Preventive Measures for Terrorism Financing: What the Evidence Shows

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My topic for today is the financing of terrorism, and more specifically some research into how preventive measures for financial institutions might best be designed and implemented.

When it comes to AML/CFT preventive measures there is a constant tension between how much a financial institution should be expected to do and how much the government should be expected to do to catch potential money launderers and terrorist financers. AML/CFT preventive measures are fundamentally different from other, truly prudential rules that are designed to protect the safety and soundness of individual FIs and the financial system as whole. Before AML rules were established banks did not consider themselves in the business of catching criminals and now, specifically, terrorists.

Before I get into the details of my presentation let me note briefly why I'm here speaking on this particular topic and provide some background for those of you who aren't specialists in financial law and regulation.

I was involved while I was at the IMF in helping to create, and far more directly, implement the new world CFT standard.

In particular, my colleagues and I drafted the first FATF methodology for assessing both AML and CFT and worked on other explanatory and descriptive materials, as well as on the pilot compliance assessment programs with the Fund and the Bank. I have also conducted compliance assessments with the FATF 40 + 9 as part of both Fund and Bank missions in a large number of jurisdictions both developed and developing, so I have a little international experience in the field.

I left the Fund and joined Case Western Reserve University Law School (in part) to help create a new program in financial sector integrity. This program is unusual in American law schools, actually in any law or even business faculties, in that it goes beyond courses in banking law and regulation, securities law, insurance law etc., and offers a three credit seminar in financial integrity with a focus on AML/CFT preventive measures. We also have a research program in money laundering and terrorism finance that involves a number of faculty, including adjunct faculty from around the world with extensive experience as both regulators and regulated, and a large numbers of students. So far at least the research program has focused on two things we feel have been neglected in the current crop of research and writing: empirical research (i.e. on what is actually happening out there) and on how regulatory regimes should adapt to reflect such realities - - all the while maximizing both effectiveness and efficiency, which includes minimizing total costs to the entire system of regulator/regulated. Over the past two years we have been working on a project largely funded by the World Bank that looked in corruption typologies, specifically, how PEPs received their corrupt proceeds and how they laundered them through the financial system. Last year we began a project, also largely funded by the Bank, on terrorism financing typologies, looking at how terrorists collected funds and used them to finance terrorists and terrorist acts.

I'd like to begin by looking briefly at where the FATF Special Recommendations on Anti-money laundering and terrorism financing came from, and the origins of the AML/CFT methodology.

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The Fund hadn't always been involved in AML, certainly not CFT issues.

But by the 1990s it had in banking systems - - an involvement that had been deepened considerably by the Asian Financial Crisis, whose 10th anniversary we 'celebrated' this year. A key element in the unexpected collapse of a number of Asian economies was seriously weak domestic banking systems. While the Fund had developed some limited expertise in banking supervision, it had been fairly limited and was mostly academic in nature. Fund surveillance of a number of Asian economies - - those who had seen their entire financial systems freeze up in insolvency almost overnight - - had essentially not even considered financial system safety and soundness issues. Significant amounts of egg was present on the faces of Management and Staff as Fund reports published just prior to the Crisis pronounced economies in tip top shape. Tip top except for the fact that banking systems that were rotten to core.

In large part as a response to this failure, the Fund and its sister institution the World Bank accelerated a program of addressing a number of issues that were useful for the operational work of the two institutions but that hadn't been addressed in detail before. At the top of this list was banking supervision, but others were also included.

There were some significant problems with going forward, however. First, such matters as banking supervision were highly technical, and the Fund (and the Bank) simply did not have significant expertise in the substantive areas. Also, examining these areas could be highly intrusive - - just imagine having Fund staff nosing around banking account records and you can get an idea of what I mean. Many of the less developed members of the two institutions in particular were concerned that if such issues as banking supervision were to be included in staff assessments under Article IV they would be singled out for criticism. Also, they feared that adding new areas of investigation would result in new conditionality for Fund and Bank loans, and more conditions were something they did not want to see (i.e. FIX your Banking system!)

The Fund (and the Bank) addressed these concerns in three ways. First, they decided turn to outside organizations that had particular expertise in the particular substantive subject matter. For banking maters they turned to Basel Committee on Banking Supervision, a relatively small group of developed country banking supervisors (note DEVELOPED COUNTRY) who met through the good offices of the Bank for International Settlements. The Basel Committee, with the involvement of some Fund experts on supervision, had been working to create a list of best practices to be known as the Core Principles on Banking Supervision (they also turned to analogous organizations for best practices in securities and insurance supervision, the other legs of the financial system).

