



Money laundering and terrorism financing risks in Botswana

INTRODUCTION

Botswana has a relatively good legal foundation to fight financial crime in general. With the second reading of the Financial Intelligence Bill and the regulation of non-financial institutions prone to money laundering, the legal framework will be remarkably enhanced. However, Botswana has not yet undertaken an assessment of its risks and vulnerabilities to money laundering and the financing of terrorism in terms of international requirements. Significantly, Botswana's legal framework does not recognise the risk of money laundering in either limited- or high-risk situations. This is in spite of the Financial Action Task Force (FATF) espousing a country-specific risk analysis and application of a regulatory framework for all forms of business relationships. The rationale for adopting the risk-based approach is that a better understanding of the extent, form, production and disposal or use of the proceeds of crime helps to determine the appropriate interventions.

Tentative steps towards establishing trends in money laundering and the financing of terrorism have been taken over the past few years. A team of World Bank experts visited Botswana at the end of 2006 to assess the implementation of the FATF anti-money laundering and counter-financing of terrorism (AML and CFT) standards. In early 2007 the Directorate on Corruption and Economic Crime (DCEC), in collaboration with the Institute for Security Studies (ISS) of South Africa, undertook research to establish trends in money laundering in Botswana. The findings are yet to be publicised. However, what is apparent is that these investigations were by no means exhaustive.

This paper is a contribution to the discourse on money laundering and the financing of terrorism in Botswana. It provides an overview of Botswana's AML/CFT regimes. This will follow a brief outline of the international regulatory regimes for curbing both money laundering and the financing of terrorism.¹ Significantly, the paper subscribes to the view that both these activi-

ties exhibit the same characteristics and therefore that their analysis can and should broadly be made within the same framework. An analytical framework woven around the 'three pillars' of prevention, enforcement and international co-operation is used in this discussion.

DEFINING MONEY LAUNDERING AND TERRORISM

Money laundering and terrorism are two of the most widely discussed phenomena in contemporary law enforcement. By definition, money laundering emanates from *organised crime* and the two are generally always mentioned in the same breath. Organised crime continues to generate vast funds, which are estimated to constitute between two and five per cent of the global annual income.² This has brought to life two significant scenarios. Firstly, criminal formations need to hide the illicit origin of their funds for the purposes of integrating them into the legitimate economic system. Doing this constitutes *money laundering*. Secondly, there are possibilities for such funds to be used for *financing terrorism*. It is therefore necessary that these key concepts be unpacked.

Organised crime

One of the widely accepted descriptions of organised crime is that it is perpetrated by a criminal group that undertakes:

...significant and planned criminal activity, which involves several persons acting jointly, or at least with a common purpose, to commit a crime or a series of crimes, motivated by the prospect of direct or indirect material benefit. The persons involved may be human beings or corporate bodies.³

Various positions have been taken on how organised crime manifests itself. On one hand, the traditional

conceptualisation is that this activity may involve collaboration between different criminal groups that is syndicated, well-calculated and implemented, business-like and transnational. However, contemporary views are that this 'mafia model' is no longer universal, with criminals becoming more and more opportunistic, less structured and generally relying on networks to conduct illicit activities. As a result there is a well-debated absence of a universally accepted definition.⁴ What is universally agreed, nevertheless, is that whatever the nature and structure of criminal entities, they all hold a desire to spend their proceeds as if they emanate from legitimate sources. The process by which they achieve this goal is through money laundering.

Money laundering

Money laundering has been defined as 'any act or attempted act to conceal or disguise the identity of illegally obtained proceeds so that they appear to have originated from legitimate sources'.⁵ This metaphorical 'cleaning of money' is the practice of engaging in specific financial transactions in order to conceal the identity, source or destination of money. It is often described as occurring in three stages. *Placement* is the initial point of entry for funds derived from criminal activities into the legitimate economic/financial system to create a distance between the criminal activity and the proceeds. This is achieved by *layering*, which is the creation of complex networks of transactions that attempt to obscure the link between the initial entry point and the end of the laundering cycle. Lastly, *integration* refers to the return of funds to the legitimate economy for subsequent extraction and use.

However, it is important to note that the stages of money laundering are not mutually exclusive and therefore may not always follow each other in the particular order described above, nor are all stages always involved. It has been demonstrated that sometimes the proceeds of crime may be directly invested without placement or layering.

The stages...are not cumulative elements of money laundering, in the sense that they should all exist before the offence may be deemed to have been committed. The commission of any one of them could constitute money laundering.⁶

With the increased recognition of terrorism as a global threat it has been determined and widely accepted that terrorists and their associates either engage in money laundering or use similar techniques as in money laundering to finance terrorist activities.

Terrorism

The definition of terrorism is more problematic. None of the prominent international institutions and protocols provides a definition for terrorism. There are conceptual and intellectual divergences on the issue and the tendency is thus to describe acts of terrorism. This situation is attributed to the diverse political, religious and socio-cultural dynamics within the various jurisdictions. A generally accepted definition of terrorist acts is that of 'criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political or religious purposes'.⁷ After 9/11, terrorism or planning to commit an act of terrorism significantly transformed views around organised crime, money laundering and the financing of terrorism. This watershed event had the effect of broadening the scope of strategies against money laundering and the financing of terrorism.

It is against the backdrop of the globalisation of international financial services that the debate on the vulnerabilities of countries to organised crime, money laundering and the financing of terrorism has gained currency. The key observations coming out of the protracted war against terrorism is that terrorist attacks have to be funded. To the extent that their success depends on secrecy, the funds that sponsor the activities conceivably pass through the legitimate economic/financial system, at least at some point, but this passage has to be disguised. International efforts have sought to target, freeze and confiscate these funds, and to reduce and hopefully eliminate the processes through which they are conveyed, in this case money laundering. This has resulted in the creation of generic AML/CFT regimes, the standards of which have become imperative for all countries to implement.

INTERNATIONAL REGULATORY REGIMES TO CURB MONEY LAUNDERING AND THE FINANCING OF TERRORISM

The international trend to criminalise money laundering as a discrete offence started in the United States in the 1970s, followed by the United Kingdom in the 1980s.⁸ By 1988, the Vienna Convention resolved that countries that had not done so should introduce AML provisions in their legislations. This AML drive culminated in, among other international initiatives, the formation of the FATF in 1989. After the tragic events of 11 September 2001, global AML and CFT standards underwent further refinement, notably with the addition of nine recommendations to the original Forty FATF Recommendations. These regulatory regimes are broadly influenced by the

need to address structures of prevention, enforcement and international co-operation, called the 'three pillars'.⁹

Prevention

In terms of prevention, countries undertake to implement structures that help to flag dirty funds. Both the public and private sectors are called upon to install systems and regulations that are disincentives to cash transactions, and to scrutinise large currency transactions. Financial institutions and non-financial and professional businesses that deal with commodities of value are required to document transactions and critically profile their customers with a view to reporting suspicious transactions to the relevant authorities. Consequently, governments have an international obligation to create the widest possible scope to implement all these international requirements. These prevention and control policies are applicable across all jurisdictions.

Enforcement

It is not possible to completely bar dirty money from legitimate financial systems. As a result, law enforcement is often called into action to attach criminal proceeds and follow the paper trail they leave behind. Law enforcement would also seek to penalise those who violate regulations, be they corporates or individuals. The law enforcement role may be specifically delegated to, or co-ordinated by, a specialised agency. At the macro level, the enforcement

It is questionable whether anti-terrorist financing mechanisms adopted in the developed world are appropriate for southern Africa

component obliges states to enact laws that criminalise money laundering and its predicate offences, and to punish criminals who launder money and those who assist them.

International co-operation

The prevention and enforcement components of AML/CFT are dependent on international co-operation. The global nature of money laundering and the financing of terrorism require that countries are well versed in

international prevention and enforcement challenges and endeavour to collaborate with other states and international bodies in sharing information. International conventions are the tools through which countries can benchmark their efforts. Generally this is achievable by harmonising AML and CFT regimes.

The international instruments to address money laundering and the financing of terrorism are well documented. The United Nations (UN), the International Monetary Fund (IMF), the World Bank, the FATF and the International Criminal Police Organisation (Interpol) all have common views about money laundering and the financing of terrorism. At the regional level and closer to Botswana, the African Union (AU), the Southern African Development Community (SADC) and the East and Southern African Anti-Money Laundering Group (ESAAMLG) supplement global initiatives. The generic themes they advocate are contained in the 'three pillars' framework.

If terrorist financing follows the same patterns and techniques as money laundering, as espoused by some authorities, as a general proposition it follows that countries are equally vulnerable to terrorist financing as they are to money laundering.¹⁰ This points to the need for synergy between AML and CFT regimes. However, researchers and scholars question whether anti-terrorist financing mechanisms adopted in the developed world are appropriate for the southern African region.¹¹ These arguments will not be explored any further in this paper. However, a brief look at some of the key issues in the international interventions against money laundering and the financing of terrorism should be useful.

The FATF formulated nine recommendations that complement the Forty FATF Recommendations on money laundering. They set out the basic framework to detect, prevent and suppress the financing of terrorism and terrorist acts. Countries are required to ratify and to implement fully the 1999 UN International Convention for the Suppression of the Financing of Terrorism as well as the UN resolutions relating to the prevention and suppression of the financing of terrorist acts,¹² particularly UN Security Council Resolution 1373. Further, countries are enjoined to criminalise the financing of terrorism, terrorist acts and terrorist organisations and to ensure that such offences are designated as money laundering predicate offences. Other supplementary recommendations require countries to implement measures to freeze the funds or other assets of terrorists, those who finance terrorism and terrorist organisations in accordance with the UN resolutions relating to the prevention and suppression of the financing of terrorist acts. Countries are required to ascertain that financial institutions, or other businesses or entities subject to AML obligations, promptly report their suspicions to competent authorities.

At an international level, countries are obliged to promote co-operation against terrorism and the financing of terrorism.

