

Conference Report

# Insights Workshop for the UK's Trade-Based Money-Laundering Strategy 2023

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The term 'trade-based money laundering' (TBML) covers a wide variety of typologies and techniques and is defined by the Financial Action Task Force (FATF), the international standard-setter for anti-money laundering (AML) and counter-terrorist financing (CTF), as 'the process of disguising the proceeds of crime and moving value through the use of trade transactions in an attempt to legitimise their illegal origin or finance their activities'.<sup>1</sup>

The global implementation of the FATF standards has constrained the ability of criminals to utilise the traditional banking system and physical movement of fiat cash to transfer the proceeds of their crimes across borders. The use of trade transactions to obfuscate the origin of criminal proceeds has thus become an established cross-border money-laundering method.

Recognising the importance of tackling TBML to the UK's overall AML strategy, the UK's Economic Crime Plan (2023–2026) committed to developing a new TBML Strategy, led by HM Revenue and Customs (HMRC) – the first of its kind in the UK – and to hosting a global TBML summit in September 2023.<sup>2</sup>

In June 2023, as part of RUSI's Economic Crime Plan programme, which tracks and supports the implementation of the UK's economic crime policy,<sup>3</sup> the Centre for Financial Crime and Security Studies (CFCS) convened a workshop of financial sector practitioners, regulatory technology experts and academic and third sector researchers to support HMRC in the development of its TBML Strategy. This report provides an overview of some of the main observations and findings of the workshop.

These observations were collated via a plenary discussion examining the near-term opportunities for optimising the UK's approach to TBML, followed by three parallel breakout group discussions examining the long-term response.

Given the meeting was conducted under the Chatham House Rule,<sup>4</sup> names and affiliations of participants are not included here. Furthermore, given the breadth of the discussion and the fluid boundaries between near- and long-term approaches, this report does not provide a linear overview of the matters discussed. Instead, this report provides an overview of the themes and consensus points which emerged from the discussion and the ways in which near- and long-term activity could coalesce around these.

As a starting point, workshop participants broadly agreed that, despite difficulties in quantifying the scale of the problem due to its hidden nature, it is likely that

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1. Financial Action Taskforce, 'Trade-based Money Laundering: Trends and Developments', December 2020, p. 11.
  2. HM Government, 'Economic Crime Plan 2023 to 2026', Action 17, 30 March 2023, p. 43.
  3. RUSI, 'UK Economic Crime Plan', <<https://rusi.org/explore-our-research/projects/uk-economic-crime-plan>>, accessed 4 July 2023.
  4. Under the Chatham House Rule, anyone who comes to a meeting is free to use information from the discussion, but is not allowed to reveal who made any particular comment.

a large proportion of global money laundering utilises TBML methods at some point in the value chain, particularly in relation to the laundering of commodity-based crimes, such as drug trafficking. On this basis, even modest investments in the TBML-specific response would have a significant disruptive effect on UK-related money laundering as a whole.

However, despite the perceived scale of the problem, aside from isolated pockets in certain jurisdictions, the participants had seen limited examples of global best practices from which to draw. Given the paucity of established best practice, many participants saw an opportunity for the UK to challenge some of the orthodoxies in thinking in this area, which have tended to ignore the fluid realities of how the problem manifests in practice.

## Themes of the Discussion

Across both the plenary and breakout group discussions, a number of key themes emerged as foundational issues for the future strategy:

**Theme 1:** TBML as a set of challenges, not a single phenomenon.

**Theme 2:** Data exploitation and the role of technology.

**Theme 3:** Driving better financial intelligence.

**Theme 4:** Engaging beyond the regulated sector.

It is important to note that these themes did not emerge in isolation from one another, but as linked considerations.

## Theme 1: TBML as a Set of Challenges, Not a Single Phenomenon

There was a consensus that, perhaps unlike other established money-laundering typologies, TBML is not a single phenomenon, but a collection of different, unique typologies, requiring distinct solutions. As regards the definition of TBML, the views within the group varied from a niche view that TBML does not, in fact, exist (rather it is just simply mainstream money laundering and not a distinct typology) to the need for a new term, including one suggestion that the AML community should refer to 'money laundering, involving a trade transaction'. (For simplicity, this report will continue to refer to 'TBML'. However, the author notes the definitional ambiguities raised in the workshop).