Next, the Fund agreed that while it would be beneficial for all members to be assessed for compliance against these standards, such assessments should be on a voluntary basis and that the assessments should not be added on as conditions to loans. (However, there would be pressure to have members volunteer for assessments and those assessments and as it turned out such pressure was remarkably effective).

Finally, Fund (and Bank) staff would conduct assessments by beefing up their own expertise AND by borrowing experts from outside.

And they would conduct assessments using a Methodology. This is key - - I'll get back to the methodology in a moment.

As I mentioned, The Fund and Bank were to look at issues that were "useful for the operational work of the two institutions" but that hadn't been addressed in detail before. By turning LARGLY to outside

organizations for best practices in these areas they could solve various problems of expertise. They Board of the Fund and Bank settled on 11 key areas and attendant best practices, what they terms standards and codes. Assessments of compliance with standards and codes were (with permission of the member) to be published as Reports on the Observance of Standards and Codes or ROSCS. They were also to be used to inform a broad examination of a country's financial sector stability called the Financial Sector Stability Program or (FSAP), which would also be separate from Article IV and conditionality. And a reason so many countries have agreed to "voluntary" assessments is that if they don't volunteer there is a perception that they are hiding something, which is bad for business.

Back to the Methodology. Agreeing on a bunch of Core Principles for banking supervision wasn't easy - -after all, there were governments involved, and each wanted to advocate its own systems of supervision. A compromise was to have major yet broad principles agreed upon. But these were too broad. What was needed was a way to ensure that assessments of compliance with would be uniform among countries and as objective as possible. So, what we did was to take those broad principles and come up with detailed criteria for assessing compliance. These elaborated and gave concrete effect to the broader principles. They were less politically controversial because they were only assessment criteria.

But in effect, of course, by determining whether a country actually complied with the principles, those detailed criteria became part of the principles themselves.

We also came up with detailed plans for assessing compliance with those principles and criteria that required adherence to strict procedures, such as reviewing and referencing statutory and regulatory documentation. Also, reports were to follow a uniform and detailed template to ensure that the right questions were asked and to make reviewing conclusions as easy as possible. A uniform grading system was established. Comparing results was also made easy.

The Fund and Bank Executive Boards, the governing bodies of these two organizations, agreed to endorse both the principles AND the methodologies for assessing compliance. The Fund (and the Bank), however, had near universal membership. By endorsing the Basel Core Principles and methodology, and by having Fund and Bank staff involved in their creation, countries that were not members of the Basel Committee had some (albeit minor) say in their drafting. And the endorsement added much in the way of legitimacy to what had essentially been a wealthy club's creation. Some even said that such endorsement created a kind of "soft" international law.

The Basel Committee had earlier written a few papers on the need for banks to cooperate in anti-money laundering policies, and BCP 15 made a general reference to the need for banks to come up with anti-money laundering policies. But it was hardly given any detail. I think that the reason was clear - - anti-money laundering policies were designed to stop crooks, not to preserve the safety and soundness of the banking system. While keeping bad guys from using the banking system to launder money was good public policy, it was criminal justice policy, not prudential policy (after all, some of the soundest banks in the world were then located in Zurich, a center for bank secrecy and therefore money laundering).

But there was another organization that had created something akin to an actual anti-money laundering standard. The Financial Action Task Force had been created in 1989 under the primary impetus of the United States. The FATF included the usual suspects of the more developed industrial economies: i.e. the EU and other OECD members. It had no real secretariat but relied upon government experts from member countries. One of the first acts of the FATF was to create a list of 40 Recommendations against money laundering. These Recommendations were drafted primarily by

the US, and within the US government, primarily by prosecutors and a few banking supervisory experts. The 40 Recommendations were (more or less) divided into three subject areas, strictly criminal law and enforcement, international cooperation, and "preventive measures for financial institutions." Those so called "preventive measures" included such matters as banning bank secrecy, monitoring of client accounts for suspicious transactions that might indicate money laundering, and reporting such suspicions to appropriate government authorities. Here were anti-money laundering rules that applied to banks! Why not add them to the Basel Core Principles?

But many of these Recommendations were, how to be nice about it, somewhat vague. For example, financial institutions were required to take "reasonable measures" to obtain the identity of the owner and controller of an account. What measures were "reasonable"? Hire a private eye?

