforcement' [2024] 25 *ERA Forum* 407-408 <https://link.springer.com/article/10.1007/s12027-024-00805-9> accessed 16 January 2026.

Reporting (SAR) to relevant national Financial Intelligence Units (FIUs).[81] Member states must further ensure that their NSAs and FIUs monitor risks and oversee compliance effectively.[82]

However, in response to the ineffectiveness of minimum harmonization standards and uneven supervision across the EU due to earlier AMLDs, the European Commission issued an important reform regulatory package in 2024, which will eventually replace much of the former framework.

Firstly, the EU-wide AML Regulation (AMLR) will replace many directive-based rules with a single applicable rulebook, particularly effective as it does not require national transposition.[83] This change represents a shift away from directive-based legislation, and towards a directly applicable one, establishing uniform standards to limit opportunities for regulatory arbitrage.[84] For example, obliged entities must conduct CDD whenever establishing a new business relationship or performing occasional transactions above a certain threshold.[85] This threshold has been lowered from EUR 15,000 (Fourth AMLD standard), to EUR 10,000, under the AMLR.[86]

The new regulation is particularly aimed at the private sector, including but not limited to financial institutions, accountants, and tax advisors.[87] These obliged entities must implement new policies, tailored to their size and risk exposure, and allocate compliance responsibilities

81 Stanislaw Tosza and Olivier Voordeckers, 'An anti-money laundering authority for the European Union: a new center of gravity in AML enforcement' [2024] 25 *ERA Forum* 407-408 <https://link.springer.com/article/10.1007/s12027-024-00805-9> accessed 16 January 2026.
82 Ibid.
83 Ibid, 410.
84 Accountancy Europe, 'Navigating the EU Anti-Money Laundering Regulation Factsheet' [Accountancy Europe, 2024], 3 <https://accountancyeurope.eu/wp-content/uploads/2024/12/241218_AML_Regulation_Factsheet_AccountancyEurope.pdf> accessed 15 January 2026.
85 Regulation (EU) 2024/1624 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing [2024] OJ L 2024/1624, art 18.
86 Ibid, 8.
87 Ibid, 3.

adequately to ensure effectiveness.[88] Although the full application of the regulation will begin in 2027, Member States are already adapting their policies to ensure compliance.[89]

Another mentionable addition to the EU AML/CFT legal framework is the Regulation 2024/1620, which established the EU AML Authority (AMLA) to supervise and enforce AML rules across the union.[90] Based in Frankfurt, the AMLA is the central supervisory and coordination body that oversees cross-border financial institutions with a high risk nature (SOEs).[91]

The AMLA will have investigative and sanctioning powers to harmonize regulatory standards across the EU,[92] utilizing a straightforward governance structure, including a General Board, an Executive Board, and an Administrative Board of Appeal, to ensure proper checks and balances in decision-making.[93] It is important to note that although the AMLA assumed most of its powers in 2025, direct supervision by the authority will only begin in 2028.[94]

The Sixth AMLD compliments the AMLR by defining AML/CFT crimes and penalties,[95] working in tandem to eliminate gaps and inconsistencies across the EU.[96] While the framework

88 Accountancy Europe, ‘Navigating the EU Anti-Money Laundering Regulation Factsheet’ [Accountancy Europe, 2024], 4 <https://accountancyeurope.eu/wp-content/uploads/2024/12/241218_AML_Regulation_Factsheet_AccountancyEurope.pdf> accessed 15 January 2026.
89 Ibid, 3.
90 Regulation (EU) 2024/1620 of the European Parliament and of the Council of 31 May 2024 establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism and amending Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010 [2024] OJ L 2024/1620.
91 Council of the EU, *Anti-money laundering: Council adopts package of rules* (European Council, 30 May 2024) <https://www.consilium.europa.eu/en/press/press-releases/2024/05/30/anti-money-laundering-council-adopts-package-of-rules> accessed 1 February 2026.
92 Stanislaw Tosza and Olivier Voordeckers, 'An anti-money laundering authority for the European Union: a new center of gravity in AML enforcement' [2024] 25 *ERA Forum* 406 <https://link.springer.com/article/10.1007/s12027-024-00805-9> accessed 16 January 2026.
93 Ibid, 413.
94 Ibid, 406.
95 Felix I. Lessambo, *Anti-Money Laundering, Counter Financing Terrorism and Cybersecurity in the Banking Industry: A Comparative Study within the G-20* (1st edn, Palgrave Macmillan 2023), 85.
96 Ibid, 84.

emphasizes the use of RBA through risk assessments, these stricter requirements may enhance financial exclusion, particularly for SMEs and high risk customers.

Chapter 4: The Impact of Implementing International AML/CFT Standards on Developing Economies

The FATF has evolved significantly since its creation, now representing over 200 jurisdictions.[97] Although the task-force has facilitated international response to AML/CFT, including measurable achievements worldwide, it has not been immune to international controversy. Critics argue that powerful actors, including the US and EU, have disproportionate influence over international standard-setting processes, capitalizing on their shared policy preferences to shape standards that other countries are expected to implement.[98] Meanwhile, these standards are costly and inefficient for lower-capacity jurisdictions.[99] The Panama Papers are often cited as an example of this, evidencing that substantial illicit financial activity continues to occur despite compliance with FATF standards.[100] This does not signify that the standards are ill-intended, or ineffective in strengthening the global financial system's integrity. However, they can often lack consideration for the diverse legal and socio-economic contexts faced by some others. Ultimately, non-compliant jurisdictions risk being labeled as "rogue, unreliable players",[101] potentially damaging their reputation and otherwise fragile economy by discouraging foreign investment.[102]

Understanding the challenge of combating money laundering requires the understanding that money moves faster than those tracking it.[103] Consequently, it is particularly difficult for states

97 Sumedha Deshmukh and Leonardo S. Borlini, 'Developing economies and the implementation of global anti-money laundering standards: An empirical investigation' [2025] *Bocconi Legal Studies Research Paper* No. 5231647, 1 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5231647> accessed 15 January 2026.
98 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 119 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.
99 Ibid, 110.
100 Ibid.
101 Ibid, 118.
102 Ibid.
103 Ibid, 112.

with underdeveloped financial systems or lacking effective oversight to maintain its integrity, especially when implementing stringent international AML/CFT standards that are not always designed to contend with this tension.[104] These states often struggle with other important concerns, such as developmental priorities, institutional constraints and governance challenges.[105] Applying uniform global standards across vastly different economic and political contexts often leads to unfair outcomes, like developing economies being overrepresented on the FATF's Grey List despite experiencing less illicit financial activity than major financial hubs like Switzerland and Luxembourg.[106] Addressing this imbalance in international standards means re-evaluating global frameworks like the FATF's and EU's evaluation methods to better account for contextual factors while continuing to prioritize the fight against illicit financial crime.[107] This is crucial for the better development of lower-middle and low-income countries' economies, and in turn, a safer global financial system.

Moreover, while technical compliance to the Recommendations is high across FATF members, effectiveness gaps are severe, especially throughout East Asia and the Pacific, Latin America and the Caribbean, South Asia, and Sub-Saharan Africa.[108] This discrepancy reflects differences in economic capacity and institutional resources, impacting jurisdictions' ability to have effective AML/CFT systems.[109]

In parallel, Grey and Black Listing does not seem to have a direct impact on combatting the flow of illicit finance, but it does have the potential to create severe economic consequences for affected countries.[110] Evidence suggests that Grey Listed countries have experienced a decline in

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104 Sumedha Deshmukh and Leonardo S. Borlini, 'Developing economies and the implementation of global anti-money laundering standards: An empirical investigation' [2025] *Bocconi Legal Studies Research Paper* No. 5231647, 25<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5231647> accessed 15 January 2026.
105 Ibid.
106 Ibid, 4.
107 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 121 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.
108 Sumedha Deshmukh and Leonardo S. Borlini, 'Developing economies and the implementation of global anti-money laundering standards: An empirical investigation' [2025] *Bocconi Legal Studies Research Paper* No. 5231647, 15 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5231647> accessed 15 January 2026.
109 Ibid.
110 Ibid, 4.

capital inflows of around 7.6% of their GDP.[111] Additionally, scholars argue that this increased monitoring of AML/CFT has driven illicit financial activity away from regulated financial institutions and into informal economies, increasing the risk of money laundering and terrorism financing.[112] In the meantime, the growing number of standardized FATF guidance and interpretive notes has led critics to worry that the system is too rigid to keep up with the rapidly evolving field.[113]

Helgesson and Mörth argue that the FATF's RBA relies on key assumptions, namely that AML risks are identifiable, private actors have the capacity to manage them, and that they will act in accordance with the intentions of the regulations.[114] However, in practice, the increased placement of responsibility on private actors to choose which high-risk customer to serve has resulted in detrimental effects, such as de-risking, where financial institutions have routinely withdrawn from relationships deemed as higher-risk by the FATF, leading to reduced access to regulated financial services and into less transparent markets.[115]

The FATF's mandate, especially in terms of shaping AML/CFT soft law, can be further explored using the International Relations theory of 'securitization.'[116] Under this lens, one can see how regulatory conversation on money laundering and terrorism finance has become one of collective security.[117] Once politicized, measures to regulate the issue, previously deemed as excessive or extreme, became normalized and politically acceptable.[118] Given the FATF's significant

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111 Mizuho Kida and Simon Paetzold, 'The Impact of Gray-Listing on Capital Flows: An Analysis Using Machine Learning' (2021) *IMF Working Paper* No. 2021/153, 5 <https://www.imf.org/-/media/files/publications/wp/2021/english/wpiea2021153-print-pdf.pdf> accessed 15 January 2026.

112 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 122 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.

113 Ibid.

114 Ibid, 121.

115 Ibid.

116 European Center for Not-for-Profit Law and Human Security Collective, 'At the Intersection of Security and Regulation: Understanding the Drivers of De-Risking and the Impact on Civil Society Organizations' [2018] ICNL 13 <https://www.icnl.org/post/report/understanding-the-drivers-of-de-risking-and-the-impact-on-civil-society-organizations> accessed 16 January 2026.

