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International Anti-Money Laundering Regulations Through the Prism of Financial Inclusion and Competition

by

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Abstract

The last three decades have been marked by a battle with money laundering, tax evasion, and even though not strictly illegal, but no less harmful, tax avoidance after the boom in those legal and accountancy services back in the 1980s. The methods that national, international, and supranational organization have used range from doctrinal soft power to outright bullying, which were supported by their apologists for the sake of the common good. Yet the policies implemented so far have somehow not addressed the lack of theoretical and practical application of 'inclusion' and 'equality' into their framework.

The same three decades have been characterized by the ever-growing wealth gap and the concentration of capital in the hands of the minority, whose prerogative, as pointed out by Gabriel Zucman in his classical work 'The Hidden Wealth of Nations' (2015), remains to preserve that wealth in their hands through whichever means necessary.

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The article researches into the implementation methods of anti-money laundering (AML) regulations, their long-term effects in developing economies, and the restrictive effects in relation to financial inclusion, the marginalized population in developing economies, and the application of the European Union's principles and laws on competition.

Resumé

Les trois dernières décennies ont été marquées par la lutte contre le blanchiment d'argent, l'évasion fiscale et, même si elle n'est pas strictement illégale, l'évasion fiscale après le boom des services juridiques et comptables dans les années 1980, qui est aussi nuisible. Les méthodes utilisées par les organisations nationales, internationales et supranationales vont de la puissance douce doctrinale à l'intimidation pure et simple, qui a été soutenue par leurs apologistes pour le bien commun. Pourtant, les politiques mises en œuvre jusqu'à présent n'ont pas, d'une manière ou d'une autre, résolu le manque d'application théorique et pratique de l'»inclusion» et de l'»égalité» dans leur cadre. Ces mêmes trois décennies ont été caractérisées par l'écart de richesse croissant et la concentration du capital entre les mains de la minorité, dont la prérogative, comme le souligne Gabriel Zucman dans son ouvrage classique «The Hidden Wealth of Nations» (Zucman, 2015), est de préserver cette richesse entre leurs mains par tous les moyens nécessaires. L'article se penche sur les méthodes de mise en œuvre de la réglementation anti-blanchiment, leurs effets à long terme dans les économies en développement et les effets restrictifs en ce qui concerne l'inclusion financière, la population marginalisée dans les économies en développement et l'application des principes et lois de l'Union européenne (UE) sur la concurrence.

Key words: international tax law; money-laundering; financial transactions tax; IMF policies; international financial policy; international financial regulation.

JEL: K33, K34, F380

I. Introduction

It might not be obvious that the development of international anti-money laundering (hereinafter: AML) regulations is stuck in a vicious cycle. Excluding the specifics of economic and socio-cultural conditions, legal and financial traditions of a particular country, the content and methods of diffusion of AML policies demonstrate absolute disregard of the concept of financial inclusion (Sharman, 2008, p. 366). This, in turn, leads to the inaccessibility of financial instruments and services of the majority of the population. Furthermore, it results in a shift in the direction of shadow economies – more businesses and

individuals unable to use financial services and instruments, are out of the scope of AML regulations (and often – out of the legal scope whatsoever). This renders AML regulations ineffective and obsolete and results in once again their 'buffing up' and making those regulations even more strict, with more pressure on financial institutions, and thus the cycle continues.

For example, the Financial Action Task Force (hereinafter: FATF), the International Monetary Fund (hereinafter: IMF), and the Organisation for Economic Co-operation and Development (hereinafter: OECD), use political and economic pressure through blacklisting (or conditionally not blacklisting) certain countries into cooperation and adoption of their standards, without the slightest mention of the influence of their policies on the accessibility of financial instruments. In the article, I point out a specific case where this was obvious. In early 2000, an intergovernmental group ordered a study of the cost-effectiveness of blacklisting Barbados, Mauritius, and Vanuatu. The study pointed against such decision and allowed these jurisdictions to house some of the infamous offshore banks, which later on lead to the blocking of the United States (US) dollar turnover in the country and damaged the economy of the respective regions. I conclude that this practice forces the US to converge on policy solutions to share the common values of modern international society, regardless of whether the policies or institutional forms are suited to local circumstances or solve problems.

