

The background of the cover is a close-up, slightly angled view of a Euro banknote. The intricate security patterns and the word 'EURO' are visible. A large, white puzzle piece is placed over the center of the image, containing the title and author information. The puzzle piece has a slightly irregular, hand-cut appearance.

INSIDE THE COMPLIANCE PUZZLE:

Dilemmas of supervisory agencies
in anti-money laundering

Agnes Käll

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Dilemmas of supervisory agencies
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Subject: Business Studies
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School of Social Sciences Social Sciences
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Abstract

This thesis unpacks the empirical puzzle that banks suspected of involvement in money laundering may nevertheless be deemed compliant with anti-money laundering (AML) regulations by supervisory agencies. To analyse this contradiction, I draw on legal endogeneity scholarship, which extends neo-institutional organization theory into the legal domain. Research in this vein holds that law becomes endogenous within organizations in a regulated field as actors interpret legal rules and embed those interpretations in organizational activities. Previous studies have focused on how interpretations managerially defined by regulated organizations become accepted as evidence of compliance. This thesis adds to that research by exploring the role of supervisory agencies in legal endogeneity. Understanding endogenous law as co-constructed by organizations within a socio-legal field, the research question is: How do supervisory agencies co-construct AML regulation? To answer this question, I study the development of AML supervision of financial supervisory authorities (FSAs) in Denmark, Estonia, and Sweden. During the studied 1991–2021 period, these contexts were in a double sense marked by the so-called Baltic money laundering cases: first as immediate realities and later as mediatized scandals.

Based on a thematic analysis of archival material and qualitative interviews, three distinct phases of AML supervision are identified, characterized by reactive, vulnerable, and proactive modes of organizing respectively. I further show how these modes reflected the positioning of supervisory agencies within the socio-legal field. When AML was constructed as a peripheral regulatory concern, large banks were influential in shaping the meaning of compliance. As the scandals escalated, AML evolved into a high-stakes issue demanding legal authority and normative alignment from the financial supervisory agencies, fostering a more traditional regulator–regulatee relationship. Meanwhile, the socio-legal field of AML regulation grew increasingly transnational, culminating in centralized supranational oversight that once again recast the role of the supervisory agencies as legal actors. Analysing this shifting institutional environment, this thesis offers three theoretical contributions: (1) legal endogeneity is not only a social order, but also a temporal process; (2) it is not merely a local concept, but also entails the transnationalization of regulation and the redistribution of legal authority; so that (3) not only law, but also actors, become endogenously co-constructed within the socio-legal field.

Keywords: Anti-money laundering, regulation, financial supervision, compliance, supervisory agencies, legal endogeneity, neo-institutional theory, regulatory governance, public organization

Sammanfattning

Titel: *Inuti regelefterlevnadsgåtan: Finanstillsynsmyndigheters dilemman i arbetet mot penningtvätt*

Denna avhandling belyser det empiriska mysteriet att banker misstänkta för inblandning i penningtvätt ändå kan bedömas följa reglerna mot penningtvätt (ett regelverk förkortat AML) vid inspektion av finanstillsynsmyndigheter. För att analysera denna motsägelse tillämpar jag begreppet juridisk endogenitet, som utvidgar nyinstitutionell organisationsteori till den juridiska domänen. Begreppet beskriver hur lagars innebörd formas inom organisationer genom att aktörer verksamma i ett reglerat fält tolkar regler och införlivar dessa tolkningar i den organisatoriska praktiken. Tidigare studier har främst fokuserat på hur de tolkningar som görs inom reglerade organisationer, ofta präglade av ledningens perspektiv, accepteras av rättssystemets aktörer som bevis på regelefterlevnad. Avhandlingen bidrar till denna forskning genom att undersöka tillsynsmyndigheters roll i juridisk endogenitet. Utifrån en förståelse av endogen reglering som konstruerad gemensamt av organisationer inom ett socio-rättsligt fält lyder forskningsfrågan: hur samkonstruerar tillsynsmyndigheter AML-reglering? För att besvara denna fråga studerar jag utvecklingen av finanstillsynsmyndigheters AML-tillsyn i Danmark, Estland och Sverige. Under den studerade perioden, 1991–2021, präglades dessa kontexter på två sätt av den så kallade baltiska penningtvätthärvan: först som praktisk realitet och senare som en serie mediala skandaler.

Baserat på en tematisk analys av arkivmaterial och kvalitativa intervjuer identifieras tre distinkta faser av AML-tillsyn, kännetecknade av reaktiva, ”utsatta” respektive proaktiva organiseringsformer. Jag visar vidare hur dessa former återspeglade tillsynsmyndigheternas positionering inom det socio-rättsliga fältet. När AML konstruerades som en perifer regleringsfråga kom storbankerna att påverka innebörden av regelefterlevnad. I samband med skandalernas offentliggörande utvecklades AML till ett högaktuellt problem som krävde rättslig auktoritet och normativ anpassning från de finansiella tillsynsmyndigheterna och därigenom främjade en mer traditionell relation mellan tillsynsmyndighet och tillsynsmottagare. Samtidigt blev det socio-rättsliga fältet för AML-reglering alltmer transnationellt, vilket kulminerade i en centraliserad överstatlig tillsyn som återigen omformade tillsynsmyndigheternas roll som rättsaktörer. Avhandlingen analyserar denna skiftande institutionella miljö och erbjuder tre teoretiska bidrag: 1) juridisk endogenitet är inte bara en social ordning utan också en process över tid; 2) begreppet är inte enbart lokalt förankrat utan inbegriper även transnationalisering av regelverk och en omfördelning av rättslig auktoritet; och 3) inte bara lagen, utan även aktörer, blir endogen samkonstruerade inom det socio-rättsliga fältet.

Nyckelord: Anti-penningtvätt, AML, reglering, tillsyn, regelefterlevnad, tillsynsmyndigheter, finansinspektioner, juridisk endogenitet, nyinstitutionell teori, regleringsstyrning, offentlig organisation.

In nature, parasites rarely survive merely by taking. [...] Parasites require hosts, and a mutually beneficial symbiosis often results. Some parasites help their host survive by finding more food, others protect it from disease, knowing that they will end up as the beneficiaries of its growth. (Hudson, 2015, p. 14)

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This writing process began as a solitary trek – at once open, guided only by vague conceptions of content and direction, yet constrained by a sweeping pandemic. Its very take-off, however, was due to a vibrant telephone discussion with Noomi Weinryb late in my first pregnancy in December 2019, about how to theoretically approach the topic of compliance with anti-money laundering (AML) regulation. This was an area I had become concerned with after falling into a position as a low-level analyst at Swedbank the year before. I was not the only one concerned with this particular area at the time. In fact, it had been in the media spotlight for more than a year following the so-called Baltic money laundering scandals, involving my employer. As these scandals will receive their fair share of attention later in this thesis, I will leave them aside here.

Noomi, who was later to become my main supervisor, deserves a special thanks for transforming the solitary trek into a memorable, and in many parts joyful, adventure. Her contribution to this thesis can hardly be over-estimated – not only intellectually, but also in helping me navigate the socially complicated realities of academia. With a great sense of timing and care, she advised me what to do with my ideas and intentions: when and how to push and hold back. In addition, she offered vital support on managing the physically demanding tasks of reading, thinking, and writing alongside caring for small children. If Noomi deserves special thanks for carrying me through the adversities of doctoral studies, my second supervisor, Karin Svedberg Helgesson, deserves special thanks for teaching me how to theorize. Supervision with Karin demanded full concentration and often left me in confusion. Only later, when revisiting a draft, did I realize I had written what she had meant all along. In this mysterious way, she always seemed to foresee where it all would end.

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Stockholm, 2025

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Abbreviations

- AML** – Anti-Money Laundering
- AMLA** – Authority for Anti-Money Laundering and Countering the Financing of Terrorism
- AMLR** – Anti-Money Laundering Regulation (EU legislative package)
- CTF/CFT** – Countering the Financing of Terrorism
- DFSA** – Danish Financial Supervisory Authority
- EBA** – European Banking Authority
- ECB** – European Central Bank
- EFSA** – Estonian Financial Supervisory Authority
- Eurojust** – European Union Agency for Criminal Justice Cooperation
- Europol** – European Union Agency for Law Enforcement Cooperation
- FATF** – Financial Action Task Force
- FIU** – Financial Intelligence Unit
- FSA/FSAs** – Financial Supervisory Authority/Authorities
- IMF** – International Monetary Fund
- KYC** – Know Your Customer
- MAXQDA** – (Name of qualitative data analysis software used)
- ML** – Money laundering
- MONEYVAL** – Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (Council of Europe body)
- MoU** – Memorandum of understanding
- MP** – Member of parliament
- NGO** – Non-Governmental Organization
- OCCRP** – Organized Crime and Corruption Reporting Project
- OECD** – Organisation for Economic Co-operation and Development
- SEB** – Skandinaviska Enskilda Banken
- SFSA** – Swedish Financial Supervisory Authority
- UG** – Uppdrag Granskning

Introduction

On March 20, 2017, the Danish newspaper *Berlingske* revealed that Danske Bank was suspected of being involved in money laundering in Estonia. *Berlingske*'s reporting marked the beginning of a triad of money laundering scandals unfolding in national and international media between 2017 and 2019. In addition to the Danske Bank branch, the Estonian subsidiaries of two large Swedish banks, Swedbank and SEB, were implicated. These scandals trace back to the 1990s, when Nordic banks aggressively expanded into the Baltics. As part of this expansion, local banks were acquired, bringing with them extensive exposure to criminal money on its way to Western financial systems via complex networks of shell companies and international transfers. The illicit financial flows highlighted in the media had passed through the Estonian branch and subsidiary banks between 2007 and 2015. It was later concluded that suspicious transactions through Danske Bank's Estonian branch had totalled around EUR 200 billion – making it the largest money laundering scandal in European banking history – while Swedbank and SEB were linked to suspicious flows of approximately EUR 135 billion and EUR 25.8 billion (2005-2018), respectively (ERR, 2019a; Reuters, 2019). Together, these scandals deeply shook the Nordic-Baltic financial sectors and triggered a wave of scrutiny from national and international investigators.

This thesis emerges from curiosity about a puzzling empirical observation at the heart of these scandals: large Nordic banks were exposed in the media as suspected of involvement in money laundering despite having passed national supervision of their compliance with anti-money laundering (AML) regulations. That is, regulated organizations were deemed sufficiently compliant with applicable regulations and yet nevertheless engaged in the behaviour that the regulations set out to prevent. This raises questions about the meaning and function of regulation: Did the rules explicitly prohibit the banks from being involved in money laundering, or implicitly allow it? Were the rules misinterpreted, or manipulated, or was it simply a matter of flawed supervision? To explore this puzzle, legal endo-

generality scholarship is useful. This strand of literature extends neo-institutional organization theory into the legal domain, suggesting that law becomes endogenous when organizations interpret legal rules through the lens of their institutional environment and embed those interpretations in their practices. Over time, these internal interpretations tend to become accepted by legal actors (e.g., courts, legislators, and regulators) as legitimate evidence of compliance. Hence, regulation becomes shaped by the field it seeks to regulate (Edelman, 2007, 2008, 2016; Edelman et al., 2011). Endogenous law is commonly linked to conditions of legal ambiguity, when the meaning of compliance is unclear or contested (Edelman, 1992).

From this perspective, organizations are more than passive subjects of regulation; rather, they actively construct legal meaning in their encounters with regulations during their daily activities. A basic notion of the legal endogeneity perspective is that organizations operate within legal environments, referring broadly to legal frameworks, actors, and enforcement, as well as other external sources of coercive influence on organizations in a regulated field (Edelman, 1990; Edelman & Suchman, 1997; Short & Toffel, 2010). In this view, the legal environment consists of three distinct aspects that influence how organizations interact with regulation: it facilitates certain organizational actions by providing frameworks in support thereof; it regulates organizational behaviour by imposing obligations and restrictions on organizations; and it is constitutive of organizations by shaping their structures and activities. While the legal environment shapes organizational behaviour, the socio-legal field provides an arena for the construction of legal meaning. The socio-legal field concept, referring to a zone in which the legal environment and the regulated field overlap, is also central to legal endogeneity theory by forming an interactional space where conceptions of legality, rationality, and morality spread between legal actors and regulated organizations (Edelman & Suchman, 1997).

While the concept of the socio-legal field helps explain how interpretations of rules can circulate between regulated organizations and the legal system – suggesting that banks may influence supervisory understandings in the compliance puzzle – it does not account for how the meaning of a rule might facilitate its own violation. Specifically, it does not explain how actions deemed to demonstrate compliance can coexist with behaviours the rule is intended to prevent. To address this issue, the legal endogeneity literature introduces the concept of symbolic compliance, which describes how organizations engage in activities that signal adherence to rules without achieving any substantive compliance outcomes (Edelman, 1992,

2016; Edelman & Cabrera, 2020). A common example is the adoption of procedural standards, which leads to changes on the surface rather than in practice (Edelman & Talesh, 2011). Symbolic compliance has mainly been highlighted in for-profit corporations, where compliance measures are often implemented so as to not disturb business. This managerialization of law relates to the classical neo-institutional concept of decoupling (Meyer & Rowan, 1977) in that it creates a gap between the symbolically implemented compliance structures and the organizational practice (Stryker, 2019). Symbolic compliance adds a recursive dynamic to this conceptualization: organizations not only respond to institutional frameworks but also shape them. As symbolic compliance structures become institutionalized in a regulated field, they become indicative of what counts as legitimate compliance and can thereby influence broader institutional understandings of legality (Edelman, 2007).

However, the concept of symbolic compliance primarily addresses how the regulated organizations handle legal requirements. Therefore, the rule-intermediation concept (Talesh, 2015; Talesh & Péglise, 2019) has been developed, highlighting how actors outside the primary regulator–regulatee relationship, such as law firms, consultants, and standard-setters, can influence legal meaning by translating legal mandates into organizational practices. According to Talesh and Péglise (2019), such translations commonly reflect managerial or professional frameworks rather than the original intent of the law, which can result in the institutionalization of compliance structures that appear legally legitimate but are substantively ineffective (Talesh, 2022). In this sense, the rule-intermediation concept is also useful for understanding the compliance puzzle. However, while the rule-intermediation concept accounts for the roles of non-state and private-sector actors, it still reinforces the bottom-up approach by focusing on how regulated fields influence the legal environment. This largely one-sided focus has meant that less attention has been paid to the role of legal actors – and particularly those of the public sector – in legal endogeneity (Gilad, 2008, 2014).

Consequently, the roles of legal actors tend to be reduced to reactive adaptation to organizationally constructed compliance measures. This dynamic is often explained in terms of judicial deference, a legal principle whereby courts defer to the decisions or interpretations of other authorities. While in the case of AML regulation this phenomenon poses a real threat to the prevention of money laundering, given the banks' information advantage in assessing the money laundering risks associated with complex finan-

cial instruments, it leaves other potential influences of legal actors on the construction of legal meaning underexplored (Talesh, 2015). This points to a gap in legal endogeneity theory: it falls short in describing how legal actors, as more than reactive responders to the conceptions of the regulated organizations, play a role in the co-construction of legal meaning. A few important contributions have extended the legal endogeneity literature in this regard, for example by highlighting the reciprocal nature of meaning-making between legal actors and regulated organizations. Gilad's (2008, 2014) work on regulatory dialogues shows how legal actors and regulated firms interactively construct compliance expectations through iterative exchanges, negotiation, and adaptation. Similarly, Hock and Dávid-Barrett (2022) stress the role of institutional incentives and power asymmetries in shaping symbolic compliance. However, while these studies acknowledge the co-constructive dynamic of legal endogeneity, they largely reproduce the regulator–regulatee relationship as a static order, rendering the legal actors as institutionally constrained responders rather than agents exercising legal authority.

This thesis addresses this gap with the aim of exploring the role of supervisory authorities in legal endogeneity – not as playing merely a reactive role, but as legal actors who are both subject to and enforcers of regulation. The assumption that public regulators participate in constructing regulatory “content” is nothing new to the regulatory governance literature (e.g., Eriksen & Eriksen, 2025; Grandy & Hiatt, 2020; Schneiberg & Bartley, 2001, 2008). Black's (2002) concept of regulatory conversations assumes that regulatory processes involve not only written norms but also interpretive discretion. Since no clear distinction can be drawn between rules and discretion, the latter is understood as “the space both within and between rules in which decision makers exercise choice” (Black, 2002, p. 172). This implies that interpreters of rules influence their meaning, regardless of when or by whom the interpretation is made within the regulatory process. The meaning of regulation is thus conceptualized as being created through “conversations” between the regulators and the regulated, with the regulators acting as meaning-makers through interpretation, dialogue, and mutual adaptation.

Supervision as a legal mandate and practice further constitutes a research area in its own right (e.g., Baldwin et al., 2012; Gilad, 2010; Levi-Faur, 2011a; Power, 2002). Similar to the socio-legal understanding of the regulator–regulatee relationship, micro-level research on auditing, for example, indicates how the roles of auditors and auditees may not only shift between

audits, but also become blurred during audit activities, suggesting that the actors involved in an audit negotiate a shared understanding of performance (Ek Österberg & De Fine Licht, 2023). Moreover, by applying the concept of regulatory conversations to the domain of public financial management, specifically for exploring sustainable public procurement, Lagström and Ek Österberg (2025) illuminate the inherently deliberative nature of regulation. However, while these governance and discourse-analytical approaches to how the meaning of law emerges in regulatory processes enhance our understanding of the compliance puzzle, I argue that they do not fully capture the dynamics of organizing – that is, how organizations co-construct the meaning of law by embedding rule interpretations in their daily activities. Positioned at the intersection of legal authority and professional practice, supervisory agencies are situated to shape both compliance standards and enforcement expectations by organizing supervision in practice.

In this study, I explore supervision within the regulatory framework of AML, which refers to the web of laws, regulations, and procedures aimed at preventing and uncovering efforts to disguise illicit funds as legitimate income. This study explores the development of AML supervision as a legal mandate and practice of financial supervisory authorities (FSAs) in Denmark, Estonia, and Sweden. During the studied 1991–2021 period, these contexts were in a double sense marked by the Baltic money laundering cases: first as practical realities unfolding between 2007 and 2015, and then as mediatized scandals, surfacing in national and international media from 2017 to 2019.

Comprising a mix of repressive criminal law and preventive banking law, AML constitutes a case of legal endogeneity from the outset by placing a self-regulatory burden on the banks. The AML regulatory framework is also representative of the contemporary “transnationalization” of regulation, whereby social and economic organizing increasingly reaches across national borders, bringing an expansion in the scope and breadth of regulation and oversight (Djelic & Quack, 2018; Salles-Djelic & Sahlin-Andersson, 2008). This legal environment has attracted scholarly attention (e.g., Bergström et al., 2011; Hülse & Kerwer, 2007; Jakobi, 2012; Seyad, 2012; Svedberg Helgesson & Mörth, 2018), which in turn has illuminated how private-sector compliance professionals (both legal and non-legal actors) can influence AML policy by enacting intermediary roles at national and transnational levels of regulation (cf. Tsingou, 2018, 2020, 2023; Verhage, 2009, 2011). However, while stressing the intrusive role of private

for-profit actors in the construction of regulatory meaning, previous research has paid less attention to public actors in this regard. This renders the role of supervisory agencies in legal endogeneity both theoretically and empirically relevant.

Research question

This thesis aims to explore the role of supervisory agencies in legal endogeneity by addressing the following research question: *How do supervisory agencies co-construct AML regulation?*

Thesis outline

Following the above introduction, the next chapter presents the theoretical framework of the thesis. In this theory review, I discuss three theoretical concepts underpinning the legal endogeneity literature: *legal ambiguity*, *symbolic compliance*, and *rule-intermediation*. I then continue with a brief summary of how these concepts can help us understand the role of supervisory agencies in legal endogeneity. This discussion leads to an identified research gap, which I outline in greater detail at the end of the chapter.

In chapter three, I present the research design, methodology, and methods applied for the empirical study. The chapter begins with an introduction to the empirical case and research contexts. The characteristics of the Danish, Estonian, and Swedish FSAs as public agencies are outlined, followed by a regulatory overview of the European AML regime. This is followed by a description of the methods used in the study, including how documents and interviewees were selected and accessed, and what ethical considerations informed my decisions. I then continue by detailing the method I employed to analyse the empirical material. The chapter ends with a section discussing the credibility, authenticity, and accuracy of my methodological choices.

In the subsequent three chapters, I present the empirical findings of the archival and interview studies. Chapter four covers the first, reactive phase of AML supervisory organizing, largely unfolding before the media exposure of the Baltic money laundering scandals. Chapter five depicts a vulnerable phase of AML supervisory organizing, which took place in the wake of the scandals. Chapter six presents a third phase, characterized by a proactive mode of organizing in which AML supervision was reinvented, institutionalized, and transnationalized.

1. INTRODUCTION

In chapter seven, I present my theoretically grounded analysis of the empirical findings. In the first section, I discuss the findings in relation to the central concepts underpinning legal endogeneity theory. In the second section, I move beyond the existing literature and explore two aspects through which the AML case can further our understanding of the role of supervisory agencies in legal endogeneity.

Chapter eight concludes the thesis. It begins with a section presenting the conclusions drawn from the theoretically grounded analysis, revisiting the thesis aim and research question. Based on these conclusions, I then suggest how the thesis provides two empirical and three theoretical contributions to the legal endogeneity literature. In a second section, I look beyond the scope of this thesis, discussing a number of limitations of the study. I then suggest possible directions for future research, outlining avenues to explore. The thesis ends with a brief section in which I suggest some policy implications of the study.

Theoretical framework

In this thesis, I employ a neo-institutional lens in exploring how supervisory agencies co-construct legal meaning. This theoretical framing challenges conventional views of law as merely a top-down, exogenous, and coercive force, and highlights how legal meaning becomes constructed by regulated organizations as they embed it in their organizational activities. In this way, the meaning of law often becomes filtered through managerial and professional interpretations. The theory suggests that when these interpretations become institutionalized within the regulated field, they easily continue spreading to organizations of the legal system, rendering their understanding managerialized as well. Ultimately, law becomes constructed by the field it was originally thought to regulate. Below, the theoretical underpinnings of this neo-institutional strand of organization studies are discussed in terms of legal ambiguity, symbolic compliance, and rule-intermediation.

Institutional perspectives on regulation

Given that, from a neo-institutional perspective, regulation can refer to any mechanism intended to govern behaviour (cf. Levi-Faur, 2011b), there is reason to define what is meant by rules and regulations within the theoretical framework of this thesis. Following Black (2002, p. 170), regulation is understood as “a process involving the sustained and focused attempt to alter the behaviour of others according to identified purposes with the intention of producing a broadly identified outcome or outcomes which may involve mechanisms of standard-setting, information-gathering and behaviour-modification”. This definition implies that regulation comprises intentional attempts at ordering, which can be undertaken by both state and non-state actors, public as well as private. No particular institutional or organizational arrangement need be assumed for regulation to come about; neither does regulation require the employment of particular techniques or result in particular intended outcomes. The regulators may operate at

national (or sub-national), transnational, or supranational levels, and the regulated may be governments, associations, firms, and/or individuals. In addition, other actors such as legal or non-legal advisors, accreditors, and auditors may be involved, as well as professional associations, non-governmental organizations (NGOs), and special-interest groups. This inclusive definition means that the boundaries between regulator and regulatee might shift, which according to Black (2002) is a given in a transnational context.

Scholars of regulatory governance commonly distinguish between hard and soft regulation. Hard regulation consists of legally binding obligations that can be enforced in court, while soft regulation includes non-binding instruments such as agreements, principles, and declarations (e.g., Jacobsson & Sahlin-Andersson, 2008; Mörth, 2004; Sahlin & Wedlin, 2008). Similarly, enforcement is commonly divided into hard and soft mechanisms. While the former are defined by their involvement of direct legal mandates with specific rules, sanctions, and oversight, the latter refer to informal, less coercive forms of legal influence, generally relying on norms, voluntary standards, or incentives rather than on mandates and penalties (De Mesquita & Stephenson, 2006). In this thesis, I adopt these distinctions and use the terms “law” and “legal rules” to refer specifically to hard regulation. In contrast, “regulation” and “rules” are used in a broader sense to include both binding and non-binding forms. Accordingly, when referring to the meaning of *law*, the focus is on interpretations assigned to legally binding rules by legislators and regulatory bodies, that is, interpretations that can be formally invoked in legal proceedings. In contrast, the meaning of *regulation* refers more broadly to how regulation is interpreted and understood by various actors across regulatory contexts. This view draws on Zilber’s (2008) definition of the work of meaning as referring to the:

interpretations, understandings and shared beliefs that are produced and processed through social action, and specifically through the efforts of institutional actors engaged in power relations and political negotiations, as these are all embedded within particular sociocultural and historical moments. (p. 163)

In this view, meaning does not reside “out there” but is socially constructed and as such forms part of the social construction of institutions. Following Jepperson’s (1991) definition of an institution as “a social order or pattern that has attained a certain state or property” (p. 145), institutions are

understood as stabilized configurations of rules, and institutionalization as the process through which such patterns acquire normative status. Neo-institutional analyses of the relationships between organizations and regulations often focus on socio-legal fields, referring to specific zones of interaction: overlapping spaces where “legal actors”, such as courts, legislators, and regulators, and regulated organizations come together to co-construct legal meanings in terms of compliance, legality, and enforcement (Edelman & Suchman, 1997; Edelman et al., 1999). The socio-legal field concept follows a Venn diagram logic as both the legal actors and regulated organizations, in addition to the socio-legal field, also belong to broader organizational fields: legal actors operate in the legal system, and the regulated organizations operate in their own industry-specific fields (e.g., finance, healthcare, and education). These institutional constructs are held together through relational connectedness and structural equivalence, that is, shared patterns of relationships and positions within the field (DiMaggio & Powell, 1983). Organizations are understood as shaped by interaction with one another and by the ideas, norms, and rules that circulate in and hence structure the field (e.g., Cloutier & Couture, 2024; Mazza & Pedersen, 2004; Zietsma et al., 2017).

Legal endogeneity

Questions of how, when, why, and with what consequences organizations respond to regulation have formed a particular strand of research within the neo-institutional tradition: the legal endogeneity perspective, closely associated with the work of Lauren B. Edelman (e.g., 1990, 1992, 2007, 2016) and co-authors. This line of inquiry entails questions about, for example, what goals a regulation is intended to achieve, and how legal text shapes how it is interpreted, enforced, and complied with in a specific organizational setting. Framing regulation in this way implies a view of organizations as operating within legal environments (Edelman, 1990; Edelman & Suchman, 1997; Short & Toffel, 2010).

A legal environment refers broadly to the external sources of coercive influence on organizations in a regulated field. Such sources include laws and regulations, legal actors, enforcement mechanisms, as well as the uncertainty and ambiguity often associated with the interpretation of rules. What distinguishes a legal environment from a socio-legal field is the nature of the relationship between regulation and organizations. The legal environment is conceptualized as a set of external constraints or formal conditions

to which organizations must respond. For example, AML laws requiring banks to report suspicious transactions impose clear legal obligations that shape organizational behaviour through the threat of penalties. In contrast, a socio-legal field is a co-constitutive space where legal actors and regulated organizations interact and negotiate the meaning and practical application of rules (Edelman & Suchman, 1997). Both concepts are central to the theoretical framing of this thesis, as the focus is on the relationship between the legal environment and the socio-legal field of AML regulation.

Following a neo-institutional tradition, legal environments are viewed as institutionally structured, in terms of being shaped by taken-for-granted cognitive frameworks and normative expectations (Weber & Glynn, 2006). They encompass not only legal rules and enforcement structures, but also the interpretive and organizational practices through which law is enacted and reinterpreted in everyday organizational activity. Within this context, the legal environment has three interrelated aspects that shape how organizations interact with regulation: it is facilitative, in terms of providing a supportive framework for organizational action; it is regulatory, in terms of imposing obligations and restrictions on organizations; and it is constitutive, by means of shaping the structures and activities of organizations (Edelman & Suchman, 1997). In this view, organizations are not merely passive recipients of regulation; rather, they actively interpret, implement, and shape legal meanings by relating to rules in their daily operations (Edelman, 2008, 2016; Edelman et al., 1999).

The legal endogeneity perspective opposes the understanding of rules as defined outside organizations before entering organizational boundaries (cf. Surachaikulwattana & Phillips, 2017). It also challenges the notion of organizational compliance as the result of strategic motivations, driven by incentives or deterrents, social and legal pressures, or moral value-laden concerns. Compliance outcomes are thus not seen as the mere effects of coercive pressures that the regulated organization faces, which has traditionally been the view of institutional theory, but equally a matter of what meaning is ascribed to regulation through related organizational activities (Edelman & Talesh, 2011). This leads to a co-evolutionary relationship between organizations and the legal environment (Edelman, 2008; Talesh, 2022), which are both constituted by and constitutive of each other:

The socio-legal field overlaps with the fields of regulated organizations, so that ideas of rationality, morality, and legality flow freely between the legal system and extra-legal organizational realms. Practices in one field help to

constitute ideas of legitimacy in the other, and the dynamic interplay between these fields gives rise to socially constructed legalities in both arenas. (Edelman & Suchman, 1997, p. 502)

While legal actors and regulated organizations meet in this overlapping zone, they are still shaped by different ideas and structures from their respective fields. Edelman and Suchman (1997) emphasize the mutual influence between legal and organizational fields through the socio-legal field, which functions as a mediating space. While the socio-legal field includes both types of organizations, it links rather than dissolves the distinctiveness of their primary fields. This means that rules emanating from the legal field are interpreted within the institutional framework of a regulated organization, and as this interpretation is acted upon, or imitated by other organizations in the field, it influences the meaning generally ascribed to the rules. In other words, regulated organizations construct the meaning of regulation through their organizational responses to rules (Edelman, 2007, 2016).

Legal ambiguity

The organizational construction of legality becomes especially pronounced under conditions of regulatory ambiguity, where the meaning of compliance – in terms of what regulations actions or structures must comply with – is unclear or contested (Edelman, 1992; Edelman et al., 1999). Such ambiguity forces organizations to interpret the rules on their own, since there is no definitive external authority immediately clarifying what compliance means in practice. As a result, organizations develop internal structures and procedures, such as policies, training programs, or audit systems, that are meant to demonstrate their adherence to the regulation and make them appear legitimate and aligned with perceived expectations (Edelman, 2016; Talesh, 2015). While these structures may signal conformity with the law, they are largely shaped by the goals, values, and resource constraints of the adopting organization that created them. Over time, such interpretations become institutionalized across the regulated field as they are adopted by other regulated organizations and, eventually, by regulators and courts. Legal endogeneity refers to how regulatory meaning becomes shaped from within by the regulated organizations, as legal norms are redefined according to organizational practices rather than being externally imposed (Gilad, 2014).

Endogeneity is relevant to both regulated organizations and their legal environments in that rules are constructed and configured not only by being established in legal text, but through the behaviours by which organizations respond to them in practice (Edelman & Suchman, 1997). The meaning of law emerges relationally at the intersection between written statutes and their enactment within organizational settings. Through continuous interactions, symbols, and interpretations, legal and organizational understandings of what is rational and appropriate often begin to align (Edelman & Talesh, 2011). In such cases, there is no longer a clear sender or originator of regulatory imperatives. Rather than serving solely as a deterrent to the misconduct that the rules aim to prevent, regulation increasingly functions as an enabling framework by defining the scope of acceptable organizational behaviour (Edelman & Suchman, 1997). Consequently, organizations tend to adopt and substantiate the underlying logic of the legal environment and thereby participate in the construction of legal meaning (Edelman, 2007).

In sum, the concept of endogenous law highlights how compliance structures developed within a single organization can diffuse across a regulatory field and ultimately come to define *de facto* standards of compliance recognized by the legal environment. This has often been linked to legal ambiguity, entailing uncertainty within the regulated organization as to how an ambiguous law should be interpreted. While this perspective sheds light on how regulated organizations contribute to shaping the meaning of regulation, it does not fully account for how specific compliance behaviours – and sometimes the very misconduct that the law is intended to prevent – become institutionalized in a regulated field. Neither does it specify the roles of organizations other than the regulated ones in conditions of legal endogeneity.

Symbolic compliance

Central to the legal endogeneity perspective is the concept of symbolic compliance. This refers to how organizations undertake activities to symbolically communicate compliance without achieving any substantive compliance outcome (e.g., Edelman, 1992, 2016; Edelman & Cabrera, 2020). The concept draws on classical neo-institutional theory, particularly the idea that organizations ceremonially adopt formal structures to gain legitimacy in the eyes of other organizations in their institutional environment (Meyer & Rowan, 1977), thereby contributing to field-level isomorphism (DiMaggio & Powell, 1983). At the heart of this theoretical tradition is the

premise that legitimacy is the primary driver of organizational behaviour. The well-cited definition by Suchman (1995) suggests that legitimacy should be understood as “a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions” (p. 574).

However, the adoption of organizational structures perceived as legitimate in a field, such as compliance policies or management frameworks, is not necessarily effective in fulfilling these structures’ stated goals. This creates latitude for decoupling between the ceremonially adopted structures and the practical organizational reality, with the structures implemented being loosely connected to everyday organizational practices (Boxenbaum & Jonsson, 2017; Bromley & Powell, 2012; Meyer & Rowan, 1977). The concept of symbolic compliance adds to decoupling by emphasizing a recursive dynamic: organizations not only respond to institutional expectations but also shape them. As symbolic compliance structures become institutionalized and taken for granted in a regulated field, they can reflect back the meaning of regulation, influencing what is considered as evidence of compliance by legal actors as well (Edelman, 2016; Edelman et al., 1999). In this way, symbolic compliance highlights how organizational responses to regulation can influence broader institutional understandings of legality and legitimacy (Edelman, 2007).

Typical symbolic compliance measures include the creation of policies or adoption of procedural standards, leading to changes on the surface rather than in the actual organizational practice. This pattern has been particularly highlighted in for-profit corporations, in which compliance measures are often implemented so as to not disturb business (Edelman, 2016; Stryker, 2019). A bank may, for example, implement a transaction monitoring system that flags a wide range of transactions as suspicious, resulting in an overwhelming number of suspicious transaction reports being filed to the Financial Intelligence Unit (FIU) in accordance with AML regulations. While this can indicate strong structural compliance with AML regulations, it might not improve the detection or prevention of money laundering in practice. This decoupling of organizational structure from practice is typical of symbolic compliance. Similarly, it has been suggested that while the creation of anti-harassment policies, complaint procedures, and training programs fueled by the #MeToo movement did not necessarily reduce harassment in organizations, it did reduce organizations’ likelihood of liability in court (Edelman & Cabrera, 2020; cf. Edelman, 2008). Symbolic

structures can over time become institutionalized and accepted as legitimate evidence of compliance even though their impact on regulatory outcomes is limited. This can reduce pressure on regulated organizations without prompting them to make substantial changes. As a result, symbolic compliance can reinforce the status quo by satisfying legal requirements without fundamentally altering existing conditions that the regulation is aimed at addressing (Edelman, 1992; Stryker, 1994; cf. Meyer & Rowan, 1977).

Legal endogeneity has predominantly been regarded as resulting from legal actors adapting to managerially defined conceptions of the regulated business firms (e.g., Edelman et al., 2011; Nielsen & Parker, 2012). The dominant focus on business firms can be understood as reflecting a theoretical interest in how power and legitimacy flow from managerial fields into legal environments, highlighting the influential role of firms in capitalist societies. However, this theoretical stance does not make the legal endogeneity concept synonymous with regulatory capture (cf. Stryker, 2019), which refers to a situation in which regulatory authorities are subjected to controlling influence by the actors they aim to regulate. In regulatory capture, the influence exerted by regulated organizations is strategic and intentional, often involving powerful industry actors seeking to manipulate the rules or regulators themselves (e.g., Posner, 1974; Stigler, 1971). By contrast, legal endogeneity is about how internal organizational solutions, when disseminated in a regulated field, can come to influence the meaning of the law. Thus, while regulatory capture typically involves the regulated organization's direct influence over legislative bodies, influence exerted through symbolic compliance is embedded in the everyday practices of the regulated organization. Rather than providing a means to impact regulatory development, symbolic compliance structures are designed to minimize the disruption to business that legal requirements may cause (Edelman et al., 2011).

This suggests that endogenous law can be understood as mainly an unintended effect of regulated organizations engaging in "business as usual". However, that symbolic compliance is an effect of for-profit organizations wanting to ensure that operations are not slowed down by legal requirements does not mean that it emerges exclusively as a private-sector construct (Gilad, 2014). Given that public agencies are at least as exposed to conflicting goals in their daily operations as are private and civil society organizations (Frumkin & Galaskiewicz, 2004), symbolic compliance structures should be likely to occur even in public organizational contexts.

Maintaining symbolic compliance while continuing doing business as usual is referred to as the managerialization of law in the legal endogeneity literature (Edelman et al., 1999). Building on extensive empirical research into how organizations engage with what is termed “working law”, Edelman (2016) identifies four interrelated cases of managerialization within workplace settings. These are: (1) the institutionalization of internal dispute resolution systems; (2) the managing away or outsourcing legal risks; (3) the decoupling of organizational practices from legal mandates; and (4) the discursive reframing of legal principles in managerial language. Through these mechanisms, legal compliance is interpreted so as to align with managerial goals and values such as efficiency and risk management. While this suggests that compliance structures are legitimized by means of their alignment with the priorities of the implementing organization, these priorities do not necessarily have to be of a profit-driven nature. What matters for the regulated organization is that the compliance structures signal formal adherence to the law and confer legitimacy in the eyes of regulators and courts, despite being symbolic rather than substantive in practice (cf. Stryker, 2019). This can help explain how regulated organizations may appear legally compliant while continuing practices that undermine the law’s intent. However, based on this reasoning, we still do not understand how legal actors come to accept these structures as evidence of compliance.

As managerialized approaches to regulation gain legitimacy and become institutionalized in a regulated field, courts and regulators may increasingly come to interpret formal organizational structures as sufficient evidence of legal compliance, despite their little or no effect on the behaviour that the regulation is intended to shape (Edelman, 2016). This dynamic is reinforced through judicial deference, which refers to a legal principle whereby courts defer to the decisions or interpretations of other authorities. According to Edelman et al. (2011), judicial deference is prominent in matters concerning administrative, constitutional, or international law. It is also more common in cases in which the plaintiff lacks influence, or the courts must assess complex or opaque organizational practices. Judicial deference contributes to a dilution of legal mandates, as managerial structures become taken as proxies for compliance. The theory thus acknowledges that legal actors contribute to legal endogeneity by adapting to regulatory meanings that have been institutionalized in the regulated field. However, relative to the regulated organizations, this implies a rather passive role of regulators and courts (cf. Hock & Dávid-Barrett, 2022; Short & Toffel, 2010). By reinforcing

ing or validating compliance structures that appear legitimate, public agencies participate in the reproduction and diffusion of regulatory meaning. This suggests that public agencies do more than merely adapt to interpretations that have become institutionalized in the field they seek to regulate; rather, they also participate in shaping the meaning of rules through discretionary and legitimacy-driven enforcement.

While observing that organizations generally respond to both hard and soft enforcement by adopting either symbolic or substantive measures, Edelman and Suchman (1997) argue that regulators tend to avoid the full use of hard enforcement mechanisms in order to avoid alienating powerful constituencies. Instead, they resort to soft enforcement methods including education, persuasion, negotiation, and publicity. This is explained by the tendency of hard enforcement to lead to surface-level compliance, primarily aimed at avoiding penalties but not necessarily changing the deeper organizational norms. Soft enforcement, on the other hand, can foster cultural and normative shifts by embedding values in organizational practices. Accordingly, Scott (2014, p. 187) argues that organizations are more likely to decouple structure from practice when facing external regulatory requirements than when confronted with internal, normative, or cognitive-cultural demands. Decoupling is also likely to occur when symbolic gains from adoption are deemed as high as the costs associated with implementation. Thus, the combination of hard and soft enforcement mechanisms, including reliance on coercive compliance as well as on professionals' discretionary integration of symbolic values, leads to iterative co-evolution between law and practice.

This highlights the role of regulators in legal endogeneity as not merely passive enforcers, but as agents reproducing symbolic compliance while ensuring legitimacy in relation to stakeholders in the socio-legal field. Yet, theories of symbolic compliance provide little understanding as to why certain actors become more influential than others in shaping regulatory meaning. While the concept of symbolic compliance explains how legitimacy-seeking behaviour can lead organizations to adopt decoupled structures, it does not fully explain whose interpretations become institutionalized in a regulated field. This issue is partly addressed by the concept of rule-intermediation, referring to how legal or non-legal actors, by virtue of their structural position, expertise, or perceived neutrality, mediate between legal requirements and organizational practices.

Rule-intermediation

The theory of how the managerialization of law foregrounds judicial deference in legal endogeneity says little about what makes certain organizations more influential than others in shaping regulatory meaning. Addressing this issue, Talesh (2015) suggests that third-party actors, referred to as “rule-intermediaries”, constitute an important source of influence. These predominantly private organizations are not the primary targets of regulation, but become key channels through which regulation is interpreted, standardized, and operationalized. Typical rule-intermediaries include private insurance companies, law firms, and consulting firms, which shape regulatory arrangements as they implement, interpret, and apply regulations in practice. However, rule-intermediation is not just a role but a mechanism by which legal meaning is shaped through implementation, negotiation, and symbolic action. The argument is that rule-intermediaries shape the meanings of rules so that they align with their own or their clients’ private interests, commonly defined by a market logic. This extends the legal endogeneity concept beyond internal organizational practices to include commercial interests and field-level dynamics. By shaping the interpretations and usage of regulations within a certain field, firms and intermediaries create new norms and practices that deviate and eventually drift away from the original intent of the regulation.

Adding to this conceptualization, Talesh and Pélisse (2019) argue that non-legal professionals with a rule-intermediary function (e.g., compliance officers, consultants, and standard-setters) play a central role in translating legal mandates into organizational practices. They shape legal and social change in that they filter law through non-legal institutions emanating from various organizational fields. The legal framework is displaced by managerial or professional institutions, suggesting that law is ultimately professionalized by non-legal professionals. This illustrates how professional fields contribute to the construction and diffusion of legitimacy in legal compliance, echoing classic neo-institutional theory on how professionals mediate between institutional norms and organizational practices and use their positions to drive or resist institutional change (e.g., Greenwood et al., 2002; Muzio et al., 2013; Scott, 2008). However, while the legal endogeneity perspective has traditionally focused on how domestic rule-intermediaries shape regulatory meaning through internal practices and field-level dynamics nationally, legal endogeneity that spans national borders has remained a less researched area.

Regulatory meaning emerging from beyond the national levels of regulation has been addressed within the theoretical framework of transnational regulatory governance scholarship (e.g., Djelic & Quack, 2018; Salles-Djelic & Sahlin-Andersson, 2008), highlighting distributed regulatory authority and recursive norm development across borders as prominent mechanisms. Quack (2007), for example, shows how legal professionals engage in transnational lawmaking through their participation in international organizations and professional networks. In this respect, these actors maintain a rule-intermediary role, mediating between diverse legal systems and institutional settings by translating, adapting, and diffusing legal standards across jurisdictions. The argument is that transnational rulemaking, rather than forming a unified hierarchy of legal authority, emerges as a process wherein authority is negotiated through relational dynamics, professional legitimacy, and contextual interpretation. Similarly, Schrempf-Stirling and Wettstein (2023) argue that the pursuit of legitimacy for hard and soft regulation creates a dynamic interplay in which both forms become mutually reinforcing. Organizations can navigate and shape this process by engaging with soft regulation. While soft rulemaking shapes expectations, builds legitimacy, and provides normative templates for action, hard regulation reinforces the moral legitimacy of soft rules by providing a hardening effect. Over time, such interactions between soft and hard regulation contribute to the institutionalization of new regulatory meanings that reflect the collective contributions of firms, NGOs, standard-setters, and legal actors. This underscores how rule-intermediaries in transnational contexts not only translate regulation into practice but also shape the meaning of rules and the distribution of legal authority.

