


Fighting Terror with Error? Transcending Fact-free Policy Making

Nikos Passas
Northeastern University
3rd International Conference on Hawala
Abu Dhabi, April 2005

Rationale for Financial Controls



- Reduce possible harm
- Monitor militant activities
- Reconstruct events-conspiracies
- Force tactical changes and communications – more opportunities for intelligence gathering
- Understand and undermine the social organization of militant groups

Risks of erroneous CTF



- Driving networks/transactions underground
- Collateral damage
- Alienation of ethnic groups
- Neglect of more serious problems
- Increase of economic/other asymmetries
- More grievances = fertile ground for recruiting militants

Context of Financial Controls



- The growing “regulatory tsunami”
- Main goal: fight serious crime - prioritize
- Other goals too: security, peace, good governance, human rights, poverty, economic growth, public health, the environment
- Not only technical, capacity, political will issues
- Ignorance of externalities, persistence and thoughtless application: “regulatory fundamentalism”
- Legitimacy v. “paper compliance” and illusions of success

Comparing rates

PKR-DRH rates in various markets on 8 December, 2003
in Dubai.

PKR for 1,000 DRH

11,905 [minus fees]

12,391

12,660

Options

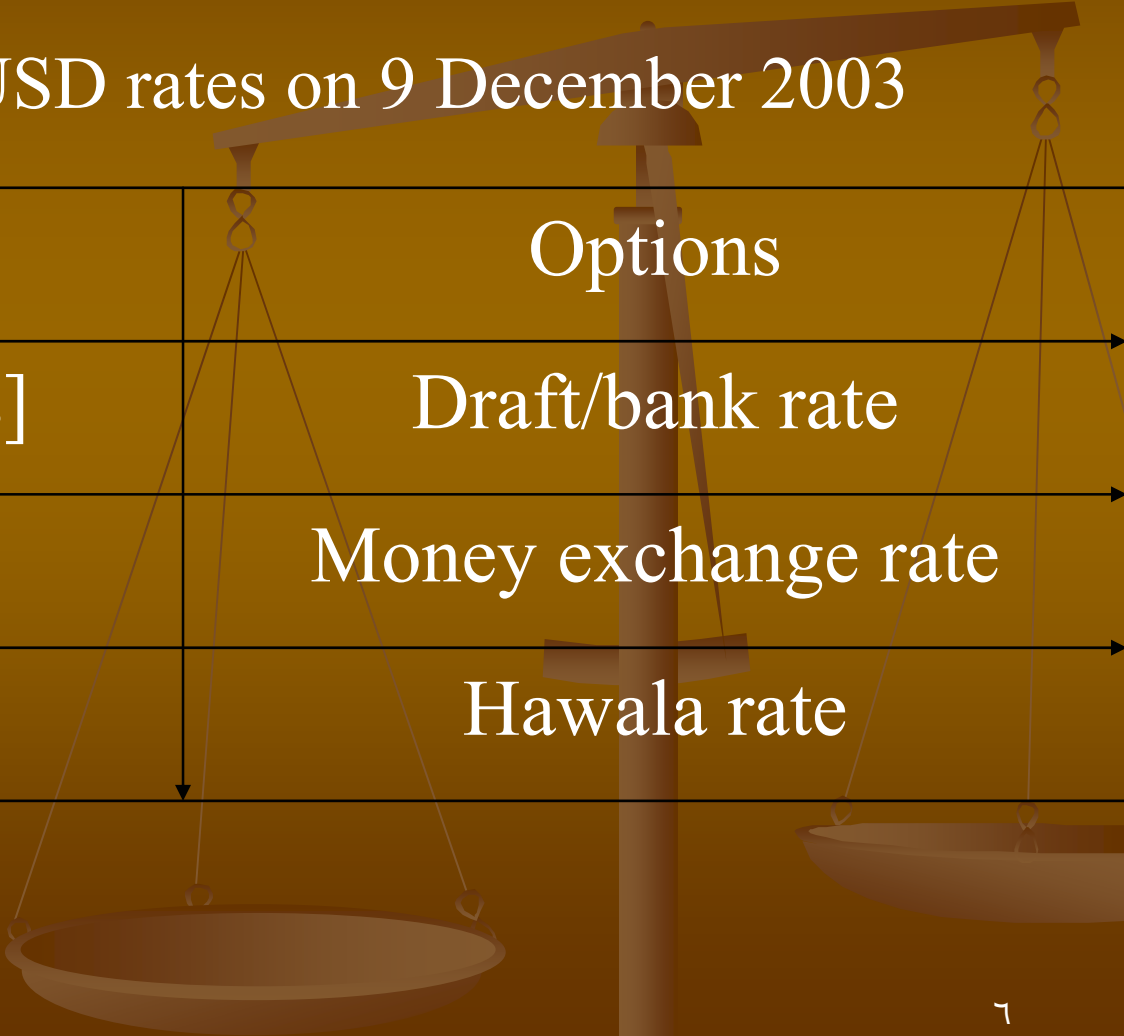
Draft/bank rate

Money exchange rate

Hawala rate

Comparing rates

Indian Rupee-USD rates on 9 December 2003



IR for 1,000 USD	Options
44,128 [minus fees]	Draft/bank rate
45,510	Money exchange rate
46,259	Hawala rate

Cost of sending 100 USD to South Asia from Dubai (Nov. 2004)