And how was compliance with the Recommendations to be assessed? Members agreed to a system of "mutual evaluations," whereby experts from member countries of the FATF assessed compliance by other members. But because the recommendations were, at least in many instances, quite vague, there was considerable leeway for subjective interpretation. Also, because there were no detailed procedures for assessment, reports could vary from country to country, and it was sometimes difficult to find an orderly collection of supporting documentation for claims made in the assessment. And there were no grades given.

Finally, because the FATF had limited membership, in order to expand assessments beyond its members it was necessary to encourage other countries to form their own FATF-like organizations and do their own "mutual evaluations."

And when they did, an "I'll scratch your back if you scratch mine" mentality sometimes applied. Also, it was taking time for FATF-like bodies to be created. In the meantime, FATF members were increasingly upset by what they saw as terrible money laundering policies in some jurisdictions. In response, they created a new system for naming and shaming these countries, as well as threatening "counter-measures", i.e. preventing their own financial institutions from doing business with financial institutions in these supposed scofflaw jurisdictions. Called the Non-Cooperative Countries and Territories program, the FATF selected what they thought were the worst ML offenders and created a kind of mini-FATF 40 Recommendations (they picked 25 key ones, elaborating and rewiring some of the 40, focusing on international cooperation) by which to judge these countries.

US and others tried to shift the discussion of "financial sector abuse" in the direction of having the Fund and the Bank add money laundering to the Fund and Bank's list of operationally important areas and add the FATF 40 to the list of standards and codes. Initially Management and staff resisted, suggesting an intermediate position - - that the elements of the FATF 40 relating to preventive measures for financial institutions be added to the ongoing development of the Methodology for assessing the Basel Core Principles. We began working on expanding the Basel Methodology to include the FATF Recommendations relating to preventive measures for financial institutions.

But then came the terror attacks of September 11th 2001. And everything in our work at the Fund DID change. In the aftermath of that terrible day the FATF was tasked with expanding its 40 recommendations against money laundering to include terrorism finance, and a few weeks later the FATF adopted the 8 Special Recommendations against Terrorism Finance. However, that the financing of terrorism should be tied to anti-money laundering was by no means obvious. While terrorism had existed before 9/11 the FATF 40 made no reference to it. The anti-money laundering principles were designed to stop crooks from taking dirty money, running it through a bank, and in

doing so hiding that it was the product of crime (and also hiding who its real owners were). To fight terrorism financing one wasn't concerned about the ORIGINS of the money - - whether from criminal profits or from good clean activities - - just where the money went.

And yet there were some connections. Identifying exactly who the bank's clients were was a key aspect of the AML principles relating to preventive measures; these measures could also, perhaps, be used to identify if the client was a terrorist, providing you knew who the terrorist were, of course. If a bank were to monitor transactions to see if they might suggest that money laundering was going on, and report the suspicion to the government, then maybe the bank could also monitor transactions to see if they might be involving terrorism financing and report those as well. Also, banks were required to freeze and seize assets or launderers, they could also be required to do the same for terrorist funds. With respect to criminal enforcement, the FATF 40 required criminalizing money laundering, signing on to relevant international treaties, and cooperating with other countries in investigating and prosecuting such cases; this could be extended to terrorism financing.

This is exactly what the Special 8 did, plus add in a more detailed requirement about keeping track of wire transfers and one about requiring that informal banking systems be required to follow the AML rules. More specifically:

Special III, freezing and confiscating terrorist assets. As implemented in the US and elsewhere, the practical effect of this Recommendation was that FIs must identify the assets of known terrorists and terrorist organizations and freeze them. Essentially, this means ensuring that no customer account is owned or controlled directly or indirectly by a person listed by OFAC or another relevant government agency. In order to do this FIs need to identify beneficial owner and controller of the account, something they already must do under AML rules, and check the owner/controller against the list, as well as apparent beneficiary. While identification of beneficial owner can be difficult this is no different really than in the regular AML CDD context. Name identification can be trickier, with the list containing many similar names and many names that are common. However, the requirement is fairly straight-forward.