A key vehicle through which terrorist acts have been financed is alternative remittance systems (ARS). With regards to such systems, each country is required to put into place measures to ensure that persons or legal entities, including agents that provide a service for the transmission of money or value, including transmission through an informal money or value transfer system or network, should be licensed or registered and subject to all the FATF recommendations that apply to banks and non-bank financial institutions. FATF also recommends that countries should review the adequacy of their laws and regulations that relate to entities that can be abused for the financing of terrorism. It notes that non-profit organisations are particularly vulnerable, and countries should ensure that they can't be misused. Lastly, countries should have measures in place to detect the physical cross-border transportation of currency and bearer-negotiable instruments, including a declaration system or other disclosure obligation.

Most SADC jurisdictions have promulgated legislation to meet the international requirements discussed above, especially to regulate financial institutions. In addition, the majority of the countries in the region are members of ESAAMLG, a specific money-laundering regional intervention that is inspired by the FATF. Between SADC and ESAAMLG, the region has mecha-

A key vehicle through which terrorist acts have been financed is alternative remittance systems

nisms that provide oversight on implementation of the international instruments. Notably, one of the challenges of the southern African countries is inevitably the need to harmonise their legislation so that countries deal with the relevant issues on the same wavelength. Another is to establish vulnerabilities to enable more pragmatic implementation of international standards.

VULNERABILITY TO MONEY LAUNDERING AND THE FINANCING OF TERRORISM IN SOUTHERN AFRICA

In order to put the analysis of Botswana's vulnerabilities with regard to money laundering trends and the financing of terrorism into context, it is necessary to assess the

situation in other vulnerable economies. Some research has been done in other countries in southern Africa.¹³ The situation in Tanzania in 2006 could be considered a macrocosm of what generally holds in the region. The following vulnerabilities were highlighted:

- Most business activities are conducted in cash rather than by cheque, credit card or other 'virtual money'. High-value assets, such as real estate, motor vehicles and jewellery, worth millions, can be paid for in cash. Some parts of the country do not have banking services thereby necessitating cash transactions or barter transactions.
- Most of the banks are concentrated in urban areas leaving the majority of the population in the rural areas without access to financial services.
- Where financial services do exist, poverty has resulted in low usage levels and an insignificant savings level. The rural areas are the most affected.
- There is no regulatory framework for ARS.
- There is a liberal policy on foreign direct investment (FDI), so the source of funds brought into the country by inward investors is not routinely or effectively scrutinised.
- There is general lack of public awareness of the adverse impact of money laundering.
- Money laundering and the financing of terrorism are relatively new offences in the criminal justice system. Their enforcement requires personnel with the necessary technical competence to detect, investigate and prosecute suspects. This calibre of personnel is scarce and often beyond what governments can afford.
- There are signs of escalation of the proceeds-generating predicate offences associated with money laundering, such as corruption, smuggling, bank robberies, car theft, prostitution and trafficking in stolen cellular phone handsets.

This gloomy situation negatively impacts on the region's efforts in implementing the FATF recommendations.

Notably, with the exception of Tanzania and Kenya, where synchronised bombings were undertaken at the respective US embassies and a further attempt made on an Israeli flight, there appears no evidence in southern Africa that terrorism is considered to be a significant threat.¹⁴ This is probably the main reason why only a few countries have taken steps to criminalise it. In a snap survey in selected countries in the region, it was established that only Mauritius and South Africa have domestic laws that specifically criminalise terrorism and to a considerable extent address terrorist financing.¹⁵ Other issues of significance to CFT that came out of the survey include:

- The need for countries to ascertain that shareholders and senior managers in financial institutions are 'fit and proper' to hold positions of control and oversight

in line with the Basil recommendations. This appears to be a far cry from the reality in the majority of African countries where such appointments are predictably done on the bases of entrenched patronage systems.

- That the same predicate offences that generate proceeds that are laundered may be used to generate funds to sponsor terrorism. In fact, it has been established that terrorists more frequently make the strategic decision to engage in organised crime as a convenient cash cow. The opium trade in Afghanistan and the current surge in piracy at the horn of Africa are classic examples of terrorist networks feeding on organised crime.¹⁶
- There is a large presence of charitable and non-governmental organisations (NGOs) that are understood in other contexts to be predisposed to abuse in the financing and operations of terrorist groups.¹⁷

While efforts predominantly targeted the 'grey' and 'shadow' economies, it has been noted that some criminal and terrorist organisations also engage in legitimate business operations that may be used as vehicles for money laundering.¹⁸ Despite the suggested vulnerability to terrorist financing, evidence of terrorist funding within or from the region has been determined to be scanty and mostly anecdotal.¹⁹

Evidence of terrorist funding within or from the region has been determined to be scanty and mostly anecdotal

ARS are known internationally as preferred conduits for the transmission of terrorist funds. Examples of ARS are known to exist both within southern Africa and between southern Africa and the rest of Africa. It is believed that variations of ARS are widely used by migrant workers from countries like Malawi, Mozambique and, most recently, by diaspora communities from Zimbabwe. Using such systems is both cheaper, as it circumvents expensive bank charges, and faster, because the process is paper free. With the virtual collapse of the Zimbabwean dollar, the banking system in that country has all but perished and the economy is probably only just alive on the back of ARS. However, it has been observed that it is more common for diaspora communities to repatriate their earnings from the developed world to needy relatives and causes back home, but there does not appear to be any evidence of links between such forms of *hawala*

and the financing of terrorism.²⁰ It is therefore conceivable that this is the form of analysis used by political figures in the region to support the argument that the fight against money laundering and financing of terrorism is not a priority. It is from this background that the discourse on these concepts in Botswana should be conceptualised.

VULNERABILITIES IN BOTSWANA

Botswana is classified as a middle-income country.²¹ It ranks consistently high in many indices on leadership and governance and enjoys a reputation for relatively low levels of corruption and crime.²² The overall effect of these characteristics is that it enjoys a fairly high credit rating that allows consistent stimulus for socio-economic development.²³ As a result, economic growth has averaged above five per cent for the past two decades.²⁴ While these are remarkable characteristics, they also create vulnerability as criminals may seek to take advantage of them. The risk is magnified by the country's openness to international financial markets and its efforts to attract more FDI for economic diversification and growth. As was highlighted earlier, Botswana has never conducted an assessment of risk vis-à-vis money laundering and terrorism/financing of terrorism. There have been a few prosecutions for money laundering but no terrorism-related prosecution in Botswana at all.²⁵ There is also no record of any terrorist threat in the public domain. However, as recently as January 2009 there were reports of 'scores of suspected Al Qaeda terrorists' being detained by security agents, some awaiting deportation while others were under investigation for money laundering and attempting to establish various forms of terrorist structures in Botswana. A number of suspects are foreigners involved in second-hand car dealerships, an area already identified by the ISS/DCEC research as a key money-laundering vulnerability. Further key issues noted include that:

- Al-Qaeda agents in Botswana are believed to have used the country's boom in imported secondhand cars as a cover for their activities
- They rarely use banks in their business transactions
- Investigations have linked company directorships to Kenya, where terrorism-related activities are understood to be taking place
- Botswana is believed to be a soft target because of its relatively weak finance and company regulatory regimes
- There are suspicions that the stock of some car dealerships is purchased using proceeds from pirate activities near the horn of Africa²⁶

There are a number of other areas that could be considered as key vulnerabilities. Some of the prominent ones are discussed below.

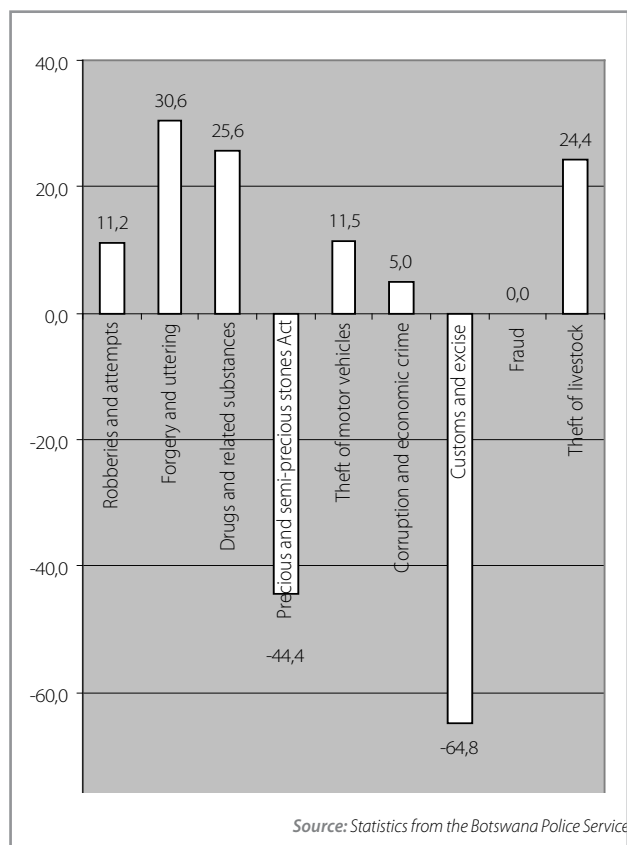
The existence of organised crime in general

The situation with regards organised crime in Botswana was aptly captured in its country report to the UN Congress on Crime Prevention and Criminal Justice as far back as 2005. It was observed that:

transnational organized crime continues to threaten the safety and wellbeing of the people of Botswana and hampers social and economic development. Not only has this type of crime increased in scope, but it has also increased in intensity and sophistication. It is evident from the latest Police Statistics that transnational crime and criminal syndicates have expanded their range of activities from robbery, motor vehicle theft, drugs and arms trafficking to white colour crime.²⁷

The current situation in terms of offences that generate proceeds that are subsequently laundered is illustrated below.

