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REGIMES OF PERMISSION

Export Credit Agencies, Anti-Money Laundering and Anti-Terrorism Financing

DIMES for bigger change

VU VRIJE UNIVERSITEIT AMSTERDAM

MILIEU DEFENSIE FRIENDS OF THE EARTH NETHERLANDS

ACRONYMS

AML	Anti-Money Laundering
ADSB	Atradius Dutch State Business N.V.
AML	Anti-Money Laundering
CFT	Countering the Financing of Terrorism
CSO	Civil Society Organization
CSR	Corporate Social Responsibility
EFA	Export Finance Australia
ECG	OECD Export Credit Group
FATF	Financial Action Task Force
JET	Just Energy Transition
ML	Money Laundering
NGO	Non-governmental organizations (NGOs)
NPO	Not-for-profits (NPOs)
OECD	Organisation for Economic Cooperation and Development
R8	FATF Recommendation 8
SACE	Servizi Assicurativi del Commercio Estero S.p.A.
TF	Terrorist Financing
UKEF	UK Export Finance
USEXIM	Export–Import Bank of the United States
WTO	World Trade Organization

COLOPHON

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SUMMARY

RELEVANCE OF THIS REPORT

Export Credit Agencies (ECAs) are institutions that many people have never heard about, even though they are important players in our financial systems, because they enable international trade in high-risk contexts. This report investigates the responsibilities of Export Credit Agencies (ECAs) in preventing and responding to money laundering and the financing of terrorism within broader financial crime prevention regimes.

The report originates from a need for more knowledge on whether and to what extent ECAs fall under existing regulations to counter money laundering and terrorism financing, or how they have otherwise implemented due diligence measures to reduce the risk of contributing to financial crimes. This is necessary because the report presents clear evidence that ECA-backed projects face risks of funding misuse and potential involvement in financial crimes, including money laundering and terrorism financing.

The report analyses the current responsibilities and capabilities of ECAs to participate in anti-money laundering and counter terrorism financing efforts. With this report we seek to fuel a discussion on whether and how ECAs should step up their role as gatekeepers to match the responsibilities of other financial institutions (such as banks) to prevent and detect illicit activities within the financial system.

ECAs play a major role in the global economy by providing government-backed financing, insurance, and guarantees to their countries' companies exporting goods and services abroad, particularly in large projects by large companies. Such projects are usually funded by multiple financial institutions but ECAs play a crucial role because, for projects in high-risk contexts, banks and insurers require ECA backing before they agree to provide additional loans or other support. In other words, ECAs make economic projects possible, which without their support might not have been feasible. Importantly, ECAs do not have a development mandate. They use public money to enable private sector investment in projects that are deemed high-risk by banks and insurers.

> "There is a very strong relationship between exporters and [ECAs] which has existed well before today's compliance and ESG requirements."

Impact of the anti-money laundering and counter terrorism financing (AML-CFT) regime

The global AML-CFT framework, primarily shaped by the Financial Action Task Force (FATF) and UN Security Council resolutions following the 9/11 attacks, was designed to combat terrorism financing by detecting and disrupting money flows that support terrorist activities. This marked the beginning of what some have called a 'new era of financial warfare.' The FATF's standards, endorsed by over 180 countries, have established a powerful compliance system through 'mutual evaluations' that significantly impact a country's financial reputation.

Financial institutions, since 9/11, were tasked with protecting the frontline in fighting terrorist financing, and together with other professional service providers are considered as 'gatekeepers' of the financial system. Since then, banks must now conduct thorough due diligence under the threat of hefty fines, criminal prosecution, and significant reputational harm. As an unintended consequence, some have started avoiding perceived risk by indiscriminately terminating or restricting services to, for example, non-for-profit organisations (NPOs), without case-by-case analysis. This has led to delays in transfers, frozen funds, and account closures for legitimate organizations, which in turn hampers their work.

This phenomenon called 'de-risking' by banks affects numerous NPOs globally, regardless of their size, geographic focus, or area of work. Recently, a Milieudefensie publication shows that AML-CFT regulations "are disproportionately impacting climate justice actors, effectively obstructing the global response to climate change".

OBJECTIVE AND METHODOLOGY

The report consists of seven Chapters. After introducing the topic (Chapter 1) and providing the background of the AML CFT regime (Chapter 2), in Chapter 3 we will get into the methodology that was used as a basis for the report. In Chapter 4 - 7 we present the findings of the research.

Data was collected to examine i) whether vulnerability for financial crimes, including money laundering and terrorism financing, exists for ECAs and ECA backed projects, ii) the existing legal and institutional frameworks that govern ECA compliance with AML CFT regulation iii) the way due diligence measures to prevent links to financial crimes based on other rules or recommendations are being implemented by ECAs, and the primary obstacles to conduct meaningful and effective due diligence and iv) whether and how ECAs could function as effective gatekeepers in the AML CFT regulatory landscape.

Data was collected through a comprehensive literature review, a legal analysis of a selection of ECAs focused on the applicability of AML CFT regimes is several jurisdictions and more than 40 semi structured interviews with experts.

KEY FINDINGS

1 **The inherently risky and sometimes volatile contexts in which ECAs provide support come with risks for involvement with financial crimes, arguably including money laundering and terrorism financing.**

Chapter 4 substantiates that the inherently risky contexts in which ECAs provide support carry financial crime risks, arguably including money laundering and terrorism financing. The chapter emphasizes how such risks are ever evolving, exemplified by expanding terrorist group designations (for example Trump declaring drug cartels as terrorist groups) or green corruption (misuse and diversion of financial flows under the guise of climate solutions). It then discusses a range of empirical cases of ECA fund misuse.

ECAs have historically supported projects in high-risk countries, such as those on FATF 'grey lists'. This creates exposure to funds being diverted, sometimes through intermediaries or shell companies or to groups involved in different types of (financial) crime. Added to this are vulnerabilities inherent in the trade finance system itself.

For years, journalists, NGOs and academics have exposed ECA projects linked to corruption, bribery, and money laundering, as well as transactions in tax havens that facilitate corruption. Recent controversial ECA-supported projects involve crimes such as support to sanctioned entities, money laundering and projects developed in conflict areas with ongoing terrorist activity. ECAs that have provided guarantees, insurance, or loans for projects mentioned in research reports include, at the least, the Dutch Atradius Dutch State Business (ADSB), Export Development Canada, France's COFACE, Germany's Hermes, Japan's former Export Import Bank (JEXIM), Belgium's OND, Italian SACE, Sweden's Exportkreditnämnden (EKN), the South African Export Credit Insurance Cooperation ("ECIC"), the Thai Export-Import Bank ("Thai Exim"), UK Export Finance (UKEF), US Export Import Bank (USEXIM). Some of the cases are presented in the full report, linking ECAs to cases of bribery, corruption and money laundering. No media reports indicate direct ECA or project partner involvement in terrorist financing. However, this chapter shows that risks of fund misuse by terrorist groups exist, and undetected cases might exist. As one AML-CFT expert interviewed for this study put it: "You have all of these smoking guns, but not that one? That seems a bit unrealistic". The Mozambique case (illustrated in Box 5), where Dutch company Van Oord continued work despite *force majeure* due to a large-scale terrorist attack in 2021, illustrates that ECAs participate in projects and areas where terrorism is a risk factor.

2 **From an AML-CFT point of view many ECAs appear to operate in a legal vacuum**

Chapter 5 shows that various ECAs fall outside the scope of financial crime supervision regimes that apply to other financial institutions, including AML CFT regulations. ECAs largely operate under voluntary compliance frameworks, guided by soft-law instruments such as the OECD's anti-bribery and environmental due diligence recommendations. In contrast, other financial institutions such as banks are subject to stringent, enforceable compliance obligations under AML-CFT and anti-corruption laws.

The report gives insight into several ways in which governments have chosen to shape their ECA's from a legal, organizational and operational point of view: where some governments have chosen to exercise full control over their ECA, others have tried to create more distance by letting their ECA be operated by a ((semi-)state owned) company. Generally speaking, ECAs that are seen as government agents are exempt from AML-CFT regulations and thus cannot be held accountable under AML-CFT regimes (e.g. ADSB and SACE). Only in the case where an ECA was seen as a private financial institution (e.g. EFA), AML-CFT regulation applied, but exemptions also existed in that case. In the case where the ECA was an integral part of the State, AML-CFT rules did not apply at all (UKEF). Currently, while the OECD offers a platform for discussion which may eventually nudge towards best practice, no centralized supervisory body exists to ensure consistent financial crime compliance across ECAs worldwide.

Voluntary frameworks, such as those issued by the OECD or the Berne Union, often lack enforcement mechanisms and rely on self-reporting, peer pressure, or reputational incentives rather than legal accountability. And while the OECD Recommendation on Bribery provides some guidance on bribery, it does not extend to other financial crimes like corruption, money laundering or terrorist financing. As a result of the fragmented nature of ECAs and the lack of a unified regulatory framework, there exists significant ambiguity in their overall due diligence responsibilities, which allows ECAs to operate at their own discretion when it comes to financial crime.

ECAs are – of course – still subject to domestic civil and criminal laws just like any other legal entity. They need to avoid direct involvement in bribery, corruption, money laundering, or related offenses. Failure to prevent or report illegal activities could result in criminal prosecution of individuals or institutions, especially if negligence is involved. However, there is no international (and often no national) binding *public law framework* that outlines how financial crime compliance should be implemented, which means that unregulated ECAs cannot be held accountable by supervisors of the financial system for failing to prevent financial crime.

3 Findings indicate that ECA compliance capacities are limited and client relationships are "too close to question"

The examples in the report illustrate a major concern: ECAs' compliance capacity. Some respondents who have worked closely with or for ECAs argue that ECAs, compared to banks, simply lack the required investigative units and do not have the mandate to gather this type of information.

Consequently, they rely heavily on data provided by their direct clients, creating information asymmetry between the ECA and the companies it insures or provides loans to. Respondents comment that the long-term relationship between exporter, companies and ECAs "is an obstacle in staying critical". The longstanding, deeply rooted relationship between exporters and ECAs often predates current emphasis on compliance and environmental, social, and governance (ESG) standards.

Their historical alignment has been shaped by shared economic goals, because ECAs are essentially enablers of domestic businesses. ECAs are structurally dis-incentivized to conduct thorough due diligence on clients because of the long-standing relationships, but also because ECAs have been created and mandated with the purpose of facilitating those clients' business on behalf of the government. Scrutinizing a client, let alone terminating the relationship with a client, could harm both the prospective client and state interests and this may threaten trade abroad. This dynamic contributes to what has been described as a "culture of wilful ignorance".

Also, respondents note that when ECA-backed projects are linked to financial crimes, ECAs often hear about this from news outlets, just like the public would. The burden of uncovering and revealing financial crimes around ECA-backed projects therefore lies in practice with journalists and CSOs: without the work of NGOs and journalists, ECAs might never find out about financial crimes (or human rights violations, for that matter).

> "ECAs often start some sort of internal change process when they read something bad about themselves in the news. Then, when they are not under scrutiny anymore, they stop. [...] They [ECAs] shouldn't be relying on NGO and journalist reports but find misconduct themselves."

In other words, cases presented in this research suggest that the reality of how ECAs perform due diligence does not provide a robust foundation for a meaningful due diligence process of any kind, due to limited capacity, closeness to clients and the 'approval by design' phenomenon. The resulting fragmented approach exacerbates vulnerabilities and creates opportunities for misuse of ECA funds.

Respondents indicate that ECAs could operate as a type of gatekeeper of the financial industry, but in terms of capacity they are currently not equipped to do so.

While banks have a critical role to play in terms of financial due diligence and compliance with AML-CFT rules, this should not absolve other key — including public- actors in the financial system - such as ECAs - from conducting their own due diligence. A more shared approach to financial crime compliance could enhance the overall integrity of the system. It may be worthwhile to consider the implementation of a public legal framework for financial crime due diligence to ECAs. Such a shift could reduce reliance on voluntary compliance mechanisms, promoting a more standardized and enforceable approach.

Our findings indicate that a rethinking of the role of ECAs as gatekeepers to combat financial crimes, such as money laundering and terrorism financing, is desirable or even necessary. Interestingly, respondents (including some ECAs) already conclude that ECAs can in fact be seen as gatekeepers of the financial system. The question is whether and how this gatekeeper role should be formalized and levelled with the gatekeeper roles of banks, and other financial institutions and professions.

In considering any expansion of ECA responsibilities, it is important to avoid the unintended consequences associated with de-risking and over-securitization—problems already observed in financial-sector gatekeeping and known to have serious real-world impacts, including on nonprofit organizations.

At the same time, insufficient due diligence carries its own risks, as financial crimes reinforce systems of impunity and poor governance that ultimately undermine people's rights and good governance. Specifically, discussions should address the barriers ECAs commonly face in achieving effective compliance, so that risk assessment and mitigation become genuinely meaningful processes.

> "There is a valid argument that they are gatekeepers of the financial system [...] They facilitate international, high-risk projects that check all the trade-based money laundering boxes. From a corporate citizenship perspective, I would say that this [current practice] is not sufficient. And if they already do it voluntarily, why not make it mandatory under the law?"

Conclusion and Discussion

ECAs occupy a distinct legal and institutional position in the financial sector, which sets them apart from other financial institutions. They operate in a regulatory twilight zone, and this fundamentally undermines financial crime prevention efforts.

Most ECAs are not formally subject to AML-CFT regulations. No overarching legal framework exists to guide implementation of financial crime compliance, except for some voluntary recommendations posed by the OECD. ECAs do carry out some financial compliance, motivated by a range of institutional and reputational considerations, but these efforts are often inconsistent and insufficient.