However, while previous research on rule-intermediation has shown how legal and non-legal professionals can influence the meaning of rules at both national and transnational levels of regulation, little empirical attention has been paid to the role of public agencies – as legal actors – in this regard. This issue is partly addressed by political enforcement approaches to regulatory governance, stressing the discretion and capacity of regulators in interpreting and enforcing regulation (e.g., Short, 2021; Short & Toffel, 2010). Examining state agency in regulatory governance, Schneiberg and Bartley (2008) argue that although public regulators are formally accountable to legislative bodies, they often wield substantial discretion in interpreting and enforcing rules. In contrast to legislators and courts, regulators not only enforce compliance but also interpret rules, often acting as both regulators and regulated entities within a broader

socio-legal field. This dual role involves translating legislation into actionable guidance, mediating between legislators and regulated organizations, and negotiating the boundaries of compliance. Instead of neutrally executing legal mandates, regulators mediate between competing institutional pressures from politics, markets, and professional norms (cf. Evans et al., 1999; Guillén & Capron, 2016).

Similarly, Edelman and Suchman (1997) emphasize that public regulators must balance demands for legal coherence and for cooperation with regulated industries. These acts of balancing legal accuracy with political feasibility frequently result in regulatory compromises that in practice provide limited regulatory guidance or demand impossible regulatory performance (Short, 2021). This creates latitude for discretion and interpretation, whereby public agencies can “become politicized both on the basis of personal preferences and on the basis of bureaucratic agendas” (Edelman & Suchman, 1997, p. 490). Rather than acting as passive executors or mere captives of legal requirements, public agencies navigate legitimacy risks and shape the meaning of regulation in this process. Through their issuance of policy recommendations, investigative findings, and expert commentary, they help standardize compliance structures and legitimize particular regulatory reforms. In this sense, public agencies can function as rule-intermediaries in shaping the meaning of legality, compliance, and enforcement within ambiguous regulatory landscapes (cf. Hiatt & Park, 2013).

The notion of rule-intermediation is thus not confined to third-party actors of the private sector; it also extends to public agencies themselves. Public regulators are not only embedded in the particular institutional framework of the legal environment, but must balance these institutional pressures with those emanating from industry, media, and political frameworks (Short, 2021). As such, they too act as rule-intermediaries, translating regulatory intent into practice while managing legitimacy pressures from diverse audiences. In addition to the provision of policy recommendations, investigative findings, and expert commentary, public regulators can shape the meaning of regulation by means of their responses to institutional pressures. For example, Levi-Faur (2011b) notes that they often engage in blame-shifting when confronted with demands for transparency that are politically or operationally difficult to meet. Similarly, Schneiberg and Bartley (2008) argue that public regulators facing conflicting pressures can validate symbolic or deficient compliance structures under the guise of state oversight to gain legitimacy in the short term and at the same time create a buffer against political consequences. However, when practices of regulated

organizations are perceived as violating fairness or rationality, legitimacy crises tend to arise and prompt regulatory reform. This suggests that public agencies' alignment with managerial or professional norms is conditional on their continued legitimacy.

These dynamics, rooted in institutional pressures and legitimacy-seeking behaviour, extend beyond the direct regulator–regulatee relationship. Other actors, such as media outlets and advocacy groups, can also assume regulatory roles by shaping public perceptions of compliance through rankings, independent audits, and campaigns (Levi-Faur, 2011b). Within this complex legal environment, public regulators often design enforcement measures not merely to sanction non-compliance but to navigate competing institutional pressures (cf. Edelman & Suchman, 1997). In this sense, enforcement becomes a form of rule-intermediation through which public regulators mediate the meaning of legality and compliance in practice (Scott, 2014, p. 155).

In summary, while theories of rule-intermediation advance our understanding of how non-state professionals and third-party actors shape the meaning of regulation, they tend to emphasize the influence of private-sector intermediaries and commercial interests. Less attention has been paid to how public regulators act as rule-intermediaries, despite the fact that they play an active role in interpreting, translating, and legitimizing regulatory meaning under institutional constraints. Through discretionary enforcement, symbolic validation, or policy framing, they contribute not just to the application of law, but to its construction. This calls for an expanded approach to legal endogeneity that moves beyond managerial influence alone to include the processes by which regulatory meaning becomes co-constructed through the reciprocal interactions between legal actors and regulated organizations.

Co-construction of legal meaning

The rich scholarship on legal endogeneity shows how law becomes endogenous within organizations in a regulated field. Still, it does not fully account for the compliance puzzle and provides only a limited understanding of how specific compliance behaviours become institutionalized in a regulated field. The symbolic compliance concept offers valuable insight in this respect, suggesting that regulated organizations – primarily large for-profit firms – adopt formal compliance structures without necessarily achieving any substantive compliance outcomes. Over time, these structures

can become institutionalized as standards in the regulated field and eventually taken as *de facto* evidence of compliance by the legal environment (Edelman, 1992, 2016). However, while the symbolic compliance concept fosters an understanding of how regulated organizations can influence the meaning of regulation, it says little about why certain actors become more influential than others in terms of having their interpretations institutionalized. It also pays little attention to the role of public agencies in legal endogeneity processes.

Building on these insights from the symbolic compliance literature, the concept of rule-intermediation further clarifies how certain actors – predominantly private-sector professionals – come to influence the meaning of regulation through their embedded roles in operationalizing legal norms (Talesh, 2015; Talesh & Péliisse, 2019). Similar to previous accounts of legal endogeneity, however, this literature has focused primarily on non-state actors, with less attention being paid to how public agencies in general, and regulators in particular, act as rule-intermediaries through enforcement, policy guidance, and symbolic validation. More specifically, the rule-intermediation concept does not fully capture legal endogeneity as a reciprocal, field-level process through which both legal actors and regulated organizations jointly shape the meaning of regulation.

To further account for the role of public agencies, recent research has called for a reconceptualization of legal endogeneity as a process of co-construction (cf. Gilad, 2014; Grandy & Hiatt, 2020; Hock & Dávid-Barrett, 2022). Common to both legal actors and regulated organizations is that they are mutually constrained by legitimacy concerns. While regulated organizations commonly adopt compliance measures so as to manage both internal and external legitimacy demands (e.g., Edelman, 1992, 2016; Short & Toffel, 2010), public regulators must balance pressures from legislators, industry actors, and the public (Schneiberg & Bartley, 2008). As a result, the compliance frameworks that become institutionalized are often the product of ongoing negotiation and adaptation, shaped by both private interests and public agency discretion (cf. Short, 2021). This underscores the relevance of an enhanced focus on public legal actors in shaping regulatory meaning.

Important contributions in this area have extended the legal endogeneity perspective by highlighting the reciprocal nature of meaning-making between legal actors and regulated organizations. Gilad's (2008, 2014) work on regulatory dialogues suggests that public agencies and private firms interactively co-construct compliance expectations through iterative exchanges, negotiation, and adaptation. The practical meaning of regulatory

expectations is thereby shaped by both legal actors and regulated organizations, allowing them to manage legitimacy demands from within the organizations as well as from the external environment (cf. Short & Toffel, 2010). Similarly, Hock and Dávid-Barrett (2022) illuminate the role of power asymmetries and institutional incentives in shaping symbolic compliance. Focusing on anti-bribery settlement negotiations, they show how enforcement agencies and corporations operate within a field of legal ambiguity, where formal state authority is counterbalanced by firms' use of internal investigations and compliance programs. Their findings underscore that even when regulatory processes appear reciprocal, the influence of regulated firms may dominate, particularly when regulators prioritize resolving cases in a timely manner over demanding full accountability. This dynamic mirrors earlier insights from symbolic compliance theory (Edelman, 2016; Stryker, 2019), linking co-construction processes to regulatory failure.

While these studies of legal endogeneity as co-construction have advanced our understanding of how compliance norms are jointly shaped, they mainly portray public agencies as institutionally constrained responders rather than agents exercising legal authority. What I argue remains underexplored is: (1) how the *organizing of a legal practice* influences the co-construction of legal meaning; (2) what co-construction looks like *over time*; and (3) how co-construction relates to *developments at the field level*. I address these gaps by exploring supervisory authorities, not as playing merely a reactive role relative to legislators and regulated entities, but as organizations that are both subject to, and enforcers of, regulation. Positioned at the intersection of legal authority and professional practice, supervisory agencies are situated to shape compliance standards and enforcement expectations. This thesis contributes to the legal endogeneity literature by empirically analysing how supervisory agencies, in organizing regulation, co-construct its meaning.

Research design, methodology, and methods

This thesis set out to explore a compliance puzzle, namely, that regulated organizations can be deemed compliant with regulation by supervisory agencies while simultaneously engaging in the very misconduct that the regulation was intended to prevent. Employing neo-institutional organization theories of legal endogeneity, I have conducted an empirical study of AML supervision, evolving as a legal mandate and practice within the FSAs of Denmark, Estonia, and Sweden. Aiming to explore the role of supervisory agencies in legal endogeneity, and based on the premise that legal meaning is jointly constructed by organizations within a socio-legal field, I posed the following research question: How do supervisory agencies co-construct AML regulation? The empirical scope ranged from the adoption of the first EU AML directive in 1991 to 2021, when the EU initiated the establishment of the Authority for Anti-Money Laundering and Countering the Financing of Terrorism (AMLA, n.d.). This period encompassed both aspects of the Baltic money laundering scandals: first as unfolding events between 2007 and 2015, and later as mediatized scandals that received national and international attention between 2017 and 2019. The setting offered empirical insight into how supervisory agencies organized their supervisory mission and practices in interaction with their institutional environments, as well as how these interactions shifted over time.

Research design

I chose an empirical case study design that, following Thomas' (2011) typology, can be described as a diachronic single case study with embedded contexts. A case study was assumed to offer the potential for producing "a certain thickness of description" as well as for generating "an abundance of empirical material that is almost certain to challenge established assumptions and perspectives" (Alvesson & Kärreman, 2011, p. 3). The FSAs' organizing of AML supervision over time constituted the study's empirical case. Although three FSAs were included in this setting, they were treated not as separate comparative cases but as embedded contexts within a single

integrated regulatory field. Moreover, examining the role of supervisory agencies in fostering legal endogeneity was an exploratory and theory-building aim. I sought to advance our understanding of how supervisory agencies co-construct legal meaning, which has received limited attention in the literature on legal endogeneity. While the research design was exploratory, the case selection and analysis were informed by neo-institutional theory, rendering the study abductive rather than purely descriptive (cf. Thomas, 2011).

Case study

Going into more detail, the organizing of AML supervision was studied as a case of how supervisory agencies co-construct regulation. I paid particular attention to how the organizing of supervision related to the mediatized money laundering scandals between 2017 and 2019. Following Dewan and Jensen (2020), scandal was defined as disruptive publicity regarding misconduct. The evidence of money laundering presented by media actors in connection with the revelations of the scandals included leaked data on suspicious transactions, channelled through Danske Bank, SEB, and Swedbank between 2007 and 2015. By the time of the Swedbank scandal, I myself worked as a Know Your Customer (KYC) analyst in the Swedish headquarters and was tasked with ensuring part of the bank's AML compliance measures (a more detailed description of this task follows in the regulatory overview section below). AML refers to the web of laws, regulations, and procedures aimed at preventing and uncovering efforts to disguise illicit funds as legitimate income. Similar to other areas of international regulation, the AML framework has rapidly grown in scope and breadth. As social and economic organizing have reached across national borders (Djelic & Quack, 2018; Djelic & Sahlin-Andersson, 2006), the contemporary surveillance of illicit transnational financial flows has seen an expansion and increased intertwining of regulatory activities (Svedberg Helgesson & Mörth, 2018). Yet, the processes defining money laundering as we know it today were criminalized across the Western world only a few decades ago (Sharman, 2017).

Context specifics

The empirical study was “event based” in the sense that the Baltic money laundering scandals constituted the starting point from which the empirical contexts were selected. The FSAs of Denmark, Estonia, and Sweden were all concerned in the scandals. These supervisory contexts largely resemble one

another in terms of how they are organized as public agencies. However, due to the differences in numbers of supervised entities and hence the size of the organizations, some minor differences can be identified as well. In all three countries, the FSAs are funded by the supervision fees and procedure fees paid by the subjects of financial supervision (commonly referred to as “obliged entities”), including financial undertakings such as banks, mortgage-credit institutions, pension companies, and insurance companies. Fees are calculated based on the supervised entity’s size and area of operation.

In Denmark, the FSA falls under the Ministry of Industry, Business, and Financial Affairs and is governed by an executive management group that reports directly to the minister. The executive consists of a Director General and three deputies, each of whom is assigned a subsection of the FSA’s responsibilities. A distinguishing feature of the Danish FSA is that it, in addition to supervisory tasks, also assists in drawing up financial legislation and issues executive orders for the financial area.

In Estonia, the FSA is a legally independent organization regulated by the *Finantsinspektsioon* Act. It further operates in close cooperation with the Central Bank of Estonia. The work of the Estonian FSA is governed by a six-member supervisory board chaired by the Minister of Finance. However, the Estonian FSA operates independently from the ministry in terms of responsibilities, budget, and decision-making.

In Sweden, the FSA lies under the Ministry of Finance and is governed at “arm’s length” through a letter of appropriation. “Arm’s length” refers to the principle that ministerial rule is prohibited in Sweden. This does not mean, however, that public agencies are autonomous from the government, which retains the power to instruct them in virtually all matters except in cases involving the exercise of public authority, where the law is decisive. In the letter of appropriation, the general objectives of the FSA’s operations and assignments are set by the government. Operations are also governed by an ordinance in which the FSA’s specific objectives, assignments, and responsibilities are detailed. The Swedish FSA is headed by a board of directors that is responsible for the FSA’s operations and makes decisions regarding matters of principle or of great importance.

Thus, the three contexts of AML supervision – linked through the Estonian operations of the Nordic banks – both contrast with and resemble one another. By paying attention to these variations in analysing the organization of the AML supervisory function, I attempted to cast light on shared and context-specific patterns in the co-construction of legal meaning.

Regulatory overview

Current AML regulation dates back to the late 1980s and the U.S.A.'s war against drugs. Having criminalized money laundering as part of its financial crime prevention program in 1986, the U.S.A. turned to its G7 partners, advocating an international organization tasked with preventing and combating money laundering worldwide. The proposal won support and in 1989, the transnational policy body called the Financial Action Task Force (FATF, 2024) was founded. In 1990, it published its first set of regulatory recommendations for its members, which evolved over time, notably being complemented by a set of counter-terrorism financing (CTF) rules after the 9/11 events. Since it was founded, FATF has played a dominant role in AML regulation globally. However, despite its successful enrolment of countries submitting to FATF standards, the attitude towards money laundering and related financial crimes, as well as the extent to which international AML regulation has been implemented and enforced, has varied greatly among countries. In many parts of the world, financial crimes have long been facilitated by banking secrecy, that is, the national rules that prevent banks from improperly disclosing information about their clients. The scope of banking secrecy differs among countries, but a more recent international trend points to a relative softening of this kind of national regulation for crime prevention purposes. Banks and other market participants have also been placed under a growing self-regulatory burden in their relations to national authorities for AML purposes (Forsman, 2020).

AML actors

Understanding the contemporary AML regulatory framework requires a closer look into the role and activities of FATF, which is commonly referred to as the technocratic body behind the globally institutionalized AML standards (cf. Hülse & Kerwer, 2007; Jakobi, 2012; Sharman, 2017). What makes FAFT particularly influential is that it has formed a meta-organization with 40 members that are involved in setting international standards to ensure national authorities' effective money laundering prevention (FATF, 2023b). In the form of a meta-organization, FATF effectively reduces the risk of having to compete with other standard-setting organizations in the AML area (cf. Ahrne et al., 2016). The scope of countries and jurisdictions striving to comply with the standards thus far exceeds the FATF membership (Mitsilegas & Vavoula, 2016). FATF assesses whether the more than 200 countries and jurisdictions that have committed to

implementing the standards are taking effective action. Assessments are made with the help of nine FATF Associate Member organizations and other global organizations, including the International Monetary Fund (IMF) and the World Bank. One of the associate member organizations is the Committee of Experts on the Evaluation of AML Measures and the Financing of Terrorism (MONEYVAL), which is a permanent monitoring body of the Council of Europe assessing compliance with international AML standards. MONEYVAL contributes to the global AML regulatory framework, and enhances the work of FATF, by: conducting mutual evaluations of its member jurisdictions (including Estonia); monitoring progress in implementing FATF recommendations; and providing a forum for sharing best practices and addressing regional challenges. All assessments by FATF and associate member organizations come with the risk of punishment. FATF's decision-making body meets three times per year and holds countries accountable if they are assessed as not complying with the standards. Countries that fail to implement the standards can be classified as "jurisdictions under increased monitoring" or, in the worst case, as "high-risk jurisdictions". These categories are commonly referred to as the grey and black lists (FATF, 2023a).

In spite of their voluntary nature as standards, FATF recommendations have been implemented in EU regulations. Directives and regulations are proposed by the European Commission, which in accordance with ordinary legislative procedures, produces legislative proposals for the European Union Council and Parliament to consider and ultimately adopt on the basis of reviews, discussions, and voting. These legislative bodies are included in the actor referred to as "the EU" below. The EU's legal system of regulation comprises five forms of law, namely: regulations, directives, decisions, recommendations, and opinions. A regulation then refers to a rule that is directly applicable to and obligatory in all Member States. It has immediate legal force without requiring national implementation measures, ensuring uniformity across jurisdictions. In contrast, a directive sets out a goal or result that all EU countries must achieve but allows each Member State to decide how to translate the provisions into national law. A decision is binding in its entirety but is addressed to specific parties (e.g., a particular state, company, or institution) and applies only to them. Recommendations and opinions, while among the legal instruments, do not have binding legal force. They serve as persuasive guidance, signaling the preferred interpretations or directions of EU policy without creating formal obligations. Thus, while regulations and directives carry binding force, recommenda-

tions and opinions influence the regulatory environment primarily through normative pressure and soft enforcement mechanisms (cf. Levi-Faur, 2011b).

Over time, since 1991, six successive AML directives have been issued. The purpose has been to establish a harmonized regulatory environment across the EU Member States. Initially, the implementation processes generally lasted several years due to the member states not prioritizing the issue. One of the countries lagging behind was Sweden. In 2008, the Commission even took Sweden to the European Court of Justice because of its failure to implement the third AML directive, issued in 2006. Subsequently, the implementation phases generally shortened as the political interest in money laundering, and consequently the resources for its combat and prevention, increased. Nevertheless, new means of money laundering and terrorism financing were thought to have emerged during implementation periods, and the EU therefore continued to issue new AML directives regularly to reflect changes in criminal methodology and in “AML/CFT best practices” (European Commission, n.d.). However, the introduction of the AML Regulation (AMLR), which is a package of directly applicable AML laws, marked a change towards streamlining the EU’s regulatory framework countering money laundering and terrorist financing. The AMLR was proposed by the EU Commission in June 2021 and adopted by the co-legislators in May 2024.

The EU’s AML regime

Going into more detail, the European AML regime can be described as consisting of three elements: (1) the criminalization of money laundering and terrorist financing and the enforcement of the related laws; (2) the prevention of money laundering through the imposition of policing tasks on the private sector under the supervision of relevant public authorities; and (3) a focus on financial intelligence via the establishment and collaboration of financial intelligence units (FIUs) (Mitsilegas & Vavoula, 2016). Being constituted in this way of a mixture of repressive criminal law and preventive measures, AML regulation has been described as a public-private partnership to prevent, detect, and prosecute money laundering (Seyad, 2012). The regulatory arrangements thus represent a step away from traditional bureaucratic organizing towards more collaborative structures involving both public and private interests (cf. Willems & Van Dooren, 2011). In this view, the organizational setting provides multiple examples of organizations engaging in rule-making at the different levels of AML regu-

lation (cf. Sabel & Zeitlin, 2012), which has been suggested to have implications for the governance content of the global AML regime (Tsingou, 2018).

The EU bodies responsible for AML regulation are the European Central Bank (ECB), which is responsible for the prudential supervision of large banks in the Banking Union, and the European Banking Authority (EBA), which issues AML-related standards. As regards AML supervision, EBA is still (but not for much longer) the most prominent Union body. It is tasked with developing AML standards and monitoring their implementation within the EU Member States. This includes issuing guidelines and recommendations on how AML rules should be implemented and applied in practice by the national regulatory authorities as well as evaluating compliance with these guidelines. EBA also develops binding technical standards and guidelines that harmonize how EU legislation in the financial sector is implemented in member states. EBA is also tasked with monitoring risks and vulnerabilities in the EU banking sector. Furthermore, the EBA coordinates cooperation between the national supervisory authorities to ensure consistent supervision in cases of cross-border operations. The body also acts as a platform for information exchange and coordination regarding AML issues between different supervisory authorities.

In a contemporary context of supervision, AML primarily refers to regulatory measures aimed at preventing firms from being misused for money laundering and terrorist financing – that is, the supervisory authorities have a preventive AML regulatory mandate. Although the national models of AML supervision vary among countries in terms of, for example, the distribution of supervisory responsibilities among public agencies, the purpose is generally to monitor the processes and systems by which obliged entities ensure that they are not exposed to money laundering. One of the key processes that the obliged entities are required to undertake is the Know Your Customer (KYC) analysis. Generally, a KYC process consists of customer due diligence (CDD) measures such as customer identification and verification, establishing the purpose and nature of the business relationship, and ongoing transaction monitoring. Besides CDD measures, client risk assessment, and record-keeping are essential steps in the KYC process. If a client is deemed to pose a high risk of money laundering, enhanced due diligence (EDD) measures are required for that client. Correspondingly, simplified due diligence (SDD), which is a component of CDD, can be applied as a less rigorous approach to certain low-risk customers and transactions.

The task of supervisory agencies is to supervise whether these and other measures required by AML regulation are taken. It is not the role of supervision to establish whether or not money laundering has occurred in specific cases. That responsibility lies instead with the Financial Intelligence Units (FIUs) and law enforcement parties. The core function of an FIU is to receive, analyse, and transmit reports of suspicious transactions that have been identified and filed by the obliged entities based on their KYC processes and transaction monitoring. The FIU functions as an intermediary between the private entities, subject to AML/CFT obligations, and the law enforcement agencies. At the EU level, Eurojust and Europol play complementary roles by facilitating cross-border cooperation: Eurojust coordinates judicial collaboration among national authorities, while Europol supports criminal investigations through intelligence sharing and operational analysis in cases involving money laundering and related financial crimes.

Data selection and gathering

I adopted a process perspective on regulatory development to explore how AML supervision was organized over time and why it was organized that way. The empirical data selection was guided by the aim of conducting an explorative process study, referring to a case study design emphasizing temporality, sequencing, and mechanisms of change (cf. Cloutier & Langley, 2020; Langley, 1999). I chose a process-oriented approach due to its perceived utility for theory development, particularly through the integration of theoretical frameworks and empirical material during the research construction process (cf. Alvesson & Kärreman, 2011). While the case provided the empirical setting and material, the process perspective shaped the data selection, analysis, and theorization of findings, focusing on interactional dynamics, transformations, and temporal patterns conceptualized through theory. Four criteria guided the data selection, namely, that the material (1) primarily documented sequences of events; (2) was eclectic, drawing on both changing relationships and individual interpretations; (3) spanned multiple levels and units of analysis, often with ambiguous boundaries; and (4) exhibited temporal embeddedness relevant to the study's analytical focus (Langley, 1999, pp. 691–692).

Empirical material

This study relied on qualitative methods including archival studies and semi-structured interviews. The selected archival material mainly consisted of public documents about AML supervision written by the FSAs themselves, documents such as press releases, reports, memoranda, decisions, guidelines, consultation responses, and codes of statutes. External evaluations by FATF, MONEYVAL, and Organisation for Economic Co-operation and Development (OECD) on the FSAs' AML supervision were also considered. Moreover, journalistic coverage (e.g., articles, books, and videos), external audits, and investigative reports about AML in general, and the Baltic money laundering scandals in particular, were selected. In addition, a few EU-authored documents covering considerations and decisions about transnational AML supervision were examined. Taken together, the archival material provided insights into how the purpose and nature of AML supervision were articulated by the FSAs and their stakeholders, as well as how supervisory practices were legitimized both internally and externally over time. Additionally, the documents indicated how the development of AML supervision related to broader societal events and issues – nationally as well as internationally – and how these relations were interpreted and represented by the FSAs, on one hand, and scrutinizing actors, on the other.

Interviews were conducted with current and former employees of the FSAs who either worked specifically on managing or performing AML supervision, or who for other reasons had considerable insight into AML issues in any of the FSAs. In cases in which the desired number of interviewees meeting these criteria could not be recruited, journalists, researchers, and other professionals with significant knowledge of the national AML area were instead interviewed. Altogether, the interviews contributed rich accounts of the lived experience of AML supervision over time. Interview accounts particularly illuminated the distribution of roles, responsibilities, and agents within the AML area and how it changed over time in relation to broader societal events, issues, and developments.

In total, the empirical material comprised 270 documents (2355 pages) and 30 interviews (about 27.5 hours) narrating the organizing of AML supervision between 1991 and 2021. In the following list and onwards, the FSAs are referred to as the DFSA (Danish FSA), EFSA (Estonian FSA), and SFSA (Swedish FSA). Interviewees are presented as representatives of an FSA according to the following pattern: [FSA] + [respondent number], for example, "DFSA01". External AML experts who have not worked directly on AML supervision in

one of the FSAs are quoted according to the following pattern: [FSA] + ex + [respondent number], for example, “EFSAex01”.

| Source | Type of document | no. | pp. | <i>T</i> (min) |
|---------------------|-------------------------|-----|------|-------------------|
| Bruun & Hjejle | Report | 1 | 87 | |
| Clifford Chance | Report | 1 | 218 | |
| Cornell et al. | Report | 1 | 35 | |
| Danske Bank | Press release | 1 | 1 | |
| DFSA | Documentation | 31 | 223 | |
| EBA | Press release | 3 | 3 | |
| EU Commission | Proposal, communication | 3 | 94 | |
| EFSA | Documentation | 22 | 74 | |
| FATF | Report, guidance | 5 | 174 | |
| Forsberg | Book | 1 | 408 | |
| IMF | Report | 1 | 10 | |
| Justitsministeriet | Press release | 1 | 1 | |
| Mäcker & Nömm | Book | 1 | 222 | |
| MONEYVAL | Evaluation Report | 4 | 120 | |
| OECD | Report | 1 | 126 | |
| SEB | Press release | 3 | 3 | |
| SFSA | Documentation | 36 | 241 | |
| Sveriges Riksbank | MoU | 1 | 6 | |
| Danish media | News article | 44 | 71 | |
| Estonian media | News article | 45 | 133 | |
| Swedish media | News article, video | 55 | 73 | 240 |
| International media | News article, video | 10 | 32 | 5 |
| Total | | 270 | 2355 | 245 |

Table 1: Archival material.

Archival study

My in-depth reading of a book by the Swedish journalist Birgitta Forsberg (2020) covering the Baltic money laundering scandals served as a rough starting point for the initial phase of data collection, starting in the fall of 2021. Focusing mainly on Swedbank, a former Swedish savings bank, Forsberg (2020) depicts the conditions enabling the extensive financial

expansion of the Scandinavian banks in the Baltics in the late 1990s and early 2000s, which laid the foundations for the scandals to come. What made this book particularly interesting with regard to the aim of this thesis was that it describes the interactions between the FSAs and the scandal-struck banks (often from within Swedbank), as well as the actions taken by the FSAs in response to media reviews and disclosures on money laundering. Moreover, it contains a comprehensive list of sources that were deemed relevant to review in the first phase of data collection. The cited documents were systematically reviewed and added to the empirical material if deemed relevant to the development of AML supervision.

The data selection process then continued with the collection and organizing of all available public communications by the FSAs. The collected documents covered (or briefly commented on): national AML supervision and its regulation; allegations of money laundering in Nordic banks in the Baltics; and the intergovernmental or transnational aspects of AML regulation and related issues. Subsequently, I undertook extensive media searches in national databases to retrieve articles regarding the FSAs' AML supervision in general, and in relation to the money laundering scandals in particular. The databases used were Retriever in the search for Swedish newspaper articles, Infomedia for Danish newspaper articles, and ERR news for Estonian newspaper articles in English. All the collected documents were continually compiled chronologically in a detailed list. Moreover, references made in public documents and media reporting to events, documents, and interview candidates deemed relevant to AML supervisory development were followed up and added to the empirical material. All available FATF and MONEYVAL evaluations of Denmark's, Estonia's, and Sweden's compliance with international standards were then processed, as were EBA reports and communications concerning the FSAs' handling of the Baltic money laundering cases.

In the last phase of gathering data from documents, I attempted to supplement the empirical material with what I perceived as missing pieces. These included AML policy documents authored by the FSAs dating from the late 1990s to the early 2010s. These older documents were less available through the FSAs' digital archives than were the more recent publications. In the case of Estonia, the language barrier made it more difficult to conduct searches back in time. Although sporadic communications in English had been made before the scandals, it did not become routine for the EFSA to publish documents in English until media reporting on cross-border financial crimes had begun to draw attention to the FSAs' AML efforts.

However, it was not just the language barrier that hampered the collection of documents. In fact, accessing older AML policy documents proved to be complicated overall, despite the fact that the Act on Public Disclosure in Administration applies to all three countries.

In the contact with the DFSA, my first request for documents was answered with a call explaining that the request was too unspecific. It was therefore agreed that I would instead request a list of documents relating to AML from the year 2000 up to and including 2017. However, this request was also rejected based on being too unspecific. The rejection letter specified that a request for access to documents must (1) contain the information that is necessary so that the matter or the documents to which access is sought can be identified, and (2) indicate the theme to which the cases or documents relate. The first point related to the “objective identification requirement” and the second to the “requirement for specifying a theme”:

The [DFSA] shall therefore request that you specify your request so that it includes an objective identification and a theme so that we are able to find the relevant cases and documents that you want to request access to (Registrar, Finanstilsynet, 2024).

I made efforts to specify the request by asking for a list containing orders (“påbud”), press releases, as well as memos/reports/statements on the following themes: (1) policy on AML supervision; and (2) Danske Bank’s management of money laundering risks in Denmark and Estonia. Yet another call was received from the registry asking for greater detail in regard to the theme of the requested documents. I therefore submitted a new request, narrowing down the theme to cover only “Danske Bank’s management of money laundering risks in Denmark and Estonia”. After some additional clarifying email exchanges, the DFSA concluded the case by sending one document, dated 2012, which I had already accessed via the FSA’s digital archive.

Regarding the Swedish context, documents written by the FSA before 2012 were retained by the Swedish National Archives. In response to my request to access AML policy documents from 2000 to 2012, the responding archivist assessed the material to be too extensive and disorganized to be properly reviewed and sent, but that it could be accessed in an on-site reading room (at Arkivcentrum Nord in Härnösand). According to the archivist, the three AML-related cases identified – which were covered by an overwhelming number of documents – appeared to relate to the

implementation of the EU's third AML directive as well as to regulations and general advice on measures countering money laundering and terrorism financing for the 2005 Code of Statutes. As regards the latter, the final document was accessible in the SFSA's digital archive. The archivist further informed me that the FSA's transfer of documents to the National Archives had not yet been completed and that the request had therefore been forwarded to an archivist at the FSA. This ultimately resulted in 18 policy documents being accessed, six of which were deemed relevant to this study. In view of this material, as well as the documents already accessed via the FSA's digital archive, I decided to exclude the case material stored at the National Archives from the selection.

In an effort to access historical policy documents related to the early phase of AML supervision in Estonia, I submitted a request to the EFSA under the Public Information Act. I specifically requested material concerning internal policy discussions, the development of off-site inspection models, and AML-related supervisory actions taken towards Danske Bank, Swedbank, and SEB during that period. In a responding email, the authority cited legal confidentiality provisions under the Financial Supervision Authority Act, stating that supervisory proceedings and related documentation are not public and therefore cannot be disclosed:

Information obtained in the course of financial supervision [...] including data, documents and other information, certificates, reports and precepts prepared in the course of financial supervision, and other documents on any type of data media containing information on the results of financial supervision shall be confidential. Therefore [EFSA] cannot give any information collected in the course of such proceedings (Finantsinspeksioon, 2025).

Instead, the EFSA referred me to limited public disclosures available on their website, as determined by the board.

Interviews

Starting in February 2023, interviews were conducted over a year and a half. The semi-structured interviews generally lasted for one hour and addressed how the AML supervision was organized in relation to other actors and events in the AML area. I selected interviewee prospects on the basis of "snowball sampling". That is, an interviewee was asked to suggest additional candidates, who in turn were asked to suggest additional candidates, and in this way the selection process continued until I perceived empirical saturation (Cloutier, 2024). However, the recruitment of interviewees went far

from smoothly in all three countries. Out of 90 requests, 30 people accepted and completed their participation. This resulted in an imbalance in the representation of the FSAs, with 17 interviewees representing the SFSA, seven interviewees the DFSA, and six interviewees the EFSA. I tried to redress this imbalance as far as possible by including additional or more detailed documents on AML supervision from the DFSA and EFSA in the selection.

| Interviews | no. | | τ (hh:mm) |
|-------------------|------------|----------------------------|----------------------------------|
| DFSA | 4 | Respondents, DFSA | 03:50 |
| DFSAex | 3 | External respondents, DFSA | 02:40 |
| EFSA | 4 | Respondents, EFSA | 04:20 |
| EFSAex | 2 | External respondents, EFSA | 01:25 |
| SFSA | 12 | Respondents, SFSA | 10:50 |
| SFSAex | 5 | External respondents, SFSA | 04:25 |
| Total | 30 | | 27:30 |

Table 2: Interview material.

In seeking interviewees representing the SFSA, I pursued several parallel tracks. First, I requested lists of employees in the AML area from 2015 onwards from the SFSA in accordance with the Act on Public Disclosure in Administration. Second, a request for voluntary participation was forwarded from the SFSA's registry to the financial inspectors employed at the AML unit. In parallel, I contacted individual prospects on the recommendation of colleagues and other contacts according to the snowball sampling procedure noted above. In the end, neither the lists of previous employees nor requests for voluntary participation among current staff resulted in any interviews. This outcome was partly because the registry, with reference to an administrative shift in the HR department's personnel register, only provided staff lists from 2020 onwards. In addition, an interviewee in a managerial position, who was the only one referred to me by the registrar, took on a gatekeeper role by insisting on approving the interview format before forwarding my request for participation to the AML unit. After being interviewed, however, the gatekeeper concluded that it would not be appropriate to propose any additional interview candidates. On the other hand, once contact had been established with a few former employees

who agreed to be interviewed and suggested additional prospects, the recruitment of interviewees ran relatively smoothly in the Swedish context, compared with the others.

As evident from the small number of respondents representing the DFSA, the interview study was even more difficult to conduct in the Danish context. An initial problem was that the first person with whom I established contact did not want to recommend any additional interview candidates. This person even claimed not to know of any further candidates to suggest for this kind of interview. Via e-mail, this person later claimed to have “asked around among colleagues” without receiving any positive responses. Thus, the snowball effect immediately stopped. This led to great difficulties in getting any information about available interview candidates. Moreover, in cases in which names of possible candidates appeared, for example, in newspaper articles, it was often difficult (if not impossible) to access contact details and/or get in touch with the person in question. The few candidates I found on LinkedIn after extensive searches proved all the more difficult to contact. Not only did very few recipients of my interview request via LinkedIn respond, but the majority of these respondents declined to be interviewed, referring, among other things, to weak memories from their time as financial inspectors or perceived conflicts of interest with regard to current professional positions held within the sector. As a result of these difficulties, I held supplementary interviews with journalists and researchers with particular knowledge of the AML area.

As regards interviews with representatives of the EFSA, the snowball selection process flowed with less resistance than in the Danish context. A majority of the candidates who received a request agreed to be interviewed. The main problem in the Estonian case, however, was that interview candidates were few to begin with, so respondents struggled to suggest additional candidates beyond those I had already contacted. Even in this case, the lack of additional obvious candidates meant that only a few professionals other than those with personal experience of AML supervision were interviewed.

During the interviews, I took account of ethical considerations in terms of: (1) informed consent, as the interviewees received a letter describing the study’s purpose, format, and how their data were to be used; (2) confidentiality, in that the data were anonymized, stored securely, and only accessible to me, the researcher; (3) integrity and honesty, in the sense that participant statements, to the best of my ability, were presented accurately and that transparency in methodology was pursued; (4) ongoing ethical

reflection through continuous documentation and peer-to-peer discussions; and (5) respectful interviews, conducted with sensitivity to the respondents' convenience (cf. Åkerman, 2024).

Method of analysis

In analysing the empirical material, I undertook a thematic analysis (Braun & Clarke, 2006). Inspired by Lawrence's (2017) processual methodology, I carried out the analysis in two main phases, with outlining relevant events occurring during the researched period serving as a first step. The established timeline was then to serve as a basic point of reference in the process whereby I interpreted emerging patterns in the empirical material. In the second phase, I developed a number of key concepts that described the FSAs' AML supervisory activities within the timeframe. Subsequently, the relationships among these concepts were explored in depth and ultimately theorized. A first round of rough interview transcription was conducted using the AI-based Good Tape transcription program, which was available online for subscribers. After this first round, I reviewed and corrected these transcriptions manually. All coding was done using MAXQDA software.

Drawing up the timeline

The first phase began with my in-depth reading and photographing/screenshotting of text extracts from journalistic reporting that I assessed as relevant to AML supervision. The media material either covered significant events (e.g., the Baltic money laundering scandals), documented the FSAs' reactions to these events in the scandals, or contained references to relevant publications. In step two, I drew a timeline of the money laundering in Nordic banks in the Baltics, covering its background and aftermath, in an Excel spreadsheet based on the information from the photographed/screenshot extracts. The timeline was intended to outline the flow of events before, during, and after the money laundering cases had been uncovered, and contained details such as the time, context, and potential agents of the events. I also included references to further readings for each point in the timeline. As a third step, I reviewed and collected documents referenced in the journalistic reporting. The perceived implications of these communications for the outlined flow of events were continuously written into the timeline. Subsequently, I also added national and international events found relevant to the organizing of AML supervision, including: the FSAs' releases of AML policy documents; reports and decisions from the FSAs' super-

vision of Danske Bank, SEB, and Swedbank (and from other significant AML investigations performed); FATF and MONEYVAL evaluations; and the EU's issuances of new AML directives, etc.

The construction of the timeline followed what Cloutier and Langley (2020) describe as recursive process theorizing. Building on symbolic interactionism, I pursued an interactive view of the ongoing processes. An underlying assumption was that the meaning of regulation was co-constructed through interactions among actors, which in the AML context included both organizations and individuals. These interactions produced accumulating experiences that eventually redefined regulatory meaning and its institutionalization (cf. Edelman & Suchman, 1997; Edelman et al., 1999).

Identifying themes and their relationships

After drafting the timeline, I undertook a thematic analysis of the documents and interview transcripts (Braun & Clarke, 2006). In this process, I paid particular attention to how the AML supervisory task was conceptualized and enacted. An early observation was that patterns of adaptation to changing conditions for AML supervision could be traced in the empirical material. With the compilation of codes around this initial observation serving as a simple coding scheme, I carried out the actual coding practice (i.e., the collating of data relevant to each code) in a systematic manner across the entire data set. After that, and with the timeline serving as a basic point of reference, I collated the codes into first-order concepts. The empirical material was then reviewed repeatedly in search of patterns that either substantiated or contrasted with these concepts. When 18 first-order concepts had undergone this thorough review, they were aggregated into six second-order themes: *Engaging moderately*, *Making sense of the task*, *Scapegoating*, *Upgrading measures*, *Collaborating*, and *Harmonizing*.

In reviewing these themes in relation to one another, I interpreted them as representing three aggregate dimensions, referred to as *modes of organizing*, that characterized the supervisory agencies' engagement in the co-construction of regulatory meaning during different periods. These modes were *reactive organizing*, *vulnerable organizing*, and *proactive organizing*. Since the prominence of each mode of organizing varied among the different periods, they were treated analytically as representing different phases of AML supervisory organizing (cf. Patton, 2015). Altogether, these constructs represented dimensions of how the supervisory agencies organized AML supervision as a legal mandate and practice. The modes of organizing (aggregate dimension) informed the organizational engagements

(second-order themes), which in turn unfolded through nuances captured as first-order concepts.

| <i>Aggregate dimensions</i> | Phase I: Reactive mode of organizing | Phase II: Vulnerable mode of organizing | Phase III: Reactive mode of organizing |
|-----------------------------|---|--|---|
| <i>Second order themes</i> | Engaging moderately | Scapegoating | Collaborating |
| | Making sense of the task | Upgrading measures | Harmonizing |

Table 3: Analytical organization of themes.

However, the time bracketing used to organize the findings into phases was somewhat uneven, with the first phase covering a decade and a half, whereas the subsequent phases each spanned only a few years. In writing the empirical chapters, these phases were narrated according to a hierarchy in which: the aggregated dimensions (i.e., modes of organizing) formed the main headings; the second-order themes (i.e., organizational engagements) formed the subheadings of the aggregate dimensions; and the first-order concepts (i.e., nuances of engagements) formed the subheadings of the themes. Moreover, I attempted to contextualize each theme in an introductory section, narrating the course of events considered significant to the AML supervisory development at that particular point in time.

Following the completion of the empirical chapters, I undertook a theoretically grounded analysis. Drawing on legal endogeneity theory, an analytical framework was developed around four key concepts: *legal ambiguity*, *symbolic compliance*, and *rule-intermediation*. These concepts were used to interpret the empirical findings, which I approached as components of a dynamic regulatory process. At the aggregate level, the identified modes of organizing were treated as representations of the roles enacted by supervisory agencies in the co-construction of legal meaning. The second-order themes offered analytical nuance by linking empirical patterns to the theoretical concepts, elaborating on the specific ways in which the actions of supervisory agencies were reflected in or reinforced legal endogeneity. The first-order concepts, in turn, grounded these theoretical insights by supplying empirical substance and contextual detail, enabling a deeper understanding of how regulation was co-constructed through the organizing of supervision.

Quality assessment

The question of whether “good scientific practice” is an adequate point of reference for evaluating qualitatively collected empirical material has been much debated (e.g., Czarniawska, 2014). For this study, with a comprehensive empirical basis covering several types of sources produced for different purposes, I nevertheless assessed that reflecting on the use of these sources was justified. Moreover, since the empirical material was collected with the aim of shedding light on a specific process (i.e., the role of supervisory agencies in legal endogeneity), I found it important to ensure that not just the empirical material but also the findings were empirically grounded (cf. Gioia et al., 2013). That is, I wanted to ensure that the data were adequate in relation to the studied phenomenon and relevant to the aim, research question, and theories used. Similarly, the findings were to have their purported grounding in the social reality they represent. By ensuring that these principles were met, trustworthiness was pursued. To this end, I employed Shenton’s (2004) framework of strategies for ensuring credibility, transferability, dependability, and confirmability, building on Guba and Lincoln’s (e.g., 1994) four criteria of trustworthiness.