Figure 1: Statistics on proceeds generating offences



Although it is not generally the practice for law enforcement agencies to establish the organised crime component of reported criminal activities, there is a general consensus that organised crime does exist in Botswana.²⁸ While the incidents of some kinds of crime have declined over the past two years, the overall impact of organised

crime has increased. It is argued that the increase has become so significant as to threaten national security.²⁹ Some have observed that one of the key influences on the establishment of the Directorate of Intelligence and Security was the perception that law enforcement in its current form does not have the capacity to deal with the threat of organised crime. The agency's mandate has incidentally been defined broadly to address, in no uncertain terms, the threat of organised crime.

The attraction of doing business in Botswana

According to the 2007 International Monetary Fund (IMF) report on Botswana, unless its economy diversifies the country's GDP may fall by as much as a quarter after 2021.³⁰ Faced with economic diversification challenges and stiff international business competition from other SADC economies, Botswana has had to soften restrictions on doing business with a view to attracting FDI. The 2009 World Bank summary presents a mixed picture on the ease of 'doing business' in Botswana. The summary is hereby analysed in the context of money-laundering control.

Table 1: The ease of doing business in Botswana

The ease of...	Doing business (2009)	Doing business (2008)	Change
Doing business	38	52	+14
Starting a business	80	102	+22
Dealing with contract permits	119	118	-1
Employing workers	73	74	+1
Registering property	29	25	-4
Getting credit	43	40	-3
Protecting investors	38	110	+72
Paying taxes	17	17	0
Trading across borders	149	150	+1
Enforcing contracts	92	91	-1
Closing business	26	27	+1

Source: World Bank 2009

This table lists the overall 'ease of doing business' ranking out of 181 economies assessed by the World Bank in the second row and the rankings by each topic in the subsequent rows. The 'doing business' index can best be understood by reference to the following key issues: It currently takes less than 10 days to register a company compared with 23 days, which was the norm as recently as 2006.³¹ The revised Companies Act (2007) also permits individual-owned closed corporations, which appear to facilitate more private dealings within companies. This is inconsistent with the spirit of the international money-laundering standards. There is no obligation on authorities to verify the integrity of the

persons forming a company or registering a business name as a sole proprietorship or partnership, or the beneficial owners of domestic or foreign companies being formed. Neither is there any requirement to verify the accuracy of the information provided by a person filing registration documents. Lawyers and accountants acting either as company secretaries or as nominee directors and shareholders also do registration of companies, yet the regulatory framework does not cover these professions. This liberal dispensation is a major loophole in the system and is subject to abuse by persons and groups that may have sinister intentions.

The strategy to attract FDI is coupled with very lucrative and easily accessible government subsidies, grants, loans and tax breaks for establishing businesses that propose to employ Botswana. However, it has been argued in many quarters that this dispensation brings with it people of questionable motives and business credentials. The mechanism to vet foreign individuals is very weak. This has been exposed on several occasions when foreign nationals implicated in scandalous, unlawful activities turned out to have had criminal records in other countries, which were not questioned in Botswana. For example, the Hyundai Motor Corporation's Botswana operations, which had become the flagship for international business in Botswana, shut down in 2000. Its managing director, Billy Rautenbach, was the subject of several criminal investigations into theft, fraud and corruption in South Africa³² but these investigations were either never picked up or deliberately ignored in Botswana.

Currently, a storm is brewing in the country's education system, particularly so in the dealings of

The strategy to attract FDI brings with it people of questionable motives and business credentials

the Ministry of Education. Investors have jumped to swallow the carrot dangled by the government in supporting those who establish tertiary institutions in Botswana by providing sponsorship to the enrolled students. With money having been literally poured into several such institutions, one privately owned university has over-enrolled by 3 000 students! Before relocating to Botswana, the same university had been enrolling Botswana students in Malaysia for several years before it was established that, despite government sponsoring the students, there had not been any due diligence exercise undertaken on the integrity or capacity of the university.

The result was that thousands of Botswana students were crowded in several dilapidated buildings operating as campuses for the university, begging the question why they would be taken there in the first place. Several such colleges operate without the requisite infrastructure and or even resources as basic as libraries. Now it is alleged that the Minister of Education received kickbacks for facilitating government support for the implicated university and that some ruling party officials and some cabinet ministers have shares in the several institutions supported by government.

To the extent that such individuals have the propensity to associate or sympathise with terrorists/terrorist activities, there is the opportunity for systems in Botswana to be abused, not only in money laundering ventures, but also in terrorist-financing activities.

Non-designated institutions dealing in value-based commodities

A number of professions have been known to facilitate money laundering wittingly or unwittingly in other jurisdictions. Such abuse is rife in vulnerable economies. The list of these professions is long. It is probably useful that this discussion be limited to those that appear significant in the Botswana context.

Lawyers, notaries and other independent legal professionals

There are presently about 200 legal practitioners in Botswana, the majority of them associated with small law firms. This is a significant proportion in a population of around 1.6 million. In addition to doing criminal and civil work, legal practitioners provide notary and conveyance services as well as services relating to the creation, operation and management of trusts and companies, for which they may act as nominee shareholders or directors. The profession is relatively cash intensive and this predisposes it to criminal manipulation. Money launderers and those who finance terrorists have been known to abuse and manipulate this sector. The esteem with which the legal profession is held tends to preclude scrutiny of its members, hence the vulnerability.

Over the past few years, a number of lawyers have been implicated in criminal activities, either as perpetrators or facilitators. After a protracted legal battle, two prominent lawyers became the first people to be convicted on money-laundering charges in Botswana. One was sentenced to 18 months in jail and ordered to pay P1.1 million as compensation to Barclays Bank, the proceeds of which had been fraudulently withdrawn from the Motor Vehicle Accident Fund and Botswana Life Insurance accounts. His accomplice received a six-month jail sentence. The duo has been granted bail

pending their appeal against both the sentence and the conviction. The lawyer sentenced to 18 months has another case before the courts for allegedly bribing a prison warder to unlawfully obtain a former inmate's docket. His lawyer in the money-laundering case has also been implicated.

Accountants

In research undertaken by the ISS in 2003 on the role of auditors in the region, it was found that in Botswana:

- checking for proceeds of crime is not a primary focus of auditors
- there was difficulty in accessing information from the banking sector
- company tax laws were poorly enforced
- small businesses can exist for years without being audited

In addition to the finding that money laundering often occurs across borders and that it is highly complex and often involving a web of companies, it was also established that the businesses most vulnerable to money laundering included property, construction, entertainment, manufacturing and commodities trade.

Real estate

Like members of the legal profession, estate agents have been known to accept large payments in cash. Since the purchase of property is widely assumed to be a key money-laundering technique, this area might constitute a source of vulnerability in Botswana. Real estate has been fairly robust over the past two decades. Vast tracts of prime land in Botswana are in the hands

Small businesses can exist for
years without being audited

of foreign nationals whose financial history has not been comprehensively investigated. A number of individuals own several properties in cities and towns. This raises the possibility that such purchases could be sponsored by illegal proceeds with a view to laundering them. To the extent that it is not possible for law enforcement, where the need may arise, to separate the proceeds from such businesses from those generated from illicit activities, this constitutes a significant vulnerability.³³

The construction industry

Apart from the endemic corruption associated with the awarding of construction contracts, a major concern is the non-existence of controls or oversight on the amount of money coming into or going out of the country

through this industry. There is a strong public perception that contractors invariably do shoddy jobs well below the value envisaged in their contract specifications, but are never brought to account. A considerable proportion of local contractors are known to be mere fronts for foreign individuals or companies. While the industry gives the impression of a heavy local presence, it is believed that the really big money goes to the principals located outside the country. There is currently no capacity to determine the extent to which this is happening, nor has it been determined to be a priority. A significant threat exists in that international criminal syndicates and persons sympathetic to terrorists could be participating in the industry by either siphoning money out of the system or co-mingling their proceeds with the funds from contracts as a laundering option.

Second-hand motor vehicle dealerships

There is a boom in this industry that dates back to 2000. The affordability of pre-used vehicles from Asia has provided many Botswana with unprecedented opportunities to own vehicles. Until recently the respective transactions were in cash, without keeping records as envisaged in AML/CFT regulations. All these conditions attract criminals, who desire to launder their funds, both as proprietors of businesses and as customers. Vehicles imported from Asia are first taken to Botswana, where they are issued with forged registration books, before being driven to Lesotho and Swaziland to be re-registered. Since the authorities in the two countries have neither the time nor the capacity to verify the authenticity of the registration documents produced, the vehicles are thus easily 'laundered'. No duty would have been paid on the vehicles in Botswana as they would not be on the official registration database. At the same time, the vehicles would not attract duty in Lesotho or Swaziland on the assumption that such duty would have been paid in Botswana as part of the registration process there.³⁴ A significant number of imported vehicles are smuggled into South Africa despite the country having stringent laws on the importation of second-hand vehicles.³⁵

Foreign communities

There are a number of foreign communities resident in Botswana. In terms of accessibility, most of them are closed to government structures, let alone to ordinary citizens. They are engaged in businesses ranging from small-scale ventures to lucrative developmental and government projects. A key benefit of their presence is that they have technical expertise. They also create much-needed employment. However, because of their restricted access to resources that are easily accessible to citizens, some members of these communities are tempted to engage in corrupt practices, such as bribing

government officials to rig tender processes.³⁶ Some run companies using locals as fronts. They are also known to access business ventures, government grants and empowerment projects that are only meant for citizens.

The police have, over the last few years, attended to reports by citizens complaining that they had been deceived into joint ventures by some foreigners after which they were sidelined and not paid anything following the successful registration of companies and tenders having been won. However, the police are constrained by law against acting on these complaints because the citizens would have entered into the agreements willingly.³⁷

The involvement of foreigners in such activities has left a widespread belief that a considerable amount of their wealth and financial holdings are sponsored by funds from illicit activities. The secrecy with which some of these communities conduct their affairs and the barriers imposed by language and culture mean that they remain relatively inaccessible to law enforcement and other structures of government. To the extent that this perception is plausible, their presence and financial dealings constitute a vulnerability to both money laundering and the financing of terrorism.