The next is Special IV, which extends suspicious transaction/activity reporting to terrorism financing transactions. Sue Eckert has noted that "In a rush to action following the terrorist attacks, existing AML measures were extended, largely unmodified, to address terrorist financing." This is the one that Sue Eckert was really referring to. Aside from comparing the beneficial owner and controller of an account (or a beneficiary of a transaction) to a list of known terrorists or terrorist organizations how was an FI to know that a transaction is suspicious? In the late Fall of 2001 we all were familiar with a variety AML typologies, standard techniques of how criminals used FIs to launder proceeds. FIs, FI regulators, and financial intelligence units throughout the world, as well as the FATF and even FATF-style regional bodies had studies these typologies and had disseminated significant guidance on client profiling, account monitoring, and resulting suspicious transaction reporting. But there had been no significant typologies with respect to financing of the crime of terrorism. In fact, when drawing up the methodology for assessment I confess we were entirely stymied. Even the FATF guidance stated "It should be acknowledged as well that financial institutions will probably be unable to detect terrorist financing as such. Indeed, the only time that FIs might clearly identify terrorist financing as distinct from other criminal misuse of the financial system is when a known terrorist or terrorist organization has opened an account." Of course this didn't stop them from included a few case studies in text boxes, a technique by the way that I loved to use when I was at the Fund - - if you can't find any statistically relevant evidence just pick an example and put it in a text box.

There were three other specific Special Recommendations of interest to FIs that were introduced based on some more specific law enforcement experience with terrorism financing. They were Special VI, which required alternative remittance systems like hawala to be brought into the regulatory system and was based on concern that terrorists were going around the regulated financial system to transfer funds, Special VI, which provided new rules on information transmitted with funds transfers as was based on a desire by law enforcement to have access to records so as to trace transfers that did go through regulated FIs (although interestingly there was no requirement that all international transfers be reported to the FIU, which some jurisdictions like Australia had already found useful in mining patterns among many FIs leading to AML investigations) and finally VIII, which noted that charities can be particularly vulnerable to terrorism financing and that required countries to ensure that they are not so misused, based primarily on a number of prosecutions brought by law enforcement where primarily Islamic charities had appeared to finance terrorists.

There was, however, one completely new recommendation. This was the last one, Recommendation VIII, which had to do with “entities” that can be abused for the financing of terrorism, and more specifically, not-for-profit organizations. Specifically, the Recommendation required that governments review rules to ensure that non-profits not be “misused” by terrorist organizations posing as legitimate entities and that they “ensure” that non-profits or used for clandestine diversion of funds. In other words, VIII had nothing to do with the financial system.

Soon after 9/11 a special committee on involving the Fund in anti-terrorism and money laundering work was created (I represented the Fund’s Legal Department on that Committee). The outcome was nearly pre-ordained; the Boards of the Fund and Bank agreed to adopt the FATF 40 plus 8 (as they were now called) as a standard to be assessed under the ROSC program, although with strictly law enforcement matters to be assessed by staff seconded by experts from member countries.

The first problem was that there was no methodology for assessment. The FATF agreed to draft the methodology, but they weren’t able to We understood that FAFT member jurisdictions had other things to do after September 11th, and the fact that it was the US who had volunteered to take the lead in drafting the Methodology did not help. But I think also part of the problem was that the FATF had simply not contemplated possible detailed criteria to flush out the rather broad (and easily subjectively interpreted) 40, now 40 plus 8 recommendations, might be.

So, because someone had to do it, a few of my Fund and Bank colleagues and I were assigned to the task.

I will not do into detail as to the process, but let me just say that it was better than ad hoc but not as good as it could have been. Remember, we had to create a Methodology for all the 40 plus 8, not just the Special 8. In some areas we had to, in effect, create detailed criteria essentially out of whole cloth.

Fortunately, the FATF had already been in the process of updating the 40, and we had been participating with some of the experts on that project. In fact, in drafting the Methodology for the 40 + 8, we were able to work with the experts on the updating project to influence that project.

For the FATF recommendations that require adoption of AML treaties and enactment of AML laws, drafting the Methodology was fairly easy, in that the Recommendations themselves were straight forward. We also added detailed due process protections to the rules requiring freezing and seizing of property of both terrorists and launderers which we took from other conventions and generally agreed international law protecting property rights.

Other Recommendations on law enforcement were not controversial because they were almost universal (e.g. rules on having court procedures for compelling testimony) largely procedural (e.g. authorities should review what they are doing, etc.) or statistical (e.g. keep statistics on prosecutions).