Another aspect of this issue is the idiosyncrasy of anti-money laundering regulations and competition regulations, due to the lack of understanding of the reasons behind why business use certain financial instruments that might appear within the scope of AML and lead to a competition restriction due to limiting the accessibility of financial instruments.

In this article I analyze the aforementioned hypothesis and conclude that modern mechanisms of AML policy diffusion (in regard to the implementation of FATF 40+9, 4th and 5th EU AML Directives, Base Erosion and Profit Shifting Plan (hereinafter: BEPS), Know-Your-Customer and KYCC standards, i.e. CRS, and other AML standards) and their content thus limit financial inclusion in developing states, by forcing the aforementioned states to apply the same standards and practices applicable in developed states. This, in turn, leads to further growth of inequality (due to limiting access to financial institutions and instruments) and barring access to foreign markets (due to strict control of cross-border financial operations) as well as restricting competition.

II. AML policy diffusion and its influence on financial inequality and inclusion

Currently, almost 170 countries have a harmonized body of [AML] legislation, despite not having any laws regarding money laundering before 1986. Now through the colossal efforts of the international community, the framework of standards and protocols against tax evasion, tax avoidance, and money laundering has been implemented in nearly exact capacity everywhere – from Ukraine, Germany, and the UK, to Barbados, Cayman Islands, and Vanuatu.

Such a rapid development was possible due to the four constantly recurring mechanisms (or methods) used in diffusing the policies from the developed states to the developing states – learning, coercion, mimicry, and competition effects (Braun and Gilardi, 2006; Drezner, 2001; Evans and Davies, 1999), which were extensively analyzed (Weyland, 2004, 2005; Sharman, 2008, 366).

This section refutes the basic assumption that the prevalent mechanism for the policy diffusion of AML regulations is through rational learning of how to oppose money laundering and tax evasion; instead it takes place through deliberate and aggressive coercion in the form of baiting with foreign aid and other incentives and blacklisting to elicit the compliance from the states. Based on the examples of Ukraine, Somalia, Vanuatu, and the Baltic states, this section further argues that this has led to a disregard of the principles of financial inclusion in the policies themselves, due to the disregard of the local specifics of the implementing countries and to address the latest developments with the Baltic banks – their further influence on competition and financial inclusion within the framework of EU's regulation of competition.

1. Classification of methods of policy diffusion and their application

The article uses the classification and definitions of power and policy diffusion established in sociology and international relations (Boli and Thomas, 1999; Braun and Gilardi, 2006; Drezner, 2001; Evans and Davies, 1999; Guler, Guillen, and Macpherson, 2002*)* for the sake of uniformity of the argument that the AML policy diffusion is based on coercion as described in the aforementioned works. The central coercive elements in the system of policy diffusion are blacklisting and international financial aid. The three cases provided hereof try to shed the light on what mechanism was used to implement different international AML standards.

In case of Ukrainian implementation of the BEPS and complementary laws, it was the use of financial aid from the IMF and the prospect of association with

the EU that was used by an international organization to push the Ukrainian government into coercion and ultimate adoption of international AML standards. This led to very short negotiations, non-existent deliberations in the parliamentary committees and parliament, and rushed implementation. This resulted in restricted, verbatim adoption of the minimal package of the BEPS Actions (5, 6, 13, 14) and the ineffective application of anticorruption and anti-tax evasion/avoidance measures. The latter was ultimately overturned by the Constitutional court of Ukraine in a lawsuit filed by the deputies that were themselves under investigation for tax evasion/avoidance and money laundering. The distinct cultural, economic, and political features and issues of the Ukrainian society and governmental structure were disregarded and resulted in a blind coercion with international standards that ended up useless in the long-term. The socio-economic effect of disregard for financial inclusion due to rushed and aggressive policy diffusion will be discussed in the next subsection.

