

TOWARDS A POLICY MONITOR COMBATING MONEY LAUNDERING

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SUMMARY

Anti-money laundering policy	<p>In the Netherlands, legislation specifically geared towards combating laundering criminal money and the legalisation of illegal capital by means of mixing the (legal) world with the underworld, was implemented in 1994. This legislation contains obligations for various financial organisations and professionals to observe and report unusual financial transactions and to determine the identity of those involved. In 2008, when the Third Anti-Money Laundering Directive was implemented, the Disclosure of Unusual Transactions (Services) Act (Wet MOT) and the Identification (Provision of Services) Act (WID) have been combined into the Anti-Money Laundering and Anti-Terrorist Financing Act (WWFT). The Third Anti-Money Laundering Directive was based on the standard of the Financial Action Task Force on Money Laundering (FATF). This standard offers, among other things, a framework for a legal system, supervision and a reporting chain, including the establishment of a Financial Intelligence Unit (FIU).</p>
WWFT	
Anti-money laundering policy monitor	<p>Various different evaluations find that combating money laundering in the Netherlands has a number of shortcomings. In order to realize improvements, more insight in the performance of the organisations in the enforcement chain and in the deployment of means is desirable. An anti-money laundering policy monitor would help provide insight into performance. This should better enable the responsible ministries of Finance, and Security and Justice (VenJ) to steer more effectively towards better performance.</p>
Study	<p>The Research and Documentation Centre (WODC) of the ministry of VenJ ordered Regioplan Policy Research to conduct a study with the key objective to develop an anti-money laundering policy monitor, which can be used to periodically map out the performance of the enforcement chain and to determine whether policy objectives have been met.</p>
Keynotes	<p>In order to develop the policy monitor, in the first phase of the study the following keynotes have been formulated in consultation with the representatives of the responsible departments:</p> <ul style="list-style-type: none">• The policy monitor provides insight into performance and the deployment of means with an eye to purposeful management of organisations in the chain.

- The policy monitor indicates performance, but not in the form of indicators without a proper interpretation. A set of figures without a meaningful interpretation is explicitly not intended.
- The policy monitor assumes a broad approach: attention is paid to the broad range of policy interventions.
- The policy monitor is set up as a growth model in two respects: more and more achievements are being measured reliably, and more and more parts of the policy are being analysed and described.
- For the interpretation of key figures use can (partly) be made of existing studies.
- The selection of tasks and performance indicators that are included in the policy monitor should be based on contents rather than follow a pragmatic approach.

- Point of view
- Subsequently, three different points of view have been investigated in this study to develop a policy monitor.
- The first point of view takes as a starting point the set-up of the policy and the intended objectives: it is the policy theory that is concerned here. The focus is on the identification of important steps in the policy and end-means-relations.
 - The second point of view starts from the organisation of the chain of institutions that work towards prevention and combating money laundering.
 - The third point of view takes prevention as its focus and aims to create order by distinguishing various forms of prevention. The frame of analysis is situational prevention.

After having considered the strong and weak points of the three different points of view, the choice was made to combine the first two points of view (policy theory and chain) for the establishment of a monitor. A structure based on organisations and activities provides overview, whereas elements of a policy theory by policy part provide substantive coherence.

- Key activities
- With regard to further development, the key activities in the chain approach to combating money laundering have been taken into account. Logically, these key activities largely correspond to the setting of tasks of the parties as described in the WWFT. The key activities have been divided into four categories:

- Preventive activities:
 - carrying out client studies by organisations that have an obligation to report;
 - supervising the execution of client studies by supervisors Bureau Financial Supervision (BFT), the Netherlands Authority for the Financial Markets (AFM), the Dutch Central Bank (DNB) and tax authorities Holland-Midden (BHM).
 - providing information to organisations that have an obligation to report.

- Reporting chain unusual and suspicious transactions:
 - reporting unusual transactions;
 - analysis of unusual transactions by FIU-NL;
 - information exchange between FIU-NL and reporters;
 - phenomenon research by FIU-NL.
- Criminal investigation:
 - investigations by investigation services national police agency, the Fiscal Information and Investigation Service (FIOD), the national department of criminal investigation, the supraregional criminal investigation teams and the regional police force, under management of the Public Prosecutor (OM).
 - information exchange between FIU-NL, investigation services and the OM.
- Cooperation, harmonisation and direction:
 - managing the chain;
 - information position of departments;
 - study on risks, instruments and phenomena;
 - cooperation.

Ambitions and expectations Subsequently, overviews of the four key activities have been made, on the basis of desk study and interviews with representatives of organisations in the chain. Attention was paid to describing key and sub activities, ambitions and expectations that have been formulated by policymakers with regard to these activities and possible indicators which may be used to indicate the results of the activities of the organisations involved.

Indicators The indicators are partly quantitative and partly qualitative by nature. From a management perspective, it is of course important that the indicators fit in with the ambitions and expectations and can therefore also be seen as performance indicators.

Problems When analysing the relation between possible indicators on the one hand, and ambitions and expectations on the other hand, three central problems have emerged:

- The qualitative indicators have little added value for policymakers.
- The quantitative indicators do not indicate much about the quality of combating money laundering. Nearly all quantitative indicators are output-indicators (that provide data concerning the production of the chain), whereas what is actually needed are outcome-indicators (that denote effects) or at least indicators that provide insight into how output contributes to an outcome of the policy. Furthermore, it is not clear which standards must be applied with regard to the quantitative indicators (when is policy satisfactory?). The problem which standards to use occurs in various subfields and the result of this is that many indicators cannot be used as performance indicators.
- A number of relevant quantitative indicators are not measurable or, if they are, the measuring requires (too) much effort.

Attempts at solving these problems have met with differences of perspective and perception at the central level of the departments on the one hand and the decentral level of executing chain organisations on the other hand.

Meta objectives	There are, however, two meta objectives at the central level, namely to protect the integrity of the financial system and to make crime less rewarding. The policy monitor should lead to the selection of more concrete and specific objectives on the basis of control information that is collected and reported on behalf of the performance indicators. The policy monitor should not just deliver control information, but also knowledge which can be used to establish objectives. However, chain organisations produce information that is considered useful and significant with regard to their own activities and perspective. They are willing to adjust this, but are asking for guidelines at the level of the chain, i.e. guidelines from the responsible departments. Due to this mutual dependence
Concrete objectives	
Tension	parties wait for each other and as yet it has not been possible to develop a useful policy monitor with performance indicators by means of empirical research in the field, which meets the needs of the policymakers at the departments.
Lines of thought	<p>There are four lines of thought regarding subsequent steps to be taken to nevertheless arrive at a useful policy monitor.</p> <ul style="list-style-type: none"> • choosing a 'simple' monitor without performance indicators; • reconsidering the previous choice from three points of view and choosing situational prevention as a starting point; • abandoning the direct link between performance indicators and policy; • choosing a gradual process within which performance indicators are being developed.
Growth model	<p>On the basis of the discussions that have been held with the departments and within the supervisory committee, it can be decided that the first three lines of thought regarding a policy monitor are not really compatible with the formulated keynotes. Therefore, they are not a realistic alternative. The fourth line of thought stays very close to the initial objective of the monitor. With regard to content it is actually the only real alternative. The main objection is that it requires a lot of time and energy from the policymakers. Furthermore, it is important to keep taking into account the data problems which have been observed in the course of the study. Whichever set-up is chosen, interpretation, standardization and availability/measurability of data are also factors to duly take into account.</p>
Data problems	