However, debate around foreign communities in Botswana has been done with a fair amount of trepidation for fear of fanning xenophobia. Botswana is home to between 200 000 and 300 000 Zimbabwean immigrants and refugees.³⁸ Following the economic and political meltdown in Zimbabwe, these numbers have been swelling consistently. For the past decade, immigration of Zimbabweans has benefited Botswana immensely as

Foreign communities are engaged in businesses ranging from small-scale ventures to lucrative developmental and government projects

skills that were short in supply but high in demand were now easily accessible at bargain wages. Zimbabweans are well known for their readiness to take on menial, poorly-paid jobs that are unwanted by the local population. But even those jobs are becoming scarce as distrust and discrimination against Zimbabweans grows. The rise in crime, especially in armed robberies, is often attributed to Zimbabweans. Numerous Zimbabweans are serving jail terms for serious crimes while scores have died at the hands of law enforcement during abortive robberies.³⁹

The Chinese community is heavily involved in the construction and retail industries. The commodities they sell are believed to be either under-invoiced on entry or smuggled with the assistance of corrupt customs officials. They are generally involved in counterfeit products and the infringement of intellectual property rights. Several Chinese-owned shops have been raided by the police and found to be trading in illegal or illegitimate products.

Like the Indians and Pakistanis, they also tend to keep the proceeds of their businesses on their premises, rather than banking their money.⁴⁰ Botswana Police Service (BPS) statistics show that several individuals from these Asian communities have had their homes targeted by criminals because of this perception.⁴¹ Considerable amounts of money have been stolen in this manner. This reinforces general public perceptions of their banking habits.

It has never been established what eventually happens to the large sums of money thus kept out of circulation. The possibility is that some is re-invested into sustaining or expanding existing businesses. To the extent that the practice of keeping large sums of money outside the banking system persists, there is a possibility that some of it finds its way to financing terrorism. Asian communities are also widely known in other jurisdictions to use ARS to transfer value back to their native countries.

The Bank of Botswana (BoB) does not publish estimates of the amount of money either out of circulation or that could have been smuggled out of the country at any point.

Refugees

Botswana, in collaboration with the United Nations High Commission on Refugees, is host to a considerable number of refugees. They are accommodated at Dukwi Refugee Camp near Francistown. A number are from Somalia, Ethiopia and Uganda. While their refugee status is not being contested here, the involvement of some individuals from these countries in terrorism-related activities is an open secret. There is a possibility that some could be involved in providing support, however indirect, to terrorism. A Cameroonian who allegedly spent his entire life between Somalia and Uganda and spent more than two years as a refugee in Botswana, is currently under custody in South Africa after a futile attempt to hijack a plane from Gaborone en-route to Johannesburg.⁴² Refugees resident in Dukwi live on monthly handouts and are allowed to leave the camp once in a while. It is held that some return from these outside visits with huge sums of money and property, sometimes vehicles, which is inconsistent with people living on handouts.⁴³ There is possibility that they could be exploiting the security of their refugee status to participate in illicit activities that could support terrorism.

International Financial Services Centre

Botswana's embryonic International Financial Services Centre (IFSC) is being developed with the aim of making it a regional financial hub. Inasmuch as this will promote the growth of financial institutions and related companies, the IFSC makes the country all the more vulnerable to money laundering. Its activities include facilitation of cross-border banking and providing investment funds, financial advisory services, information communication technology services and group shared services. The IFSC is based on a legal jurisdiction rather than a physical location and the BoB supervises the activities of the registered companies.²⁷ It is possible that criminals resident in other countries could abuse the IFSC to launder the proceeds of crime and/or to finance terrorism. The use of banking services in Botswana, compared with other countries in the region, is high. Greater use is being made of new technologies such as internet banking (The Economist Intelligence Unit 2006). The R100 million fraud case in which the Namibian government was swindled by a financial services company registered as the Overseas Development Corporation is a classic example of risks associated with the IFSC.

Politically exposed persons

There are no specific requirements for politically exposed persons (PEPs), foreign or domestic, to be subjected to enhanced due diligence. By definition, these are individuals who have been entrusted with prominent public functions and have the propensity to abuse their official functions for their own financial gain through embezzlement, receipt of bribes and participation in or facilitation of other criminal activities. They include senior politicians, senior government, judicial, law enforcement and military officials, senior executives of publicly owned corporations and political party officials (Basel Committee on Banking Supervision). It is thought that there are two main areas of vulnerability that could be exploited by corrupt PEPs or their associates. The first is when private bank officials fail to apply appropriate and thorough due diligence to such persons and their activities. The second is the possible use of a professional intermediary to open an account on a client's behalf. This can enable a corrupt public official to open and operate accounts virtually anonymously. The risk of PEPs abusing their positions for personal gain has been noted to increase significantly in jurisdictions like Botswana where there is no obligation placed on them to declare their assets. The government has consistently rejected calls to consider legislation to compel declaration of assets.

The public believes that a number of members of parliament have accumulated significant wealth that is inconsistent with both their earnings and their positions

before ascending to public office. Cases and allegations involving high-profile individuals who fall within the definition of PEPs have reinforced the perceptions of increasing risk in this area. The following cases are significant:

- A deputy minister of finance recently resigned following allegations of fraud and corruption involving a company he owns. The fraud had been allegedly going on for a number of years.
- The Minister of Education refuses to resign despite allegations of corruption and incompetence emanating from scandals involving tertiary institutions and further allegations of kickbacks for the ministry and its regulatory structures to turn a blind eye to irregularities.
- The same minister once resigned from Cabinet following allegations of corruption and unethical association with a self-confessed fraudster and criminal who continues to win government construction tenders.
- A former permanent secretary in the Ministry of Lands and Housing is appealing his conviction and sentence with regards to corruption in land allocation during his incumbency.
- The chief of the Public Procurement and Asset Disposal Board has been convicted of corruption pertaining to tender allocations to a company owned by a relative.
- A former chief executive of the biggest diamond mining company in Botswana, together with his son and two former company executives, are facing more than 40 counts of what amounts to corruption-facilitated organised criminal activities.

Threats to the criminal justice system

The Administration of Justice has in place a 24-hour security surveillance service to protect a Gaborone-based chief magistrate. The magistrate is the second to receive this type of security protection following a senior judge and former Attorney General, after a hit man was allegedly recruited to kill him. The magistrate presided over a ground-breaking corruption case involving a former permanent secretary who has since been convicted and sentenced to a seven-year prison term. It was suggested that the threats emanated from evidence incriminating a number of the country's top business elite.

American interests in Botswana

One issue of particular relevance to terrorism is the large presence of US interests in Botswana. Apart from its embassy, there are a number of American-sponsored institutions, supported either by the US government or by US-based organisations. In the light of a history of attacks on US interests abroad and the declaration by

some terrorist groups of continuing such attacks, it is possible that the presence of such interests in Botswana increases its vulnerability to terrorist attacks. Despite consistent government denials, some SADC countries are convinced that the Botswana Defence Force base at Mapharangwane, near Molepolole, is primarily used for promoting and defending US interests in the region.⁴⁵ Conspiracy theorists argue that the above view is confirmed by the consideration by the US to locate the headquarters of the Africa Standby Force in Botswana. What is significant, however, is that the country could be placing itself in line for attack by terrorists.

Commentary on vulnerabilities

The absence of an authoritative assessment of trends in money laundering and the financing of terrorism has two implications. One is that the extent of vulnerability cannot be accurately determined. The second is that appropriate prevention and enforcement measures cannot be effectively crafted and implemented as they need to have been informed by empirical evidence. As a result recommendations can only remain largely hopeful.

The IMF and FATF have always recommended that countries should extend anti-money laundering obligations to, among others, dealers in real estate and high value items, company and trust service providers and lawyers and notaries. This is because banks may now be used for transmission of funds with the actual laundering having taken place at the intermediaries.⁴⁶

It is possible that the presence of American interests in Botswana increases its vulnerability to terrorist attacks

AML AND CFT LAW IN BOTSWANA

It has been observed that there is no country that is not vulnerable to terrorism. Logically, some countries are less vulnerable than others. Botswana is generally perceived to be one of those countries that are not under particular threat. There is no history of terrorist attacks, nor is there any record of even any attempts to launch such attacks in Botswana. Nevertheless, the country still has an international obligation to prevent abuse of its systems for the purpose of both money laundering and the financing of terrorism that may be directed

elsewhere. It is therefore prudent that an analysis of the CFT regime be done vis-à-vis the recommendations of international bodies.

Botswana has ratified both the United Nations Convention against Transnational Organised Crime and the United Nations Convention on the Suppression of the Financing of Terrorism. She is also a party to the Vienna Convention. However, she has not criminalised the financing of terrorism and is yet to accede to a number of other UN conventions. There is no CFT-specific legislation to cover the broad spectrum of the seizure and confiscation of assets and finances incidental to terrorism. Botswana does not have a framework to implement UN Security Council resolutions 1267 and 1373 that provide for the freezing of terrorist assets. Confiscation is conviction-based, with freezing, seizing or restraining orders being provided for under the Criminal Procedure and Evidence Act and the Proceeds of Serious Crime Act. As shown earlier, there is no formal framework for international co-operation with respect to terrorism and terrorist financing. There is also no formal framework for the regulation of non-profit organisations either. A generic framework for the detection of physical cross-border transportation of currency exists but is considerably weak. In addition to the Suppression of Financing of Terrorism Convention, Botswana has ratified all the 11 other conventions related to terrorism. At regional level, Botswana has signed and ratified all protocols relevant to AML/CFT as follows:

- SADC Protocol against Corruption
- SADC Protocol on Combating Illicit Drug Trafficking
- SADC Protocol on Wildlife Conservation and Law Enforcement
- SADC Protocol on Extradition
- SADC Protocol on Firearms, Ammunition and Other related materials
- SADC Protocol on Mutual Legal Assistance in Criminal Matters

Although there is no dedicated anti-terrorism law, it is widely thought to be possible to prosecute and punish terrorism and issues incidental thereto within the context of the available legislation. There are views that the need for terrorism-specific legislation is not urgent and that the government should rather focus on enhancing the capacity of available institutions to deal with money laundering and the financing of terrorism.²⁸ The general belief is that it should be possible to deal with them effectively if law enforcement capacity is enhanced in terms of investigative and prosecutorial skills.