This disparity between ECAs and other financial institutions is remarkable given the scale and significance of ECAs' activities: ECAs are the biggest source of financial backing of infrastructure projects abroad and they are the world's largest international public financiers of fossil fuels. ECAs support high-value and high-risk projects in sometimes politically and economically volatile regions, often involving state and corporate actors. The reliance on voluntary AML-CFT compliance in such a critical domain creates a structural imbalance and double standards – holding private banks accountable through law, while granting state-backed ECAs broad discretion. Countries that are responsible for ensuring protection of their financial system apply strict scrutiny and impose hefty fines when private financial institutions fail to comply with AML-CFT regulation but do not impose similar oversight measures over their publicly supported ECAs.

Given their comparable, and in some cases even greater, direct and indirect (through their clients) exposure to financial crime risks, this regulatory gap raises the question why ECAs are not subject to more stringent financial crime oversight.

ECAs as instruments of regimes of permission

The findings in this report fit with a concept that stems from research into how state and corporate actors can intentionally and unintentionally facilitate harmful projects because of existing '*regimes of permission*'. Regimes of permission are the set of rules, arrangements and relationships that governments create to allow businesses to operate in ways that limit their accountability when harm is caused. Regimes of permission can be observed at two levels. First, at the level of the ECA, which operates outside regulatory frameworks that govern private financial institutions. Second, at the level of the businesses facilitated by ECA insurance and loans, businesses are not scrutinized as much as they would be by private insurers and banks. In effect, the exclusion of ECAs from the AML-CFT framework extends the regimes of permission to their corporate clients, effectively allowing commercial risks to be shifted onto taxpayers.

By facilitating exports that serve states' economic interests, ECAs reinforce the close relationship between governments and corporations by pursuing high-risk investments. These risks are mitigated not only through state-backed insurance and financing but also through comparatively limited regulatory oversight relative to non-ECA-backed activities. From a '*regimes of permission*' perspective, this regulatory "twilight zone" is no accident as it reflects policy decisions made both at the moment of creation of ECAs and during the introduction of later frameworks such as AML-CFT legislation. These measures were designed to promote capital flows while minimizing scrutiny, positioning ECAs as key instruments in the process of global capital accumulation. Moreover, as state failure to protect the financial system through effective AML-CFT regulation is punished by lowering a country's credit ratings, states are disadvantaged to include ECAs under such regulation, even when that would be in line with the spirit of AML-CFT regulation: protecting the integrity of the financial system, preventing and disrupting crime, and improving national and global security.

The "approval by design" process discussed in Chapter 6 illustrates how the role of compliance within ECAs may shift from its intended purpose of critical risk assessment toward facilitating predetermined outcomes. As one respondent noted, "You can mitigate all the risks in opening an oil field on indigenous land, but it is still a bad idea." This shift reflects what David Whyte describes as regulatory agencies being "caught somewhere between the despotic and the infrastructural, the coercive and the creative functions of states". ECAs try to balance two goals—supporting corporate exports and managing risks—but in practice the lack of capacity, closeness to clients and tendency to 'approve by design' makes the effective management of risks insufficient.

Regimes of permission tend to persist even when scandals occur, which seems to be mirrored by the lack of calls for better regulatory oversight for ECAs, after NGOs or journalists expose evidence of misuse of ECA funds. Therefore, improving ECA alignment with financial crime and human rights standards is not primarily about improving compliance with existing frameworks, but rather about addressing and altering the regimes of permission currently in place.

> "It is problematic that the financial side is often faster than the CSR side. At that stage the intention is already signed, waiting for CSR outcomes. Then, in principle, you can still formally reject. But the interests are so big at that stage that it becomes increasingly complicated."

SELECTION OF RECOMMENDATIONS

To ECAs

Critically assess your attitude towards the role of journalists, independent researchers and NGOs in flagging misuse of funds and human rights violations through ECA backed projects, and engage the journalists, independent researchers and NGOs for knowledge sharing and for information gathering in your due diligence processes

1. Aim to extend your due diligence checks to financial crime compliance including AML and CFT, applying this to you clients and your clients' projects. Assess and learn from other ECAs that have already put AML-CFT compliance processes in place and organize internal reflection processes on how to implement lessons learned into your compliance, monitoring & due diligence protocols. Ensure that withdrawal from providing ECA support is possible when compliance, monitoring or Environmental & Social assessments produce results that point to serious environmental, human rights and financial crime risks. Do not ignore or downplay red flags that are relevant for a reasonable decision. Avoid working towards approval of ECA support if this cannot be objectively or reasonably justified.

2. Because you are able to identify information very early on "at the front end", consider a closer collaboration with intelligence services. E.g. if you reject a proposal from a client due to financial crime risks, share this information with relevant authorities, in a timely manner, as it can be crucial to financial crime investigations.

To Financial Regulatory Bodies, Government supervisors

1. Familiarize yourself more with the work of ECAs, their mandate, transactions, clients and business operations and assess whether the current level of supervision matches the role of ECAs, considering their key position in global project financing and potential role as a gatekeeper of the financial industry.

2. Open discussions in your national regulatory context about the ECA as gatekeeper. Assess how better oversight can be organized and if a binding legal framework that outlines how financial crime compliance can or should be implemented.

To the OECD

1. Expand the bribery recommendation to include other financial crimes, such as money laundering and terrorist financing and provide guidance for its implementation.

2. Open discussions with governments, ECAs, civil society, and the FATF to assess how supervision of ECAs is currently organized, with the intention to harmonize ECA supervision on an international level – thus creating level playing field for all ECAs.

To the FATF

1. Familiarize yourself with the work of ECAs, their mandates, transactions, clients, business operations and risks in relation to financial crimes, and critically assess whether the current degree of supervision matches the role of ECAs considering their potential role as gatekeepers of the financial industry.

2. Include the role of ECAs in your publications and guidance on trade finance, assess the AML-CFT risks of ECAs and determine what this means in terms of client due diligence

To NGOs and Journalists

1. Investigate and report about the societal costs of ECAs failing to perform their function. ECAs are supported by taxpayer money, meaning that the public has a right to understand how its money is being used.

2. Initiate the debate—both at international fora such as the OECD and within your national regulatory context—regarding the role of the ECA as a gatekeeper, and its implications for enhanced oversight or the establishment of a binding public law framework governing the implementation of financial crime compliance.

1

INTRODUCTION

Export Credit Agencies (ECAs) play a major role in the global economy by providing government-backed financing, insurances, and guarantees to domestic companies exporting goods and services abroad. They occupy a unique and powerful position within the global financial architecture, operating at the intersection of public policy, international trade, and high-risk financial and commercial environments. As institutions that deploy billions in government-backed financing, ECAs represent a critical yet understudied institution.

ECAs promote national economic interests and support businesses in accessing international markets particularly in projects deemed too risky by regular (private) lenders or investors unless there is backing from one or more ECAs.[1] Consequently, the participation of ECAs often serves as a catalyst for other financiers, investors and businesses to become involved with a project. According to the Organization for Economic Cooperation and Development (OECD), ECAs are used to "assume at least the political risk (risk of non-payment because of government imposed restrictions) of providing export credits[2] to foreign buyers."[3] ECA's are also among the primary providers of public financial support for corporate industrial projects in the Global South and annually provide around USD 2.5 trillion of payment risk protection to banks, exporters and investors - equivalent to 13% of world cross border trade for goods and service.[4]

ECAs come in many different sizes, shapes and legal forms, depending on historical institutional developments and national policies. For example, ECAs can be private companies, state enterprises, or even act as part of a ministerial department of a state. What ECAs worldwide all have in common, however, is that by providing government-backed loans, guarantees, credits and insurance to private companies, they enable companies to do business abroad, particularly in financially and politically risky contexts. ECAs facilitate the development of large-scale, capital-intensive projects in some of the world's most volatile, controversial, and environmentally damaging industries. Many ECA-supported ventures are considered too risky or potentially harmful for the World Bank Group and other multilateral development banks to finance.[5]

Recently, ECAs have come under increasing criticism for financing projects that contribute to environmental harm, climate change, human rights violations, and unsustainable debt in low- and middle-income countries.[6] In particular, ECAs have been linked to the continued funding of fossil fuel infrastructure, undermining global climate goals and contradicting the environmental commitments of their own governments.[7] In 2021, at the 26th United Nations Climate Change Conference (COP) in Glasgow in November 2021, an agreement was made to end international public finance for fossil fuels[8] and to fully prioritize international public finance for clean energy.[9] Since 2012 the OECD has developed norms known as the "Common Approaches"[10] which are complemented by some other voluntary recommendations of the OECD[11] on social and environmental standards. These voluntary norms and recommendations are applied in ECA-supported projects. But ECAs appear to largely avoid regulation and public scrutiny[12] leading to what some call an "accountability gap".[13] Consequently, not only does the public often remain unaware of what ECAs are and do – even in relation to controversial activities. But also, **there exist very limited ways to hold ECAs accountable in cases of controversy**.

This accountability gap is not limited to environmental harm, climate change, human rights violations and unsustainable debt: there are strong indications that ECAs' "risk-dealing" function also applies to export finances for projects in countries with high levels of financial crime,[14] which heightens the risk of misuse of funds and ECA involvement in bribery and corruption, as has been documented over the years.[15]

> "There is currently a mismatch between the level of information provided to the public on the allocation of export finance and the significant volumes of economic resources ECAs have at their disposal, as well as the risks involved in terms of environmental and social impact."[16]

1.1 AIM AND OUTLINE OF THE STUDY

Over the past two decades, more research has been done into the environmental and human rights implications of ECA-backed projects, highlighting patterns of environmental degradation,[17] community displacement,[18] and social conflict.[19] Since the 2016 Paris Agreement, research has also focused increasingly on the climate impact of projects supported by ECAs. As a result, questions around ECAs' accountability for upholding international environmental, climate and human rights standards have become a topic of debate, particularly for NGOs working on climate change, human rights or corruption.[20] In addition, academics, investigative journalists and civil society actors have linked ECA-backed projects to corruption,[21] bribery[22] and tax havens,[23] and have questioned how ECAs conduct general client screenings and due diligence.[24]

Less attention, however, has been paid to ECAs' responsibilities in preventing and responding to (risks of) money laundering and preventing the financing of terrorism, within broader financial crime prevention regimes. Little is known about how, and to what extent, ECAs in different jurisdictions are subject to anti-money laundering and countering the financing of terrorism obligations and how ECAs implement due diligence measures to prevent links to financial crimes based on rules or recommendations. This is problematic because ECAs operate in high-risk countries and provide support to projects within complicated contexts, which could increase the risks of both money laundering (and other financial crimes, see chapter 4 of this report) and terrorism financing.

This report aims to fill said research gap by examining i) whether vulnerability for financial crimes, including money laundering and terrorism financing, exists for ECAs and ECA backed projects, ii) the existing legal and institutional frameworks that govern ECA compliance with AML-CFT regulations, iii) the way due diligence measures to prevent links to financial crimes based on other rules or recommendations are being implemented by ECAs and the primary obstacles to conduct meaningful and effective due diligence, and iv) whether and how ECAs could function as effective gatekeepers in the AML-CFT regulatory landscape.

The current report is part of a series that addresses how anti money laundering and counter terrorism financing (AML-CFT) regulation impacts different stakeholders in disproportional ways.[25]

By raising and answering questions on the anti-money laundering and anti-terrorism financing responsibilities of ECAs, we seek to stimulate (public) discussion in relation the ECAs' role as a potential gatekeeper of the financial sector. We also intend to obtain documentation about whether and how ECAs have created – or are trying to create – a robust system of financial due diligence and transaction monitoring.

Chapter 2 first outlines the origins of the AML-CFT framework, how it has developed over the last 25 years, how ECAs fit into the framework, and some of the framework's major impacts. Chapter 3 sets out the methodology that was employed by the writers of this report. Chapter 4 provides indications of the vulnerability of ECA funded projects by describing cases of misuse of ECA funds and recent risks. Chapter 5 examines the position of ECAs within the regulatory landscape and Chapter 6 examines ECA compliance with principles of AML-CFT regulation and other financial crime prevention frameworks in practice. Finally, in Chapter 7 we place the different findings in the broader context of the ECA accountability gap with the aim to provide recommendations to the United Nations, the OECD, the Financial Action Task Force, NGOs, governments and ECAs.

2

THE AML-CFT FRAMEWORK AND ITS IMPACTS

Since the September 11 attacks in 2001, the notion that detecting and disrupting money flows is an effective way to combat terrorism[26] has led to major legal and regulatory changes to address terrorism financing.[27] On 28 September 2001, the United Nations (UN) Security Council adopted a resolution[28] that called for states to prevent and suppress the financing of terrorist acts by criminalization of provision or collection of funds related to terrorist acts.

The United States government had an influential role in shaping these standards at the multilateral level, while also swiftly rolling out a series of domestic regulations – often quietly and with little public scrutiny – aimed explicitly at transforming the strategic use of financial instruments.[29] This marked the beginning of what some have called a "new era of financial warfare."[30] In October 2001, the anti-money laundering (AML) mandate of the inter-governmental Financial Action Task Force (FATF)[31] was expanded to include also counter terrorism financing (CFT) by adding eight Special Recommendations. Domestic implementation of FATF recommendations has led to states implementing new measures, or intensifying existing ones, which included, for example, the criminalization of terrorism financing, targeted financial sanctions and asset freezing. Moreover, law enforcement agencies and financial intelligence units (FIUs) were awarded additional authority and resources. The FATF standards, which were consolidated into 40 recommendations from 2012, enjoy a high level of authority as they have been endorsed by over 180 countries. They were also incorporated into UN Security Council resolutions and used by the World Bank and the International Monetary Fund.[32]

While the UN sets the broad framework for counterterrorism through its resolutions and sanctions regimes, it is the FATF that exerts the most practical influence over the combined AML-CFT efforts. This is largely due to the FATF's rigorous peer-reviewed mutual evaluation process applied to states, which enforces compliance more stringently.[33] The results of these evaluations carry significant weight, affecting a country's financial reputation, access to trade, and attractiveness to investors. Vulnerabilities to money laundering and terrorism financing are identified on a national level by the FATF grey list and designation of "Jurisdictions under Increased Monitoring" that have strategic deficiencies in their system for combatting money laundering, terrorist financing and proliferation financing.[34] Structural, periodic assessments by the FATF ensure continuous scrutiny, and a poor rating can seriously affect a country's financial and economic prospects.[35] The effect of the AML-CFT framework is why the FATF, by some, is called "the most powerful organization most people will have never heard of."[36]

In this second chapter, we describe three important consequences of the implementation of the AML-CFT framework. First, as national security policies evolved, actors like the FATF, finance ministries, and private banks were assigned expanded roles, with banks - often reluctantly - effectively deputized to enforce AML and CFT standards, as is further explained in section 2.1. Second, as will be explained in section 2.2, civil society organizations were disproportionately affected in a negative manner, losing access to resources and banking services due to a now-discredited assumption that they were especially vulnerable to terrorist financing. Third, the FATF identified the vulnerability of the international trade system, in the sense that it can be misused by criminal organizations and terrorist groups . This is described in section 2.3.

