

Orchestrating the Fight against Anonymous Incorporation: A Field Experiment

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Abstract

The world's leading governments collectively fight money laundering and terrorist through the inter-governmental Financial Action Task Force (FATF). In order to prevent anonymous incorporation, one of the FATF's most important rules requires that private corporate service providers demand certified identification documents from customers when incorporating new companies. But serious questions arise over the FATF's effectiveness at inducing compliance with this rule. To investigate, this study employs a randomized field experiment. Using aliases and posing as consultants, we sent more than 2,500 emails requesting confidential incorporation to corporate service providers in 180 countries. We informed services about FATF rules, invoked a threat of legal penalties (hierarchy), and appealed to global norms (collaboration). We compared these treatments to a condition that attributed the standards to a private intermediary, the Association of Certified Anti-Money Laundering Specialists (ACAMS). We found that ACAMS significantly increased compliance compared to the other conditions and that information about FATF rules, legal penalties, and norms did not significantly alter the ease of anonymous incorporation. The results provide precise measurement of orchestrator incapacity and intermediary complementarity to affect target behavior, which together predict orchestration. Indeed, a case study reveals that the FATF strongly endorses private certification bodies. A fifth experimental condition, attributing the documentation standards to both ACAMS and the FATF, caused a decrease in compliance compared to ACAMS alone, suggesting that closer association of the two bodies beyond endorsement might undermine the compliance goal.

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Alarmed at the havoc wreaked by international money laundering, the Group of 7 countries created the Financial Action Task Force (FATF) in 1989 to combat the rising threat. Hosted by, but formally independent of, the Organization for Economic Cooperation and Development (OECD), the FATF issues policy recommendations for governments to fight money laundering and terrorist financing. It also compiles and publishes extensive reports assessing governments' compliance with the standards and "blacklists" countries adjudged to be egregiously violating the rules.

FATF actions combatting anonymous shell corporations, however, ultimately target not governments but the private incorporation services and business law firms that create millions of new companies for clients each year. Disturbingly, many of these new corporations are formed anonymously – they cannot be traced to an actual person in control. Law enforcement investigations must therefore effectively stop at post-office boxes. Such anonymous shell corporations enable tax evasion, transfer of funds from government corruption, money laundering, and terrorist financing, along with a host of other international financial crimes.

Given the challenges faced by the FATF in preventing the anonymous incorporation of potentially millions of companies in the borderless domain of the Internet, a serious question arises over the FATF's ability to fulfill its mandate of ensuring global financial transparency. Thus, this paper primarily investigates two

central hypotheses in the orchestration framework focusing on the capabilities of the orchestrator and intermediary: namely, that we should see orchestration where international governmental organizations (IGOs) “lack the capabilities to achieve their goals through other governance modes” and where “intermediaries with correlated goals and complementary capabilities are available” (Abbott, Genschel, Snidal, and Zangl 2012, 14).

We employ a field experiment to test the causal effects of orchestrator capabilities compared to intermediary influence on target behavior. The experiment thus provides precise measurement of two independent variables key to the orchestration framework. In the if-then statements of the orchestration hypotheses, the experiment persuasively establishes both “ifs”: orchestrator incapacity and intermediary complementarity to cause financial transparency. Orchestration should therefore follow. Indeed, we find compelling evidence of orchestration in a qualitative case study showing extensive endorsement of the Association of Anti-Money Laundering Specialists (ACAMS) and other intermediaries in official FATF actions and publications.

The experimental design enables greater confidence in the study’s internal validity, going beyond correlation to reflect causal effects. In expectation, randomization balances not only observable factors but all unobservable confounds as well. Only causal effects are left in outcome measures showing differences between experimental conditions. Additionally, performing the experiment in the field with the actual subjects of interest ameliorates external validity concerns that

often plague laboratory experiments. In short, the experimental approach has many advantages over other methods in identifying causal effects.

After receiving clearance from our university's IRB, using aliases we sent more than 2,500 emails to corporate service providers in 180 countries. Each email requested confidential incorporation, but experimental conditions varied the information provided to subjects about international incorporation standards for identity disclosure. The first condition, the placebo, made no mention of the international rule whereby those providing shell companies must collect identification documents from their customers. The first treatment noted that the FATF requires identity documentation. The second treatment invoked the possibility of legal penalties – suggesting hierarchical regulation – for failing to comply with the FATF identification rule. The third treatment implied the governance mode of collaboration by noting the FATF rule but then referencing global norms and expressing an interest in behaving as “reputable businessmen.” A fourth treatment attributed the transparency requirements not to the FATF but instead to ACAMS, the leading private certification body and prime candidate for the role of intermediary. The fifth treatment attributed the identification standard to both the FATF and ACAMS.

The experimental results suggest that the ACAMS condition caused a significant increase in the compliance rate compared to all other treatments. This provides precise measurement of orchestrator incapacity and intermediary complementarity to affect target behavior. The experimental results showed that invoking the FATF's identification rule, legal penalties, and global norms did not

increase compliance compared to other conditions. But reference to the private intermediary, ACAMS, caused a significant improvement in subject compliance with international law compared to all other treatment conditions, suggesting that orchestration should follow.

Indeed, a qualitative case study reveals that the FATF employs the important orchestration strategy of endorsement. In 34 separate instances in the FATF's mission-defining 40 Recommendations that outline global standards combatting money laundering and terrorist financing, the FATF insists that financial investigation officials in member governments be "competent" to enforce relevant domestic laws (FATF 2012a). In its methodology document instructing member countries on how to insure officials' competence, the FATF recommends training and certification in standards combatting money laundering and terrorist financing (FATF 2009a, 37). Governments are free to provide internally the necessary training and certification, but for many countries in practice – including for multiple high-capacity OECD members – the instruction and credentials are provided by private certification bodies such as ACAMS.

In its voluminous official reports the FATF publicly praises governments – including high-capability Canada and the Netherlands – when bureaucrats receive certification from ACAMS. In many other documents the FATF recommends that financial regulators participate in conferences and workshops sponsored by private standards bodies. Thus, the FATF uses endorsement in orchestrating private intermediaries. But this orchestration employs a decidedly light touch – the FATF did not help to organize ACAMS or other private certification bodies, does not host

their meetings, and provides no financing for their activities. But through its publications the FATF does vigorously promote private standards bodies' activities that train and certify government personnel and commercial firms.