In case of the Baltic states and their financial sectors, particularly the ABLV bank, Verso Bank, DanskeBank, Nordea, and Rietumu Bank, got into the political spotlight due to machinations undertaken by the Deutsche Bank in connection with the Russian oligarchs.[1] The EU and the US regulators have applied coercion, the tactics described by Sharman in *Power and Discourse in Policy Diffusion* as 'American hegemony' (Sharman, 2008, p. 368) – the ability of the United States to provide global public goods, either benevolently or coercively (Sharman, 2008, p. 367). But there is yet very little evidence that the AML policy constitutes such a public good. Nor is there much evidence that the United States or any other country profit from the global propagation of AML standards (Sharman, 2008, p. 370). There hasn't been any research to find a correlation between the implementation and strictness of anti-money laundering regulations and the number of retrieved assets or the number of indictments. On the contrary, the United States have not been part of the majority of the regulations that they are helping to impose on other countries and are still leading in the number of successful cases and criminal sentences for money-laundering and tax evasion.

The same mechanism of coercion – the closing of correspondent accounts, blocking dollar transactions and blacklisting banks – was used to force the Baltic banks to either cleanse their client portfolios or implement Draconian Know-Your-Customer standards (Author's observations, 2016–2018). This results in bank closures, portfolio cleansing and limiting access of the general

[1] See: When the United States Scold the Switzerland-of-the-Baltics. Retrievied from: https://www.euractiv.com/section/economy-jobs/news/latvia-when-the-united-states-scold-the-switzerland-of-the-baltic-states/ (3.09.2019); Rietumu Bana hit with a heavy fine. Retrievied from: https://www.baltictimes.com/rietumu_banka_hit_with_heavy_fine_over_laundering_scheme_in_france/ (3.09.2019).

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population, and particularly that of the marginalized population such as students and pensioners, to basic financial instruments and their own funds. Peter Putnins, head of the Latvia banking regulator, admitted that Latvia was under 'immense' pressure after the US effectively closed one of its banks for what it alleged was 'institutionalized money laundering' and an international body urged it to make urgent changes to avoid being blacklisted.[2]

In Pacific states like Vanuatu and Nauru, these measures led to extreme and long-lasting results. In 2001, the Pacific island republic of Nauru had refused to accept the FATF's ultimatum unless it was compensated to the tune of $10 million. The effect of the FATF blacklist led to a *de facto* financial blockade by private institutions and the complete collapse of the country's financial system (FATF, 2004).

In a discussion with financial regulators in the Pacific and Caribbean states, the head of one Financial Intelligence Unit put it most directly in stating that the blacklist was equivalent to 'a gun to the head' for developing countries, and felt that the presence of blacklists meant that developing countries simply had no choice but to reform. Either the country would do whatever was required in the area of AML policy to avoid the wrath of the FATF, or the country would be blacklisted and its international financial sector destroyed (Sharman's Interviews, 2006, p. 99). The same was repeated for Vanuatu, Fiji and Marshal Islands in 2017 by the EU blacklisting them in the light of the implementation of the AMLD4.[3]

The above shows the aggressive and unapologetic methodology of policy diffusion through coercion that has more to do with showing power and nothing to do with equality, inclusion, or battling money laundering. International regulators have often shown the tendency to miss their mark by aiming at the intermediaries, the institutions that show no motive for perpetrating the crimes, instead of aiming at the perpetrators themselves. This leads to collateral damage from the sanctions that includes mostly the marginalized.

2. Disregard for principles of financial inclusion in AML policies

The above cases of Ukraine, the Baltic States, and Vanuatu have shown that in pursuit of the implementation of international standards and later, compliance with them, international and regional bodies often disregard the anthropological specifics of the recipient countries.

[2] See Baltic regulators fret that scandal could drive Nordic banks awayhttps://www.ft.com/content/89152afe-46fc-11e9-b168-96a37d002cd3 (3.09.2019).

[3] See more https://www.rnz.co.nz/international/pacific-news/384636/fiji-vanuatu-marshall-islands-added-to-eu-tax-blacklist (3.09.2019).