117 Ibid.

118 Ibid.

influence over AML/CFT legislation around the world, it is empirical that a proportionate approach is applied. Conversely, existing research on the FATF's effectiveness in regulating AML/CFT has produced mixed conclusions. For example, Robert Kudrle's analysis suggests that Black Listing does not produce a measurable impact on diminishing AML/CFT.[119] In the meantime, the system is inadvertently excluding millions from accessing formal financial services.[120]

4.1 The Impact of AML/CFT De-Risking on Financial Inclusion in Emerging Economies

Implementing international AML/CFT standards is particularly difficult when financial institutions attempt to serve low-income, financially excluded and/or undocumented individuals.[121] For example, for financial institutions, verifying customer identities to comply with CDD in jurisdictions with weaker civil registries is highly burdensome. Moreover, geographic or socioeconomic factors that render a country high-risk prevent individuals from accessing financial services due to de-risking by financial institutions.[122] This phenomenon has emerged as a major unintended consequence of global AML/CFT standards, and has led many large banks to withdraw services from entire groups of people, sectors and even countries perceived by the FATF as high-risk to disengage in any activity that may attract scrutiny or punishment by regulators.[123]

While regulators across the US, UK and the EU have argued that de-risking occurs because of financial institutions' overly cautious interpretations of the rules, the global scale of this phenomenon suggests that de-risking has become an acceptable industry practice rather than several isolated incidents, and therefore might reflect a bigger issue within the rules themselves.[124]

119 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 125 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.
120 Global Partnership for Financial Inclusion, 'Global Standard-Setting Bodies and Financial Inclusion The Evolving Landscape' [GPFI White Paper, 2016], 25 <https://www.gpfi.org/sites/default/files/documents/GPFI_WhitePaper_Mar2016.pdf> accessed 16 January 2026.
121 Ibid.
122 Ibid, 60.
123 Ibid, 69.
124 European Center for Not-for-Profit Law and Human Security Collective, 'At the Intersection of Security and Regulation: Understanding the Drivers of De-Risking and the Impact on Civil Society Organizations' [2018], 12

Banks' reluctance to maintain high-risk relationships is due to several factors, including reputational concerns, fines, and potential civil liabilities.[125] A significant portion of global banking executives see regulatory obligations as a major source of operational disruption.[126] By mid-2025, AML regulators worldwide had surpassed USD 6 billion in penalties, increasing pressure on financial institutions to minimize compliance risks.[127]

Even if completely legitimate, financial institutions avoid servicing higher-risk customers like cash-based SMEs due to fear of regulatory scrutiny. Many SMEs are not profitable for banks due to their high compliance cost and limited volume of their transactions.[128] To mitigate this, financial institutions often impose higher fees or minimum balance requirements, making it increasingly difficult for SMEs to access formal financial services in many jurisdictions.[129] For the same financial reason, banks further avoid extra costs by refusing to expand into remote or low income areas altogether.[130] On the other hand, despite presenting serious AML risks, high networth clients retain access to financial services,[131] emphasizing an imbalance in the application of the rules.

ICNL<https://www.icnl.org/post/report/understanding-the-drivers-of-de-risking-and-the-impact-on-civil-society-organizations> accessed 16 January 2026.

125 Global Partnership for Financial Inclusion, 'Global Standard-Setting Bodies and Financial Inclusion The Evolving Landscape' [GPFI White Paper, 2016], 69 <https://www.gpfi.org/sites/default/files/documents/GPFI_WhitePaper_Mar2016.pdf> accessed 16 January 2026.

126 Douglas W. Arner et al., 'FinTech, RegTech, and the Reconceptualization of Financial Regulation' [2017] 37(3) *Northwestern Journal of International Law & Business*, 374-375 <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1817&context=njilb> accessed 16 January 2026.

127 Paul Keene, '2025: Record-Breaking AML Fines Signal a New Compliance Era for Banks' (Shufti, 21st of July, 2025)<https://shuftipro.com/blog/2025-aml-fines-compliance/#:~:text=Banks%20thought%20the%20eye%E2%80%91watering,has%20reached%20a%20historic%20high> accessed 1 February 2026.

128 Samuel Aidoo, 'Balancing AML Compliance and Financial Inclusion' [2023], 7 <https://www.researchgate.net/publication/394043447_Balancing_AML_Compliance_and_Financial_Inclusion> accessed 16 January 2026.

129 Ibid, 7.

130 Ibid.

131 European Center for Not-for-Profit Law and Human Security Collective, 'At the Intersection of Security and Regulation: Understanding the Drivers of De-Risking and the Impact on Civil Society Organizations' [2018] ICNL, 16-17 <https://www.icnl.org/post/report/understanding-the-drivers-of-de-risking-and-the-impact-on-civil-society-organizations> accessed 16 January 2026.

De-risking behavior creates a domino effect; when one bank exits a sector, others often follow to avoid over-exposure.[132] The AML/CFT paradox is clear. As more banks de-risk, more individuals and businesses trying to operate within the formal financial system are forced increasingly to turn to informal channels in order to access adequate financial services.[133] An increased reliance on cash by the general population because of de-risking creates the perfect ecosystem where illicit financial activity thrives.[134]

Although international AML/CFT standards like the FATF's Recommendations seek to protect the global financial system's integrity, the persistence of de-risking highlights a wider regulative issue. Additionally, policymakers increasingly point out how restrictive AML/CFT controls can undermine broader policy objectives like the UN's Sustainable Development Goals (SDGs) and humanitarian work.[135]

Efforts to combat illicit finance should consider other equally as important goals such as financial inclusion, economic growth and humanitarian work in tow. Otherwise, compliance can become a purely protective, risk-averse measure rather than an appropriate and effective way to fight money laundering and terrorism financing.

4.2 Investigating the Relationship between Correspondent Banking and Financial Exclusion

An important component of a well-functioning financial system lies in its correspondent banking relationships (CBR). These relationships are a cross-border, bilateral agreement between banks,

132 Global Partnership for Financial Inclusion, 'Global Standard-Setting Bodies and Financial Inclusion The Evolving Landscape' [GPFI White Paper, 2016], 69 <https://www.gpfi.org/sites/default/files/documents/GPFI_WhitePaper_Mar2016.pdf> accessed 16 January 2026.

133 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change* 122 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.

134 Ibid, 110.

135 European Center for Not-for-Profit Law and Human Security Collective, 'At the Intersection of Security and Regulation: Understanding the Drivers of De-Risking and the Impact on Civil Society Organizations' [2018] ICNL, 53 <https://www.icnl.org/post/report/understanding-the-drivers-of-de-risking-and-the-impact-on-civil-society-organizations> accessed 16 January 2026.

in which a correspondent bank provides services to its respondent bank, facilitating a range of multi-currency transactions and ensuring its financial stability.[136]

The FATF first recognized the relationship between de-risking, correspondent banking withdrawals and financial exclusion in a 2016 address by its then-Executive Secretary, David Lewis.[137] Following the increased stringency of international regulatory standards, as well as the 2008 economic crisis, correspondent banks became less readily available to engage in CBR, especially in less profitable and higher-risk areas.[138] In short, the decline of CBRs is another symptom of de-risking. However, these relationships are critical in facilitating cross-border payments and financial connectivity. When banks withdraw correspondent services from high risk jurisdictions, local banks lose the ability to access international financial networks, and are unable to perform crucial tasks for otherwise vulnerable populations.[139]

The jurisdictions that benefit most from financial inclusion are often those avoided by financial institutions due to regulatory concerns fueled by the current international AML/CFT system. Two billion people worldwide, primarily located in developing economies, do not have access to formal financial services.[140] These same regions face heightened exposure to money laundering and illicit financial flows, creating a serious structural tension.[141]

136 Trevor Serge Coleridge Alleyne et al, 'Loss of Correspondent Banking Relationships in the Caribbean: Trends, Impact, and Policy Options' [2017] IMF, 4 <https://www.imf.org/en/publications/wp/issues/2017/09/29/loss-of-correspondent-banking-relationships-in-the-caribbean-trends-impact-and-policy-options-45220> accessed 16 January 2026.

137 David Lewis, 'Keynote speech ESAAMLG Public/Private Sector Dialogue' (Victoria Falls, Republic of Zimbabwe, 2 September 2016) <https://www.fatf-gafi.org/en/publications/fatfgeneral/documents/keynote-esaamlg-public-private-sector.html> accessed 1 February 2026.

138 Trevor Serge Coleridge Alleyne et al, 'Loss of Correspondent Banking Relationships in the Caribbean: Trends, Impact, and Policy Options' [2017] IMF, 4 <https://www.imf.org/en/publications/wp/issues/2017/09/29/loss-of-correspondent-banking-relationships-in-the-caribbean-trends-impact-and-policy-options-45220> accessed 16 January 2026.

139 Ibid, 36.

140 European Center for Not-for-Profit Law and Human Security Collective, 'At the Intersection of Security and Regulation: Understanding the Drivers of De-Risking and the Impact on Civil Society Organizations' [2018], 21 ICNL<https://www.icnl.org/post/report/understanding-the-drivers-of-de-risking-and-the-impact-on-civil-society-organizations> accessed 16 January 2026.

141 Ibid, 22.

Reduced correspondent banking access disrupts foreign aid flow, humanitarian operations and microfinance initiatives that aim to aid SMEs in developing countries, where financial infrastructure is already limited.[142] When legitimate avenues are lacking, alternative entities, including those driven by political or ideological motives, may step in to fill the gaps.[143] Although technical compliance can be high in such jurisdictions, inconsistent enforcement becomes exploitable by financial criminals.

The central challenge in modern international AML/CFT regulation is how to encourage financial inclusion without weakening safeguards against financial crime. Since Elisa de Anda Madrazo became the President of FATF, the task-force has increasingly highlighted the need for a proportionate RBA to address the issue.[144] FATF regulatory reforms such as the 2025 updates on Recommendation 1 and 10, where simplified Due Diligence (DD) and alternative KYC documentation was encouraged through RBA, creates hope that tackling this issue is achievable.[145] However, international cooperation, open dialogue, and efforts to reassess current FATF regulations without compromising global financial integrity are essential to facilitate this.

Chapter 5: (M)SMEs as Overlooked Stakeholders

(M)SMEs are widely recognized as vital drivers of economic growth and resilience, generating a substantial percentage of employment worldwide.[146]According to the World Bank, financial inclusion is a key driver in reducing poverty and promoting peace.[147] Increased financial

142 European Center for Not-for-Profit Law and Human Security Collective, 'At the Intersection of Security and Regulation: Understanding the Drivers of De-Risking and the Impact on Civil Society Organizations' [2018], 24 ICNL<https://www.icnl.org/post/report/understanding-the-drivers-of-de-risking-and-the-impact-on-civil-society-organizations> accessed 16 January 2026.
143 Ibid.
144 Fernando Gutierrez, 'El reto de ampliar la inclusión financiera sin abrir la puerta al lavado; CNBV emite guía' [2025] 1 Armor AML <https://armor-aml.com/el-reto-de-ampliar-la-inclusion-financiera-sin-abrir-la-puerta-al-lavado/> accessed 16 January 2026.
145 Ibid.
146 Peer Stein et al., 'Closing the credit gap for formal and informal micro, small, and medium enterprises' [2013] 1(1) World Bank, 7 <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/804871468140039172/closing-the-credit-gap-for-formal-and-informal-micro-small-and-medium-enterprises> accessed 16 January 2026.
147 Dante Villalta Romero, 'La inclusión financiera y sus factores determinantes para América Latina período: 2004-2020' [2024] 21(21) Revista Científica Profundidad Construyendo Futuro <https://portal.amelica.org/ameli/journal/737/7375038007/movil> accessed 16 January 2026.

inclusion is associated with higher GDP growth and reduced inequality,[148] and MSMEs especially benefit from inclusive financial systems. Their lack of access therefore results in a significant missed opportunity for economic development.[149] Financial inclusion contributes to long-term macroeconomic stability, as greater participation in formal financial channels reduces cash-based transactions, limits the growth of unregulated markets and increases the number of tax payers.[150]

Despite this, MSMEs face significant financial barriers.[151] Often cited as the primary obstacle preventing growth, a credit gap accounts for 200-245 million (in)formal enterprises lacking access adequate to financing worldwide, and an estimated USD 2.1-2.6 trillion of overall financing gap for developing countries.[152] Additionally, access to finance for MSMEs has far reaching social implications. It enables households to invest in education, healthcare, economic activities, and allow MSMEs to expand and become pillars of their economies.[153]

Although AML/CFT regulations are not the sole reason for the credit gap, compliance burdens and risk-averse financial institutions further restrict the inclusion of MSMEs. Banks often de-risk MSMEs, especially as documentation requirements for financing are difficult to hold as a smaller enterprise.[154] For example, many MSMEs lack formal identification, complete registration records or transaction histories required for advancing past financial institutions' initial CDD checks. RBA and tiered KYC regimes have the potential to reduce barriers to access if well-implemented and incorporated in good faith.[155] However, as financial institutions remain risk-

148 Samuel Aidoo, 'Balancing AML Compliance and Financial Inclusion' [2023], 5 <https://www.researchgate.net/publication/394043447_Balancing_AML_Compliance_and_Financial_Inclusion> accessed 16 January 2026.
149 Ibid, 20.
150 Ibid, 6.
151 Peer Stein et al., 'Closing the credit gap for formal and informal micro, small, and medium enterprises' [2013] 1(1) World Bank <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/804871468140039172/closing-the-credit-gap-for-formal-and-informal-micro-small-and-medium-enterprises> accessed 16 January 2026, 7.
152 Ibid.
153 Samuel Aidoo, 'Balancing AML Compliance and Financial Inclusion' [2023], 5 <https://www.researchgate.net/publication/394043447_Balancing_AML_Compliance_and_Financial_Inclusion> accessed 16 January 2026.
154 Ibid, 6.
155 European Center for Not-for-Profit Law and Human Security Collective, 'At the Intersection of Security

averse, regulatory flexibility may not translate sufficiently.[156] Moreover, research consistently highlights a lack of data and monitoring on challenges faced by SMEs when attempting to access finance. Without this, effective policy development and regulatory advancement will be difficult to design.