Credibility and transferability

The credibility criterion addresses the question of how congruent the findings are with reality. This echoes the internal validity criterion in quantitative research, asking whether the study actually measures or tests what is intended to be studied. To ensure the credibility of this study, I employed well-established methods in the data gathering sessions and the data analysis, derived from methods successfully used in previous comparable projects (e.g., Lawrence, 2017). In addition, document studies and interviews were used in concert to compensate for their individual limitations. As a supplement to accounts provided in interviews, for example, I obtained data on the background to and stated reasons for actions and attitudes from documents. In some instances, I used document data to underline or contrast interviewee claims.

Another measure taken to ensure credibility was to have largely fact-based sections of the thesis reviewed by informed experts. While an AML regulatory expert undertook a thorough reading and fact-checking of the regulatory overview section above, an informed journalist reviewed the introductory accounts of the mediatized money laundering scandals in the empirical chapters below. In addition, the number and range of informants

also allowed for triangulation of data sources so that individual viewpoints and experiences could be verified against others. It can also be argued that the participation of interviewees from three different contexts reduced the impact of local peculiarities captured by the study. As regards the credibility of what was said in interviews, I attempted to promote interviewee honesty by sending a letter to each participant before the interview, detailing the purpose and nature of the research project and assuring them of the voluntariness and reasonable anonymity of their participation.

An additional consideration related to the credibility of the empirical study concerns the translation of material from Danish, Estonian, and Swedish into English. Translations were primarily conducted using Google Translate, supplemented by ChatGPT and the occasional use of DeepL Translate. Most of the archival documents written in Danish and one audio recording in Estonian were translated into English or Swedish before being coded, whereas the Swedish materials were, apart from their integration into codes, only translated when quoted or otherwise cited in the thesis. In contrast, all interviews with representatives of the DFSA and EFSA were conducted in English and could therefore be cited directly from existing transcripts. The translations inevitably entailed a risk of distortion or loss of nuance in the conveyed meaning. Similar risks were associated with the transcription procedures and interpretations of spoken content. To mitigate these risks and strengthen the trustworthiness of the findings, I sought to embed all quotations in thick descriptions that situated them within their broader empirical and contextual background when writing the empirical chapters.

Transferability has to do with the question of how well the findings can be applied to contexts other than the studied one. It can in itself be understood as the generalizability criterion, which is central to quantitative studies, being transferred to the context of qualitative research. However, the burden of transferability is often understood as resting more with the reader than with the researcher in qualitative case studies. Some scholars argue that it is the responsibility of the researcher to provide sufficient contextual information about the fieldwork sites in order for the reader to make such a transfer of results (cf. Guba & Lincoln, 1994). Others question whether the notion of transferability is at all a relevant aim or whether it neglects the importance of context-dependent meaning and knowledge (cf. Czarniawska, 2014; Flyvbjerg, 2006). In addition, it has been argued that while the results of different case studies may not be entirely consistent with one another, they might instead reflect multiple realities and, taken toge-

ther, illuminate variations that could be as useful to the reader as the results themselves (Shenton, 2004). Nevertheless, in attempting to fulfil the transferability criterion, I wrote thick descriptions of the empirical contexts, participants, and processes; I also undertook purposeful data collection to ensure that key variations were included, allowing for broader insights to be gained.

Dependability and confirmability

A criterion related to both credibility and transferability is dependability, addressing the consistency and replicability of the research processes and findings. According to Shenton (2004), detailed reporting of the research process, covering the raw data, field notes, coding decisions, and analytic memos, enables a future researcher to replicate the work, if not necessarily end up with similar results. To ensure dependability in this study, I took frequent notes throughout the research process, detailing the concrete data collection and analysis approaches to form an “audit trail”. I further noted the circumstances conditioning the steps taken. Transparency was pursued not only regarding methodological choices but equally regarding the setbacks and limitations of the research process (I discuss the major limitations of this study in chapter eight). Moreover, to ensure consistency of procedures and results, the processing of data followed a code–recode procedure in which I systematically set codes aside and then returned to them in second and third rounds of coding. Lastly, a procedure deemed particularly important with respect to the dependability criterion was to pursue a “reflective appraisal of the project” (Shenton, 2004, p. 72), evaluating not only the effectiveness of the research process, but also the perceived effects of its limitations on the credibility of results (again, see chapter eight).

The fourth criterion for trustworthiness, i.e., confirmability, relates to the extent to which the research findings are grounded in the data and shaped by participants’ accounts rather than researcher bias. While full objectivity is rarely attainable in, or even relevant to, qualitative research, I took steps to minimize the undue influence of my personal preconceptions as a researcher. Many of the strategies employed to enhance credibility, transferability, and dependability – such as the triangulation of data sources, the use of multiple methods (i.e., interviews and document analysis), and thick contextual descriptions – also supported confirmability by ensuring that the findings were anchored in empirical material rather than subjective impressions. I also attempted to enhance confirmability through

reflexivity, particularly by acknowledging that I had previous work experience in AML-related Know Your Customer (KYC) analysis in a bank. This background informed both the design of the interview guide and the interactions with respondents, as well as my interpretations of the empirical material. Notably, my familiarity with the field also shaped how certain roles and hierarchies (e.g., the, from my experience, marginal position of KYC analysts) were understood and interpreted. Moreover, moral judgments about money laundering and regulatory responsibility may have introduced a critical stance towards the actions of banks and FSAs. By explicitly reflecting on these influences and becoming aware of the interpretive lens through which the empirical findings were constructed, I carefully attempted to distance the interpretations from these preconceptions.

Phase I of AML supervision: Reactive organizing

The following three chapters present a narrative of how AML supervision evolved as a legal mandate and practice within the FSAs of Denmark, Estonia, and Sweden between 1991 and 2021. The time bracketing of sets of themes into “phases” suggests that these constructs would simply follow upon each other chronologically – that is, that one phase begins where another ends – but this is not entirely the case here. There is a chronology that separates the themes in that the first phase largely unfolded before the scandals, whereas the second and third sets of themes were prominent in the aftermath of the scandals and beyond. However, the main distinction between the phases lies in the conceptual and practical understandings of AML supervision they represent. In other words, “phase” is not used to denote a process with a definite start or end that one goes through, but rather a temporary set of beliefs about what one is dealing with. The themes constitute the main findings of this thesis and are treated analytically as expressions of how the FSAs co-construct legal meaning in organizing AML supervision.

Although largely depicted as shadow characters in the following narrative, this is also a story about three Nordic banks being used and subsequently becoming embroiled in scandal due to money laundering in their Estonian branches and subsidiaries. While the supervisory contexts in my interpretation were permanently marked by these events, the banks lack direct representation in the empirical material. The depiction of their actions is thus primarily based on how they were perceived from the perspectives of the FSAs and other relevant stakeholders. It is also important to note that, between 1991 and 2021, the studied contexts saw multiple events and actors that were not included in this story, because they were deemed less important for the AML supervisory development in the Nordics and Baltics than those that were.

| Nuances of organizational engagement | Organizational engagement | Mode of organizing |
|--|----------------------------------|------------------------------|
| Lukewarm attitudes Bad reviews Structure over activity | Engaging moderately | Reactive organizing |
| Supervision in the periphery Conceptual inconsistencies Relational barriers | Making sense of the task | |
| Finger pointing Blame avoidance On the defensive | Scapegoating | Vulnerable organizing |
| Resources and promises More rules and compliance Aspiring regulatory authority | Upgrading measures | |
| Interorganizational exchange Organization across borders Joint supervision | Collaborating | Proactive organizing |
| More control, less impact Fair play across the Union Ignoring the specific | Harmonizing | |

Table 4: First-, second-, and third-order findings.

As mentioned in the previous chapter, the three phases of AML supervision are presented below according to a hierarchy in which the aggregated dimensions represent the mode of organizing characteristic of the phase in question. The aggregate dimensions therefore serve as the main headings of the phases. The second-order themes capture the FSAs' organizational engagements in AML supervision. Reflecting the aggregate mode of organizing, the themes serve as the subheadings under the aggregate dimensions. The first-order concepts capture nuances of the organizational engagements in AML supervision and serve as the subheadings under the themes. Each theme is introduced by a brief historical overview, situating the organizational engagement in the broader societal context in which it emerged.

The first phase of AML supervision, as depicted in this thesis, started with the issuance of the first EU AML directive in 1991 followed by the establishment of Swedbank and SEB in the Baltic countries in the mid-

1990s. As we shall see, AML did not attract much public attention or resources in its early years, either as a legal mandate or as a practice within the FSAs. Expectations of AML supervisory performance stemmed mainly from supranational oversight. Hence, a marginalized group of only one to three financial inspectors performed AML supervision in relative isolation in the FSAs until confronted by transnational standard-setters. The characterization of the first phase as one of reactive organizing reflects the FSAs' tendency to respond to AML regulation and related events in a largely passive manner throughout the first decade and a half of the 21st century. That is, they operated within, and acted upon, the existing regulatory framework to the extent that their limited resources allowed, without engaging in further reflexivity.



Figure 1: Timeline of phase I: 1991–2016.

The resources for conducting AML supervision during its early stages were undeniably scarce within the FSAs. However, this was not the only reason why the task was overridden in favour of others. Beyond the responsible unit of operation, interest in AML issues was also not particularly great within the FSAs. Altogether, these limiting conditions not only affected the ability of the FSAs to comply with AML regulation, but also paved the way for internal contradictions regarding how the legal mandate should be understood in practice. In addition, a series of media revelations about cross-border financial crime began gaining international attention in the mid-2010s, sparking growing media interest in money laundering. In Estonia, a whistleblower came forward to testify about money laundering in

Danske Bank, setting in motion the media scrutiny that would eventually develop into the Danske Bank scandal. This also prompted intensified media scrutiny of the Swedish FSA's AML unit. As this first phase started to unfold, however, the mediatized scandals still lay in the future. At this time, profit-driven optimism loomed, followed by a financial crisis and an accompanying depression. This sequence of events redirected the FSAs' attention towards financial stability – a mission against which money laundering was not yet considered a serious threat.

Engaging moderately

To understand the early development of AML supervision in the Nordics and Baltics, attention must be paid to the general attitude of their financial sectors to financial crimes at the time. The financial expansion of the Nordic banks in the Baltic states in the 1990s and early 2000s illustrated this attitude, indicating that the economic, strategic, and market-related incentives overshadowed potential risks of exposure to financial crime in the region. Following the collapse of the Soviet Union, the Baltic states experienced rapid economic growth demanding capital to finance private and public entrepreneurship, housing, and infrastructure. The liberalization of financial markets and the privatization of state-owned enterprises further created a favourable environment for foreign investment. Meanwhile, the Baltic countries' domestic banks were largely undercapitalized, which meant opportunities for foreign banks to dominate the market. Estonia was urged to create a modern financial system. To this end, Estonian policy-makers deliberately sought to emulate Western European, and particularly Nordic, models, which were seen as stable, efficient, and aligned with the norms of the EU, which Estonia aspired to join. The geographical proximity along with the historical, cultural, and commercial ties between the Baltics and Nordics facilitated the establishment of business relationships between the regions. Consequently, Nordic banks such as Nordea, SEB, and Swedbank quickly gained market share and established leading positions on the Baltic markets through acquisitions and expansion (Hadjikhani, 2016; Olsson et al., 2019; Varblane & Sörg, 2003).

From the perspective of the Danish and Swedish governments, the advance of Nordic banks in the Baltics was considered essentially positive in relation to the Baltic countries' rapid transformations into modern market economies according to a Western European model. In this view, the financial expansion facilitated economic growth and integration into the Euro-

pean financial system. On the other hand, it also exposed the Baltic economies to new risks, including financial instability and dependency on foreign capital (Olsson et al., 2019). Money laundering and related crime risks became imminent as the Nordic banks began to acquire local banks in the region. One of the higher-risk acquisitions in this respect was SEB's gradual takeover of the Estonian commercial bank Hansabank, which in the 1990s already had non-resident clients and business spheres connected to Russian oligarchs (Forsberg, 2020, p. 22). Another fatal acquisition, which in hindsight has been described as a main cause of the subsequent money laundering scandal, was Danske Bank's takeover of Sampo Bank from Björn Wahlroos and the Finnish insurance company Sampo in November 2006 (Almgren & Ståhle, 2018a).

In the 2000s, however, the Baltic countries experienced rapid economic growth, and the Nordic banks benefited by providing loans and other financial products to both individuals and companies. In addition, the Baltic countries' EU integration in 2004, which prompted the implementation of European standards for banking and financial regulations, made the Baltic markets appear more stable, accessible, and predictable (cf. Hadjikhani, 2016). At the same time, however, the EU and NATO memberships positioned the Baltic region as a frontier between East and West, making it increasingly exploited for drug smuggling and the laundering of criminal proceeds (Forsberg, 2020).

Between 2007 and 2010, the global financial crisis raged, originating in the U.S. interest and housing markets. The Baltic countries were hit hard by the crisis with severe decreases in GDP and employment. The Swedish banks operating in the region had, since their establishment, carried out large-scale lending in these countries, which meant that the economic development in the Baltics affected the stability of the Swedish financial system. To prevent the problems from spreading to the home country, the Swedish Central Bank entered so-called swap agreements with the central banks of Latvia and Estonia to provide them with financial support (Sveriges Riksbank, 2022). According to Forsberg (2010), however, Swedbank and SEB were already on the verge of collapse at this point and in constant need of more state funding.

Against this background, profitability, on one hand, and financial stability, on the other, preoccupied the Nordic banks and FSAs in the early 2000s. These issues appeared to have overshadowed the threats of money laundering and related financial crimes posed by the Nordic banks' financial expansion in the Baltics. Below, three empirical trends are presented,

suggesting that the FSAs exhibited only a moderate level of engagement in money laundering prevention during the first phase. These trends are: a lukewarm attitude towards AML; negative reviews of the FSAs' AML compliance; and a focus on structure (in terms of defensible compliance) rather than on actual supervisory activities.

Lukewarm attitudes

A recurring description of the FSAs' AML supervision in Denmark, Estonia, and Sweden was that it had low priority from its inception until at least 2015. This lack of attention to money laundering and related financial crimes extended not only within the FSAs internally, but across the financial sector and the broader societies in which they operated. Public awareness of the societal implications of money laundering seemed marginal, and the FSAs' attention was accordingly directed elsewhere. Alerts of suspected money laundering that occasionally reached the FSAs were often downplayed, indicating that it was not taken as an urgent or serious threat. In 2006, for example, the Russian Central Bank was in contact with the EFSA regarding the suspected laundering of Russian criminal money via Estonian banks. The specific accounts mentioned by the Russian Central Bank representative (who was murdered only months after this intervention) were held in Sampo Bank (acquired by Danske Bank in 2007), Uhispank (owned by SEB), and Swedbank (Forsberg, 2020, pp. 57–59; Vedler, 2019). When the Russian Central Bank demanded that the affected accounts be closed down, the EFSA began inspecting Uhispank's Know Your Customer (KYC) compliance and forwarded the information to the SFSA. When the information reached SEB, all details of the accounts were sent to the Swedish Financial Intelligence Unit (FIU), which first froze all the accounts but then released them due to the lack of evidence of the criminal origin of the funds (Dyfvermark et al., 2020).

In hindsight, it has been argued that the mediatized scandals a decade later could have been nipped in the bud if the Nordic and Baltic authorities had continued and deepened the investigation initiated by the Russian Central Bank in the early 2000s. To this end, AML supervision could have played a significant role (e.g., Bruun & Hjejle, 2018). In a statement by the Chair of the Legal Affairs Committee of the Estonian Parliament (quoted below in a news item as "MP" [Member of Parliament]), Estonian authorities were accused of having shown a lukewarm attitude towards money laundering, despite their awareness of prevailing money laundering threats:

The lukewarm attitude taken over many years by the [EFSA] and investigative authorities toward possible money laundering, which was conducted over the course of almost eight years, continues to surprise [the MP].

“The Russian Financial Monitoring Authority warned of potential money laundering in 2009 already, but the [EFSA] rejected these accusations,” [the MP] recalled. (ERR, 2018a)

Despite alerts of suspected money laundering in the Nordic banks’ Estonian branches and subsidiaries, the Baltic operations were intensified and expanded beyond the Russian and Ukrainian borders from 2007 onwards. From the banks’ perspective, these expansions offered clear advantages. One respondent understood the operations of the Nordic banks as driven mainly by a desire to expand their banking systems, but noted that these operations also “helped” the Baltic economies to prosper through capital injections and integration with international markets. The Baltic expansions were further described as contributing to the geo-political strategy of the allied West against Russia:

I guess the Scandinavian banks always had the issue that their home market is a little bit limited [...] I think they even discussed who would take which of [...] the Baltic countries a little bit under their wing to, of course, on the one hand, allow their banking systems to further expand, but [...] also to help by, in the end, its capital imports [...] And I think they played an important role in making the Baltics successful: small, successful countries, which are now an important [...] cornerstone of the Western strategy against Russia. (DFSAex03)

The relationship between the Baltic states and Russia, which grew increasingly strained as the Baltics integrated into the EU, was also believed to have contributed to the FSAs’ lukewarm approach to money laundering prevention. Based on a “leaked report” by the European Banking Authority (EBA) about the AML supervision of Danske Bank’s Estonian branch before the scandal, the Danish newspaper Information reported that the poor relationship between Estonia and Russia had been described as the main reason behind the hands-off approach maintained by the DFSA. When the Russian Central Bank in 2007 had warned the DFSA of suspected money laundering in Danske Bank in Estonia, the DFSA had dismissed the warning as “exaggerated”. The report had also noted that the Danske Bank branch had not yet been fully established in Estonia in 2007, which could explain the DFSA’s lack of response to money laundering alerts. That is, the

DFSA relied on Danske Bank to address threats of money laundering as soon as possible and, importantly, as promised:

“The [DFSA] concluded that this could be a consequence of, among other things, the poor relationship between Estonia and Russia. The [DFSA] also took into account that Danske Bank had only owned the [Estonian] subsidiary for a short period and had promised that the bank would of course address the shortcomings that the [EFSA] had identified,” the report states. (Skou Andersen & Bahn, 2019)

One respondent expanded on this view, emphasizing that Estonia in the 1990s and 2000s was characterized by weak institutions. As a result, responsible authorities were unable to put an end to the exploitation of the Estonian banking system for tax evasion and money laundering purposes. According to the respondent, the Danske Bank case was the result of local bank officials in Estonia withholding information about money laundering exposure from Danske Bank’s headquarters. This information was, in turn, believed to have been further withheld by the EFSA from the DFSA:

Of course, everybody knows that the Baltic states after independence – especially the first 20 years after – have been like heaven for Russian gangsters. And the [EFSA] knew that very well. [...] I’m sure that if [EFSA] had said to [DFSA]: “We believe that the Danish bank might not have the full insight into their own affiliate in Estonia – maybe there are some flaws in the internal reporting?”, I think it would have been taken much more seriously. (DFSAex02)

However, it has been shown that the EFSA repeatedly reported suspected money laundering in Danske Bank’s Estonian branch to the DFSA between 2007 and 2015. Several letters were sent without the DFSA taking any discernible action to investigate the matter (ERR, 2018d). Thus, despite illicit financial flows being recognized as an urgent problem in the Baltic region from at least 2006 onwards, AML supervision was not treated as a priority by the FSAs until several years later. One respondent recalled that it took longer for the FSAs than for the banks to commit to the implementation of new international regulations, such as the EU AML directives. The respondent believed that this was because the banks, unlike the FSAs, encountered suspicious transactions in their daily operations and were therefore more aware of the occurrence and implications of money laundering:

In our understanding, the [SFSA] did not have a very high priority for this area. [...] For a long time, there was probably only one person there who dealt with money laundering issues, and that person probably did not have full support higher up in the organization either. [...] It felt rather foreign perhaps, to both the ministry and the [FSA], this area, because [...] they did not see how money laundering was done, and so on. (SFSAex03)

The fact that the banks were able to detect and examine suspicious transactions up close, however, did not mean that they took serious action against money laundering exposure, other respondents argued. A frequently stated opinion was that it took the widely publicized revelation of, first, the Panama Papers (to which we will return below) and, subsequently, the Danske Bank scandal for the issue of money laundering to be taken seriously. Based on the experience of having worked in AML as both a publicly employed financial supervisor and privately employed consultant, one respondent argued that if an undertaking was not considered profitable to the banks, they could not prioritize money laundering risk management without the fear of repercussions. As the FSAs did not signal a strong commitment to enforcing the banks' AML compliance, the banks were not compelled to take action against money laundering either:

[AML] is not an area where you're earning money, so for [banks] to prioritize it, they have to have a fear of getting fines or a bad reputation. And then going back to the Nordic context, we didn't really believe we had criminals around us. "It's just some people selling drugs down the street!?" We didn't really understand the risks. So, that's why it wasn't prioritized because nobody really understood what we had in [terms of] crimes. (DFSA03)

The understanding of money laundering and related financial crimes as something taking place elsewhere, far from a Nordic context, was repeatedly highlighted as an impediment to AML supervision in its early phase. One respondent linked this view to the fact that AML was closely associated with the Financial Actions Task Force (FATF) at the time. The establishment of FATF, which was an American initiative, signalled that AML was about stopping the flows of drug money passing through U.S. borders ("the War on Drugs") and subsequently also the transactions aimed at terrorism financing ("the War on Terror"). In other words, AML was primarily understood as part of a domestic enterprise, which was why it did not appear relevant in a Nordic context:

Certain American states are notorious for enabling the starting of anonymous companies [...] And the U.S.A. simply wanted the outside world's help to deal with money laundering problems in the U.S.A. [...] It is said that it was Nancy Reagan who got this idea when she went into a bank and saw people coming in with bags of money – cash – to deposit in the bank: “This has to be stopped already at the bank!” (SFSA11)

An action that contrasted with the portrayal of the FSAs' approach to AML as lukewarm in the 2000s, however, was the SFSA's sanctioning of the currency exchange company Forex Bank in 2008. An inspection of the bank's AML compliance found structural and recurring deficiencies in the measures taken against money laundering and “the financing of particularly serious crimes”. The major weaknesses identified included: insufficient identity checks on customers; flawed transaction reviews; lack of rules for when a transaction should be refused; and failure in reporting to the FIU. The investigation resulted in a warning and a fine of EUR 4.5 million. The deficiencies were considered so serious that the SFSA claimed there was “an obvious risk” that Forex Bank would be used for money laundering. The SFSA also stated that it was compelled to conclude that the bank, by failing to comply with applicable regulations, could be presumed to have knowingly participated in money laundering (Finansinspektionen, 2008, p. 6). The Forex Bank case was described in interviews as a “sitting duck” with reference to the company's inadequate management of money laundering risks. At the time of the sanction being issued, it was nevertheless a significant event.

In summary, public interest in issues of money laundering and its prevention was weak in the early years of AML supervision. This was generally understood as a result of banks and FSAs ignoring the origin, nature, and scope of these offences. The omission was not only because the FSAs were prioritizing other issues, but also because the Nordic countries did not want to know about money laundering in Nordic banks. Meanwhile, the EFSA, which had significantly greater insight into the money laundering risks to which the Nordic banks were exposed in Estonia, seemed to have limited outreach in alerting its Nordic counterparts. As a result, the FSAs saw no urgent reason to take serious action to prevent money laundering and related financial crimes. Next, however, we shall see that this lukewarm approach was not looked upon favourably by transnational watchdogs.

Bad reviews

The lukewarm attitude to money laundering associated with the FSAs in the 2000s did not mean that they were supervising (or refraining from supervising) AML compliance without supranational oversight. On the contrary, FATF and its affiliates (MONEYVAL in the case of Estonia) were regularly monitoring the enrolled countries' compliance with FATF recommendations. Compliance failures were punished to the extent that the FATF recommendations became the regulation with which the FSAs appeared most keen to remain compliant. This was largely explained by the threats of ending up on FATF's grey or black lists. In contrast, the FSAs' implementations of the EU's first, second, and third AML directives – although largely based on the FATF recommendations – were in some cases extended for years. Overall, all three FSAs struggled with AML compliance throughout the first phase of AML supervision. An important reason for this struggle was the severe lack of resources dedicated for AML supervisory purposes.

Although resource shortages were present in all three contexts, the FSAs' approaches to managing AML supervision differed. This related to the fact that the AML supervisory mission already existed before the EFSA had itself been established in Estonia. On one hand, this meant that the AML task had to be invented along with all other areas of responsibility in the early 2000s, which made it difficult to achieve compliance. On the other hand, there were no established AML practices with which the implemented procedures could come into conflict. In the year 2000, the Estonian AML supervision was assessed by MONEYVAL. According to the report, Estonia had barely had time to establish the relevant authorities at the time of the visit, reflecting the rapid trajectory towards EU integration undertaken in the late 1990s and early 2000s. Despite its immature organization, however, the EFSA was recognized as having proven its determination by establishing relevant authorities and regulations during the short period it had been in service:

To this end the Money Laundering Prevention Act (MLPA) [...] had only been in force for six months at the time of the on-site visit. [...] At the time of the on-site visit the Estonian authorities were conscious of many of the deficiencies of the existing law and plans were in place to remedy several of them. (MONEYVAL, 2000, p. 2)

Estonia's commitment to establishing an AML regime of international standard was also reflected by the fact that the EFSA was later recognized as

an early adopter of a risk-based approach to AML supervision (referring to a global standard to which we will return in the next section) (ERR, 2020). However, a former employee recalled that the human and other resources dedicated to AML supervision were very scarce at the time, and that the EFSA therefore “played with numbers” to accommodate provisions and live up to international standards (EFSA01). In addition, a dedicated AML department was not established within the EFSA until after the scandals had surfaced in the media:

When the issue arose in the supervisory authorities’ industry, you could say, then we also decided to build a dedicated AML department here. Before that, it was part of the business context supervision [...] I think it was in, maybe 2018, or ... I don’t remember exactly, but not a long time ago. (EFSA03)

In an evaluation carried out in 2008, MONEYVAL found the EFSA’s AML supervision to be largely compliant, although it lacked “the manpower required to carry out comprehensive on-site supervision regarding all obligated persons” (MONEYVAL, 2008, p. 19). Enhancements in the EFSA’s capacity and additional resources for the FIU (with which the FSA shares supervisory responsibilities in Estonia) were deemed necessary. It was further observed that no law, regulation, or other enforceable measure required obliged entities to examine and record the background and purpose of complex and unusually large transactions in a manner accessible to the competent authorities. Moreover, obliged entities were not required to give special attention to business relationships and transactions with entities from, or located in, countries that failed to apply, or applied insufficiently, the FATF recommendations (MONEYVAL, 2008, pp. 16–17).

Compliance problems were not only present in the EFSA but just as prominent in its Nordic counterparts. In fact, the critique was raised by several stakeholders that neither Denmark nor Sweden was fully committed to implementing preventive measures countering money laundering. In 2006, a FATF evaluation of Sweden’s compliance with international AML standards as well as a report by the Silk Road Studies Program (Cornell et al., 2006) both noted that Swedish banks, particularly in the Baltics, were vulnerable to (if not favoured for) money laundering by criminal networks from Eastern Europe and the former Soviet Union due to their weak protections. According to FATF (2006b), Sweden complied with only six out of 40 recommendations and the weaknesses mainly consisted of national legislation being difficult to apply and the penalties not being a sufficient

deterrent to financial crimes. Furthermore, efforts to fight and prevent money laundering were deemed to be a low priority in Sweden. Denmark received similar remarks, stating that the DFSA's AML supervision had mainly been focused on "reviewing internal guidelines of financial institutions with little attention paid to assessing the implementation of the guidelines" (FATF, 2006a, p. 14). Inspections of large banks were further deemed infrequent and not comprehensive enough, and the report suggested reviewing the resources allocated to inspections and expanded staff training. These reviews marked the beginning of a slippery slope that threatened to lead to the Nordic countries ending up on FATF's grey or black lists:

By the time of a FATF meeting in South Africa, [...] our [representatives] went down to defend the screening [FATF] had done of Sweden [my note: 2006], which basically meant that we would be blacklisted. [...] And well, I can understand that. After all, there was a lot of that regulation that was not introduced in daily operations and applied. So, it was easy to find deficiencies in Sweden, and we probably had a naïve approach to that. (SFSA06)

In 2010, FATF released follow-up reports to the previous evaluations of Denmark and Sweden. FATF recognized that the countries had made significant progress in addressing the deficiencies it had identified, and decided that the countries were to be removed from the regular follow-up process (FATF, 2010a, 2010b). However, starting in 2016, both countries were again evaluated by FATF. The report on Sweden's AML supervision was then significantly less critical than in the Danish case but nevertheless stated that Sweden was urged to "increase the resources of the FSA's AML unit in order for it to undertake appropriate onsite and offsite supervisory actions commensurate with the risk and size of Sweden's financial sector" (FATF, 2017b, p. 109). Denmark, in contrast, was thoroughly criticized for its AML systems in general, and for its supervisory efforts in particular:

The frequency, scope and intensity of AML/CFT supervision are inadequate. The scope and depth of desk reviews and on-site inspection missions are inconsistent with the risks. This reflects a lack of a consistent methodology, as well as the severe lack of resources available for AML/CFT supervision. (FATF, 2017a, p. 101)

A respondent recalled that the exposure of the FATF review, and the gravity of the remarks, came as a cold shower to the responsible operating unit. For

the sake of AML supervision as a public duty, however, the bad review also meant that the previously overshadowed issue of money laundering was finally brought to light, not only for the Danish media to dig into (e.g., Høberg, 2017; Bjerger, 2017), but for the FSA as the responsible authority:

It was a very negative analysis they came up with! [...] I think they ranked us as [on par with] Uganda. It was a very bad ranking that came there. So, there were many signs that now something needed to happen in order for us to stay out of the grey list. (DFSA02)

A few months after the FATF report had been released, Danish AML supervision was further criticized in an evaluation by the OECD (2017). The report stated that the Danish efforts countering money laundering were insufficient due to a severe lack of resources. In view of the negative FATF and OECD reviews brought to light in Danish media, the DFSA publicly announced investments in AML supervision, including the establishment of a dedicated AML unit with substantial capacity from a greatly increased number of inspections (Høberg, 2017).

In summary, this section showed how the FSAs struggled to remain compliant with international AML regulations (predominantly FATF recommendations) throughout the period referred to as the first phase of AML supervisory organizing. However, this did not mean that efforts were not made to improve supervision in accordance with international regulations. In fact, as we shall see below, efforts to implement international regulations consumed so much AML supervisory capacity that often only one person remained to perform the actual supervision.

Structure over activity

The problems that the FSAs faced in their efforts to remain compliant with international AML regulations mirrored the responsible AML units' struggle to practise AML supervision worthy of the name. With limited resources, they were tasked with the difficult combination of keeping the national regulations and enforcement aligned with international standards while carrying out regular inspections in accordance with those regulations. In practice, implementing structures to maintain defensible compliance was systematically prioritized over performing AML supervisory activities. One of the changes in the global AML regime that significantly affected the AML supervisory development was the introduction of a risk-based approach to money laundering prevention. Globally, this idea gained traction in connection with the FATF recommendations being amended in 2003.

According to FATF (2014), however, the 2003 recommendations only provided for the application of a risk-based approach in some areas, whereas the 2012 recommendations considered the approach to be an “essential foundation” of a country’s AML (and CFT) framework. The EU implemented the risk-based approach with its third AML directive, which entered into force in 2005. Subsequently, the risk-based approach became central to both international and national AML regulatory frameworks, and its enforcement was subsequently strengthened further by the fourth (2015) and fifth (2018) AML Directives.

A risk-based approach meant that “countries, competent authorities and financial institutions [were] expected to identify, assess and understand” the money laundering risks to which they were exposed and to take AML measures “commensurate to those risks in order to mitigate them effectively” (FATF, 2014, p. 6). For the banks, this meant identifying and assessing the risks of money laundering exposure and, based on this assessment, developing routines and processes that were tailored to their own operations, in order to counter the risks identified. The banks were also required, if necessary, to regularly review and update their risk assessments and procedures. For supervisory authorities, the risk-based approach meant identifying, assessing, and prioritizing the most urgent money laundering risks within the sector and then acting upon them (Finansinspektionen, 2013b). Thus, rather than applying the same level of control to all customers and transactions, each situation was supposed to be assessed based on its level of risk. High-risk customers or transactions required more detailed checks, while low-risk cases could be handled with less extensive measures. The purpose of the risk-based approach was to use resources efficiently by focusing on areas where the risks were deemed the greatest. However, this was also referred to in interviews as the main weakness of the approach, given that it was only effective in managing risks that had been assessed as “greater” or “more urgent” than others. Moreover, in order to accurately fulfil its purpose, the risk-based approach required a common understanding across the countries, authorities, and banks on how to assess the relevant risks, which was considered an inherent challenge (FATF, 2014).

The implementation of risk-based supervision, similar to other major regulatory changes in the AML area, was perceived by respondents as demanding in itself. Not only was the supervised entities’ application of a risk-based approach to be monitored and assessed, but the routines for the planning and execution of the FSA’s own supervisory activities were also expected to be updated in accordance with the risk-based standards.

Inspectors or middle managers in charge of the AML supervision at the time claimed that the focus sometimes had to be directed towards *either* compliance, in terms of implementing the rules, *or* supervision, in order for the available resources to suffice. A general problem experienced was that new binding international regulations were not supplemented with resources for their implementation. Thus, national rules were systematically set at the cost of inspections ensuring the supervised entities' compliance with these rules – in other words, regulation outperformed its own enforcement. In addition to the efforts taken to adopt the new regulations, one respondent further mentioned how challenging it could be to establish new, or renewed, supervisory routines (that one could uphold) when the employees concerned did not see the point of the new regulations and wanted to continue performing supervision according to proven methods:

We were left with a lot of new directives and regulations, and it was not always the case that you got money so that you could hire, but you had to squeeze [the new] into existing money and existing individuals. [...] Everyone might not understand, everyone might not want to [...] when we are to establish a new context. And that's the struggle [...]: when you are going to twist and turn – without getting any money – to achieve an acceptable level of supervision [...] And that's not done overnight. (SFSA06)

Remaining compliant with international AML standards while performing actual supervision was a challenge to the DFSA early in the organizing of the AML supervisory function. A former financial inspector could not recall conducting a single on-site inspection during previous years in service. This was explained as a result of the administrative burden being too heavy in relation to the limited number of responsible inspectors. Most resources were then put into the introduction of the fourth AML directive, which was considered utterly comprehensive. Yet, in comparison, the implementation of EU directives was not as much of a burden to the AML inspectors as was the preparing of relevant authorities for a FATF evaluation, the interviewee continued. After all, the EU had set a relatively generous deadline for implementation. FATF, on the other hand, expected to have immediate access to large sets of data from national authorities as they announced their upcoming visit. This was found to be particularly demanding with regard to how time-consuming it was to compile and provide the requested datasets. Being in charge of coordinating this preparation process, the FSA had to devote all its relevant skills to collecting the basis for the FATF evaluation:

[FATF] comes with an absolutely insane package of things you have to document. [...] It takes a hundred years, because they have to evaluate the whole system. And then [the FSA] is responsible for that: to manage all the sectors at once and collect data for everything. It's a very heavy workload when [FATF] comes, and that was also because you had not tried it before. Nowadays, when they come at dawn to do a follow-up, then everyone understands what data they want... (DFSA02)

Similar patterns were also observed in the EFSA context, where, between 2000 and 2014, the implementation of AML regulatory frameworks often took precedence over the performance of inspections. Prioritizing formal organisational structures over supervisory activity was, according to respondents, sometimes a necessary choice due to limited manpower:

This was maybe 2012, 2013 – it's not okay anymore – but if you had to really build up your organization, I mean, to meet all the standards, it was quite tricky to do at the same time: to develop the organization and really supervise. (EFSA03)

In practice, there was commonly no more than one person who carried out regular AML inspections. This meant that the supervisory activities performed depended on the responsible inspector's interpretation of the task. According to one interviewee, this reflected how naïve the attitude towards money laundering risks was at the time. The financial sectors had simply not understood what the prevention of money laundering required from the responsible authorities and operators:

Money laundering was then handled by one person [in the SFSA]. That person was not found in my department and that person ran this as their own little project. [...] But in Sweden at the time, I think in hindsight, people didn't understand what it was all about. [The issue] had not been raised to the level it deserved. (SFSA06)

In summary, international standard-setters were the dominant actors in supervising compliance with AML regulation during the first phase of AML supervisory development. Lack of resources hampered the FSAs' compliance with international AML regulations and, as a consequence, assessments of AML supervisory performance were predominantly negative (albeit with some more positive wording in the Estonian context). Yet, the effort it took to achieve and maintain AML compliance meant that the task of systematically implementing international regulations had to be pri-

oritized over the practical execution of AML supervision. As we shall see in the next section, however, the AML supervisory performance was not only dependent on a lukewarm attitude to financial crimes in general, or on the individual inspector's interpretation of the task; it also depended on the attitudes of the FSAs' management.

Making sense of the task

Approaching the mid-2010s, international regulators became increasingly concerned with emerging threats of money laundering in the Baltics. A media disclosure that captured the scale and significance of money laundering crimes surfaced in 2014 when the Organized Crime and Corruption Reporting Project (OCCRP, 2014) revealed the "Russian Laundromat" that had run between 2010 and 2014. The scheme had served to channel about EUR 15 billion out of Russia through a network of global banks. The perpetrators had registered 21 shell companies with hidden ownership in the UK, Cyprus, and New Zealand through which almost EUR 19 billion had successfully been transferred. As the money had been sent to accounts in one Moldovan and one Latvian bank, the transferred money was considered clean. The 26,746 payments from the shell companies via the Moldovan and Latvian accounts subsequently went to 96 countries and some of the world's largest banks, including Danske Bank, SEB, and Swedbank.

In Sweden, the emergence of money laundering on the public agenda manifested itself in a law against money laundering as a crime in its own right being enacted in 2014 (Ekobrottsmyndigheten, n.d.). Previously, money laundering had been regarded as an ancillary offence to other crimes, such as robbery (SFSA05). Meanwhile, the EFSA introduced a new risk-based approach to AML supervision. Having received repeated alerts from the Estonian FIU and the Russian Central Bank about suspicious transactions and accounts in Danske Bank (Forsberg, 2020), the EFSA conducted no fewer than three inspections of Danske Bank's Estonian branch. The investigations exposed the full extent of what was going on in Danske Bank's non-resident portfolio. Consequently, the report sent to the bank by the EFSA contained harsh criticism, including: "Danske Bank systematically established business relationships with persons in whose activities it is possible to see the simplest and most common suspicious circumstances" (Bruun & Hjejle, 2018, p. 60). The EFSA even expressed suspicions that "economic interests prevail over the obligation to apply enhanced due diligence measures" (Bruun & Hjejle, 2018, p. 60) in the

Estonian branch. As a consequence, Danske Bank's non-resident portfolio was closed down in its entirety in 2015 (Bruun & Hjejle, 2018, p. 22).

Similar to the EFSA's interventions, the SFSA initiated a "large bank investigation" with regard to AML compliance in 2015. The results showed that the supervised banks generally had shortcomings in their management of money laundering risks. One of the more important conclusions was that many of the large banks lacked adequate procedures and systems to identify and report suspicious transactions. The SFSA also identified major deficiencies in the banks' KYC processes, which elevated the risk of incorrect or insufficient money laundering risk assessments being made. Furthermore, it was discovered that the banks did not always report suspicious activities to the FIU to the extent required by law. The SFSA had already acted against the laxity of Swedish banks in regard to AML in 2013. Then, the Swedish bank Nordea had been fined EUR 3 million and an investigation into Swedbank's AML controls in Sweden had exposed inadequate customer due diligence systems (Finansinspektionen, 2013a). Now, in 2015, Nordea was fined the maximum amount of EUR 5 million due to years of significant and systematic deficiencies in money laundering prevention in all areas that the SFSA reviewed. Handelsbanken – another large Swedish bank – was also fined EUR 3.5 million for AML deficiencies following the large bank investigation (Finansinspektionen, 2015).

In early 2016, even the DFSA undertook a thorough AML inspection of Danske Bank. The investigation was prompted by several red flags and reports, both from within Danske Bank – including a whistleblower¹ at the Estonian branch who came forward in 2013 and 2014 – and from foreign correspondent banks and authorities, signalling serious deficiencies in the bank's management of money laundering risks, particularly in Estonia. The DFSA had already inspected Danske Bank with regard to AML compliance in 2012, but then focused on other parts of the bank's operations, which overall were deemed appropriate (Finanstilsynet, 2012). At this time, several media outlets (e.g., *Berlingske*, *Financial Times*, and Reuters) and the investigative journalist network OCCRP had begun to scrutinize Danske Bank's operations in the Baltics, and their reports highlighted the possibility of the Estonian branch being part of an extensive money laundering scheme

¹ In late 2013 and early 2014, a whistleblower at Danske Bank's Estonian branch raised concerns about serious irregularities in the non-resident portfolio, including knowingly dealing with criminal clients and the use of falsified financial accounts. While these reports prompted an internal audit that confirmed some of the allegations, Danske Bank largely dismissed the warnings (Bruun & Hjejle, 2018).

(OCCRP, 2014). These revelations, along with increasing international warnings, put pressure on the DFSA to initiate a more in-depth investigation into the Danske Bank's AML controls.

The findings of the DFSA's inspection in 2016 revealed major flaws in Danske Bank's AML compliance, particularly in the Estonian branch, including risk management deficiencies, insufficient customer knowledge, and incorrect as well as inefficient reporting of suspicious transactions. Serious structural problems in the Estonian branch were also highlighted, as well as the fact that Danske Bank's management, despite several warnings, had not acted upon them. This, it was argued, had enabled significant flows of illicit funds to be channelled through Danske Bank in Estonia for several years (Finanstilsynet, 2016). However, the extent of the money laundering case was yet to be discovered and hardly two weeks after the results of the inspection had been published, another international media bomb dropped: the release of the "Panama Papers".

The Panama Papers refers to a collection of documents (about 11.5 million) that a Panamanian law firm had produced in managing its business. The documents showed how various prominent people, companies, and banks used the law firm to hide their assets in tax havens through "brass plate companies" (i.e., companies without a real physical presence or operations in their country of incorporation). The documents were leaked in April 2016 by an anonymous source and were reviewed by 376 journalists and 109 media organizations in 76 countries in collaboration with the International Consortium of Investigative Journalists (2016). The event thoroughly shook the financial world, and in the aftermath of the Panama Papers, cross-border financial crimes attracted the attention of a critical mass of journalists, policymakers, and, to some extent, the general public.

These media events and regulatory interventions formed the context in which my next theme, "Making sense of the task", unfolded. Many of the accounts below depict circumstances within the FSAs, where a fragmented understanding of the purpose and meaning of AML supervision emerged. As suggested in the depiction of the previous theme, interpretations of the early AML supervision were largely shaped by the imperatives of the FATF recommendations. However, as AML supervision became the subject of media scrutiny, inconsistencies and conflicts concerning the meaning of the task surfaced. As we shall see, the conflicting ideas manifested themselves in the practice-based knowledge of the inspectors colliding with the politically defined views of the FSAs' senior management.