Botswana has ratified the Vienna and Palermo conventions and implementation broadly meets most of their requirements. The government has promulgated laws and other measures to prevent money laundering as well as to co-operate with other countries on money laundering

offences. The available domestic legislations that address money laundering are as follows:

- Bank of Botswana Act 1996
- Banking Act 1995
- Banking Act (Anti - money laundering regulation) 2003
- Botswana Constitution 1966
- Corruption and Economic Crime Act No. 13 of 1994
- Criminal Procedure and Evidence Act (1997)
- Customs and Excise Duty Act
- Drugs and Related Substances Act 18 of 1992
- Extradition Act 18 of 1990
- Mutual Assistance in Criminal Matters Act 1990
- Prevention of Corruption and Economic Offences Act
- Proceeds of Serious Crime Act 1990
- Intelligence and Security Act 2007
- Financial Intelligence Act 2007

Specifically, the enactment of the Proceeds of Serious Crime Act (PSCA) introduced the offence of money laundering. In terms of this Act, a person engages in money laundering if they initiate transactions that involve any proceeds of a serious crime. Engagement, by definition, includes receiving, processing, concealing, disposing of or bringing into Botswana any money or property that is the proceeds of a serious offence. It is expected that the individual(s) 'ought to know' that such money or property is derived from unlawful activity. The PSCA was amended in 2000 to incorporate the Forty FATF Recommendations.

The Penal Code creates ancillary offences to money laundering. It provides for aiding, abetting and counselling or procuring another person to commit an offence.

On another level the Botswana Unified Revenue Services (BURS) have responsibility for the assessment and collection of tax and this includes, among other activities, the performance of measures required to counteract tax fraud and tax evasion. The monitoring of the cross-border physical transportation of currency is conducted by virtue of Section 14 of the Customs Excise Duty Act which requires that any person entering or leaving Botswana shall, in a manner prescribed by the Director of Customs and Excise, declare all goods (including currency) in his possession and provide details of such to a Customs officer.

The government aims to sharpen laws on financial crimes. The Financial Intelligence Bill envisages the establishment of a Financial Intelligence Agency (FIA) and National Coordinating Committee of Financial Intelligence, provides for the reporting of suspicious financial transactions. The FIA is envisaged as a central unit responsible for requesting, receiving and analysing financial information and disseminating it to investigatory authorities. This may be done in consultation with, and with the guidance of, law enforcement officers,

government agencies and such other persons deemed desirable. On the other hand, the National Coordinating Committee on Financial Intelligence will promote coordination between the FIA, investigatory authorities, and supervisory authorities to improve the effectiveness of policies to combat financial offences. It will also be charged with formulating policies to protect the international reputation of Botswana with regard to financial offences. Its members will consist of the following:

- The Director of the Financial Intelligence Agency
- The Ministry of Finance and Development Planning
- The Director of Corruption and Economic Crimes
- Botswana Police
- Attorney General's Chambers
- Bank of Botswana
- Botswana Unified Revenue Services
- The Ministry of Foreign Affairs and International Cooperation
- Department of Immigration
- Non-Bank Financial Institution Regulatory Authority
- Director of Public Prosecutions
- Director of Intelligence Security Services
- Ministry of Defence, Justice and Security.

The role of the committee includes making recommendations to the minister for legislative, administrative and policy reforms in respect of financial offences. The establishment of this committee provides an ample opportunity for the elimination of the turf wars that have been perceived to exist among the agencies that have been variously charged with fighting money laundering but poorly coordinated in their efforts to do so.

The Non-Banking Financial Institutions Act that has just come into effect creates a regulatory framework for non-bank financial institutions, assuming responsibility for the supervision of insurance companies, securities companies, collective investment undertakings and non-banking financial institutions operating within the IFSC.

Through the various pieces of legislation above, money laundering has been criminalised and law enforcement empowered to investigate, prosecute and share information both locally and internationally. Obligations have been placed on the various financial institutions to exercise due diligence, report suspicious transactions and maintain proper records. It is recognised that the legislative regime to counter money laundering in Botswana is still a long way from meeting the international standards prescribed by FATF and other renowned international bodies.

The National Security and Intelligence Act

In a development significant in the fight against money laundering and the financing of terrorism, on 1 December 2008 the highly contentious bill that

proposed the formation of the Directorate of Intelligence and Security Service (DISS) received presidential assent and became law. The spy agencies and all the affiliated security bodies established under the Act started work in earnest in January 2009.

An argument against this law by opposition politicians as well as apprehensive citizens is that it will be used to silence voices critical of government and will deal a fatal blow to civil liberties and the democracy the country has nurtured since independence.⁴⁸ The political expediency of this law will not be discussed here. However, the attitude of the AML/CFT committee appears to be that in the absence of terrorism-specific legislation, this law will help close gaps in the enforcement of the fight against terrorism and its funding. Considering that money laundering and the financing of terrorism pose a recognised threat to both the economic and social fabric of any country, the government of Botswana could be justified in using this legislative tool to combat them.

The directorate is charged with taking steps to protect the security interests of the country, whether such steps be political, military or economic, and, more importantly for money laundering, around intelligence in relation to organised crime. Other functions defined under the new law include gathering intelligence at the request of any government ministry, department or agency. The directorate would advise government, public bodies and statutory bodies on the protection of vital installations and classified information.

The legislative regime to counter money laundering is a long way from meeting the international standards prescribed by FATF

However, its establishment has come under criticism for duplicating the role of other, established intelligence-gathering bodies. There is no clear distinction between the duties of the Criminal Investigations Department, the police intelligence unit and the BDF intelligence unit. A distinction between all these units is required to avoid conflicts of interest and avert the turf wars that have previously dogged the hitherto existing units.

ANALYSIS

From the foregoing, it is apparent that Botswana's legal framework falls short of international AML/CFT

standards. A specific element of this shortfall is that the framework does not criminalise some key predicate offences to money laundering and the financing of terrorism. These include participation in an organised criminal group, terrorism and terrorist financing, illicit arms trafficking, kidnapping and hostage taking, environmental crime and smuggling.

On another level, it is recognised that in many instances money laundering will only be detected after the placement stage. Therefore, there has been an identified need for financial institutions to focus more attention on the layering stage, wherein laundered funds or terror finances are already in the system and numerous transactions are initiated to disguise them. Botswana still needs to enhance legislation on money laundering to ensure full compliance with international requirements and the FATF Recommendations.

In line with Basil Committee recommendations, there is a need for the financial sector regulators who are responsible for supervising AML/CFT procedures and respective financial institutions to ascertain that managers, owners and shareholders meet the 'fit and proper' test. It has been proposed elsewhere that a similar approach to that of the European Union Anti-Money Laundering Directive should be adopted. The conceptual underpinning of this approach is that it is easier to prevent and detect money laundering in its earliest stages. In the EU directive, 'institutions and persons' and 'their directors and employees should co-operate fully with the authorities responsible for combating money laundering...by informing those authorities, on their own initiative, of any fact which might be an indication of money laundering'.⁴⁹ Its fundamental departure from interventions in Botswana is that the onus is not only placed on the system, but rather on personal/professional application of the system by individuals appointed to manage it.

Clearly, regulating the non-financial sector will make the system less attractive to launderers. Some cash transactions are made through lawyers who do not insist on cheques for fear of losing clients. Traditionally, it is the easiest way for both estate agents and lawyers to make money through the sale and transfer of land. Also of importance is that most cash loan businesses deal on a cash basis. They are not regulated. They need to be properly regulated by the BoB, be subjected to inspections/audits and be required to keep proper records that create a paper trail of their customers' dealings. Casinos, motor dealers, bureaux de change and money remittance companies like Western Union also require regulation. It is easy to get foreign currency or remit money without any questions. In an economy that is lopsided owing to the mining industry, the combined income of the players in this sector is so significant as to justify a more deliberate regulatory framework. Criminals continuously move

money between different financial instruments and in and out of tangible assets such as businesses or property. They try to change the shape and size of the financial holding to make it more difficult to identify. The obsessive focus on banks, therefore, displays a fundamental lack of understanding of the mechanisms of laundering.⁵⁰

There is a suspicious-activity reporting regime created by the Proceeds of Serious Crime Act, the Banking Act and the Banking (AML) Regulations Act. Botswana is also in the process of establishing a financial intelligence unit (FIU). In the meantime, part of the mandate of the Directorate on Corruption and Economic Crime (DCEC) is to investigate and prosecute money-laundering offences and carry out the function of pursuing suspicious transactions. However, the DCEC works very much below the capacity envisaged by FATF. Practically, investigation and prosecution of money laundering offences is shared between various investigative agencies, namely the BPS, the DCEC and the BURS, with insufficient coordination.

In order to steer the implementation of international conventions and resolutions, a national AML/CFT committee that had been in place for the past few years was reconstituted under the Financial Intelligence Act. The newly constituted committee has to preside over the fine-tuning of national strategy that currently envisages legislation concerning terrorist financing, establishment of a FIU and the development of a civil forfeiture dispensation.