International regulators like the FATF face a difficult task; rather than weakening AML frameworks, many academics suggest complementary measures like Technical Assistance (TA) to improve financial infrastructure and build MSME support programs locally instead.[157] On the other hand, rapid financial inclusion without adequate consumer protection can quickly devolve to overindebtedness and an unstable financial system.[158] Effective infrastructure and regulatory oversight are therefore necessary to ensure that access to finance is sustainable as well as responsible.

5.1 Investigating AML/CFT Barriers for (M)SMEs in Latin American

With approximately USD 400 billion laundered in the region every year, money laundering remains a significant challenge in Latin America[159] These illicit funds primarily originate from crimes such as corruption, tax evasion, and trafficking-related crimes.[160] Despite the gradual

and Regulation: Understanding the Drivers of De-Risking and the Impact on Civil Society Organizations' [2018], 23 ICNL<https://www.icnl.org/post/report/understanding-the-drivers-of-de-risking-and-the-impact-on-civil-society-organizations> accessed 16 January 2026.

156 Ibid.

157 Peer Stein et al., 'Closing the credit gap for formal and informal micro, small, and medium enterprises' [2013] 1(1) World Bank, 11 <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/804871468140039172/closing-the-credit-gap-for-formal-and-informal-micro-small-and-medium-enterprises> accessed 16 January 2026.

158 Samuel Aidoo, 'Balancing AML Compliance and Financial Inclusion' [2023], 5 <https://www.researchgate.net/publication/394043447_Balancing_AML_Compliance_and_Financial_Inclusion> accessed 16 January 2026.

159 Raymundo Soberanis Cortez and Diego Ignacio Sierra Laris, 'Latest developments in the Latin American fight against money laundering' [2025] GIR <https://globalinvestigationsreview.com/guide/the-guide-anti-money-laundering/third-edition/article/latest-developments-in-the-latin-american-fight-against-money-laundering> accessed 16 January 2026.

160 Ibid.

strengthening of AML/CFT frameworks, the 2025 Basel AML Index indicates that the region continues to perform below the worldwide average in its efforts to combat financial crime.[161]

The 2024 OECD Latin American Economic Outlook report stated that a successful financial system is one able to provide individuals and businesses with access to financial services.[162] Despite advancements in financial inclusion efforts, this remains an area for improvement across the region. Several factors, including geographic distance from financial institutions, limited financial literacy, and regulatory pressure to comply with international AML/CFT standards, continue to constrain Latin America, particularly in the context of their MSMEs.[163] For example, 25% of total credit in OECD countries is directed at MSMEs.[164] However, in Latin American and the Caribbean, the average figure is less than 15%.[165]

MSMEs currently represent 99.5% of the businesses in Latin America and the Caribbean,[166] and employ roughly 60% of the working population, contributing to roughly 25% of regional GDP.[167] Given that bank credit is the primary source of financing in Latin America, access to loans is especially critical for MSMEs.[168] However, over 30% of MSMEs in the region face financial constraints.[169] These figures can be linked to de-risking practices and pressure to comply with international AML/CFT standards. MSMEs in the region frequently face incredibly high interest

161 Raymundo Soberanis Cortez and Diego Ignacio Sierra Laris, 'Latest developments in the Latin American fight against money laundering' [2025] GIR <https://globalinvestigationsreview.com/guide/the-guide-anti-money-laundering/third-edition/article/latest-developments-in-the-latin-american-fight-against-money-laundering> accessed 16 January 2026.
162 OECD et al, ‘Latin American Economic Outlook 2024: Financing Sustainable Development’ (OECD Publishing 2024), 13 <https://doi.org/10.1787/c437947f-en> accessed 16 January 2026.
163 Dante Villalta Romero, 'La inclusión financiera y sus factores determinantes para América Latina período: 2004-2020' [2024] 21(21) Revista Científica Profundidad Construyendo Futuro <https://portal.amelica.org/ameli/journal/737/7375038007/movil> accessed 16 January 2026.
164 OECD et al, ‘Latin American Economic Outlook 2024: Financing Sustainable Development’ (OECD Publishing 2024), 124 <https://doi.org/10.1787/c437947f-en> accessed 16 January 2026.
165 Ibid.
166 OECD/CAF/SELA, ‘SME Policy Index: Latin America and the Caribbean 2024: Towards an Inclusive, Resilient, and Sustainable Recovery’ (https://doi.org/10.1787/ba028c1d-en, OECD Publishing 2024), 3.
167 Ibid, 124.
168 OECD et al, ‘Latin American Economic Outlook 2024: Financing Sustainable Development’ (OECD Publishing 2024), 124 <https://doi.org/10.1787/c437947f-en> accessed 16 January 2026.
169 Ibid, 13.

rates in loans and documentation requirements that smaller or informal businesses may lack.[170] In Colombia, for example, nine out of ten SMEs require collateral in order to receive financing, creating additional barriers for enterprises with limited assets.[171]

5. 2 Brazil

As a member of the FATF and the Financial Action Task Force of Latin America (GAFILAT) since 2000,[172] Brazil plays a central role in regional AML/CFT regulation. Its large financial sector and infamous cases of financial crime have identified corruption, tax evasion and related money laundering as national risks.[173] Although not yet placed on the FATF Grey List, its 2010 Mutual Evaluation has resulted in increased scrutiny,[174] albeit maintaining technical compliance with the FATF's Recommendations, including comprehensive CDD, STR and RBA.[175]

5. 2. 1. Brazil's AML/CFT Framework and the *Lava Jato* Case

Since its inception in 1998, Brazil's regulatory framework for AML/CFT has undergone three legal reforms, the latest being Law No. 12.683 (2012).[176] The legislation focused on improving enforcement, broadening criminal liability and harmonizing domestic legislation with international AML standards.[177] It also increased the maximum AML related fines from USD 100,000 to USD 10 million, reflecting the country's commitment to the FATF to improve their

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170 OECD et al, 'Latin American Economic Outlook 2024: Financing Sustainable Development' (OECD Publishing 2024), 125 <https://doi.org/10.1787/c437947f-en> accessed 16 January 2026.

171 Ibid, 126.

172 European Center for Not-for-Profit Law and Human Security Collective, 'At the Intersection of Security and Regulation: Understanding the Drivers of De-Risking and the Impact on Civil Society Organizations' [2018] ICNL, 32 <https://www.icnl.org/post/report/understanding-the-drivers-of-de-risking-and-the-impact-on-civil-society-organizations> accessed 16 January 2026.

173 Ibid.

174 Ibid, 33.

175 Raymundo Soberanis Cortez and Diego Ignacio Sierra Laris, 'Latest developments in the Latin American fight against money laundering' [2025] GIR <https://globalinvestigationsreview.com/guide/the-guide-anti-money-laundering/third-edition/article/latest-developments-in-the-latin-american-fight-against-money-laundering> accessed 16 January 2026.

176 Brazil, Law No 12,683 of 9 July 2012.

177 Raymundo Soberanis Cortez and Diego Ignacio Sierra Laris, 'Latest developments in the Latin American fight against money laundering' [2025] GIR <https://globalinvestigationsreview.com/guide/the-guide-anti-money-laundering/third-edition/article/latest-developments-in-the-latin-american-fight-against-money-laundering> accessed 16 January 2026.

system.[178] In addition, the Central Bank of Brazil (BACEN) reinforced these duties through Circular 3.978/2020, enforcing the implementation of enhanced procedures by obliged entities to ensure suspicious transactions were adequately handled.[179] [180] As a result, KYC principles for all legal entities have been applied more stringently due to the risk of money laundering.[181]

A cornerstone of Brazil's AML legislative evolution were the events following the *Lava Jato* (Operation Car Wash) investigation in 2014.[182] The investigation exposed a large-scale corruption and money laundering network involving Brazilian Petroleum Corporation (Petrobras) executives, and their role in inflating construction company contracts in return for substantial bribes.[183]

The scandal triggered significant regional and international backlash, leading to investigations and sentencings of over 175 senior officials and executives at Petrobras, as well as ex-president Luiz Inacio Lula Da Silva.[184] Although his conviction was later overturned, the following fallout contributed to the eventual impeachment of president Dilma Rousseff for financial misconduct (*"pedaladas fiscais"*).[185] Additionally, further evidence emerged of money laundering through

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178 Raymundo Soberanis Cortez and Diego Ignacio Sierra Laris, 'Latest developments in the Latin American fight against money laundering' [2025] GIR <https://globalinvestigationsreview.com/guide/the-guide-anti-money-laundering/third-edition/article/latest-developments-in-the-latin-american-fight-against-money-laundering> accessed 16 January 2026.

179 Brazil, Central Bank of Brazil (BACEN), Circular No 3,978 of 23 January 2020.

180 Raymundo Soberanis Cortez and Diego Ignacio Sierra Laris, 'Latest developments in the Latin American fight against money laundering' [2025] GIR <https://globalinvestigationsreview.com/guide/the-guide-anti-money-laundering/third-edition/article/latest-developments-in-the-latin-american-fight-against-money-laundering> accessed 16 January 2026.

181 Ibid.

182 European Center for Not-for-Profit Law and Human Security Collective, 'At the Intersection of Security and Regulation: Understanding the Drivers of De-Risking and the Impact on Civil Society Organizations' [2018] ICNL, 71-72 <https://www.icnl.org/post/report/understanding-the-drivers-of-de-risking-and-the-impact-on-civil-society-organizations> accessed 16 January 2026.

183 Ibid.

184 Raymundo Soberanis Cortez and Diego Ignacio Sierra Laris, 'Latest developments in the Latin American fight against money laundering' [2025] GIR <https://globalinvestigationsreview.com/guide/the-guide-anti-money-laundering/third-edition/article/latest-developments-in-the-latin-american-fight-against-money-laundering> accessed 16 January 2026.