This presents a puzzle. The experimental results demonstrate weak FATF capabilities to achieve its goals through other governance modes and show significantly improved ability of ACAMS to promote compliance compared to other treatment conditions. These experimental findings, combined with the case study, strongly support the orchestration framework. Moreover, the FATF is focal and entrepreneurial, intermediaries are available, and member governments appear to hold very different preferences over combatting anonymous incorporation.

No orchestration would decidedly undermine the FATF's fight against anonymous incorporation. Indeed, without the FATF endorsements, it is hard to imagine ACAMS and the other private credentials bodies succeeding in their training and certification activities. The intermediaries need the legitimacy that the FATF endorsements provide, and the FATF needs the intermediaries to promulgate its standards in a voluntary way.

The experimental results suggest that ACAMS is significantly more effective at causing target firms to comply with international law than invocation of the FATF standards, the standards combined with legal penalties, or the standards conjoined with global norms. So orchestration through endorsement makes eminent sense. However, the results of the combined FATF-ACAMS treatment present a puzzle in suggesting that too much association between the FATF and ACAMS might cause lower compliance rates. It seems that orchestration through endorsement – but not

beyond it – is optimal, though the mechanisms behind this result are unclear. In the balance of what follows, we develop these ideas by providing context for the issue area, an overview of the research design, a discussion of the results, and an assessment of their implications for the orchestration framework.

The FATF & the Dimensions of Orchestration

The Financial Action Task Force (FATF) is an inter-governmental organization that both sets standards for and monitors enforcement of regulations to counter money laundering and terrorist financing (FATF 2010a). The Organization for Economic Cooperation and Development (OECD) physically and institutionally hosts the small 20-member FATF secretariat, but the Task Force is a formally independent institution. As the FATF is not a treaty organization, it has no legal personality and can only make soft law. Because its mission involves the responsibility of inducing more than 180 countries to bring their corporate practices, financial and banking codes, criminal law, and (in relation to the financing of terrorism) national security policy in line with global standards, the FATF epitomizes the situation of a body with “ambitious governance goals but moderate governance capacity” (Abbott, Genschel, Snidal, and Zangl 2012).

All evidence suggests that the FATF faces a formidable challenge in inducing compliance among the private firms that constitute the ultimate target of its regulations. Through an innovative “audit” study, Sharman (2010) has found that anonymous corporations are remarkably easy to establish in many jurisdictions, including the United States and United Kingdom, despite the FATF prohibition on

such untraceable corporations. In our follow-up field experiments (Findley et al. 2011, 2013, forthcoming) assessing the compliance of 3,500 firms in 182 countries – 1,400 in the United States and 2,100 elsewhere – we learned that at least one fourth of all contacted companies worldwide failed to demand notarized identity documents. The response rate was fifty-one percent, which means that more than half of the companies that actually answered our inquiries failed to require certified proof of ID. In many countries, including Denmark, Panama, and the Czech Republic, more than three fourths of responding services failed to require notarized identification. Incorporation services in the United States, though not business law firms, failed to require certified ID for 78 percent of the inquiries they answered, as did China’s firms for 86 percent, Mexico’s for 87 percent, and Kenya’s for an astounding 93 percent.

To address this global problem, the FATF has published formal recommendations for its 34 member states and the 146 other jurisdictions that have signed onto its standards. First composed in 1990 and revised on several occasions since, these standards focus on measures to be taken by financial institutions, businesses, law firms, and relevant government officials. Additionally, the recommendations outline legal procedures for dealing with noncompliance and give instructions for international cooperation on related matters (FATF 2012a).

FATF recommendations fall under what Abbott and Snidal term “soft law” (2000). Hard law in the same domain has been established by the UN Convention against Transnational Organized Crime and the International Convention for the Suppression of the Financing of Terrorism. But it is generally understood that the

FATF's standards, given its reporting practices and ability to "blacklist," has sharper teeth than the UN conventions. Even confirmed realists such as Daniel Drezner argue that states take their obligation to meet FATF standards seriously (2007). We quote Recommendation 24 here: "Countries should take measures to prevent the misuse of legal persons [i.e., corporations] for money laundering or terrorist financing. Countries should ensure that there is adequate, accurate and timely information on the beneficial ownership [the actual person in charge of the company] and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities" (FATF 2012a: 22).

While much of the FATF's activity through its voluminous reports focuses on government regulation, the actual locus of compliance with FATF standards is sub-national. A perusal of FATF reports makes clear that its ultimate targets are incorporation services, banks, law firms, brokerages, and other financial institutions that enable – deliberately or unwittingly – money laundering and terrorist financing. The sense emerges from the reports that the FATF faces strong limitations on its ability to affect the behavior of the target private actors. This is thus an archetypal case for orchestration (see Abbott, Genschel, Snidal and Zangl 2012).

Indeed, the field experiment reported below probes exactly this question: to what degree is the FATF limited in pursuing its goals through disseminating its standards, threatening legal penalties (as in hierarchical regulation), or evoking international norms (as in international collaboration)? How does the effectiveness of the FATF compare to the influence of private standards bodies that might serve as intermediaries in the orchestrator-intermediary-target (OIT) dynamic?

In answering these questions, the field experiment provides precise measurement of two central independent variables in the orchestration framework focusing on orchestrator capability and intermediary complementarity. Results reveal that information about FATF rules, penalties, or norms does not significantly alter target behavior, but ascription of the rules to the private intermediary ACAMS causes significant improvement in target compliance with the standards compared to all other conditions. Given these findings, the orchestration hypotheses predict that the FATF should orchestrate using intermediaries, which is indeed what the accompanying case study reveals.