Institution	Charges (in USD)		Rate of AED/USD
	Draft	Telegr. Transfer	
Exchange house	1.36 - 2.722	9.52 - 16.33	3.6735 - 3.68
Bank	2.722 - 6.80	12.25 - 27.22	3.678 - 3.693
Western Union	9.52	-	3.7
Hawala	0	-	3.673-3.6736

Comparative amounts received in Pakistan for 100 USD from Dubai Nov. 2004

Method of remittance	Charges	Total paid	PK Rupees received
Draft (exchange house)	1.36 - 2.722	101.36 - 102.722	5901 – 5910
Draft (Bank)	2.722 - 6.80	102.722 - 106.80	5890
TT (exchange house)	9.52 - 16.33	109.52 - 116.33	5901 – 5910
TT (Bank)	12.25 - 27.22	112.25 - 127.22	5890
Western Union	9.52	109.52	5858
Hawala	NIL	100	5920

Our focus today




- Rethinking models that need improvement
 - US case
- Point to areas of higher vulnerability and risks
 - Trade transparency

Hawala and terrorist finance



- Disconnect between tons of money and lack of resources in discovered cases
- Wide range of fund raising and transfer methods used by militants
- Hawala not the most important one
- More emphasis on name, shame, freeze and seize – leads to ML as method for funds transfers

What is the cost of current regulations?



- US regulation of money transfers
 - Federal v. States regulation
 - Due process and quality of evidence (al Barakaat case)

Federal regime

- Registration
- Record Keeping
- Reporting Suspicious Transactions
- KYC

State

- Licensing
- Bond, capitalization, net worth, fees
- In many states, requirements are unrealistic and unaffordable for small businesses

Barakaat Case Study



- World-wide closure
- Arrests
- Records seized
- Assets frozen
- Somalia effects
- No terrorism charges filed
- Names still on the designation lists