2.1 BANKS' GATEKEEPER ROLE AND ITS EFFECTS

Due to FATF's guidelines and recommendations, financial institutions and other professional service providers – such as notaries, accountants, insurers and lawyers – are considered as "gatekeepers" of the financial system. In that role, they have a responsibility to prevent that their services are being used to carry out or facilitate criminal activities.[37]

Enforcement of the increasingly stringent AML-CFT regulation has - for an important part – been assigned to the financial services industry. Especially banks, and their governmental supervisors, are placed at the front line of fighting Terrorist Financing (TF) and tasked with combating the risks of TF. In addition, they have become increasingly responsible for transaction monitoring and policing of money laundering (ML), proliferation financing and other illicit financial flows. The risk management practices and financial due diligence of financial institutions principally consist of five areas, which – broadly speaking – are all part of transaction monitoring and know-your-client (KYC) checks:

- assessment, understanding, management and mitigation of risks;
- customer due diligence (CDD) or potentially enhanced due diligence (EDD) requirements, including identification and verification of new customers;
- ongoing monitoring in relation to all business relationships and transactions;[38]
- management of information, including record-keeping requirements;
- reporting of suspicious transactions to the relevant authority and taking action, such as asset freezing if necessary.[39]

Banks and other money transfer operators, but also other AML-CFT regulated professionals – such as insurers, notaries, lawyers and accountants – **must now conduct thorough due diligence under the threat of hefty fines**,[40] criminal prosecution,[41] and significant reputational harm if found in breach of these regulations.[42] In practice, this incentivizes banks (and other financial services professionals), to apply stricter and increasingly risk-averse approaches to reduce their exposure "in order to shield themselves from any possible risk of liability under counter-terrorism [and anti-money laundering] legislation"[43].

The gatekeeping responsibilities imposed on banks come at a price. Recent estimates indicate that nearly one in five bank employees are now dedicated to compliance tasks, such as KYC procedures and due diligence checks.[44] Depending on the size of the bank, these obligations can be costly. While banks accept their role as gatekeepers, this responsibility is not always in line with their profit-seeking identity. A study by McKinsey & Company for the Dutch Payments Association, for example, found that KYC checks cost banks in the Netherlands almost €565 million a year.[45]

While most banks and other financial institutions are relatively well positioned to absorb the impact of new regulations, as they can charge additional fees to their clients, a problematic unintended consequence of the tightened AML-CFT regimes has become visible. Financial regulators and supervisors worldwide are increasingly assertive in enforcing compliance with AML-CFT rules[46] across financial institutions, which has had an impact on the banking access of certain customer segments, particularly not-for-profit organizations (NPOs).

2.2 DE-RISKING OF NPOS AND 'FATF RECOMMENDATION 8'

FATF's Recommendation 8, from 2001 until 2016, identified NPOs[47] – including civil society organizations (CSOs) and non-governmental organizations (NGOs) – as 'particularly vulnerable' to abuse for the financing of terrorism.[48] From a financial perspective, this represented a dramatic shift in the treatment of CSOs and NGOs, which had long been praised as partners in democratization and peace building and now became subjects of suspicion by banks.[49] Even though Recommendation 8 was removed in 2016, its effect has been dramatic and persistent.

As a consequence of Recommendation 8, **banks subjected NPOs to a practice called "de-risking"** which entails "the practice of financial institutions delaying cash transfers to, exiting relationships with and closing the accounts of clients considered 'high risk'".[50] While banks have a right to take steps to decrease the risk that its services are abused for criminal activities, de-risking in this regard refers to "specific acts by banks that are deemed overzealous, unnecessary, disproportionate or even discriminatory."[51] Moreover, as banks reassessed their risk appetite, they weighed the legal and regulatory risks of engaging with "risky" clients and transactions against potential profit margins. Because such profit margins are marginal for NPOs, compared to those in profit-driven sectors, any perceived risk easily outweighs expected profits from doing business with NPOs.[52]

De-risking by banks affects numerous NPOs globally, regardless of their size, geographic focus, or area of work. Various studies have established the impacts of AML-CFT regulation on humanitarian NGOs,[53] development NGOs[54], women's rights organizations,[55] animal activism groups[56], and organizations researching the field of organized crime.[57] Recently, a Milieudefensie publication showed that **AML-CFT regulations "are disproportionately impacting climate justice actors**, effectively obstructing the global response to climate change".[58]

The issue of de-risking and overzealous AML-CFT implementation has reached such a level, that several banking authorities, such as the European[59], the British[60] and the Dutch,[61] as well as the FATF itself[62] have published guidelines on how to ensure that de-risking of entire client groups does not occur. However, CSOs – many of which are already operating under significant pressure – continue to face great challenges in carrying out their missions effectively.

2.3 AML-CFT RISKS INHERENT TO THE TRADE SYSTEM

FATF has described the international trade system as vulnerable for money laundering and terrorism financing on several occasions, at least in 2006,[63] 2008,[64] and 2020.[65] This vulnerability is the result of the complexity of international transactions, multiplicity of parties involved – such as buyers, sellers, banks, shipping companies – and the large volumes of documentation to be reviewed by sectoral actors. Criminal organizations and terrorist financiers manage to move funds through the trade system, for example to disguise the origin of the funds to facilitate criminal or terrorist activities. FATF states that trade finance, also given the growth of world trade, is an increasingly important money laundering and terrorist financing vulnerability which "can be expected to become increasingly attractive."[66] The Dutch Banking Association (*Nederlandse Vereniging van Banken, NVB*) agrees that international trade can be vulnerable to abuse and facilitate money laundering and terrorism financing, especially when high risk customers, business activities, goods, and countries are involved. And when higher risks are at stake, additional scrutiny from gatekeepers is required, based on AML-CFT rules.[67]

As described above, ECAs play a crucial role in the international trade system as they provide key financial services in high-risk contexts and enable other project stakeholders to step in. Yet, in contrast to NGOs, they have not been singled out as high-risk actors by FATF or other regulators. As a consequence, despite their key position in project development and financial investment, many ECAs worldwide are not bound by AML-CFT rules, or only partially.

3

METHODOLOGY

This study employs a qualitative research approach to examine i) whether vulnerability for financial crimes, including money laundering and terrorism financing, exists for ECAs and ECA backed projects, ii) the existing legal and institutional frameworks that govern ECA compliance with AML CFT regulation iii) the way due diligence measures to prevent links to financial crimes based on other rules or recommendations are being implemented by ECAs and the primary obstacles to conduct meaningful and effective due diligence and iv) whether and how ECAs could function as effective gatekeepers in the AML-CFT regulatory landscape. The research draws on three primary methods: a comprehensive literature review, a legal analysis of a selection of ECAs focused on the applicability of AML-CFT regimes in several jurisdictions, and semi-structured interviews with experts.

First, we conducted 4 exploratory interviews with researchers who have studied the role of ECAs to gather information and suggestions for relevant literature. Second, the literature review involved the analysis of academic publications, legal documents, policy reports, news articles, investigations by journalists, and international regulatory guidelines relevant to ECAs, AML-CFT frameworks and similar financial crime compliance. This gave insight in the regulatory landscape, generated a first picture of ECA projects linked to financial crimes, and highlighted key gaps in existing research related to ECAs' (financial crime) accountability.

To complement the literature review, a legal analysis was done on four ECAs: the ECA in Australia (Export Finance Australia or "EFA"); the ECA in the Netherlands (Atradius Dutch State Business N.V. or "ADSB", the ECA in Italy (SACE S.p.A. or "SACE") and the ECA in the United Kingdom (UK Export Finance or "UKEF"). This analysis provided an understanding of the legal forms of these ECAs and whether they are subject to AML-CTF rules and gave insight into the way different governments have chosen to set-up their ECA's from a legal, organizational and operational point of view. Finally, to complement the desk research, a series of 20 semi-structured interviews (with a total of 25 respondents) were conducted with key stakeholders, including compliance professionals, legal experts, financial intelligence analysts, policymakers, (ex-)employees of ECAs and financial institutions, and civil society representatives with expertise on export finance, financial regulation, and financial crime.

To facilitate open and candid dialogue, all interviews were conducted under Chatham House Rules, which means that neither the identity nor the affiliation of the respondent will be revealed. This approach ensured anonymity for participants and encouraged more honest and detailed reflections on the challenges and limitations faced in practice. In order to use quotes and information provided by the respondents the report only refers to the number assigned to the respondent. Respondents have been categorized into three categories: civil society or journalism (C), international or governmental bodies (excluding ECAs) (I) and private and financial sector, including ECAs (P).

The data collected through interviews was analysed thematically, identifying recurring patterns, tensions, and perspectives that substantiate the study's findings and conclusions. The combination of literature review and stakeholder insights allows for an understanding of both the formal rules and the real-world dynamics shaping ECAs' AML-CFT compliance and accountability practices.

The limitations of this study are primarily related to the opacity of ECAs and the restricted availability of public information. ECAs tend to operate with limited transparency, particularly in areas of compliance practices and internal risk management. Additionally, while the research aimed to include insights from a diverse range of ECAs, not all targeted institutions were willing to participate in interviews. Despite repeated outreach and follow-up efforts, several ECAs declined to engage in in-depth discussions and instead referred the researchers to publicly available information on their websites, which often provided limited information in terms of compliance and risk management.

These constraints impacted the research, as it was not possible to investigate the entire span of how ECAs perform compliance and risk management. While a relatively clear view of the landscape was obtained, for certain ECAs richer insights could be drawn from more responsive participants compared to understanding the practices of less transparent or less engaged ECAs. Nonetheless, the combination of available data and stakeholder interviews provides a valuable foundation for identifying key topics and raising critical questions for further debate and investigation.

4

MISUSE OF ECA FUNDS – RECENT RISKS

As described in Chapter 1, ECAs operate in inherently risky and volatile contexts and are crucial actors in the international trade system. Therefore, many large-scale projects backed by ECAs come with risks of money laundering, terrorism financing and other financial crimes. In section 2.3. we showed how FATF also identifies these risks, which are inherent to the trade system. This fourth Chapter elaborates on recently identified, additional risks pertaining to the evolving definitions and frameworks surrounding financial crimes, an umbrella crime category for misuse of ECA funds, including money laundering and terrorism financing. Subsequently this chapter **presents a substantial body of empirical evidence documenting examples of fund misappropriation amounting to accusations of financial crime in the context of ECA-backed initiatives**. It evidences that the inherently risky and volatile contexts in which ECAs operate indeed leads to increased risks, also for money laundering and terrorism financing.

4.1 NEW TERRORIST LABELS AND GREEN CORRUPTION

The landscape of financial crime is always in flux, because of geopolitical developments such as Russia's invasion of Ukraine, which has created changes to the sanctions system[68] as well as legislative developments, such as the 2024 publication of a comprehensive "AML Package" by the European Union.[69] Other emerging risks include the laundering of proceeds from environmental crime and cybercrime, the labelling of various groups as terrorists by state actors, and green corruption. This dynamic environment affects not only commercial banks but also ECAs, which specifically tend to operate in high-risk regions and sectors where governance structures may be weak and corruption more prevalent.

Some risks emerge from a global tendency to apply the label of terrorism to increasingly varied groups of actors. The US Justice Department has prosecuted major companies for providing material support to various groups designated as terrorist organizations, particularly when those companies made payments to continue operating in areas under such groups' control. In 2022 for example, French cement company Lafarge pleaded guilty in a US court and agreed to pay $778 million in penalties after its Syrian subsidiary had paid $5.92 million to ISIS during the 2013–2014 civil conflict.[70]

In January 2025, US President Donald Trump classified drug cartels as terrorist organizations, which increased the risk of American companies operating in parts of Latin America to face US criminal prosecution for terrorism financing.[71] Switching the narrative from crime to terrorism, brings "a far more damning charge than simply having ties to criminal organizations,"[72] explains Foreign Policy.