In Ukraine's case, the major issue of corruption, wealth gap, and the demographics of the users of the financial instruments were not taken into consideration by the international community as early as 2000 (Hopf, 2002, p. 412). Interviews with the clients and lawyers of tax optimization law firms have shown that they are generally small and medium-sized enterprises (hereinafter: SMEs), using the international corporate structures and bank accounts for the protection and stability of their businesses.

Before describing Ukraine's case of coercion into the BEPS, it should be duly noted that even though the creators of the BEPS have prided themselves on the inclusivness of the process, it is an undisputed fact that major OECD countries dominated the formulation of the BEPS package in the process of discussions and negotiations. As OECD members are all developed countries, it is inevitable that the BEPS project is mainly a result of compromise between rich countries. For instance, weak measures on the CFCs, interest deductibility and innovation box schemes are favored particularly by the United Kingdom (UK). Ukraine didn't take part in the drafting or negotiation of the package (Avi-Yonah, 2016, p. 32).

Another detail worth mentioning is the prevalence of the the ultra-rich ruling class in using the tax minimization tools as was made clear by the Panama and Paradise Papers (two Ukrainian prime ministers and one president) and the declaration of the current Ukrainian president[4] who has offshore companies in Cyprus in order to minimize the tax burden on his intellectual property. This presents a balancing act that is the implementation of any AML legislation in Ukraine that has been disregarded – with the people in power protecting their financial interests while passing the liability onto the common people.

There is also a lack of academic consesnsus on the implementation of the BEPS in Ukraine, those few who addressed it simply agree on its necessity, since the base erosion, profit shifting, transfer pricing, and other means of aggressive tax minimization and money-laundering are either inadequate or non-existent in the Ukrainian Tax Code (Marchenko, 2017, p. 302) and that it needs to be adapted, not simply implemented (Brekhov, 2016, p. 6). Thus the government has ignored the Ukrainian scholars in the issue of AML standards' implementation.

Naturally, coerced by the EU and the IMF into international AML standards that favor big capital by adoption without adaptation, this has led to a prolonged political struggle against the new measures. The necessity to simultaneously continue receiving financial aid from the IMF and protecting the foreign assets of the Ukrainian rich, led to very short negotiations and an agreement for restricted, verbatim adoption of the minimal package of

[4] See President Volodymyr Zelenskii's financial declaration for 2018. Retrievied from: https://public.nazk.gov.ua/declaration/dbfd6951-3d06-4720-bc4a-fd9cf94042d0 (3.09.2019).

the BEPS Actions (5, 6, 13, 14) that should've tackled harmful tax practices, tax treaty abuse, and establish reporting standards. The final law No. 1210[5] is to be voted by the new parliament by the end of 2019. The Minister of Finance of Ukraine has reiterated multiple times since 2018 that Ukraine had to implement the BEPS and amend its national legislation under EU's threat of being added to the blacklist of offshore countries and rejection of foreign aid from the IMF that could destabilize the Ukrainian economy.[6]

To overcome the new AML measures without angering its international partners, in January of 2019, the Ukrainian parliament (through the legislative initiative of fourty MPs) used the Constitutional court of Ukraine to decriminalize[7] illegal enrichment and overturn the entire legal framework aimed at tackling the corruption and money laundering schemes in Ukraine. The norm required governmental officials to report their annual earning through electronic declarations with a legitimate explanation of the origin of their earings, as well as how, when, and why they were transferred. Article 368-2 of the Penal Code of Ukraine was used to monitor and persecute attempts to hide wealth of ultra-rich officials, their business partners, family members, and associates. The court established in its opinion that the article disregards and violates the presumption of innocence, restricts freedom of business activities, and discriminates local legislation.

This led to the closure of sixty-five high-profile money laundering and corruption cases against Ukrainian and Russian politicians. That, ironically enough, led to the IMF sanctioning and limiting financial aid and negatively influencing currency exchange rates, which significantly lowered the population's purchasing power and further marginalized it. Mykola Havroniuk, top Ukrainian criminal law scholar, commented on the decriminalization as 'forgiveness for any official who didn't declare, laundered, or transferred illegal funds outside of Ukraine up until that point.'[8] The topic has been largely ignored by the academic community and professional literature so far.