Effects



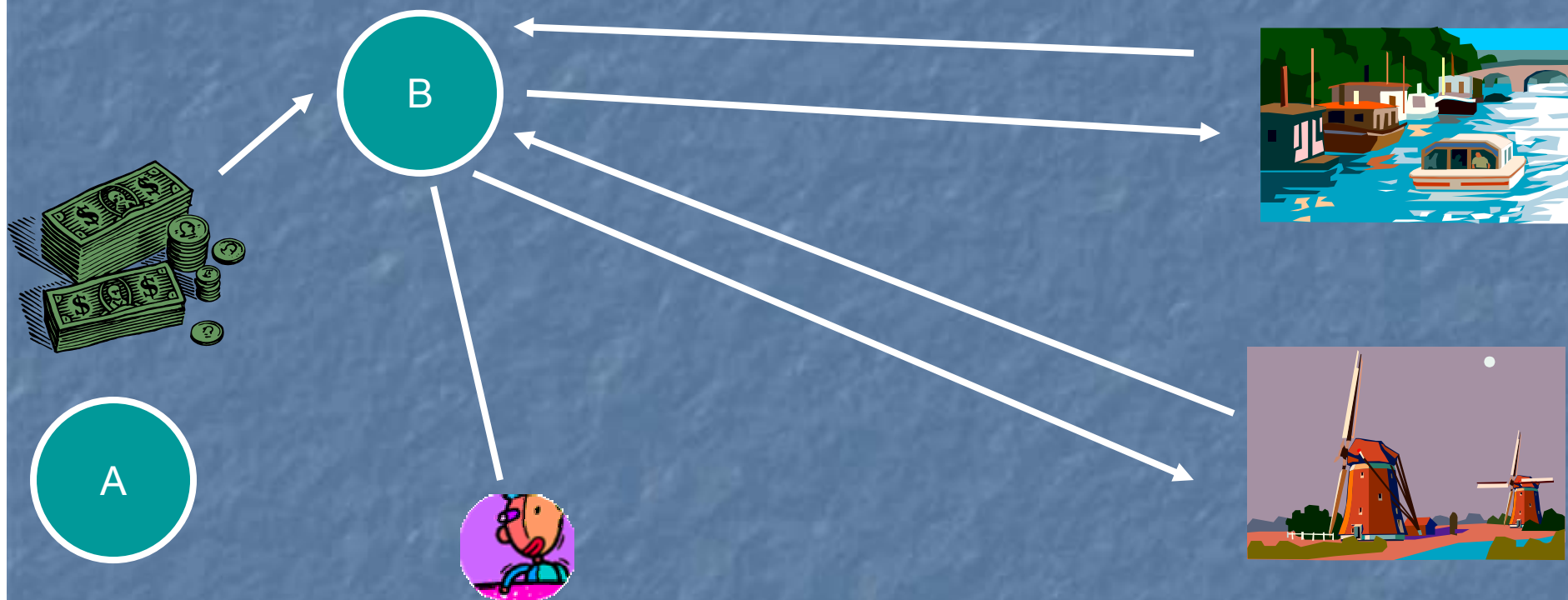
- Effective? - No hard evidence
- Efficient? – growing costs and externalities
- Promote collaboration? – not really
- Legitimacy? – a *conditio sine qua non*
- Prioritization? – trade more vulnerable to abuse

Main Points: Bad Governance



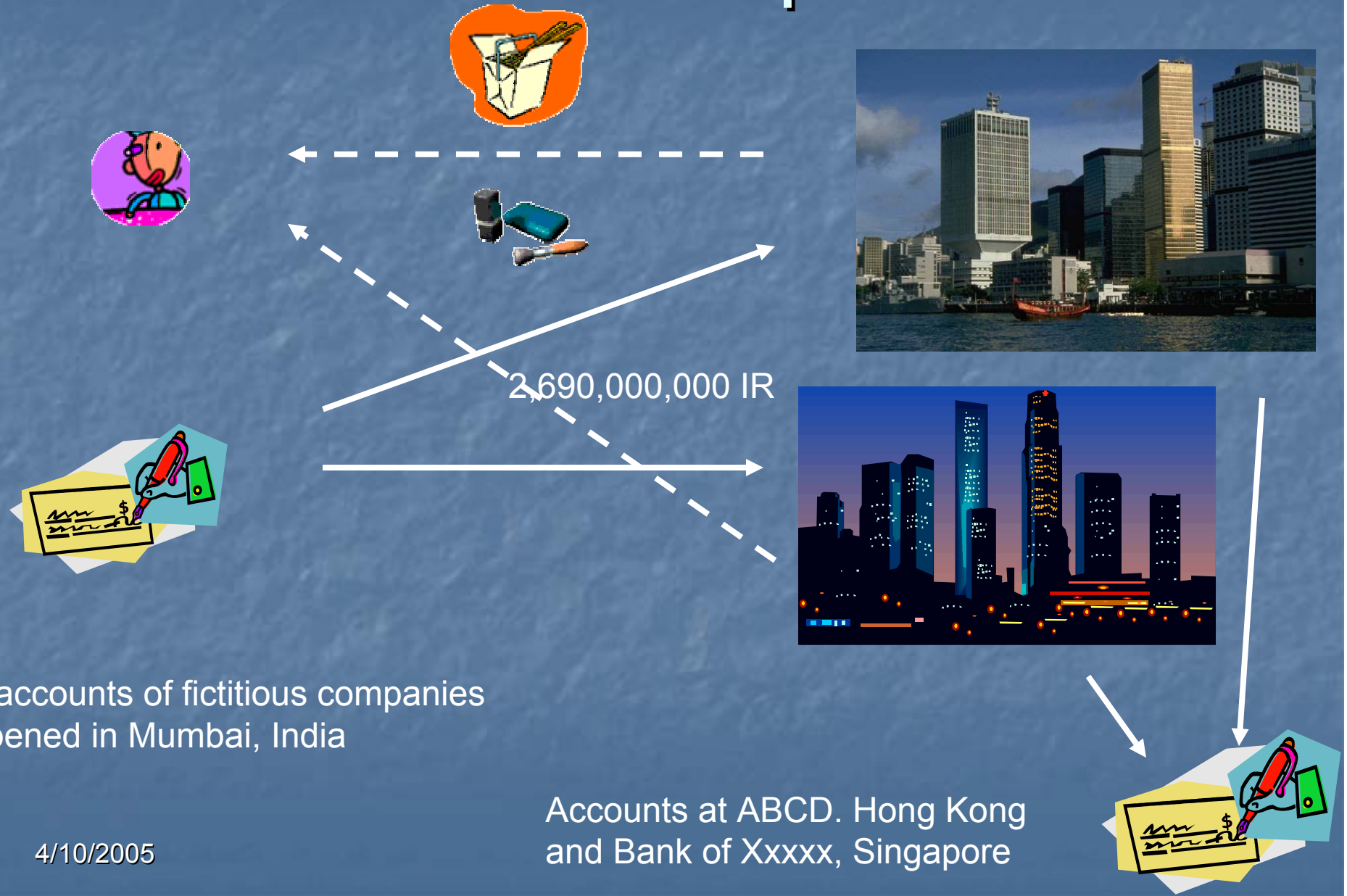
- Thoughtless global regulation (forced cosmopolitanism) → paper compliance → loss of control (reinforced parochialism)
- Supply-side, short-term and individualized approaches to control → neglect of root causes
- Privatization of control and off-shore justice [spacial and beyond established norms] → Loss of legitimacy