Supervision in the periphery

The early AML supervision in Denmark and Sweden was described by respondents as characterized by AML inspectors working independently of, and in relative isolation from, other FSA units. AML inspections were initiated, completed, and archived without attracting any immediate attention from other parts of the organization. In Estonia, on the other hand, the distance between managerial levels appeared significantly less and the organizational hierarchy less tangible. A former head of AML supervision had also moved over to the Estonian FIU, which further shortened the distance between the authorities who shared the AML supervisory task. However, the units responsible for AML supervision were marked by being consistently under-staffed, and in the EFSA to the extent that only “one and a half” AML inspectors were in charge of the task at times. As mentioned above, these conditions meant that, in all three contexts, the AML supervision carried out in practice was dependent on the responsible inspectors’ interpretation of the task at the time of the inspection. Also, the outcome of the inspection depended on the attitude of the FSA management to AML-related findings. In the DFSA and SFSA, tensions between individual inspectors and members of senior management were marked, stemming from the former experiencing a lack of recognition from the latter.

In Sweden, the responsibility for AML tasks moved back and forth between departments without any clear rationale, and employees witnessed the equally sudden emergence and disappearance of new management levels (SFSAex01). AML supervisory performance therefore depended on the dedication of the few AML inspectors in the office and to a certain extent on the interest of the responsible middle manager, as efforts to strengthen the AML procedures rarely came from elsewhere:

Actually, they had not worked very much on [AML] supervision when I started there [...] Or, they had done some desk research, that is, they had looked at internal rules and said that “this is not good”. But now they were going to [...] streamline the supervision or make it a bit more hands-on. [...] But I don’t know how anchored this was higher up in the organization [...] During the entire time I was there [...] there was not much focus on money laundering issues, really. (SFSA07)

A similar account of how AML supervision was considered internally in the DFSA was given by a former financial inspector. When asked if there were any contacts between the DFSA and EFSA regarding AML before the Danske Bank scandal broke, the respondent replied that it was obvious that

“things were going on” in Danske Bank’s Estonian branch, but that AML issues were not considered important enough at senior management level. The middle manager responsible for AML supervision, who by contrast took the issue seriously, had to fight to be heard on the matter (DFSA03). In addition, the inspectors in charge considered their workload to be unreasonable given how low a priority the prevention of money laundering was internally, and how few resources were dedicated to it. The heavy workload and limited outreach further meant that even if reports of suspected money laundering in Danske Bank in Estonia had reached the DFSA, it was not certain that they had been noticed. On the other hand, if they had actually been noticed, it was not certain that the management would have found the information urgent enough to act upon (beyond forwarding the information with a question mark to the bank’s head office):

That’s when we got the initial reports about issues in the Baltic branches and all of that. And at the time, the high bosses in the DFSA didn’t really care about money laundering. So, we had this one guy [...] who was really passionate about AML and was really upset that they didn’t prioritize this area. So, those reports would have ended up in his mailbox and I would guess that he sent them forward. [...] I could also think he hadn’t because he had so much to do. (DFSA03)

These internal contradictions were perceived to hamper the establishment of appropriate AML inspection routines. In regard to the DFSA context, for example, respondents claimed that routines for opening, managing, and archiving cases were lacking (DFSA03). In all contexts, inspections were largely carried out off-site, meaning that the FSAs requested documentation from the supervised entities and assessed AML compliance based on the information received. In addition, one respondent described how meetings of supervisory committees, where representatives of AML supervision met with representatives of the large banks, were often “owned” by the latter, as individual inspectors were not mandated to question in depth (SFSA05). To move away from desktop surveys and develop the inspection routines while sticking to tight budgets, respondents described how they sometimes had to improvise AML supervision. In the SFSA, for example, one “early” inspector felt urged to come up with their own AML supervisory routines. These were then applied more or less successfully in inspections without the inspector receiving any internal feedback from management levels above the responsible unit of operation. In one case, the inspections performed

had generated substantial impact on the targeted sector. Yet, it did not attract much attention from within the FSA:

There was no routine, because then there had been no [AML] supervision at all. So, I set up my own routine. [...] I myself had made a paper with questions and so we inspected nine [companies], and nine were subsequently sanctioned [...] Actually, it was quite a big deal, because it stirred the market quite a lot for those who knew, but [...] in house it didn't get any publicity. (SFSA05)

In the EFSA context, a different pattern unfolded. The relatively small size of the organization prevented fragmented operations similar to those in the Nordic FSAs. It appeared, however, that this organization as a whole operated at the periphery of the sector, particularly in relation to cross-border interactions. Despite the drastic measures taken by the EFSA, such as the shutdown of Danske Bank's non-resident portfolio in the Estonian branch, these actions attracted little attention from stakeholders. The fact that the DFSA's more extensive investigation into Danske Bank was not initiated until 2016 – two years after the EFSA's intervention – reflected this limited reach. One respondent recalled that the process of acting forcefully against opaque banking in Estonia, by requesting the closure of accounts in foreign banks, went far from smoothly. With no prior experience in cross-border supervision, the relevant authorities involved in the procedure did not quite know what to do:

[In] 2014, the ECB [European Central Bank] in the Eurozone assumed the sole responsibility for terminating bank licenses. However, the ECB doesn't have the power for AML supervision. So, it was quite a new procedure for them as well, because we were the first Member State saying to them that, "Well, we have this small bank here. Their business is non-viable in our eyes, you know, the income stream comes from opaque banking – please, let's close it down!" And it took a while. (EFSA04)

In summary, this section has shown that AML supervision was a low-priority task within as well as among the FSAs. While responsible inspectors worked in relative isolation from other parts of the organization in the Danish and Swedish contexts, the EFSA received little attention in cross-border interactions despite its crackdown on overlooked money laundering risks in the Estonian branch of Danske Bank. Overall, this suggests that AML supervision was an undertaking situated at the periphery of public

organizing, where individual inspectors relied on their own interpretations of the task. As we shall see next, these circumstances – combined with the sudden involvement of senior FSA managers in the public debate on AML – led to tensions within the field of AML supervisory expertise.

Conceptual inconsistencies

An issue that became increasingly relevant during the maturation of AML supervision was how its practical execution was to be understood. Within the SFSA, perspectives on this issue shifted more markedly depending on the stance of the serving Director General, a position that saw more frequent turnover in Sweden than in Denmark or Estonia. In the DFSA context, little attention was paid to AML outside the responsible unit, and although the issue was a higher priority to the EFSA, the lack of resources limited the development of supervisory routines. Particularly in the Nordic contexts, contradictions like these fostered a division of perspectives between responsible inspectors, on one hand, and senior FSA management, on the other. Opinions mainly differed in regard to what made certain AML supervisory procedures relevant or effective and others not.

One of the decisive areas of debate concerned the advocacy of off-site inspection procedures. Questions were raised as to whether an inspection carried out in one place distant from where the inspected activity took place really qualified as supervision. As mentioned above, inspectors were generally critical of off-site investigations, arguing that such methods left the supervised entity with the time and opportunity to manipulate the figures before providing them to the FSA. Despite this frequent objection, off-site inspections continued to be the standard supervisory method throughout the first phase of AML supervisory organizing. One respondent with managerial experience from the SFSA argued that the off-site methods were so deeply rooted in the organizational memory that calls for on-site and unannounced inspections provoked strong opposition:

Previously, letters had been sent out asking “what are you doing?” [...] I said, “That’s baloney! We send out 30 people and ask questions”. [...] Internally, there were those who [...] reported me to the Chancellor of Justice for running this. But that case was dropped, do you know why? The Chancellor of Justice did exactly the same thing to evaluate the authorities! [...] How the hell do you otherwise capture misbehaviour!? [...] You can’t ask people, “Are you kicking pensioners down?” I mean, no sane person would answer yes to that. (SFSA06)

In the EFSA, to a greater extent than in the Nordic contexts, the emphasis was on developing the off-site measures of AML supervision. This was explained as due to on-site methods being too resource demanding for a team of a maximum of three inspectors to accommodate. In practice, the legal requirement to perform one on-site inspection per obliged entity per year was perceived as impossible for the EFSA to live up to. The responsible inspectors therefore developed their own model of off-site inspections that was described as both innovative and effective in practice. The method was considered particularly accurate in detecting the scope of non-resident deposits, which were perceived as one of the more prominent risks in the Estonian financial sector during the 2000s and early 2010s. Although the off-site procedure was not entirely aligned with the regulation, it was considered a local success:

In the law of credit institutions, there is a provision that each should be examined [on-site] at least once a year [...] But we could accommodate a maximum of four on-site inspections in a year. Of course, everyone realized that this was not effective – we couldn't cover the market situation [...] We started to work on developing an off-site model, and I guess it was really innovative [...] I guess it's [still] quite a handy and instrumental model. (EFSA01)

While this off-site procedure emerged as an organizational invention in the EFSA, the Swedish context was marked by conflicting views of the AML supervisory task. This related to the risk-based approach becoming internationally institutionalized. Adapting to this development, the SFSA issued a report (Finansinspektionen, 2013b) announcing their intention to start carrying out “more targeted and in-depth investigations in specific areas of particular importance” (p. 16). The SFSA was to focus more on the entities associated with the greatest risks, whereas entities deemed to have a less urgent risk exposure would be examined more briefly. Although there seemed to be consensus within the FSA that the risk-based approach was crucial to the supervisory capacity, it gave rise to disagreements about, for example: how to select the entities to supervise; how the entities deemed less exposed to money laundering risks were to be dealt with; and, above all, how the FSA was to respond to findings of serious deficiencies in AML compliance.

Tensions from such disagreements arose between the inspectors supervising AML compliance and the SFSA's senior management. As the media attention to suspected money laundering in Danske Bank's Estonian branch

grew, these tensions were picked up and amplified by the Swedish newspaper *Svenska Dagbladet* (*SvD*). Internal debates intensified alongside the media-driven debate that followed, concerning the “final statement” procedure. This form of administrative outcome was introduced by the SFSA as the standard outcome of a finalized inspection in 2016. It was part of a supervisory strategy referred to as “communicative supervision”, which was initiated and implemented by a newly appointed Director General of the SFSA. Unlike a sanction, a final statement was a confidential document summarizing the remarks of the SFSA upon concluding an inspection. After its introduction, the final statement was quickly to become the most common outcome of a finalized inspection. It provided the supervised entity with recommendations on measures to take, and the entity was urged to draw up an “action plan” based on these recommendations. The action plan then served as a point of reference for the FSA in a “supervisory dialogue” with the operator (Finansinspektionen, 2018).

While several respondents expressed their distrust of communicative supervision, one respondent argued that the supervisory dialogue, as opposed to more intrusive forms of intervention, had great advantages with regard to efficiency, outreach, and interrelationships between the FSA and the obliged entities. The final point was considered particularly important in view of money laundering prevention being a shared mission of the financial sector. Thus, as the FSA targeted the entire market with information about its expectations of AML compliance procedures and controls, the spread of the intended effects (i.e., improved compliance) was believed to be greater (cf. Finansinspektionen, 2020a) than the sanctioning of one single operator:

[FSA] has a responsibility to communicate its expectations [...] like, “This is what we expect; this is where we set the bar”, instead of breaking in, like, in the middle of the night and basically doing a dawn raid. Would that lead to anything good, or do we get a better spread if we have open communication with the operators? If you target one [entity], the effect may not be as great on the whole financial market as when you target the entire market. (SFSA03)

However, the main problem that responsible inspectors had with communicative supervision – expressed in *SvD*’s series of investigative articles starting in 2018 – was that it signalled a lenient approach of the SFSA towards the supervised entities. *SvD* reported that the SFSA’s AML unit in 2016 had undertaken in-depth investigations of six Swedish banks – i.e.,

Swedbank, SEB, and four savings banks – that had shown serious deficiencies; yet this had not resulted in any “real” punishment beyond a final statement (Ståhle, 2019). The statement on Swedbank’s AML compliance, which was provided by the SFSA in December 2016, contained serious criticisms. The preliminary assessment was that Swedbank had such poor knowledge of its high-risk customers that a violation of the Money Laundering Act was considered likely. In 12 out of 30 samples, the SFSA had found that Swedbank failed to perform adequate KYC analyses of their clients. It was further noted that while transactions of high-risk customers had triggered 42 money laundering alerts in the monitoring system, no suspicious transactions had been reported to the Swedish Financial Intelligence Unit (FIU) (Ståhle & Almgren, 2019).

When reflecting on the internal conflicts within the SFSA, which were both revealed and exacerbated by *SvD*’s coverage, a respondent traced them to an inherent tension between the financial inspectors and the legal department. While the inspectors claimed that their findings should form a basis for sanctioning a supervised entity, the legal department often made a different assessment of these findings, resulting in no sanctions being issued in the end. Not only was an adjudication procedure difficult and resource-intensive to carry out, but in cases in which the rules were not crystal clear, a sanctions procedure was rarely legally justified:

[Inspectors] may have been working on a case for a long time – they are extremely committed, and maybe even sometimes a little personally invested in their investigation. [...] And then they have found some [entity] that they think does a really lousy job, and they really want the FSA to act against it. And then the lawyers come in and start twisting and turning everything around and questioning: “Yes, but what about this? Do the rules really say that? Do they really have to have this in place?” (SFSA10)

In contrast to this view, FATF’s (2017b) evaluation of the SFSA’s sanctions policy advocated a stricter AML supervisory approach to non-compliance. In the report, it was noted that although the SFSA had the power to issue substantial sanctions (unlike the DFSA and the EFSA at the time), these were not used frequently or effectively enough to have a deterrent effect. FATF argued that Sweden, including the SFSA, needed to strengthen its sanctions system to ensure that the sanctions were proportionate and dissuasive. FATF recommended that Sweden use its supervisory powers more actively and issue higher fines or other penalties to create a real deterrent to wrongdoing and make better use of available measures.

However, when comparing the actions taken by the FSAs against Danske Bank, SEB, and Swedbank following signals of money laundering in the Baltics, Forsberg (2018) argued in an *SvD* op-ed that the relationship between the DFSA and Danske Bank had been the “silkiest” before the scandals. As mentioned in regard to the moderate engagement theme above, immediately after Danske Bank’s acquisition of Sampo Bank in early 2007, the EFSA had sent a critical report about money laundering in the acquired bank to both Danske Bank and the DFSA. In addition, the Russian Central Bank had the same year written a letter to the DFSA claiming that billions of roubles had been channelled through Danske Bank in Estonia every month in a suspected money laundering scheme. Forsberg (2018) argued that the DFSA’s response to this information – which was to forward the letter to Danske Bank and ask for a comment – was too relaxed in relation to the gravity of the information. In Forsberg’s (2018) view, the Nordic banks’ suspected involvement in money laundering in the Baltics had generally been handled too gently by both the DFSA and SFSF:

Not until 2017, when the Danish newspaper *Berlingske* and the international journalist network OCCRP reviewed the bank, did the [DFSA] wake up [...]

Financial inspectors in Sweden, Finland, and Denmark appear to have misunderstood their role. A serious threat to democracy and our safety should not be met with silk mittens, but hard gloves. (Forsberg, 2018)

A similar line of reasoning emerged in the Danish newspaper *Berlingske*’s reporting on the actions taken by the DFSA concerning the Danske Bank case. Based on email correspondence from 2012 between Danske Bank and the DFSA, a *Berlingske* article asserted that Danish authorities and the senior management in Danske Bank had been aware of suspected money laundering in the Estonian branch much earlier than publicly announced. While Danske Bank, despite several warnings, repeatedly assured the DFSA that they had full control over the suspected customers, neither the DFSA nor the bank exhibited any signs of having investigated the alerted suspicions further:

According to [...], member of the European Parliament’s Special Committee on Tax Rulings, the new information shows supervision in a bad light. “The authorities must live up to their supervisory responsibility. After all, they should not be fooled by vague promises that everything is in beautiful order”, says [...], emphasizing that “neither Danske Bank nor the Danish

authorities have reacted quickly and powerfully enough". (Lund et al., 2018, p. 11)

In summary, this section has outlined the conflict lines that marked the processes by which AML supervision was interpreted, defined, and practiced during its mature phase. As we saw above, these inconsistencies were particularly prominent within the Nordic FSAs. A key issue of debate was how supervision was to be performed in practice and whether it was possible to conduct supervision at a distance from the supervised entity. Opinions also differed as to what constituted a reasonable response to findings of non-compliance with AML regulation, as well as what relationship was adequate and how it should be maintained. These contradictions shaped the organizing of AML supervision before the scandals. The next section examines the contradictions that marked the conceptualizations and practical executions of AML supervision in a more concrete way.

Relational barriers

Another distinct pattern influencing the practical organizing of AML supervision in its first phase was the barriers arising from the FSAs' interactions with other organizations. In the Danish context, a significant barrier stemmed from the relationship between the DFSA and Danske Bank, which had traditionally relied on mutual trust. As noted above, it took time and pressures from multiple directions before the DFSA carried out a more in-depth investigation of the management of money laundering risks in Danske Bank's Baltic operations. One respondent – a journalist covering the Danske Bank case – related this hands-off approach to the extensive power and impact of Danske Bank in Danish society. The bank was described as so dominant that it impaired the DFSA's ability to "really supervise" the bank before the scandal. In the respondent's understanding, it was not only lack of resources that stood in the way of effective AML supervision, but also the DFSA's subordinate position relative to Danske Bank. This led the DFSA to prioritize mutual trust over in-depth investigations:

What we quickly found out was that the [DFSA] was absolutely... not able to monitor sufficiently for money laundering. [...] there were three and a half employees who were responsible for monitoring 200 [entities] [...] We had a meeting with some of them for background, but they didn't know what to say. They were very afraid. [...] Danske Bank is so big [...] that it has enormous power, also political power. (DFSAex01)

As we saw in the previous section, several Danish newspapers picked up on allegations that the DFSA had been passively aware of suspected money laundering in Danske Bank's Estonian branch before suspicious transactions had been leaked to the press. This suggested that a significant barrier to AML supervision was inherent in the power asymmetries within the Danish financial sector. In Estonia, by contrast, relational barriers to AML supervision instead manifested in partner organizations withholding critical information from the EFSA. When reflecting on the fact that the money laundering exposure of the Nordic banks' Estonian branches and subsidiaries persisted for almost a decade, one respondent described how AML supervision was frequently hampered by circumstances beyond the EFSA's control. For example, the Russian Central Bank, which had been a critical partner in accessing information of the sources of illicit funds, refused to cooperate with the EFSA when the intergovernmental relations between Russia and Estonia deteriorated. This significantly limited the scope and depth of the EFSA's AML supervisory activities. The EFSA also faced difficulties in accessing data from other states that were critical to tracing the routes of money laundering via the Estonian banks. In addition, the responsible inspectors sometimes struggled to assess the accuracy of the information provided to the EFSA:

It was absolutely impossible for us to identify the origin of those funds without foreign assistance or some... whistleblower support or whatever [...] We'd been in Moldova and their person actually officially agreed to cooperate with us. Later on, he turned to be on another side – he escaped with his data. You know, if someone from another side provides you a document with information, you never know – “is it the correct one or is it somehow modified?” (EFSA01)

In the SFSA context, barriers to AML supervision arose primarily in relation to media scrutiny. Identified by *SvD*'s investigative reporting on AML supervision, it became apparent that the SFSA had overstated its accomplishments in the area, which in turn intensified media attention. In the SFSA's 2018 report to the Swedish government, it claimed to have conducted 70 AML inspections in 2016 and 2017. This statement was strongly questioned by the inspectors responsible at the time, one of whom testified to “zero new cases” in 2017, as reported in *SvD* (Ståhle & Almgren, 2018a). Similarly, the SFSA had claimed in its 2015 report that reviews had been conducted into around 900 companies, a number that, according to *SvD*, included investigations as superficial as Google searches and only a small

proportion of which could therefore be considered “real” (Stähle & Almgren, 2018b). According to an informed journalist, the inflated figures were an attempt to compensate for loss of control in an area that was attracting growing attention from the industry:

“The big banks are too big to fail” is one of those recurring clichés in the world of finance. This was kind of a concrete example of what that looks like in practice. [...] As I see it, [SFSA] didn’t really have the resources to do money laundering inspections in a strict sense. As they didn’t want to admit to that, they started doing simplified low-quality investigations instead and pretended that [...] they had a grasp of what’s going on. Of course, they didn’t have that! (SFSAex04)

Moreover, only days after the negative publicity on the inflated figures being provided to the Swedish government, *SvD* further alleged that the SFSA had manipulated meeting minutes before handing them over to the journalists upon their request. The documented meeting had concerned the inspections of Swedbank, SEB, and the four savings banks mentioned above. While the inspectors argued that the supervised banks had violated the Money Laundering Act and therefore should face sanctions, the SFSA’s management disagreed, deeming the breaches insufficiently serious. Nonetheless, the inspectors’ dissent was formally recorded in the evaluation protocols. In November 2018, *SvD* requested access to these protocols. The SFSA initially claimed that the documents were incomplete, but since the related cases had been closed, *SvD*’s reporters argued that the documents should be treated as final and thus subject to public disclosure. The SFSA then seemed to have expected uneasiness and tried to tone down the internal conflicts over the sanctions issue in the meeting minutes. In fact, the notes about the inspectors’ opinions had been deleted before the documents were handed over to the journalists. However, since *SvD*’s request had been made on the basis of tips from dissatisfied inspectors, the SFSA’s manipulation of the documents quickly came to light and the media review continued with renewed intensity:

The staff comments section is deleted from the meeting minutes. The documents are signed by a middle manager at the agency who re-dates the documents to make them appear to have been drawn up on November 27th, 2018 – more than nine months after they were written. (Almgren & Stähle, 2018c)

When confronted by SvD about this manipulation of public documents, the Director General of the SFSA replied that it was “extra troublesome” that the specific parts of the meeting minutes that the SFSA had reason to believe would interest the press had been removed. It was further stated that there was an urgent need for the SFSA to review its processes concerning the submission of public documents. A few days later, however, the senior management appeared to have changed direction on the matter, claiming that as “internal drafts”, the manipulated documents were not to be considered as public records (TT, 2018).

In summary, this section has shown how obstacles to AML supervisory organizing arose from the FSAs’ interactions with other organizations. In Denmark and Sweden, these obstacles were particularly evident in relation to media scrutiny, which put the FSAs’ credibility at risk. In Estonia, by contrast, it was the FSA’s reliance on cooperation with foreign authorities – upon which AML supervision depended – that posed a barrier to its practical execution. Altogether, this suggests that inconsistencies remained not only within and among the FSAs, but also in their relations with other stakeholders.

Summary

Albeit a pressing problem in Estonia, money laundering was not a high-priority issue for the FSAs in the early phase of AML supervisory organizing. This reflected a broader lack of interest in financial crime and a limited focus on combating it. The AML regulation in place during the first phase of AML supervision was not met with any coherent culture of compliance. As a result, AML supervisory organizing was confronted with several contradictions. Weak public interest in money laundering meant that limited resources were allocated for its prevention. This further implied that the risks posed by the Baltic operations of the Nordic banks were largely ignored. As a consequence, the Nordic countries received bad reviews from supranational reviewers evaluating the FSAs’ compliance with international AML standards. This, in turn, posed an additional problem for the FSA units in charge of AML: namely, that the limited resources available had to be put towards the implementation of international regulations at the expense of actual supervision. Approaching the mid-2010s, AML supervisory organizing became increasingly marked by inconsistent interpretations of its purpose and nature, both among and within the FSAs. In addition, relational barriers to AML supervision emerged from the FSAs’

problematic interactions with other stakeholders. A common thread running through all these contradictions was that the actors who witnessed money laundering and its implications up close typically advocated a more hands-on approach to its prevention, while those who had to make decisions on AML issues from a distance were more likely to maintain a hands-off approach.

Phase II of AML supervision: Vulnerable organizing

What would eventually succeed a phase of general lack of interest in AML was a phase of intense crisis management following the Baltic money laundering scandals being brought to light. During 2017 and 2018, the Danske Bank scandal developed explosively, “sending shockwaves through Denmark’s largest bank, prompting investigations by the prosecuting authorities in both Denmark and Estonia, creating political turmoil, and resulting in countless front pages in both Danish and Estonian media” (Bendtsen et al., 2018, p. 16). And this was only the beginning. The ink had barely dried when the Swedbank case hit the Nordics and Baltics, as well as the wider Western world of finance. A range of national and transnational investigations were initiated, and the resources dedicated to AML supervision were significantly increased. When the worst turmoil had subsided, however, a third scandal – about SEB’s Estonian subsidiary – broke, and although not as serious as the preceding ones, it was enough to set reviewers and journalists to work afresh.

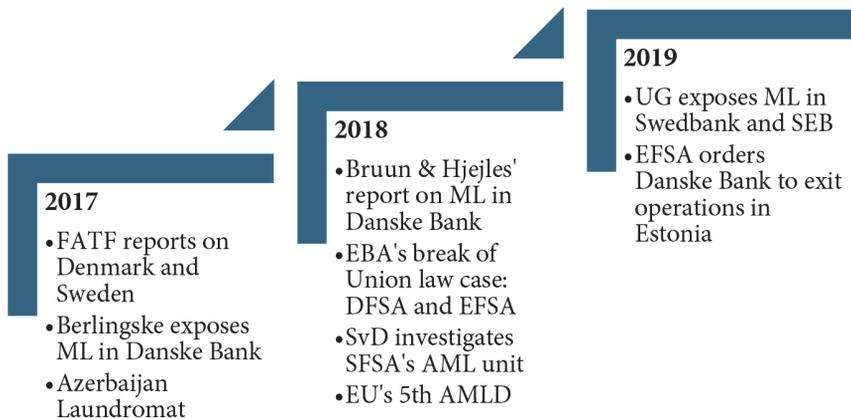


Figure 2: Timeline of phase II: 2017–2019.

The second phase is called “Vulnerable organizing”, which refers to how the FSAs’ AML supervision became subjected to intense public scrutiny, driven by national and international media, and was followed by international regulators. During this critical time of negative attention, two patterns unfolded in the FSAs: the refusal to admit responsibility for any aspects of the scandals, and diligent efforts to justify past actions while simultaneously upgrading and upscaling the AML supervisory measures for the actions to come.

Scapegoating

On March 20, 2017, three years after the “Russian Laundromat” had been exposed as a “criminal financial vehicle” to transfer vast sums of money out of Russia, the OCCRP revealed the details of the scheme in its entire complexity (OCCRP, 2017a). On the same day, the Danish newspaper *Berlingske* revealed information on suspected money laundering via Danske Bank in Estonia (Jung et al., 2017). Immediately after the information had been released, Swedish banks operating in the region started to review their Baltic businesses in order to track down possible connections to the then closed non-resident portfolio of Danske Bank’s Estonian branch (Forsberg, 2020). The urgency to terminate business relationships with customers involved in, or linked to, criminal activity became increasingly pressing as the “Azerbaijan Laundromat” was exposed by the OCCRP in September 2017. The OCCRP (2017b) reported that approximately USD 2.9 billion had been channelled through European companies and banks between 2012 and 2014. The money had allegedly been used to bribe European politicians to promote the Azerbaijan regime’s reputation internationally.

Further details of the Danske Bank case continued to be released in Danish and international media in 2018. In May, the Chair of the DFSA – previously a member of Danske Bank management – resigned (Ritzau, 2018). In September, Danske Bank held a press conference in connection with the release of the law firm Bruun & Hjejle’s (2018) report on the money laundering in the Estonian branch. It was now concluded that the total flow of payments associated with Danske Bank’s non-resident portfolio amounted to approximately EUR 200 billion between 2007 and 2015. The vast majority of this sum (EUR 178 billion) had flown illegally out of Russia, the UK, and the British Virgin Islands and was laundered via Danske Bank in Estonia. This made the money laundering scandal the

biggest in modern times. In view of this, the CEO of Danske Bank also announced his resignation at the press conference (Neate, 2018).

Neither the SFSA, Swedbank, nor SEB publicly expressed any concern as to whether the Swedish banks had been involved in the money laundering scandal in Estonia via their operations in the Baltic region. The SFSA stated that the risks of money laundering occurring as a pressing problem in Swedish banks was considered relatively small, given that their Baltic operations primarily targeted domestic customers (Almgren & Ståhle, 2018b). Similarly, Swedbank, with the then CEO at the forefront, denied involvement in money laundering, claiming that Swedbank, as a retail bank associated with low risk, had a “completely different” business model from Danske Bank’s in Estonia (CNBC, 2018). SEB also claimed that, in comparison with the Danske Bank case, they did not have any real red flags that, in their view, warranted concern (Dyfvermark et al., 2020).

However, on February 20, 2019, the Swedish investigative journalism television program, Uppdrag Granskning (UG), released its first episode about suspected money laundering in Swedbank’s Estonian subsidiary. In the episode, payments through accounts in Swedbank were linked to the so-called Magnitsky affair² and the money laundering scandal in Danske Bank (SVT, 2019b). On the same day, the SFSA issued a press release stating that it took the information about money laundering in Swedbank seriously, and that it was of utmost importance that the bank ensured AML compliance. The SFSA also stressed that the responsibility of the FSA was to supervise the banks’ AML controls, and not to investigate whether or not money laundering had occurred (Finansinspektionen, 2019b).

UG’s second episode about money laundering in Swedbank in Estonia was released a week later. The mapping of suspicious payments showed that about EUR 10 billion had been channelled through client accounts in Swedbank belonging primarily to a corporate group controlled by a criminally associated Russian oligarch and partner (SVT, 2019c). The third episode aired on March 27. Swedbank was now accused of having misled the New York State Department of Financial Services in two letters in 2016 and 2018. Swedbank had been asked to report all transactions that its

² The Magnitsky affair revolved around Sergei Magnitsky, a Russian lawyer and accountant who uncovered an EUR 222.9 million tax fraud involving Russian officials. After exposing the scheme in 2008, he was arrested, imprisoned, and allegedly tortured, leading to his death in a Moscow jail in 2009. His case sparked international outrage, leading to the Magnitsky Act (2012) in the US, which imposed sanctions on Russian officials linked to human rights abuses (SVT, 2019b).

customers had made with the Panamanian law firm Mossack Fonseca, which had been highlighted in the Panama Papers. While Swedbank had claimed that no such transactions had taken place, UG showed that they had (SVT, 2019d). The day after the third episode had been released, police from the Swedish Crime Authority conducted a raid at Swedbank's headquarters in Stockholm, controlled remotely by a chief prosecutor (TT, 2019). On the same day, the SFSA sent an email to the Swedbank headquarters urgently requesting all reports that the bank had prepared based on internal and external investigations on money laundering risks (Forsberg, 2020).

UG's revelations shook Swedbank and the Swedish financial sector. The incident led to several investigations and extensive media coverage, both in Sweden and internationally. The storm had barely subsided when SEB, in November 2019, issued three press releases in anticipation of an UG episode on suspected money laundering in its Estonian branch. First, SEB confirmed that UG had informed them about the upcoming broadcast (SEB, 2019a). Second, the bank stated that it had received a list of 194 names of suspected companies and had already terminated about 95 percent of the related business relationships after conducting its own review (SEB, 2019b). Third, SEB disclosed that EUR 84 billion had passed through foreign customer accounts in Estonia between 2005 and 2018, with less than a third being linked to high-risk customers. The bank emphasized that the UG story concerned historical customer relationships and that transaction volumes had dropped significantly since 2006 following criticism from the EFSA (cf. SEB, 2020). The UG episode aired on November 27, 2019, reporting that EUR 43.5 million linked to the Magnitsky affair had been channelled through SEB accounts in Estonia and Sweden. Of the 194 flagged companies, about 130 exhibited clear signs of suspected money laundering, several tied to known straw men and previous money laundering cases (SVT, 2019e). In light of the detailed account SEB had provided in the three press releases, however, the public reception of UG's revelations was not as tumultuous as in the Swedbank case (Forsberg, 2020).

In the aftermath of the Baltic money laundering scandals, intense scrutiny revolved around three key questions: What wrongdoing had been perpetrated? By whom? And who would ultimately be held accountable? The following discussion of the scapegoating theme explores how these issues were understood both by the FSAs themselves and by the outside world. Particular attention is paid to perceptions of the FSAs' roles in the scandals and how these were assessed relative to those of other actors

involved. As will be shown, the FSAs' responses to demands for accountability were reflected in tendencies to deny, deflect, or otherwise avoid blame.

Finger pointing

Following the revelations of the Danske Bank case, a process of sorting out who was to be held responsible for what aspects of the scandal began to unfold. Money laundering, which had previously been a relatively marginal issue in the national politics in the affected countries, now rose to a prominent position on the political agenda. In the Danish and Estonian press, the tone was sharp, and condemnations of the culprits were strong. The frequently asked question of how this could have happened also directed attention towards law enforcement and crime prevention authorities, who were accused of failing to oversee the concerned banks' AML procedures and controls. In Danish media, national politicians repeatedly stressed their commitment to establishing the details of the Danske Bank case. To identify the wrongdoers and hold them accountable, a detailed mapping of the events was called for:

“It is important that there is clarity about the scope, and it is important that it all comes to light in this case. This grave matter will only become even more serious if the latest information is correct. That’s why it needs to be cleaned up, and I will take whatever initiatives may be possible for that,” says [Politician]. (Bendtsen & Lund, 2018)

In Estonia, politicians noted that the Danske Bank case had damaged Estonia's reputation internationally by causing a severe blow to trust in its financial sector. Not only was Danske Bank urged to compensate for the damages it had caused to Estonia's international reputation, but national public actors were also expected to accept blame. For example, the former Minister of Finance, who had been in charge of fiscal policy during the years when money laundering was taking place in Danske Bank, was claimed to bear “political responsibility” for the scandal (ERR, 2018a). What stood out in the Estonian political discourse was how wrongdoers were explicitly sought among the public agencies. At a Riigikogu (Estonian Parliament) hearing in November 2018, the then Chair of the Legal Affairs Committee “warned of serious flaws in public administration functioning” (ERR, 2018f). An example of this approach appeared in an ERR news article quoting a Facebook post by the then prime minister of Estonia:

We have to find out if any national agencies, and which, have worked ineffectively in the Danske case – as well as obtain clarity regarding how widespread the problem of money laundering is in Estonian credit institutions more broadly. (ERR, 2018b)

Scapegoats were not only sought by external stakeholders, but equally by the FSAs themselves. Their public documentation showed strong communication efforts to avoid blame for the scandal by pointing fingers at other wrongdoers. The main argument made by the authorities was that they had acted in accordance with prevailing requirements given the information and resources at hand. Yet, there were a number of disagreements on the distribution of AML supervisory responsibilities between the EFSA and DFSA. An illustrative summary of the conflict was made by an Estonian AML expert in an interview, stating that “it’s funny that we call it the Danske case and the Danish call it the Estonian case” (EFSAex01).

In the public conflict that unfolded, the DFSA and EFSA declared their respective interpretations of how the division of responsibilities, as prescribed by EU legislation, was to be understood. The DFSA, which had maintained a hands-off approach to Danske Bank’s Estonian branch, advocated an understanding of the applicable AML directive as stating that AML measures taken by national banks’ international branches were to be monitored by the competent authorities in the host country. This argument was also put forward by the SFSA in the aftermath of the Swedbank and SEB cases. In contrast, the EFSA, which had pursued a more hands-on approach to Danske Bank in Estonia, emphasized that the EU banking directives stated as a general rule that the prudential supervising activity for banks with cross-border operations lay with the FSA of the home country. The distinction made by the DFSA between internal management of money laundering risks in the Estonian branch, on one hand, and internal governance of the corporate group, on the other, was unreasonable to the EFSA, which promoted a view of internal governance as a “holistic system”:

Combating money laundering [...] by a bank is generally a matter of building effective controls, which is purely an issue of the bank’s governance. [...] it is rather artificial and unrealistic to make a sharp distinction between internal governance, which deals with [money laundering] risks, and the rest of the bank internal governance. (Finantsinspeksioon, 2019b)

This conflict reflected the condition that the money laundering cases took place when the third AML directive applied, whereas the distribution of

responsibility for these cases was debated under the influence of the fourth AML directive. While both directives, in cases of cross-border operations, placed the supervisory obligation to ensure compliance with national AML law on the competent authorities of the host country, the fourth directive added a supervisory obligation at the group level for the FSA of the home country. The rule that the home country's FSA was to be responsible for supervising compliance by branches with AML policies and procedures at the group level was thus not introduced until after the money laundering in question had taken place. Accordingly, at the request of the DFSA, the Legal Adviser to the Danish Government stated that, in its opinion, the responsibility for supervising AML compliance at Danske Bank's Estonian branch lay with the EFSA:

Pursuant to the [AML] rules then in force, the [DFSA] was not obliged to address matters relating to [Danske Bank's] Estonian branch, including in relation to the content or enforcement of money laundering policies etc. (Kammeradvokaten, 2019, p. 10)

Particularly damaging for the relationship among the FSAs was the fact that the EFSA had repeatedly alerted the DFSA to suspected money laundering in Danske Bank's Estonian branch between 2007 and 2015 without receiving any response from the DFSA. An ERR news article summarizing the conflict about AML supervision in the Danske Bank case traced it back to 2014, when it had culminated in a "shouting match" at a meeting of the European Banking Authority (EBA). According to the article, the EFSA representatives had then become "vociferous about the Danes' apparent inability to halt the flow of 'criminal Russian money' via Estonia" (ERR, 2018e). This was noted by an Estonian politician when confronted by Danish journalists about having served as the president of Estonia during the time of the alleged money laundering (reported in the Estonian press). According to the politician, the ignorance of the DFSA reflected the Nordic countries' condescending attitude towards Estonia:

According to the two-term former president, Estonia is a very convenient bad guy for the Danish bank, as it fits the narrative of little Eastern Europe which does not control anything. He believes that in the current Danske scandal, it was Estonia that did its job. [...] "This was a Danish bank," [Politician] told the paper. "It is subject to the [DFSA]." (ERR, 2018d)

According to the DFSA, however, the EFSA did not respond decisively to indications of suspicious activities in Danske Bank either. Rather, the EFSA was claimed to have reported that it saw no immediate need for regulatory action. The DFSA further argued that the EFSA had the authority to intervene once it became aware of the violations. Moreover, the EFSA's interpretation of EU regulations was considered inconsistent with what was generally understood to be the division of supervisory responsibilities between the home and host countries. When participating in a collegium of supervisors of Danske Bank, the EFSA had not expressed any objections to the supervisory model or division of responsibilities, according to the DFSA:

The AML supervision of Danske Bank's other foreign branches and subsidiaries has also been carried out by the host countries' [...] Therefore, the [DFSA] does not understand the EFSA's view that responsibilities are supposedly different in other countries. (Finanstilsynet, 2019d)

Interpretations as to which of the FSAs was responsible for the AML supervision in the Danske Bank case varied across EU member states, one respondent argued. While French authorities argued that branches operating abroad fell under the responsibility of the host country's FSA, the German position was the opposite. However, this was not the only explanation for the public conflict surrounding the Danske Bank case, the respondent continued. A more important factor was that Danske Bank had recently applied for access to the Federal Reserve Bank of New York's discount window to manage its liquidity risks. Access to a dollar window came with strict requirements for control systems against financial crime. Danske Bank, and indirectly the DFSA, were therefore reluctant to acknowledge information about money laundering risks within the bank:

They were declaring to our American friends that, "Again, the Danske Bank has the best risk controls in the class", which the Americans, by the way, didn't believe. [...] And this could be one of the reasons why Denmark was looking for ways out, so to speak. And, always, it's easier to blame somebody else – especially when you have a bank of this size. I understand now – after the frank discussions with my Danish colleagues – that Danske Bank is not just a bank but it's an institution in Denmark [...] but I don't care about that to be honest. (EFSA04)

Other instances of shifting blame for the scandal included pointing to external circumstances beyond the FSAs' control. For example, the geographical location of Estonia – especially its proximity to Russia – was cited as a major risk factor, with the Baltic countries being considered particularly vulnerable to threats emanating from there. The FSAs also blamed their lack of intervention on heavy workloads and the fact that the information received from Danske Bank's Estonian branch turned out to be incomplete and misleading (Finanstilsynet, 2018c). Overall, the FSAs maintained that the primary responsibility for the money laundering scandals lay with the banks. As represented in Estonian news reporting, one EFSA manager stated that it is, first and foremost, the responsibility of the banks' and their management "to keep their own houses in order; they are not children who need constant direction" (ERR, 2018c).

Stressing the implications of the FSAs being provided misleading information by the bank, one respondent claimed that the Danske Bank case had been largely misunderstood due to how the media had framed it in reporting. First, it was more or less a coincidence that the media hunt targeted Danske Bank's exposure to money laundering in the Baltics, and not, for example Nordea's, which was described as being just as bad. Second, the allegation that Danske Bank systematically neglected issues of money laundering exposure was claimed to be a misinterpretation. The money laundering schemes highlighted in the media were the sole work of local bank officials in the Estonian branch. In fact, the respondent claimed, Denmark had group-wide AML standards that it wanted to implement in its Estonian branch, but the local office had refused to adopt them. In this way, the bank officials engaged in the scheme concealed their actions from the Danske Bank headquarters. Ultimately, those individuals were the villains who should be (and actually were) held responsible, the respondent argued:

Danske Bank had, already in 2004, a uniform IT platform [...] and they wanted to put the system into Estonia, but the Estonians always said: "No, no, no, we don't need your system" [...] They never got the Danske Bank system, and that's why Danske Bank has been plagued. And that's [...] actually why there are criminal cases against [...] some of [the local officials], since they had their own [...] banking operation where they could get big bonuses, [...] but also take backhanders from the backbenchers in Russia or Azerbaijan or wherever. (DFSAex02)

In summary, this section has shown how the public actors pointed fingers at one another in order to avoid being held accountable for the Danske Bank scandal. In fact, no parties other than Danske Bank acknowledged any responsibilities beyond what they believed that they had lived up to. The blame-shifting mainly played out between the DFSA and EFSA, both interpreting the applicable EU AML directive to their advantage in determining who was liable for inadequate AML supervision. The main message was that each FSA had done what could be expected from it, given the information and measures at hand. This conflict not only created a frosty relationship between the relevant authorities but also, as we shall see below, paved the way for intervention by supranational authorities. Before that, however, we examine how patterns of scapegoating manifested themselves in relation to the two subsequent scandals: the Swedbank and SEB cases.