This absence of clarity regarding the scope of the term had, it was agreed, led to a lack of understanding in the regulated sector about what range of activity is encompassed within the definition. This had led to a subsequent skewing of

the related suspicious activity report (SAR) data, with sanctions breaches and tax evasion often reported as TBML.

### TBML Typologies

Examples of the range of money-laundering typologies under the TBML banner:

- The physical movement of goods with over- and under-invoicing to move the value across borders.
- Entirely fictitious shipments, with no goods moving across borders, simply a 'trade' transaction used to obfuscate the movement of funds ('ghost shipments').
- 'Black Market Peso Exchange' (BMPE) and analogous systems, which involve no cross-border transactions or movements of cash, but the integration of cash into high-value goods markets and the shipment of goods across borders as a representation of value.
- Service-based money laundering: cross-border payments for fictitious services, with no movement of goods.

*Source: Author's knowledge and research.*

Once broken down, several participants suggested that the UK strategy should seek to build a better taxonomy of TBML sub-types to understand which specific intermediaries are involved in the transaction, who has visibility of the transaction within regulated sector<sup>5</sup> and non-regulated businesses, and where specific interventions may most effectively be made. There was a belief from several regulated sector participants that undertaking such an exercise will demonstrate that some forms of TBML (in particular BMPE-style schemes) will be almost invisible to the financial sector and will require a very different set of actors and data inputs (see below – engaging beyond the regulated sector).

Finally, there was general agreement among public and private sector practitioners that the use of TBML, particularly by organised crime groups (OCGs) and professional money launderers,<sup>6</sup> was rarely an explicit choice made in isolation, but rather a decision made on the basis of exigency. As put by one practitioner 'no criminal wakes up and decides to use TBML'.

Practitioners also largely agreed that TBML is rarely utilised in isolation, rather as part of a wider scheme of mixed money-laundering methods, such as bulk cash smuggling, informal value transfer systems (IVTS)<sup>7</sup> and even crypto-

5. This term refers to the range of financial and non-financial businesses and professions subject to money laundering regulations.

6. Defined as people or groups who, for a fee, provide services to OCGs to launder the proceeds of their crimes.

7. Such as *hawala* and *fei ch'ien* systems.

currency laundering operating together in a fluid manner. It is rarely a specific modus operandi associated with specified predicate crimes, OCGs or jurisdictions. On this basis, there was a need for the TBML strategy to frame the problem as a facet of wider anti-organised crime responses, rather than as a standalone issue.

## Suggested Near- and Long-term Actions

In the near term, participants agreed that it is important to communicate a common understanding of which behaviours and activities are included in the definition of TBML to reduce the skewing of the data by the regulated sector.

In the long term, there was agreement that the term is too broad to act as a meaningful basis for a single strategy; the strategy should disaggregate the term and prioritise individual typologies as distinct problem sets, rather than treating this as a single homogenous phenomenon.

## Theme 2: Data Exploitation and the Role of Technology

It was generally agreed that the UK's understanding of the specific TBML threats and risks it is exposed to is limited. One of the ways identified by participants to remedy this is to improve the UK's exploitation of data, specifically the layering of different datasets including SARs, trade and customs data, to allow for the clearer identification of patterns, trends, jurisdictions of risk and domestic hotspots.

Alongside the aforementioned segmentation of the problem, it was felt that optimising the use of data would support prioritisation of the problem – something which a majority of participants agreed was an essential component of the future strategy. This may also offer a clearer view of which financial and non-financial products and services are of higher risk in relation to UK-specific TBML, allowing the regulated sector and AML supervisors to more accurately apply a risk-based approach.<sup>8</sup>

However, it was generally concluded that the current data landscape for TBML is fragmented and that data homogenisation is challenging due to unstructured trade datasets, a lack of common data standards and the inherently cross-border nature of TBML. An ability to fully optimise TBML data is, therefore, a long way off. Nonetheless, it was agreed that TBML data optimisation should be a specific

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8. Businesses covered by the Money Laundering Regulations 2017 have a regulatory duty to apply a risk-based approach to their application of the regulations in line with assessed risks within their products and services.

aspiration under the wider Economic Crime Data Strategy project being undertaken under the UK Economic Crime Plan (2023–2026).<sup>9</sup>

Under this long-term data strategy, a number of participants raised the need to ensure technology solutions, including AI and regulatory technologies, were factored into the response. However, others raised the issue of the limitations of technology solutions when faced with poor quality and fragmented datasets, meaning we should not see technology as a panacea; improving data quality must also be at the heart of any future TBML data strategy.