The FATF can be compared to other intergovernmental organizations (IGOs) on the dimensions relevant to orchestration. First, the field experiment suggests that the FATF possesses low capability to affect targets' actions directly or through other modes of governance. On this dimension, the FATF appears decidedly less capable than the WHO (Hanrieder, this volume), the EU (Rittberger, this volume), the WTO (Elsig, this volume), the ILO (Baccaro, this volume), the Kimberly Process pre-Zimbabwe crisis (Haufler, this volume), or even UNEP (Dingwerth and van der Lugt, this volume), the GEF (Thompson and Graham, this volume), or the G-20 (Viola, this volume). On the dimension of capabilities to affect the targets, the conventional wisdom suggests – and the experimental results below corroborate – that the FATF may be among the weakest of the IGOs studied in this volume.

However, the FATF may have some influence on target firms indirectly since it can blacklist governments whose statutes fail to incorporate international transparency standards. First published in 2000, the first iteration of the blacklist of

“Non-Cooperative Countries and Territories” (NCCT) mostly targeted “tax havens” such as the Bahamas, the Cayman Islands, Liechtenstein, and Panama before later rebuking Israel, the Philippines, and Russia – thereby signaling that states with significant resources could also come under censure. Indeed, later blacklisted countries included Egypt, Hungary, Indonesia, Nigeria, and Ukraine.

Governments worked assiduously to remove themselves from the blacklist and, tellingly, by 2007 no countries remained on the NCCT as having failed to commit to the transparency standards. In our experiment we found that firms in tax havens are now significantly more law-abiding compared to the OECD members and developing countries. This suggests that the FATF blacklisting induced tax havens to bring offending firms into line with global standards. In 2011 the FATF introduced a new blacklist compiled by the institution’s International Co-operation Review Group targeting countries including Iran, North Korea, and Pakistan. Thus, the FATF’s work of browbeating and shaming governments into legislating against money laundering and terrorist financing persists, reinforcing what most would acknowledge as significant statutory progress.

But the FATF’s leadership also understands that instantiating FATF standards into national law is only the beginning of the project; ensuring that private actors actually comply with the standards is more important still. And in reaching private actors and altering their behavior, the FATF is much more limited especially and significantly in comparison to the intermediary ACAMS, as the experimental results below demonstrate. Therefore, orchestrating the efforts of

private intermediaries should help close the gap between national law and industry practice.

Second, the FATF finds itself in the central position for the issue area of international financial transparency. On the orchestration dimension of focality, the FATF thus appears pivotal as the only global IGO of its kind producing standards for anti-money laundering and the control of terrorist financing. In this sense, the FATF may be even more central than some of the most focal organizations discussed in this collection of studies, such as the ILO (see Baccaro), WTO (see Elsig), or WHO (see Hanrieder). There are no competitors to the FATF among IGOs. The regional associations are all explicitly committed to be bound by and propagate standards from the FATF in Paris, and all country reports by the regional organizations employ the FATF standards as the metrics against which government practices are compared. FATF standards have been endorsed by a large range of other international organizations, as well as in the text of various hard law treaties and conventions.

Third, the FATF is an unusually entrepreneurial organization. It prides itself on being business-like and efficient. There are no set speeches or media events at its plenaries and speakers almost always keep their remarks short and to the point – routinely apologizing if they speak twice on the same point (Author observations, FATF plenaries 2007 and 2009). Interviewees from bodies like the United Nations Office on Drugs and Crime and the World Bank remark (somewhat wistfully) on the energy and success of the FATF. The FATF succeeded in establishing its worldwide primacy over this sensitive policy area by 2000, at which time it had a secretariat of

9 and budget of under \$1 million. It pioneered the use of unconventional strategies such as blacklisting. Despite its own lack of legal standing, it feels at ease in issuing commands to both member and non-member states as to how their laws and in some cases constitutions must be changed – commands that are obeyed more often than not. In entrepreneurship, the FATF ranks alongside the WTO (Elsig, this volume), G-20 (Viola, this volume), and WHO (Hanrieder, this volume) as high on this dimension.

Fourth, the FATF has been delegated significant autonomy from member governments in promulgating its standards. The FATF has publicly threatened to suspend or expel member states like Austria, Turkey, and Argentina that have proved too dilatory in adopting requirements. It sometimes issues findings that admonish its most powerful governments for their neglect of the standards. For example, the official FATF report on the United States in 1997 was critical of the U.S. government's *laissez-faire* approach to the fight against money laundering.

The 2006 FATF report on the U.S. also reprimanded the U.S. government for failing to implement key anti-money laundering provisions. The report noted that for the vast majority of U.S. companies, which do not offer securities, "...the information available within the jurisdiction is often minimal with respect to beneficial ownership." In other words, when investigating criminal activities, law enforcement officials have no way to learn who is actually in control of the companies involved – the firms are anonymous shell corporations. The report continues, "in the case of the states visited [i.e. Delaware and Nevada], the company formation procedures and reporting requirements are such that the information on

beneficial ownership may not be adequate and accurate, and competent authorities would not be able to access this information in a timely fashion” (FATF 2006, 237-238).