At the level of law enforcement, the BPS undertakes investigations on organised crime but rarely seeks collaboration with the DCEC to combine efforts in establishing money-laundering linkages.⁵¹ The current

that only the DCEC can and should investigate money laundering. However, this approach is regressive. The involvement of organised crime or predicate offences means that investigations may fall squarely on either BPS or BURS and therefore beyond the mandate and/or expertise of the DCEC. When this happens it would be inevitable that the respective institution takes the lead. In any event, the police are mandated to enforce all the written laws of the country, including those on money laundering. In theory the DCEC is fully staffed with officers from different fields such as finance, accounts, law, education and research who are more competent to deal with complex issues like money laundering. However, in practice the DCEC is below capacity.⁵² Therefore, it is proposed that the most productive way forward should be partnership in money-laundering investigations so that teams are constituted to involve all relevant departments when the need arises. This would ascertain that all issues emanating from investigations are dealt with without delay.

A distinction has been drawn between money laundering and the financing of terrorism. In particular, terrorist financing differs from money laundering in that it can involve either illegal or legitimate funds being channelled to support terrorism. Insofar as it focuses on dirty money, detection of money laundering should be viewed as only part of the battle against detecting the financing of terrorism.⁵³ This leaves financial institutions with the near impossible task of implementing CFT measures where in reality there is no difference between funds intended to finance terrorism and ordinary money. The costs of establishing AML/CFT structures in a country like Botswana, where the perceptions are of low risk levels, do not appear to justify the cause. Countries in the region simply cannot afford such structures. As aptly explained by Hübschle:

The costs of establishing AML/CFT structures in a country like Botswana do not appear to justify the cause

With little or no evidence of terrorist financing, it is understandable that politicians are apprehensive to introduce such measures. In the absence of anti-terrorist financing laws and corporate computerised banking milieus, the various detection methods are useless.⁵⁴

position is that there is usually no attempt made to link predicate offences to money laundering during serious crime investigations. Law enforcement still takes the traditional approach in which the so-called common criminal law offences are preferred to those that require technical skills. The delegation of the money-laundering law enforcement function to the DCEC is viewed as having stopped the perceived and practical territorial and jurisdictional confusion with the BPS over issues of money laundering. The view of the BPS and BURS is

Another area of focus as recommended by FATF is the monitoring of NGOs. In the case of Botswana, a Presidential Directive establishes a national policy on NGOs. Many donors left the country as soon as it was evident that Botswana had consolidated its position as a middle-income country, thus creating a financing gap. As a result, the Botswana Council of Non-Governmental Organisations (BOCONGO) assumed the critical role of building the capacity of its members to enable them to manage their organisations in an effective and transpar-

ent way. It also sought to provide support to its members to solicit financial assistance domestically and internationally to finance their projects. However, there are no AML/CFT obligations placed on NGOs, nor does the Registrar of Societies conduct any oversight of the sector besides registering organisations.

Religious communities also need to be regulated. There are many churches in Botswana that prescribe that members pay a proportion of their income/wealth to either charity or the church.⁵⁵ However, neither the congregants nor the relevant authorities get to know how these contributions are used. There is no auditing process undertaken with respect to the activities of this sector to, among other things, establish that funds are being used for the purpose for which they were intended. There are no restrictions on raising funds, whether domestically or internationally. It is therefore imperative that there be legislative provisions to protect gullible citizens against the possibility of being fleeced of their hard-earned cash and of such funds being co-mingled with proceeds of crime or being used to sponsor terrorism.

As at present, the authorities in Botswana have not been able to monitor the activities of this sector or track the manner in which the funds it receives are used. In the absence of appropriate mechanisms to enhance transparency and monitoring of activities of NGOs, the potential exists for this sector to be used to divert funds for terrorist purposes. Towards the end of 2008, after several years of public suspicion regarding the dealings of

Without appropriate mechanisms to enhance transparency and monitoring of NGOs' activities, there is potential for funds to be diverted for terrorist purposes

the trendiest church in Gaborone, it was established that despite attracting an elite congregation, the church had been denied registration in Botswana before irregularly commencing its operations. Two of its pastors have since been arrested and deported.

INTERNATIONAL COOPERATION ON AML AND CFT

Overall, Botswana has a sound framework for the provision of mutual legal assistance. She has ratified

the international conventions relevant to organised crime, money laundering, terrorism and the financing of terrorism. Her membership of a number of regional and international organisations provides a solid mechanism through which implementation of international AML/CFT standards can be enhanced. The significant regional organisations are discussed below.

Eastern and Southern African Anti-Money Laundering Group⁵⁶

ESAAMLG is a FATF-style regional body formed to spearhead the implementation of AML/CFT standards in the region. Botswana established an AML/CFT committee in 2003. This was done in line with the ESAAMLG recommendation for member countries to establish well-constituted AML committees/task forces with high-ranking representatives from the legal, financial and law enforcement sectors. The committee meets often to share information and evaluate measures adopted. The Anti-Money Laundering Task Force is currently drafting comprehensive anti-money laundering legislation to establish a fully-fledged FIU. The unit will receive or request information and analyse and disseminate suspicious transaction reports and other information regarding potential money laundering.⁵⁷

International Criminal Police Organisation/Southern African Regional Police Chiefs Cooperation Organisation⁵⁸

Interpol is the foremost international law enforcement agency. It has various organs and structures that deal with both money laundering and the financing of terrorism. At the regional level, it operates through the Interpol Sub-Regional Bureau (SRB) for Southern Africa that also serves as the secretariat for the South African Regional Police Chiefs Cooperation Organisation (SARPCCO). The BPS, through the Interpol National Central Bureau (NCB), is able to co-operate internationally using police-to-police information exchange channels. In addition, Botswana is a member of the SARPCCO whose objectives include, among others, 'to promote, strengthen and perpetuate co-operation and foster joint strategies for the management of all forms of cross border and related crimes with regional implications'.⁵⁹ SARPCCO countries have one of the world's most renowned regional law enforcement liaisons, with members frequently conducting cross-border investigations and targeted operations against organised crime.

While there is no provision enabling the DCEC to directly provide information or to solicit it from international law enforcement agencies, all law enforcement organs in Botswana may approach the BPS to use its

Interpol/SARPCCO international co-operation facilities. This makes the implementation of international co-operation easy at the operational level. As a member of both Interpol and SARPCCO, Botswana has access to the following structures that are of significance to AML and CFT.

The Interpol Fusion Task Force

This was created to initiate and develop a multi-disciplinary approach to AML/CFT. Interpol provides increased access to valuable information about terrorist organisations, individuals suspected of terrorist activities and the tools used by terrorists to conduct their activities.

Interpol notices

One of the primary roles of Interpol is to circulate notices. These are international publications of pictures and identity details of persons formally charged or convicted of criminal offences but who abscond. Four of the notices are relevant for the purposes of addressing financing of terrorism.⁶⁰ The notices are published and accessed through the Interpol I-24/7 global communication system managed in each country by the Interpol National Central Bureau. Botswana, like other member countries, can access or disseminate money laundering and terrorism-related information in a matter of seconds.

Terrorism Early Warning Centre

The Interpol SRB for Southern Africa is in the process of establishing a regional terrorism early warning centre. At the conclusion of the Interpol/SARPCCO/ISS Conference on Terrorism in southern Africa in 2004, some recommendations were adopted to help enhance the effectiveness of the processes of identifying, preventing and combating terrorism both nationally and regionally.⁶¹ The conference also passed resolutions on judicial co-operation, mutual legal assistance and international legal instruments as well as on technical assistance and capacity-building issues. It is envisaged that SARPCCO/Interpol and SADC will ensure high-level support for the implementation of the resolutions and therefore hasten regional response capabilities.

The Interpol Global Communication System I-24/7

As the Interpol Global Communication System I-24/7 is the most efficient and effective law enforcement information-switching product worldwide, many countries have chosen to extend the connectivity of this robust facility to their law-enforcement authorities, including border control, customs, airports and so forth. There is an opportunity for the newly established FIU to exploit this provision and therefore cast the net wider in the fight against terrorist financing. All law enforcement organs in Botswana can access the facility through the NCB.

Interpol Working Group on Money Laundering and Financing of Terrorism

According to Interpol, the overarching goal of this group is to establish synergies with other organisations in its anti-money laundering and financing of terrorism initiatives. Among other things, it emphasises outreach to populate its databases on money laundering and the financing of terrorism, enabling it to respond more effectively to the needs of law enforcement. The core themes of this group are:

- improving information exchange: outreach with FIUs and or the Egmont group
- typologies/special interest surveys: including cash couriers, ARS, links between organised crime and terrorist financing
- developing relationships with the financial/banking institutions
- training/technical assistance

CHALLENGES OF CONFRONTING AML AND CFT

Is this a worthy fight for Botswana?

While there have been great strides in fighting money laundering in the region generally and in Botswana itself, the initiatives are not without critics nor have they escaped politics. There is a proposition that AML/CFT interventions should be similar due to the symbiotic relationships of the two. If this proposition is persuasive, then the politics around the two issues could also be generalised.

First, there is constant debate on the efficacy of the AML/CFT generic standards. The arguments range from the applicability of the standards in variable contexts to the subjective definitions of the critical concepts, especially organised crime and terrorism. Political perceptions in the region appear to subscribe to the view that the Bratton Hood institutions assume a critical role in pressurising developing countries to toe the line. It has been argued that these institutions control billions of dollars in resources in the form of development aid and FDI. Reminiscent of the strategy they adopted in the 1970s and 1980s in engendering economic structural adjustment programmes, these institutions will not do business in jurisdictions that fail to implement international AML/CFT standards.⁶² Therefore, countries like Botswana are presumably required to implement international standards even when the benefits do not accrue to them. The position of the IMF and World Bank is also considered hypocritical. These are the same institutions that lambaste developing countries for having too many bureaucratic structures that are repugnant to international business. Creating fast-tracked avenues for international business, as they advocate, is clearly incon-

sistent with the principle of undertaking comprehensive due diligence. It is these mixed messages that politicians have found particularly irritating and malicious. Some officials have suggested that anti-money laundering laws are drafted to satisfy international obligations at the very minimum. It is suggested that as a result, countries pay little more than lip service to the international instruments as higher local priorities take precedence over implementation of AML/CFT laws and regulations.⁶³ This view appears to emanate from the fact that the establishment of functional structures is not only a costly exercise in terms of systems, but also in terms of competent staff that has to be recruited or trained.