In terms of international best practices in TBML data exploitation, participants noted a number of examples of best practice data aggregation platforms, including the US Trade Transparency Unit<sup>10</sup> model, Singapore's AML private-private COSMIC platform<sup>11</sup> and TradeNet<sup>12</sup> platforms as well as open-source trade data analysis projects, such as Global Financial Integrity's TBML data analysis.<sup>13</sup> All participants observed that establishing such platforms need extensive technical and human resource investment of a scale that is currently not possible in the near term but may be an aspiration for the future with funding from the UK Economic Crime Levy.<sup>14</sup>

Finally, participants pointed to the need to work towards the aim of cross-border data sharing, while recognising that this should be a long-term aspiration given the lack of standardisation of customs and trade data at the global level.

## Suggested Near- and Long-term Actions

It was also broadly agreed that in the near term, an achievable objective would be to bring together public sector datasets, including from customs, borders, the Financial Intelligence Unit (FIU) and criminal intelligence to facilitate better identification of common enablers of TBML. This would identify better starting points for data analysis to be shared with the private sector.

In the longer term, several participants highlighted the need to develop a more ambitious and comprehensive data strategy for TBML, working alongside the wider UK Economic Crime Data Strategy currently under development under the Economic Crime Plan (2023–2026).

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9. HM Government, 'Economic Crime Plan 2023 to 2026', Action 34, p. 72.

10. See Homeland Security, 'Trade Transparency', <<https://www.dhs.gov/trade-transparency>>, accessed 5 July 2023.

11. Claire Huang, 'MAS to Build Platform for Banks to Share Customer Info in Fight Against Financial Crime', *Straits Times*, 9 May 2023, <<https://www.straitstimes.com/business/mas-to-build-platform-for-banks-to-share-customer-info-in-fight-against-financial-crime>>, accessed 5 July 2023.

12. See, TradeNet, <<https://www.tradenet.gov.sg/tradenet/login.jsp>>, accessed 5 July 2023.

13. Global Financial Integrity, 'Trade-Based Money Laundering: A Global Challenge', 2 February 2023, <<https://gfindtegrity.org/report/trade-based-money-laundering-a-global-challenge/>>, accessed 11 July 2023

14. See HM Government, 'Prepare for the Economic Crime Levy', 28 February 2023, <<https://www.gov.uk/government/publications/prepare-for-the-economic-crime-levy>>, accessed 5 July 2023.

## Theme 3: Driving Better Financial Intelligence

Complementing this 'top-down' data analytics approach to improve visibility of the problem, a high proportion of participants felt that this should work in concert with a 'bottom up' approach, which aimed to improve the quality of financial intelligence (FININT) inputs from the regulated sector. The two main routes discussed for achieving this were improving the quantity and quality of SARs and refreshing TBML public-private partnerships (PPPs) under the Joint Money Laundering Intelligence Taskforce (JMLIT).<sup>15</sup>

It was agreed that more could be done to increase UK authorities' engagement with the regulated sector on TBML which to date has been limited and, where it has existed, has been confined generally to the financial sector and, more specifically, the trade finance departments of banks.

### Improving the Quality and Quantity of SARs

Participants proposed two specific starting points for driving increased quantity and quality of SARs from the financial sector.

First, several participants raised the need to improve the number and quality of TBML alerts to the financial sector from UK authorities. Several participants were of the view that such alerts should move away from focusing on specific commodities of risk, given these will only highlight retrospective typologies. Instead, alerts should focus on the sharing of entity-based indicators of risk, business profiles and key intermediaries of concern, such as high-risk company formation agents and other intermediaries. Several participants highlighted the US Financial Crimes Enforcement Network (FINCEN) alerts<sup>16</sup> as a model of best practice from which the UK could draw lessons. Other participants highlighted the need for alerts to elucidate how OCGs use TBML in concert with other forms of money laundering including cash, crypto and IVTS laundering.