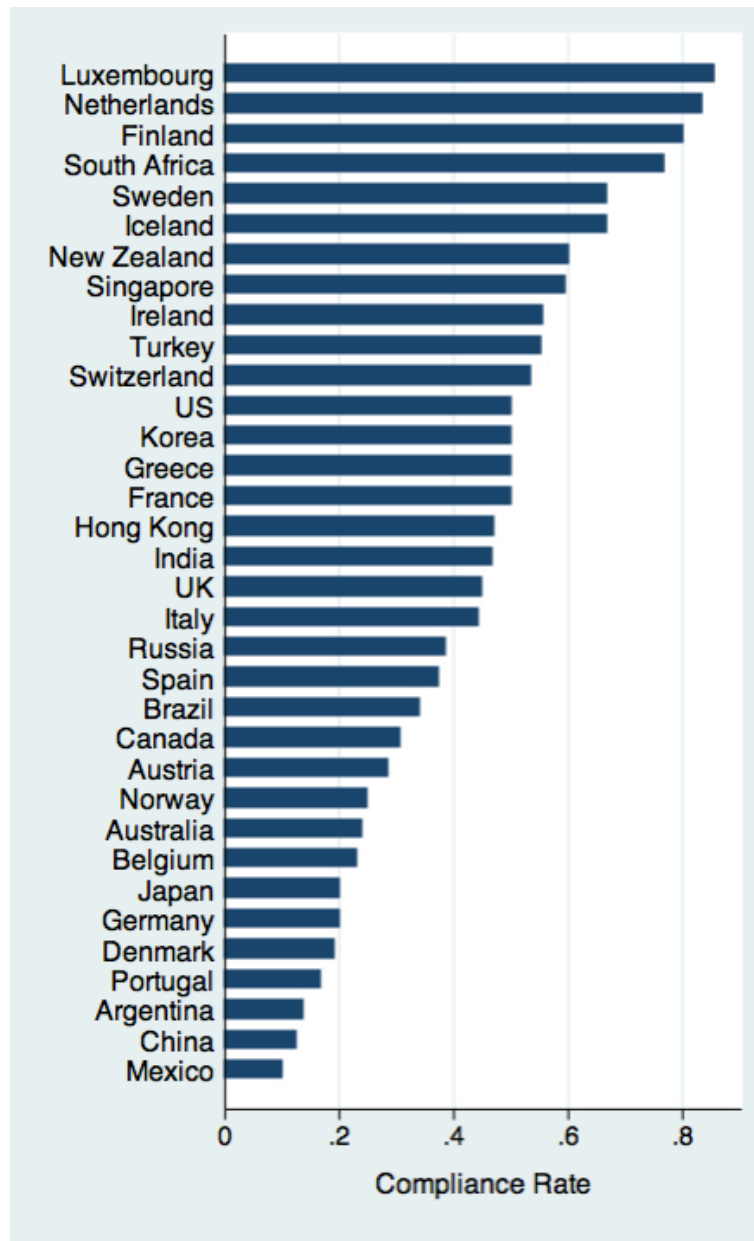
Reading through the polite bureaucratese, it is clear that U.S. state laws fundamentally frustrate FATF efforts to combat money laundering when it involves the United States, and the U.S. was publicly awarded the failing grade of “Non-Compliant” for this section of the standards. All of this suggests the delegation of significant autonomy to the FATF and relatively weak control mechanisms over the FATF by member states, somewhat akin to the Ozone Regime (see Tallberg, this volume) and the WHO (Hanrieder), but unlike the WTO (Elsig), ILO (Baccaro), and G-20 (Viola).

Fifth, there appears to be significant goal divergence among the member countries of the FATF in their preferences for financial transparency. A plausible way to measure state preferences is to infer them from the behavior of firms in the relevant countries. Governments whose corporate service providers evince high compliance with FATF rules have demonstrated the dedication and ability to constrain firms operating within their borders. This may suggest that the incorporation industry is not particularly powerful in the country, so governments can regulate the industry in line with global standards while facing relatively limited counter-pressure. Or it may suggest that, despite significant strength in the incorporation industry, governments have effectively overcome resistance to regulation. In either case we can infer that the government prefers high compliance with FATF standards and can enforce them.

Alternatively, a high compliance rate may suggest that firms in the country are simply law-abiding regardless of government action. However, given how lucrative incorporation businesses have proven, and given how difficult their actions are to detect, the first two possibilities appear much more plausible. Indeed, our interviews with scores of individuals in the industry suggest that the countries with high compliance are those with most active government regulation. Governments whose firms demonstrate low compliance with transparency standards either have not overcome industry opposition or otherwise appear indifferent to enacting and/or enforcing corporate disclosure laws.

Using data from the field experiment, we can measure the compliance rate among firms operating in the 34 member countries of the FATF. Figure 1 displays the proportion of firms in compliance with FATF standards (by either demanding certified identity documents or refusing service altogether) among the FATF members. Compliance ranges widely within the FATF membership, from .86, .83, and .80 in Luxembourg, the Netherlands, and Finland, respectively, to the abysmal .14, .13, and .1 in Argentina, China, and Mexico. The U.S. (.50), France (.50), and the U.K. (.46) are in the middle of the range, but Japan (.20) and Germany (.20) are near the bottom. To the degree that government preferences for financial transparency reflect firm behavior, there appears to be high heterogeneity of preferences among the governments party to the FATF.

Figure 1: Financial Transparency Compliance Rates across FATF Member Countries



Given such divergence, it is difficult to adduce an aggregated preference of member states, but something in the middle range would be defensible. If this is the case, then we might also infer significant goal divergence between the FATF

members and the FATF secretariat, whose actions indicate strong preference for corporate transparency. The high diversity of inclinations among the FATF member states and between the members and the secretariat parallels the GEF (Graham and Thompson), the IGOs involved in human rights (Oeter, Dai), UNEP (Dingwerth and van der Lugt), the ILO (Baccaro), and the WTO (Elsig).

To summarize where the FATF stands in relation to the orchestration hypotheses, all factors indicate a high propensity for orchestration. Orchestrator capabilities to affect the behavior of targets are low, but the intermediary's ability to cause target behavioral change is relatively high. As described below, intermediaries with correlated and complementary goals are available. The FATF is focal and entrepreneurial in the issue area. Member-government preferences for financial transparency diverge both among themselves and from FATF staff objectives. And finally, the FATF exhibits high autonomy and faces relatively weak institutional control mechanisms from its collective principal. The proclivity toward orchestration should thus be high. This brings us back to the orchestrator's and intermediaries' relative capabilities and to two central hypotheses in the orchestration framework.

The FATF evaluations, such as the 2006 U.S. report, implicitly acknowledge that the organization is quite limited in its ability to reach into countries and compel compliance of the actual service providers with international financial transparency law for many of the reasons enumerated in the orchestration framework: it is effectively barred from regulating states directly, it has little actual enforcement clout beyond the shaming effects of the blacklist, and it cannot delegate authority to

another IGO or state. Because its budget is currently less the \$3 million, the FATF does not have the administrative capacity to train government officials on anti-money laundering practices that might improve compliance. Again, this makes the international financial transparency regime a strong candidate for orchestration. The experiment described below reinforces this impression.