185 Raymundo Soberanis Cortez and Diego Ignacio Sierra Laris, 'Latest developments in the Latin American fight against money laundering' [2025] GIR <https://globalinvestigationsreview.com/guide/the-guide-anti-money-laundering/third-edition/article/latest-developments-in-the-latin-american-fight-against-money-laundering> accessed 16 January 2026.

car wash establishments, with proceeds used to bribe public officials and finance political campaigns.[186] The ramifications of the case prompted nationwide investigations which revealed corruption and money laundering across government related operations.[187] The impact and size of the scandal hastened AML reforms in Brazil, and led to stricter compliance standards throughout the country, indirectly increasing pressure from private and public actors alike on local MSMEs.[188]

As the largest economy in Latin America, Brazil has prioritized investment in modernization and reform of their financial regulatory systems.[189] These efforts alongside public development programs, including the 2023 creation of the Ministry of Entrepreneurship, Microenterprise and Small Business, encourage entrepreneurship and development and strengthen policy support for SMEs.[190]

SMEs are central to Brazil's economy, generating approximately 12.4 million jobs across the country between 2007 and 2019.[191] The Brazilian government has developed an advanced framework to support SMEs through institutions like the Brazilian Micro and Small Business Support Services (SEBRAE), which aid in providing TA and policy endorsement.[192] Moreover, Complementary Law No. 123/2006 (the National Microenterprise and Small Business Statute) functions as the regulatory framework for SME related policy, distributing roles and responsibilities across federal and municipal institutions on subjects like financial inclusion.[193] Notably, stakeholder engagement has been crucial in how business is regulated in Brazil. Article

186 Ibid.
187 Ibid.
188 Ibid.
189 OECD/CAF/SELA, 'SME Policy Index: Latin America and the Caribbean 2024: Towards an Inclusive, Resilient, and Sustainable Recovery' (https://doi.org/10.1787/ba028c1d-en, OECD Publishing 2024), 143.
190 Ibid, 144.
191 Ibid, 143.
192 Ibid.
193 Brazil, Complementary Law No 123 of 14 December 2006 (National Microenterprise and Small Business Statute).

29 of Law 13.655/2018, for example, obliges government agencies to involve private actors, like SMEs, in dialogues and feedback sessions before adopting any new regulations.[194] [195]

5. 2. 2. Investigating the Impact of Brazil's AML/CFT Framework on their (M)SMEs

Despite the aforementioned institutional support for SMEs, many continue to struggle accessing financing, with compliance costs and documentation requirements limiting their ability to do so.[196] Brazil has introduced programs like REDSIM and Individual Microentrepreneur (MEI) registration, which simplifies business formalization and improves access to finance, barriers to scaling and accessing larger financing remains.[197] Structural challenges like financial institutions requiring collateral or extensive financial records before granting loans to SMEs contribute to unequal access to financing even in a country with such developed SME policies.[198]

Although Brazil's AML system strengthens financial integrity, it also imposes compliance costs that disproportionately affect SMEs. The combinations of burdensome KYC processes and the low profitability of SMEs result in a lack of service from financial institutions. De-risking is often seen in such cases, where banks in Brazil limit their exposure to SMEs.

According to Ziegler's Digital Finance Study, the majority of Brazilian MSMEs (64%) seek financing for working capital purposes.[199] One fifth of MSMEs interviewed in the study reported requiring funding to manage unexpected cash flow problems, while others were in need to pay

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194 Brazil, Law No 13,655 of 25 April 2018, art 29.

195 OECD/CAF/SELA, 'SME Policy Index: Latin America and the Caribbean 2024: Towards an Inclusive, Resilient, and Sustainable Recovery' (https://doi.org/10.1787/ba028c1d-en, OECD Publishing 2024), 144.

196 Angela Toso Milos, 'De-Risking: Una Consecuencia Indeseada del Enfoque Basado en el Riesgo Aplicado por los Bancos en Materia de Prevencion del Lavado de Activos y Financiamiento del Terrorismo' [2020] 47(1) *SCIELO: Revista Chilena de Derecho* <https://www.scielo.cl/scielo.php?pid=S0718-34372020000100003&script=sci_arttext&utm> accessed 16 January 2026.

197 OECD/CAF/SELA, 'SME Policy Index: Latin America and the Caribbean 2024: Towards an Inclusive, Resilient, and Sustainable Recovery' (https://doi.org/10.1787/ba028c1d-en, OECD Publishing 2024), 145.

198 Angela Toso Milos, 'De-Risking: Una Consecuencia Indeseada del Enfoque Basado en el Riesgo Aplicado por los Bancos en Materia de Prevencion del Lavado de Activos y Financiamiento del Terrorismo' [2020] 47(1) *SCIELO: Revista Chilena de Derecho* <https://www.scielo.cl/scielo.php?pid=S0718-34372020000100003&script=sci_arttext&utm> accessed 16 January 2026.

199 Tania Ziegler et al., 'The SME Access to Digital Finance Study: A Deep Dive into the Latin American FinTech Ecosystem' [2022] University of Cambridge Judge Business School, 37 <http://dx.doi.org/10.2139/ssrn.4206309> accessed 16 January 2026.

their suppliers.[200] Expansion and growth initiatives made up 10% of the pool.[201] Lastly, almost all MSMEs interviews (93%) indicated that speed of funding strongly influenced their choice of financial provider.[202]

For the most part, MSMEs allocate funding towards developing and growing their services, which in turn drives economic growth.[203] However, due to the difficulty accessing traditional financing, MSMEs in Brazil primarily rely on crowdfunding or informal sources of capital, including loans from family or friends, frequently denying credit even when traditional institutions propose offers due to disproportionately high interest rates and/or unbalanced repayment conditions.[204]

An example of Brazilian MSMEs' struggle to access formal financing is Inteceleri, a Brazilian SME specializing in educational technology. As described in the Ziegler report, the company expressed difficulty in accessing fair and adequate financing, specifically due to "exorbitant interest rates,"[205] which they deemed as "not a smart way to secure sustainable financing."[206] Unable to find appropriate funding via conventional financial institutions, the company turned to SITAWI, a Brazilian FinTech platform.[207] SITAWI was able to offer more favorable interest rates, repayment conditions, and were better aligned with social impact objectives important to the Inteceleri.[208] Inteceleri notably produces a Mitriboard virtual reality (VR) headset made entirely by sustainably sourced Amazonian palm fibers.[209] The VR board is used to teach geometry to students, and was used in over 25 institutions across the region during COVID-19. After more than a decade operating, the impact-oriented company serves over 700,000 students

200 Ibid.
201 Ibid.
202 Ibid.
203 Ibid, 52.
204 Ibid, 96.
205 Ibid, 72.
206 Ibid.
207 Ibid.
208 Ibid.
209 Tania Ziegler et al., 'The SME Access to Digital Finance Study: A Deep Dive into the Latin American FinTech Ecosystem' [2022] University of Cambridge Judge Business School, 72 <http://dx.doi.org/10.2139/ssrn.4206309> accessed 16 January 2026.

and teachers,[210] [211] illustrating how MSMEs generate positive social and economic value when provided adequate financial opportunity. This is especially noteworthy in light of the significant expansion in FinTech and alternative finance organizations in Brazil, which have increasingly filled financing gaps with a reported 5.27 billion FinTech transactions occurring in the region in 2020.[212] This pattern can be felt across all of Latin America, and will be explored in the later sections.

In the context of Brazil and according to the aforementioned study, banks and government programs were part of the least cited forms of financing to SMEs, extending offers for only 27% and 42% of applications, respectively.[213] From these offers, only 56% of SMEs accepted due to uncompetitive or unfeasible financial conditions.[214] Consequently, Brazil reflects the concern that structural barriers to traditional banking, including de-risking and high compliance costs, contribute to the prominence of FinTech in the region.

5. 3 Mexico

Mexico, ranking among the world's fifteen largest economies and second-largest in Latin America,[215] has developed one of the more advanced financial sectors in the region,[216] and is often discussed in the context of financial inclusion in the face of stringent AML/CFT legislation. In addition, the country faces significant regulatory challenges due to organized crime and drug trafficking, which often influence governmental frameworks and financial policies.[217] Mexico has been active within the FATF framework, being ranked as Partially

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210 Ibid.
211 Inteceleri: tecnologia para a educação, (*Quem Somos*) <https://www.inteceleri.com.br/quem-somos> accessed 1 February 2026.
212 Tania Ziegler et al., 'The SME Access to Digital Finance Study: A Deep Dive into the Latin American FinTech Ecosystem' [2022] University of Cambridge Judge Business School, 6 <http://dx.doi.org/10.2139/ssrn.4206309> accessed 16 January 2026.
213 Ibid, 96.
214 Ibid.
215 OECD/CAF/SELA, 'SME Policy Index: Latin America and the Caribbean 2024: Towards an Inclusive, Resilient, and Sustainable Recovery' (https://doi.org/10.1787/ba028c1d-en, OECD Publishing 2024), 217.
216 AFI, 'The Role Regulators Play in Closing the Financial Inclusion Gender Gap: A Case Study of Mexico' [2023] AFI, 5 <https://www.afi-global.org/wp-content/uploads/2024/10/Mexico_The-Role-Regulators-Play-in-Closing-the-Financial-Inclusion-Gender-Gap.pdf> accessed 16 January 2026.
217 European Center for Not-for-Profit Law and Human Security Collective, 'At the Intersection of Security

Compliant with international AML/CFT standards in its most recent Mutual Evaluation Report (2018).[218]

Despite its economic size, financial inclusion remains a point of contention in the country, with the World Bank reporting that 47% of Mexican adults do not engage with the formal financial system.[219] In fact, in a country of over 129 million inhabitants, between 25-30 million women remain unbanked.[220] In a region where structural barriers such as geographic limitations and distrust of formal banking institutions, strict AML/CFT standards only enhance the access to finance problem.[221] The overly strict regulations create barriers for entry for low income parties, particularly if they do not possess complete documentation.[222]

Despite having an advanced financial sector, cash usage is predominant in many parts of the Mexican economy.[223] Lack of financial infrastructure and the widespread reliance on informal banking channels exposes vulnerability in the country's AML/CFT framework.[224]

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and Regulation: Understanding the Drivers of De-Risking and the Impact on Civil Society Organizations' [2018] ICNL, 36 <https://www.icnl.org/post/report/understanding-the-drivers-of-de-risking-and-the-impact-on-civil-society-organizations> accessed 16 January 2026.

218 Ibid.

219 Fernando Gutierrez, 'El reto de ampliar la inclusión financiera sin abrir la puerta al lavado; CNBV emite guía' [2025] 1 Armor AML <https://armor-aml.com/el-reto-de-ampliar-la-inclusion-financiera-sin-abrir-la-puerta-al-lavado/> accessed 16 January 2026.

220 AFI, 'The Role Regulators Play in Closing the Financial Inclusion Gender Gap: A Case Study of Mexico' [2023] AFI, 5 <https://www.afi-global.org/wp-content/uploads/2024/10/Mexico_The-Role-Regulators-Play-in-Closing-the-Financial-Inclusion-Gender-Gap.pdf> accessed 16 January 2026.

221 Fernando Gutierrez, 'El reto de ampliar la inclusión financiera sin abrir la puerta al lavado; CNBV emite guía' [2025] 1 Armor AML <https://armor-aml.com/el-reto-de-ampliar-la-inclusion-financiera-sin-abrir-la-puerta-al-lavado/> accessed 16 January 2026.