Blame avoidance

As the Swedbank scandal surfaced in the media, the circumstances were different from those surrounding the Danske Bank case. First, the financial sector was already prepared for further money laundering revelations in the wake of the first scandal. It was known that cross-border financial crime was under close media scrutiny and that journalists had learned to decipher leaked lists of illicit transaction flows. Moreover, it seemed unlikely to both industry actors and the relevant authorities that the money laundering in Danske Bank's Estonian branch would have taken place in isolation from other banks operating in the region. For corporate groups in general, and for criminally associated ones in particular, it was considered unusual for all accounts to be held in one and the same bank. Second, as we saw in the previous chapter, the SFSA's AML supervision was already under close scrutiny by the Swedish newspaper *Svenska Dagbladet* (*SvD*) when the scandal hit Sweden. While this journalistic investigation gained momentum with UG's revelation of the Swedbank case, the SFSA had already prepared for its defence. In addition, it had taken notice of the harsh blame-shifting unfolding between its Danish and Estonian counterparts. Thus, when public attention shifted from Danske Bank to Swedbank and subsequently SEB, the EFSA and SFSA emphasized their common understanding of the cases. However, despite the friendly tone, both FSAs still pointed out that the responsibility for AML supervision in cases of cross-border operations rested primarily with the other authority:

The responsibility for supervising regulatory compliance in the Baltic operations lies primarily with the respective Baltic supervisory authority. [SFSA] has long maintained a close and active cooperation with these authorities. (Finansinspektionen, 2019b)

In other words, what unfolded in the wake of the subsequent scandals were more subtle forms of blame avoidance. After finalizing a joint investigation into Swedbank with the SFSA (see the next chapter), the EFSA held a press conference at which it highlighted certain findings, implying that Swedbank's failures in AML compliance were of such a nature that they fell under the SFSA's responsibility. For example, the Swedbank group was claimed to have used a "matrix management system", according to which Baltic banking was also managed directly from Sweden (Finantsinspeksioon, 2020b). Based on the view that the bank's AML risk control systems had not been in line with applicable AML regulations, the EFSA further announced its decision to issue a precept to Swedbank, requiring it to take measures to improve its organizational solutions to combat money laundering (Finantsinspeksioon, 2020c). In a supporting document to the decision, the EFSA highlighted only its own efforts in the AML area since 2014 as a basis for the claim that money laundering had "ceased" in Estonia since 2017. By communicating that it had done everything in its power to combat money laundering even before the scandals broke, the EFSA implicitly suggested that it bore no responsibility for these events:

Due to the effective work of [EFSA], today the risk of money laundering in the Estonian financial sector is much lower than it was in 2014. In 2015 [EFSA] forced Danske Bank to stop serving high-risk non-resident clients [...] through its Estonian branch. [...] Following dialogue with [the EFSA], Swedbank stopped serving high-risk non-resident clients in 2017. (Finantsinspeksioon, 2020a, p. 2)

In Sweden, the SFSA urged the public to be cautious in drawing conclusions from the information revealed by the media (Finansinspektionen, 2019c). This became particularly evident after the first episode of UG's series about money laundering in Swedbank's Estonian subsidiary. The SFSA stated that the extent of the Swedbank case could not reasonably be comparable to that of Danske Bank case. The tendency to tone down the media allegations was interpreted by journalists as an indication that the SFSA did not want to hear about money laundering in Swedish banks. In what followed, a number of similar allegations – i.e., that the SFSA was downplaying money

laundering risks in general, and with regard to Swedish banks' Baltic operations in particular – were made in the Swedish press. The SFSA responded by issuing public press releases correcting the media allegations:

[SvD] claims that [SFSA's] management [...], at a meeting of the Banking Department's supervisory committee in October, stopped a proposal to investigate Swedbank's Baltic operations. This information is not correct [...] There was consensus that the risks were greater in the Baltics and that, especially given what emerged about Danske Bank, it was important for the [SFSA] to address these risks. (Finansinspektionen, 2019e)

Another form of blame avoidance emerged as the FSAs asserted that they had followed the law. The message was that any dissatisfaction with the FSAs' actions regarding the large banks' AML compliance in Estonia should be directed at the applicable regulations rather than the FSAs' actions, which simply reflected the law. What distinguished the FSAs' justifications of past behaviour from the forward-looking proposals for regulatory reform that we shall see below, was the pursuit of a more passive and compliance-based relationship with regulation. This approach was evident in the speaking notes from a presentation by the DFSA at a hearing on the Danske Bank case in the Danish parliament:

Think about three things in relation to the case of Danske Bank: [1] Do you agree with our description of course of events? If not, then please get back to me [...] [2] Do you agree with our description and use of the law? Again, views are welcome. For us, it has been very important to act with respect for legislation. [3] Even if you agree with points 1 and 2, dissatisfaction with the consequences can still be justified. If so, then you have the opportunity to change the law that will be the basis of our actions in future cases. (Finanstilsynet, 2018c, p. 8)

The statement implied that the perceived deficiencies in the DFSA's AML supervisory performance in relation to the Danske Bank case were due to inadequate legislation rather than the DFSA's interpretation of it. The claim of having fulfilled its obligations under applicable regulations and the division of responsibilities prescribed therein recurred in the aftermath of the scandals. Based on internal evaluations, the FSAs thus absolved themselves of blame:

It is the opinion of the governing board that, in the entire period 2007–2018, the [DFSA] has met its obligations as the competent authority responsible

for Danske Bank and has acted in accordance with the division of responsibilities in the AML area between the [DFSA] and the [EFSA]. (Finanstilsynet, 2019c)

However, blame-shifting seemed primarily to have been an act initiated by the FSAs' senior management. The responsible inspectors at the time of the scandals described a different experience: one not of being unjustly accused, but of being caught in a difficult position. Some respondents described a change in the dynamics of cross-border communication. They perceived that previously collegial relations that had been based on mutual trust were now marked by suspicion and distance. A general concern was apparently that the FSAs had made too great an effort to avoid responsibility and too little an effort to clarify their own roles and responsibilities regarding the scandals. One respondent, who experienced the scandals from within the EFSA, described the situation as difficult and stressful. While the FSA's management avoided blame, public attention was directed at the emergent AML supervisory profession, which was increasingly questioned and scrutinized:

Everyone started to look at "who is guilty" or "who is responsible for what". And, of course, [banks], but even the countries, started to defend themselves and somehow to put the blame on our side. Of course, that was a natural reaction [...] A number of authorities made requests to investigate the activities of FSAs and the supervisors as well [...] Of course, the stress, the tensions within... it was not an easy time. (EFSA01)

In summary, this section has shown that the various conditions that prevailed in the wake of the scandals brought about more subtle forms of blame avoidance than those described above. The need for cooperation and consensus was increasingly highlighted as a means to rectify the deficiencies in past supervision. It was further shown that the FSAs – primarily their senior management – conveyed a view that flaws in AML supervision, as framed in critical media reporting, were based either on the press being misinformed or on inadequate legislation. Next, however, we shall see how the FSAs' suspected non-compliance with applicable regulation became the subject of supranational intervention, and how it put the FSAs on the defensive.

On the defensive

A third pattern of scapegoating emerged as the FSAs became the subject of an EU intervention regarding their prior organizing of cross-border AML supervision. A “formal investigation into a possible breach of Union law” was initiated in February 2019 by the European Banking Authority (EBA, 2019). The investigation had been initiated by the EU Commission, which in a letter to the EBA expressed doubts about the FSAs’ supervision of Danske Bank Estonia, and ultimately their compliance with EU regulation before the scandals. In the letter, the Commission recognized that the EFSA had carried out several inspections of the Danske Bank branch in Estonia and that it had repeatedly notified the DFSA of Danske Bank’s exposure to “non-resident deposits”. However, the depth of the EFSA’s investigations, the actions taken by the DFSA, and the communication between the FSAs were questioned:

Questions remain [...] on the extent and depth of [the EFSA’s] inspections and whether sanctions were applied in an appropriate way. We have [concluded] that further analysis is required [...] The actions of the [DFSA] [...] remain unclear and raise questions as to whether [it] carried out effective supervision of the Danske Bank group. It is also questionable whether the exchange of information between the two supervisors was adequate and relevant [...]. (European Commission/Astola, 2018, p. 2)

As the EBA investigation had been initiated in February 2019, the senior management of the EFSA and DFSA met in Tallinn. The purpose of the meeting was to discuss the FSAs’ respective narratives about the Danske Bank case in view of the media reporting and with regard to AML. The discussion was focused on previous shortcomings in the handling of “complex cross-border issues” and how events similar to the Danske Bank case could be prevented in the future. A central question addressed was also how the FSAs were to act in relation to critical situations regulated by a vague legal framework. Reports from the meeting depicted a “tough but fair” discussion, involving elements of negotiation about liability in relation to the scandal. The managers attending the meeting concluded that there was a need for strengthened intergovernmental cooperation and that the division of labour between the FSAs had to be agreed upon and clarified:

“We had a good and frank discussion. Recent events have been painful for both countries and we should learn from it. Both of us can only emphasize the need for continued cooperation”, highlighted [DFSA manager], as a

result of the meeting. [EFSA manager] added: “In addressing complex cross-border issues, clear and pre-agreed division of labor among authorities is a key, even when legal framework could be vague. This is an important lesson for us”. (Finanstilsynet, 2019e)

Both FSAs stressed that AML was a key task on their agenda. The approach reflected the magnitude of the EBA investigation within the AML field. In interviews with affected managers, the investigation was described as an intense process. Not only were the FSAs singled out as wrongdoers in relation to the Danske Bank scandal, but their very *raison d'être* was called into question. In addition, there was a rumour among EBA representatives that the outcome of the investigation was predetermined. The rumour said that the case of possible breach of Union law was symbolic – the EU was “playing the press”. Therefore, it could not be won by the FSAs.

However, in April 2019, the EBA’s Board of Supervisors rejected the proposal for a breach of Union law recommendation. The rejection was a unanimous decision, and the investigation was closed. This was a relief to the senior management of the FSAs, although they never agreed with the accusations. A former manager of the DFSA described the process as extremely stressful, professionally as well as personally, given the gravity of the case and the conditions surrounding it. According to the respondent, the EBA’s Board of Supervisors was not a “buddy body”, in the sense that “your buddies are helping out”, but a very serious body of technocrats who felt that they took their cases on their technical merits. None of them expected that the FSAs would win this case, and when they did, “there was an uproar”. Had they lost the case, on the other hand, their organizations would have been dismantled:

It was really a tough process. It was the worst thing I went through in my years as a supervisor. [...] I worked even more than I usually did. I had a dentist appointment in January, I remember, but at the same time, I had to be in a parliamentary hearing. I couldn’t go to the dentist. I had peritonitis; some of my teeth were loose, and a couple of months later, I lost four of them. [...] And the speech I had to give to defend ourselves, similar to [...] my Estonian colleague and friend, were the speeches of our lifetimes. (DFSA04)

The respondent further described a feeling of being used in a bigger game in relation to the breach of Union law case. The fact that the DFSA was informed about the proceedings by a journalist, and not by the EU Com-

mission itself, was perceived as humiliating and as indicating that the Commission had become politicized. Similar reasoning was given by an EFSA manager when reflecting on the case. According to this respondent, the EBA investigation was not only unjustified, but unfair in light of what the EFSA had actually accomplished with regard to the Danske Bank case before the heavily publicized scandals, and given the significantly lesser general concern about AML issues at that time:

The accusation [assumed] that back in 2014, there was the same duty of care and understanding of regulations as there was in 2019, which was not the case. I mean, we in Estonia were starting like from scratch; [...] we were learning by doing, so to speak, and what we felt was that, “well, we closed down all the major sources and then, as a kind of gift [...] at the EU level, [we had to go through] this procedure where we were accused”. So, in a way it sounded unfair. (EFSA04)

Following the critical FATF assessment and the Danske Bank scandal in 2017, the EBA investigation marked the third setback for the DFSA’s AML supervision in three years. However, representatives of both the DFSA and EFSA agreed that the event put an end to the blame games and marked the start of a good collegial relationship between the FSAs. The Estonian manager continued:

And I have to compliment my Nordic friends that, indeed, if you agree [on] something with the Scandinavians, it will be upheld, so to speak, that everybody performs according to that. (EFSA04)

In connection with the subsequent exposure of the Swedbank scandal, an additional EBA investigation – this time of the SFSA – was called for. In April 2019, an EU Commissioner had indicated to Swedish media that the Commission was following the case closely (Rawet, 2019). Later in May, the Swedish newspaper *Dagens industri* reported that the EU Commission, in a letter to a Swedish EU ambassador, had asked for more information about the actions taken by the SFSA with respect to Swedbank’s AML compliance. The stated purpose of the request was to assess whether the SFSA had carried out effective supervision of Swedbank in accordance with the requirements of the EU’s fourth AML directive. According to *Dagens industri*, a spokesperson for the Commission had confirmed sending the letter to Swedish authorities, and further stated that the Commission had sent a letter to the EBA calling for an investigation of the SFSA’s supervision of

Swedbank (Rex, 2019). When asked about its attitude towards a potential EBA investigation, the SFSA provided Swedish news reporters the following written answer:

[SFSA], like other supervisory authorities, is regularly reviewed by the EBA, IMF, and FATF among others. Besides, [SFSA] welcomes all initiatives that can strengthen the work against money laundering and terrorist financing. (Rawet, 2019)

The SFSA adopted a less defensive approach to being scrutinized by the EU than did its Danish and Estonian counterparts. Perhaps this contributed to the EBA not moving forward with the investigation, and to the fact that, as far as can be determined at the time of writing, the matter has not been followed up in the Swedish media.

In summary, the FSAs had plenty to account for in view of the money laundering scandals, and pressure from public scrutiny led to the FSAs' attempts to either strongly deny or carefully avoid blame. When facing confrontation, as in the case of the EBA investigation, the DFSA and EFSA were put on the defensive and claimed their innocence. They even understood the possible breach of Union law case as being rigged. The SFSA, however, stood out in that it did not put as much effort into blame-shifting. Rather, the SFSA approached the scandals as media-driven and strove to nuance, if not refute, the associated claims. This enabled the maintenance of good intergovernmental relations between Swedish and Estonian authorities but made the SFSA easy prey for the investigative media. In the next section, we shall see how the FSAs' approaches to AML shifted from the compliance mode, characteristic of the scapegoating theme, towards a regulatory mode that asserted legal authority.

Upgrading measures

The Baltic money laundering scandals brought about a series of investigations of the involved organizations' AML efforts. The FSAs were simultaneously pressured both to be transparent about their own AML activities and to hold the scandal-struck banks responsible for the AML compliance failures. That is, they had to perform AML supervision while the very practice of AML supervision was under intense scrutiny. In regard to Danske Bank, the DFSA faced demands for further investigations of the bank's Baltic operations. The 2016 investigation of Danske Bank, which focused specifically on the Estonian branch's AML compliance, had resulted in

serious criticism of the bank's control mechanisms to detect and prevent money laundering, and called for strengthened procedures and risk management processes. However, it was now discovered that the problems in Danske Bank had remained, leading to the initiation of a more extensive review in March 2018. On May 3, the DFSA issued its decision to impose eight orders and eight reprimands on Danske Bank. It also indicated the need for an increase in the bank's capital requirement by DKK 5 billion (approximately EUR 671,000) due to the heightened compliance and reputational risks (Finanstilsynet, 2018a). Although these penalties were harsh relative to the DFSA's previous issuances, and given the limited sanctioning options at the time, it was once again claimed that the consequences for Danske Bank were too light and came too late (Lund et al., 2018). In February 2019, the EFSA issued a precept requiring Danske Bank to cease its operations in Estonia within eight months (SVT, 2019a), and by October 1, the bank had exited all its banking activities in the country (Danske Bank, n.d.).

Having consistently denied Swedbank's exposure to money laundering of proportions comparable to the Danske Bank scandal in the Baltics, Swedbank was heavily criticized once the scandal had been brought to light. Before the mediatized scandal, however, the bank had undertaken a series of internal investigations in order to understand and deal with the number of non-resident client accounts involved in suspicious activities in Estonia. This implied, according to Forsberg (2020), and contrary to what Swedbank representatives had claimed in interviews with the press, that these were suspicious activities of which the bank's management was already aware. The day after the first episode of UG's investigation of Swedbank Estonia aired in February 2019, the SFSA and EFSA launched a joint investigation of Swedbank in Estonia (Finansinspektionen, 2019d). Two weeks later, Swedbank hired the law firm Clifford Chance to investigate the alleged money laundering in its Estonian subsidiary. Clifford Chance had served as Swedbank's legal counsel for several years in matters involving U.S. authorities. Furthermore, shortly after UG released its episode about money laundering in SEB's Estonian subsidiary in November 2019, the SFSA announced that it would proceed with a sanction review regarding SEB's AML compliance in Estonia. SEB was subsequently included in the joint investigation by the SFSA and EFSA (see the next chapter) (Finansinspektionen, 2019j).

Foreign investigations were also initiated. In September 2018, the U.S. Department of Justice (DOJ) opened an investigation into Danske Bank's

role in the money laundering scheme in Estonia. Meanwhile, the Securities and Exchange Commission (SEC) was investigating whether Danske Bank had misled U.S. investors. In October, French authorities also initiated an investigation of Danske Bank with regard to suspected money laundering (Danske Bank, 2022, p. 1; TT & TT-Reuters, 2020). In 2019, Swedbank was subjected to investigations by U.S. authorities, including the DOJ, the Department of Financial Services (DFS), and the Office of Foreign Assets Control (OFAC), looking into transactions and possible violations of U.S. sanctions and money laundering laws. Moreover, the SEC investigated possible violations of rules for U.S. investors in the Swedbank case as well (Reuters, 2023). Altogether, the U.S. investigations threatened to leave the Nordic banks with severe fines or – in the worst case – a ban on dollar clearing.

In summary, all these investigations, critiques, and penalties suggested that money laundering, and efforts to prevent and combat it, had now become a politically heated issue. In the eyes of the public, the mediatized scandals appeared to have caused a blow to trust, not only in the banks concerned, but in the financial sector as a whole. This meant that the FSAs, having had a lukewarm attitude towards AML, now had to demonstrate initiative and authority in financial crime prevention to remain legitimate in the eyes of their stakeholders. Thus, the second trend crystallizing in the wake of the Baltic money laundering scandals was a tendency among the FSAs to demonstrate commitment to strengthening AML supervision, through investing in and perhaps even reinventing the process.

Resources and promises

By the end of the 2010s, cross-border financial crimes had become a central matter of national and international concern. Neither the industry actors nor the FSAs could any longer afford to take a lax approach to money laundering risks. Following the media attention to financial crime at the time, the FSAs were pressured to address AML issues. Many complaints were voiced about past shortcomings in their supervision of AML compliance. For instance, prompted by the ongoing Danske Bank case, a report by the Government Anti-Money Laundering Committee analysing the effectiveness of the AML systems was presented to the Estonian government in December 2018. As reported by ERR (2018g), the report acknowledged that the EFSA's inspections in 2014 and 2015 had succeeded in halting the money laundering activities at Danske Bank. Nevertheless, it

suggested that that more effective action by the responsible FSAs could have prevented the exploitation from occurring in the first place:

[The report] says that the exploitation of the Estonian financial system for that purpose could have been prevented by effective action by the relevant authorities of the bank's country of domicile or Estonia. (ERR, 2018g)

Moreover, the DFSA was harshly criticized in Danish media for not admitting to wrongdoing in relation to the Danske Bank case. In a column in the Danish newspaper *Jyllands-Posten* from February 2019, the public trust in the DFSA was described as being in tatters. Much of this mistrust was self-inflicted, the columnist argued, urging politicians to go to great lengths to solve the FSA's problems. The points of criticism were mainly that the DFSA had: never reported Danske Bank to the police; never seriously involved the whistleblower in its investigation; and never accounted properly for how the illicit transaction flows had made their way through the bank. Yet, the column noted, the DFSA's management had vindicated itself in the case concerning its handling of the largest money laundering scandal in history: they had done everything right and regretted nothing. What was found to be the worst misdeed, however, was the DFSA's public dispute with the EFSA over the division of AML supervisory responsibilities. "The fight has been embarrassing, almost amateurish to watch. Imagine if the police fought in full public view over the responsibility for solving cross-border crime" (Barsøe, 2019). In view of this, the need for an independent investigation into the DFSA's AML supervisory process was called for.

Pressures on the FSAs to advance their positions in the AML area were reflected in the investments made in AML supervision in the wake of the scandals. In 2017, the DFSA received a budget supplement of DKK 6 million (about EUR 800,000) dedicated to strengthening AML supervision in Denmark. In 2019, reinforcement of approximately DKK 30 million (EUR 4 million) annually was announced to enable more inspections and more in-depth reviews. The DFSA also hired more staff dedicated to AML supervision and increased its technical resources for monitoring AML compliance. It also stated that money laundering had become "one of seven strategic focus areas in the 2020 strategy published in 2016", and that a dedicated AML division had been setup in 2017, "which is now clearly the largest in the Nordic region with 15 full time employees in place" (Finanstilsynet, 2018c, p. 7).

In Estonia, the FSA also saw increased resources. In its 2019 annual report, the EFSA stated that it had created a separate department for AML supervision and increased its staff by almost half. With seven staff members working exclusively on AML, supervisory capacity was said to have been strengthened both in number and scope (Finantsinspektsioon, 2019a, p. 20). In Sweden, the SFSA requested and received a budget supplement of SEK 10 million (EUR 940,000) in 2019, dedicated specifically to strengthening AML measures (Finansinspektionen, 2019a, p. 3). The additional resources were further aligned with the announcement that the Nordic and Baltic FSAs were to take joint measures to enhance the AML supervision of the Nordic banks' Baltic operations:

[SFSA] also agrees with its counterparts in the Nordic and Baltic countries that ongoing work has to be strengthened significantly. [SFSA] is to arrange a meeting in the near future to include the top-ranking individuals of the Nordic and Baltic countries' [...] FSAs. The intention is to establish closer strategic and operational collaboration for enhancing anti-money laundering efforts within the region's financial sector. (ERR, 2019b)

An illustration of how AML supervisory efforts were demonstrated in response to the scandals was given in a press release by the EFSA announcing the EBA investigation into the AML supervisory efforts in the Danske Bank case (described in terms of a "possible breach of Union law" in the previous section). In the press release, the EFSA stressed its commitment to implementing targeted measures countering money laundering. It stated, among other things, that the FSA had received more resources and developed its supervisory methodology. These efforts were said to have significantly reduced money laundering risks in Estonia while also increasing the supervised entities' capacity for money laundering risk management and controls:

The effectiveness of the supervision has led to a significant decrease in the risk of money laundering and terrorist financing in the Estonian financial sector, and has increased the ability of financial intermediaries to manage and mitigate inherent risks. It has also given a clear and strong message to the public that there is no place in Estonia for opaque financial services. (Finantsinspektsioon, 2019c)

Similar wording was used in a report from the SFSA to the Swedish government in November 2019 regarding undertaken and planned AML efforts. In

the report, the SFSA stated that it had increased its AML supervision efforts in recent years. Referring to the 2200 companies falling under the SFSA's supervision as well as the importance of the FSA fulfilling its AML mission, it emphasized that the proposed budget supplement of SEK 10 million was "satisfactory". However, the working methods needed to be further developed and streamlined, the SFSA argued, for example, by improving the methods for risk identification. A few achievements of the SFSA in strengthening AML supervision were also mentioned in the report, including efforts to enhance the dedicated inspectors' competence and resources:

Towards the end of next year, we want to triple the authority's ability in the [AML] work [...] compared with 2018. In ongoing money laundering investigations, [...] the amount of resources for [AML] supervision has increased [...] the [SFSA] has integrated the supervision of money laundering with the supervision of other non-financial risks. This contributes to broadening the department's competence and resource provision. (Finansinspektionen, 2019i)

Increased resources for AML supervision meant a greater capacity to conduct on-site inspections, which in all three FSAs rose sharply in numbers per year after the scandals. It also created opportunities to develop measures for following up on previous inspections as well as for making risk-based plans for those to come (Finanstilsynet, 2019g). Together, these developments formed the basis for a persistent AML supervisory practice. It also nurtured an emergent profession: the AML inspectors, who had mastered the regulatory regime and how to comply with it. This, in turn, was perceived to facilitate organizational learning. In Estonia, where the AML supervisory mission was divided between the FSA and the Financial Intelligence Unit (FIU), the increased resources were further believed to have benefited the work of the FIU, an actor that previously had a subordinate role in relation to the EFSA in AML supervision. Respondents argued that the improved performance of the FIU was due to the Director General, who had previously held a managerial position in the EFSA. This shift brought not only AML expertise, but also political attention to the FIU. According to a respondent working there, it was clear that the Estonian government and the public agencies had reached a common understanding as to why AML supervision mattered and must be supported:

So much I know, [the politicians] are on our side. They understand why the FIU is important, and that we need to tackle money launderers. Because we

all know the Danske case. So, [...] they are helping us – the very good example is that [...] our department was divided into two. We got more staff, we got more... Right now, we are in two floors, but after that we will get more floors in this building. (EFSAx02)

In summary, this section has shown how the FSAs, in the aftermath of the money laundering scandals, demonstrated a rising level of ambition in AML supervision. This was partly driven by journalistic and political criticism of the responsible authorities. However, the efforts to strengthen AML supervision were not only symbolic expressions of a desire to maintain legitimacy throughout crisis and public scrutiny, but also led to concrete improvements in day-to-day AML supervisory activities. As the workforce grew, opportunities arose to achieve substantially improved inspections. In addition, the increased resources enabled more persistent routines for the planning, execution, and follow-up of inspections. As these routines accumulated, the conditions necessary for organizational memory and learning evolved. As we shall see below, these developments proved important as the FSAs faced a rapidly expanding regulatory framework in the AML area.

More rules and compliance

As noted in the introduction of this theme, the scandals attracted attention from international regulators and transnational standard-setters to the Nordic and Baltic financial sectors. Being associated with money laundering problems meant reputational damage and was a matter of concern not only for the FSAs but also for the national financial policy actors. This became evident in an ERR news piece from June 2019, reporting that Estonia was to be reviewed by MONEYVAL following the Danske Bank and Swedbank scandals. According to the article, the Estonian Minister of Finance responded by stating that “several state institutions” had underestimated “the potential risk that in 2021 Estonia may indeed find itself on the list of countries under enhanced surveillance”. This, the minister argued, would bring consequences for Estonia’s reputation and financial environment, as well as an increased administrative burden (ERR, 2019c). Doubts had particularly been expressed as to whether Estonia’s compliance with existing AML regulations would be considered good enough. To avoid such negative consequences, the finance minister urged all relevant public agencies to act in concert to improve performance in this area:

[“]This time, what will be evaluated is how we are implementing different laws and regulations in practice, and what the capability of our institutions is to actually engage in combating money laundering. We need to make an effort as a state, because the present situation may not be good enough to pass the evaluation successfully”, [Minister of Finance] said in a press release. (ERR, 2019c)

As implied in the above quotation, uncertainty about supranational regulators’ expectations regarding national AML compliance prevailed among state authorities and policymakers. What did seem certain, on the other hand, was that if these unclear expectations were not met, the underperforming actors would face consequences. Respondents described how AML compliance became even more difficult to achieve after the EU introduced its fifth AML directive, following the Danske Bank scandal in 2018. This directive was described as significantly more detailed than its predecessor. One respondent argued that the tasks of figuring out the expectations that came with newly introduced standards, and then of remaining compliant with them, constituted a challenge to AML supervision, which was simultaneously undergoing reinvention. This, the respondent continued, marked a change in how the FSAs were viewed: they were now expected to achieve more with the resources available than had historically been the case:

It has been hard times, I think, all over Europe really, to [...] really keep your organization in line with these many, many new standards. One of the biggest challenges is that nowadays [...], expectations for the financial supervisors are higher than they were historically, and that means that you have to put in more resources to really clear out what are the new expectations. (EFSA03)

Another critical perspective on the AML regulatory framework was that it had become overly regulated in response to the global media events. A former employee of the SFSA described the expansion of regulation as almost a political solution to grand challenges. First, it was the aftermath of the 2008 financial crisis that drove regulatory expansion in the financial sector. Then came the issue of sustainability, which was quickly institutionalized as a global super-standard and, as such, became a driver of regulatory development. The fight against financial crime was described as a third driver of growing financial regulation. What these politicized issues had in common, the respondent argued, was that they encouraged increased self-regulation by market participants. Although the self-regulatory

arrangement was considered reasonable, particularly in the case of AML, it also entailed the risk that only the large industry actors would ultimately have the capacity to maintain regulatory compliance, whereas the smaller actors would end up outcompeted. While the regulation came “from all sides and corners”, it seemed that critical reflection on the appropriateness and consequences of this regulatory expansion was lacking:

After the financial crisis in 2008, there was an awful lot of regulation that has continued to trickle down. Then came sustainability – an awful lot of regulation – and then money laundering, too. [...] We had the big AML-4, it was a big exercise. [...] Then it became important to push down a lot of responsibility on to business operators. They have the risks, so that’s not so strange, but maybe one should stop and evaluate what happens after this. (SFSA02)

On the other hand, the increased resources allocated for AML supervision in the wake of the money laundering scandals appeared to significantly facilitate the FSAs’ compliance with international regulations. The formation of dedicated AML departments meant that the division of labour among the responsible inspectors became more specialized. From previously consisting of two to three employees sharing all the tasks related to AML supervision, the responsible unit was now expanded to include officials who were specifically responsible for implementing international regulations. In the DFSA, the AML department gradually began growing in 2017, and by 2023, 22 people were working exclusively on AML. According to one employee, two-thirds of them were engaged in supervision as AML inspectors, and one-third worked on international cooperation in FATF and the EU, as well as national implementation efforts (DFSA01).

Along with the professionalization of the AML inspectors, however, AML compliance became an increasingly sought-after competence within the financial sector. Accordingly, the outflow of AML inspectors from the public to the private sector became a growing issue for the FSAs, with the banks offering significantly higher wages than the public agencies. The change of status that followed from money laundering becoming a hot topic across the financial sector was felt by the AML inspectors. One respondent stated that whereas the AML unit had previously experienced difficulties in attracting the organization’s attention to money laundering issues, there was now “a lot of light on money laundering”, with the AML unit receiving “a little more of the Director General’s attention than the other [FSA units]” (SFSA03, 2023). As a consequence, the FSAs developed common under-

standings internally of how the AML regulations were to be interpreted and enforced – an aspect that had been largely absent before the scandals. However, this also meant that moving from a position as an AML inspector at the SFSA to becoming a compliance officer in a large bank entailed challenges. While the AML inspectors knew how to interpret the law, translating this agreed-upon compliance into practice was quite a different story:

I was headhunted by [large bank]. I sort of felt that [...] it would be fun to try out how it is in practice. Because it is very easy to say, “this is how you should do it, bang, bang, bang”, but then in practice it is very complicated. It is not at all as easy as it appears when you read the legislation directly that [...] “you must risk classify your customers; you must continuously follow up on them in a certain interval...”. But what intervals should be set? How do we classify the risks? (SFSA03)

This quotation suggests a gap between, on one hand, the theoretically grounded interpretations of the applicable AML regulation that the FSAs enforced, and, on the other hand, the practical setting where these interpretations were to be implemented and applied. This was a recurring comment in interviews with former AML inspectors who had moved on to compliance officer positions in the private sector. According to the respondents, this gap also meant that an AML inspector who was to assess, for example, a corporate client’s money laundering risk management, could not succeed in the task if the inspector did not understand the product and its inherent money laundering risks. How does one evaluate the risk management if one does not know what risks are being managed? The problem was exacerbated by the fact that AML compliance experts rarely moved in the opposite direction, i.e., from the private to the public sector, which meant that the product knowledge seldom reached the FSA. According to one respondent, the DFSA considered itself to be a frontrunner in the AML area from 2017 onwards but ignored the fact that the “general issue for all the authorities is that they are supervising AML without understanding the businesses they supervise or the risks”. Along with the wage gap issue, this was thought to pose a fundamental and persistent challenge to AML supervision:

[The inspectors] have never worked in the financial sector. [...] So, they go out and try to understand what the businesses are doing and don’t get anything. And [...] they don’t understand how criminals work either because it’s the police who have that insight. So, they are basically supervising totally

blindfolded. And you can also see that when you look at [the orders they issue] in Denmark, like, [...] “the policy is not good enough”. [...] they are still where they think that what’s written in the procedure is what happens in reality. (DFSA03)

The gap between the AML inspectors’ interpretations of the regulation and its practical implications for the industry also manifested itself in the market participants’ frequent demands for more detailed AML compliance guidelines. According to a respondent representing the industry in AML policymaking, there was a balancing act in making enough rules to be helpful to the business operators in money laundering risk management without regulating what needed to be open for the banks to decide for themselves. Most importantly, the respondent argued, was that the FSA should be clear about its expectations regarding the supervised entities’ compliance with new regulations:

From the market side, it’s always very necessary to have really good and helpful guidelines in place. [...] at some points when there are new guidelines issued by EBA [...] it is not enough to say that these EBA guidelines are part of FSA supervision. So, the banks always want to hear more what is the view of the FSA in the local jurisdiction. (EFSAex01)

In summary, this section has shown how the FSAs and their stakeholders responded to an expanding AML regulatory framework. The Baltic money laundering scandals attracted the attention of international regulators to the Nordic and Baltic financial sectors. This exerted pressure on the FSAs to demonstrate compliance with globally institutionalized AML standards. Meanwhile, industry demands for AML skills, combined with an inevitable wage gap between the public and private sectors, made it more difficult for the FSAs to retain their AML inspectors over time. This, in turn, was linked to another significant challenge that the FSAs continued to face, namely, that knowledge of money laundering risks associated with specific financial products, which was generally considered fundamental to meaningful AML supervision, seldom reached the FSA. The next section takes a closer look at the underlying process shaping this development: the aspirations for regulatory authority.

Aspiring regulatory authority

While the first trend illustrating the upgrading of AML supervision in light of the scandals suggested that the FSAs had invested in strengthening their

AML efforts, the second showed how the supervisory upgrade was shaped in response to pressures for compliance with an expanding AML regulatory regime. In this section, we shall see that aspirations for regulatory authority were equally an expression of the ongoing professionalization of AML supervision. A first pattern indicating that the FSAs were seeking to establish authority in the AML field of experts was that they, in connection with their supervisory reforms, claimed to be seizing the opportunity to learn and develop in light of the Baltic money laundering scandals. What were referred to as “scandals” in public debate were, according to the FSAs, a clear-cut opportunity to review and refine the AML supervisory toolbox. As can be noted in the quotation below, this trend had connections with the theme of blame avoidance discussed above. Although the responsibility for the money laundering cases in Estonia was not considered attributable to the FSAs, because they had simply followed the law in supervising the Nordic banks’ AML compliance, the FSAs emphasized their determination to learn from these cases. It also fitted the narrative that the FSAs had worked diligently for a long time to strengthen their AML measures:

What has happened in Estonia is very grave, but the [DFSA] acted in accordance with EU legislation [...] In addition, it has been our view from the start that a Breach of Union Law case was not the right instrument to evaluate a case dating back to the 2007–2014 period [...] That said, we are obviously still very determined to learn from the case. We have been working on that for a long time, and will continue to work towards strengthening the efforts [...]. (Finanstilsynet, 2019f)

Rather than evaluating potential flaws in past supervisory undertakings, the FSAs demonstrated their authority by taking command of the AML supervisory upgrade. To this end, they released AML packages containing proposals for how to improve regulation and compliance in order to better implement their overall mission. Through the introduction of an advisory manual, for example, the EFSA expressed its intention to improve the capabilities of market participants to recognize, analyse, and mitigate money laundering risks. According to the EFSA, the manual aimed to provide a “new and clearer framework for financial intermediaries” by explaining the content of current AML regulations and how to comply with them (Finantsinspeksioon, 2018b). A later, more comprehensive manual was provided in *The AML Compliance Book: 150 Golden Rules*, by Mäeker and Nõmm (2020), who both had long experience in financial supervision and risk management in Estonia. Covering aspects of AML compliance such as

regulations and standards, the risk-based approach, KYC processes, transaction monitoring, technology, and data analysis, the book aimed to provide tools with which financial sector professionals could improve their organization of AML programs. The authors argued that simplification was both necessary and inevitable in the AML area; hence their attempt to bring back an applicable business rationale. By stressing the importance of a dynamic and adaptable AML strategy, they highlighted that AML compliance was not only about rule fulfillment but also about creating a strong culture of risk awareness within organizations.

Similar to the EFSF, the DFSA made explicit claims of authority in the AML area in the wake of the scandals. In January 2019, the DFSA issued a report to the Danish Ministry of Industry, Business, and Financial Affairs containing a detailed account of the DFSA's actions in relation to the Danske Bank case. In the report, the DFSA addressed many of the criticisms previously directed at its AML supervisory efforts. The general message was, again, that the DFSA had done what could have been expected of it given the available information and resources. It was further implied that the course of events in the Danske Bank case, as well as the regulatory framework determining what could and could not have been done by the DFSA, had been misrepresented by the media (Finanstilsynet, 2019a, pp. 5–7). Following an in-depth account of the Danske Bank case, the report presented a list of 23 proposals for how to improve legislation, strengthen AML supervision, and ensure the allocation of additional resources to the DFSA. The proposals were grouped into four main areas: (a) better and more effective lines of defense in banks; (b) duty to disclose criminal liability, as well as improved protection of whistleblowers; (c) tougher consequences when bank management fails to live up to its responsibility; and (d) making Danish AML supervision among the best in Europe (Finanstilsynet, 2019a, p. 54).

Some of the proposals concerned supervisory activities within the area governed by the FSA's board. To implement them, a political decision to allocate additional resources to the DFSA was required. If such a decision were to be made, the report stated, proposals could be initiated relatively quickly. Other proposals required legislative changes (Finanstilsynet, 2019b, p. 4). Overall, the report expressed a high level of ambition regarding the development of AML supervision. It concluded by stating that the IMF was to benchmark Danish regulation and supervision in the AML area against those of relevant countries:

The proposals aim to address issues exposed by the case, but there are also proposals which can contribute to ensuring that Denmark has a regulation and a supervision in the area which are in the European elite. (Finans-tilsynet, 2019a, p. 7)

The report expressed commitment to establishing authority while clearing the FSA of suspicion in relation to the Danske Bank case. A similar approach was taken by the EFSA in presenting its experience in combating international money laundering to the Estonian Parliament as part of a discussion of “matters of significant national importance”. The EFSA representative called for changes to the misdemeanor part of Estonian criminal law, which was considered unsuitable for the financial sector due to its short statutes of limitation, complicated procedures, and low conviction rates. The representative further claimed that there was a need to set up a central analysis base in Estonia for assessing national money laundering risks, and an EU centre for coordinating the work of the member states’ competent authorities in combating money laundering (Finantsinspeksioon, 2018a).

It is worth noting that the patterns of the aspiring regulatory authority were derived from public documents published before February 2019 – that is, before the Swedbank case was exposed by the media and the SFSa came under scrutiny for the Baltic money laundering scandals. It is also worth noting that the SFSa did not notably engage in issuing any AML regulatory manuals or proposals based on the Swedbank and SEB cases, as we saw in Denmark and Estonia. Rather, the SFSa provided detailed accounts of the AML supervisory efforts regarding Swedish banks’ Baltic operations in general, and the scandal-struck banks’ businesses in particular. This approach can be understood in light of the Swedish administrative model and the fact that, in contrast to the DFSA and EFSA, the SFSa was not involved in drafting national AML regulations. In addition, proposals for regulatory changes at the organizational level, as in the SFSa’s Compendium of Regulations, were typically justified based on changes in national or international law, rather than on the SFSa’s ambition to position itself as a top-tier AML supervisor. In October 2019, after the Swedbank scandal but before the SEB case had surfaced, the SFSa published such a proposal, strictly motivated by legislative amendments, without mentioning the money laundering cases:

The [SFSa] proposes changes to [its] Compendium of Regulations (FFFS 2017:11) on measures countering money laundering and terrorist financing. [...] [SFSa] adapts the regulations to the government’s proposed changes to

the Money Laundering Act, mainly due to changes in the Fourth Money Laundering Directive. (Finansinspektionen, 2019h)

Moreover, the approach to producing guidelines for obliged entities appeared more restrained in the reasoning of SFSAs representatives. According to one respondent, demands for advisory guidelines went against the basic notions behind the institutionalized risk-based approach. The idea was for the market participants to gain sufficient knowledge of their own specific risks in order to develop adequate risk assessment. Based on that, an action plan could then be drawn up. If the risk assessment failed to pinpoint the more urgent risks that needed to be managed, the actions taken were likely to end up being ineffective. Given that the risks tended to be context specific, generalized guidelines were considered to be of little help for the in-depth interpretative work that an accurate risk assessment required. In other words, explaining what effective risk management should look like was considered at odds with the supervisory mission to make sure that market participants applied a risk-based approach to AML:

I know that as soon as you have a risk-based regulatory framework, well, then questions about benchmarks arise: “Is this action good? Is this action bad? What is the view?” But there is a great need for interpretation [...] If you had a more rule-based regulatory framework, then it would have been easier to provide such an interpretation, but since it’s risk-based, it can often be quite problematic to contribute the concrete guidance that many companies often want. Because that sort of defeats the purpose of the regulatory approach. (SFSFA04)

The above quotation suggested a different view of what constituted a professional approach to AML supervision compared with that in the DFSA and EFSA contexts. Rather than producing detailed manuals explaining, for example, how to effectively apply a risk-based approach, the SFSAs relied on its understanding of the underlying purpose of the risk-based approach. Thus, instead of taking command of AML supervisory developments, the SFSAs adopted a “compliance” approach to existing regulations.

In summary, this section has described how the FSAs sought to establish authority in relation to an emergent profession of AML regulatory and compliance expertise. The EFSA and DFSA produced manuals to foster improved compliance among financial institutions and proposed legislative amendments to strengthen AML supervision. In contrast to this approach, the SFSAs appeared more reflexive regarding the aims and objectives of the

expanding AML regime. Rather than issuing manuals and proposals, the SFSa responded to demands for professionalization by demonstrating that it had mastered the original intent of the regulation.

Summary

In the second phase, unfolding in the aftermath of the scandals, the gradual professionalization of AML supervision was driven by the crises and public scrutiny. Rather than reviewing past AML supervisory activities in light of the scandals, the FSAs made efforts to avoid responsibility for these events and took initiatives to influence future measures. They moved from a compliance mode, in which they distanced themselves from the scandals and their co-dependent counterparts by demonstrating compliance with applicable regulation, to a regulatory mode, in which they grasped for authority in the field of AML expertise. The compliance mode manifested itself in the FSAs emphasizing their innocence regarding the scandals by pointing the finger, avoiding blame, and being defensive when confronted. The regulatory mode was reflected in how the FSAs committed to fulfilling the expectations of the rapidly expanding AML regulatory framework. This included an AML supervisory upgrade, characterized by more resources for AML supervision (and along with them promises for improved supervision), more rules to comply with, and opportunities to change the law. In the next chapter, we examine the institutionalization of AML supervision as an interorganizational and transnational mission, increasingly centralized under EU control.

Phase III of AML supervision: Proactive organizing

While the second phase had seen how AML supervision was shaped by the FSAs as they adapted to the institutional disruption left behind by the money laundering scandals, the third phase witnessed the institutionalization of money laundering prevention as an interorganizational and transnational enterprise. Meanwhile, the AML mission became increasingly centralized under supranational control. Having distanced themselves from the scandals and their co-dependent counterparts through scapegoating and by upgrading the national regulatory toolbox in the vulnerable phase of organizing, the FSAs now acted proactively with respect to the AML supervisory task. They did so by emphasizing their commitment to forming and enhancing cross-border collaboration. As money laundering and related financial crime were increasingly reframed as cross-border issues, the previously nationally oriented FSAs shifted their focus towards integrating with the transnational level of regulation and policymaking.