Research Design and Procedures

Following prominent precedents in economics and political science (see Bertrand and Mullainathan 2004, Carpusor and Loges 2006, and Butler and Brookman 2011), this research makes use of aliases to hide from subjects the fact that they are part of an experiment. Before we proceeded, the project received clearance from our university's institutional review board (IRB), which cleared the research for two reasons. First, participants are firms and thus not "human subjects," so they fall under the "exempt" category of the U.S. Department of Health and Human Services' Common Rule that governs scientific ethics.

Second, the research fulfills all of the Belmont Report guidelines for waiving the requirement of informed consent (see Belmont Report 1979). The costs were minimal, requiring roughly 5-10 minutes of subjects' time. The research caused no emotional or physical pain as subjects' actions were consistent with their normal day-to-day routines (which also, of course, increases external validity). The research could not be performed in another way, since informing actors who may regularly violate international laws and standards that they are being scrutinized would likely cause them to alter their behavior and thus induce debilitating bias to results.

Finally, the benefits of the research are significant. Since no systematic cross-national research has been conducted on the actual behavior of incorporation services, and since anonymous companies are major enablers of financial crime, this study promises significant new knowledge in a vital area of international relations.

The subject pool was developed with online searches in Google using a systematic set of related search terms. We employed the terms in tandem with host country names to gather target firms' contact information. This provided a convenience sample that is roughly representative of firms with an online presence.

We randomly assigned alias identities that purportedly hailed from one of eight low-corruption, minor-power OECD countries that collectively we dubbed "Norstralia": Australia, Austria, Denmark, Finland, the Netherlands, New Zealand, Norway, and Sweden. To further hide the purposes behind the email inquiries, researchers employed Google mail accounts secured with cell phone numbers acquired in Uganda and further veiled by acquiring the accounts within proxy servers. Also, all email correspondence occurred through a proxy server network so that the aliases' originating IP addresses were randomly distributed throughout the world, with a concentration in Europe and East Asia.

We developed and randomly assigned 33 different email messages all requesting "confidential" incorporation for tax and liability reasons. Each email contained the same information but was written with a different style, diction, and syntax from the others. For aliases based in non-English-speaking countries, two small linguistic errors were introduced to enhance authenticity. The language for each experimental condition was folded into these 33 email texts. The variety of

emails minimized the risk of detection and reduced the probability that anomalies or emphases in the language of a specific email could bias the overall results. Robustness checks indicate few fixed effects for specific letter texts, and controlling for the fixed effects did not qualitatively alter the results reported below. Examples of emails for each experimental condition are available in the appendix.

We randomly assigned one of six experimental conditions to the subjects. (1) Placebo: the email requests confidential incorporation for tax and liability reasons but provides no additional information about international standards. This condition provides a baseline for judging the treatment effects of providing additional information on subjects' propensity to offer anonymous shell corporations. (2) FATF: the email references the Financial Action Task Force and its requirements for identity disclosure. This treatment either informs firms that are ignorant of international standards of the rules or it primes already informed firms by calling the standards to mind. Our interviews suggest that most firms outside of tax havens are not informed about FATF standards. This treatment should provide an indicator of the effectiveness of more widely disseminating information about FATF standards.

(3) Penalties: the email references FATF standards and evokes the possibility of "legal penalties" for failing to comply. By referencing possible negative consequences, this treatment should act to prime subjects about possible enforcement actions taken by their government in pursuit of the FATF standards. In this sense it parallels the governance mode of hierarchical regulation. (4) Norms: the email mentions FATF disclosure requirements, notes that "most countries" have

signed onto the standards, and asserts that both the applicant and incorporation firm want to “do the right thing by international rules.” This treatment attempts to assess the effects of international norms at inducing compliance. The causal mechanisms behind international collaboration are not well understood, but analysts have argued that they likely involve norms of appropriate behavior (Finnemore and Sikkink 1998) or diffusion of common practices (Simmons 2001). The treatment is thus an imperfect measure of the governance mode of collaboration, but it does attempt to test at least one observable implication of the argument. At the very least it probes a normative mechanism IGOs may use to promote the adoption of global standards.

(5) ACAMS: the email notes the Association of Certified Anti-Money Laundering Specialists and references its identity disclosure standards. This treatment probes the effectiveness of the intermediary at inducing compliance with transparency standards and allows a comparison with the orchestrator-focused treatments in conditions 2-4. (6) FATF + ACAMS: the email mentions that both the FATF and ACAMS require identity disclosure. This final treatment tests whether FATF and ACAMS have an additive effect when mentioned together or whether they jointly exert a dampening effect. See appendix for examples.

The outcome of interest is the degree to which firms require notarized identity documents as part of the incorporation process. Responses were categorized according to whether they (1) required no documents, coded Non-Compliant; (2) asked for at least one identifying document but did not require that it