222 Ibid.

223 AFI, 'The Role Regulators Play in Closing the Financial Inclusion Gender Gap: A Case Study of Mexico' [2023] AFI, 5 <https://www.afi-global.org/wp-content/uploads/2024/10/Mexico_The-Role-Regulators-Play-in-Closing-the-Financial-Inclusion-Gender-Gap.pdf> accessed 16 January 2026.

224 Ibid.

5. 3. 1. Mexico's AML/CFT Framework and the *Zaragoza* Case

In Mexico, the Ministry of Finance and Public Credit (SHCP) oversees financial and regulation compliance,[225] institutional bodies like the National Banking and Securities Commission (CNBV), the National Insurance and Surety Commission (CNSF) and the National Retirement Savings System Commission (CONSAR) carry out operational supervision.[226] The CNBV , for example, uses its executive powers as a decentralized body to regulate entities within the country's financial system.[227] In efforts to address financial inclusion and improve the well being of the population, the CNBV published recommendations for supervised entities on Simplified Due Diligence (SDD) to "expand inclusion without weakening oversight".[228]

However, the challenge remains, like in most developing FATF jurisdictions, to effectively implement these recommendations into policies.[229] Additionally, the Financial Intelligence Unit (UIF) drafts AML/CFT regulations and monitors any suspicious activities, while the Central Bank (Banxico) supports Mexico's financial stability and infrastructure.[230]

Money laundering and terrorism financing are both federal crimes in Mexico, with enforcement occurring at both national and state level.[231] The *Ley Federal de Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita* (LFPIORPI) of 17 October 2012 is Mexico's primary AML statute. The legislation was entered into force in 2013, and further amended in

225 Comisión Nacional Bancaria y de Valores, 2019 Annual Report (CNBV, 2019), 8 <https://www.cnbv.gob.mx/TRANSPARENCIA/Transparencia-Focalizada/Documents/Annual_Report_2019.pdf> accessed 16 January 2026.
226 Felix I. Lessambo, *Anti-Money Laundering, Counter Financing Terrorism and Cybersecurity in the Banking Industry: A Comparative Study within the G-20* (1st edn, Palgrave Macmillan 2023), 184.
227 Comisión Nacional Bancaria y de Valores, 2019 Annual Report (CNBV, 2019), 8 <https://www.cnbv.gob.mx/TRANSPARENCIA/Transparencia-Focalizada/Documents/Annual_Report_2019.pdf> accessed 16 January 2026.
228 Fernando Gutierrez, 'El reto de ampliar la inclusión financiera sin abrir la puerta al lavado; CNBV emite guía' [2025] 1 Armor AML <https://armor-aml.com/el-reto-de-ampliar-la-inclusion-financiera-sin-abrir-la-puerta-al-lavado/> accessed 16 January 2026.
229 Ibid.
230 Secretaria de Hacienda y Credito Publico, 'Overview of the Mexican Financial System and its AML/CFT regulation and supervision' [2017] CNBV, 11-16 <https://www.gob.mx/cms/uploads/attachment/file/196042/SFM_230217.pdf> accessed 16 January 2026.
231 Felix I. Lessambo, *Anti-Money Laundering, Counter Financing Terrorism and Cybersecurity in the Banking Industry: A Comparative Study within the G-20* (1st edn, Palgrave Macmillan 2023), 183.

2018 to include virtual asset transactions.[232] To align with the FATF Recommendations, the law strengthened DD requirements, and decreased the investigative threshold to transactions over approximately USD 3,000.[233] The amendment saw a development of AML obligations to non-bank lenders, aiming to capture FinTech credit providers.[234] In efforts to ease the effects of de-risking, regulators have promoted SDD and RBA KYC models, including remote account openings and digital payment systems (eg. CoDi).[235] [236]

The 2020-2021 so-called "*Zaragoza*" case illustrates present AML challenges in Mexico.[237] A family-operated network laundered over 9 million pesos through a combination of bank transfers and informal virtual asset platforms.[238] Although the FIU eventually detected the suspicious transactions, the case exposed legislative gaps in the regulation of new technologies and digital assets,[239] and highlights the broader structural limitations of the AML/CFT system, originating from the FATF's Recommendations. This framework excessively restricts access to legitimate financial services through stringent requirements, and further struggles to keep pace with the evolving nature of modern financial crime, thereby challenging its ability to protect the integrity of the global financial system.[240]

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232 Ibid, 184.
233 Ibid.
234 Ibid.
235 Fernando Gutierrez, 'El reto de ampliar la inclusión financiera sin abrir la puerta al lavado; CNBV emite guía' [2025] 1 Armor AML <https://armor-aml.com/el-reto-de-ampliar-la-inclusion-financiera-sin-abrir-la-puerta-al-lavado/> accessed 16 January 2026.
236 AFI, 'The Role Regulators Play in Closing the Financial Inclusion Gender Gap: A Case Study of Mexico' [2023] AFI, 7 <https://www.afi-global.org/wp-content/uploads/2024/10/Mexico_The-Role-Regulators-Play-in-Closing-the-Financial-Inclusion-Gender-Gap.pdf> accessed 16 January 2026.
237 Raymundo Soberanis Cortez and Diego Ignacio Sierra Laris, 'Latest developments in the Latin American fight against money laundering' [2025] GIR <https://globalinvestigationsreview.com/guide/the-guide-anti-money-laundering/third-edition/article/latest-developments-in-the-latin-american-fight-against-money-laundering> accessed 16 January 2026.
238 Ibid.
239Raymundo Soberanis Cortez and Diego Ignacio Sierra Laris, 'Latest developments in the Latin American fight against money laundering' [2025] GIR <https://globalinvestigationsreview.com/guide/the-guide-anti-money-laundering/third-edition/article/latest-developments-in-the-latin-american-fight-against-money-laundering> accessed 16 January 2026.
240 Ibid.

5. 3. 2. Investigating the Impact of Mexico's AML/CFT Framework on their (M)SMEs

As in most jurisdictions, SMEs are central to Mexico's economic activity.[241] The government has introduced financial institutions and alternative financing entities like SOCAPs and SOFIPOs to widen access to financing in the face of stringent international AML/CFT regulations.[242] For example, financial institutions have implemented tiered accounts with RBA DD to increase clientele and limit the documentation barriers required to access financing and other financial services.[243] Simplified accounts under this model allow limited monthly deposits, for Level 1 accounts being USD 285.[244] This amount can increase to USD 1,110 with the addition of basic identification requirements.[245] This is an example of how policy has aided in including those un(der)served, while balancing AML/CFT requirements with limits to account use.

Although this provides a compelling example of how AML/CFT standards and financial inclusion can indeed be balanced, SMEs are often excluded from such initiatives, as the challenge becomes more difficult and risks for financial institutions increase.

SMEs in Mexico continue to face substantial barriers to financing. Strict onboarding, documentation requirements and risk-averse behavior from traditional financial institutions due to worries over AML/CFT regulation limits their access to credit.[246] These financing gaps exacerbate the pre-existing reliance on informal funding, exposing SMEs to consumer protection risks and weakening the integrity of the country's financial system.

241 AFI, 'The Role Regulators Play in Closing the Financial Inclusion Gender Gap: A Case Study of Mexico' [2023] AFI, 16 <https://www.afi-global.org/wp-content/uploads/2024/10/Mexico_The-Role-Regulators-Play-in-Closing-the-Financial-Inclusion-Gender-Gap.pdf> accessed 16 January 2026.

242 Ibid, 8.

243 Ibid, 14.

244 Ibid, 16.

245 Ibid.

246 Fernando Gutierrez, 'El reto de ampliar la inclusión financiera sin abrir la puerta al lavado; CNBV emite guía' [2025] 1 Armor AML <https://armor-aml.com/el-reto-de-ampliar-la-inclusion-financiera-sin-abrir-la-puerta-al-lavado/> accessed 16 January 2026.

Unlike in Brazil, Ziegler's study indicates that banks are actually the most common source of financing offered to SMEs in Mexico.[247] However, the acceptance rate for bank offers among Mexican SMEs (61%) remains significantly lower when compared to offers from family and friends (97%).[248]

Additionally, de-risking has become routine in Mexico. For example, in the MFI (Microfinance Investor) market, largely made up of SMEs, there were 323 documented cases of account closures between 2014-2018.[249] This scandal led to some regulatory pushback, where five banks were sanctioned for terminating intermediary relationships without concrete justification.[250] De-risking and the loss of CBR is particularly notable in Mexico given the critical role remittances play in its economy. The 2012 USD 1.92 billion AML fine imposed by the US on HSBC contributed to a widespread reassessment of risk exposure by global banks, and particularly affected Mexico as CBR were significantly reduced.[251]

Approximately USD 33 billion is sent annually to Mexico by over 11 million Mexicans living in the US.[252] Decreasing CBR and AML/CFT related de-risking has made it especially difficult for such individuals to continue remittance flows to their family members back home.[253] This directly impacts the financing of SMEs, as the region heavily relies on funding from family and

247 Tania Ziegler et al., 'The SME Access to Digital Finance Study: A Deep Dive into the Latin American FinTech Ecosystem' [2022] University of Cambridge Judge Business School, 111 <http://dx.doi.org/10.2139/ssrn.4206309> accessed 16 January 2026.
248 Ibid, 112.
249 Fernando Gutierrez, 'El de-risking, una barrera para la inclusión financiera' [2018] El Economista <https://www.eleconomista.com.mx/sectorfinanciero/El-de-risking-una-barrera-para-la-inclusion-financiera-GAFI-20181203-0158.html> accessed 16 January 2026.
250 Ibid.
251 Salvador B. Velázquez, 'Las Remesas Familiares y el De-Risking en Mexico' (*CrossTech*, July 2017) <https://crosstechpayments.com/las-remesas-familiares-y-el-de-risking-en-mexico-por-salvador-velazquez> accessed 1 February 2026.
252 AFI, 'The Role Regulators Play in Closing the Financial Inclusion Gender Gap: A Case Study of Mexico' [2023] AFI, 7 <https://www.afi-global.org/wp-content/uploads/2024/10/Mexico_The-Role-Regulators-Play-in-Closing-the-Financial-Inclusion-Gender-Gap.pdf> accessed 16 January 2026.
253 Salvador B. Velázquez, 'Las Remesas Familiares y el De-Risking en Mexico' (*CrossTech*, July 2017)<https://crosstechpayments.com/las-remesas-familiares-y-el-de-risking-en-mexico-por-salvador-velazquez> accessed 1 February 2026.

friends to grow their businesses.[254] Mexican banking organizations like the Latin American Federation of Banks (FELABAN) have condemned inflexible international AML/CFT compliance standards, and the de-risking of correspondent banking.[255] Critics remark that despite showing technical FATF compliance and positive Mutual Evaluations, Latin American countries continue to face risk-avoidant conduct from international banks, minimizing trust in the global financial system and driving financial flows into unregulated channels and in turn heightening AML/CFT threats.[256] [257] Similarly to Brazil, as a consequence of poor access to finance, Mexico's SMEs are supported by a growing base of FinTech and digital service providers.[258]

5. 4 Chile

Chile, like Brazil and Mexico, has experienced increasing regulatory pressure to comply with international AML/CFT regulations.[259] Similarly to the *Lava Jato* case, Chile encountered its own AML corruption scandal in 2017, known as "*Pacogate*" (*Carabineros*). The investigation uncovered high-ranking national police official's involvement in embezzlement, fraud and money laundering,[260] and illustrated the region's susceptibility to corruption and financial crime, despite a strong institutional framework.[261] Notably, the case drew international attention following a total of 166 money laundering related convictions in 2022, awarding the country the

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254 Tania Ziegler et al., 'The SME Access to Digital Finance Study: A Deep Dive into the Latin American FinTech Ecosystem' [2022] University of Cambridge Judge Business School, 112 <http://dx.doi.org/10.2139/ssrn.4206309> accessed 16 January 2026.