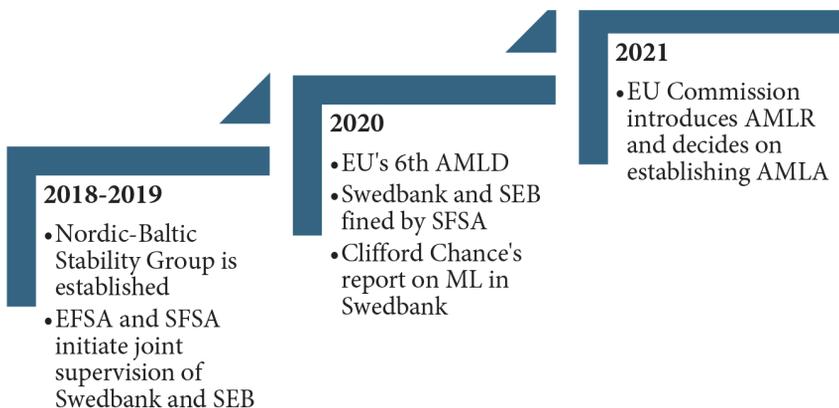


Figure 3: Timeline of phase III: 2018–2021.

The compilation of events into a third phase of “proactive organizing” sought to capture a significant shift in how the AML supervisory mission was understood. In the previous phases, the AML mission had largely been considered a matter of national concern, focused on maintaining public trust in the financial sector and demonstrating defensible compliance in relation to international regulators. Now, the structures that had previously been protected by national laws were beginning to dissolve in favour of the expanded exchange of information among organizations in the AML area. In other words, phase three saw AML supervision become a matter of transnational cooperation, policymaking, and control.

Collaborating

Approaching the 2020s, the prevention and combat of financial crime had become a central pillar of global governance with a focus on detailed regulations, improved cross-border collaboration, and increased surveillance of transnational financial flows. The message from the FSAs to the supervised entities was clear: from now on, AML compliance failures would not be tolerated. The SFSA ruled by example with its decision in the Swedbank case, which was announced on March 19, 2020. Swedbank received a warning and SEK 4 billion (about EUR 340 million) in administrative fines, corresponding to almost 10 percent of the bank’s revenues. The main argument was that Swedbank had shown problems with governance and the control of money laundering risks in the Baltics. In addition, Swedbank was accused of having withheld internal and external money laundering investigations from the SFSA and lied about the bank’s treatment of specific suspicious corporate groups (Finansinspektionen, 2020b). A few days later, on March 23, the full Clifford Chance report about the Swedbank case was released. Based on having examined all USD transactions from Swedbank in the Baltics over the previous five years, the investigating law firm had found 586 transactions that were considered probable sanctions violations. Based on major risks of money laundering and sanctions violations being found in all business areas, in Sweden as well as in the Baltics, Swedbank’s controls were deemed very poor. Furthermore, all of the bank’s managements, CEOs, and boards from 2007 to 2019 were harshly criticized (Clifford Chance, 2020).

What then remained was a decision from the sanction review in the SEB case. From April 23 to June 7, 2020, AML inspectors from the SFSA made on-site visits to SEB, and on June 25, the decision was announced: SEB

received a reprimand and an administrative fine of SEK 1 billion (approximately EUR 85 million). The penalty was lighter than in the Swedbank case because the SFSA had assessed the money laundering risks to be less serious in SEB, nor had the bank shown the same tendencies to withhold critical information from the SFSA (Finansinspektionen, 2020d). Common to both investigations, however, was that the SFSA criticized the boards for not having acted upon information provided to them about money laundering risks in the Baltics. Regarding the U.S. investigations into Danske Bank's and Swedbank's suspected involvement in money laundering in Estonia, the former faced substantial regulatory penalties, while the outcome of the latter remained pending at the time of writing (Almgren, 2024; United States Department of Justice, 2022).

At the transnational level, the EU's sixth AML directive was adopted in 2020 and entered into force in the member states in 2021. The new directive contained stricter rules for criminal liability for having committed money laundering crimes. It also extended the definition of money laundering and sharpened the view of how and when money laundering could occur, making it possible to prosecute more actors – both individuals and organizations – involved in a money laundering scheme. Moreover, the sixth directive made it easier to apply laws and prosecute cross-border money laundering offences. This meant that countries had to recognize and deal with related “pre-crimes” committed in other jurisdictions, which in practice meant that the definition of money laundering was extended to cover international contexts (European Commission, 2021). Overall, the directive imposed obligations on member states to cooperate across borders in preventing and combating money laundering. The urgent need for international collaboration and information exchange for AML purposes was also emphasized by FATF (2021).

The international trends were reflected in how AML supervision was organized in Estonia, Denmark, and Sweden, with each country undertaking changes. In Denmark, the Danske Bank scandal served as a catalyst for reform and the DFSA introduced stricter monitoring measures. This was also recognized by the FATF, which upgraded Denmark's AML system at its plenary meeting in October 2019 (Finanstilsynet, 2019i). In 2021, a new AML programme was launched to improve transparency and strengthen the legal framework against money laundering in Denmark (Finanstilsynet, 2021). As seen below, the DFSA also extended its interactions with other EU Member States' authorities in regard to AML, and most prominently with the Nordic and Baltic FSAs.

The scandals left a permanent mark in Estonia as well. After evaluating Estonia's AML supervision in 2020, the IMF reported that the EFSA had pursued the reduction of money laundering risks from non-resident activities in the Estonian financial sector and made consistent progress in strengthening its supervision. Although the IMF assessed that the number of on-site inspections was still low and that the sampling methodology could be improved, the EFSA was recognized for its active use of available tools to promote and enforce AML compliance. The IMF also highlighted that the EFSA had achieved a "sufficient framework to cooperate with other AML/CFT supervisors regarding the banks that operate in Estonia" (IMF, 2020, p. 43).

A similar development took place in Sweden. In reporting its goals for 2021, the SFSF stated that the time spent supervising AML compliance at large banks in Sweden and the Baltics during previous years had taught the authority to broaden its focus and monitor other actors, such as small banks and payment service providers. These were increasingly found to be exposed to money laundering risks as the large banks enhanced their AML systems and the criminals sought alternative channels to launder their money. To this end, the SFSF claimed to have benefited from its collaboration with the Swedish Police Authority and aimed to deepen its involvement in international collaboration in the AML area (Finansinspektionen, 2021). Altogether, these communications signaled that AML supervision was no longer the sole concern of national FSAs, but had become a matter of interorganizational and cross-border interactions.

The beginning of the third phase – as defined here – overlapped with the second in time but marked the FSAs' entry into what can be interpreted as a "new era" of collaboration. The remedy for money laundering was now spelled "information exchange", and such collaboration expanded across organizational, sectoral, and country boundaries. A frequently mentioned way in which the FSAs sought to strengthen national AML supervision was through forming new collaborative arrangements and enhancing existing ones. These arrangements ranged from small-scale interorganizational exchanges at the national level to extensive transnational collaborations, in terms of scope, authority, and content. Below, we will examine the collaboration theme from three angles.

Interorganizational exchange

As the growing complexity of money laundering schemes was increasingly acknowledged by the Nordic and Baltic financial sectors, the need for

extended collaboration among national authorities was raised by various stakeholders across society. This trend emerged in all three countries in the aftermath of the scandals, although more explicitly in Denmark and Sweden. In November 2019, the Danish government arranged a collaborative initiative addressing the prevention and combating of money laundering called Operativt Myndighedsforum (Operational Authority Forum). In addition to the DFSA, the collaboration involved participation from seven public agencies, including the Danish Police, the Tax Agency, and the Gambling Authority. The purpose of forming this arrangement was to establish closer operational cooperation in order to strengthen the authorities' efforts to combat and prevent money laundering and terrorist financing. The agreement stated that the authorities participating in each meeting were to discuss specific cases and share relevant information. In this way, the authorities were to "uncover each other's blind spots and more easily get ahead of the criminals" (Justitsministeriet, 2019). In the DFSA's statement about this initiative, it welcomed the arrangement, hoping it would be more "operational" than previous interorganizational collaborations in the AML area involving the DFSA:

The experiences of cooperation among the authorities so far show that we can only be really effective if we combine our knowledge and efforts and become more operational in our cooperation. The [DFSAs] are therefore looking forward to an even closer collaboration with our colleagues. (Finanstilsynet, 2019h)

Through the HvidvaskForum (Money Laundering Forum), which was formed a month before the authority forum, the DFSA already had a collaboration agreement on money laundering prevention with the abovementioned authorities, the relevant ministries, and the Danish Bar Association. The purpose of this collaboration was, at an overall level, to coordinate the authorities' risk assessments and AML measures as well as to contribute to national risk assessment. Unlike the Operational Authority Forum, however, the Money Laundering Forum did not deal with specific cases.

A similar collaborative arrangement in Sweden was the Samordningsfunktionen (Coordination Function), which was initiated nationally at the beginning of 2018 and gathered 17 public agencies involved in AML regulation. Before 2018, this function was chaired by the SFSAs, but as it was recast in a new form in 2018, the responsibility was taken over by the Swedish Police Authority. The purposes of the Coordination Function were: to be a national hub for information and knowledge sharing on money

laundering issues among members; to identify and analyse money laundering risks; and, on this basis, to outline national risk assessment and provide information to operators covered by the Money Laundering Act. As in the case of the Danish Operational Authority Forum, the main purpose of initiating the Coordination Function was to enable the exchange of information across organizational boundaries, an opportunity that had been frequently requested within the AML area from the start. In a report about its AML efforts published in November 2019, the SFSA argued that farther-reaching information sharing among participants in the Coordination Function was needed, and that the opportunities in this regard did not correspond to the situation in other equivalent collaborations:

Currently, the opportunity to share confidential information is limited to information about specific suspected criminality or organized crime. In other areas of cooperation, there are already considerably farther-reaching opportunities to share information among authorities [...] The Coordination Function has already begun to investigate the need for rule changes concerning information sharing, and [the SFSA] is involved in pushing the issue further. (Finansinspektionen, 2019a, p. 17)

Another example of an “operational” cross-authority collaboration was initiated between the SFSA and the Swedish Police Authority in April 2020. This arrangement aimed at better detecting and countering the establishment of criminal interests in the financial market, as well as prosecuting the criminal actors who were already operating in the markets. It was said that this would improve the ability of both authorities to prevent and combat money laundering in the Swedish financial sector. The collaboration also sought to enable a greater focus on crime prevention in Swedish AML work than had previously been the case. Having consistently been one step behind the criminals, the authorities now wanted to take the lead in predicting new areas at risk of money laundering exposure (Finansinspektionen, 2020c).

Although these initiatives were widely recognized as significant advances in the AML field, several respondents with experience of these collaborative arrangements described them as not always productive. One respondent who had previously worked in AML supervision in the SFSA recalled that there were many meetings involving other authorities where AML issues were discussed, but where joint conclusions seldom resulted in concrete activities. The Coordination Function was mentioned as an exception in

this regard, promoting mutual understandings among the authorities regarding their different relationships to money laundering issues:

I find it difficult to measure the results of such collaborations. There is always a risk that there will be a lot of sitting and talking but that it does not always result in actual activities. But I think, I feel that the Coordination Function was needed to spread both knowledge and understanding about one another [as authorities] and one another's tasks and conditions. (SFSA01)

The extended frequency and scope of national AML supervisory collaborations was not as evident in Estonia as in the Danish and Swedish contexts. This may be interpreted as stemming from the fact that the Estonian authorities had, from the outset, established close cooperation in preventing and countering money laundering (e.g., MONEYVAL, 2008). Nevertheless, in the aftermath of the scandals, interorganizational collaborations were formed in Estonia too. One respondent described the situation before the idea of collaboration became the norm in the sector as characterized by a general lack of risk awareness. Since money laundering risks were not recognized as problems, collaboration was not recognized as the solution. As issues of financial crime became increasingly addressed, it became clear to the respondent that the main channel of contact to nurture was that with the industry. Without their recognition of money laundering as an urgent risk, it was unlikely to be effectively managed:

It started with ignorance – I mean, because some banks were earning a lot of money from the non-resident customer business. And of course, you ignore the supervisor [...] Then the second phase was recognition, so to speak. And then, in the third phase, you started to do something about it. So, we have different [...] forms of cooperation. Most cooperation occurs through the Banking Association. [...] then we have [...] the seminars [...] for market participants where they can, you know, come up with their problems. (EFSA04)

An agreement detailing the cooperation between the EFSA and the Estonian FIU in AML supervision was announced by the EFSA in September 2021. The agreement specified what the EFSA expected from the FIU in terms of sharing strategic analyses of risks related to money laundering, terrorism financing, and the circumvention of international financial sanctions. The agreement also detailed what the FIU expected from the EFSA in terms of “receiving assessments of the core data on financial markets and their

operation, and in identifying cases and risks of money laundering and terrorist financing” (Finantsinspeksioon, 2021). Commenting on the agreement in the press release, an EFSA manager argued that enhanced information exchange would help both institutions carry out their functions better: the EFSA by focusing on preventative AML supervisory efforts, and the FIU by receiving and acting upon signals indicating enhanced money laundering risks encountered during supervision (Finantsinspeksioon, 2021).

What stood out more clearly in Estonia, versus in the other countries, was that the national banking association played a more active role than did the FSAs in advocating interorganizational collaboration on behalf of the banks. According to one respondent representing the Estonian Banking Association, this was because of the Estonian banks’ frequent demands for guidance on how to understand and implement new AML regulations:

We regularly have the FIU, FSA, and Central Bank in our meetings [...] When the sanctions came with the Russian war in Ukraine, then we obviously had almost daily meetings to solve the sanctions related issues [...] Also, the MONEYVAL evaluation [my note: in 2022] was a big issue for us [...] where we regularly had meetings and received trainings from the regulators [...] We are actually really, really closely linked to the regulators. I think it’s also an advantage of being a small country. (EFSAex01)

In summary, the institutional environment shaped by the Baltic money laundering scandals witnessed increased demand for interorganizational collaboration. This partly contradicted the blame avoidance trends described in the previous chapter. Contrary to the scapegoating in the wake of the scandals, in which the FSAs distanced themselves from other potential wrongdoers, the focus was now explicitly on reaching common understandings with other actors concerned with AML regulation. This sub-theme has shown how the collaboration theme unfolded at the national level. In the next section, patterns of collaborative arrangements being organized across national borders are outlined, indicating how the FSAs’ sought to integrate their mission with an increasingly transnational AML supervisory policy area.

Organization across borders

Just as prominent as nationally initiated collaboration was the collaboration developing across countries, expanding the scope of the policy area to include transnational levels as well. As indicated in the introduction to this theme, the view of cross-border collaboration as a primary means of fight-

ing money laundering was becoming institutionalized globally via the promotion of transnational policy bodies (mainly the FATF). The Baltic money laundering scandals, as the most recent of a series of media revelations of cross-border financial crimes, elevated this development in the Nordic and Baltic contexts following the public debate on liability in cross-border cases. Shortly after the scandals had surfaced and triggered the reinvention of AML supervision, calls were made for more and enhanced cross-border collaboration in this area. This development also seemed to foster a terminology that appeared in both documents and interviews. In the following quotation, the collaborative arrangements are categorized in terms of: “global policy making”, relating primarily to FATF activities; “negotiations”, related to EU legislation; “strategic” (national and cross-border) cooperation; and “operational” (national and cross-border) cooperation. This indicates the existence of parallel streams, with the FSAs both seeking common understandings in the AML area and trying to influence what was agreed upon. The collaborative arrangements appeared in this respect to be important forums for gaining influence over an increasingly transnational context of AML regulation:

If you look at the top of global policy making, we are part of Sweden’s delegation in the FATF, and then we are involved in EU legislation in various ways and help the Ministry of Finance in the negotiations [...] in that area. Then we have our own policy-making instrument through the EBA [...] if you look down a level, as a little more strategic cooperation, we have Nordic–Baltic cooperation [...] and we also have a number of national collaborations [...] both of a strategic nature [...] and of a more operational nature. (SFSA04)

Respondents described the development towards extended cross-border collaboration and information exchange within the field as crucial to advanced AML supervision. A recurring argument was that the opportunities for sharing information about suspicious client behaviours across country borders were fundamental to detecting money laundering at an earlier stage, while simultaneously coordinating preventive AML activities with relevant authorities in other countries. One respondent stressed that the Baltic money laundering cases highlighted the importance of maintaining informal contacts with relevant authorities alongside the formal ones, since what could be communicated through “formal documents” alone was strictly regulated. In this sense, cooperation was believed to

uncover how the co-dependent authorities were dealing with money laundering related risks:

I think it helps to discover those kinds of things early, before it's a big problem [...] Because, if [...] there's no contact, then it might be that we are doing one thing, and in other countries, people are doing something else. And then we are just sending formal documents [back and forth]. So, for me it seems [...] you have to have some more informal contact also [...] because you can't say anything in those documents. (EFSA02)

As the quoted respondent continued reflecting on the development of cross-border collaboration between the Baltic and Nordic authorities, two changes in the AML approach were identified as beneficial to the advancement of AML supervision in the wake of the scandals: first, that the prevention and combating of money laundering came to be understood as a joint mission; and second, that it was increasingly recognized that competing over the means to achieve related goals was not productive:

All those cases have taught us to do more cooperation [...] because now we are cooperating more closely. And I think that we are trusting each other more, because we have learned that we are working for the same thing. We are not somehow competing [...] It's not possible to say that "it's your problem". It's [all our] problem, because [...] all those money launderers, they are doing it if we are not cooperating. (EFSA02)

Some collaborative arrangements initiated in light of the scandals appeared to be mainly symbolic in nature, such as that initiated between the DFSA and EFSA following the revelation of the Danske Bank case (Finanstilsynet, 2018b). Based on the conflictual correspondence between the FSAs in the aftermath of the scandal, this cooperation was not – at least in its intended form – long-lived. Other examples of collaboration initiated in connection with the Baltic money laundering scandals were described by respondents as both extensive and productive. One such example was the establishment of the Nordic–Baltic Stability Group (NBSG). This arrangement was formalized in a memorandum of understanding stipulating the purposes and forms of the collaboration. These were, among other things, to “discuss and exchange information on a regular basis with a view to find[ing] mutual understanding on important issues and lessons learnt relating to financial stability concerns of the region”; to “exchange information in case of market turbulence affecting cross-border financial stability in the region”;

to “exchange information in case of market turbulence affecting cross border financial stability in the region”; and to “agree, if relevant, on the establishment or disbandment of NBSG working groups and to review their tasks and results” (Sveriges Riksbank, 2018, p. 3).

Based on the statutes, this collaborative arrangement enabled a substantial exchange of information and other resources relevant to AML supervision. It was unique from a European perspective, and respondents described it as lively and “operational” with respect to the concrete organization of cross-border AML supervisory activities in the region. In the EFSA’s announcement of the collaboration, however, the arrangement was presented as more of a formality than a collaboration that would make any substantial difference to the AML supervision of the countries involved:

[The EFSA] has earlier had a lot of close contact with Baltic and Nordic colleagues as money laundering is a problem that crosses borders, and the Estonian banking market is closely linked to those in Scandinavia. The meeting today in Stockholm with the heads of the supervisory authorities [...] made clear the shared desire to combat money laundering and to stand together to defend the credibility of the financial market. (Finantsinspektion, 2019d)

Contrary to what was indicated in the quotation, however, collaborative initiatives between the Nordic and Baltic countries seemed to have been rare before the Danske Bank case. Respondents noted that the FSAs’ previous focus on financial stability had overshadowed their attention to AML supervision as a cross-border concern. Former AML inspectors described the development of supervision as predominantly event-based (rather than preventive) at that time. When asked whether there were any collaborative arrangements in place with the EFSA, a former employee of the SFSA recalled that such contacts first began to occur after the Danske Bank case had been brought to light (SFSA09). This suggested a shift in the general understanding of the role of the FSAs in relation to the Baltic scandals, questioning why they had not intervened earlier against the Nordic banks’ exposure to money laundering. While the FSAs had previously looked for scapegoats in addressing this issue, they now explained it as a result of a lack of coordination among the relevant authorities. The main measure to prevent future wrongdoings of this kind was enhanced collaborative arrangements:

The recent reporting of serious deficiencies in money laundering management in the Baltics shows that the [SFSA] and other supervisory authorities should have done more to coordinate the supervision of banks with operations in several countries. (Finansinspektionen, 2019f, p. 1)

This marked a break from the scapegoating and upgrading measures trends, when the FSAs denied that there had been any flaws in their AML supervision. The new approach eased the relationships among the FSAs; on the other hand, it also fostered competition among them. This was evident from a report issued by the DFSA on the Danske Bank case (Finanstilsynet, 2019a), which detailed a benchmark analysis of European countries' AML supervision conducted by a consultancy firm on behalf of the DFSA in 2018. The report benchmarked the Danish AML supervision against that of other European Member States, including the Nordic countries, the Netherlands, Germany, the UK, Belgium, and Spain. The report suggested that, while most countries were upscaling (and "up-skilling") AML supervision and moving towards more sophisticated risk-based approaches via technical advances, the enforcement area was deemed one of considerable divergence among the supervisors reviewed. Variations were especially found in the range of enforcement mechanisms available to the supervisors, as well as in their ability to directly enact enforcement measures. Based on this analysis, the DFSA proposed strengthened cooperation between relevant authorities both nationally and internationally so that the "best practices from other countries' AML supervision can best be implemented in Denmark" (Finanstilsynet, 2019a, p. 65). Moreover, a collaborative arrangement had been agreed upon with the SFSA, aimed at increasing cooperation and exchange experiences with regard to AML supervision.

[The DFSA and SFSA] have agreed that the two supervisory authorities will jointly work for increased cooperation and exchange of experience between the Nordic and Baltic supervisory authorities. Initially, there will be held a workshop where supervisors can exchange practical experiences with regard to AML supervision (Finanstilsynet, 2019a, p. 38).

In summary, although examining only a fraction of the many collaborative arrangements that emerged in the post-scandal era, this section has suggested a steady trend towards more cooperation across national borders in the AML area. It has shown that the fight against money laundering increasingly became a transnational concern requiring the joint and coor-

dinated efforts of the actors involved. In the next section, we take a closer look at how cross-border AML supervision was organized in practice.

Joint supervision

While the aforementioned collaborations were essentially related to AML supervision in the countries concerned, they did not in themselves qualify as concrete examples of cross-border AML supervision, and neither did the so-called “special investigation” into Swedbank’s and subsequently SEB’s Estonian operations initiated by the EFSA and SFSA following the Swedbank scandal. These investigations were frequently given the prefix “special” by respondents, suggesting that they were preceded by very little collaboration between the Swedish and Estonian authorities in regard to AML. It also suggested that the investigation procedures differed significantly from how AML supervision had previously been conducted by the FSAs. The announcements of these investigations made no secret of the fact that they were conducted in response to the media revelations of money laundering in Swedish banks in Estonia:

[The EFSA] and [SFSA] have today agreed to start a joint investigation with the aim of more closely investigating the information reported in SVT. The [FSA] of Latvia and the Central Bank of Lithuania have also announced that they will assist in the investigation to the extent that the Swedish and Estonian authorities wish. (Finansinspektionen, 2019d)

In practice, the SFSA and EFSA (in cooperation with the FSAs in Latvia and Lithuania) initiated their joint investigations into Swedbank’s management and control of money laundering risks in the Baltics in February 2019. The cooperation meant that the FSAs coordinated activities and shared information and assessments, enabling the Swedish FSA to access more detailed information about conditions in the Estonian subsidiary bank than would otherwise have been possible within the legal framework. The division of responsibilities stipulated that the Swedish investigations were to focus on assessing the Swedish banks’ “handling and control of money laundering risks” in their Baltic operations from 2007 onwards. Meanwhile, the Baltic FSAs were to carry out investigations or other supervisory activities to assess the respective subsidiary banks’ local regulatory compliance (Finansinspektionen, 2019g).

Several former employees of the SFSA described these investigations as media-driven reinterpretations of what were essentially routine follow-ups

of the so-called large bank investigations, which (as described in chapter four) had been carried out a few years earlier and resulted in two other banks being fined for flaws in their AML compliance. At the time of the Swedbank scandal, however, respondents argued that it was not in line with the rules for the SFSA to carry out similar investigations into large banks' AML compliance again, which was why the authority instead chose to focus on supervising governance and internal control. However, this posed another problem as the department within the SFSA that normally supervised governance and internal control lacked relevant AML expertise. The then head of the AML unit was assigned to lead the investigations despite it being outside this (middle) manager's mandate. Against this background, some respondents interpreted these special investigations as largely symbolic. One of them described the inspection procedures as forming a "completely new strategy". It was specifically the on-site visits, which lasted for several weeks, that were considered strange, implying that the FSAs were waiting for something suspicious to come up:

In the past, there [...] have been on-site visits, but it has been a shorter part [of the investigation]. But here they started to sit down with the banks, week after week. So, it was a completely new strategy, and the order was different. Because, if you sit down with a company for two months, it's kind of obvious that you're there to make sure you find something to sanction. (SFSA05)

This quotation suggests that the joint inspections into Swedbank and SEB in Estonia were an act of grandstanding on the part of the FSAs. However, this view was not shared by inspectors who had been involved in the actual investigations in practice. One respondent agreed with the description of the joint investigation as "special", in the sense that it differed from regular AML supervisory procedures. However, this was described as because the investigations were not officially aimed at supervising AML compliance per se, but rather at governance and the control of risks – including that of money laundering. In this respect, the investigations were described as joint not only between the SFSA and DFSA, but also between different units within the SFSA:

It wasn't a money laundering investigation, but it was a governance and control investigation [...] It was a joint investigation between the Operational Risks and Money Laundering [departments], one could say, because there was so much money laundering involved, but it was actually a govern-

ance investigation. Otherwise, [...] you do pure money laundering investigations. (SFSA03)

The respondent agreed that the investigations into Swedbank and SEB deviated from the standard AML supervisory procedure. However, when asked whether the investigations were to be understood as media-driven constructs in the wake of the scandals, the respondent strongly denied this:

No, definitely not. It is a common misunderstanding among those who are not familiar with the work. [...] Before these [cases] were revealed, I can say that we had already put together a task force or whatever it's called. So, [...] this was already in the pipeline. But that may not have come across very clearly in the media. (SFSA03)

Regardless of whether or not the joint investigations were driven by external pressures, they highlighted a new approach to AML supervision, recognizing the benefits of intergovernmental cooperation and information sharing. Another example of this approach appeared in the set-up of “AML supervisory colleges” in the Nordics and Baltics. Such EU-initiated collaborative arrangements brought together “AML/CFT and prudential supervisors that are responsible for the supervision of credit and financial institutions [...] which operate on a cross-border basis” (EBA, 2021, p. 1). For example, the DFSA was the “lead supervisor” and thus a permanent member of the supervisory college for Danske Bank. As such, the DFSA was responsible for establishing and maintaining the collegium, including organizing the meetings. Other members of the Danske Bank college, including the EFSA and SFSA, were expected to actively participate and exchange information. According to one respondent, these arrangements were the most “operational” and well-functioning among the cross-border collaborations:

That's very operational. There we can discuss specific risks and supervisory initiatives [...] So, if we have an inspection in one of those banks where we have a college, we invite our colleagues from those colleges to participate in Denmark, in the supervision. And the other way around. (DFSFA01)

What was described as a particularly important aspect of the supervisory colleges was the fact that the FSAs “do things in a different way”, the respondent continued, which was considered an advantage given that they could learn from one another. It was described as a trial-and-error process

in which new supervisory methods were tried out and spread to other supervisors. “So, it’s a good thing to have sort of a competition and to learn from one another”, the respondent concluded. This reasoning suggested that the boundaries that had been invoked in the process of sorting out the division of responsibilities for the scandals were no longer important to maintain. On the contrary, boundaries were instead considered to hamper the smooth exchange of competence and information that now constituted the currency of the AML field.

In summary, this section has examined the FSAs’ attempts to conduct cross-border AML supervision in practice. This approach clearly contrasted with how the FSAs had traditionally understood their supervisory task. Previously, AML supervision had been considered a matter of national concern to be carried out in accordance with national law – albeit imbued with international standards. The supervision of entities’ foreign operations had also largely been viewed as the self-evident responsibility of the host country. Now, by contrast, the FSAs found ways to circumvent national legislation in order to extend their AML supervisory mandate across national borders. In other words, from having previously relied on existing regulation to assert their innocence in relation to the scandals, they now sought to expand the scope of their responsibilities. The next theme examines the relationship between the FSAs and the supranational regulators, which at this time expanded its monitoring of the national actors’ AML activities.

Harmonizing

Concurrent with cross-border collaboration was a trend towards moving the initiative from the national authorities to the transnational arena of policymaking, and towards harmonizing AML supervisory procedures globally. Both trends were grounded in the idea that money laundering crimes often crossed national borders and could be prevented only when different countries agreed on the risks and how to manage them. At the forefront of harmonizing AML regulation, application, and compliance between countries was the EU (below referring broadly to the EU regulatory bodies including the EU Commission, Council, and Parliament, if not specified), which drove a rapid “Europeanization” of the Member States’ AML systems. We saw tendencies in this direction with the sixth AML directive described above, which emphasized enhanced cross-border collaboration as vital to preventing and combating money laundering. What

clearly signaled a trend towards centralization within the EU, however, was the introduction of the AML Regulation (AMLR), proposed by the EU Commission in June 2021 and adopted by the European Council in May 2024.

The AMLR was presented as a package of laws intended to streamline the EU's regulatory framework countering money laundering and terrorist financing. Its adoption formed part of the EU's broader strategy to fight financial crime and increase financial transparency within the Union. The package required that all rules applying to the private sector should be transferred to a new directly applicable regulation, while a directive would govern the organization of national competent authorities engaged in AML (and CTF). Thus, instead of each member state having its own AML regulation (although largely based on EU directives), a harmonized regulation was to be introduced and directly applied in all member states, entailing a uniform set of rules. By moving away from the previously "fragmented" approach, the AMLR was expected to reduce differences in how money laundering risks are managed and create a more consistent application of AML regulation throughout the Union.

Apart from the harmonization of rules, some of the main points, as detailed in the EU Commission proposal, included (1) enhanced transparency in financial transactions; (2) stricter requirements for obliged entities' due diligence processes; (3) increased cooperation and information exchange among Member States; (4) a focus on high-risk areas and appropriate measures to mitigate such risks; and (5) provisions to ensure compliance as well as effective sanctions and penalties for non-compliance. In summary, the proposal aimed at creating a robust and unified AML regulatory framework for the EU Member States, focusing on better coordination, increased transparency, and stricter enforcement (European Commission, 2021).

One of the most significant changes introduced by the AMLR, which was expected by informed respondents to have substantial effects on the organizing of AML supervision across the EU, is the establishment of the Authority for Anti-Money Laundering and Countering the Financing of Terrorism (AMLA). In accordance with the EU's harmonization agenda, this will aim to establish a unified supervisory approach. Among the key tasks of AMLA, two are expected to have particular impact on the work of the FSAs: first, the direct supervision of a limited number of "selected financial sector obliged entities", referring to a group of highly consolidated credit or financial institutions considered exposed to the highest risk of

money laundering (and terrorism financing). This will mean that AMLA takes over the responsibility for supervising the selected entities' AML compliance and may impose administrative measures or sanctions in cases of non-compliance. Second, AMLA will be responsible for the coordination and oversight of national FSAs' (and FIUs') AML work in order to ensure a harmonized approach across the EU. This will entail conducting periodic reviews and facilitating joint analyses of suspicious cross-border transactions (AMLA, n.d.). The establishment of AMLA also implies that the EBA, after having been "leading, coordinating and monitoring the EU financial sector's fight against money laundering" (EBA, 2024), will transfer the powers that were specific to AML (and CFT) to AMLA, although it will remain responsible for addressing money laundering risks across its prudential remit.

The following theme outlines the implications of this "governance turn" of the EU for AML supervisory development, as appearing in the empirical material. What we shall see is the hardening of rules that were previously soft with hard effects (FATF standards), or hard with soft effects (AML directives). This unfolded through a process of consolidating AML surveillance and enforcement measures under the EU's control. Three sub-themes emerged in relation to this process, revolving around the effects of: the EU obtaining direct control over AML regulation and compliance; the promoting of "fair play" across the Union in regard to AML; and the elimination of context-specific compliance cultures.

More control, less impact

The EU's introduction of the AMLR marked a shift in power in the transnational arena of standardization, which had historically been dominated by FATF. Previously, the EU had more or less directly implemented the recommendations of the U.S.-founded standardizer and translated them into AML directives. Now, however, the EU was taking the lead in regulatory development by issuing directly applicable legislation. In this way, it has been argued that the EU is surpassing FATF as the main transnational standardizer. This claim can be traced in communication from the EU Commission via the *Official Journal of the EU on an Action Plan for a comprehensive Union policy on preventing money laundering and terrorist financing*. In the introductory sentence, the Commission emphasized that the EU was "strongly committed" to fighting money laundering "both within the EU and globally". It then continued by noting that as the scope of

obliged entities expanded, EU regulations governing the AML area had come to exceed the scope of FATF recommendations:

Over thirty years, the EU has developed a solid regulatory framework for preventing and combatting money laundering [...], substantiated by case law of the EU Court of Justice. EU rules are far-reaching and go beyond the international standards adopted by [FATF]. The scope of the undertakings and professions subject to these rules has expanded steadily. (European Commission, 2020, p. 21)

Respondents claimed that this development would have significant consequences within the near future, not only for the financial sectors of the member states, but also for the national organization of AML supervision. Questions were further raised as to whether the EU would begin “uploading” solutions to FATF instead of “downloading” ready-made standards. That is, would FATF start to base their recommendations on rules from the AMLR package rather than the EU translating the FATF recommendations into binding regulation? If so, one respondent asked, would this mean that the entire world would eventually be subjected to EU regulation?

FATF is the most central actor of all in the area and the actor that is the source of all rules. Without FATF, there would be no money laundering supervision at all [...] So, FATF is absolutely central. And what happens in FATF is basically copy pasted in EU regulation. Or so it has been. Now, the [EU] regulation surpasses FATF. [...] And that is an exciting issue for the future: will the EU then export these solutions to FATF so that all countries in the world will implement them? And how will that go? (SFSAx01)

As the EU expanded its control over Member States’ AML regulation and compliance, the FSAs perceived a shrinking space for national, context-based rule interpretations and risk assessments. As the drive towards harmonization entailed a more generally applicable regulation, some respondents feared that important, locally specific aspects would be overlooked. To one respondent, it was not entirely clear what the benefits were of the directly applicable AMLR compared with the more indirectly applicable, yet binding directives. It was claimed that a considerable portion of the AMLR that applies to the market participants had verbatim equivalents in the current (sixth) AML directive. But there were also important differences. Certain rules that had been implemented in a certain way in Sweden, for example, were required to be implemented in a different way, and with a

different text, according to the AMLR. Changes in the national application of AML regulation would not necessarily derive from changes in AML regulation at the EU level. The implications of the AMLR and AMLA were interpreted as mechanisms to elevate AML regulation and compliance from the national to international level. According to the respondent, this meant that locally adapted applications, guidelines, and compliance cultures were likely to be erased in favour of a uniform, harmonized approach:

There is no possibility to sort of tweak things through national legislation or to come up with reasoning in preparatory work [...] It is still the [FSA] that must supervise and then come up with sanctions or communication [...] but AMLA will then have overall control over supervision, so it must also be streamlined so that it will not be possible for different supervisory cultures to grow in different parts of the EU without people having to think and act alike. And this is a huge challenge. (SFSA11)

The fact that the AMLR was to be directly applicable was perceived as a particular concern for the market participants, the respondents argued. This was because the regulation would immediately determine how obliged entities were to organize their AML systems and controls. The latitude for the financial institutions to react to, and thereby influence, the upcoming EU regulation was further perceived as more limited than had previously been the case. Although the Ministry of Finance, as part of the EU negotiations, regularly heard the market participants' views (via their representatives), some respondents found it unclear as to whether the expressed views had actually been considered in the negotiations. The process was described as follows: stakeholders were invited to comment on the Commission's proposal. Then followed proposals from the Council and Parliament, after which negotiations commenced. In the case of the AMLR, a respondent recalled thinking "what on earth were they thinking here?" (SFSA11) in response to an aspect of the Parliament's proposals. However, by the time the process had reached that point, there were no opportunities left to respond, nor were the market participants invited to hear the Parliament's reasoning.

On the other hand, questions were also raised as to whether banks, as private for-profit actors, actually should be invited to participate in negotiations on regulations that directly apply to them. This question implied that market participants, when given the opportunity, may be inclined to try to influence the design of the regulation in ways that favour their business interests rather than preventing the criminal exploitation of the financial

system. However, respondents expressed differing views on this matter. One of them drew an analogy to climate regulation aimed at promoting a fossil-fuel-free society, arguing that regulation lacking a foundation in practical knowledge and experience risked having limited relevance in the field it intended to govern. The respondent also pointed to examples of AML regulation that had led to unintended consequences and legal uncertainty in terms of interpretation and application. That is, a framework could involve a rule that, if followed, risked leading to the violation of another rule. The respondent referred to the issuance of sanctions against Iran, which raised questions as to whether Iranian embassies – required under international law to hold bank accounts in the host countries – should be granted access to financial services in countries participating in the sanctions, despite this appearing to contradict the aims of the sanctions themselves. According to the respondent, this was an example of a rule conflict that only became apparent in practice. To avoid such conflicts, it was argued that the experience of market participants should be considered during regulatory negotiations:

I'm interested to listen also to technicians who can tell you what is technically doable, and what is not doable [...] and not just have a theoretical debate, but basically say, "Well, if you do that, practically, this means A, B, C". [...] You create a lot of things that you don't think about when you write these kinds of legislation or [conduct] this kind of supervision. So, having this dialogue with people that live in that field from day to day is super helpful. (DFSAex03)

Other respondents argued that the risk of banks seeking to make regulations more permissive in pursuit of profit had diminished as the detrimental effects of money laundering became more widely recognized. This, as we shall see below, also reflected a broader shift within the financial sector towards perceiving AML as a shared responsibility.

In summary, this section has shown how recent developments in EU regulation signaled a consolidation of control at the EU level beyond what had previously characterized the AML field. With the AMLR being directly applicable, respondents expressed concerns that little room would remain for national actors to decide how to organize their AML supervisory efforts. The development was also expected to limit the influence of banks on the formation of AML regulation – for better or worse, depending on one's perspective. In the following section, we turn to an exploration of how some

respondents viewed the effects of harmonization more positively, anticipating a fairer playing field across the Union.

Fair play across the Union

Opinions regarding the increasingly centralized AML regulation under the EU varied considerably among the respondents. While some argued that common understandings, measures, and procedures across the Union were fundamental to the fight against money laundering, others – as seen above – believed that important local characteristics, deemed vital for the national FSAs’ capacity to respond to emerging threats, were being overlooked in the new AML package. Some of the more optimistic respondents claimed that the 30-year-long development of AML regulation had shown how rules were continually informed by, and adapted to, changing conditions in the regulated field in order to keep pace with money launderers. From previously being one step behind the criminals, some respondents believed that the FSAs were now becoming increasingly effective at anticipating new risk areas. Aligned with what we saw in regard to the collaboration trend above, the accuracy of risk assessments was viewed as dependent on the extent of information sharing between relevant authorities. One respondent argued that a central aim of regulation was to reflect the growing need for enhanced cross-border collaboration, which the sixth AML directive had recognized:

I think that the legislation, which has developed over more than 30 years, is becoming better and better. [...] I would say that there is no sign that the legislation does not work. But of course [...] the exchange between authorities has to be more efficient – more and more efficient. And then the legislation sort of has to mirror that. And that’s what it has been doing with the sixth AML collection. (DFSA01)

Proponents of Europeanization emphasized that AML is a consensus area. That is to say, all stakeholders – including market participants, crime prevention and law enforcement agencies, and politicians – agree that money laundering is harmful and must be fought, albeit with varying levels of urgency. The same was said to apply to society at large and the general public, who also wish to see fewer alerts of domestic banks being exposed to money laundering. No clear conflict of interest or ideological divide appeared to stand in the way of harmonized regulation. The challenge instead lay in identifying which methods and measures were the most

effective, and in succeeding to implement and apply them at the domestic, national, and ultimately global levels:

[Bankers] live in the same society as us. And besides, one can suspect that they are terrified because they feel that “one more scandal like [the Baltic ones] will be the end of us”. Kind of like that. So, all incentives point in the same direction [...] everyone thinks the issue is important and no one wants any money laundering [...] So, there’s no conflict of interest in that way, at least none that people express publicly. It’s rather a matter of how. (SFSAx01)

Harmonization was also believed to reduce opportunities for using national banking regulation to create international competitive advantages. Streamlining regulation was assumed to make it more difficult for individual actors to identify regulatory loopholes or to interpret rules in ways that served their self-interest. One respondent highlighted the example of sanctions against Russia and how different countries responded to them. Issues that became complicated in the absence of common standards were, for instance, how banks that had lent money to Russian entities could seek repayment when no payments could legally be made to or from Russia. In such cases, there was latitude for divergent interpretations. In the global arena, the power struggle between East and West further complicated the pursuit of shared understanding. While the West supported and maintained the trade blockade against Russia, for example, countries that did not participate in the sanctions could benefit from purchasing Russian exports at historically low prices:

It gets more complicated if you don’t have clear standards and country A handles it this way and country B handles it that way [...] Now, you have this oil and gas sanction on Russia, right? India isn’t participating – they have never bought so much, so cheap Russian oil [...] So, if you really want to achieve something, you need more international harmonization. You can do something without that, but it will always have a lot of holes and a lot of ways for, for certain people to circumvent it. (DFSAx03)

Another frequently mentioned advantage of uniform regulation and application was the reduction of global spillover effects caused by divergent risk appetites. For example, a corporate entity operating abroad could exhibit a greater tolerance for certain risks than what was deemed appropriate in the host country, where stricter risk management was required due to local

circumstances. This was related to another positive effect that some respondents expected from the EU shift, namely, that the supervisory practices across EU member states would become more aligned, which was believed to promote quality, efficiency, and comparability between countries:

Already in 2017, actually, in Estonia, I publicly said that, well, it needs to be seriously considered that the EU needs the uniform... kind of what we now know as AMLA. [...] And the reasons: first, uneven treatment of the same risks across the member states [...] And [second], if you have uniform quality and quantity input for your supervision and uniform methodology, maybe [...] then we are able to compare the countries in a more, I would say, holistic way. (EFSA04)

In summary, this section has demonstrated how respondents predicted several positive outcomes of the EU's recent regulatory developments. These predictions were rooted in the belief that no major conflict of interest stood in the way of harmonization. A more unified regulatory landscape was, in turn, expected to promote fair play across the Union, whereby risks would be assessed and addressed consistently among Member States. The main challenge, as described by respondents, was not that context-specific conditions would be overlooked; rather, the difficulty lay in identifying the most effective measures and ensuring their implementation both nationally and internationally. In the next section, we will take a closer look at the less optimistic expectations of the harmonization trend, revolving around the notion that general solutions rarely fit specific problems.