Furthermore, there are increased risks around "green corruption", a novel category of corruption risks that are emerging in climate solutions, spanning the misuse and diversion of financial flows and "climate-washing." Participants to the OECD's Arrangement on Officially Supported Export Credits have agreed to allow more flexible financing terms for climate-friendly projects and intend to expand support for green projects.[73]

box 1

Green Corruption

Green corruption entails that poor integrity in the implementation of projects that aim to combat climate change, pose a new risk for money laundering. According to a study by the London School of Economics, the misuse and diversion of financial flows from climate action can materialise in bribery, money laundering, misappropriation of funds, and tax fraud. For example, criminals exploit carbon credit markets to launder money, using purchases and subsequent trades to conceal illicit funds. According to Interpol and UNEP, such schemes have evolved from wildlife trafficking and smuggling banned substances to carbon credit fraud, taking advantage of the market's growth and lack of transparency.[74]

4.2 EMPIRICAL CASES OF ECA FUND MISUSE

While ECAs are intended to promote legitimate trade and development, they have at times been implicated—directly or indirectly—in questionable projects linked to misused ECA funds. There is empirical evidence that ECAs have financially supported or insured projects linked to financial crimes such as corruption, bribery and money laundering. While this report does not have the capacity to cover an exhaustive list of examples of financial crime associated with ECAs, a few **examples have been selected to illustrate how ECAs can be involved – directly or indirectly – with financial crimes**.

box 2

SACE insures sanctioned lender Gazprom

Online news magazine the diplomat reported in March 2024 that Italy's state-owned insurer, SACE, is guaranteeing the financing of at least two deals worth 51.4 million euro of a petrochemical project in Uzbekistan that could be backed by Russia's Gazprombank, raising doubts about a potential indirect collaboration between Italian institutions and a lender under US and UK sanctions.[75] With a $3 billion commitment, Singapore-based Enter Engineering Pte. Ltd. serves as the project's main contractor and maintains clear connections to Gazprombank. Investigations suggest that in the event of default, Enter Engineering's shares could be transferred to Gazprombank, raising concerns about indirect support for a sanctioned entity. The Italian government has not publicly addressed this risk.[76]

Journalists, NGOs and academics have for years exposed ECA projects that have been linked to corruption,[77] bribery[78], and money laundering,[79], as well as the usage of tax havens.[80] [81] Other more recent controversial ECA supported projects involve crimes such as support to sanctioned entities, money laundering and support of projects that are being developed in conflict areas characterized by ongoing terrorist activity (as described in the boxes 2 to 4). ECAs that have provided guarantees, insurances, or loans for these projects mentioned in reports include the Dutch ECA Atradius Dutch State Business (ADSB), Export Development Canada, France's COFACE, Germany's Euler Hermes, Japan's Export Import Bank (JEXIM), Belgium's OND, Italian SACE, Sweden's Exportkreditnämnden (EKN), the South African Export Credit Insurance Cooperation ("ECIC"), the Thai Export-Import Bank ("Thai Exim"), UK Export Finance (UKEF), and US Export Import Bank (USEXIM).

box 3

ADSB continues to work with Damen Shipyards, investigated for money laundering and with Van Oord and Boskalis, investigated for corruption

In April 2025 the Dutch Public Ministry announced that it will prosecute the Dutch shipbuilder Damen Shipyards, along with its current and two former CEOs.[82] Damen Shipyards is a regular customer of the Dutch ECA Atradius DSB. According to sources within the Public Prosecution Service, Damen is accused of bribery, money laundering, and violating sanctions issued against Russia. The prosecution decision marks the conclusion of a seven-year investigation.[83] However, already in 2019, it became clear that Damen had - for years - provided incorrect information in its export insurance applications to ADSB fourteen times. Specific details on such irregularities remain unclear. The insurance applications are forms to be filled out by the applicant of an insurance. The forms contain detailed information about the applicant and the activities the applicant wishes to insure with the help of ADSB.

Despite the pattern of irregularities, the shipbuilder continues to be one of ADSB's biggest clients. In 2019 Dutch newspaper NRC reported that "the lines of communication between the commercial staff at Damen Shipyards and Atradius DSB are short [and] the relationship between Damen and Atradius DSB is so close that the shipbuilder is allowed to make mistakes with impunity."[84]

The company Van Oord, an important long-time customer of ADSB, is currently also subject of a major corruption investigation in Romania. Recorded conversations suggest that in 2024 a Van Oord representative offered bribes in exchange for obtaining a 90 million euro contract for reparations works in and around the port of Constanța on the Black Sea. Another significant client of ADSB, the Dutch dredging company Boskalis, is subject of the same corruption investigation in Romania.[85]

Another example is the Lesotho Highlands Water Project (LHWP), a major infrastructure initiative in Southern Africa, which received support from several ECAs including Germany's Euler Hermes, France's COFACE, South Afrikaans's SACE and Britain's ECGD (now UKEF), mostly during the early phases of the project in the 1980s and 1990s. The project, while key to regional water supply and hydroelectric power, also became infamous for widespread corruption and reports of exacerbating conflict. None of the export agencies, however, conducted background checks on the corruption histories of the companies bidding for contracts.[86]

Similarly, CBC reported that in 2019, Canada's export credit agency EDC, came under scrutiny for financing and insuring the Canadian engineering and construction firm SNC-Lavalin while the firm was embroiled in a major corruption scandal. Accused of bribing Libyan officials between 2001 and 2011, SNC-Lavalin received EDC's support throughout this period. EDC staff were reportedly unaware that their loans might have contributed to bribery and corruption.[87]

In 2022, Dutch financial newspaper FD published that in recent years, the Dutch export credit agency ADSB had been involved in several corruption scandals. For instance, ADSB insured a project of dredging company Van Oord in Angola, which is linked to accusations of large-scale corruption by the Angolan presidential daughter Isabel dos Santos.[88] And according to newspaper Trouw, ADSB also guaranteed commercial deals of Dutch companies with oil and gas companies owned by Gennadi Timchenko, a confidant of Russian president Putin on behalf of the Dutch State. In 2020, Dutch company Howden Thomassen Compressors received backing from ADSB to supply compressors worth more than 8 million euros to Timchenko's gas company Novatek. And in 2014, ADSB insured two deals with companies affiliated with Timchenko: the supply of offshore equipment by Dutch company Bluewater Energy Services to gas company Stroytransgaz and consultancy services by Fluor BV to petrochemical company Sibur. Experts reacted critically because the Russian oligarch had been on a US sanctions list since 2014.[89] Research revealed that "it was unclear to employees how they should conduct investigations, for they lack the necessary knowledge, and documentation of checks that are carried out is inadequate." [90]

A 2020 study by Beiszley and Hawley found that UKEF has supported £340 million of corrupt contracts by major clients, Airbus and Rolls Royce, who have both been fined in the UK and elsewhere for global bribery schemes. Despite harbouring suspicions about Airbus, UKEF delayed notifying the Serious Fraud Office for 13 months. Companies that violate anti-bribery commitments made to UKEF face no penalties, and – according to journalists - to date, UKEF has never rejected an application for a project linked to suspected corruption.[91]

In December 2024, Bloomberg reported that commodities trading company Trafigura faced charges of corruption and bribing public officials in Angola.[92] Shortly thereafter, an open letter was sent by FoE US to EXIM Bank[93] urging it to suspend a $400 million financing agreement approved with Trafigura in July 2023. The letter raised concerns about EXIM's due diligence in vetting recipients of export credit support and its procedures for reassessing support when allegations of corruption emerge, following investigations launched by both U.S. and Swiss authorities into Trafigura's activities. In January 2025, a Swiss court convicted Trafigura of corruption charges in what was called "a landmark case".[94]

box 4

Fraud and money-laundering through US EXIM bank

In 2012, a Texas resident was sentenced to 15 months in prison for his role in a scheme to defraud the Export-Import Bank of the United States (US EXIM) of more than $690,624. Cuevas, the owner of a farm equipment company in Texas, admitted to participating in a scheme to defraud lenders by submitting false documents to secure two EXIM–insured loans, supposedly for exporting equipment to Mexico. In reality, he helped co-conspirators in Mexico obtain the loans and then laundered the funds by illegally transferring the loan proceeds to them and others in Mexico.[95] Finally, a 2013 report by the Dutch NGO Both ENDS[96] showed that a great number of companies receiving ECA support channel their business transactions through tax havens such as the Bahamas, British Virgin Islands, Cayman Islands, Jersey and Cyprus. A study conducted by Koch confirmed in 2022 that UK and Dutch ECAs backed significantly more transactions to tax havens than to non-tax havens: this "is relevant because these tax havens have been shown to play a pivotal role in the facilitation of corruption over the last couple of decades."[97]

box 5

ADSB, SACE, UKEF, US EXIM continue to support Mozambique LNG project in spite of terrorist attacks

The same week ADSB started supporting the Mozambique LNG project, a local jihadist group carried out a terrorist attack in the area, after the region had experienced multiple terrorist attacks in the years prior. Approximately one thousand people were killed, including people who were working on the project. Project operator TotalEnergies temporarily suspended the project but is now considering resuming. In March 2025 the newly appointed board of the United States' ECA US EXIM, selected by the Trump administration, approved a $4.7 billion loan to the project.[98] And in October 2025 it became clear that – despite the project's suspension – Dutch dredging company Van Oord, with the backing of a credit export insurance from ADSB, had continued its preparatory work on the project.

In 2025, the French Public Prosecutor announced that it has opened a preliminary investigation into Total's dealing with the Palma attack in 2021[99] and continued with an investigation for involuntary manslaughter in connection with the terrorist attacks. On November 17, TotalEnergies was formally accused of complicity in war crimes and torture in a criminal complaint regarding the terrorist attack, filed in Paris by the European Centre for Constitutional and Human Rights.[100]

Late 2025 UKEF terminated their support for the Mozambique project. ADSB ended their their export credit insurance for Standard Chartered but maintained their support for van Oord.[101]

4.3 CONCLUSION: EVIDENCE OF SYSTEMIC VULNERABILITIES IN ECA OPERATIONS

The case studies of this chapter show that **the general risk of financial crime often goes hand in hand with geopolitical and regulatory developments, and that identifiable risks can result in actual misuse of ECA support**. ECAs have historically supported projects in high-risk countries, such as those on FATF grey lists. This at the least creates exposure to funds being diverted, sometimes through intermediaries or shell companies or to groups involved in different types of (financial) crime, as evidenced by the list of instances above. Added to this are the vulnerabilities inherent in the trade finance system itself—particularly when factoring in risks associated with the parties involved in trade finance, their backgrounds and business operations, and the nature of the traded goods.

So far, there have been no media reports indicating direct involvement of ECAs or project partners in terrorist financing. However, this chapter shows that **the risks of the misuse of funds by terrorist groups are there**, and that undetected cases might exist. As one AML-CFT expert that was interviewed for this study put it: "You have all of these smoking guns, but not that one? That seems a bit unrealistic".[102] Specifically, the case of Mozambique (Box 5), where the company Van Oord continued its work despite a situation of force majeure, illustrates that ECAs participate in projects and areas where terrorism is a factor of risk. The case shows that, despite this circumstance, ECA clients remain at liberty to continue to provide support even when a force majeure is in place[103] – which has been declared precisely because terrorist activities are occurring.
This demonstrates that, at the very least, the risk of terrorist financing exists in such contexts and cannot be easily disregarded.

5

THE EXCEPTIONAL STATUS OF ECAS AND THEIR REGULATORY LANDSCAPE

This Chapter highlights the apparent exceptional status of ECAs within the financial regulatory landscape. And describes the regulatory structures by which they are governed. To illustrate how these structures manifest in practice, we present case studies of four ECAs: ADSB (Netherlands), SACE (Italy), EFA (Australia), and UKEF (United Kingdom). Each case study examines the ECAs' legal structure, relationship to the national government, and specific position regarding AML-CFT obligations. This comparative approach allows us to identify both common patterns and important variations in how different jurisdictions have positioned their ECAs, relative to financial crime prevention frameworks. The Chapter shows how some ECAs are exempted from the full force of both public oversight mechanisms and financial regulation, while others are not. Consequently, some ECAs appear to operate within a regulatory or supervisory vacuum, while others work within a clear legal framework. **This ambiguity—rather than mere shortcomings in implementation or isolated instances of misconduct—constitutes the core challenge in addressing financial crime risks within ECA operations.**

5.1 ECAS AS STATE AND/OR CORPORATE ACTORS: EXCEPTIONALISM AND "CORPORATE WELFARE"

ECAs are a major source of financial support for domestic companies involved in foreign industrial projects. While ECAs were developed by national governments after World War One to promote the competitiveness of their countries, after spurring international trade in the 1950 and 1960s, losses of the late 1970s and early 1980s led to a wave of privatization of ECAs.[104] ECAs have an exceptional status in various regulations governing international trade.

For example, the World Trade Organization (WTO) on the one hand considers ECAs to function as state-supported entities, while their activities are, in practice, intentionally excluded from the scope of the WTO treaty. The WTO's Agreement on Subsidies and Countervailing Measures (ASCM) which regulates the use of subsidies by member states, is linked to the OECD Arrangement for export credits[105] by a clause known as the "safe haven."[106] This means that the export credit practices of a country that might otherwise be prohibited under the ASCM are allowed, provided they follow the OECD's rules on interest rate provisions. **This exclusion effectively grants ECAs advantages over other financial institutions.**[107]

Some have expressed the view that through this system, governments, in the process of competing for overseas contracts, utilise public resources to provide subsidies to domestic exporting firms in the form of export financing.[108] This has led to claims that the system provides corporate welfare that "inflates the profits of the politically connected on the taxpayer's dime."[109] or "off-load onto the taxpayer the commercial risks of undertaking contracts abroad".[110]
The ECA's "institutional blessing" can enable substantial private sector investment in projects facing extremely high risks – often without the level of due diligence such risks would typically warrant from other institutions.