Small Ukrainian banks that didn't fulfill the new capitalization and reporting criteria were the collateral damage here as they were hit with fines and thus closed or were acquired by bigger banks, which led to market concentration,

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[5] See: Law on the changes to the Tax Legislation to Implement BEPS standards. Retrievied from: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=66520 (3.09.2019).

[6] See: https://www.kmu.gov.ua/ua/news/ukrayina-maye-vikonati-minimalnij-standart-beps-shob-ne-potrapiti-v-ofshornij-spisok-yes-oleksandr-danilyuk (3.09.2019).

[7] Case No. 1-р/2019 ч. 3. Retrieved from: http://www.ccu.gov.ua/sites/default/files/docs/1_p_2019.pdf (3.09.2019).

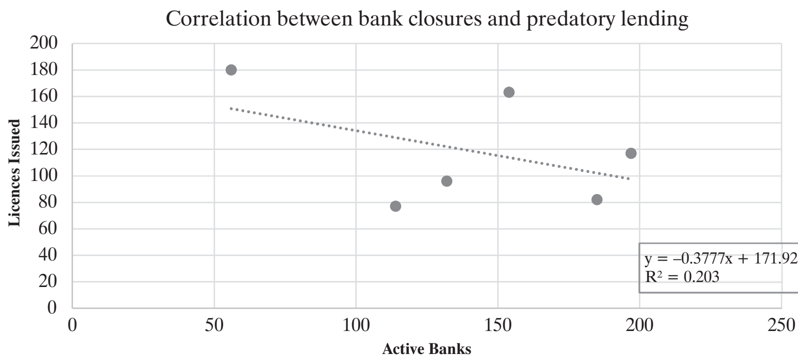
[8] See – https://www.bbc.com/ukrainian/features-47385331.

limiting competition, and thus less access to financial tools for the general population.[9]

In the same time frame (2015–2019) when many Ukrainian banks closed, a significant growth in predatory (676% annual interest rate median) lending companies can be seen. Since access of the general population to financial instruments has been limited due to governmental policies, companies that provide high-risk, high-interest loans without proper oversight have flooded the market. The legal frameworks for microcrediting and for banks are incomparable in terms of reporting standards and supervision, thus the origin and the use (or abuse) of money is outsite the proper oversight.

The correlation between the closure of banks in Ukraine in the last five years and the growth of microcreditings companies can be seen in the fllowing chart:

Chart 1. Correlation between the closure of banks in Ukraine in the last five years and the growth of microcreditings companies



	Years					
	2014	2015	2016	2017	2018	2019
Microcrediting licenses issued[1]	56	154	197	132	185	114
Active banks in Ukraine[2]	180	163	117	96	82	77

[1] Official National Microfinancing Companies Registry Data as of 13 October 2019.
[2] National Bank of Ukraine official Statistics as of 13 October 2019.

Source: Own research on the basis of national statistics.

The analysis of the data shows that there is a negative correlation between the number of banks and the number of microcrediting institutions. In other words, the fewer the banks, the more predatory lending companies on the market. Thus, due to the high-ranking official's policy on evading AML standards, non-existent,

[9] See general overview of the bank liquidation and debt handling in Ukrainian banking system – https://www.ukrinform.ua/rubric-economy/2603235-v-ukraini-planuut-zaversiti-likvidaciu-ponad-40-bankiv.html.

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forced negations of those standards, and the coercion of Ukrainian government into their acceptance led to the limitation of access to banking institutions due to their closure, that led to the influx of predatory lending companies that filled the empty niche of financial institutions. Predatory lending not only hurts the longterm purchasing ability of the general population, but also hurts their access to other financial institutions through damage to their credit rating. Yet, the methods and style of policy diffusion and power balance between Ukraine and the international institutions that established the AML standards do not change and have still no real regard for financial inclusivity or longterm stability.