Second, financial sector participants noted the need for better guidance on what constitutes a 'good' TBML SAR. As a starting point, as discussed above, there is a need to address the definitional issues and clearly define which typologies do and do not come within the UK's definition of TBML. Beyond this, several participants pointed to a general need to offer guidance to financial institutions on the format and types of information which would be helpful to include in TBML SARs, beyond the specificities of the transaction itself.

15. The UK's PPP money for AML led by the UK's National Economic Crime Centre (NECC).

16. See FINCEN, 'Advisory to Financial Institutions on Filing Suspicious Activity Reports Regarding Trade-Based Money Laundering', 18 February 2010, <<https://www.fincen.gov/resources/advisories/fincen-advisory-fin-2010-a001>>, accessed 12 July 2023.



However, it was broadly agreed that outreach to the financial sector on TBML must go beyond the sharing of generic typologies and indicators; the ability to hide TBML transactions within a huge volume of legitimate trade means that traditional banking controls, such as transaction monitoring (TM), have a limited ability to detect TBML in the absence of specific intelligence.

Although certain compliance products exist to support financial institutions in tuning TM systems to better identify TBML, the opacity of trade data means that the financial sector's ability to detect this crime is currently limited. This is particularly the case where TBML operates via open account trading<sup>17</sup> due to the limited access to information on the specific trade transaction in question. All financial sector participants recognised the role of trade finance products in offering legitimacy to TBML schemes and agreed that the risk of TBML in trade finance should not be disregarded. However, given that open account trading represents 80% of global trade transactions, many participants perceived that this is where the greatest volume of risk may be located within a financial sector context; one participant viewed TBML via open account trading as 'endemic'.

Given the limited ability for traditional financial sector controls to spot this form of money laundering, the majority of financial sector participants emphasised the need for law enforcement to set out more refined intelligence requirements for the financial sector and to share a more entity-focused risk picture with financial institutions, if not specific criminal intelligence. Some participants also highlighted the need to engage beyond traditional large financial institutions into the wider financial sector, including electronic money institutions and payment services providers, given the diversification of global payment architecture.

Furthermore, given that financial institutions have close to no visibility of the data in some TBML typologies, participants agreed that outreach and engagement should be broadened to the wider regulated sector, which may be unwittingly facilitating TBML due to lack of knowledge. This included a number of sectors which come under HMRC's wider AML supervision purview,<sup>18</sup> including high-value dealers and trust and company service providers. Expanding TBML outreach and communications to include these sectors was viewed by most participants as a priority for any future TBML outreach strategy.

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17. Open account trading refers to trade transaction where the goods are shipped before the payment is due, for example, without the use of a third-party financing agreement. This now represents around 80% of global trade transactions, according to the Wolfsberg Group. See Wolfsberg Group, International Chamber of Commerce (ICC) and Bankers Association for Finance and Trade, 'The Wolfsberg Group, ICC and BAFT Trade Finance Principles: 2019 Amendment', <<https://db.wolfsberg-group.org/assets/5c770f68-6277-4443-931b-7750478f08e7>>, accessed 11 July 2023.
18. HMRC is named as an AML supervisor for several non-financial sectors under the Money Laundering Regulations 2017.

Finally, a number of participants agreed that, once steps had been taken to improve the regulated sector's ability to detect and file good-quality TBML SARs, a longer-term aim should be the establishment of a specific SARs analysis team in the FIU<sup>19</sup> to lead on TBML SARs analysis and exploitation.

## The Role of Public–Private Partnerships

A majority of participants agreed that establishing a refreshed model for PPP in relation to TBML was an essential component of improving the FININT picture in the UK. Although the JMLIT has undertaken work on this topic previously, several participants felt that this work had been too narrowly focused on engagement with traditional financial institutions and in the main trade finance departments.

Given the aforementioned role of open account trading, non-traditional financial institutions and the wider regulated sector in facilitating TBML, there was a general consensus that any future JMLIT model for TBML should include a more diverse set of actors. However, in constituting a future JMLIT/PPP response, a number of participants emphasised the need to better disaggregate and prioritise the threat in order to identify the specific actors needed to respond to the specific nature of the TBML typology of interest.