Second, there are challenges of a practical nature. For example, even though banks keep records of transactions, tracing them is still problematic in several developing countries. This is because record storage is predominantly manual, as paperless and computerised transaction record-keeping is not well established. The use of wards/kgotlas as physical addresses in Botswana poses several difficulties for institutions that must confirm such addresses. On another level, individuals appointed to run the relevant institutions have more often than not been found wanting in terms of skills and intellectual competence to deal with the issues involved. They, at least in the eyes of the public, fail to pass the 'fit and proper' test. The issue of banks not being able to maintain proper records is a curious one. Most banks in

Creating fast-tracked avenues
for international business
is inconsistent with the
principle of undertaking
comprehensive due diligence

the region are either subsidiaries of, or partly owned by, overseas banks. It is therefore not understood why their technological strength and efficient systems cannot be cascaded to subsidiaries in the region. The perception is that this is not the case because the significant players are deriving benefit from the status quo. The double standards are viewed as nothing but international business strategy.

Third, critical questions have been asked about the independence of FIUs. In many developing countries where they exist, these establishments are invariably under central government control or are quasi-

government structures, arguably for practical purposes. However, it is widely argued that an 'FIU should be a stand-alone institution, as being linked to or accommodated by the regulator (the central bank), a law enforcement agency (general or specialised police agency) or to the line ministry (finance) may constitute a conflict of interests'.⁶⁴ In Botswana, the FIU is in the process of being established under the oversight of the Ministry of Finance.

Fourth, at the operational level, a contributory factor to lethargy in the fight against money laundering, especially on the part of the government agencies, is that salaries are relatively low and there is a high attrition rate. The most affected units are usually those with the relative technical know-how in dealing with complex issues like AML and CFT. The units are also under-resourced. The DCEC, for example, does not currently have effective tracking and intelligence systems. At the same time, the BPS does not have a specific unit to deal with AML and CFT. Consequently, the challenges of establishing these structures will include the need to find strategies to retain the experts.

Fifth, a key issue is that the manner in which statistics are generated is different for different jurisdictions and agencies. In Botswana, such statistics are not structured to inform the strategy against organised crime, money laundering and the financing of terrorism. It is also too fragmented to enable a sound assessment of risk. While crime is under control, the BPS has consistently warned of an increasing component of organised crime.⁶⁵

Sixth, an issue of legal debate is that there is currently over-reliance on criminal law in addressing money laundering in Botswana. There is no law on civil forfeiture of assets. As has been observed in many instances, the main disadvantage of criminal forfeiture is that criminal case law requires proof beyond reasonable doubt, thus making the standard of proof very high and difficult for law enforcement to attain.⁶⁶ The underlying rationale for seeking to introduce a civil forfeiture-based system is that it would instead place the burden of proof on the accused. However, it could be argued that there are no sufficient examples of conviction-based confiscation within Botswana to enable lessons to be identified in order that the civil forfeiture system can be complementary.

Seventh, and as demonstrated above, Botswana has legislative measures to combat money laundering and to a lesser extent the financing of terrorism. However, even with legislation in place not many cases of money laundering have been taken to the courts, nor has law enforcement managed to net the metaphorical 'big fish', at least in the eyes of the public. The result has been that some officials have formed the opinion that there is either no money laundering or that its prevalence is not enough

to be a priority. Some argue that the legal framework is not solid enough and therefore that the laws are not workable.⁶⁷ Others are of the view that the competent authorities are not capacitated to carry out their mandate effectively. The first step to establishing responses to these questions would be to authoritatively determine the extent and trends of money laundering in Botswana.

Lastly, it has been observed in various quarters that there is a dilemma in developing countries: effectively enforcing money laundering laws comes with the inherent risk of scaring investors away and negatively impacting on the much sought-after FDI. Some authorities subscribe to the view that the absence of political will emanates from the fact that politicians are most likely to gain from the status quo.⁶⁸ It is suggested that the human development index rankings of most developing countries compels them to accord high priority to speeding up economic development and achievement of the millennium development goals. These countries are probably not in a position to implement AML and CFT and regimes because of the scarcity of requisite resources.⁶⁹ The result of these inconsistencies has been the ratification of protocols that is not accompanied by the same enthusiasm in implementing the required standards.

CONCLUSION

The international community is yet to reach consensus on the definition of organised crime and terrorism. The result of this absence of consensus is that discussions on the subjects of money laundering (which is a direct offshoot or organised crime) and financing of terrorism (which logically relies on what constitutes terrorism) remains shrouded with contradictions. The implementation of effective solutions therefore becomes problematic. However, this has not stopped international institutions from agreeing on generic international standards on AML/CFT.

While there are efforts towards improving the capacity of structures and institutions to deal with money laundering and financing of terrorism, it is apparent that Botswana has not yet fully complied with these standards. There are resource gaps that militate against achievement of this goal. The government of Botswana needs to implement a comprehensive anti-money laundering regime that seeks to increase the awareness of this problem both within the government and in the private sector. Competent authorities must not only have the necessary legal tools to complement the international standards, but they must have sufficient human resources retention programmes.

The key elements of achieving success in AML/CFT are encapsulated in the conceptual framework of the

‘three pillars’ of prevention, enforcement and international co-operation. It is apparent that such success will only be feasible if there is equal effectiveness in the implementation of the three prongs. Further, success is also dependent on the full appreciation of the conditions prevailing not only in Botswana but in other vulnerable economies and beyond. Therefore, in formulating an enhanced AML/CFT regime, the key areas of vulnerability identified above need to be kept in mind.

More importantly, there is a need to review the risks of money laundering and the financing of terrorism on a regular and ongoing basis so that interventions remain relevant. Dedicated laws are therefore critical. Ultimately, relevant authorities will need to critically examine the political and economic expedience of the implementation of international standards and make sure that they remain relevant to Botswana’s political and economic context.

NOTES

- 1 This is an adaptation of a paper titled ‘Botswana’s legislative capacity and international legislative regimes to curb money laundering’, presented to the DCEC Money Laundering Seminar, ‘A Concerted Effort Towards Fighting Money Laundering’ held in Gaborone on 6 February 2007 and in Francistown on 1 August 2007.
- 2 N Morris-Cotterill, Money laundering, *Foreign Policy*, 124 (2002).
- 3 The definition of organised criminal group in the UN Convention on Trans-National Organised Crime (the Palermo Convention).
- 4 An observation on the web page of the Organised Crime and Money Laundering Programme, Institute for Security Studies, available at www.issafrica.org.
- 5 Interpol, *Funds derived from criminal activities* (2005), www.interpol.com/Public/FinancialCrime/MoneyLaundering/default.asp (accessed February 2009).
- 6 Charles Goredema, *Money laundering in East and Southern Africa: An overview of the threat*, Pretoria: Institute for Security Studies, 2003.
- 7 United Nations General Assembly Resolution 54/110, 9 December 1999. UN Resolutions are available at www.un.org.
- 8 J Madinger, *Money laundering: A guide to criminal investigations*, New York: Taylor & Francis, 2006.
- 9 K Hinterseer, *Criminal finance: The political economy of money laundering in a comparative legal process* (2002), http://books.google.com/books?id=qH8fvXc4k0C&pg=PA169&lpg=PA169&dq=money+laundrying+three+pillers&source=web&ots=VQij3FJ8L_&sig=pMdiJyayhxuPkmJ3kfh81GpVg8&hl=en&ei=6raaScbtM4-N_gb6kd2KCg&sa=X&oi=book_result&resnum=1&ct=result#PPR1,M1
- 10 See Annette Hübschle, *Terrorist financing in southern Africa: Are we making a mountain out of a mole hill?* Pretoria: Institute for Security Studies, 2007.