> For companies operating overseas, a range of public institutions - from the Multilateral Development Banks (MDBs) [to] government-backed Export Credit Agencies (ECAs) - have long offered a range of services that perfectly match the needs of companies seeking to off-load onto the taxpayer the commercial risks of undertaking contracts abroad. A whole industry has now grown up to direct companies to the easiest source of ready subsidy and to help them obtain the funds on offer.[111]

ECAs have significantly contributed to projects that have saddled developing and newly industrialised nations with unsustainable debt[112] in the name of stimulating and supporting exports by their domestic corporations. Importantly, ECAs do not have a development mandate. Especially since the 1980s, ECAs primarily benefit the interests of a small set of large companies of the nations that provide ECA support: only large firms in capital-exporting countries obtain guarantees and/or credits from ECAs.[113] ECAs were not developed for the interests of the people or region where projects are implemented. A 2011 study by Eurodad found that export credit guarantees are a major source of these countries' debts to European governments[114] and this problem has been highlighted repeatedly in multiple studies since.[115] Because many high risk corporate projects would not come to life without the support and financial backing of ECAs, ECA watchdogs have called ECAs "strategic development linchpins that play an enormous part in the harmful impacts of corporate globalization."[116] Critics have therefore also concluded that both national governments and the EU have taken insufficient steps to align ECA activities with the EU's broader objectives and international standards.[117]

5.2 ECAS WITHIN THE INTERNATIONAL REGULATORY CONTEXT

ECAs operate within a unique legal and institutional framework shaped by international and regional agreements, most prominently the European Union (EU), the Organisation of Economic Co-opertion and Development (OECD) and the Berne Union. The EU has taken some steps to regulate ECAs which requires annual reporting by ECAs to assess environmental and policy compliance.[118] Based on the Annual Activity Reports of Member States, the European Commission is then required to produce "an annual review for the European Parliament including an evaluation regarding the compliance of ECAs with Union objectives and obligations."[119]

ECAs from industrialised countries coordinate their policies within the OECD Export Credit Group (ECG).As such, the OECD and its member governments have adopted nonbinding agreements that concern ECA accountability. The OECD's Arrangement,[120] established in 1963, sets financial guidelines for medium- and long-term export credit support and serves as the main international policy framework in this area. This Arrangement is incorporated into EU law and is fully applicable within the EU.[121] The OECD's non-binding Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence (the "Common Approaches")[122] further guide ECAs' environmental and social due diligence.[123]

Some regulations concern financial crimes. As a key body in fighting international bribery, the OECD has issued specific recommendations for ECAs under the 1997 Anti-Bribery Convention, formalized in the OECD Recommendation of the Council on Bribery and Officially Supported Export Credits (updated in 2025). It states that the aim of having a Recommendation is "to enhance the visibility of Adherents' anti-bribery measures, to ensure that these measures represent the view of whole government and to include these measures in the OECD anticorruption acquis."[124]

During the negotiations concerning **the 2019 Recommendation on Bribery and Officially Supported Export Credits a proposal was made to broaden its scope to encompass other financial crimes, including Money Laundering and Terrorism Financing, but this proposal was ultimately not adopted by Members, as it was deemed "a step too far"**.[125] This is remarkable given the fact that essentially the entire international financial sector has been submitted to Anti Money Laundering and Terrorism Financing rules since the 9/11 terrorist attacks of 2001.

Following the OECD recommendations ECAs are required to implement due diligence and risk screening processes to detect and prevent bribery, both internally and among applicants. If bribery is suspected or applicants fail to provide necessary declarations, ECAs must either deny support or make its support conditional to measures like compliance guarantees or audit rights. The EC clarifies this as follows: [There are] "measures for screening, carrying out due diligence, evaluating and deciding on eligibility for support with the aim of deterring bribery in officially supported export credits. In particular, applicants should verify that all parties involved in transactions are not listed in the debarment lists of the Multilateral Financial Institutions."[126] The OECD complements that "ECAs are also required to inform their law enforcement authorities of any credible allegations."[127]

ECAs typically also adhere to the voluntary principles of the Berne Union – the main global association for public and private export credit and investment insurance providers – which "endorses" international efforts to combat corruption and money laundering.[128] However, the OECD can arguably be considered to be the most influential organisation for financial crime, as it provides a platform for ECAs to exchange information and negotiate. A respondent with experience in working with European ECAs complements that indeed "the OECD is not a side issue. It is one of the few frameworks that exist for ECAs. They are listened to."[129]

In summary, the voluntary international instruments referenced above have primarily focused on encouraging ECAs to prevent bribery, promote social and environmental due diligence reporting, and, to a limited extent, address corruption, with only a single reference to the prevention of money laundering. Notably, these instruments are non-binding, and none of them explicitly address the issue of preventing money laundering and countering the financing of terrorism.

5.3 ECAS AND NATIONAL AML-CFT REGULATION: LESSONS FROM FOUR ECA CASE STUDIES

To illustrate whether and how ECAs are governed by AML-CFT regulations at the national level, this section examines four ECAs from the Netherlands, Italy, Australia, and the United Kingdom. It considers their legal structures, assesses whether they fall under AML-CFT obligations, and, where applicable, explores the nature and extent of those obligations. The findings are summarized in figure 1 at the end of this section.

ECA in the Netherlands: Atradius Dutch State Business N.V. ("ADSB")

In the Netherlands, export credit support is granted through ADSB. ADSB operates as a public limited company (N.V.) owned by the Atradius Insurance Group. This group is owned for 83.2% by another insurance Group, Grupo Catalana Occidente from Spain.[130] Despite being privately owned, ADSB exclusively provides export credit support to exporters on behalf of the Dutch government and receives a yearly premium from the government for this.[131] While ADSB is, legally speaking, not owned by the Dutch government, it functions as an agent of the State and reports to the Dutch Ministry of Finance and Ministry for Foreign Trade and Development Aid (formerly named "Foreign Trade and Development Cooperation"):

> "The Minister of Finance has the role of director in the implementation of the export credit insurance facility [ECA facility]. The Dutch state acts as insurer and Atradius Dutch State Business N.V. (ADSB) implements the ekv facility in the name of, and at the expense and risk of, the state. The minister determines the conditions under which ADSB may issue insurance. The Minister of Finance is responsible for the budget but is jointly responsible with the Minister for Foreign Trade and Development Cooperation for policy in the area of export credit insurance. Both ministers promote a level playing field in these export support measures."[132]

ADSB does not fall under the *Anti-Money Laundering and Anti-Terrorist Financing Act* (in Dutch: *"De Wet ter voorkoming van witwassen en financieren van terrorisme" or "WWFT"),* the Dutch implementation of AML and CFT regulation introduced in 2008.[133] The reasoning behind this exemption is that by granting insurance coverages to Dutch exporters on behalf of the Dutch State (which officially acts as the insurer), ADSB is merely the state's agent. A compliance expert explains that: "under no circumstances is the ECA a financial institution as referred to in the *WWFT*."[134] Interestingly, a reason for this special position for insurers appears to follow from a 2004 FATF report in which the FATF concluded that the money laundering risks for "damage insurers" (compared to for example life insurers, which do fall under the WWFT) were considered relatively small due to the character of the insurance market, which can be characterized as "highly organised". And due to the inherent tendency of insurers to, on their own initiative, already combat abuse and fraud.[135] Considering that that this report is now over 20 years old, and given developments within the sector over the last two decades, it might be time for the FATF to reassess its 2004 conclusions relative to the business of insurers.

ADSB mainly acts as a damage insurer. Thus, the Dutch AML-CFT rules in relation to transaction monitoring, client identification and the reporting of suspicious transactions in principle do not apply to ADSB. Consequently, from a legal perspective, ADSB operates in a legal vacuum when it comes to AML-CFT rules, despite its central role in project development in often risky contexts, as AML-CFT rules cannot be enforced like they are for other gatekeepers (banks, accountants, notaries, etc.).

ECA in Italy: SACE S.p.A. ("SACE")

Italy's ECA SACE operates as a joint stock company fully owned by the Italian Ministry of Economic Affairs.[136] This Ministry acts as owner and as supervisor of SACE. SACE exclusively offers export credit insurances but it also has subsidiaries that provide other financial services; for example, SACE FCT (also known as "SACE Factoring" and owned for 100% by SACE) provides loans to exporters, suppliers to the public administration, and large Italian industrial groups.[137] As a fully state-owned entity, SACE has direct accountability to the Italian government through the Ministry of Economic Affairs.

SACE is exempted from most rules of the Italian anti-money laundering and anti-terrorist financing law (Italian Legislative Decree 231 of 2007). It does not fall under the "obligated subject" definition of article 3 of the Italian Legislative Decree 231 of 2007, and its activities are therefore not governed by this decree. Only art. 10 of this Decree 231 of 2007[138] (which prescribes rules around the reporting of suspicious transactions) applies to the activities of SACE. This article prescribes that public administrations, such as SACE, shall communicate to the Italian Financial Intelligence Unit "data and information on suspicious transactions of which they become aware in the exercise of their institutional activities."[139]

SACE needs to report identified suspicious transactions to the authorities, but – contrary to for example banks or assets management companies[140] – it does not have to proactively create a mechanism to avoid money laundering or terrorist financing. This means that Italian AML-CFT rules in relation to transaction monitoring and client identification, in principle do not apply to

SACE. Consequently, from a legal perspective, it cannot be held accountable by the Italian financial system's supervisor if it fails to take sufficient measures to prevent money laundering or terrorism financing, unless it is at fault in relation to the reporting of suspicious transactions.

ECA in Australia: Export Finance Australia ("EFA")

Australia's ECA EFA is established as a Corporate Commonwealth entity with a legal personality that is separate from the Australian government and the Commonwealth. It can act in its own right and therefore exercise certain legal rights such as entering into contracts and owning property.[141] All EFA shares are owned by the Australian government and the entity is part of the Government's Foreign Affairs and Trade Portfolio, for which the Minister for Trade and Tourism and the Minister for Finance are responsible.[142] EFA offers a wider range of financial services than the Dutch and Italian ECA's mentioned earlier, as EFA, in addition to granting guarantees, is also equipped to grant loans, provide bonds, and grant project and structured finance.[143]

EFA is subject to the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (also known as the "AML-CTF Act"), because it is licensed as a financial institution.[144] EFA states that "as a regulated entity they are subject to the same regulations as an Australian bank. Implementation is based on a risk-based approach in accordance with our assessment of risk exposure in relation to their customers, the products they provide, channels they use to deliver these products and the foreign jurisdictions they deal with."[145] EFA obligations under the AML-CTF legislative framework include reporting suspicious activity to the Australian Transaction Reports and Analysis Centre ("AUSTRAC").[146] Uniquely, in comparison to the other ECAs discussed in this section, EFA has underlined its responsibilities under the AML-CTF regulation by listing its AML-CFT policies on its website.[147]

EFA, however, is exempt from a few important provisions of the AML-CTF Act when granting a loan or when acting in the capacity as guarantor of a loan, namely:

Part 2 of the AML-CTF Act, which sets out rules surrounding the identification of customers and ongoing due diligence;

Division 3 of Part 3 of the AML-CTF Act, which obliges designated entities to submit a transaction threshold report to AUSTRAC for any transactions involving the transfer of A$10,000 or more),[148] and Subsection 84(1)(b)(ii) and section 84(3), which contain rules about the need to include customer information in the AML-CFT programs of designated entities.[149]

EFA's accountability for links to financial crime thus include formal supervision by AUSTRAC for applicable parts of the AML-CFT Act. Furthermore, accountability mechanisms include reporting to the Minister for Trade and Tourism and the Minister for Finance.

AUSTRAC supervises compliance with Australian AML-CFT Act and is responsible for monitoring the AML-CFT compliance by Australian entities such as EFA. Simultaneously, EFA reports to the Minister for Trade and Tourism and the Minister for Finance, given that they are ultimately responsible for EFA's activities. Consequently, for most

ECA activities EFA is bound by Australian AML-CFT regulations. It can therefore be held accountable by its supervisor AUSTRAC if it fails to comply with these rules.

ECA in the United Kingdom: UK Export Finance ("UKEF")

The United Kingdom's ECA UKEF operates as a department of the Government of the United Kingdom. UKEF reports to the Secretary of State for International Trade, and the Minister for Exports and provides several financial services to exporters, including the granting of insurances, different types of guarantees, and direct lending.[150] As a ministerial department, UKEF is an integral part of the UK government rather than a separate entity.

Just like the countries discussed earlier, the UK also has its own AML-CFT regulations: The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (also known as the "MLR 2017"). Only private businesses and individuals are governed by the MLR 2017. Since UKEF is neither, as it is part of the UK government, the MLR 2017 rules do not apply to UKEF.

According to UKEF's website, it does have policies and procedures in place focused on financial crimes. In terms of anti-money laundering prevention, it states that it is "committed to ensuring that the opportunity for the department to support transactions involved in money laundering or where the proceeds will aid and abet crime is fully reduced. UKEF will not tolerate the use of its transactions, processes, and systems to facilitate money laundering." This position also applies to preventing other financial crimes like breaches of sanctions law, bribery, corruption, and terrorism financing, for which it has a compliance functions.[151]

UKEF is considered a ministerial department of the Government of the UK and is therefore not regulated. While UKEF communicates about some voluntary measures related to AML and CFT, legally speaking it cannot be held accountable by supervisors of the financial system.

figure 1
5 ECAs in national context

Name	Acronym	Country	Legal form	Link to government	Governed by AML/CFT?
Atradius Dutch State Business	ADSB	Netherlands	Public limited company	Contracted by Dutch government as Export Credit Agency for Dutch business. Reports to Ministry of Finance and Ministry of Foreign Trade and Development Aid.	No, the Dutch AML-CFT rules (Wwft) do not apply to ADSB.
SACE	SACE	Italy	Joint stock company	Shares fully owned by Italian Ministry of Economic Affairs, which also acts as the company's supervisor.	Partially, as SACE is bound by art. 10 of the Decree, but it does not have to proactively create a mechanism to avoid ML and TF.
Export Finance Australia	EFA	Australia	Corporate Commonwealth entity	Shares fully owned by the Commonwealth of Australia. EFA is part of the Australian Government's Foreign Affairs and Trade Portfolio, and reports to the Minister for Trade and Tourism and the Minister for Finance.	Yes, EFA is bound to Anti-Money Laundering and Counter-Terrorism Financing.
UK Export Finance	UKEF	United Kingdom	Ministerial department of the Government of the United Kingdom	Part of the UK government. Reports to the Secretary of State for International Trade and the Minister for Exports.	No, the UK AML-CFT rules do not apply to UKEF.

5.4 CONCLUSION: AMBIGUITY CREATES AN ACCOUNTABILITY GAP

This Chapter gave an insight into the way governments have chosen to shape their ECA's from a legal, organizational and operational point of view: where some governments have chosen to exercise full control over their ECA, others have tried to create more distance by letting their ECA be operated by a ((semi-)state owned) company. Generally speaking, ECAs that are seen as government agents are exempt from AML-CFT regulations and thus cannot be held accountable under this regime (ADSB and SACE). Only in the case where an ECA was seen as a private financial institution (EFA), AML-CFT regulation applied, but exemptions also existed. When the ECA is a state-owned financial institution, AML-CFT do not apply (UKEF), so that this state-owned financial institution is not bound to the same financial regulations as private financial institutions. Currently, **while the OECD offers a platform for discussion which may eventually have the ability to nudge towards best practice, no centralized supervisory body exists** to ensure consistent financial crime compliance across ECAs.