The same disregard for financial inclusion and 'empty' adaptation of international norms can be seen in the governments and international institutions transfering responsibilities to private financial institutions in the form of strict Know-Your-Customer (hereinafter: KYC) and Know-Your-Customer's-Customers (hereinafter: KYCC) obligations. Entire countries have fallen victim to prejudice and a lazy risk aversion on the part of the banks. Many small countries in the Caribbean, the Pacific and Africa are almost entirely locked out of the global payments system.

An entire country, Somalia, began to starve because UK banks decided it was not worth to bother with bank remittance services. Forty percent of the country's population relied on these remittances – people sending their hard-earned savings home to feed their families. The UK banks' excuse: payments to Somalia were 'high-risk'.[10]

This also has a more devastating and long-term effect on developing countries that lack the chance of international support as mentioned earlier in the case of Nauru and Vanuatu. As of 2018, Nauru does not have a single functioning bank and the country has so successfully been stigmatized that now, even after complying with the FATF's demands, no bank is willing to take the reputational risk of opening a branch in the country. Nauru has been a cash economy for the last seventeen years. That is why the direct implementation, as opposed to the careful adaptation of the standards, hurts the communities in the countries of implementation and not the perpetrators of actions that the AML policies are designed to oppose.

3. Inclusion and effectiveness of anti-money laundering regulations

Poorly designed rules or an inappropriate application of AML/CFT controls can, from a demand perspective, be a barrier to accessing financial services. For instance, although national regulations may allow the discretionary use of

[10] See generally: https://www.theguardian.com/global-development-professionals-network/2015/jun/18/life-after-losing-remittances-somalis-share-their-stories-somalia (3.09.2019).

alternative documents to verify customers, institutions tend to limit discretion and the types of documents accepted. There is evidence suggesting that over-reliance on government ID has been a problem in many developing societies (Shehu, 2012, p. 307). On the other hand, the unbanked populations (to use the US FDIC terminology), due to various arbitrary reasons – from ID requirements to being considered high-risk by financial institutions – are being completely excluded from financial markets by bigger players. They do not have access to financial instruments or are limited in their purchase power, restricted in their use of international goods and services, limited in their ability to start an enterprise and contribute to the economy of their country and region, and are thus pushed closer toward poverty.

Other evidence suggests that the more of the population has access to a wide range of financial instruments, without arbitrary restrictions, the more of the population's income would be transparently reported (Shehu, 2012, p. 312). Naturally, it would lead to two simultaneous results – a growing internal revenue for the state and to a healthier market and thus healthier competition in the financial sector. The latter part would in return result in growing access of the general public to financial instruments and thus in greater amount of transparency. The circular nature of the phenomena would ensure the stability of the system.

The US federal taxation model of putting the reporting burden on the end-users – to report the income, its sources and uses, by the people and not the financial institutions and government – as opposed to putting the burden on the institutions and government that are prone to error, results in corruption, power play and colossal inefficiency [this fragment seems somewhat unclear and in contradiction to the second point of the conclusions which suggests the uptake of the US model] (Johnson, Hulme, 2005, p. 278).

It is necessary to show that the level of disregard for financial inclusion as a concept has manifested itself in the fact that the term itself is only mentioned in Annex II to 4th EU AML Directive and the FATF Recommendation 10 as a second-rate criteria for potentially lowering risk when assessing money-laundering risks. Nowhere else. The result of it is discussed at length in all sections of the article.

III. Influence on corporate governance and competition

As pointed out earlier, the methods of policy diffusion that surround the AML legislation and international standards completely disregard the effects of financial exclusion and restrict access of marginalized populations, SMEs,

and entire economies to basic financial instruments. In discussions during numerous conferences, client interviews, and policy presentations, Ukrainian, Estonian, Polish, and Russian businesspeople have continuously established that their reasons for using complicated tax optimization structures, foreign bank accounts and shell companies are asset protection and preserving the competition in the Central and Eastern European region (hereinafter: CEE) (author's interviews in 2016–2018).