- 11 Ibid.
- 12 The undertaking to prevent and suppress financing of terrorist acts is encapsulated in Resolution 1373 (2001) of the UN Security Council.
- 13 P B H Moshi, *Fighting money laundering: The challenges in Africa*, Pretoria: Institute for Security Studies, 2007.
- 14 In 1998, terrorists conducted simultaneous bombings in Mombasa (Kenya) and Nairobi (Tanzania) that resulted in the deaths of several people.
- 15 Hübschle, *Terrorist financing in southern Africa: Are we making a mountain out of a mole hill?*
- 16 Interpol, *Financial and high-tech crimes*, n.d., www.interpol.int/Public/FinancialCrime/default.asp (accessed 20 August 2007).
- 17 L Napoleoni, *Terror Incorporated: Tracing the dollars behind the terror networks*, New York: Seven Stories Press, 2005.
- 18 See Interpol, www.interpol.int/public/FinancialCrime/MoneyLaundering/EthnicMoney/default.asp
- 19 See Hübschle, *Terrorist financing in southern Africa: Are we making a mountain out of a mole hill?*
- 20 Ibid.
- 21 Classification by the United Nations, World Bank and the International Monetary Fund.
- 22 Transparency International, *Transparency International Corruption Perception Index, 2007*, www.transparency.org
- 23 Bank of Botswana. *Press release: Standards and Poor's 2008 Botswana Sovereign Credit Rating*, 2008, www.bankofbotswana.bw/files/attachments/t1023872884.pdf.
- 24 Statistics from the Central Statistics Office in the Ministry of Finance and Development Planning.
- 25 Statistics from the DCEC shows that despite numerous suspicious transaction reports and other reported cases, there were only two money-laundering cases prosecuted between 2002 and 2007 with no success recorded.
- 26 Information obtained from discussions with law enforcement officers. Also see R Pitse, Al Qaeda setting up sleeper cell in Botswana – claim. *The Sunday Standard*, 2 February 2009.
- 27 Botswana Country Report, 18–25 April 2005. The 11th UN Congress on Crime Prevention and Criminal Justice, www.un.org/webcast/crime2005/statements/24bot_eng.pdf (accessed 10 May 2008).
- 28 Findings of ISS/DCEC research on money laundering in Botswana, 2008.
- 29 Parliamentary debates on the Intelligence Bill, 2008.
- 30 International Monetary Fund, *Botswana: Selected issues*, 8 February 2008, www.imf.org/external/pubs/cat/longres.cfm?sk=21706 (accessed 20 May, 2008).
- 31 Interview with the office of the Registrar of Companies, 2007.
- 32 SADC Trade Development Programme, *Botswana: Trade reference review*, n.d., <http://www.sadctrade.org/files/TPR%20Botswana.pdf>
- 33 Interviews with DCEC and CID personnel, 2007.
- 34 This situation was confirmed by revenue authorities in both Lesotho and Swaziland.
- 35 Interviews with officers from the BPS, 2007.
- 36 A notorious and self-confessed criminal named Zachem and his company, Zac Construction, have inexplicably escaped criminal sanction even after confessing to corruption when tendering for government contracts. The company continues to do brisk business in Botswana.
- 37 Discussion with the BPS Serious Crimes Unit, Fraud Section, July 2008.
- 38 S Hanson, *Botswana: An African success story shows strains* (2008), www.cfr.org/publication/15108/
- 39 Information from the BPS.
- 40 Ibid.
- 41 In 2006, the BoB reportedly declined to replace notes worth hundreds of thousands of Pula belonging to a Chinese family that had been allegedly destroyed by termites having been buried in the family backyard.
- 42 *Mmegi*, Air Botswana acted swiftly to foil hijack bid. 24 January 2007, www.mmegi.bw/2007/January/Wednesday24/62.php
- 43 Interviews with the BPS.
- 44 Ibid.
- 45 K Nyathi, *The Daily Nation*, 2007, <http://www.nationmedia.com/dailynation/>
- 46 *Money Laundering Monitor*, 2004, www.issafrica.org,
- 47 Interviews with some members of the AML Committee.
- 48 Parliamentary and media debate on the Security Intelligence Bill attest to this state of affairs.
- 49 EU Directive on money laundering and terrorist financing. PRES/05/240, 20/09/2005.
- 50 www.ex.ac.uk/%7Ewaturman/undergrad/rrb/techniques1.htm (accessed on 20 August 2007).
- 51 Interviews with the DCEC and the BPS, 2007.
- 52 Interview with the DCEC, 2007.
- 53 See Hübschle, *Terrorist financing in southern Africa: Are we making a mountain out of a mole hill?*
- 54 Ibid, 54.
- 55 Contributions towards religious causes is referred to as 'tithing' in Christianity while Muslims call it 'zakat'. Ten per cent of a congregant's income is the standard requirement for tithing in many churches in Botswana.
- 56 At the time of writing this paper Botswana had just assumed the Chairmanship of ESAAMLG. This would have logically exerted pressure on the authorities to implement international standards with more vigour, if anything, to be seen to be practicing what they preach!
- 57 Baledzi Gaolathe, Minister of Finance and Development Planning, on announcing the placement of the FIU within his ministry, 2007.
- 58 Available at www.interpol.int
- 59 SARPCCO constitution.
- 60 The Interpol notices relevant to financing of terrorism are:
 - Red Notice: Notice of required arrest with a view for extradition

- Green Notice: Warning notice of information on individuals who may commit offences
 - Purple Notice: Information on modus operandi of criminal individuals or organisations
 - Orange Notice: Notice to share information on terrorist individuals and organisations
- 61 The law enforcement-specific recommendations of the Interpol/SARPCCO/ISS Regional Conference on Terrorism held on 21–24 November 2004 in Gaborone, Botswana, were as follows:
- The effective sharing of information and intelligence on terrorism at national, regional and international level
 - The intelligence analysis capabilities, databases and early warning capacity of regional law enforcement agencies
 - Regional participation in terrorism-related projects like those at Interpol
 - The formulation of regional anti-terrorism strategies and creation of properly equipped anti-terrorism units
 - The conduct of regional counter-terrorism operations and full implementation of the SADC Protocol on Small Arms and Related Materials
 - The identification of experts to assist law enforcement agencies with complex investigations
 - The strengthening of border controls and computerisation of movement controls
- The training of counter terrorism investigators
 - Collaboration between law enforcement and intelligence agencies
- 62 See Hübschle, *Terrorist financing in southern Africa: Are we making a mountain out of a mole hill?*
- 63 Ibid.
- 64 See M N Gwintsa, The capacity of financial institutions and the business sector in Lesotho to detect and control money laundering, in Charles Goredema (ed), *Tracking money laundering in east and southern Africa: An overview of capacity*, 1, Pretoria: Institute for Security Studies, 2004.
- 65 Phandu Skelemani, Minister of Justice, Defence and Security, in response to a parliamentary question on organised crime in July 2007.
- 66 K Mokongwa, Botswana's legislative capacity to curb money laundering, in Charles Goredema, (ed) *Tracking money laundering in east and southern Africa: An overview of capacity*, 1, Pretoria: Institute for Security Studies, 2004.
- 67 Interviews with the DCEC and BPS.
- 68 J Johnson, Is the global financial system AML/CFT prepared? *Journal of Financial Crime*, 15:1, (2008), 7–21.
- 69 Ibid.



SUBSCRIPTIONS TO ISS PUBLICATIONS

If you would like to subscribe to ISS publications, please complete the form below and return it to the ISS with a cheque, or a postal/money order for the correct amount, made payable to the Institute for Security Studies (marked not transferable). Please note that credit card payments are also welcome. You can also deposit your payment into the following bank account, quoting the reference: **PUBSPAY**.

ISS bank details: ABSA, Brooklyn Court, Branch Code: 632005, Account number: 405 749 8921

Please mail, fax or email this form to:

ISS Publication Subscriptions, PO Box 1787, Brooklyn Square, 0075, Pretoria, South Africa.

ISS contact details: (Tel) +27 12 346 9500, (Fax) +27 12 460 0998, Email: pubs@issafrica.org

Website: www.issafrica.org

▶ PERSONAL DETAILS

Title: Surname:..... Initials:

Organisation: Position:

Postal Address:

..... Postal Code:

Country:

Tel: Fax: Email:

Method of Payment: Visa Master Card Other Specify:

Card Number: Expiry Date:/.....

Cardholder Name:

Signature:

▶ PUBLICATIONS

	South Africa	African Countries*	International
African Security Review (4 issues per year)	R 200,00	US\$ 40,00	US\$ 55,00
ISS Monographs (Approx. 15 per year)	R 370,00	US\$ 75,00	US\$ 95,00
ISS Papers (Approx. 12 per year)	R 150,00	US\$ 30,00	US\$ 40,00
SA Crime Quarterly (4 issues per year)	R 115,00	US\$ 25,00	US\$ 35,00
Comprehensive subscription (African Security Review, Monographs, Papers and SA Crime Quarterly)	R 800,00	US\$ 160,00	US\$ 210,00

▶ SUBSCRIPTIONS

	Indicate Cost
African Security Review only	
ISS Monographs only	
ISS Papers only	
SA Crime Quarterly only	
Comprehensive subscription	
TOTAL	

**Knowledge
empowers Africa**

**La savoir
émancipe l'Afrique**

* Angola; Botswana; Burundi; Congo-Brazzaville; Democratic Republic of Congo; Gabon, Kenya, Lesotho, Madagascar; Malawi, Mauritius; Mozambique; Namibia; Reunion; Rwanda; Seychelles; Swaziland; Tanzania; Uganda; Zambia; Zimbabwe (formerly African Postal Union countries).



ABOUT THIS PAPER

This paper is a contribution to the debate on the risks of money laundering and the financing of terrorism in Botswana. It provides an overview of Botswana's Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) regimes. An analytical framework woven around the 'three pillars' of prevention, enforcement and international co-operation is used in this discussion. As a benchmark for the discussion, the paper outlines the international regulatory regimes for curbing both money laundering and the financing of terrorism. The paper is premised on the assumption that both money laundering and the financing of terrorism have similar characteristics and can thus be analysed within the same framework. A number of risks are highlighted within the prevailing economic and political context in Botswana. While recognising an increasingly improving AML/CFT legal framework, it is noted that in the absence of a risk-based approach to these issues, the realisation of international standards will remain a challenge.

ABOUT THE AUTHOR

Jackson Madzima is a researcher in the Organised Crime and Money Laundering Programme in the Cape Town office of the ISS. While working for the Botswana Police Service he was seconded to the Interpol Sub Regional Bureau in Harare, Zimbabwe as an Interpol Regional Specialised Officer. He has worked in the area of organised crime in general, and economic, financial and high-tech crimes in particular, for seven years. Jackson studied economics and sociology at the University of Botswana and holds a Masters of Business Administration from the Nottingham Business School.

FUNDER

This paper is sponsored by the Royal Norwegian Government.



As a leading African human security research institution, the Institute for Security Studies (ISS) works towards a stable and peaceful Africa characterised by sustainable development, human rights, the rule of law, democracy and collaborative security. The ISS realises this vision by:

- Undertaking applied research, training and capacity building
- Working collaboratively with others
- Facilitating and supporting policy formulation
- Monitoring trends and policy implementation
- Collecting, interpreting and disseminating information
- Networking on national, regional and international levels

© 2009, Institute for Security Studies

Copyright in the volume as a whole is vested in the Institute for Security Studies, and no part may be reproduced in whole or in part without the express permission, in writing, of both the authors and the publishers.

The opinions expressed do not necessarily reflect those of the Institute, its trustees, members of the Council or donors. Authors contribute to ISS publications in their personal capacity.

Published by the Institute for Security Studies,
P O Box 1787, Brooklyn Square 0075
Tshwane (Pretoria), South Africa
Tel: (27-12) 346 9500 Fax: (27-12) 460 0998
iss@issafrica.org

www.issafrica.org

Design Marketing Support Services +27 12 346-2168
Layout Page Arts cc +27 21 686-0171
Printing Tandym Press, Cape Town