Voluntary frameworks, such as those issued by the OECD or the Berne Union, often lack enforcement mechanisms and rely on self-reporting, peer pressure, or reputational incentives rather than legal accountability. And while the OECD Recommendation on Bribery provides some guidance on bribery, it does not extend to other financial crimes like corruption, money laundering or terrorist financing. As a result of the fragmented nature of ECAs and the lack of a unified regulatory framework, there exists **significant ambiguity in their overall due diligence responsibilities, which allows ECAs to operate at their own discretion when it comes to assessing and avoiding risks of financial crime**. The following Chapter will analyse what this flexibility means for the implementation of financial crime compliance and due diligence.

ECAs are – of course – still subject to domestic civil and criminal law just like any other legal entity or individual – and need to avoid direct involvement in bribery, corruption, money laundering, or related offenses. Failure to prevent or report illegal activities could result in criminal prosecution of individuals or institutions, especially if negligence is involved.[152] However, **there is no international (and often no national) binding** public law framework **that outlines how financial crime compliance should be implemented**, which means that unregulated ECAs cannot be held accountable by supervisors of the financial system for failing to prevent financial crime. All that remains are the voluntary frameworks discussed in this section, which can in principle be disregarded by ECAs if they choose to do so. Considering that ECAs are often engaged in risky projects linked to (potential) financial crime, it is remarkable that this legal vacuum and accountability gap has not been a serious point of debate so far.

6

FROM GUIDELINES TO ACTION: ECA COMPLIANCE IN PRACTICE

The previous Chapter examined the regulatory frameworks that govern ECAs. Many ECAs (especially those not structured like common financial institutions such as banks) are not, or only partially, bound by AML-CFT frameworks. In many jurisdictions, ECAs nevertheless implement controls voluntarily. This Chapter focusses on how financial crime compliance – AML-CFT and other financial crime regulations – is executed in practice, to explore the gaps between theoretical obligations (including voluntary commitments) and practical implementation. And to gain a proper understanding of existing accountability gaps. Insights from interviews with compliance professionals, financial intelligence experts and persons working within ECAs provide valuable insights into the practical challenges faced by a variety of ECAs. We set out how three fundamental elements undermine effective financial crime compliance – including AML-CFT compliance – by ECAs: (i) capacity constraints and resulting information asymmetry (ii) reluctance to pursue rigorous investigations into financial crime risks due to the nature of the relationship between ECAs and their clients and (iii) approval by design.

We did not receive answers to all our questions about the way the different ways ECAs implement their AML-CFT practices, due to confidentiality restrictions. Nevertheless, we were able to identify a range of circumstances and trends that **clarify how ECAs can become involved – directly or indirectly – with financial crimes** when backing high risk projects, due to gaps in obligations or voluntary oversight.

At the end of the Chapter, we share views as to what ECAs ought to change to improve their financial crime compliance.

6.1 GLOBAL REACH, LIMITED CAPACITY: THE ECA COMPLIANCE DILEMMA

In most (if not all) cases, projects backed by ECAs involve cross-border activities. This extraterritorial dimension adds a layer that "brings complexity for everyone in the transaction"[153], and conducting thorough due diligence in such settings can be challenging due to limited access to reliable local information and dependence on information provided by direct clients. According to respondents, a significant compliance challenge for ECAs therefore lies in their limited visibility beyond their immediate clients: **they often lack adequate insight into the activities and associated risks of those clients' downstream partners or end-users**.[154] As many ECAs do not fall under AML-CFT rules, ECAs do not have the same obligations as banks to investigate client relationships. Consequently, ECAs do not have large financial compliance teams like banks or accountancy firms. Meaning that crucial information to identify associated risks of a client or project can be lacking.

The OECD's Working Group on Bribery (WGB) has examined the role of ECAs in bribery, noting a key criticism: **their limited effectiveness in detecting instances of bribery**. The WGB recognizes that ECAs are not investigative bodies, do not possess the legal authority granted to law enforcement agencies nor have the compliance teams such as banks —thereby limiting their capacity to conduct thorough due diligence. Nonetheless, the WGB emphasizes the responsibility of ECAs to identify and respond to financial crimes, including corruption.[155]

As an example of what due diligence means for ECAs, UKEF indicates that "before offering support to a transaction, UKEF will make reasonable enquiries about a case and the parties to it, based on responses made by applicants and banks in the application forms (or other relevant documents). As part of the screening process, UKEF will make use of dedicated third party screening tools." [156] Similarly, ADSB reports that they "request from its customers all information [...] and [assess] whether signals of alleged corruption emerge from the public domain."[157] While ADSB has "a right of inspection to determine whether the insured has actually complied with its obligations"[158], it is unclear whether and how this happens.[159]

In practice, this lack of clarity leads to several issues. For example, local intermediaries or agents are not always vetted (sufficiently) even though they can potentially play a key role in financial crime. For example, according to Partner in Compliance, which in 2022 conducted research into corruption controls at ADSB, the controls on bribery were strongly inadequate. Partner in Compliance found that "with regard to corruption risks [...] insufficient information is obtained about the parties involved in the transaction (including agents) and about the country where the debtor and agent are established, which means that a complete picture may not be obtained."[160] In a report by Proximities,[161] the authors concluded that when granting the first export credit in 2021 to Van Oord for the Mozambique LNG project, ADSB had incorrectly cited information from Wikipedia in a risk assessment that the authors called "minimal and incomplete".[162]

This illustrates a major concern, which is that of ECAs' compliance capacity. Some respondents who have worked closely with or for ECAs argue that ECAs, compared to for example banks, simply lack investigative units and do not have the mandate to gather detailed and useful information. This means that by design, there is not much they can do in terms of due diligence.[163] Consequently, ECAs rely heavily on the data provided to them by their direct clients, which creates an information asymmetry between the ECA and the companies it insures or provides loans to.[164] And it is difficult to conduct due diligence based on incomplete or subjective information. One respondent illustrates: "How can they know how many agents are involved in the process? How many intermediaries? If that information does not reach the ECA, how are they meant to check this?"[165] Another respondent highlighted the essential role that whistleblowers need to play in this dynamic:[166]

> "Their due diligence is very weak, so they can't possibly make a good decision. They would need concrete information like a whistleblower, to do something."[167]

However, our findings also indicate that ECAs **may not adequately assess the data they do receive**. There is a consensus among all respondents that ECAs place excessive trust in the information shared by their clients. As one respondent illustrates: "They check if they have signed the [anti-bribery] form, they check if they have not been convicted, there are no Politically Exposed Persons (PEP), that's it,"[168] indicating that once the client has checked all the boxes and showed the ECA their financial crime policy, that's where due diligence ends. In line with this finding, Partner in Compliance also concluded that "there is a lack of assessment of the risks arising from the information that is (actually) available."[169] If interpretation of collected facts is lacking, it remains unclear what the consequences of the relevant facts are and what mitigating measures could be taken to limit the risk. Finally, there are examples of ECAs that continue supporting clients even if they are suspected of criminal activities or clearly limit transparency over their, or their clients, activities. [170] So even when a risk is in fact identified, it does not necessarily mean that ECA support is directly terminated.

The trust from ECAs in data provided from their clients is attributed by some of the respondents to the fact that the project owner (the domestic company that is insured by the ECA or has taken out a loan) plays a leading role in the process, and that the **compliance analysis is based solely on the data that the project owner has supplied**. One ECA compliance expert illustrates: "We try to understand if there are problems with items and whether they comply. We can check, but we can't see all the items, so we have to trust them."[171] This problem becomes even more prominent after an insurance or loan is already issued, after which no or very limited project monitoring takes place. "After issuance, in my experience, the project is not actively monitored. While there may be a reporting duty for the exporter to the ECA after issuance, this responsibility lies entirely with the insured and the ECA takes it as an article of faith. In this context, the ECA cannot possibly take timely action."[172]

> "The project owner is the dominant party. They [i.e. ECAs] rely entirely on the data provided by that party. But those are vested interests and subjective. They still accept this at face value."[173]

Along these lines, there is criticism from multiple respondents that ECAs **do not sufficiently use the information that is provided to them from NGOs and journalists, both before and after export support is provided**. For example, in 2023, Friends of the Earth US warned US EXIM that criminal investigations into Trafigura by US and Swiss law enforcement authorities raised concerns about whether the company should be eligible to continue to receive support from EXIM.[174] In 2022, Spotlight on Corruption warned UKEF of "multiple red flags" in its activities in Sub-Saharan Africa suggesting it was "taking on extraordinarily high risk" across much of its current portfolio.[175]

In addition, also in 2022, Italian NGO ReCommon asked the Italian ECA SACE to clarify its involvement in Russian projects,[176] after which a few days later SACE announced to "temporarily suspend evaluation of new projects in Russia and Belarus".[177] Furthermore, the independent research institute Proximities critically concluded that Dutch ECA ADSB should "have listened more closely to the warnings issued by civil society organisations" in approving its support to the Mozambique LNG project. Those warnings included – among other issues – environmental, social and financial risks.[178]

When ECA-backed projects are linked to financial crimes, ECAs usually hear about this from news outlets.[179] **The burden of uncovering and revealing financial crimes around ECA backed projects therefore in practice lies with journalists and CSOs:** without the work of NGOs and journalists, ECAs might never find out about financial crimes, or human rights violations for that matter. This is an important element to point out, because public scrutiny has always been a key driver for change in internal processes within ECAs, but also other institutions in the financial industry.[180] For example, following its involvement with several controversial projects (see Chapter 4), UKEF now "has a substantial compliance team in place and […] other financial crimes are part of th[eir] assessment."[181] As to ADSB, an Anti-Bribery Policy Task Force is currently working on following up on the recommendations from the government-initiated anti-bribery policy evaluation,[182] following public reports on their projects' link to corruption. This is illustrated by one respondent's comment on the importance of reputational damage: "Even though the mandate is domestic exports, none of us want to be doing this to end up on the front page of the Guardian."[183]

One can hardly argue that a dynamic in which internal change is triggered solely by reports from NGOs or journalists that identify potential misconduct, is acceptable. Firstly, several ECAs use public means to finance their financial support to companies, so they have a responsibility towards taxpayers to make sure that risks of financial misconduct are excluded as much as possible. Secondly, ECAs have a catalyst impact on other businesses, investors, and banks stepping in and as such often determine whether a project is happening or not. In other words, sloppy due diligence work at ECA level can have disastrous effects for the place (and its people) where a project is developed in case corruption or bribery is taking place. Thirdly, impacts of money laundering, corruption and terrorist financing can have an enormous effect on people´s lives and can therefore not be taken lightly.

Reporting by journalists and CSOs about ECA-linked financial crime is extremely valuable, but it is contingent on public attention. Once external scrutiny diminishes, the flow of information from these channels will also cease, leaving significant gaps in ECA oversight. A robust and proactive due diligence framework—independent of external pressure—is therefore essential to ensure consistent monitoring and accountability throughout the lifecycle of a project.

> "ECAs often start some sort of internal change process when they read something bad about themselves in the news. Then, when they are not under scrutiny anymore, they stop. […] They [ECAs] shouldn't be relying on NGO and journalist reports but find misconduct themselves."[184]

6.2 TOO CLOSE TO QUESTION: CLIENT RELATIONS UNDERMINING COMPLIANCE

A second element highlighted by our data is a reluctance among ECAs to pursue more in-depth investigations into the clients to which they provide financial backing or other services. This attitude may stem from a variety of factors, including institutional constraints and competing priorities, but fundamentally results from the ECAs raison d'être: supporting, promoting and stimulating domestic – often flagship – companies with their economic activities abroad. Several respondents reported that **they observed reluctance among ECAs to request underlying or additional documentation from businesses due to the long-established relations with those clients**. Some respondents referred to this as "client capture"[185] or "the context in which clients become so important to the professionals serving them that they lose the professional independence that is presumed by the profession to govern the relationship."[186] ECAs can become reluctant to critically investigate and question their own clients because of their closeness to these clients and this can impact the objectivity, thoroughness and effectiveness of the ECAs' due diligence processes.

ECAs are structurally dis-incentivized to conduct thorough due diligence on clients because of the long-standing relationships between ECAs and clients, but also because ECAs have been created and mandated with the purpose of facilitating those clients' business on behalf of the government. Scrutinizing a client, let alone terminating the relationship with a client, could harm both the prospective client and state interests and this may threaten trade abroad. This dynamic contributes to what has been described as a **"culture of wilful ignorance" or "a culture of looking away"**.[187] This tendency may be strongest when there is a perception that withdrawing from transactions could jeopardize national economic objectives or foreign policy priorities, particularly because large domestic corporations are key beneficiaries of the ECA support.

For example, US EXIM's watchdog, the Office of Inspector General (OIG), has said that US EXIM appeared to "not act on fraud-related information" when it signed deals. The OIG suggested it would have to enhance scrutiny of US EXIM's due diligence processes following the agency's apparent decision not to heed the warnings over potential fraud risks around cover for commodities giant Trafigura.[188] NGOs in the US have urged US EXIM to incorporate specific questions into their pre-approval documentation regarding any past allegations involving prospective clients, aiming to improve scrutiny of client histories.