In the preventive measures section we provided details of what banks and other financial institutions were supposed to do so as to identify clients (e.g. what documents to use, when to inquire if the accounts are opened in someone else's name, identification of owners and controllers of legal persons), and details on monitoring client accounts for transactions to see if there was a suspicion of money laundering. These were also generally not too controversial because the source of these criteria came from was years of accumulated and generally accepted best practices in anti-money laundering banking supervision. Certainly since the founding of the FATF (and in many cases before) banks in most FATF jurisdictions had enacted anti-money laundering laws, and there was a considerable amount of accumulated experience. Also, as we were international civil servants and not civil servants from individual governments we were able to put together a whole package on a take-it-or-leave-it basis. That was an enormous procedural benefit!

But life was not so easy for drafting criteria for the other terrorism financing recommendations elating to financial institutions. In effect, we took what we had done of money laundering and then essentially added "and terrorists" or "and terrorism financing." I suppose we were following what the FATF had itself done, but in doing following their lead we created some potentially serious problems.

I should note that the Methodology for AML/CFT, as with all the other Methodologies, required assessors to comment on the effectiveness of implementation. That is, without implementation, a country would get a failing grade.

And so, less than a year after the September 11 attacks the Methodology was approved by the FATF and the Boards of the Bank and the Fund and a pilot program of assessments by Fund and Bank staff had begun, as well as mutual evaluations based on the same Methodology by FATF and FATF-style regional bodies. Reports on the Observance of Standards and Codes based on those assessments began to be published, including assessment of implementation and grades to boot.

And later the next year the revised FATF 40 + 9 were released along with a new Methodology. They were reorganized in some places and added a new group of persons required to implement the preventive measures section, including in certain cases lawyers and accountants, but largely in agreement with the original Methodology, except in one case that I will get to in a moment.

So what happened? The fact that the Methodology contained detailed criteria, a uniform assessment system with a single template for reporting results (the ROSC and so-called detailed assessment Report), and that the Methodology was followed by the Fund/ Bank , FATF, and FATF-style regional bodies has truly created a well accepted world standard; and the pressure of assessments has clearly moved that standard to world-wide implementation. This has been quite an achievement, no doubt.

But there have been problems with the standard and the assessment criteria. Let me discuss two in greater detail.

As assessments went forward it became clear that most jurisdictions were implementing the requirement simply by adding the words "terrorism financing" to their suspicious transaction reporting legislation or regulations. Many banks saw this not only as an impossible task but one whose requirements laid them open to huge additional regulatory risk. If they had no program to uncover terrorism finance in their client monitoring they risked fines or worse.

While this created a cottage industry in FI consulting, there was little substantive progress. As I mentioned earlier the FATF published commentary entitled "Guidance for Financial Institutions in Detecting Terrorist Financing" that essentially admitted the problem by declaring "It should be acknowledged that FIs will probably be unable to detect terrorist financing as such."

But rules are rules and "guidance" isn't "standard" or "methodology." FIs are still required to come up with something. By and large FIs have focused on identifying accounts that might be controlled by suspected terrorists. As a result many now pay services to come up lists of the names possible terrorist and terrorist organizations that are not already on government provided lists. This can result in an extraordinary number of false positives, including lots of people with the same name. And this not only applies to Mr. Muhammad - - It applied to a Mr. Gordon as well!

More on banks and what they do:

Since the adoption of the Special VIII (now IX) Recommendations considerable additional research and writing has been done, by scholars, regulators and FIUs and the FATF and FATF-Style regional bodies in particular, to identify patterns or typologies of terrorist financing that might be useful to FIs in implementing their new requirements under special IV. By and large these were based on (1) a fairly limited number of case studies that had resulted in prosecutions in OECD countries, mostly the United States and (2) on thought experiments - -or WWTD (what would terrorists do?) While useful I'm not sure that these case studies or thought experiments were necessarily statistically relevant they were helpful.

Rather than summarizing what these studies have found (something with which many of you may already be familiar) I will go straight into our project. We set out to find any case of terrorism financing (with terrorism defined as broadly as possible) anywhere in the world, and to analyze it, including diagram where the money came from, where it went, and how it moved through the financial system. We have not restricted ourselves to actual cases that have been prosecuted and tried in courts or that have been reported by FIUs, although we have included those too. In effect, we have cast our net as widely as possible, from newspaper reports to blogs, although we have tried to make reasonable judgments as to reliability. We have students who have searched in English, French, Portuguese, Spanish, Russian, Hindi (though not yet in Singhilease, the language of Sri Lanka, unfortunately), Bahasa Indonesia/Malay, and of course Mandarin. While we have not had the help yet of an Arabic speaker we do hope to complete and Arabic search next semester. We also went through all of the published mutual evaluations and assessments by the FATF, FATF regional bodies, and the Fund and the Bank as well as studies by consultants such as the PWC Singapore Report.