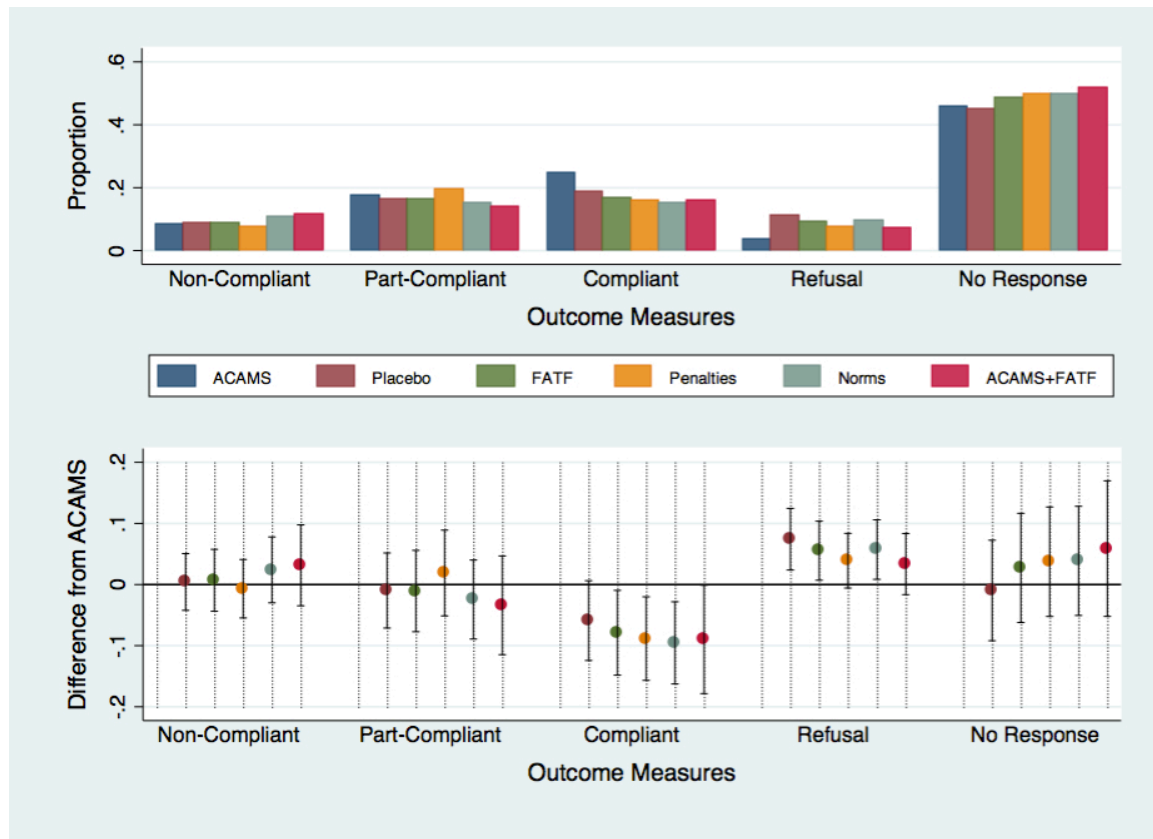
be notarized, coded Part-Compliant; (3) demanded notarized copies of identification, coded Compliant; (4) Refused service; or (5) sent No Response.

Results

Figure 2 reports the frequency distributions for each of the experimental conditions across all five outcomes. The upper panel of Figure 2 displays the proportions for each experimental condition across the outcome categories and the lower panel shows the mean differences from the ACAMS condition with statistical significance indicated where the confidence bars fail to overlap “0” at the 95-percent level in a one-tailed t test. Given that the orchestration framework posits an expectation that the intermediary can prove more effective than the orchestrator at inducing global standards, we argue that the one-tailed test is defensible here. However, the results hold at least at the 0.1 level in the more stringent two-tailed t -test, and multiple findings are significant at the .05 level.

In expectation, the balance induced by the random assignment (and supported by randomization checks) means that all other observable and unobservable factors are equal across conditions, so simple difference-in-means tests like those shown in Figure 1 can be used to indicate significance levels. Some – though not all – of the results are robust to more complex specifications employing covariates for country group and company type in logistic regressions and in multinomial probit models with no reply as the base condition. See the online appendix for a discussion of these robustness checks.

Figure 2: Outcome Proportions across Conditions and Average Treatment Effects



The substantive differences between experimental conditions are on balance modest, and the statistical differences are few. But there is one notable exception: the ACAMS treatment caused significantly higher Compliance levels than all other conditions. The Compliance rate increased from 19.2 percent in the Placebo condition to 24.8 percent for the ACAMS treatment, which is significant ($p = .084$) at the most modest 0.1 level in a one-tailed t -test. The ACAMS treatment especially boosted compliance rates relative to the other treatments. Compared to the compliance rate of 24.8 percent for the ACAMS treatment, the other conditions caused a significant decrease in compliance: 17.5 percent in the FATF treatment (p

= .043), 16.0 in the Penalties treatment ($p = .018$), 15.8 percent in the Norms condition ($p = .015$), and 15.8 in the FATF + ACAMS condition ($p = .048$). All of these treatment effects are statistically significant at the .05 level in a one-tailed t test, and the decreases for the Penalties and Norms conditions compared to ACAMS are also significant at the .05 level in a two-tailed test.

These results provide precise measurement of orchestrator incapacity and intermediary complementarity to affect target behavior. In this case noting that the identity disclosure rule emanated from the private intermediary, ACAMS, significantly increased the compliance rate compared to a neutral Placebo and four distinct treatments all probing the effects of the FATF as orchestrator through different mechanisms that parallel distinct governance modes. As a field experiment with the actual targets as subjects, this study has the unique ability to assess the relative strength of the orchestrator vs. the intermediary at achieving goals in altering the behavior of the actual targets. In this test the intermediary won decisively.

The ACAMS condition also caused significantly lower non-compliance (6.4 percent) compared to the treatment combining the FATF and ACAMS (12.2), which drops the non-compliance rate by nearly half and is statistically significant at the 0.1 level in a one-tailed t test ($p = .068$). However, at 4.6 percent the ACAMS condition caused significantly fewer Refusals than the Placebo condition at 10.4 percent ($p = .026$), the FATF condition at 9.3 percent ($p = .059$), and the Norms condition at 9.7 percent ($p = .046$). This suggests that some subject firms that might have otherwise

refused service may have instead demanded notarized identity documentation in the ACAMS condition. From the FATF's perspective, Compliance is strongly preferred to Refusal, since suspicious customers whose corporate service providers obtain identity documents can be referred to authorities and tracked by law enforcement. Taken together, these results provide precise measurement of orchestrator incapacity and intermediary complementarity to cause a positive change in target behavior. The framework thus predicts orchestration, which is what we find in the case study reported below.

FATF Endorsement of ACAMS: A Case Study

The Association of Certified Anti-Money Laundering Specialists, or ACAMS, is the leading private intermediary. It is fundamentally the product of one person: Charles A. Intriago. The Association grew out of Intriago's newsletter, *Money Laundering Alert*, which was launched in October 1989, just before the FATF was created, and at a time when the United States was almost the only country that had criminalized money laundering. The newsletter grew into a subscription website (www.moneylaundering.com) and a series of conferences. The discussion to found the Association began in the late 1990s and came to fruition in 2001.

An important model was provided by the Association of Certified Fraud Examiners, founded in 1988 as a for-profit body that awards its essentially self-endorsed qualification to paying clients and runs a series of associated conferences and professional activities. The fraud examination domain provided a template for a self-certifying, for-profit organization that fills a vacuum in inventing and then

selling certification, administering exams, organizing conferences, and facilitating a global circuit.