> "In an overall sense, there is a very strong relationship between exporters and [ECAs] which has existed well before today's compliance and ESG requirements."[189]

Respondents comment that the long-term relationship between exporter, companies and ECAs "is an obstacle in staying critical".[190] Often, the longstanding and deeply rooted relationship between domestic companies and ECAs predates the current emphasis on compliance, environmental, social, and governance (ESG) standards. Their historical alignment has often been shaped by shared economic goals, because ECAs are in essence enablers of domestic businesses. As a result, these established ties may influence the extent to which newer regulatory expectations, such as rigorous compliance, are integrated into project assessments and decision-making processes. In addition, this dynamic may be difficult to break through without, for example, independent experts in compliance departments and advisory boards.[191] To prevent client capture and maintain a "critical lens", respondents from ECAs have suggested to rotate staff every few year among clients.[192] One respondent indicated that the balancing of competing interests creates a grey area and instances where compliance advise may even be overlooked:

> "There is a grey zone in which it is hard to balance the interests at stake. Sometimes there is a dynamic in which a compliance advice can be ignored, but this is not the rule."[193]

This "grey zone" also manifests itself in how ECA contracts are structured. Even though we were not able to review existing contracts of ECA backed projects, which are not in the public domain for business confidentiality reasons, there are findings that confirm both the lack of ability and willingness of ECAs to terminate or exit contracts, even in the face of credible reports of (financial) crime.[194] Once a deal is signed, ECAs may resort to a temporary freeze on applications or an extended due diligence process, but exiting from or ending the contract is often not an option. As one ECA compliance expert confirms: "Exiting these contracts on the basis of compliance findings is challenging, which is why it's crucial to identify and address potential issues before the agreement is finalized."[195]

Another respondent explained how they recommended UKEF to invoke contractual provisions with a client to withdraw from a deal that involved evidence of corruption around multiple parties in the project. The ECA's written response was that the contracts did not include a corruption clause enabling such action. They stated: "There are no reasons to be provided in relation to [cancel the cover in this case] as [...] cover was not provided to [company x] but to the banks which financed the supply [...] against which as far as we know, no allegations of corruption have been made."[196] "They basically did everything to *not* get out of the deal,"[197] was the respondent's conclusion.

This indicates a few things. Firstly, that only if a specific default clause is included in the contract on corruption, bribery, terrorist financing or money laundering, then the ECA would be able to exit a deal for the occurrence of any of these crimes. Even then, the ECA would require substantial evidence before terminating the contract on such a basis. Reports from journalists or CSOs alone – especially if not confirmed by legal proceedings – may not be enough to justify withdrawal. Secondly, in balancing the interests of their clients against reputational and compliance risks, ECAs appear – based on the limited available information on relevant cases – to prioritize client or project operator interests.

6.3 APPROVAL BY DESIGN: DUE DILIGENCE TO FACILITATE A PRE-DETERMINED OUTCOME

Based on previous analysis and interviews with respondents there appears to be an issue embedded in the structure of the ECA approval process, which tends to be skewed towards approval rather than being an objective assessment. Especially when it considers financial backing to projects that are in line with government trade policies, and policies about doing business abroad. Based on interviews, we find that it is this process – rather than the absence of formal frameworks or technical capacity – that fundamentally undermines the possibility of meaningful and effective due diligence, whether in relation to financial crime or, broader, in the environmental and social realm.

From research conducted in 2024 [198] about the Dutch government's financial backing of the Mozambique LNG project in 2021, which was supported by several ECAs worldwide including the Dutch ADSB – despite a context of structural violence and terrorist attacks in the vicinity of the project – we observed a tendency of the ECA and Dutch government to support the project no matter what. Documents obtained via Freedom of Information requests demonstrated that the Dutch Ministries and ADSB never considered whether this controversial LNG project should be backed by the Dutch State and ADSB but instead focused on how the project could be enabled to move forward with Dutch support, despite the controversial elements of the project. The institutional incentives and procedural design thus seemed to relegate due diligence to facilitating a pre-determined outcome, as opposed to due diligence being a critical evaluative step in taking on a new project. Internal communications between ADSB, the Ministry of Finance, and the Ministry of Foreign Affairs from early to mid-2020 revealed that there were adverse business consequences if the insurance request would have been rejected. In addition, project leader TotalEnergies pressured the Dutch state to grant its approval. The possibility of delaying or rejecting the request from Dutch dredging company Van Oord was not seriously considered by ADSB or the Ministries. Moreover, **ADSB's due diligence process was structured in a way that did not appear to allow for rejection as an outcom**e, which "resulted in an assessment procedure in which ADSB and the ministries forced the pieces of the puzzle together, ignoring key pieces of information."[199]

Data collected in the current study confirm the close relationship between ECAs and their clients. One respondent highlighted that it is problematic that financial commitments often precede corporate social responsibility (CSR) assessments, **as the momentum and vested interests at that stage make it increasingly difficult to reject a project, even if concerns arise from the due diligence process.**

> “It is problematic that the financial side is often faster than the CSR side. At that stage the intention is already signed, waiting for CSR outcomes. Then, in principle, you can still formally reject. But the interests are so big at that stage that it becomes increasingly complicated.”[200]

In other words, cases presented in this research suggest that **the reality of how ECAs perform due diligence does not provide a robust foundation for a meaningful due diligence process of any kind**, as the inherent nature of due diligence is that the more you search, the more you find. One key concern is that more scrutiny often uncovers additional issues; however, in a context where project approval is the primary objective, ECAs are not incentivized to probe too deeply, effectively leaving the metaphorical stone unturned. One respondent described this as follows: “One issue is that if you overturn the stone you find much more. The battle is that they are trying to keep the stone down and keep you digging around the stone.”[201]

Respondents drew attention to how this works for other standards, beyond financial crimes compliance. Meaningful human rights and environmental due diligence, for example, demands a broader evaluative lens than what procedural standards alone can provide. It is possible to tick all formal requirement boxes and still remain at a high risk of harmful and socially irresponsible outcomes, especially when client queries and other information sources are not sufficiently exhausted. “You can mitigate all the risks in opening an oil field on indigenous land, but it is still a bad idea. The question of ‘is this wise’ yields a different conclusion than if you check all the subcategories of the IFC standards, from which you can get a positive answer. *You can still align a bad idea with the IFC Performance standards*.”[202] This highlights the limits of a purely standards-based approach and underscores the importance of integrating normative, context-sensitive judgment into decision-making processes. While it may, for example, be technically possible to check all the IFC and financial compliance standards and ‘mitigate’ all identified risks associated with opening an LNG gas field in Mozambique surrounded by suspicions of corruption in an area where conflict is raging,[203] this does not necessarily make the project acceptable.

6.4 FURTHER EXPERT INSIGHTS: ECAS AS GATEKEEPERS

The preceding discussions offer insights of how compliance is currently managed by ECAs. But our data also reveals important findings regarding the expectations of compliance professionals from the financial sector and from regulatory bodies in three different countries, and about how ECAs ought to conduct financial crime due diligence in order to align with prevailing due diligence standards.

Firstly, sufficient due diligence entails gaining a full understanding of the international and local context, and the client(s) and other suppliers involved. This would, according to some respondents, not just be limited to national checks. “For example, if the project developer is in Mozambique and the ECA insures that project over time by insuring a national exporter, they need to follow the money. Mozambique is in the financial flows and sometimes even a third escrow country is involved, so that’s where the due diligence needs to be done."[204] This would involve extensive research on the parties involved and not just "KYC on paper," but in-depth screening of the client as well.[205]

> "ECA's are not bound by AML law, but this still [does] not prevent ECA's from asking themselves about the rationale behind what their clients are doing. Actually, the risk for ECA's can be ever greater than for banks, because they are using taxpayer money."[206]

Secondly, several compliance experts confirm that insurers and financial institutions have their own obligations to conduct thorough research: "they cannot simply rely on their clients."[207] They have to check who is involved in a transaction and who is behind a client, which can be abroad.[208] **In practice, effective due diligence extends beyond direct clients to encompass the clients of those clients, reflecting a broader responsibility within the transactional chain**. This approach aligns with both the intent and underlying principles of relevant legal frameworks, as highlighted by a respondent. Moreover, this also includes third party agents. Indeed, a legal expert of the OECD's own Export Credit Expert group confirms that if the involvement of a third-party agent poses a high risk, robust due diligence is required in that case.[209]

> "In practice, due diligence always goes beyond your own customers. That is also the spirit of the law."[210]

Finally, **compliance experts both familiar and unfamiliar with ECAs, demonstrate surprise at the lack of supervision over ECAs as regards to financial crimes**, and particularly, the AML-CFT domain.[211] One person illustrates: "It appears that we are in a system where ECAs put their biggest due diligence requirements on companies, so unless there is really good scrutiny by government or others, then what is the incentive to implement their due diligence seriously?"[212]

Some respondents advocate that, for this reason, it is essential to examine the underlying rationale for the creation of the AML-CFT framework, including the objectives and intentions of its architects. How should compliance be done properly, and by whom? A critical question is then what type of institutions are considered as "gatekeepers" of the financial system, whether these include ECAs and whether the gatekeepers rationale was intended to encompass institutions such as ECAs within its scope.[213]

Some interviewees and experts make clear that they see a role for ECAs in countering money laundering and terrorism financing as gatekeepers. Audit, tax and consultancy firm KPMG sees (non-life) insurers (to which ECAs in some cases also belong) as gatekeepers in their analysis on the role of gatekeepers of the financial system, even when these insurers are not regulated by the AML-CFT regime.[214] In addition, multiple respondents argued that ECAs should already be considered gatekeepers of the financial system, given that much cross-border trade could not exist without them,[215] and that they should have the capacity to assess projects that involve large sums of money, due to their involvement in high-risk international projects.[216] Others argued that ECAs can be considered gatekeepers due to their information position, as they could have a full picture and have a key position in a deal, and leverage that others do not have.[217] One compliance expert illustrates: "I think they [ECAs] could play a very valuable role in signalling red flags, because they see information very early on at the front end. If they reject something, they should report that to intelligence services, as it can be crucial to investigations. They may do fewer transactions than banks, but they have a view of the bigger picture. Their role goes beyond just being on good terms with exporters."[218]

> "There is a valid argument that they are gatekeepers of the financial system and that there are risks involved. They facilitate international, high-risk projects that check all the trade-based money laundering boxes and there is an apparent lack of transparency on how the flows work. From a corporate citizenship perspective, I would say that this [current practice] is not sufficient. And if they already do it voluntarily, why not make it mandatory under the law?"[219]

6.5 CONCLUSION – 'OPTING IN': THE LIMITS OF VOLUNTARY CONTROLS

As concluded earlier many ECAs are not formally subject to AML-CFT regulations. No overarching legal framework exists to guide their implementation of financial crime compliance, except for some voluntary recommendations posed by the OECD. ECAs do carry out some compliance measures, motivated by a range of institutional and reputational considerations, but these efforts are often inconsistent and insufficient. Specifically, limited capacity, closeness to clients and the "approval by design" phenomenon hinder effective due diligence. The resulting fragmented approach exacerbates vulnerabilities and creates opportunities for misuse of ECA funds.

There seems to be an unspoken consensus that banks are primarily responsible for the brunt of due diligence work, detecting violations of AML-CFT and other financial crime laws. **While banks do have a critical role to play, this does not absolve other actors active in the financial industry – such as ECAs – from conducting their own due diligence**, especially considering their important position and the fact that they facilitate projects in particularly risky contexts. A more distributed approach to financial crime compliance could also enhance the overall integrity of the system.

Interestingly, some ECAs already conclude that they can in fact be seen as gatekeepers of the financial system, as they take on the task to alert other institutions about risks.[220] **The question is whether and how this gatekeeper role should be extended to level with the gatekeeper roles of banks** and other financial institutions. Stronger regulation could lead to better capacity at ECAs, but the dynamics related to closeness to clients and approval by design are likely to remain obstacles. Also, it would be worthwhile to avoid the negative securitization effects of AML-CFT regulation and consider lessons learnt from the banking sector.[221]

Optimal options may vary across jurisdictions depending on the legal status of the ECA in question. It would therefore be wise to consider the implementation of a public legal framework for financial crime due diligence designed for ECAs. Such a shift could reduce reliance on voluntary compliance mechanisms and the intermediary role of banks, thereby promoting a more standardized and enforceable approach. **At a minimum, and based on the evidence presented above, there is a compelling case for reconceptualizing ECAs as gatekeepers in the financial crime prevention landscape.**

7

CONCLUSION AND DISCUSSION

ECAs occupy a distinct legal and institutional position in the financial sector, which sets them apart from other financial institutions. **From a financial regulatory point of view hey operate in a twilight zone** and this fundamentally undermines financial crime prevention efforts. This conclusion follows from the empirical cases of misuse of ECA funds in Chapter 4, their limited regulatory landscape (Chapter 5) and the additional limitations ECAs experience (or show) when voluntarily undertaking due diligence compliance efforts, namely lack of capacity, close connections with clients and "approval by design": a lack of incentives to deny projects, including a further disincentive to employ meaningful due diligence efforts (Chapter 6). ECAs exceptional status originates from their public mandate, government backing, and state policy-driven objectives: ECAs share many characteristics with financial institutions but also function as tools of national and foreign policy.

Various ECAs frequently fall outside the scope of financial crime supervision regimes that do apply to other financial institutions, including AML-CFT regulations. **ECAs largely operate under voluntary compliance frameworks, guided by soft-law instruments such as the OECD's anti-bribery and environmental due diligence recommendations.** In contrast, other financial institutions such as banks are subject to stringent, enforceable compliance obligations under AML-CFT and anti-corruption laws. Consequently, banks often work with large compliance teams, as they risk severe penalties and fines for non-compliance with AML-CFT and anti-corruption laws.

The disparity between ECAs and other financial institutions is remarkable given the scale and significance of ECAs' activities: ECAs are the biggest source of financial backing of infrastructure projects, and they are the world's largest international public financiers of fossil fuels. ECAs support high-value and high-risk projects in sometimes politically and economically volatile regions, often involving state and corporate actors. **The reliance on voluntary AML-CFT compliance in such a critical domain creates a structural imbalance and double standards** – **holding private banks accountable through law, while granting state-backed ECAs broad discretion.** Countries that are responsible for ensuring protection of their financial system apply strict scrutiny and impose hefty fines when private financial institutions fail to comply with AML-CFT regulation but do not impose similar oversight measures over ECAs.