255 ABA, 'Lamenta persistencia de rígidas medidas antilavado contra banca latinoamericana' (Washington, United States, 22 October 2017) <https://aba.org.do/sala-de-prensa/2017/10/22/noticias/lamenta-persistencia-de-rigidas-medidas-antilavado-contra-banca-latinoamericana> accessed 1 February 2026.

256 Ibid.

257 Salvador B. Velázquez, 'Las Remesas Familiares y el De-Risking en Mexico' (*CrossTech*, July 2017) <https://crosstechpayments.com/las-remesas-familiares-y-el-de-risking-en-mexico-por-salvador-velazquez> accessed 1 February 2026.

258 AFI, 'The Role Regulators Play in Closing the Financial Inclusion Gender Gap: A Case Study of Mexico' [2023] AFI, 7 <https://www.afi-global.org/wp-content/uploads/2024/10/Mexico_The-Role-Regulators-Play-in-Closing-the-Financial-Inclusion-Gender-Gap.pdf> accessed 16 January 2026.

259 Angela Toso Milos, 'De-Risking: Una Consecuencia Indeseada del Enfoque Basado en el Riesgo Aplicado por los Bancos en Materia de Prevencion del Lavado de Activos y Financiamiento del Terrorismo' [2020] 47(1) *SCIELO: Revista Chilena de Derecho* <https://www.scielo.cl/scielo.php?pid=S0718-34372020000100003&script=sci_arttext&utm> accessed 16 January 2026.

260 Raymundo Soberanis Cortez and Diego Ignacio Sierra Laris, 'Latest developments in the Latin American fight against money laundering' [2025] GIR <https://globalinvestigationsreview.com/guide/the-guide-anti-money-laundering/third-edition/article/latest-developments-in-the-latin-american-fight-against-money-laundering> accessed 16 January 2026.

261 Ibid.

GAFILAT as the Best Success Case from that year, illustrating Chile's substantial efforts to comply with the FATF's Recommendations.[262]

5. 4. 1. Chile's AML/CFT Framework and its FinTech Cases

In addition to Law No. 19,913, which governs Chile's AML/CFT framework and stipulates the core prevention obligations regarding monitoring,[263] the country's system has further aligned with the FATF's international standards by incorporating the new Circular No. 62 introducing stricter reporting obligations on CDD and SARs.[264] Although the Circular further introduced RBA requirements, Chilean regulators have recognized a lack of regulatory clarity and oversight leading to de-risking practices.[265] Moreover, incorporating RBA requires financial institutions to invest significantly in new personnel and technology, leading to a continuous operational strain stemming from the need to adapt to evolving regulations, and leading to the de-risking of MSMEs.[266]

De-risking does not only affect SMEs in Chile. Cryptocurrency companies have taken legal action against Chilean banks in the Court of Defense of Free Competition (TDLC), claiming the the banks refused to provide them banking services due to potential AML/CFT risks.[267]

Cryptocurrency's relevancy in the context of MSMEs as an alternative financing provider is important to note. Such services have bridged the financing gap, offering decentralized lending options and reducing reliance on CBR.[268] The accessibility of cryptocurrency helps open access

262 Ibid.
263 Chile, Law No 19,913 of 18 December 2003 (Ley N° 19.913).
264 Chile, Unidad de Análisis Financiero (Financial Analysis Unit), Circular No 62 of 19 March 2025.
265 Angela Toso Milos, 'De-Risking: Una Consecuencia Indeseada del Enfoque Basado en el Riesgo Aplicado por los Bancos en Materia de Prevencion del Lavado de Activos y Financiamiento del Terrorismo' [2020] 47(1) *SCIELO: Revista Chilena de Derecho* <https://www.scielo.cl/scielo.php?pid=S0718-34372020000100003&script=sci_arttext&utm> accessed 16 January 2026.
266 Angela Toso Milos, 'De-Risking: Una Consecuencia Indeseada del Enfoque Basado en el Riesgo Aplicado por los Bancos en Materia de Prevencion del Lavado de Activos y Financiamiento del Terrorismo' [2020] 47(1) *SCIELO: Revista Chilena de Derecho* <https://www.scielo.cl/scielo.php?pid=S0718-34372020000100003&script=sci_arttext&utm> accessed 16 January 2026.
267 Ibid.
268 Samuel Aidoo et al., 'Cryptocurrency and Financial Crime: Emerging Risks and Regulatory Responses' [2025], 3 <https://www.researchgate.net/publication/393091199_Cryptocurrency_and_Financial_Crime_Emerging_Risks_an

for those who do not have traditional financing options available. However, cryptocurrency has been criticized as being a risk to financial integrity due to its pseudonymous nature and cross-border reach, making it difficult to regulate and enforce AML/CFT standards, and being more susceptible to financial crime.[269]

While the adoption of FinTech like cryptocurrency can aid SMEs in accessing finance, it can also worsen vulnerabilities in the region's financial system.[270] Enforcement challenges continue to persist, however, due to resource constraints and a lack of cross-border cooperation, particularly in emerging economies like Latin America that struggle with AML/CFT vulnerabilities, and where resources are limited and regulations are not harmonized.[271]

Revisiting the Chilean cryptocurrency proceedings in this context, the accused banks defended their decisions by referencing the regulatory ambiguity on high-risk clients,[272] and increasing compliance expenses linked to their onboarding.[273] The Chilean courts supported the banks' ability to close accounts at their discretion,[274] even though cryptocurrency companies voluntarily adopt AML/CFT standards.[275] In an attempt to regulate financial crime, this sets a dangerous precedent which financial institutions could use to justify the de-risking of MSMEs, and highlights that compliance with AML/CFT standards may not be sufficient to ensure MSMEs can access finance through traditional financial institutions. Additionally, earlier complaints filed

d_Regulatory_Responses#:~:text=Abstract,national%20security%20and%20economic%20stability.> accessed 16 January 2026.

269 Ibid, 6.

270 Jairo Dote-Pardo and Maria Teresa Espinosa-Jaramillo, 'Money laundering risks of cryptocurrencies: Towards coordinated regulatory and technological strategies' [2025] Latin American Journal of Central Banking, 2 <https://www.sciencedirect.com/science/article/pii/S2666143825000328?ref=pdf_download&fr=RR-2&rr=9bef118f7e206a8b> accessed 16 January 2026.

271 Samuel Aidoo et al., 'Cryptocurrency and Financial Crime: Emerging Risks and Regulatory Responses' [2025], 34<https://www.researchgate.net/publication/393091199_Cryptocurrency_and_Financial_Crime_Emerging_Risks_and_Regulatory_Responses#:~:text=Abstract,national%20security%20and%20economic%20stability.> accessed 16 January 2026.

272 Angela Toso Milos, 'De-Risking: Una Consecuencia Indeseada del Enfoque Basado en el Riesgo Aplicado por los Bancos en Materia de Prevencion del Lavado de Activos y Financiamiento del Terrorismo' [2020] 47(1) *SCIELO: Revista Chilena de Derecho* <https://www.scielo.cl/scielo.php?pid=S0718-34372020000100003&script=sci_arttext&utm> accessed 16 January 2026.

273 Ibid.

274 Ibid.

275 Ibid.

in 2015 with the National Economic Prosecutor's Office (FNE) revealed banks denying services to exchange houses, similarly claiming inadequate regulation and high compliance expenses, and establishing a de-risking pattern.[276]

Despite these cases, Chile has undertaken efforts to enhance financial inclusion and innovation for SMEs. For example, a fund named El Fondo de Garantia para Pequenos Empresários (FOGAPE) offers credit guarantees to enhance SME access to financing, particularly for businesses lacking collaterals.[277] Chile implemented its own FinTech Law,[278] as well as institutional support for alternative funding methods like microfinancing, to foster competition and innovation within the financial services.[279] Nonetheless, a significant portion of Chile's FinTech industry does not have extensive regulatory supervision, complicating AML/CFT monitoring and leading to tension between traditional financial institutions and new players in the market filling in the SME financing gap in Chile.[280]

5. 4. 2. Investigating the Impact of Chile's AML/CFT Framework on their (M)SMEs

De-risking in Chile appears to be influenced by increasing compliance expenses and perceived AML/CFT risk. As profitability is often a top priority for traditional financial institutions, smaller or less profitable clients slip through the cracks.[281] While extensive research relating to SME de-risking in Chile is scarce, similar instances, like the cryptocurrency cases, indicate that low margin/high compliance clients are especially at risk of being financially excluded. Chile has attempted to address and mitigate these effects through policy initiatives that support SME

276 Ibid.
277 OECD/CAF/SELA, 'SME Policy Index: Latin America and the Caribbean 2024: Towards an Inclusive, Resilient, and Sustainable Recovery' (https://doi.org/10.1787/ba028c1d-en, OECD Publishing 2024), 191.
278 Chile, Law No 21 521 of 4 January 2023 (Fintech Law).
279 OECD/CAF/SELA, 'SME Policy Index: Latin America and the Caribbean 2024: Towards an Inclusive, Resilient, and Sustainable Recovery' (https://doi.org/10.1787/ba028c1d-en, OECD Publishing 2024), 191.
280 Ibid.
281 Angela Toso Milos, 'De-Risking: Una Consecuencia Indeseada del Enfoque Basado en el Riesgo Aplicado por los Bancos en Materia de Prevencion del Lavado de Activos y Financiamiento del Terrorismo' [2020] 47(1) *SCIELO: Revista Chilena de Derecho* <https://www.scielo.cl/scielo.php?pid=S0718-34372020000100003&script=sci_arttext&utm> accessed 16 January 2026.

financing and inclusion, including FinTech innovation programs.[282] However, regulatory gaps and the high cost of compliance continues to persist when SMEs attempt to access adequate financing in Chile.[283] Moreover, the regulatory framework has not advanced alongside technological developments, resulting in many FinTechs operating outside of the legislative scope.[284] This makes it difficult for financial institutions to work alongside FinTechs that facilitate compliance mechanisms and enhance inclusion.[285]

Heightened compliance requirements for financial institutions hinders the attraction of RBA for them, undermines the FATF's Recommendations, and increases the reliance on de-risking as a cheaper, more effective option to ensure compliance with national and international standards.[286] Conversely, requiring banks to accept all high-risk clients is neither feasible nor desirable, and would likely lead to compliance costs having to be borne by the client, and increase AML/CFT risk.[287]

Chapter 6: Investigating Technology as a Solution to the Financial Inclusion Problem under AML/CFT Frameworks

6.1 FinTech in Latin America

FinTech has been integral to the evolution of the financial system since the shift from analogue to digital services in the mid-twentieth century.[288] For example, the banking industry relies heavily on technology, and would not be able to perform the millions of transactions that occur