Ignoring the specific

Opponents of the EU's governance turn argued that the approach conflicted with the very foundation of AML regulation, namely, that every supervised entity must be protected from illegitimate exploitation. As the general perspective shifted from the national level, where most supervised entities operate, to an increasingly transnational focus, key preventive measures were thought to risk being lost. According to one respondent, the primary purpose of AML regulation was not to protect the Union from the fraction of money laundering crossing its borders, but rather for each entity to construct robust internal defenses and its own walls around it:

I think AMLA and some of the new legislation was almost a Pavlovian reflex by the EU Commission. I mean, if we have problems, what do we do? We

write new regulations and [...] we build a new institution, and we take over from the national authorities. I'm not sure that's the smart way to go. The idea, or the concept, sort of invoked that nothing is stronger than the weakest link in the value chain [...] The idea that we can build a wall around Europe by AMLA and avoiding things coming in is completely wrong. (DFSA04)

Respondents also raised concerns as to whether the Nordic countries would lose their shared supervisory philosophies as a result of the establishment of AMLA. The Nordic rationale was described as distinct from that of other EU member states in that it emphasized guidance and advice, rather than suspicion and rigorous enforcement measures, in interactions with supervised entities. Another concern raised was that the burden on the compliance side of the AML regulation would be significantly exacerbated by AMLA's dual role of issuing guidelines and overseeing national regulatory authorities' adherence to them. According to one respondent, this signaled that the EU – if not surpassing the FATF – was at least imitating its methods and asserting itself as a transnational standard-setter:

I think in the Nordics, we like to guide our companies, we like to advise. The financial sector is the worst at that! [...] But we are pragmatic, and we can understand things, even as a regulator. It's not really the same in other countries, in particular the more you go down to Southern Europe. So, I'm very scared that we are going to lose the Nordic rationale because we're going to get AMLA. (DFSA03)

A similar perspective was expressed by another respondent, who argued that international standards at times hindered locally grounded solutions to problems faced by the FSAs. Considering the generalized nature of AML standards, they were regarded as a good fit for addressing broad problems while being insensitive to context-specific conditions. As a result, important signals of elevated money laundering risk areas at the national level could be overlooked, rendering AML supervision less effective for crime prevention. This gap, between the transnationally formulated solutions and nationally conditioned problems, was expected to expand with the AMLR and AMLA:

Of course, there are always good things and bad things [...] If it's too harmonized, sometimes it kind of cements legacy systems. If you would like to do something better and you believe it's better, then sometimes you can't do it because some international standard, or EBA standard, or whatever

standard requires you to do things “like this”. And sometimes maybe you think that it’s better to do otherwise. (EFSA03)

In addition, the elevation of regulatory powers to the supranational level was perceived as creating a fragmented rule-setting environment, in which multiple EU bodies sometimes issued overlapping or even conflicting regulations. On the other hand, the respondent continued, for a host country such as Estonia, with many branches and subsidiary entities of large corporate groups domiciled abroad, a harmonized EU regulation offered clearer governance structures and more streamlined intergovernmental coordination of AML measures. In this sense, it was believed that the AMLR would anticipate and prevent future disputes – stemming from ambiguous regulation or unclear divisions of responsibility – from flaring up as they did in the aftermath of the Baltic money laundering scandals. The respondent further noted that “there is always very open dialogue” within the EU, with Member States having the opportunity to influence “central procedures” (EFSA03). At the same time, several respondents stated that an urgent challenge facing the AML field was to shift focus from the organizational and institutional design of the regulatory framework towards a more “investigative” phase. That is, instead of coming up with new standards for an already functioning AML regulatory framework, greater emphasis should be placed on strengthening its enforcement.

In summary, this final sub-theme captured some of the concerns raised by respondents regarding the EU’s governance turn. The overarching message was that the national or regional characteristics of FSA-led AML supervision, considered critical to its effectiveness, were at risk of being lost within the increasingly harmonized transnational model. Rather than protecting the individual entity from exposure to money laundering, the emphasis had shifted towards protecting the Union as a whole. As a consequence of the strong focus on refining the regulatory framework, context-specific risks – often more urgent than general ones – risked remaining overlooked, thereby leading the FSAs astray.

Summary

Both as a policy domain and a regulatory practice, AML supervision had, by the third phase, undergone a substantial transformation. What had once been a peripheral issue of limited concern had become an urgent, complex, and transnational undertaking to which the FSAs responded proactively. From being a largely marginalized, and occasionally improvised, practice of

individual inspectors at the local level, we saw efforts emerging to standardize supervisory procedures across national borders and align as many jurisdictions as possible with a common approach to AML work. A directly applicable EU regulation was adopted, displacing the binding yet interpretable EU directives and the voluntary yet influential FATF recommendations as the dominant framework for international regulation. By participating in cross-border collaboration, the FSAs increased their opportunities to influence regulatory development while simultaneously narrowing the gap between locally rooted challenges and transnationally designed solutions.

Revisiting the compliance puzzle: Analysis

The AML supervisory contexts, as narrated in the empirical chapters above, are analysed below as a case of how supervisory agencies co-construct AML regulation. Building on legal endogeneity scholarship, which has emerged as an extension of neo-institutional organization theory into the legal domain, I explore the role of supervisory agencies in legal endogeneity. In the first section, I draw on the concepts of *legal ambiguity*, *symbolic compliance*, and *rule-intermediation* in analysing how the role of supervisory agencies relates to the existing literature on legal endogeneity. I show how organizational constraints and ambiguities regarding supervision as a legal practice in the initial phase render symbolic compliance and regulatory deference necessary mechanisms for the supervisory agencies. In the vulnerable phase, by contrast, structural unravelling creates space for the discursive reframing of prior regulation, and thus of past supervisory performance, alongside symbolic enforcement. In the final proactive phase, cross-border collaborations become a means through which national actors seek to influence the meaning of law amidst the transnationalization of regulation and increasing supranational oversight.

In the second section, I depart from previous research to explore how the AML supervisory case can further develop legal endogeneity theory. I suggest two dimensions of legal endogeneity that have not yet been clearly articulated: its development over time and the power relations embedded in this process. Taken together, this approach helps us unravel the compliance puzzle.

The endogeneity of law

In this first part of the following analysis, I argue that the case of AML supervision largely mirrors the theoretical underpinnings of the legal endogeneity perspective. I particularly suggest that the early phase of AML supervision demonstrates the basic assumption that law can become endogenous within organizations in a regulated field (e.g., Edelman, 1990, 1992, 2007; Edelman et al., 1999). The argument is that as the supervisory agencies maintained a reactive mode of organizing, regulated organizations could embed managerially defined interpretations of legality into their activities. As these organizational solutions accumulated and became institutionalized, structures emanating from within banks became accepted by legal actors as sufficient evidence of compliance (Edelman, 2016; Edelman et al., 2011). In this view, banks played a central role in defining the meaning of AML compliance in the reactive phase, which allowed a more permissive legal environment to prevail. I argue that this arrangement further enabled the co-construction of symbolic compliance: while supervisory agencies, due to relationship nurturing and resource constraints, relied mainly on soft enforcement measures, the regulated organizations were able to communicate structural compliance without achieving a corresponding change in their organizational practice (Edelman & Suchman, 1997; Edelman & Talesh, 2011). However, I also argue that the role of supervisory agencies in the socio-legal field did not end with reactive deference to symbolic compliance structures; they also contributed to the construction of AML regulation through discretionary interpretive practices, similar to rule-intermediation (Talesh, 2015; Talesh & Péliisse, 2019). This role became particularly salient in the post-scandal periods, as the supervisory agencies were first expected to assert legal authority, and later to organize their activities so as to preserve that authority vis-à-vis supranational legal actors.

Ambiguity of legal practice

In this section, I will analyse how the role of supervisory agencies relates to legal ambiguity, which is commonly linked to the organizational construction of law in legal endogeneity scholarship. AML regulation has, since its first introduction within the EU, assigned banks a self-regulatory responsibility. This has enabled internal interpretations of compliance to become embedded in organizational practices. From the outset, legal endogeneity shaped the socio-legal field by allowing regulated organizations to

influence the meaning of legality (Edelman, 1990, 2007; Edelman et al., 2011; Edelman & Suchman, 1997). This regulatory arrangement was both necessary for and obstructive of enforcement: necessary because banks held detailed knowledge of money laundering methods and purposes, positioning them to engage in preventive efforts; obstructive because it created a closed institutional world that supervisory agencies struggled to access.

In a context where financial sector attention was directed elsewhere, and where financial crimes involving Nordic banks were largely disregarded, few resources were allocated for money laundering prevention. As the legal environment remained weakly organized, inconsistent interpretations of AML supervision were articulated and acted upon. This ambiguity allowed the regulated organizations to assert their own definitions of legality. When scandals later disrupted this fragile institutional arrangement and provoked calls for visible enforcement, interpretive authority shifted to legal actors. Supervisory agencies responded by elevating their AML practices, first to meet expectations of enforcement, and later to retain influence over regulatory meaning in the transnationalized and increasingly centralized oversight regime that followed. These dynamics highlight how legal ambiguity (Edelman, 1992), in conjunction with institutional fragmentation (Quack, 2007), created a contested space in which the meaning of supervision was co-constructed and reconfigured over time (cf. Gilad, 2008, 2014).

Symbolic compliance necessities

In the legal endogeneity literature, symbolic compliance defines situations in which organizations appear to comply with legal requirements without achieving substantive outcomes. The emergence of symbolic compliance structures is commonly linked to legal ambiguity, referring to uncertainty about what compliance with a given law entails. The scope for interpretation that arises in such situations enables organizations to construct the meaning of compliance from within (Edelman, 1992, 2016; Edelman et al., 2011). I argue that the reactive mode of AML supervision reflects this pattern, while also extending it by showing that ambiguity applied not only to the substantive content of legal rules, but also to the role and authority of supervisory agencies as legal actors. As shown in regard to the trend of upgrading regulatory measures in the vulnerable phase of organizing, respondents addressed a persistent industry perception that supervisory agencies lacked sufficient knowledge of the money laundering risks tied to complex financial instruments. This information asymmetry gave regulated organizations a strong position to influence how compliance was defined,

while also generating uncertainty about the very meaning and function of AML supervision. In this context, I suggest that ambiguity created a contested institutional space, in which the legitimacy of enforcement practices became open to negotiation. This dynamic aligns with Gilad's (2008) concept of public agencies' domain perception and suggests that legal endogeneity was co-constructed not through doctrinal uncertainty alone, but through institutional incoherence within the supervisory agencies.

The institutional environment characterizing the reactive phase of AML supervisory organizing allowed symbolic compliance structures to emerge at both poles of the regulator–regulatee relationship. Within the supervisory agencies, this was expressed in a decoupling between organizational structures and practices. While legal endogeneity scholarship typically links decoupling to the managerialization of legal mandates, with regulated organizations managing legal requirements so as to avoid disturbing business (Edelman, 2016; Stryker, 2019), its appearance in AML supervision instead reflected structural constraints. The agencies often lacked the resources needed to align legal mandates with AML supervisory practice. As Scott (2014, p. 187) notes, organizations are more likely to decouple structure from practice when responding to external regulatory requirements than when facing internal normative or cultural pressures.

This is consistent with the patterns unfolding in the reactive phase of AML supervisory organizing. While legally binding regulations were in place at the national and international levels, there was minimal interest in AML issues from within the (Nordic) FSAs. The recursive dynamic of symbolic compliance arose as the small inspection teams prioritized the formal transposition of international AML regulation over performing the actual inspection work that the regulation prescribed (Edelman, 2016; Edelman et al., 1999). A telling example was the account of an inspector who recalled how the AML unit set the regular tasks aside to coordinate the preparatory work for the FATF visit. While making sure that the documents were in order so that the transnational regulator could receive its requested data, supervisory activity was absent. Over time, the role of AML supervision thus became equated with symbolic implementation, with compliance being performed through the appearance of structure, without the supervisory agency pursuing substantial enforcement outcomes. The general lack of interest in AML thereby cultivated symbolic compliance not only by default, but by design: it emerged as an organizational response to a limited capacity for supervision and institutional pressures to nurture relations with

the more advantageously positioned banks (see further below) (cf. Edelman & Suchman, 1997; Edelman & Talesh, 2011).

While resource constraints were eased in the wake of the scandals, legal ambiguity remained. In the vulnerable phase, however, a regulatory rather than doctrinal ambiguity was pervasive. The supervisory agencies now expressed uncertainty as to what could be considered an appropriate scope of supervisory activity maintained at the time when the money laundering took place. The scapegoating process was not simply about identifying and attributing shortcomings in past AML supervisory efforts but became a means for the supervisory agencies, as legal actors, to discursively reframe the meaning of past legal frameworks and practices. Discursive reframing is highlighted by Edelman (2016) and Stryker (2019) as a powerful means of managerializing legal requirements. The scapegoating trend accordingly showed how legal ambiguity provided an interpretive resource with which the supervisory agencies, under the acute legitimacy threats that the scandals had created, could symbolically communicate compliance by deflecting blame to other actors or conditions in the legal environment. Moreover, rather than presenting ambiguity as stemming from inconsistent implementation, as suggested by Edelman (1992), the supervisory agencies located the roots of prior supervisory limitations in the indeterminacy of applicable legal frameworks. A particularly illustrative example was the debate over whether the home or host country bore the responsibility for supervising the foreign branches of the scandal-struck banks. Both positions were justified by selectively emphasizing different elements of the same EU directives, highlighting how legal texts could support multiple, institutionally grounded interpretations.

These interpretive tensions reflect a core insight of the literature on endogenous law: that regulation often serves as a supporting framework for organizational activity rather than as a fixed constraint or deterrent to wrongdoing (Edelman & Talesh, 2011; Edelman et al., 1999). As the supervisory agencies in this case were questioned about their responsibility for preventing the scandals, they responded by articulating plausible accounts of their past supervision, regarding both its statutory meaning and how it had been performed historically. In this way, past actions became compatible with existing legal norms. This aligns with Gilad's (2008, 2014) argument that public regulators contribute to the co-construction of regulatory meaning by engaging in the framing of legal issues. Regulatory ambiguity gave rise to interpretations of legal mandates that served to fulfil organizational purposes – in this case, to avoid blame – rather than to achieve any

substantive compliance outcome (Edelman, 1992). However, the compliance outcome in the case of AML supervision was not the equivalent of an internal corporate procedure, but rather a publicly displayed supervisory performance. In this way, the vulnerable phase of AML supervision demonstrated how regulatory meaning was co-constructed by supervisory agencies in interaction with other actors in the socio-legal field (cf. Gilad, 2014).

In sum, I have shown how symbolic compliance emerged in many forms in AML supervisory contexts. It was particularly prominent in the reactive phase of organizing, when money laundering prevention remained under-resourced and weakly institutionalized. Maintaining a loose coupling (Bromley & Powell, 2012) between the structural implementations and the practical executions of legal mandates thus became equated with remaining “compliant”. While this reactive mode of supervisory organizing rendered the banks influential in defining the meaning of AML compliance, the scandal rearranged the socio-legal field so that the interpretive privilege instead rested with the legal actors. This became a resource with which the supervisory agencies could frame the story of AML supervision in their favour. The symbolic compliance concept (Edelman, 1992, 2016; Edelman & Cabrera, 2020) helps us understand not only how regulated firms can influence the meaning of regulation, but also how this unfolds in co-construction with legal actors. These are important aspects for grasping how banks may simultaneously comply with and breach AML regulation. However, symbolic compliance provides little help in understanding how supervisory agencies, as enforcers of regulation, contribute to the co-construction of legal meaning.

Political enforcement

Given the description of supervisory agencies as both the subjects and enforcers of regulation, symbolic compliance alone does not capture the full repertoire of organizational responses to legal mandates. To better understand the role of supervisory agencies in legal endogeneity, it is also relevant to examine how enforcement actions influence the construction of regulatory meaning. In analysing this, the political enforcement concept (Short, 2021; cf. Schneiberg & Bartley, 2008; Short & Toffel, 2010) is useful. Short (2021) argues that enforcement is not merely a technical process, but a political project shaped by shifting political climates, resource constraints, and public expectations. Similarly, I suggest that in the case of AML supervision, enforcement measures were largely shaped in response to institutional pressures and served to maintain legitimacy across all three phases

of organizing. This meant that the meaning of enforcement was co-constructed in relation to the actors from whom the supervisory agencies sought legitimacy at the moment (Gilad, 2014), which varied depending on their positioning within the socio-legal field.

In the weakly organized legal environment that characterized the reactive phase of AML supervisory organizing, enforcement actions were predominantly soft. The supervisory agencies could maintain their relationships with the large banks, which, given their superior access to information and resources, were more advantageously positioned. However, enforcement measures tailored to meet institutional expectations were also reflected in their inconsistent imposition. While sanctions were occasionally imposed – such as in the Forex Bank case in 2008, when the SFSA issued a warning and a fine of EUR 4.5 million – hard enforcement actions remained more unusual in the first phase. Despite uncovering serious AML deficiencies in larger banks such as Swedbank, the SFSA sometimes refrained from imposing equivalent penalties, and some rulebreakers got away with a mere description of the flaws in a secretive “final statement”. This discrepancy suggests that enforcement measures were sometimes more symbolic than substantive, indicating that the supervisory agencies engaged in a balancing act between exercising legal authority and investing in relational maintenance (cf. Hock & Dávid-Barrett, 2022). Similarly, the alleged “silk-glove approach” of supervisory agencies towards AML supervision in the reactive phase – when they were perceived to prioritize the provision of interpretive guidance over intrusive inspections, and constructive dialogue over deterrent sanctions – further indicated that enforcement measures were politically defined. These patterns align with the observation of Edelman and Suchman (1997) that regulators tend to avoid the full use of hard enforcement mechanisms in favour of soft enforcement methods to avoid alienating powerful constituencies. However, the silk-glove approach still failed to prevent the regulated organizations from implementing surface-level compliance structures. It also failed to foster changes in deeper organizational norms.

On the other hand, the supervisory agencies pursued effective goal fulfilment through off-site inspections, which required significantly fewer resources than the on-site inspections, possibly followed by demanding sanctions assessment. This generated a higher number of finalized inspections than would have been the case if more in-depth investigations had been performed. Consistent with the argument of Hock and Dávid-Barrett (2022), the regulated organizations were enabled to dominate the seemingly

reciprocal regulatory processes, as the supervisory agencies prioritized timely resolution over demanding intervention. In this way, soft enforcement measures created a relaxed compliance culture, enabling both the obliged entities and the supervisory agencies themselves to only symbolically demonstrate compliance.

In the post-scandal phases, by contrast, the supervisory agencies made use of the institutional disruption to assert legal authority. The “special investigations” into the Swedish banks’ Baltic operations represented one example of regulatory meaning being co-constructed through enforcement. Informed respondents described these high-profile investigations, and the accompanying record-high fines, as largely preordained symbolic acts in which the decision to penalize had been politically mandated before the collection of substantive evidence. This dynamic aligns with traditional neo-institutional accounts of the ceremonial implementation of institutionalized myths (Meyer & Rowan, 1977; cf. Edelman, 1992, 2016; Edelman & Cabrera, 2020) and suggests that enforcement served not only to formally correct wrongdoing in the past, but also to restore organizational legitimacy in the eyes of legal, political, and regulated actors, and of the scrutinizing media. Supervisory agencies engaged in symbolic sanctioning to project legal rationality. However, this mode of organizing did more than simply maintain this appearance; it also contributed to the construction of AML enforcement actions as associated with public display and political responsiveness. This, in turn, suggests that external pressure rather than procedural rigour motivated the mechanisms employed within the legal environment.

Following the reconfiguration of the socio-legal field brought about by the scandals, a reversed trend could be traced in the positioning of banks relative to the supervisory agencies. This was manifested in the banks’ desire for detailed compliance guidance. Having shown a lax approach to AML compliance before the scandals, they now expressed diligent ambitions. However, the findings suggest that banks were more focused on attaining a formally compliant status in the eyes of supervisors – and thus securing legitimacy within their institutional environment – than on genuinely reducing their exposure to money laundering risks. This behaviour diverges from traditional notions of symbolic compliance. While the outcome remains largely symbolic in that it primarily seeks legitimacy, it is not entirely superficial. Rather, it reflects a form of “textbook compliance” characterized by comprehensiveness, procedural rigour, and alignment with formal expectations, and is designed to satisfy supervisory demands and

avoid legal repercussions. Nonetheless, the effect mirrors that of symbolic compliance: the measures taken fail to serve the core purpose of the regulation, which in this case was to prevent money laundering exposure.

In sum, with the intent to explore the implications of legal ambiguity for the role of supervisory agencies in legal endogeneity, in this section I have analysed how enforcement measures contribute to the co-construction of regulatory meaning. Drawing on the political enforcement concept (Short, 2021), I suggested that enforcement actions in the case of AML supervision were shaped in relation to the sources of legitimacy most salient to the supervisory agency, a dynamic that varied depending on its positioning within the socio-legal field. In the weakly organized reactive phase, enforcement actions were largely designed to maintain relationships with powerful constituencies. This contrasted with the position taken by the supervisory agencies in the post-scandal phases, when, by exercising legal authority, they contributed to the construction of AML enforcement actions as associated with public display and political responsiveness. Meanwhile, the banks displayed a reversed trend. While benefitting from the supervisory agencies' "silkeness" in the reactive phase, they later found themselves in the firing line of harsh symbolic sanctioning. Accordingly, they moved from the lax compliance approach of the privileged position to the diligent approach of the inferior position, while still not necessarily achieving a substantive compliance outcome.

Similar to symbolic compliance, political enforcement helps us understand the role of supervisory agencies in relation to the banks. Aligned with traditional neo-institutional theory, this perspective suggests that the compliance puzzle can be understood as a matter of legitimacy. It suggests that legal actors accept or reject the compliance structures of regulated organizations with the aim of gaining legal authority in the eyes of powerful stakeholders. However, political enforcement is less useful for understanding the role of supervisory agencies, as interpreters of regulation, in legal endogeneity.

Supervisory agencies as rule-intermediaries

Having primarily analysed the supervisory agencies as subjects of regulation and focused on the mechanisms by which they responded to ambiguous legal mandates, I will now look more closely at the supervisory agencies as interpreters of regulation. The legal endogeneity literature emphasizes the central role of interpretation in constructing the meaning of law,

particularly within regulated organizations (e.g., Edelman & Talesh, 2011; Talesh, 2022). I suggest that the case of AML supervision largely echoes the argument of Schneiberg and Bartley (2008) that public agencies can exercise considerable interpretive discretion in implementing and enforcing legal rules. However, it adds nuance to this understanding by indicating that the influence of these practices on the construction of legal meaning shifted along with the restructuring of the socio-legal field. I will show that interpretive discretion in the reactive phase was largely confined to the organizational “periphery” and thus not anchored in a broader, coordinated institutional framework. Hence, inspectors’ rule interpretations rarely transcended organizational boundaries to shape the broader socio-legal field, as is commonly suggested in legal endogeneity scholarship regarding regulated firms (e.g., Edelman & Suchman, 1997). However, despite their reactive mode of organizing, the supervisory agencies did not merely resort to regulatory deference either; rather, they assumed an intermediary role between regulated organizations and the legal environment. In the post-scandal modes of organizing, this rule-intermediary enactment came to resemble Talesh’s (2015, 2022) definition, as the supervisory agencies engaged in interpretive practices at the intersection of competing institutional pressures and became increasingly embedded in the transnational legal environment.

Regulatory deference

We have now arrived at a central aspect of the compliance puzzle: how supervisory agencies *deem* banks compliant with AML regulation. In analysing the role of supervisory agencies as interpreters of rules, I will discuss how they enacted the AML supervisory task in its first phase. As we have seen, the general lack of interest in and resources for AML at this time created an institutional environment that nurtured a reactive mode of supervisory organizing. Individual inspectors supervising AML compliance accordingly faced resource constraints and weak internal mechanisms for knowledge transfer, which meant that inspections were not standardized or routinized within organizational practice, limiting their coherence and continuity. Following Talesh (2015), this reflects the absence of a professionalized AML inspectorate capable of supplementing legal rules with shared norms and routines. Without an organizational “carrier” of institutionalization (Greenwood et al., 2002; Jepperson, 1991; Muzio et al., 2013; Scott, 2008), front-line discretion remained fragmented and ineffective. Rather than establishing authoritative interpretations of compliance

through coherent enforcement, the supervisory agencies largely accepted the supervised entities' compliance measures as communicated to them from a distance (via off-site inspections).

In cases in which compliance deficiencies were discovered during inspection, the supervisory agencies' responses were in some instances impactful (e.g., the EFSA's towards Danske Bank) and in others lenient (e.g., the DFSA's towards Danske Bank) or inconsistent (e.g., the SFSA's towards Swedbank). As mentioned above, at a general level, the supervisory agencies exhibited a low-key role in regard to AML compared with other actors in the socio-legal field. This resonates with Edelman et al.'s (2011) claim that legal actors (in their case judges) commonly defer to internally constructed organizational structures as evidence of legal compliance as they gain presumptive legitimacy from their widespread adoption.

However, the case of AML supervision suggests that nuance can be added to this conceptualization, recognizing its emergence beyond the traditional bottom-up approach. That is, conditions additional to the institutionalization of organizational compliance structures also shaped regulatory deference. For example, limited resources for execution and fragmented understandings of what constituted a legitimate AML supervisory undertaking in the reactive phase allowed transnational regulators to significantly influence the construction of legality. This suggests that the legal meaning to which legal actors defer not only draws on the translation of rule interpretations into organizational structures and activities, but also on the structuring of the legal environment.

In the reactive phase of organizing, the meaning of the AML supervisory task was more defined by externally imposed frameworks than by the professional knowledge of front-line inspectors. Particularly influential were the regulations imposed by supranational regulatory bodies such as FATF, the EU, and the EBA. National supervisory agencies appeared especially vulnerable to the threat of FATF sanctions, which gave FATF recommendations a prominent role in shaping implementations at the time. A demonstrative example of this influence was the widespread adoption of the risk-based approach, which was institutionalized internationally via FATF standards and EU directives. While this principle officially reinforced the self-regulatory responsibilities of banks, it also had a legitimizing effect on the broader relationship between legal actors and regulated organizations in the socio-legal field: it positioned banks as the primary interpreters of AML compliance, while supervisory agencies adopted a reactive and accommodating role. In this setting, the legal environment supported structural

compliance (Edelman, 1992, 2008, 2016; Edelman & Talesh, 2011), both in the supervisory agencies' implementation of AML mandates and in the banks' compliance activities. From this perspective, the co-construction of legal meaning unfolded through interaction between the transnational regulators and the regulated organizations, with the supervisory agencies enacting a rule-intermediary role. This suggests that regulatory deference can also be reinforced from within the legal environment, a dynamic less clearly articulated in legal endogeneity scholarship (e.g., Edelman et al., 1999; Edelman, 2007).

Nevertheless, the inferior position of the supervisory agencies, relative to the banks and transnational regulators, created a permissive legal environment, in terms of decisions on what counted as sufficient compliance with legal requirements, and a fragile AML system. While this sometimes manifested itself in supervisory agencies deferring to symbolic compliance structures deriving from internal rule interpretations within the regulated firm, this was not the whole picture. The context in which patterns of regulatory deference occurred must also be taken into account. In the reactive phase, this context was characterized by a fragmented legal environment, reflected in: the marginalized position of the AML inspector team within the supervisory agencies; the inconsistent enforcement measures taken in relation to findings of flawed AML compliance; and the lack of coordination between legal actors in supervision. This implies that regulatory deference did not primarily express the institutionalization of organizational compliance structures; rather, it mirrored a deficit of legal authority on the part of the regulators. In this view, the reactive phase of AML supervisory organizing laid the groundwork for the vulnerable phase that followed, and the eruption of scandals did not suggest a breakdown of regulation so much as its institutional hollowing out.

In sum, by exploring how the supervisory agencies enacted their role as rule interpreters in the reactive phase of AML supervisory organizing, in this section I have analysed how the role of supervisory agencies in legal endogeneity can be understood in light of the rule-intermediary concept. I showed that the fragmented legal environment combined with the limited AML supervisory capacity and outreach that prevailed in the reactive phase meant that rule interpretations from within the supervisory agencies rarely transcended organizational boundaries to shape the broader socio-legal field. However, despite their reactive mode of organizing, the supervisory agencies did not merely resort to regulatory deference either. Rather, they assumed an intermediary role between the regulated organizations and the

legal environment, co-constructing legality in these interactions. In the next section, I will continue this exploration by analysing how this rule-intermediary role of the supervisory agencies evolved in the two subsequent phases.

Co-construction of new frameworks

In what follows, I will show how the institutional environment in the wake of the scandals allowed the supervisory agencies to more clearly enact the rule-intermediary role, co-constructing legal meaning through this process. The argument is that the post-scandal restructuring of the socio-legal field led the supervisory agencies to assume interpretive privilege over the banks in defining what counts as AML compliance. By translating legal mandates into supervisory practices, the supervisory agencies assumed a rule-intermediary role similar to what has previously been identified among private sector professionals (Talesh, 2015; Talesh & Péglise, 2019). Their authority as legal actors derived not only from their formal legal mandate, but from their capacity to interpret and frame regulatory issues in ways that resonated with shifting institutional expectations (cf. Levi-Faur, 2011b; Schneiberg & Bartley, 2008). As I will show, this enactment of a rule-intermediary role became particularly important in the transnationalization of the socio-legal field, as the supervisory agencies sought to maintain legal authority amidst processes of legalization.

Key to the rule-intermediary role were the supervisory agencies' proposals for new institutional frameworks. As the AML inspectorate became institutionalized as a profession in the legal environment, they increasingly engaged in the co-production of standards and best practices. At the extreme, *The AML Compliance Book: 150 Golden Rules* by Mäcker and Nömm (2020) showed how regulators took the initiative in shaping normative expectations and guiding regulated organizations through templates and interpretative guidance. Following Talesh (2022), this represents a typical act of legal rule-intermediation in that the supervisory agencies did not just implement the regulations but also translated them into actionable guidance, embedded them in organizational practices, and contributed to the institutionalization of particular meanings of compliance. The supervisory agencies enacted their role as intermediaries of legality, engaging in interpretative practices and legitimizing their work through communicative action (Talesh, 2015; Talesh & Péglise, 2019).

However, while the vulnerable phase of AML supervisory organization indicated the significant influence of supervisory agencies in constructing

legality, the subsequent proactive phase marked a shift towards legalization, in which regulatory discretion was increasingly constrained by the formalization of rules and procedures. The international directives, standards, and guidelines that had previously dominated the legal environment, leaving both regulated firms and supervisory agencies with significant interpretive flexibility, were now rendered more codified, standardized, and enforceable through binding legal instruments and oversight mechanisms. At the national level, this shift aligns with legal endogeneity theory in that regulatory meaning initially emerged from within the field, through a period of discretionary adaptation and symbolic alignment (Edelman, 2016; Edelman et al., 1999), but gradually became institutionalized and formalized, narrowing the scope for local interpretation. However, the transnationalization of AML regulation created a different configuration, in which the legal environment that had previously been fragmented and loosely connected through global standards, was increasingly centralized under EU authority.

Yet, the legalization process was not driven solely by top-down legal control; rather, normative and mimetic pressures drove the gradual hardening of regulation. As institutional organization theory regarding transnational regulation has shown, soft regulation often diffuses more rapidly and deeply than does hard law by offering moral legitimacy, flexibility, and ease of adoption (Bartley, 2007; Quack, 2007). In the case of AML supervision, the adherence to and production of AML compliance standards became a means for the supervisory agencies to pursue the incorporation of nationally designed solutions into the transnational regime, embedding domestic rationales within transnational models and reducing the gap between context-specific problems and generalized solutions. While the provisions for forming cross-border collaborative arrangements were essentially recommendations transposed into semi-hard directives, they created platforms for extended interactions among actors across the transnational socio-legal field. This intensified the spread of professional norms and fostered interpretive convergence (Talesh, 2022). Similar to what has been observed by Edelman and Suchman (1997), these shared interpretations eventually became embedded in organizational routines, producing coercive effects without the need for direct legal sanctioning (cf. Scott, 2014). This was particularly salient in the ambiguous regulatory landscape surrounding transnational AML enforcement. As suggested by Schrempf-Stirling and Wettstein (2023), soft norms served as preconditions for legalization, providing the interpretive frameworks and normative expectations that hard law would later codify. Thus, in line with

traditional legal endogeneity theory (e.g., Edelman, 2007; Edelman & Suchman, 1997), legalization was not the starting point but the outcome of normative alignment among organizations across the socio-legal field.

In sum, this section has extended the discussion of the role of supervisory agencies as rule interpreters in the construction of legal meaning, focusing on the post-scandal phases. I argued that the supervisory agencies, by translating legal mandates into supervisory practices, assumed a more distinct rule-intermediary role, similar to what has been observed among private-sector actors. This role became particularly important in the face of the increasingly transnationalized socio-legal field. While the supervisory agencies enjoyed interpretive privilege at the national level and gained influence over transnational policymaking through cross-border organizing, the subsequent harmonization trend within the EU marked a decline in legal authority. However, this was not so much the result of top-down legal imposition as the gradual institutionalization of norms that had emerged from soft rules and enforcement, as well as from shared ideas, practices, and expectations, spreading across the transnational socio-legal field.

Summary

The AML supervisory case shows how supervisory agencies contributed to legal endogeneity not only as regulated organizations engaging in symbolic compliance, or as legal actors pursuing political enforcement, but as intermediaries between the legal environment and the regulated fields. From this perspective, supervisory agencies sustained the compliance puzzle by adapting to formal structures, whether originating within regulated organisations or from transnational legal actors, rather than altering the substance of crime prevention by their supervisory activities. The concept of rule-intermediation (Talesh, 2015, 2022; Talesh & Péliše, 2019) helps us understand how supervisory agencies can influence regulatory meaning and thus contribute to legal endogeneity under different modes of organizing. When the organization of supervision was reactive in character, for example, it reproduced an order in which the regulated firms were influential in defining the meaning of AML compliance, reflecting the traditional legal endogeneity configuration (e.g., Edelman, 2007; Edelman & Suchman, 1997; Edelman et al., 1999). In the vulnerable mode, by contrast, institutional conditions allowed the supervisory agencies to provide authoritative rule interpretations and become increasingly embedded in the legal

environment, which was gradually becoming more transnationalized. Yet, when the supervisory agencies, through cross-border interactions and normative alignment with other organizations in the extended legal environment, had advanced their positions in the socio-legal field and demonstrated a proactive mode of supervisory organizing, a process of legalization across the transnational legal environment once again limited their interpretive discretion, but now in favour of supranational regulatory bodies rather than regulated organizations. However, the rule-intermediation concept falls short in accounting for how these shifting roles were embedded in a temporally unfolding institutional cultural-historical context. This aspect is important for understanding how the compliance puzzle is contextually anchored. In addressing this question, I pursue a process perspective on legal endogeneity in what follows.

The endogeneity of actors

In line with the legal endogeneity literature, I have shown that supervisory agencies influence the co-construction of legal meaning by enacting an intermediary role in relation to the legal environment and the regulated organizations. I also showed that the nature of this intermediary role varied between reactive and proactive modes of organizing. However, the literature offers little help in understanding how these shifting roles related to the cultural-historical contexts in which they unfolded. I argue that taking this aspect into account is important for understanding how the compliance puzzle is contextually anchored in time and culture. In the following section, I elaborate on existing theory on legal endogeneity by taking a process perspective (e.g., Langley & Tsoukas, 2017). This perspective reveals two dimensions that have been largely overlooked in previous research, i.e., development over time and power-embeddedness, suggesting that the roles and influences of organizations in the socio-legal field not only change over time but also are interdependent and embedded in cultural-historical frameworks.

Development over time

In the previous section, I showed that the supervisory agencies enacted different roles in constructing legal meaning, depending on the institutional setting. I also discussed the implications of these enactments for the role of supervisory agencies in legal endogeneity. However, while the legal endogeneity literature helped in illuminating these enactments, it provided little help in understanding how these shifting roles were embedded in a temporally unfolding institutional context. Existing research has largely overlooked how the roles and influences of legal actors in the socio-legal field evolve over time. In addressing this gap, I approach legal endogeneity as a process (cf. Talesh, 2022), with change prevailing over stability. This view builds on the understanding of endogenous law as resulting from reciprocal, field-level interactions through which legal actors and regulated organizations jointly shape the meaning of regulation (Gilad, 2008, 2014; Hock & Dávid-Barrett, 2022).

Shifting roles

We have seen that the supervisory agencies in the case of AML supervision shifted between different roles, adopting either a compliance or a regulatory mode in response to institutional pressures. I suggested that these role

enactments, in relation to the structuring of the socio-legal field, influenced how supervisory agencies contributed to the construction of legal meaning. Below, I will elaborate on this argument in greater depth in relation to the question of how supervisory agencies co-construct regulation. The AML case suggests that the supervisory agencies exerted varying forms of influence on regulatory meaning, depending on the institutional setting. In the context of the reactive mode of organizing, three interrelated dimensions of legal ambiguity were identified: (1) regulatory ambiguity regarding what constituted adequate AML compliance, particularly in relation to standard-setters such as FATF and MONEYVAL; (2) professional inconsistencies, including wage disparities and information asymmetries between public- and private-sector officials; and (3) legitimacy concerns arising from internal tensions over the meaning and purpose of the supervisory mandate. The supervisory agencies acted upon these ambiguities by, for example: maintaining “administrative” compliance with unattainable rules; deferring to compliance structures created by regulated organizations; and engaging in public debate to create meaning. This reflects a double embedding of supervisory agencies as they were both constitutive of and constituted by the legal environment.

The role enactments of the supervisory agencies contributed not just to the construction of regulatory meaning, but also to the constitution of actors in the socio-legal field. In the aftermath of the scandals, there were intense demands on the supervisory agencies to identify wrongdoers and establish evidence of wrongdoing. They also had to define what holding wrongdoers accountable meant in practice, who was to be held responsible, for what and by whom. The blame-shifting process provided interpretive latitude for the supervisory agencies to co-construct the roles of both legal and non-legal actors. Through the launching of investigations, normative guidance, and expanded inspection routines, the supervisory agencies shaped the practical meaning of AML regulation for both the subjects and enforcers of law. In this, they defined not only what it meant for public regulators to fulfil statutory supervisory obligations, but also what it meant for regulated organizations to demonstrate compliance. Typical examples include the DFSA’s eight reprimands to Danske Bank and the later 23 legislative proposals. Through such actions, the supervisory agencies could establish their authority as enforcers while simultaneously casting the obliged entities as mere subjects of regulation (and the only possible rule-breakers). Additionally, by invoking the EU regulation of bilateral agreements in cross-border supervision, the supervisory agencies reinforced the

role of supranational actors as possessing interpretive primacy in defining AML standards. These examples suggest that FSAs acted not merely as (political) law enforcers, but also as embedded legal actors that, through procedural enactments, helped construct both the meaning of regulation and the roles and authority of other actors in the socio-legal field.

The EU's harmonization trend reflected a shift in momentum: the interpretive privilege when it came to AML supervision no longer resided with the national authorities but with the legal actors operating across jurisdictions. While the co-construction of AML compliance and enforcement had previously taken place at the national level, the socio-legal field was now increasingly structured by interactions at the transnational level. In this expanded field, the legal endogeneity process became transnationalized (cf. Djelic & Quack, 2018; Salles-Djelic & Sahlin-Andersson, 2008); legal actors were not only constructed through organizational responses to domestic regulation, but also through multi-level interactions among actors engaged in translating and aligning regulatory interpretations across borders. In this sense, legal endogeneity was not merely a bottom-up progression starting from the regulated organizations either, as commonly framed in the literature (e.g., Mulligan, 2012), but rather a multi-directional dynamic shaped by interactions among legal actors at multiple levels of governance. This recursive process demonstrated the relational nature of transnational legal environments, in which regulatory meaning evolves through interaction among legal rules, institutionalized rule interpretations and practices, and normative convergence.

This view challenges the conceptual boundaries that underpin the concept of legal endogeneity, the boundaries separating law, legal actors, and regulated organizations. Although the legal and regulated fields are understood as overlapping, forming the interactional space that is the socio-legal field, these boundaries are central to illuminating how legal interpretations originating from organizations in the regulated field become institutionalized as valid compliance evidence by legal actors (Edelman, 2007; Edelman & Suchman, 1997). In contrast, the transnational legal endogeneity process suggests that the rearrangement of the boundaries separating the rules from the regulators and the regulated spurred the endogenous co-construction not only of rules, but also of actors and their roles. In the pre-scandal phase, the supervisory agencies, in response to resource constraints and information asymmetries, adopted a reactive role in the socio-legal field, mediating the institutionalization of compliance structures emanating from within regulated organizations. In the post-scandal phase, by contrast,

a traditional regulator–regulatee relationship was co-constructed at the national level as the supervisory agencies, in response to institutional pressures, demonstrated their legal authority through hard enforcement combined with the issuance of compliance guidelines. At the transnational level, however, the relationship between the regulator and the regulatee was reconfigured, with legal authority increasingly shifting to supranational bodies. The cross-border collaborative arrangements, involving national legal and non-legal actors, formed an interactive space in which the meaning of transnational regulation was co-constructed to align with organizational and professional norms.

In sum, in this section I have addressed the shifting roles of supervisory authorities that were identified earlier in this analysis and discussed their implications for legal endogeneity processes. I suggested that the supervisory agencies shifted from an intermediary role in the reactive phase to a more clearly articulated regulatory mode in the vulnerable phase, reproducing the boundary between legal actors and regulated organizations. However, in the proactive phase, this boundary was rearranged. As AML regulation became increasingly transnationalized and the supervisory agencies to a growing extent performed compliance towards supranational legal actors, they enacted a regulated position within the socio-legal field. In this environment, the cross-border collaborations gave rise to an intermediary function in which locally adapted regulatory solutions could spread. This role reversal highlights the fluid and relational nature of actorhood within legal endogeneity processes. Following process theory (e.g., Jarzabkowski et al., 2017), this reflects the fact that recurrent patterns of activity perceived as conferring stability are at the same time sources of continuous, endogenous change. In this view, the supervisory agencies' influence on regulatory meaning was not only reactive or episodic; rather, it also evolved in a temporally unfolding process of interaction among actors in the socio-legal field. In this process, the meanings of legal rules, actors, and actions were continuously redefined. In this sense, development over time was not just a backdrop for legal endogeneity but was constitutive of how regulatory meaning and roles were co-constructed. In the next section, I will elaborate on this argument in addressing how time mattered to the role of supervisory agencies in legal endogeneity.

Lags and layering

In the previous section, I argued that the supervisory agencies shifted between roles in response to institutional pressures and discussed how these

role enactments influenced processes of legal endogeneity. I found that the shifting roles were embedded in a temporally unfolding process, suggesting that time is constitutive of the co-construction of legal meaning. In what follows, I will explore this temporal dimension further.

The shifting roles of the supervisory agencies suggest that the processual evolution of AML supervision was neither continuous nor linear. Rather, the influence of the supervisory agencies in co-constructing regulatory meaning unfolded as episodes of interpretation, implementation, and routinization, which accumulated over time and created institutional layers. These episodes were often shaped by adopted or more or less improvised structures, as well as by past omissions and resource bottlenecks. In the reactive phase of organizing, for example, we saw the tendency of supervisory agencies to prioritize structural, “defensible” compliance with international regulation over practical supervisory activities. The focus on administrative rather than substantive compliance measures created a temporal lag. This provides important insight into the compliance puzzle, suggesting that temporal lags in compliance performance vis-à-vis supervisory investigation may enable banks to simultaneously comply with and violate AML regulation.

Moreover, while the globally spreading AML regulations underwent rapid development in becoming risk-based and transnationally harmonized, it took time – years in the Nordic contexts – for the supervisory agencies to implement these legal mandates in practice. This suggests that decoupling arose not only between symbolic compliance structures and actual supervisory practices, but also in a temporal gap between AML supervision as an abstract regulatory construct, on one hand, and as a legal practice, on the other. This temporal dimension of decoupling implies that the meaning of AML supervision emerged not at the moment of regulatory introduction, but through later practices of interpretation that were largely enacted in response to pressure from crisis and scrutiny.