Given their comparable, and in some cases even greater, direct and indirect (through their clients) exposure to financial crime risks, this regulatory gap raises the question why ECAs are not subject to more stringent financial crime oversight.

ECAs as instruments of regimes of permission

The findings in this report fit with a concept that stems from research into how state and corporate actors can intentionally and unintentionally facilitate harmful projects because of existing "regimes of permission"[222]. **Regimes of permission are the set of rules, arrangements and relationships that governments create to allow businesses to operate in ways that limit their accountability when harm is caused.**[223] Within the context of this study, regimes of permission can be observed on two levels. First, on the level of the ECA, which operates outside regulatory frameworks that govern private financial institutions. Second, on the level of the businesses facilitated by ECA insurance and loans, businesses are not scrutinized as much as they would be by private insurers and banks. In effect, the exclusion of ECAs from the AML-CFT framework extends the regimes of permission to their corporate clients, effectively allowing commercial risks to be shifted onto taxpayers.

By facilitating exports that serve states' economic interests, ECAs reinforce the close relationship between governments and corporations by pursuing high-risk investments. These risks are mitigated not only through state-backed insurance and financing but also through comparatively limited regulatory oversight relative to non-ECA-backed activities. **From *a regimes of permission* perspective, this regulatory "twilight zone" is no accident** as it reflects policy decisions made both at the moment of creation of ECAs and during the introduction of later frameworks such as AML-CFT legislation. These measures were designed to promote capital flows while minimizing scrutiny, positioning ECAs as key instruments in the process of global capital accumulation. Moreover, as states' failure to protect the financial system through effective AML-CFT regulation is punished by lowering a country's credit ratings, states are disadvantaged to include ECAs under such regulation, even when that would be in line with the spirit of AML-CFT regulation: protecting the integrity of the financial system, preventing and disrupting crime, and improving national and global security.

The "approval by design" phenomenon discussed in Chapter 6 illustrates how the role of compliance within ECAs may shift from its intended purpose of critical risk assessment toward facilitating predetermined outcomes. As one respondent noted, "You can mitigate all the risks in opening an oil field on indigenous land but it is still a bad idea." This shift reflects what Whyte describes as regulatory agencies being "caught somewhere between the despotic and the infrastructural, the coercive and the creative functions of states".[224] ECAs try to balance two goals, supporting corporate exports and managing risks. But in practice the lack of capacity, closeness to clients and tendency to "approve by design" make the effective management of risks insufficient. This is very clearly exemplified in the discussed Mozambique LNG project, where the possibility of delaying or denying the project request was not seriously considered by ADSB or the Ministries, as the project was deemed "too big to fail".

Regimes of permission tend to continue even when scandals occur, which seems to be mirrored by the lack of calls for better regulatory oversight for ECAs after NGOs or journalists expose evidence of misuse of ECA funds. Therefore, improving ECA alignment with financial crime and human rights standards is not primarily about improving compliance with existing frameworks, but rather about addressing and altering the regimes of permission currently in place.

Future outlook: considering the role of ECAs as gatekeepers

Despite the clear risks that relate to ECA activities – which are high value and not seldomly facilitate business activities in volatile countries with limited regulatory oversight – ECAs have been permitted to dodge the global ALM-CFT framework. Our findings indicate that consideration of the role of ECAs as gatekeepers to combat financial crimes, such as money laundering and terrorism financing, is desirable or even necessary. When considering any expansion of ECA responsibilities to prevent or disrupt money laundering and terrorist financing though, it is important to avoid the unintended consequences associated with de-risking and over-securitization – which are problems observed in financial-sector gatekeeping and are known to have serious real-world impacts, including for nonprofit organizations.

At the same time, insufficient due diligence carries its own risks, as financial crimes reinforce systems of impunity and poor governance that ultimately undermine people's rights. Specifically, discussions should address the barriers ECAs commonly face in achieving effective compliance, so that risk assessment and mitigation become genuinely meaningful processes.

8

RECOMMENDATIONS

8.1 TO ECAS

1. Criticially assess your attitude towards the role of journalists, independent researchers and NGOs in flagging misuse of funds and human rights violations through ECA backed projects, and engage the journalists, independent researchers and NGOs for knowledge sharing and for information gathering in your due diligence processes.

2. Assess within your organization, particularly with your compliance team, the possibilities (and benefits) of taking on a stronger and more prominent gatekeeper role within the financial system, given the fact that you are a catalyst for other financiers, investors and businesses to become involved with a project. Discuss relevant outcomes with other ECAs and at the OECD to create a framework of best practices.

3. Aim to extend your due diligence checks to financial crime compliance including AML and CFT, applying this to your clients and your clients' projects. Assess and learn from other ECAs that have already put CFT-AML compliance processes in place and organize internal reflection processes on how to implement lessons learned into your compliance, monitoring and due diligence protocols. Ensure that withdrawal from providing ECA support is possible when compliance, monitoring or environmental and social assessments produce results that point to serious environmental, human rights and financial crime risks. Do not ignore or downplay red flags that are relevant for a reasonable decision. Avoid working towards approval of ECA support if this cannot be objectively or reasonably justified.

4. Ensure independent AML-CFT/financial crimes experts to support your due diligence processes, and/or make them part of your organization or Board, to prevent client capture and to maintain a "critical lens".

5. Because you are able to identify information very early on "at the front end", consider a closer collaboration with intelligence services. E.g. if you reject a proposal from a client due to financial crime risks, share this information with relevant authorities, in a timely manner, as it can be crucial to financial crime investigations.

8.2 TO FINANCIAL REGULATORY BODIES, GOVERNMENT SUPERVISORS

1. Familiarize yourself with the work of ECAs, their mandate, transactions, clients and business operations and assess whether the current level of supervision matches the role of ECAs, considering their key position in global project financing and potential role as a gatekeeper of the financial industry.

2. Open discussions in your national regulatory context about the ECA as gatekeeper. Assess how better oversight can be organized and if a binding legal framework that outlines how financial crime compliance can or should be implemented.

3. Open discussions with other countries' governments to assess how they have organized the supervision of ECAs, with the intention to harmonize ECA supervision on an international level – thus creating clear rules or guidelines and a level playing field for all ECAs.

4. Reassess whether 'damage' (or 'non-life') insurers, particularly ECAs, as (potential) gatekeepers of the financial system, can be regulated by means of guidelines or, ideally, a binding legal framework.

8.3 TO THE OECD

1. Expand the bribery recommendation to include other financial crimes, such as money laundering and terrorist financing and provide guidance for its implementation.

2. Ensure that there is a clearer set of standards that is transparent and resolves the current ambiguity and leads to fewer distinct legal responsibilities than is currently the case.

3. Open discussions with governments, ECAs, civil society, and the FATF to assess how supervision of ECAs is currently organized, with the intention to harmonize ECA supervision on an international level – thus creating level playing field for all ECAs.

4. Engage with the FATF on the role of ECAs in financial crime and their role as gatekeepers.

8.4 TO THE FATF

1. Familiarize yourself with the work of ECAs, their mandates, transactions, clients, business operations and risks in relation to financial crimes, and critically assess whether the current degree of supervision matches the role of ECAs considering their potential role as gatekeepers of the financial industry.

2. Include the role of ECAs in your publications and guidance on trade finance, assess the AML-CFT risks of ECAs and determine what this means in terms of client due diligence

3. Open discussions with the OECD, governments, civil society and ECAs to assess how supervision of ECAs is currently organized, with the intention to harmonize ECA supervision on an international level – thus creating level playing field for all ECAs.

4. Reassess whether 'damage (non-life) insurers', in particular ECAs as (potential) gatekeepers of the financial system, can and should be regulated by means of a binding legal framework.

8.5 TO NGOS AND JOURNALISTS

1. Continue to monitor ECAs and the projects backed by these financial institutions. You are a key source of information not only to the public but also to ECAs, and the only actors informed and positioned well enough to force ECAs into transformation with your research and reports.

2. Investigate and report about the societal costs of ECAs failing to perform their function. ECAs are supported by taxpayer money, meaning that the public has a right to understand how its money is being used.

3. Initiate the debate—both at international fora such as the OECD and within your national regulatory context—regarding the role of the ECA as a gatekeeper, and its implications for enhanced oversight or the establishment of a binding public law framework governing the implementation of financial crime compliance.

4. Engage with the FATF on ECAs, by for example introducing a side panel during the NGO meeting of the annual FATF meeting, on the role that ECAs can play in financial crime, and seek help from experts from the Global NPO Coalition on FATF.

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129 Respondent P2
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133 See for example "Krachten gebundeld - Naar een effectievere en efficiëntere invulling van de poortwachtersrol in Nederland (2023)", page 5, accessible via https://www.vno-ncw.nl/documenten/naar-een-effectievere-en-efficientere-invulling-van-de-poortwachtersrol-in-nederland
134 Respondent P2

135 See "De schaduwkant van compliance (2021)," page 1, accessible via https://www.vdladvocaten.nl/wp-content/uploads/2021/04/De-schaduwkant-van-compliance.pdf

136 See https://www.sace.it/en/about-us/the-companies/sace

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138 Implementation of Directive 2005/60/EC concerning the prevention of the use of the financial system for the purpose of money laundering and terrorist financing as well as Directive 2006/70/EC regarding the implementation measures.

139 See art. 10 paragraph 4 of the Decreto Legislativo n. 231 of 21 November 2007, accessible via https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2007-11-21;231

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141 See https://www.finance.gov.au/about-us/glossary/pgpa/term-corporate-commonwealth-entity-cce

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143 See EFA's website https://www.exportfinance.gov.au/how-we-can-help/our-solutions/

144 Accessible via https://www.legislation.gov.au/C2006A00169/latest/text. If an ECA is **licensed as a** financial institution (e.g., it provides direct loans or guarantees and is regulated by a financial supervisor), then it is typically subject to AML-CFT obligations similar to banks and implement due diligence accordingly.

145 As shared with researchers by EFA over email

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151 See https://www.gov.uk/guidance/uk-export-finance-ukef-financial-crime-compliance

152 While ECAs themselves are typically not prosecuted as entities, individuals involved in fraudulent activities related to ECA-backed transactions have faced legal consequences, such as in the case of an ex-employee of EXIM bank. https://www.justice.gov/archives/opa/pr/former-loan-officer-export-import-bank-pleads-guilty-accepting-over-78000-bribes

153 G4

154 As shared by P2, G4 and G3 and C5 for example

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158 As shared by ADSB with researchers.

159 ADSB did not respond to a request for an interview for this research

160 Partner in Compliance (2022), Beleidsevaluatie anti-omkopingsbeleid voor de exportkredietverzekeringen, p27. https://zoek.officielebekendmakingen.nl/blg-1041568.pdf

161 This report examined the provision of export credit insurance for an LNG project in Mozambique and the assessment of the security situation surrounding the project.

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163 P3, G3, C1, P2

164 How such information asymmetries exacerbate financial risks and encourage risk-taking behaviour by insured entities has been widely documented, see Darbellay & Gaillard 2021.

165 C1

166 P3

167 C2

168 G4

169 Partner in Compliance (2022), Beleidsevaluatie anti-omkopingsbeleid voor de exportkredietverzekeringen, p27. https://zoek.officielebekendmakingen.nl/blg-1041568.pdf

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171 P6

172 P4

173 C4

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179 P2

180 G4 and C8

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183 G4

184 C8

185 C1, C4, C7, C8, P1

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187 C2

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189 P4

190 P4

191 C8

192 P1, P2, P4, C7

193 P6

194 See for example: Knoote, F and Rosenhart (2024). Acceptable Risk? How the security threat in Cabo Delgado was ignored for the benefit of 'The Netherlands Ltd.' Report for Milieudefensie. https://en.milieudefensie.nl/news/government-wrong-again-mozambique-gas/view; and Beizsley D, Susan H (2020) Weak Link Or First Line Of Defence? The role of UK export finance in fighting corruption in a postcoronavirus and post-Brexit Export Drive. https://www.spotlightcorruption.org/report/uk-export-finance-report/

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196 From internal communication provided to the researchers

197 C5

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200 P1

201 C5

202 P1

203 https://www.aljazeera.com/news/2020/2/7/beheadings-kidnappings-amid-surge-in-mozambique-attacks-un

204 G4

205 As shared by Christophe Ferrand of Compliance Department at Société Générale during the Panel on ECAs and Financial crime during the OECD Forum in Paris on March 12th, 2025

206 P3

207 G3

208 G1

209 As shared by Daniel McLaughlin, voice chair of the OECD Export Credit Exprt group, during the Financial Crimes panel at the OECD Forum on Export Credit agencies on March 12th, 2025

210 G2

211 C3, G1, G2

212 C8

213 C3

214 KPMG (2023), Krachten gebundeld Naar een effectievere en efficiëntere invulling van de poortwachtersrol in Nederland, p.21. "In this study, gatekeepers refer to all institutions that fall under the Wwft. Non-life insurers also fall within the scope of this study, although they are exclusively subject to the Sanctions Regulations."

215 C7

216 G2, C7, G1, P4

217 P3

218 P4

219 G2 (compliance expert from intelligence unit)

220 P6

221 De Goede, M. (2017). Chains of securitization. Finance and Society, 3(2), 197-207; Vlcek, W. (2015). Securitizing money to counter terrorist finance: Some unintended consequences for developing economies. International Studies Perspectives, 16(4), 406-422;

222 Whyte, D. (2014). Regimes of permission and state-corporate crime. State Crime Journal., 3, 237.

223 According to Whyte, corporations (such as the corporates financed by ECAs) are wholly reliant on multiple regimes of permission. One such regime is the permission to trade as a separate entity, being able to operate with limited liability and being able to enjoy a separate entity under criminal law while corporations may still act as holders of "rights" (Whyte, p.244).

224 Whyte, D. (2014). Regimes of permission and state-corporate crime. State Crime Journal., 3, 240.