Diamond exports



Invoices showing extra 20-30% profit

Diamond "imports"



4/10/2005

NGO/media theory of AQ nexus



- AQ used conflict/rough diamonds to raise millions of dollars in W. Africa
- AQ used rough diamonds to store its assets and protect them against seizure
- US and int'l community should devote many more resources to this area of concern

Media/NGO reports



- Debatable assumptions on militant structures
- Loosely networked, self-financed individuals and cells involved in all types of trading and financing
- Third party sources, misleading accounts and 'facts by repetition'.
- Several baseless and sensational statements

Findings



- Very few cases in which terrorist groups can be linked to the trafficking of diamonds.
- AQ link empirically and theoretically weak
- Amounts involved not substantial.
- However, sector is vulnerable to abuse now and in future
- Vulnerabilities in other parts of the pipeline and closer to the global North
- Links of diamonds with criminal activities not unique. Trade in precious metals, electronics, pharmaceuticals, cosmetics, textiles, foodstuff, tobacco, car or bicycle parts, etc. just as vulnerable.
- **Trade is NOT transparent = threat to all efforts countering money laundering, terrorist finance or financial crime.**

Further findings on diamonds

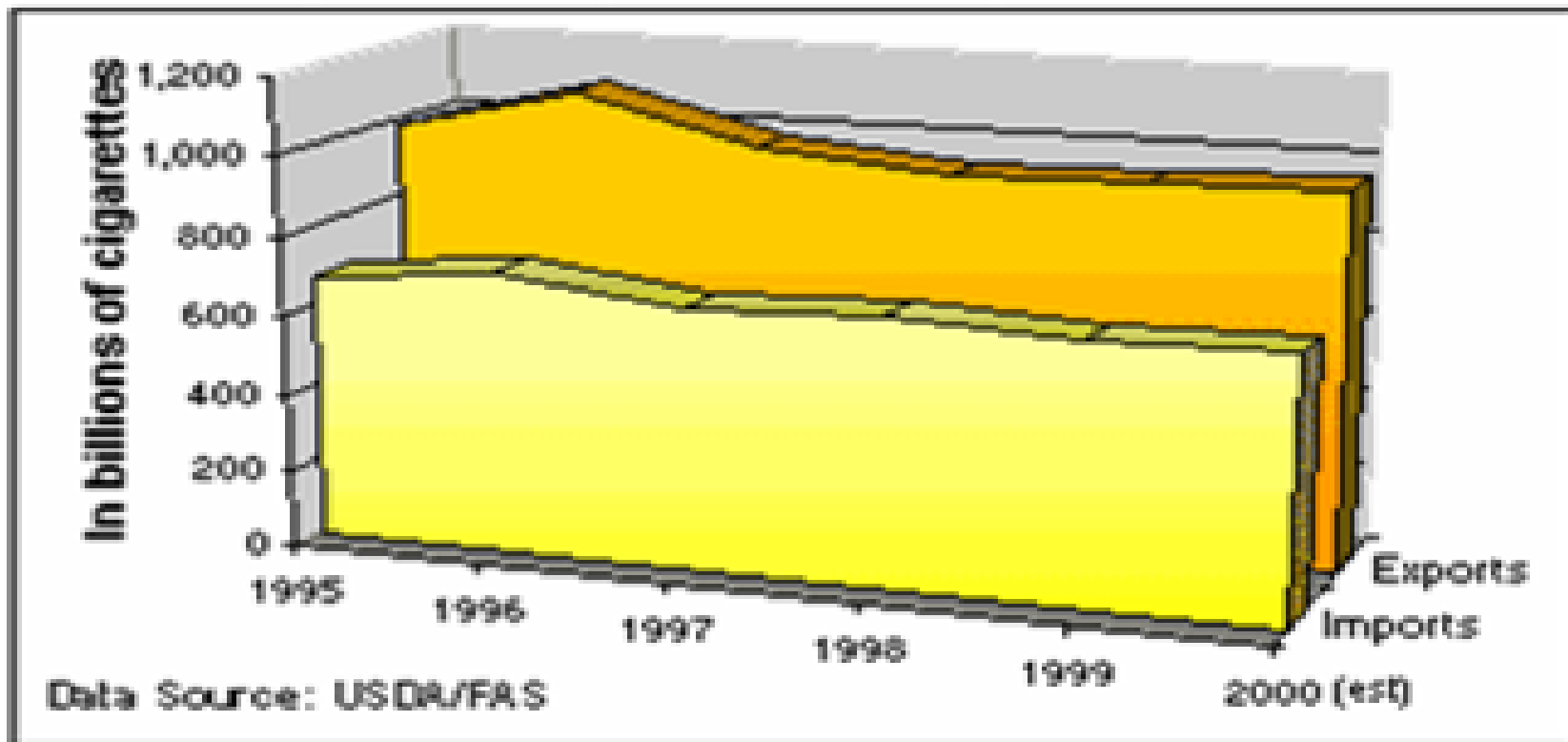


- US diamond imports are often “nominee trades” with unknown ultimate consignees
- Information on country of origin provided to US Customs (now ICE) is often inaccurate
- Trade open to invoice manipulation
- Amounts involved are very significant

Global Tobacco Imports and Exports



Global Cigarette Imports and Exports



The disparity between global exports and global imports has averaged around 30%.

Mosquitoes, Elephants and Proper Regulation




**Are we exaggerating the risk from mosquitoes
while elephant-size risks are neglected?**

4/10/2005

٢٤

Fighting a war on terror and shooting ourselves in the foot



- Networks of terror v. networks against terror
- Current efforts in need of evaluation and improvement
- Away from a bulldozer approach to regulatory symmetry
- Shift towards more balanced, consensus based, genuinely collaborative, international effort

Recommendations

- Look carefully into trade issues
- Enforce existing laws
- Smart use of technologies and human capital
- Trade transparency/TTU
- Outreach and two-way communication with stakeholders and participants in markets
- Through multi-agency and international efforts
- Resources to plan well and make this all happen

Leadership



- FATF – applicability of rules universally?
- IMF/WB – study IVTS mechanics and effects of regulation
- UN – take best evidence into account
- EU/CoE – evidence-based and cautious regulation
- Countries' input
 - FinCEN – harmonization of federal and state objectives/rules
 - TTU – trade transparency unit at DHS in US is promising
 - SA/UK – better approaches in developing economies?
 - UAE – studies, training and workshops
- Private sector
 - STRs and wide, active participation in rule making

Thank you so much

Nikos Passas

+1-617-373 4309

n.passas@neu.edu

nikospassas1@yahoo.com