## Suggested Near- and Long-term Actions

In the near-term, participants noted that the TBML strategy should focus on improving the level of alerts not only to the financial sector, but to the wider regulated sector. It should also prioritise issuing guidance to the regulated sector on what constitutes a 'good' SAR and should refresh the JMLIT/PPP response around the prioritised threat.

In the long-term, as SARs quantity and quality improves, the strategy should aim to form a TBML analysis unit within the FIU to better extrapolate tactical and strategic intelligence from TBML SARs.

## Theme 4: Engaging Beyond Regulated Sector

A common theme throughout the discussion was a recognition of the limitations of an approach to tackling TBML which focused purely on the financial sector as the sole private sector intermediary in the response.

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19. The UK's FIU is housed within the National Crime Agency and is responsible for receiving and disseminating SARs in the UK.

There was broad consensus by workshop participants that a commonality across all TBML typologies is the involvement of a range of non-regulated sector intermediaries who have data and insights to contribute to the solution. While some of these, as observed above, are subject to AML regulation, it was widely held that many of the enablers of TBML sit outside the regulated sector.

For TBML typologies where a physical shipment of goods occurs, this includes non-regulated sector businesses, such as freight forwarders and customs agents as well as, in relation to BMPE-style schemes, mass-market manufacturers. It was largely assumed that none of these actors have been hitherto engaged with on this issue. While expanding the regulatory perimeter to include these sectors was broadly viewed as disproportionate, there was a general view that more could be done to engage these sectors in the response.

Unlike regulated sector participants, however, these actors have little incentive to engage. Some participants suggested that engaging with the 'environmental, social and governance' (ESG) agendas of many non-regulated sector businesses might encourage participation in the TBML response, for example, raising awareness that facilitating TBML is de facto facilitating human harms such as drug and human trafficking. One participant also raised the need to highlight to these sectors the ability to report SARs via discretionary rather than mandatory channels.<sup>20</sup>

As a starting point, and as part of the disaggregation and prioritisation of TBML into sub-typologies, there was broad agreement of the value of undertaking an enabler mapping exercise for specific TBML typologies, to enable the development of tailored engagement plans under each of these with the requisite regulated and non-regulated sector participants.

## Suggested Near- and Long-term Actions

As a near-term objective, several participants felt that a typology enabler-mapping exercise would be useful for identifying priority non-regulated sectors for engagement under the strategy.

In the long term, some participants suggested the strategy should focus on an ESG approach to engage the wider non-regulated sectors as a means of encouraging their response to the issue.

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20. Although the majority of SARs are reported to the FIU due to legal obligations under the Proceeds of Crime Act 2002, private individuals and non-regulated sector businesses are able to report SARs in a discretionary manner to the authorities.

## Conclusion

In conclusion, the workshop identified some useful themes and starting points for the UK's response to TBML and established a general principle that the future focus must include better disaggregation of the problem to allow for a level of prioritisation, which will, in turn, facilitate the application of a risk-based approach in the regulated sector.

The longer-term approach to the issue must also focus on better use of data, better engagement to drive a greater quantity and quality of private sector FININT inputs and increased collaboration with partners outside the usual regulated sector AML perimeter.

While not eradicating a problem as pervasive and multi-faceted as TBML, such a holistic approach would introduce greater friction into the process and raise the potential for public and private participants to identify reasonable starting points for preventative and investigative activity.

## Annex: Synopsis of Identified Potential Activities

### Near Term

1. Communicate a common understanding of which behaviours and activities are included in the definition of TBML to the regulated sector.
2. Bring together public sector datasets, including customs, borders, FIU and criminal intelligence to enable better identification of common enablers of TBML.
3. Increase the levels of alerts to the financial and non-financial regulated sectors.
4. Issue guidance on what constitutes a 'good' TBML SAR.
5. Refresh the JMLIT response to TBML.
6. Map the non-regulated sector enablers involved in different TBML typologies.

### Long Term

1. Disaggregate TBML into different typologies and prioritise each of these for intervention.
2. Develop an ambitious TBML data strategy working alongside the wider UK economic crime data strategy.

3. Form a TBML SARs analysis unit in the FIU.
4. Take an ESG-focused approach to engaging the wider non-regulated sectors in the response.