In this view, legal endogeneity is a cumulative process in which past behaviour and ideas (which, in the AML case, often emerged out of limiting conditions for conducting AML supervision) accumulate to form institutional routines that shape how regulation is later interpreted and enforced. A concrete example of such a layered interpretation was the off-site inspection model created by the EFSA. Developed in response to resource shortages, this model eventually gained the status of a local success, indicative of future AML supervisory practices. Similarly, the SFSA’s implementation of “communicative supervision” can be viewed as reflecting

an accumulated tension between, on one hand, managerial interpretations stressing economic efficiency, and, on the other hand, practice-based knowledge pursuing qualitative fulfilment of the AML supervisory task. In both contexts, the ideas became institutionalized as practices despite the fact that they had originally emerged as workarounds to regulatory mandates. This aligns with traditional neo-institutionalist understandings of meaning as constructed, contested, and historically contingent (Zilber, 2008).

In sum, I have discussed how legal endogeneity can be understood as a cumulative process. This suggests that patterns of organizational adaptation, interpretation, and routinization accumulate and create institutional layers that shape the construction of legal meaning over time. This view suggests that legal meaning is not only co-constructed through framing and negotiation (Gilad, 2008, 2014; Hock & Dávid-Barrett, 2022) but also emerges in temporally unfolding processes. Supervisory agencies not only move between reactive and proactive modes of organizing as they shift roles in response to events and actors in the socio-legal field; they also co-construct regulatory meaning through their routine practices, sometimes in a non-linear or delayed way.

Power relations

I will now turn to the second dimension of the legal endogeneity process, a dimension that has implicitly underpinned much of the theorization of the process but has remained insufficiently articulated in prior research: power relations. Understanding the role of supervisory agencies in legal endogeneity requires insight into how influence on legal meaning is created. The rule-intermediation concept addresses this issue by highlighting the influence of legal and non-legal professionals in translating legal mandates into organizational practices (Talesh, 2015, 2022; Talesh & Péglise, 2019). However, this does not fully capture the bigger picture, namely, why some actors and not others become influential. Following the perspective on legal endogeneity as co-constructed through interactions among organizations in the socio-legal field, the answer to the question can be understood as located in the relationships that these interactions give shape to. In line with the typical conceptualization of regulatory deference, I have already suggested that the information asymmetry concerning money laundering risks, i.e., between banks' AML compliance officers and the inspectors tasked with supervising them, created a reverse legal authority relationship in which the supervisory agencies deferred to the regulatory meaning con-

structured by the regulated organizations. This further points to an underlying power relationship in which the banks constituted the more influential actor. However, while the legal endogeneity literature (Edelman, 1992; Stryker, 1994) commonly describes judicial deference as resulting from the institutionalization of organizational structures as legitimate evidence of compliance, the AML case suggests a different configuration. I argue that banks may well managerialize legal requirements so that they do not disturb business, but the symbolic structures need not to be deemed legitimate evidence by legal actors to be accepted as compliance. This can help us understand why certain regulated organizations are treated differently from others, becoming more (or less) influential in co-constructing regulatory meaning.

Power asymmetries

The AML supervisory case provides several examples of power being exercised in interaction: the non-responsiveness of Nordic FSAs towards their Baltic colleagues in the reactive phase; the blame-shifting between them in the vulnerable phase; and their conformity to supranational oversight in the proactive phase. I argue that all these examples suggest that legal endogeneity processes are embedded in the cultural-historical context in which they unfold. This means that actors understand their own and others' roles within the frameworks of these contexts. A historically conditioned relationship that appeared particularly strong in shaping the distribution of roles between legal actors and regulated organizations in the AML supervisory context was the one between the Nordic and Baltic financial sectors. Not only did the Soviet legacy and the geographical proximity to Russia play a role – associated as these conditions were (and still are) with economic crime. It was also Estonia's dependence on Nordic involvement in financial markets, cemented by the establishment of Nordic banks in the 1990s and 2000s, that came to characterize the cross-border relationships. This created an asymmetrical relationship from the outset that gradually extended into the legal fields. The imbalance was reinforced by a general lack of interest in financial crime within the Nordic sectors and a reluctance to recognize its presence in Nordic banks. These attitudes influenced both the institutional framing of AML issues and the supervisory practices of Nordic authorities. The DFSA, for instance, ignored warning signs, while the SFSa maintained minimal interaction with its Estonian counterparts. These behaviours reflected the broader power dynamic described above, in which resource-rich regulated organizations held greater influence than

legal actors that, in line with Schneiberg and Bartley's (2008) observation, appeared more inclined to validate institutionalized compliance frameworks than to challenge them.

This pattern suggests that the supervisory agencies' reactivity in itself enabled the interpretations of regulated organizations to dominate understandings of AML compliance. This finding contrasts with existing legal endogeneity scholarship, emphasizing regulatory ambiguity (Edelman, 1992) or the managerialization of legal requirements (Edelman, 2016; Stryker, 2019) as the primary drivers of endogenous law. Rather than viewing law as shaped solely within regulated organizations, the AML case locates the source of legal endogeneity in the practices of the supervisory agencies themselves. In this context, the reactive mode of organizing supervision undermined the preventive aims of AML regulation: the supervisory agencies, whether as the subjects or enforcers of regulation, did not exhibit a proactive or preventive orientation. Instead, their role was largely confined to endorsing or rejecting compliance meanings already defined by regulated organizations. This dynamic echoes the condition described by Bullough (2018) in *Moneyland: Why Thieves & Crooks Now Rule the World & How to Take it Back* – i.e., a system in which capital moves freely across borders while regulatory and enforcement agencies remain nationally anchored. It also shows how power asymmetries, particularly those operating across national borders, can prompt regulatory deference, which in this case reinforced a reactive supervisory framework that ultimately compromised the intent of the law – hence, the compliance puzzle. This further aligns with my argument that the roles of the supervisory agencies and regulated organizations were not predetermined but rather simultaneously constituted by, and constitutive of, the regulator–regulatee relationship through their interactions.

A similar dynamic, in which power imbalances became constitutive of actors in the socio-legal environment, was present in the supervisory agencies' interactions with legal actors at the transnational level of organizing. This was exemplified by the so-called “possible breach of Union law case”, in which the DFSA and EFSA were investigated by the EBA for potential violations of EU regulation in their respective supervisions of Danske Bank's Estonian branch. The hierarchical relationship was then already asserted in the Commission's call for the EBA to investigate the FSAs' possible guilt, in which the legitimacy of the supervisory agencies as both subjects and enforcers of AML regulation was questioned. It was also evident in the proceedings leading up to the verdict, when the legal

authority of the supervisory agencies was at stake and in the hands of the international collegium. This highlights the power of normative pressures in the co-construction of actors at the transnational level. Moreover, the processes by which legal authority became centralized under EU control and the associated legalization of rule interpretations further reinforced the hierarchies of the EU's AML regime. Along with this harmonization process, the supervisory agencies saw a loss of interpretive authority and an imperative to conform to transnational legal mandates. This shift diminished their discretion in shaping regulatory meaning and positioned them as implementers rather than interpreters of regulation in the socio-legal field. On the other hand, cross-border collaborative organizing created latitude for the supervisory agencies to renegotiate the distribution of authority, not only as enforcers in relation to the regulated organizations, but also as compliant actors in the eyes of supranational legal actors. These negotiations constituted sources of endogenous change, with norms emanating from field-level interactions challenging the proclaimed view of standardized rulemaking as overruling field-based and locally adaptive supervisory roles.

In sum, the AML supervisory case suggests that power relations, particularly asymmetrical ones, are integral to processes of legal endogeneity and thus key to unravelling the compliance puzzle. I have argued that power not only structures the socio-legal field by determining who occupies influential positions in the regulator–regulatee relationship, but also organizes the legal environment by positioning legal actors within a hierarchy of interpretive authority. The evolving nature of these power relations suggests that the roles enacted by actors in the socio-legal field are subject to continuous endogenous co-construction, shaped through their interactions with one another and with the institutional context.

Problematizing regulatory deference

One of the reasons why I chose to study supervisory agencies in legal endogeneity was that I sought to nuance the typical descriptions of these legal actors as reactively responding to actions and conceptualizations of the regulated organizations, often in terms of judicial deference. In the literature, judicial deference typically implies that organizations of the legal system contribute to legal endogeneity processes by adapting to regulatory meanings that have become institutionalized in the regulated field. The basic assumption is that managerial structures in this way are taken as legitimate proxies for compliance, contributing to a dilution of legal

mandates (Edelman et al., 2011). The AML case challenges this notion, suggesting that legal actors may well suspect compliance gaps and failures and yet accept the outcome as sufficiently compliant. Rather than deferring to symbolic structures as legitimate evidence of compliance, they defer to the situation as the best outcome given the circumstances. An obvious example was the EFSA's difficulties in confirming the accuracy of information, such as the stated sources of funds, that the regulated organizations provided to the authority. Another example was the decision of the SFSA not to sanction certain banks despite the responsible inspectors' strong recommendation to do so. These trends, particularly present in the reactive phase of organizing, support the repeated claim that banks occupied the more influential position relative to the supervisory agencies. However, they also point to a previously underarticulated power dimension underpinning the legal endogeneity process: the asymmetry of resources available for conducting supervision, as compared with those supporting the regulated organizations' compliance efforts.

In the AML case, the third directive coming into force by the end of 2005 had meant an increased self-regulatory burden on the banks, which came to bear significant costs of implementation. While the banks expanded their AML compliance capacities to meet the enhanced legal requirements, it remained a low priority issue for the supervisory agencies. This can be related to Verhage's (2009, 2011) theorizing of the interactions between the "AML [regulatory] complex" (cf. Edelman & Suchman, 1997) and the "compliance industry", which refers to commercial providers of AML compliance support services, software, and training (cf. Talesh & Pélisse, 2019). According to Verhage (2009, 2011), banks straddle both these separate and yet intertwined worlds of regulation and compliance measures. Through the professionalization of compliance officers and their institutionalization as a core back-office function, banks became part of the AML complex (cf. Tsingou, 2018, 2020, 2023). Meanwhile, they also acquired services from the non-financial compliance industry to support their implementation of AML measures. In this way, banks have made the AML complex and the compliance industry mutually reinforcing, and their interactions have transformed compliance into a market-driven industry where legal requirements become opportunities for commercial actors. As we saw in the political enforcement section, law becomes endogenous as the banks align their compliance measures with how they interpret regulatory expectations, creating a feedback loop that embeds industry practices into the meaning of rules (e.g., Edelman, 2007). This account shows the implications of econo-

mic power for the legal endogeneity process: the more resourceful the organization, the more influential it becomes in having its compliance measures institutionalized – whether legitimate or not.

The economic power dimension reinforced the endogeneity of actors through the co-construction of meaning. To the extent that the Nordic FSAs prioritized the silk gloves approach over more intrusive inspection maneuvers in enforcing AML compliance, meaning was constructed through almost a transactional relationship between the supervisory agencies and the regulated organizations in the reactive phase. While the former aimed at efficient enforcement at the lowest cost (in terms of resources and relationships), the latter often pursued compliance at the lowest cost (in terms of money). This interaction created a mutual understanding of the enforcement as preferably soft. However, while the resource dimension initially positioned the banks as more influential in shaping regulatory meaning during the reactive phase, it elevated the legal authority of supervisory agencies in the aftermath of the scandals. Following this restructuring of positions, the stature of the scandal-struck banks and the scale of the scandals prompted the supervisory agencies to impose the harshest possible sanctions in order to demonstrate resolve in the face of institutional cross-pressures. This public interaction positioned them as active enforcers, despite the SFSA having officially cleared Swedbank and SEB of punishable rule-breaking following the previous inspection.

These dynamics suggest that co-construction could also emerge from ill-functioning collaborations and enforcement failures. Some contradictions in the AML supervisory contexts simply could not be resolved without resorting to workarounds. In off-site inspections, for example, supervisory agencies were unable to verify the accuracy of the information provided. Moreover, regulated organizations and collaborative partners occasionally manipulated or withheld information from them. In both cases, the supervisory authorities, knowingly or unknowingly, treated the information as a sufficient basis for assessment, allowing the process to move forward. The supervisory agencies adapted their practices to the unreliable or flawed behaviour of actors on which the AML supervisory performance depended. As these events and experiences accumulated, they became sources of the endogenous co-construction of meaning. This finding challenges the notion of legitimacy as central to judicial deference by implying that the regulators could be well aware of the compliance failures and yet accept the deficient interactions as the best that could be achieved under the circumstances. It also suggests that economically conditioned power relations are constitutive

of the regulator–regulatee relationship and thus the co-construction of regulatory meaning.

In sum, this section continued the discussion of the role of power relations in legal endogeneity processes. I have argued that power asymmetries influence not only the construction of regulatory meaning, but also the roles and authority of actors in the socio-legal field. Drawing on the case of AML supervision, I have shown how actors in the socio-legal field become mutually constituted through their interactions and in relation to layers of cultural-historical context. This view challenges the traditional conceptualization of regulatory deference, indicating that compliance structures do not necessarily have to be considered legitimate evidence by legal actors to be accepted as such. This is central to understanding the compliance puzzle. It also highlights the fluid and contingent character of the boundaries between regulators and regulatees, soft and hard rules, legal and non-legal actors, and national and transnational authorities.

Summary

In this section, I pursued the development of existing theory on legal endogeneity by applying a more clearly articulated process perspective to how supervisory agencies co-construct regulation. This view revealed two dimensions that have remained largely overlooked in previous research: development over time and power-embeddedness. I started with the finding that the supervisory agencies in the AML case shifted between different roles, adopting either a compliance or regulatory mode in response to institutional pressures. I had already suggested that these role enactments, in relation to the structuring of the socio-legal field, influenced how supervisory agencies co-constructed legal meaning. In this section, I further argued that the role enactments of the supervisory agencies contributed not only to the construction of regulatory meaning, but also to the constitution of actors in the socio-legal field. While the supervisory agencies' reactive mode of organizing mediated the institutionalization of compliance structures emanating from within the regulated organizations, the vulnerable mode recast the traditional regulator–regulatee relationship. Through the transnationalization of AML regulation, however, the relationship between regulator and regulatee was reconfigured, with legal authority increasingly shifting to supranational bodies. At the same time, cross-border collaborative arrangements formed an interactive space in which the meaning of transnational regulation was co-constructed to align with

organizational and professional norms arising from multiple regulatory contexts.

In this view, the supervisory agencies' influence on regulatory meaning evolved in a temporally unfolding process of interaction among actors in the socio-legal field. As I further explored the temporal dimension of this process, I also found that processes of legal endogeneity unfolded as episodes of interpretation, implementation, and routinization that accumulated over time and created institutional layers. I argued that these layers influenced the co-construction of legal meaning by informing the supervisory agencies' implementation of compliance and enforcement measures through, for example, delays and workarounds.

The shifting roles of supervisory agencies over time further pointed to underlying power relations as constitutive of their respective influences on legal endogeneity processes. I argued that legal endogeneity processes are embedded in cultural-historical contexts in the sense that actors understand their own and others' roles within these frameworks. Rather than viewing endogenous law as constructed solely within regulated organizations, the AML case located the source in the practices of the supervisory agencies themselves. For example, the reactive mode of organizing supervision limited the role of supervisory agencies to one of either endorsing or rejecting compliance meanings already defined by the regulated organizations. It also demonstrated how power asymmetries, particularly those operating across national borders, can prompt regulatory deference, which in this case reinforced a reactive supervisory framework that ultimately compromised the preventive intent of the law. However, while previous literature has commonly described judicial deference as resulting from the institutionalization of organizational structures as legitimate evidence of compliance, the AML case suggested that symbolic structures need not be deemed legitimate evidence by legal actors in order to be accepted as compliance. This provided an understanding of how certain regulated organizations could become more influential than others in co-constructing legal meaning, which is central to solving the compliance puzzle.

Conclusions and implications

This thesis began with the puzzling empirical observation that banks suspected of involvement in money laundering were nevertheless deemed compliant with AML regulations by supervisory agencies. In addressing this contradiction, I consulted the legal endogeneity scholarship, which extends neo-institutional organization theory into the legal domain. This literature suggests that law becomes endogenously constructed by organizations in a regulated field as actors interpret legal rules and embed those interpretations in organizational activities. While previous research had primarily studied how interpretations managerially defined by regulated firms become accepted as evidence of compliance, this thesis aimed at exploring the role of supervisory agencies in legal endogeneity. To this end, I posed the following research question: How do supervisory agencies co-construct AML regulation?

I found that this co-construction unfolded as a dynamic process, evolving in tandem with institutional change and reconfigurations within the socio-legal field. In a weakly organized legal environment, supervisory agencies largely adapted to the interpretations of the banks, rendering the construction of legal meaning as it was managerially defined, in line with earlier findings in the legal endogeneity literature. After the scandals, however, the relationship shifted, with interpretive authority increasingly residing with the supervisory agencies. During this phase, the supervisory agencies began to exhibit patterns previously attributed to the regulated organizations: by engaging in discursive framing of the law and producing guidance and best practices, they became influential in co-constructing legal meaning. As oversight was subsequently consolidated under supranational control, the co-construction of regulation became increasingly transnational, shaped through cross-border collaboration and exchange. This development rearranged the institutional boundaries between regulator and regulatee, as well as between hard and soft law.

In the following section, I draw conclusions from these findings relating to how we can understand the role of supervisory agencies in legal endo-

geneity, and suggest how they can help unravel the compliance puzzle. Based on these conclusions, I then present two empirical and three theoretical contributions of this thesis to the legal endogeneity literature. After that, I move on to discuss what I have found to be the major limitations of the present study. In the two final sections, I broaden the perspective beyond this thesis, first to make suggestions for further research and then to discuss some policy implications.

Conclusions

How can we then, based on the above analysis, understand the compliance puzzle from the perspective of supervisory agencies? How could the banks both be guilty of money laundering exposure and yet be deemed compliant with the regulations intended to prevent it? Drawing on legal endogeneity theory, the symbolic compliance concept was useful in understanding the compliance side of the puzzle by addressing how formal structures created within regulated organizations became accepted as evidence of compliance. In the AML case, symbolic compliance was particularly prominent in the reactive phase of organizing, when money laundering prevention remained under-resourced and weakly institutionalized. Maintaining a loose coupling between the structural implementation and practical execution of legal mandates became equated with remaining compliant. While this reactive mode of supervisory organizing rendered the banks influential in defining the meaning of AML compliance, the scandal rearranged the socio-legal field so that the interpretive privilege instead rested with legal actors. This became a resource with which the supervisory agencies could frame the story of AML supervision in their favour. The symbolic compliance concept helped us understand not only how regulated firms could influence the meaning of regulation, but also how this unfolded in co-construction with legal actors. However, this was of little help in understanding how supervisory agencies, as enforcers of regulation, contributed to the co-construction of legality, which is key to solving the compliance puzzle.

In exploring the implications of enforcement actions for the co-construction of legal meaning, I found that these actions in the case of AML supervision were shaped in relation to the sources of legitimacy most salient to the supervisory agency – a dynamic that varied depending on its positioning within the socio-legal field. In the weakly organized reactive phase, enforcement actions were largely designed to maintain relationships with powerful constituencies. This contrasted with the position taken by the

supervisory agencies in the post-scandal phases, when by exercising legal authority they contributed to the construction of AML enforcement actions as associated with public display and political responsiveness. Meanwhile, the banks exhibited a reversed trend, moving from the lax compliance approach of their privileged position in the reactive phase to the diligent approach of their inferior position in the wake of the scandals, while still not necessarily achieving substantive compliance outcomes.

Symbolic compliance and political enforcement were useful for understanding the role of supervisory agencies in relation to the banks. Aligned with traditional neo-institutional theory, these perspectives suggested that the compliance puzzle could be understood as a matter of legitimacy. That is, the legal actors accepted or rejected the compliance structures of regulated organizations with the aim of gaining legitimacy (or legal authority, as often referred to in this context) in the eyes of powerful constituencies. However, this perspective only accounted for the compliance side of the dual role of supervisory agencies, i.e., how they acted in response to legal mandates; it fell short in fostering an understanding of how supervisory agencies, as interpreters of regulation, co-constructed the meaning of regulation, an aspect that is also crucial for unpacking the compliance puzzle.

In exploring this, I employed the concept of rule-intermediation. I found that rule interpretations from within the supervisory agencies in the reactive phase rarely transcended organizational boundaries to shape the broader socio-legal field. However, despite their reactive mode of organizing, the supervisory agencies did not merely resort to regulatory deference either. Rather, they assumed an intermediary role between the regulated organizations and the legal environment, co-constructing legality in these interactions. In the post-scandal phases, the supervisory agencies assumed a more distinct rule-intermediary role by translating legal mandates into supervisory practices, similar to what has been observed among private-sector actors. This role became particularly important in the face of the increasingly transnationalized socio-legal field. While the supervisory agencies enjoyed interpretive privilege at the national level and gained influence over transnational policymaking through cross-border organizing, the subsequent harmonization trend within the EU marked a decline in their legal authority. However, harmonization was not so much the result of top-down legal imposition as the gradual institutionalization of norms that had emerged from soft rules and enforcement, as well as from shared ideas,

practices, and expectations spreading across the transnational socio-legal field.

While the rule-intermediation concept provided an understanding of the implications of interpretative discretion for the co-construction of legal meaning, it was not as useful for addressing the shifting roles of supervisory agencies over time. I argued that taking these processual dynamics into account is important for situating the compliance puzzle within its broader context. As I departed from the legal endogeneity literature to further study the reconfigurations of the socio-legal field, I found that the supervisory agencies shifted from an intermediary role in the reactive phase to a more clearly articulated regulatory mode in the vulnerable phase, reproducing the boundary between legal actors and regulated organizations in AML. However, in the proactive phase, this boundary was rearranged. As AML regulation became increasingly transnationalized, the supervisory agencies became more focused on performing compliance towards supranational legal actors and, in this process, enacted a regulated position within the socio-legal field. In this environment, the cross-border collaborations formed an intermediary space for the dissemination of locally adapted regulatory solutions, highlighting the fluid and relational nature of actorhood within legal endogeneity processes.

I also identified the supervisory agencies' influence on regulatory meaning as evolving in a temporally unfolding process of interaction among actors in the socio-legal field. In exploring this temporal dimension, I found that legal endogeneity could be understood as a cumulative process, suggesting that temporal patterns of organizational adaptation, interpretation, and routinization accumulate and create institutional layers that shape the co-construction of legal meaning over time. Supervisory agencies not only move between reactive and proactive modes of organizing as they shift roles in response to events and actors in the socio-legal field; they also co-construct regulatory meaning through their routine practices. In the AML case, this created layers and lags that influenced, for example, how compliance structures were assessed and responded to by supervisory agencies.

The process perspective further suggested that power relations, particularly asymmetrical ones, were integral to legal endogeneity in the AML case. I found that power not only structured the socio-legal field by determining who occupied influential positions in the regulator–regulatee relationship but also organized the legal environment by positioning legal actors within a hierarchy of interpretive authority. The evolving nature of power relations suggested that the roles enacted by actors in the socio-legal

field were subject to continuous endogenous co-construction, shaped through their interactions with one another and in relation to layers of cultural-historical context. In these processes, the boundaries between regulators and regulatees, soft and hard rules, legal and non-legal actors, and national and transnational authorities remained fluid and contingent. From this perspective, the clues to solving the compliance puzzle lay in the organizing of the socio-legal field. By acknowledging the processual and power-embedded nature of legal endogeneity, we could demystify the contradiction that regulated organizations – in the eyes of supervisory agencies – could simultaneously both violate and comply with the law.

Contributions

In view of the conclusions drawn, I suggest that this thesis makes two empirical contributions to the legal endogeneity literature: a novel focus on the role of supervisory agencies in legal endogeneity and in the AML regulatory setting. In addition, the study offers three theoretical contributions: first, the understanding of legal endogeneity as a process that develops over time; second, the extension of the legal endogeneity concept to include an elaborated account of the transnationalization of regulation, uncovering the embeddedness of power in cross-border interactions; and third, the understanding that not only law but also actors become endogenously co-constructed in a socio-legal field. Taken together, these contributions offer a rethinking of legal endogeneity as a processual, transnational, and power-embedded phenomenon, challenging its conceptual underpinnings that distinguish the regulator from the regulatee, and soft rules from hard rules.

My first argument is for legal endogeneity to be understood as a process unfolding over time. In this process, actors in a socio-legal field co-construct the meaning of regulation through reciprocal interactions (cf. Gilad, 2008, 2014; Hock & Dávid-Barrett, 2022). Theorizing institutions as process, Surachaikulwattana and Phillips (2017) argue that the processual nature of institutional theory is inherent in an understanding of institutionalization as “the process by which social processes, obligations, or actualities come to take on a rule-like status in social thought and action” (Meyer & Rowan, 1977, p. 341). In this view, the first contribution is methodological rather than theoretical, emphasizing change over stability and challenging the notion of the regulator–regulatee relationship as the organizing constant in legal endogeneity theorizing. In exploring how supervisory agencies co-construct AML regulation, the process perspective shed light on two dimensions of legal endogeneity that had not been clearly articulated in the literature: its development over time and its power-embeddedness.

The employment of these lenses in analysing the co-construction of endogenous law suggests that the roles and influences of organizations in the socio-legal field not only change over time but also are interdependent and embedded in the institutional frameworks of specific cultural-historical contexts. This processual framework highlights that patterns of organizational adaptation, interpretation, and routinization over time are integral to understanding how regulation is co-constructed. Supervisory agencies not

only move between modes of organizing as they shift roles in response to events and actors in the socio-legal field; they also shape regulatory meaning through the accumulation of practices and institutional layers. This sometimes unfolds in non-linear or delayed ways.

The process perspective on how supervisory agencies co-construct AML regulation leads me to my second argument: from the transnationalization of regulation (cf. Djelic & Quack, 2018; Salles-Djelic & Sahlin-Andersson, 2008) follows the transnationalization of the legal endogeneity process. This view underscores the fluidity of time, space, and agency in these processes. Rather than unfolding as merely a bottom-up progression starting from the regulated organizations, as commonly framed in the literature (e.g., Mulligan, 2012), legal endogeneity processes can involve a multi-directional dynamic shaped by interactions between legal and non-legal actors at multiple levels of governance. The AML case suggests that the transnational legal environment formed a mediating space where professional norms challenged legal hierarchies in constructing the meaning of regulation. Expanding the legal endogeneity concept to include transnational organizing suggests a theoretical intersection between endogenous law and the mutual reinforcement of hard and soft regulation (Quack, 2007; Schrempf-Stirling & Wettstein, 2023).

Legal endogeneity spanning transnational levels of regulation blurs the conceptual boundaries separating regulation from the regulators and the regulated, providing latitude for negotiating the distribution of legal authority. This highlights power relations as integral to regulatory processes. Power not only structures the socio-legal field by determining who occupies influential positions in the regulator-regulatee relationship, but also organizes the legal environment by positioning legal actors within a hierarchy of interpretive authority. The evolving nature of these power relations points to the third argument posed in this thesis: that the roles enacted by actors in the socio-legal field are subject to continuous endogenous co-construction, shaped through their interactions with one another and with the institutional environment. The relational power dimension further suggests that legitimacy in rule interpretations, compliance structures, and enforcement measures has a subordinate role relative to the institutional layers of cultural-historically conditioned relationships.

Finally, returning to the compliance puzzle, this thesis shows that while the institutionalization of managerially and professionally defined rule interpretations represents one important part of the explanation, it is still just one part. The process through which this contradictory situation

emerges is complex: it is an episodic, relational, and socio-culturally layered co-construction of meaning, unfolding across borders. While the issue of crime prevention justifies attention to the endogeneity of law, it equally compels us to consider the endogeneity of the actors involved in co-constructing its meaning.

Limitations

The most significant limitation of this thesis concerns its theoretical framing, which is largely rooted in an American context of socio-legal research. This has implications for the applicability of the theory to the Nordic and Baltic contexts. Formally and historically, the U.S. legal system is markedly different from those of European countries. The most decisive differences are that the U.S.A. has both federal and state courts following the common law tradition, whereas Denmark, Estonia, and Sweden have unified national court systems (a three-tier system in Estonia) following civil law systems. While judicial decisions play a central role in the U.S.A., where courts interpret and develop the law over time, the European systems are based on comprehensive codified statutes. In the U.S. system, previous case law (precedent) is binding, whereas in the Nordic and Baltic countries, higher court rulings are, although persuasive, not formally binding. Moreover, the litigation cultures differ, which is particularly evident in the high litigation rates involving class actions and contingency fees in the U.S.A. and the relatively low litigation rates in Denmark, Estonia, and Sweden. The Nordic countries are further characterized by high trust in government institutions and negotiated solutions. Furthermore, while the U.S. legal system develops independently of external legal regimes, the Nordic and Baltic systems are subject to increasing convergence with EU law. Taken together, these differences mean that empirical phenomena that have been conceptualized in terms of, for example, symbolic compliance and rule-intermediation, have different implications for the relationship between legal environments and regulated fields.

This, in turn, helps explain some of the gaps in the legal endogeneity literature that this thesis sought to address and points to another limitation of the theoretical framing: conclusions drawn based on the chosen framework appear less surprising from the perspective of other strands of organization theory. For example, the fact that power matters for the co-construction of legal meaning is virtually the starting point for the analysis according to scholars of critical legal studies (e.g., Hunt, 1986; Kairys, 1998). Similarly, it would not come as a surprise to a regulatory governance scholar that public agencies contribute to the co-construction of legal meaning (Black, 2002; Eriksen & Eriksen, 2025; Grandy & Hiatt, 2020; Schneiberg & Bartley, 2001, 2008). Nor would it be foreign to a researcher in transnational regulatory governance, especially those researching Europeanization, that the co-construction of legal meaning takes place at, and

spreads among, different levels of regulation (e.g., Mathieu, 2016). In this view, the story told in this thesis could well have been about the Europeanization of financial crime prevention, focusing more specifically on the “uploads” and “downloads” of regulations between the transnational and local contexts, and on how the rules travel across contexts and what happens to them and their effects along the way. Moreover, while the empirical material speaks of intensified integration with the transnational level of regulation, it does not provide depth in how these interactions play out in practice, rendering the descriptions of the organizational interactions across borders more theoretical than empirical.

Instead, I chose to focus on the role of supervisory agencies in legal endogeneity. However, while the thesis deals with state authority and public organizing, it pays relatively little attention to the FSAs as public agencies. This thesis provides limited understanding of supervision as a public regulatory governance instrument or “umbrella designation for control methods such as inspection, auditing, evaluation, accreditation and certification” (Ek, 2012, p. 205). While the auditing approach to regulatory governance already comprises a comprehensive body of literature (e.g., Kastberg & Ek Österberg, 2017), my decision not to focus on these aspects of AML supervision means that I do not elaborate on the systematic ways in which the Nordic FSAs rendered themselves inaccessible to this research project. This is a limitation in the sense that the methodological issue of accessing archival material and interviewees suggests that there are important stories to be told about the FSAs as public agencies.

There are more methodological limitations worth mentioning, one of which is that the study does not account for any lasting material effects left behind by legal endogeneity processes. This, in turn, points to a limitation in the selection of empirical material. While the material contained multiple patterns and cues as to how the supervisory agencies engaged in the co-construction of legal meaning, it provided few indications as to the more enduring outcomes of these processes, such as the codification of meaning in legal text. It would have been instructive to demonstrate such a relationship. Instead, meaning is treated as an immaterial and temporary “animation” of a rule. However, I contend that the caution with which this elusive character of meaning is handled renders the conclusions just as valid within their social context as if I had been able to show a concrete relationship between immaterial developments and textual expression.

The empirical material leaves further room for improvement in terms of representativeness. To begin with, the data were unevenly distributed across

time, with a heavy skew towards material from the 2010s onwards. This has a natural explanation in the digitization of documents, which has progressed significantly since then, but it also reflects the difficulty of accessing documents on AML supervision under the Act of Public Disclosure in the researched countries. An extension of the timeline to include more recent developments would have enabled a closer look into the establishment of the directly applicable AML regulatory package – particularly the EU’s AML authority (AMLA) becoming operational – and more in-depth analysis of its implications for the role of supervisory agencies in the socio-legal field. An extended timeline would have also enabled the inclusion of recent events relevant to AML supervision. In Sweden, for example, the legal proceedings against the former CEO of Swedbank, accused of offences associated with the exposure of the Baltic money laundering scandals, would have offered rich empirical material. At the same time, however, the inclusion of this event would also add to the overrepresentation of empirical material from a Swedish context in the selection. As already noted in chapter three, “Research design, methodology, and methods”, the representational imbalance between the supervisory contexts explored, and the diversity of sources used to explore them, constitutes a significant limitation of this study.

Future research

This thesis highlights the need for further research into the processual dynamics of legal endogeneity. I have shown how the co-construction of regulatory meaning and the roles of actors evolve over time. However, the influence of temporality on regulatory processes warrants deeper exploration. While temporality is a well-developed strand within process-oriented organization studies (e.g., Hernes, 2014; Hernes & Feuls, 2024; Reinecke & Ansari, 2017), it has received limited attention in socio-legal studies of the construction of regulatory meaning (cf. Tukiainen & Granqvist, 2016). Building on the understanding of time as embedded in action, relations, and organizing, future research could examine how temporality shapes the co-construction of legal meaning. This perspective invites a re-examination of the role of regulated firms in legal endogeneity processes. It has the potential to advance our understanding of how some firms become more influential than others in shaping the meaning of law – an issue only briefly addressed in this thesis.

Another promising avenue lies in integrating insights from historical institutionalism. Path dependence theory (e.g., Mahoney & Thelen, 2010; Thelen, 2014) offers a complementary lens through which both continuity and change in regulatory processes can be understood. While this thesis has touched on path dependence in relation to layered rule interpretations and lagged forms of decoupling, more can be said about institutional “stickiness” and embedded asymmetries. To this end, future research could draw on the concept of field settlement (Helms et al., 2012; Litrico & David, 2017) to study how successive rounds of rule interpretation may incrementally stabilize new regulatory arrangements and enhance legitimacy over time (Baba et al., 2021). Moreover, Karanović et al. (2021) show how regulatory regimes in the platform economy create self-reinforcing structures that shape organizational responses. Once a regulatory configuration is established, it constrains future action by creating sticky institutional frameworks embedded with power asymmetries. A process perspective adds to this by offering sensemaking as a lens through which to study how these dynamics are maintained. Employing sensemaking theory and Black’s (2002) regulatory conversations concept, Forseth and Rosness (2021) explore power relations and identity construction in encounters between the regulator and the regulatee. By introducing the concepts of “sense-sharing” and “conditional sensegiving”, the authors show that regulatory dialogue is paradoxical, shaped by power, and yet remains an effective

policy instrument. In their study of the Petroleum Safety Authority Norway, the regulator's power base was found to depend in part on the industry's and firms' need to maintain a good reputation. This suggests that similar patterns of power relations may shape legal endogeneity processes across diverse regulatory domains – something future research could explore further through the lenses of sensesharing and sensegiving.

It would be valuable not only to compare how power operates in the co-construction of legal meaning in different regulatory domains, but also to consider how the legal endogeneity processes as such vary among contexts. This thesis suggested an extended understanding of legal endogeneity processes, acknowledging their transnational dimension. This raises new questions about the recursive and relational nature of regulatory processes at the intersection of supranational law, institutionalized interpretations, and normative convergence. Moreover, contrary to traditional bottom-up models of legal endogeneity, the transnational perspective suggests that legal meaning is formed through multi-directional interaction among a plurality of actors and rule-making levels. Future research could: compare how legal endogeneity processes resemble and differ from one another among sectors; consider whether some sectors are more susceptible to endogenous law than others; and, on that note, examine whether it is relevant to talk about endogeneity processes extending across regulatory domains. It is also worth exploring how the role of supervisory agencies differs among regulatory domains (e.g., occupational safety, competition, or education) where they co-construct legal meaning through multilevel interactions. Pires Leal (2021) explores this in collaborative arrangements compared with traditional, state-led systems. The author argues that the regulator in collaborative systems acts as a facilitator or mediator, positioned within networks of participation, rather than as a wielder of state authority. Recalling findings from this thesis, this suggests that there is more to say about the implications of transnationalization for the regulator–regulatee relationship.

Advancing our understanding of how cross-border regulatory integration challenges the distribution of roles in the socio-legal field calls for a closer examination of the role of politics in legal endogeneity processes (cf. Short, 2021). Talesh (2022) identifies directions for a third wave of research on the relationship between organization and the law, which could explore more deeply how organizational processes and political contexts shape legal interpretation – an aspect only briefly addressed in this thesis. What is described here as supervisory agencies' co-construction of legal meaning is

in some areas of contemporary party politics criticized as evidence of public agencies acting as “political actors”. While the public agencies are subordinate to their governments, the governments rely on the expertise possessed by these agencies. Inherent in this relationship are tensions between the government’s and the public agencies’ domain perceptions (cf. Gilad, 2008, 2010) as well as between the legal authority ascribed to and exercised by public agencies. These issues are in part addressed by Eriksen and Eriksen (2025), as they assess the agency of administrative bodies in systems of complex interdependence following Europeanization. Interpreting the evaluations of two scandals of welfare administration in Norway and the Netherlands, the authors introduce a framework of multilevel reasoning. This is constituted by two attitudes that administrative bodies express towards inter-institutional challenges: constructive conciliation and well-placed deference. The framework highlights the institutionalization of “reason-giving” procedures that align with legitimate divisions of labour and authority. This can be useful for further research into how politics influence legal endogeneity processes in transnational settings.

Eriksen and Eriksen (2025) shed further light on an issue worth exploring in more detail: how shocks to the regulatory framework influence legal endogeneity processes. Karanović et al. (2021) argue that institutional stickiness can limit the scope for regulatory change as long as the context is not subjected to significant external shocks. Future research could deepen the examination of legal endogeneity processes under conditions where path-dependent systems are disrupted. The Baltic money laundering scandals, as discussed here, constituted such a disruption; they represented a critical juncture (Capoccia & Kelemen, 2007) in which institutional constraints were relaxed and supervisory agencies were prompted to reinterpret their regulatory role. While this thesis shows how the scandals brought new roles for the supervisory agencies in the co-construction of AML regulation, future studies could examine the implications of shocks and institutional flux for the influence of regulated organizations on legal endogeneity processes.

The obscure role of supervision: Policy implications

The AML regulatory framework has repeatedly raised questions about the adequacy of delegating a significant part of money laundering prevention to private, profit-driven companies (Seyad, 2012; Sharman, 2017; Vlcek, 2018). On one hand, banks often possess superior knowledge of the risks associated with specific financial instruments, making some level of self-regulation seem rational if not necessary. On the other hand, strict adherence to legal requirements may conflict with business interests, which could undermine the motivation to self-regulate effectively. After all, history tells us to be cautious about the banking sector's approach to compliance. The first point I would like to address is related to the self-regulatory dilemma but has to do with how it affects the role of supervision. This thesis suggests that the current AML regulatory arrangement could obscure the supervisory function. While banks are claimed to have the informational upper hand in money laundering prevention, their concurrent demands for detailed compliance guidance implies a preference for legal certainty over substantive risk mitigation. The result is a legalistic approach to compliance that satisfies formal requirements but falls short of the regulation's preventive aims. This creates a structural gap between compliance efforts and the actual realities of crime prevention – a classic case of institutional decoupling (Scott, 2014). If such a gap evolves into a regulatory grey zone, we are faced once again with the paradox that a bank can be formally compliant while still being implicated in money laundering. While this may seem like a stark characterization, it aligns with the recursive dynamics of legal endogeneity: as rule interpretations are filtered through organizational frameworks and institutional pressures, symbolic or superficial compliance may become the norm (e.g., Edelman & Talesh, 2011; Talesh, 2022).

Growing burdens and side effects of AML

The second point draws on recurring themes from the interview data: the perceived overreach and questionable efficacy of the AML regime. Has the production of regulations gone too far? Scholars researching the AML regime have repeatedly argued that the side effects of the ever-growing, transnationalized AML regime risk outweighing the gains from the detailed oversight (e.g., Jakobi, 2018; Nance, 2018). This perception is reinforced by the fact that it is not entirely clear what the gains are. What exactly are the measurable outcomes of this expansive regime? Are more money launderers being prosecuted? And if so, is this due to preventive regulation, or in spite

of it? These are, in part, rhetorical questions. By definition, effective prevention means that crimes are stopped before they occur, leaving few measurable “successes”. This contradiction highlights a fundamental ambiguity in the regulatory framework: its aims are preventive, yet its legitimacy is often judged through reactive metrics, such as enforcement actions or prosecutions. What is clear, however, is that money laundering prevention has evolved into a large-scale administrative enterprise, heavily reliant on legal professionals (Tsingou, 2018, 2020, 2023) and driven by a legalistic logic (cf. Svedberg Helgesson & Mörth, 2018). This development has real-world side effects. While banking depends on trust, AML compliance requires banks to act simultaneously as service providers and as quasi-supervisory agents. Through transaction monitoring and data collection, banks gain intimate access to customers’ financial lives while being tasked with assessing their risk profiles. This dual role (Bergström et al., 2011) creates tensions that may erode customer trust and, more broadly, public confidence in the financial system. This illustrates the broader tension between regulatory oversight and the preservation of client trust. The effects are also felt at the organizational level, across both for-profit and non-profit sectors.

In some non-European contexts, such as India, regulatory frameworks such as AML have been used to suppress civil society organizing (Chakrabarty, 2023). In Europe, similar rules can hinder humanitarian aid by making it more difficult for NGOs to transfer funds to countries in need (Bloodgood et al., 2025; Hayes, 2012). In some contexts, AML compliance sometimes results in suspicion towards law-abiding individuals and organizations, even as gang-related financial crime, which is almost entirely reliant on money laundering, continues to rise. The regulatory focus, in other words, appears in some respects skewed. Within the financial industry, this misalignment is felt in terms of capacity and fairness. Experts in the field point out that only the largest actors can keep pace with the constant stream of new rules and standards. This development risks eliminating smaller actors, overburdening the remaining ones, and reinforcing concentration in the sector – all while contributing only marginally to crime prevention.

This thesis began with a compliance puzzle. It was articulated as a puzzle given that the explicit aim of the AML regime is to prevent and combat money laundering and the financing of terrorism, and from that perspective, it is a problem that banks only symbolically comply with regulations. But there are also side effects of this regulatory regime: it not only has difficulties stopping what is bad; it can also be used to stop what is good.

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How can banks suspected of money laundering still be deemed compliant with anti-money laundering (AML) regulations? This thesis examines this compliance puzzle, focusing on the role of supervisory agencies. It argues that financial supervisory authorities in Denmark, Estonia, and Sweden, by organizing AML supervision over time, contributed to constructing the meaning of law. Over the studied 1991–2021 period, the supervisory agencies moved from a reactive stance, which largely allowed banks to influence the meaning of AML compliance, to a vulnerable phase, in which regulators tried to reclaim authority in view of the “Baltic money laundering scandals”. Eventually, AML supervision became proactive, adapting to an increasingly transnational regulatory environment and the redistribution of legal authority it entails. The thesis suggests that while the compliance puzzle warrants attention to the endogeneity of law, it equally compels us to consider the endogeneity of the actors involved in co-constructing its meaning.

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