282 OECD/CAF/SELA, 'SME Policy Index: Latin America and the Caribbean 2024: Towards an Inclusive, Resilient, and Sustainable Recovery' (https://doi.org/10.1787/ba028c1d-en, OECD Publishing 2024), 191.
283 Charles Cohen and Miquel Dijkman, 'Chile - Financial Sector Assessment Program, December 2021: Technical Note - Household Indebtedness and Financial Consumer Protection' (https://doi.org/10.1596/37750, World Bank, 2021), 4.
284 Ibid, 5.
285 Ibid.
286 Angela Toso Milos, 'De-Risking: Una Consecuencia Indeseada del Enfoque Basado en el Riesgo Aplicado por los Bancos en Materia de Prevencion del Lavado de Activos y Financiamiento del Terrorismo' [2020] 47(1) *SCIELO: Revista Chilena de Derecho* <https://www.scielo.cl/scielo.php?pid=S0718-34372020000100003&script=sci_arttext&utm> accessed 16 January 2026.
287 Ibid.
288 Douglas W. Arner et al., 'FinTech, RegTech, and the Reconceptualization of Financial Regulation' [2017] 37(3) *Northwestern Journal of International Law & Business*, 378 <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1817&context=njilb> accessed 16 January 2026.

daily without it.[289] FinTech continued its technology evolution to incorporate services such as the ATM, SWIFT transfers, and platforms like Revolut.[290]

Moreover, technology has been able to address financial inclusion gaps in developing countries, like lack of infrastructure and access to funding, through digital financial services (DFS), including remote service and mobile wallets.[291]

Stringent AML/CFT frameworks impose significant compliance obligations on regulators and financial institutions, often surpassing their capabilities in developing economies. Scholars like William Vlcek argue that success in enforcement relies not only on law but also on technology, skilled personnel and resources.[292] The use of technology, be it Regulatory Technology (RegTech), the use of technological solutions to ensure regulatory oversight, or FinTech, has increasingly been discussed in literature as potential ways to balance financial integrity and financial inclusion.[293]

During the COVID-19 pandemic, the worldwide use of digital transactions rapidly expanded, leading to fundamental shifts in international finance. FinTech played a stabilizing role in Latin America by supporting economic activity and promoting foreign investment.[294] Amid the economic disruption, over 60% of MSMEs in Brazil, for example, increased their use of digital

289 Felix I. Lessambo, *Anti-Money Laundering*, *Counter Financing Terrorism and Cybersecurity in the Banking Industry: A Comparative Study within the G-20* (1st edn, Palgrave Macmillan 2023), 49.

290 Douglas W. Arner et al., 'FinTech, RegTech, and the Reconceptualization of Financial Regulation' [2017] 37(3) *Northwestern Journal of International Law & Business*, 378 <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1817&context=njilb> accessed 16 January 2026.

291 Douglas W. Arner et al., 'FinTech, RegTech, and the Reconceptualization of Financial Regulation' [2017] 37(3) *Northwestern Journal of International Law & Business*, 380 <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1817&context=njilb> accessed 16 January 2026.

292 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change,* 122 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.

293 Douglas W. Arner et al., 'FinTech, RegTech, and the Reconceptualization of Financial Regulation' [2017] 37(3) *Northwestern Journal of International Law & Business* <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1817&context=njilb> accessed 16 January 2026, 373.

294 OECD et al, 'Latin American Economic Outlook 2024: Financing Sustainable Development' (OECD Publishing 2024), 136 <https://doi.org/10.1787/c437947f-en> accessed 16 January 2026.

financial products in their operational activities.[295] This digital evolution provides not only a new stream of finance, but also supports SMEs to automate their processes and improve their operation, leading to competitiveness and growth in the market.[296]

Lockdown, business closures and decreasing rates of employment meant individuals and businesses sought out alternative digital services to cope with the crisis.[297] While financial resources became more accessible thanks to FinTech, so did informal financing channels and higher-risk assets like cryptocurrencies.[298] In Latin America, the growth of FinTech has enhanced financial inclusion, allowing many previously unbanked individuals and businesses to access formal financial services.[299] Digital payment systems like Brazil's Pix and Mexico's SPEI demonstrate that FinTech, regulatory advancement and financial inclusion can coexist while maintaining AML/CFT standards.[300] These types of FinTech services have reached over 100 million worldwide, performing bank-like functions and moving significant amounts of money without being regulated with the same oversight as traditional financial institutions.[301] Latin American legislators are making an active effort to balance FinTech innovation with risk management and AML/CFT compliance. Mexico's 2018 FinTech Law and Chile's FinTech Law No. 21,521 are examples of inclusion of FinTech into regulated frameworks in efforts to encourage competition in the sector while ensuring AML/CFT supervision.[302]

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295 Ibid, 137.
296 Ibid.
297 Sarahi Cruz Salazar and Marcio Adriano Anselmos, 'Can Latin America AML effectiveness impact corruption prevention?' [2023] 26(2) *Journal of Money Laundering Control,* 326 <DOI:10.1108/JMLC-11-2021-0125> accessed 16 January 2026.
298 Ibid, 327.
299 Ximena Aleman, 'Cómo una regulación centralizada está impulsando la revolución fintech en América Latina' [2025] Centro de Sistemas Financieros y Monetarios <https://es.weforum.org/stories/2025/07/como-una-regulacion-centralizada-esta-impulsando-la-revolucion-fintech-en-latinoamerica> accessed 16 January 2026.
300 Ibid.
301 Ibid.
302 Ibid.

6.2 RegTech in Latin America

FinTech presents various regulatory challenges, especially as many DFS models were initially created outside formal regulatory frameworks.[303] The legal challenge is in creating AML/CFT frameworks that can rapidly adapt to technological shifts in finance while not worsening the inclusion from financial services. In response to new and stringent regulations in international AML/CFT frameworks, FATF members have obliged organizations to adopt thorough CDD and oversight in efforts to prevent financial crime. However, it has been established that implementation is costly and banks have opted to de-risk in higher-risk countries instead, leaving SMEs with decreased access to finance.

RegTech, a subset of FinTech, can mitigate these impacts by increasing efficiency and supporting both financial institutions and FinTech providers in their inclusion efforts by applying technology to RBA in compliance.[304] For example, technology like automated surveillance systems, machine learning fraud detection, and digital identity authentication can decrease manual workload and aid in implementing targeted controls rather than broad de-risking measures.[305] [306]

Technology-based solutions can cater to SMEs and underrepresented groups by facilitating more accurate risk assessments and faster reporting at a reduced cost.[307] However, technological solutions are not automatically inclusive, and unchecked, can strengthen current biases through

303 Douglas W. Arner et al., 'FinTech, RegTech, and the Reconceptualization of Financial Regulation' [2017] 37(3) *Northwestern Journal of International Law & Business,* 380 <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1817&context=njilb> accessed 16 January 2026.

304Douglas W. Arner et al., 'FinTech, RegTech, and the Reconceptualization of Financial Regulation' [2017] 37(3) *Northwestern Journal of International Law & Business,* 373 <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1817&context=njilb> accessed 16 January 2026.

305 Samuel Aidoo et al., 'Regulatory Frameworks for Combating Financial Crime in Emerging Markets' [2025], 16 <https://www.researchgate.net/profile/Farinu-Hamzah/publication/393091275_Regulatory_Frameworks_for_Combating_Financial_Crime_in_Emerging_Markets/links/685ebebfe9b6c13c89e4d7ac/Regulatory-Frameworks-for-Combating-Financial-Crime-in-Emerging-Markets.pdf> accessed 16 January 2026.

306 Douglas W. Arner et al., 'FinTech, RegTech, and the Reconceptualization of Financial Regulation' [2017] 37(3) *Northwestern Journal of International Law & Business,* 375 <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1817&context=njilb> accessed 16 January 2026.

307 Ibid.

strict risk thresholds and computer profiling. SMEs with inconsistent income patterns or documentation can be unfairly disadvantaged by algorithms.[308] It is therefore important that legislation across the FATF mandate, including Latin America, ensures RegTech services are employing sufficient oversight mechanisms to prevent discrimination and support financial inclusion, rather than worsening the problem.

Chapter 7: Recommendations

To help address the SME financial inclusion issue head on, several overarching principles emerge from the literature and should guide future reforms. First AML/CFT measures should reflect the principles of proportionality and of least harm.[309] Regulatory objectives should be achieved with the least restrictive burden on legitimate customers, including SMEs.[310] Blanket exclusion should not be the default response to higher risk clients. Instead, financial institutions should apply genuine RBA that combine proportional oversight with RegTech and FinTech services to allow risks to be mitigated without unjust financial exclusion. Balancing financial integrity and financial inclusion requires regulators to consider beyond rigid compliance with current international AML/CFT standards toward proportionate and evidence based regulatory frameworks. Reforms should include a combination of technological innovation, public-private cooperation and a clear commitment to the financial inclusion of SMEs in Latin America and beyond, without compromising the integrity of the global financial system.[311]

308 European Center for Not-for-Profit Law and Human Security Collective, 'At the Intersection of Security and Regulation: Understanding the Drivers of De-Risking and the Impact on Civil Society Organizations' [2018], 23 ICNL<https://www.icnl.org/post/report/understanding-the-drivers-of-de-risking-and-the-impact-on-civil-society-organizations> accessed 16 January 2026.

309 Sonja Josefina Korpela, 'Between a rock and a hard place: managing the conflict between anti-money laundering and financial inclusion' [2025] 28(7) *Journal of Money Laundering Control*, 72 <https://www.emerald.com/jmlc/article-pdf/28/7/65/10051427/jmlc-04-2025-0049en.pdf> accessed 16 January 2026.

310 Ibid.

311 Samuel Aidoo et al., 'Cryptocurrency and Financial Crime: Emerging Risks and Regulatory Responses' [2025], 31<https://www.researchgate.net/publication/393091199_Cryptocurrency_and_Financial_Crime_Emerging_Risks_and_Regulatory_Responses#:~:text=Abstract,national%20security%20and%20economic%20stability.> accessed 16 January 2026.

7.1 Recommendations for the FATF and International Frameworks

The focus on prevention is a common thread amongst AML policies worldwide, largely due to the regulatory approach of the FATF, whose primary objective is the reduction of criminal activity and profits derived from it.[312] Given the transnational nature of money laundering and the globalization of financial markets, funds move across borders "quickly, cheaply and easily."[313] International cooperation is key for an AML/CFT framework to be effective, however, despite harmonization efforts, regulation and enforcement is challenging to coordinate across jurisdictions.[314]

Globally, the FATF should align its standards explicitly with developmental objectives like SDG commitments and sustainable economic growth.[315] Jurisdictions that demonstrate compliance to both financial integrity and inclusion, should be recognized and incentivized.

Research remains limited, especially on how de-risking affects SMEs in Latin America. Greater resources should be allocated to evaluate how AML/CFT rules can affect the sector. Special consideration should be given to research the effectiveness of FATF Grey and Black Listing on combatting AML/CFT issues. Mutual Evaluations could include sections analyzing the unintended consequences of the FATF's regulatory standards to highlight their implications in a practical setting. Interpretive Notes alone have not been substantial in creating meaningful change in financial institution's de-risking behavior. The practical impact of AML/CFT frameworks on SME growth and survival also remains heavily underresearched. Therefore, a focus on evidence-based policy making should be prioritized to ensure the issue is effectively managed.

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312 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change,* 113 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.

313 Ibid.

314 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change,* 113 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.