Those legitimate accounting and legal practices are often mixed up with tax evasion, tax avoidance, and money laundering, and become the first victims of the extremely risk-averse atmosphere among financial institution, which deem CEE a high-risk market, use of shell companies – a red flag for money-laundering monitoring institutions. As a result, small and medium enterprises and financial institutions are pushed from the market, leaving only the 'big players', who are too big to fail (for exmaple Deutsche Bank, with its ability to pay hundreds of millions in fines and still continue operating, while a smaller bank or a company would go bankrupt at the same conditions). This can create a potential for monopolization and abuse of a dominant position on the market, which, in turn, leads to a further restriction of competition, hindrance of investments, price hikes of financial and other services as well as growing economic inequality in these regions.

Since the majority of the attention in the last couple of years has been on the banks and financial institutions inside the European Union, it is essential to understand the influence of the discussed politics. The fundamental principles of the functioning of the European Union forbid practices like that, if only in regard to the companies operating in the EU. The Treaty on the Functioning of the European Union (hereinafter: TFEU) in its Article 101 forbids applying dissimilar conditions to equivalent transactions with other trading parties, and thereby placing them at a competitive disadvantage and disrupting competition on the free market.

Both modern approaches to the interpretation of Article 101 of TFEU – 1) that only consumer welfare considerations are relevant to this article, 2) that Member States' and European Union's public policy goals (such as public health and the environment) should also be considered in interpreting Article 101 TFEU (Tonwley, 2009, p.11) show that restrictive and discriminatory AML standards, disregard for financial inclusion and potential repercussions for the marginalized populations, and the way those standards are forced upon countries, are contrary to the basic principles on which the European community was built (Odudu, 2006, p. 603).

It can be argued that the Member States themselves and the EU institutions are not directly mentioned by Article 101 TFEU, yet they are bound by Article 4(3) TFEU not to legislate, regulate or reinforce policies

that are contrary to Article 101 TFEU (Geiger, 2015, p. 493). The modern interpretation of this article and the spirit of European Lawshould include the legislation and standards created and applicable on the territory of the European Union, even by international organizations. More so, when it's implementation and application may have such a destructive long-term effect on the ecnomies of the Members States.

IV. Conclusions

Our conclusions lead us to several propositions on how to break the cycle, ranging from purely theoretical to outright practical recommendations. We agree with the current approach to the issues like the one at hand, that countries and the international community should evolve their policies that facilitate the implementation of controls based on a context-sensitive approach (Shehu, 2012, p. 309).

First of all, in case of regulatory disregard for financial inclusion, our recommendation is to develop a policy that would allow research, drafting, and implementation of current and future AML regulations regarding specifics of developing states, including, but not limited, to purchasing power and minimal income in such countries, access to financial instruments, investment climate in the region, as well as historical and cultural context. It is to dissuade international organizations from abusing their political power for the interest of big capital. The FATF has recognized the above argument in their recommendations in 2011, but is yet to make any significant changes in its methodology (FATF, 2011). This principle must be implemented, first philosophically, into the thought process of the regulators to consider it as the fundamental principle thought the scope of which to consider any new policies, and thus the methods of their implementation as well as formally, into the framework of the regulations to reinforce its legal standing and make it enforceable on all levels.

Secondly, shifting the burden of enforcement and control from the level of financial institutions to the level of financial instruments users (the US-model), to make them accessible to a wider range of population and enhance the effectiveness of AML regulations. The more people have access to financial instruments, both for personal and business purposes, the more of their income will be reported and their assets protected. I conclude that it would lead to two likely results – a growing internal revenue for the state and to a healthier market and thus healthier competition in the financial sector. The latter part, in return, would result in growing access of the general public to financial

instruments and thus a greater amount of transparency. The circular nature of the phenomena would ensure the stability of the system. Putting trust in the people instead of institutions and capital structures goes a long way.

And lastly, a global change requires a bit of a more general advice – to adopt taxation and AML regulations that are aimed at the prevention and dissuasion from illegal activity as opposed to a retroactive, pro-punishment approach that leads to collateral damage among the non-perpetrators of the money laundering, tax avoidance and tax evasion crimes. It requires a deep understanding of the root of the problem – the philosophical and economical reasons for such actions, and enormous will from the politicians, who themselves (as in Ukraine's case described in the article) are the perpetrators of such practices

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