So far we have created a data base of around 60 case studies that we think are broadly representative that involve reported terrorism financing, plus a significant collection of analytical material concerning a number of those cases.

I will now give you a quick overview of some of our very preliminary findings and what they may mean for implementing effective CFT preventive measures for FIs. Remember these are preliminary and these are to be used as part of a study for the World Bank study so please do not quote me.

Previous commentators, including the FATF, had concluded much of the interplay of terrorists with FIs looked like attempts to hide the origins or ownership of the source of funds, either to cover up that they were owned by known terrorists (to escape the list comparison problem) or because the funds were in fact the proceeds of crime. This includes use of shell companies, front companies, offshore companies, international wire transfers etc. In other words, not different from AML typologies or

procedures already in place. While typical AML behaviors are often found this is by no means always the case.

Previous commentators have also noted that international transfers are often made from developed countries to the classic terrorism hot spots, Northern Ireland (IRA), Southern Russia (Chechnya), Northern India/Pakistan (also including some Hindu extremist terrorism), Spain (ETA), Colombia (FARC etc.), and of course the Middle East. We have also found this to be the case.

A huge number of the cases involve charities. Of course, this was predicted by Special VIII. Not surprisingly, the charities usually involve some ethnic or religious affinity that is often associated with terrorist activities such as Irish Catholic, Arab/Muslim/, Basque etc.

When transfers from OECD countries to regional host sports are involved, the topic I assume you all are most interested in, there is usually a charity registered as such in the OECD country which is are subject to tax and other supervision. The OECD based organization also typically has a real charitable purpose and is not a front - -it is at least dominated by non-terrorists, although sometimes someone involved in the charity is sympathetic to terrorism. The charity tends to support other local charities in "hot spots" that are themselves at least in theory subject to some kind of local supervision and are typically medical or educational in nature. Then some of the funds, often only a small percentage, is diverted to terrorist purposes. A review of assessments of compliance with special VIII suggests that while the US is quite good at supervising registered charities other OECD countries may be less so and many hot spot jurisdictions are not.

What might this suggest for CDD, transaction monitoring, and SAR filing? In a risk based system, it might suggest that higher risk will be indicated for any charity with a religious or ethnic affiliation that will send proceeds to hot spots, especially if the hot spots are in or through a jurisdiction with poor enforcement of Special VIII. Given that the US is now relatively good at regulating charities, a 501c(3) that has been in existence for some time might suggest a reduction in risk.

Part of enhanced CDD measures might be to check all persons involved with the US or OECD-based charity, trustees etc., not only through the OFAC list but through other data bases of persons suspected to be involved in terrorism. This might help identify those occasional sympathizers and lead to great diligence or the filing of a SAR. It also might not be too expensive for the FI. Another possible enhanced CDD in a higher risk case might be to require the charitable organization to provide copies of audited accounts, although this may be unlikely to uncover much.

Obviously the most important high risk indicator is a beneficiary charity in a hot spot. It does not at this stage look as if payment patters to such charities provide much information as to increased risk; many OECD charities make donations to hot spot beneficiaries that are completely legitimate in all patterns, small, large, many beneficiaries, few. Checking such patters would prove to be difficult for the OECD-based FI.

So much of what it appears to boil down to is this: terrorism financing appears in the hot spot located beneficiary, something the US based FI is unlikely to know much about not should probably be expected to know much about. Other than running a name check through known data-bases as to such beneficiaries there appears little for the FI to do.

Which goes to another quick point - - as a public policy matter we would not think that turning down clients simply because they are ethnic/religious based charities with beneficiaries in hot spots is a good idea. FIs should serve all the public, and racial or religious profiling is probably not a good idea.

There are also public policy implications of filing voluntary or defensive SARs because of the costs related to numerous false positives.

At heart, identifying terrorism financing appears to be the job of governments, not FIs. They should be vetting charities for probity. If they are so vetted, then FIs should be able to accept their business with greater confidence. The US is already playing an important role here with other OECD countries following suit. But the US and others, including intelligence agencies, should enhance their work with beneficiary charitable authorities, especially in hot spots, to identify weak organizations that might support terrorism, to close them down, and to make public to FIs elsewhere that they should not be engaging in transactions with such charities. The burden, in other words, should be more on governments and regulators in cases of CFT, at least those many cases involving charities.