315 European Center for Not-for-Profit Law and Human Security Collective, 'At the Intersection of Security and Regulation:Understanding the Drivers of De-Risking and the Impact on Civil Society Organizations' [2018] ICNL, 58 <https://www.icnl.org/post/report/understanding-the-drivers-of-de-risking-and-the-impact-on-civil-society-organizations> accessed 16 January 2026.

The ownership gap should be better addressed by the FATF.[316] Regulators should recognize that risk averse behavior by financial institutions may be a structural consequence of the current AML/CFT framework, rather than solely a failure of appropriate implementation.[317] This acknowledgement could allow an opportunity for financial institutions to feel heard and less threatened by compliance fines, as well as regional actors like the EU to build on the momentum in their own regulatory space.

It is equally important for the FATF to incentivize financial institutions to adopt RBA and RegTech. Regulators should recognize that fear of penalties and costly DD continues to discourage engagement with SMEs and other higher-risk clients. Explicit encouragement to implement RegTech can reduce compliance costs without weakening AML/CFT safeguards.

7.2 Recommendations for the EU

The EU should ensure that its AML/CFT policies are consistent with development cooperation goals, including financial inclusion, across partner regions like Latin America. The alignment of regulatory strategies with evolving trade relationships, such as the recent EU-MERCOSUR developments, can support economic growth by strengthening SMEs. Regulatory sandboxes can be expanded to enable FinTech and RegTech innovation in both regions, increasing CBR and diminishing de-risking.[318] Furthermore, information sharing, aligned enforcement mechanisms and cross-border supervision efforts can facilitate cooperation between the two regions when combatting money laundering and terrorism financing.[319]

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316 Ibid, 28.
317 Ibid.
318 Samuel Aidoo et al., 'Regulatory Frameworks for Combating Financial Crime in Emerging Markets' [2025], 31 <https://www.researchgate.net/profile/Farinu-Hamzah/publication/393091275_Regulatory_Frameworks_for_Combating_Financial_Crime_in_Emerging_Markets/links/685ebebfe9b6c13c89e4d7ac/Regulatory-Frameworks-for-Combating-Financial-Crime-in-Emerging-Markets.pdf> accessed 16 January 2026.
319 Ibid, 2.

7.3 Recommendations for Latin America

Within Latin America, regional cooperation and harmonization of legislation is vital given the cross-border nature of financial crime.[320] Disproportionate AML/CFT requirements and other institutional barriers continue to restrict SME market entry and access to finance.[321]

Encouraging government approval of alternative financial institutions, particularly financial cooperatives, can help bridge the gap, as these institutions often serve rural and underrepresented populations. However, they face their own funding and regulatory challenges, often being SMEs themselves.[322] Targeted support towards digitalization, FinTech, and financial capacity building can strengthen their role in promoting financial inclusion for SMEs.[323]

Latin American regulators should continue to encourage the use of digital financial services amongst SMEs to improve business development and facilitate the gradual integration into more formal financial systems. Emerging markets must balance financial innovation with effective regulation, while confronting longstanding regional challenges like corruption, weak legal infrastructure, and limited institutional support.[324]

Regulators should further implement specific policies that promote SME internationalization, like in the EU, to diversify revenue streams and enhance resilience through trade facilitation and cross-border market integration.[325]

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320 IDB Invest, 'Digital readiness in financial cooperatives in Latin America & the Caribbean' [2021] *IDB Invest*, 129 <https://www.idbinvest.org/en/publications/digital-readiness-financial-cooperatives-latin-america-caribbean> accessed 16 January 2026.

321 Ibid, 13.

322 IDB Invest, 'Digital readiness in financial cooperatives in Latin America & the Caribbean' [2021] *IDB Invest*, 22 <https://www.idbinvest.org/en/publications/digital-readiness-financial-cooperatives-latin-america-caribbean> accessed 16 January 2026.

323 Ibid.

324 Samuel Aidoo et al., 'Regulatory Frameworks for Combating Financial Crime in Emerging Markets' [2025], 2 <https://www.researchgate.net/profile/Farinu-Hamzah/publication/393091275_Regulatory_Frameworks_for_Combating_Financial_Crime_in_Emerging_Markets/links/685ebebfe9b6c13c89e4d7ac/Regulatory-Frameworks-for-Combating-Financial-Crime-in-Emerging-Markets.pdf> accessed 16 January 2026.

325 OECD/CAF/SELA, 'SME Policy Index: Latin America and the Caribbean 2024: Towards an Inclusive, Resilient, and Sustainable Recovery' (https://doi.org/10.1787/ba028c1d-en, OECD Publishing 2024), 102.

Lastly, Development Finance Institutions (DFIs) play a similarly crucial role in addressing information asymmetries regarding financial literacy, and expanding access to credit for SMEs.[326] Organizations such as Nafin and Bancomext in Mexico have supported MSMEs through guarantee schemes, credit lines and other programmes that offer more flexible conditions than traditional banks, while still maintaining financial coherency. Latin American regulators should encourage similar programs to enhance domestic resilience.

Chapter 8: Concluding Remarks

AML/CFT legislation is essential as it safeguards national security, protects financial integrity and contributes to the overall economic stability of the world.[327] Nevertheless, stringent AML rules can exclude underserved populations from formal financial systems, contrary to the goals of the international AML/CFT regime.[328] Financial systems, therefore, face significant pressure to reconcile the two conflicting issues - maintaining a robust AML/CFT framework while simultaneously ensuring financial inclusion.[329] This represents a conflicting tension.

As reflected in previous chapters, an effective AML/CFT system depends on a variety of factors. Although in principle, well-designed systems promote development by impeding corruption and improving the country's revenue, in practice this is not always the case.[330] While strict enforcement reduces money laundering risks, it has also led to de-risking. Financial institutions have withdrawn from crucial relationships by employing methods such as de-risking and exiting CBR in vulnerable jurisdictions. The AML/CFT paradox lies herein, strict compliance requirements push SMEs and vulnerable customers toward informal financial channels that facilitate financial crime.[331] Given the cross-border nature of money-laundering and terrorism

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326 Ibid, 3.

327 Samuel Aidoo, 'Balancing AML Compliance and Financial Inclusion' [2023], 1 <https://www.researchgate.net/publication/394043447_Balancing_AML_Compliance_and_Financial_Inclusion> accessed 16 January 2026.

328 Ibid, 2.

329 Ibid, 8.

330 Mark T. Nance, 'The Regime that FATF Build: an Introduction to the Financial Action Task Force' [2018] 69 *Crime Law Soc Change,* 110 <https://link.springer.com/article/10.1007/s10611-017-9747-6#citeas> accessed 15 January 2026.

331 Ibid, 122.

financing, fragmentation in international cooperation, gaps in international frameworks, and regulatory arbitrage make compliance even more challenging.[332]

This is among one of several key obstacles to building an effective AML/CFT regime and requires significant introspection from international regulators like the FATF and the EU to recognize the unintended negative repercussions such frameworks exact on underserved populations, despite being designed to promote a more stable and safe global financial order. Legal reform must look beyond technical compliance and consider alternative methods like implementation assistance, regulatory coherence across Latin American and technology like RegTech and FinTech, to make a positive step forward.

To conclude, balancing financial integrity and financial inclusion requires regulators to consider beyond rigid compliance with current international AML/CFT standards toward proportionate and evidence based regulatory frameworks. Reforms should include a combination of technological innovation, public-private cooperation and a clear commitment to the financial inclusion of SMEs in Latin America and beyond, without compromising the integrity of the global financial system. Previous regulatory adjustments, like the revision of the eighth FATF Special Recommendation to mitigate the unintended harm caused to NGOs, demonstrates that change is possible. Coordinated reform at global, regional and domestic levels remains imperative to ensure AML/CFT frameworks support both secure and inclusive financial systems.

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332 Samuel Aidoo et al., 'Regulatory Frameworks for Combating Financial Crime in Emerging Markets' [2025], 20 <https://www.researchgate.net/profile/Farinu-Hamzah/publication/393091275_Regulatory_Frameworks_for_Combating_Financial_Crime_in_Emerging_Markets/links/685ebebfe9b6c13c89e4d7ac/Regulatory-Frameworks-for-Combating-Financial-Crime-in-Emerging-Markets.pdf> accessed 16 January 2026.

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F. **US**

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III. Abstract

A. English

Anti-money laundering and counter-terrorism financing (AML/CFT) frameworks play a crucial role in securing the integrity of the global financial system. This thesis aims to analyze how the FATF and EU AML/CFT frameworks affect MSMEs' (Micro, Small and Medium-Sized Enterprises) access to finance in Latin America, arguing that a flexible, risk-based approach, alongside technological innovations like FinTech and RegTech, could help bridge the gap between financial integrity and financial inclusion.[333]

The first chapter of this thesis provides an overview of how money laundering and terrorist financing operate in practice. Chapter Three and Four focus on the FATF and EU's AML/CFT standards, analyzing their development and implementation on developing economies. Chapter Five focuses on MSMEs in Latin America, examining Brazil, Mexico and Chile as case studies to illustrate the impact on financial inclusion, while Chapter Six evaluates FinTech as a tool to enhance financial inclusion in the regulation of AML/CFT. Chapter Seven discusses policy recommendations and concluding thoughts in efforts to better align financial integrity with inclusive development for MSMEs in Latin America.

333 Douglas W. Arner et al., 'FinTech, RegTech, and the Reconceptualization of Financial Regulation' [2017] 37(3) *Northwestern Journal of International Law & Business* <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1817&context=njilb> accessed 16 January 2026, 373.

B. **German**

Rahmenwerke zur Bekämpfung von Geldwäsche und Terrorismusfinanzierung (AML/CFT) spielen eine entscheidende Rolle bei der Sicherung der Integrität des globalen Finanzsystems. Diese Arbeit zielt darauf ab, zu analysieren, wie sich die AML/CFT-Rahmenwerke der FATF und der EU auf den Zugang von KKMU (kleinen und mittleren Unternehmen) zu Finanzmitteln in Lateinamerika auswirken, und argumentiert, dass ein flexibler, risikobasierter Ansatz in Verbindung mit technologischen Innovationen wie FinTech und RegTech dazu beitragen könnte, die Kluft zwischen finanzieller Integrität und finanzieller Inklusion zu überbrücken.[334]

Das erste Kapitel dieser Arbeit gibt einen Überblick darüber, wie Geldwäsche und Terrorismusfinanzierung in der Praxis funktionieren. Die Kapitel drei und vier konzentrieren sich auf die AML/CFT-Standards der FATF und der EU und analysieren deren Entwicklung und Umsetzung in Entwicklungsländern. Kapitel fünf befasst sich mit KKMU in Lateinamerika und untersucht Brasilien, Mexiko und Chile als Fallstudien, um die Auswirkungen auf die finanzielle Inklusion zu veranschaulichen, während Kapitel sechs FinTech als Instrument zur Verbesserung der finanziellen Inklusion in der Regulierung von AML/CFT bewertet. Kapitel 7 befasst sich mit politischen Empfehlungen und abschließenden Überlegungen zu den Bemühungen, die finanzielle Integrität besser mit einer inklusiven Entwicklung für KKMU in Lateinamerika in Einklang zu bringen.

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334 Douglas W. Arner et al., 'FinTech, RegTech, and the Reconceptualization of Financial Regulation' [2017] 37(3) *Northwestern Journal of International Law & Business* <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1817&context=njilb> accessed 16 January 2026, 373.