By capitalizing on its first-mover advantage in the field of anti-money laundering, ACAMS has similarly pulled itself up by its bootstraps. Despite the “Certified” moniker, the certification is self-referential, given that ACAMS itself has no delegated authority from either the FATF or any national government, though increasingly it does garner endorsements from both. Intriago himself sold out of the organization for \$12 million, leaving in 2008 to found the Association of Certified E-Discovery Specialists and the Association of Certified Financial Crime Specialists on the same model as ACAMS.

ACAMS is headquartered in Miami, and now boasts more than 12,000 members worldwide. Although the majority of members are from the United States, there are significant ACAMS nodes in Latin America, the Caribbean, Europe, Asia and Africa. In Britain, however, rival organizations such as the International Compliance Association and the Institute for Money Laundering Prevention Officers (the latter also founded in 2001) mean that ACAMS does not enjoy the same dominance in the United Kingdom as it does elsewhere. The centerpiece of ACAMS is the certification process, aimed at individuals in banks and other private firms as well as government agencies. Indeed, increasingly it is public bodies that comprise much of the business growth for ACAMS (Author interview March 2012).

The certification process involves mastering a handbook, which is structured around the FATF Recommendations, and then passing a 210-minute exam, a process that retails at \$1,600. Through its training, the Association thus serves to diffuse and

entrench FATF standards among the target private financial firms that are the crucial “last mile” in terms of compliance, exactly those that the FATF finds it most difficult to reach. ACAMS also offers a range of other bespoke training courses, as well as regular conferences, seminars, and a money publication. In the United States in particular, the ACAMS qualification has become almost obligatory as a means by which to communicate expertise and credibility in the field.

There is no formal relationship between ACAMS and the FATF. Indeed, the FATF had no formal outreach to any part of the private sector before 2007, and it is still very much focused on inter-governmental processes. Yet many members of ACAMS board are former U.S. government employees who had roles within the FATF and maintain close contacts with the organization (Author interviews 2012). The FATF sets and amends its standards, and ACAMS since its creation has acted as a transmission belt to private firms, which are the targets of orchestration. Coordination is based on the profit motive rather than normative appeal, though members of both organizations do hold strong value commitments to fighting financial crime. Given that ACAMS operates in an international market, its examination and certification process must reflect FATF standards, rather than being based on the national law of the United States or any other single country. Yet the FATF has no legal authority over ACAMS and lacks the means to offer financial or other material support. The FATF creates the demand that keeps ACAMS in business.

But the FATF does not merely create standards upon which ACAMS and its competitors capitalize. The FATF also strongly endorses the private certification

bodies. As Abbott, Genschel, Snidal, and Zangl state in the framework paper to this volume, “IGOs can empower intermediaries by endorsing them as competent and legitimate actors in a field and by formally recognizing their activities.” The FATF has thus both endorsed ACAMS and the other private intermediaries as competent and has recognized their activities in numerous official publications.

Many other IGOs beyond the FATF also do not possess the budget or political resources to provide material support or technical assistance to intermediaries. However, their focal positions afford legitimating clout as the leading authorities in a domain. Therefore, we contend that endorsement is one of the most important and effective tools in the orchestrators’ kit. Indeed, endorsement was the sole means of orchestration used by the UN Security Council in the Kimberly Process (see Haufler), one of the few forms of effective orchestration used by the WTO (see Elsig), and the main method by which the WTO orchestrates health research (see Hanrieder).

The FATF’s endorsement of the private bodies begins with the central FATF regulations themselves. On its website, the FATF states that its core mission is to promulgate and monitor adherence to 40 standards known simply as “The FATF Recommendations,” subtitled “International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation” (FATF 2012a).

The standards aim to be comprehensive and are updated periodically, with the most recent revision occurring in 2012. In 34 different instances in the standards themselves, the FATF emphasizes that the relevant national regulatory authorities be “competent” to fulfill their functions of applying the FATF standards in the fight against money laundering and terrorist financing (FATF 2012a). What

ensures competence? In its methodology document, the FATF stipulates that “staff and competent authorities should be provided with adequate and relevant training for combating [money laundering] and [terrorist financing].” And this training should include “certification” of relevant personnel (FATF 2009a, 37). In theory governments themselves could provide the training and certification, but in practice this is done in many countries by private intermediaries such as ACAMS. The FATF encourages the outsourcing.

For example, in its “best practices” guide for countering trade-based money laundering, the FATF recommends that government authorities participate in “conferences, seminars, workshops and other events, including those organized by the private sector...” (FATF 2008, 4). The FATF president and other staff regularly visit and speak at these events, which is both a strong signal of endorsement and some evidence of coordination between the FATF and the intermediaries (see FATF 2007, 11).

The FATF explicitly endorses ACAMS in its country reports in the sections titled “Supervision and Oversight,” which praise government personnel for receiving ACAMS certification. For example, in its 2008 report on Canada, the FATF assesses the policies and procedures of the government’s Financial Transactions and Reports Analysis Centre (FINTRAC). The report praises FINTRAC personnel for attending conferences on anti-money laundering and the control of terrorist financing and also for having a significant number of officials that are certified by ACAMS (FATF 2008, 185). Likewise, the report commends the Canadian government’s Office of the Superintendent of Financial Institutions (OSFI) for having nine of its staff as

members of ACAMS and three certified by ACAMS as anti-money laundering specialists (FATF 2008, 187).

Likewise, the Netherlands report praises the government for its comprehensive program of training and certification, specifically noting that five Central Bank staff members received ACAMS training in the two years prior to the FATF report mission. The report also lauds the Authority for Financial Markets (AFM) for its decision to have staff members regularly attend ACAMS conferences and workshops (FATF XX, 202-203).

The FATF's report on the tiny Caribbean tax haven of Aruba suggests how the training and certification typically occurs for financial authorities in small countries with limited capacity. In describing the training for the staff of Aruba's Central Bank, the report notes that the training of officials is "mainly" outsourced to the regional FATF-like body, CFATF; to conferences in the United States; *or to ACAMS* (FATF 2009b, 140). The report praised the government for having two of its staff members preparing for ACAMS certification (FATF 2009b, 65).

Thus, the FATF has increasingly endorsed and thereby legitimated ACAMS training. In keeping with the orchestration framework, the relationship is based on soft law and indirect coordination to assist and/or bypass states in regulating targets. It should be noted that FATF does not rely exclusively on orchestration, as it also makes direct appeals to private firms and issues guides to best practice in banking and other sectors (or engages in collaboration as described in the orchestration framework paper).

Orchestration in this issue area therefore has a “light-touch” quality to it. The FATF endorses training and certification by private standards bodies in its methodology and best practices publications, and in its evaluations it specifically praises governments whose officials receive ACAMS certification. The FATF president and other officials frequently attend conferences, seminars, and workshops organized by the private-sector bodies. If endorsement is orchestration, and we argue with the framework authors that endorsement is an important orchestration tool, then there is ample evidence that the FATF orchestrates. But the orchestration stops at endorsement and does not seem to extend to convening, agenda-setting, material assistance, or coordination. Indeed, the FATF did not catalyze the creation of ACAMS (other than by purveying standards upon which ACAMS and other private certification bodies capitalize), it does not support ACAMS financially, and it does not help organize or host ACAMS meetings. Why the light touch?

In asking this question of officials at both the FATF and ACAMS, it appears that the FATF wants to avoid the appearance that it is playing favorites with any one certification group over the others, even if ACAMS is the dominant actor in the industry. Moreover, the FATF had no official relations with any private actors until 2007, and since then the public-private links have been fleeting and tenuous. The FATF, we were told, did not openly promote ACAMS because the FATF is an intergovernmental body focused primarily on government activities.

Senior FATF Secretariat official and former U.S. Treasury bureaucrat, Kevin Vandergrift, summarized the FATF’s position on ACAMS: “The FATF does not have

any formal relationship with ACAMS, nor does the FATF certify or endorse any qualifications offered by private or commercial bodies. We are of course pleased that AML/CFT training is provided by bodies such as ACAMS” (Author correspondence). In a nutshell, there is no formal relationship, but the FATF is happy that ACAMS is working with firms to improve dissemination of its standards.

The results suggest that this quiet orchestration may function better to promote financial transparency standards than a more formal relationship. We are not claiming here that this lack of a more formal tie between the FATF and ACAMS was deliberate nor that it anticipated these experimental results. We merely note that the results suggest that ACAMS standards alone may more effectively cause incorporation services to require identifying documents than FATF standards in conjunction with ACAMS. One possible interpretation of the results is that introducing two purveyors of global standards may cause some risk-averse providers to ignore the inquiry while leaving other providers who are more risk acceptant to offer incorporation while failing to demand notarized identification. We saw this pattern repeated in other iterations of the experiment (see Baradaran et al. 2013 and Findley, Nielson, and Sharman, forthcoming)

In an issue area where there is broad neglect of international standards and many actors are behaving inappropriately, a private actor promoting voluntary standards may thus have greater sway over target private firms than the intergovernmental institution. These are core hypotheses focused on orchestrator capabilities and intermediary availability, and the field experiment above provided precise measurement of those independent variables.

The experiment thus provides compelling causal evidence that the FATF cannot readily induce private firms to demand identifying documents of customers – either when firms are informed of its standards, threatened with penalties, or plied with global norms. But the experiment also reveals that the leading private intermediary does appear to have such complementary capability. The orchestration framework hypothesizes that, under such conditions, orchestration should follow. Indeed, the case study presents qualitative evidence that the FATF extensively endorses ACAMS and the other private certification bodies through officials' actions and in its disseminated standards, recommendations, and reports. The experiment and case study together suggest strongly supportive evidence for the orchestration framework.

Conclusion

This study sought to explore the FATF's orchestration in the realm of international financial transparency. Through its standards, mandated methodology, speaking visits of its president, and evaluation reports, the FATF endorses the training and certification provided to governments and firms by private intermediaries, including ACAMS as the industry leader. The orchestration framework suggests that, as a fellow private actor, ACAMS may have closer, more immediate and thus more effective influence over target private corporate service providers than the intergovernmental FATF. The experimental and case study results compellingly support this expectation.

The FATF has important features that make it a likely practitioner of orchestration. It is the unchallenged standard-setter and enforcer for anti-money laundering standards, with an effective organizational structure and entrepreneurial culture. The FATF Recommendations are soft law, and its governance responsibilities far outrun its operational capacity. The FATF has reasonable autonomy relative to its members, for example, in singling out even its most powerful members for public criticism, while members have significantly divergent preferences. ACAMS provides an available intermediary by which the FATF can potentially improve compliance among the targets of its reputation. Indeed, the FATF orchestrates ACAMS through the important tool of endorsement.

In our experimental results, we found strong causal evidence supporting the argument that ACAMS standards exert special influence over private firms in encouraging compliance with international corporate transparency standards, especially compared to information about the FATF standards on their own, in conjunction with possible legal penalties, together with global norms, or acting jointly with ACAMS.

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Appendix – Examples of Letters Across Experimental Conditions

Placebo

Dear **[name/company]**

I am contacting you as I would like to form an international corporation for my consulting firm. I am a resident of **[Norstralia]** and have been doing some international consulting for various companies. We are now growing to a size that makes incorporation seem like a wise option. A lot of our newer business is in your region.

My two associates and I are accustomed to paying **[Norstralia]** income tax, but the rising tax rates make incorporation in another country a more economic alternative. Also, our contracts grow larger and more complicated, so reducing personal liability through incorporation seems more attractive.

As I am sure you understand, business confidentiality is very important to me and my associates. We desire to incorporate as confidentially as we can. Please inform us what documentation and paperwork is required and how much these services will cost?

I would like to start the process of incorporation as soon as possible.

Due to numerous professional commitments, I would prefer to communicate through email. I hope to hear from you soon.

Thank you very much,
[alias]

FATF Treatment

Dear **[name/company]**

I am contacting you regarding a business I am trying to set up. I am a consultant and my colleagues and I are seeking to establish an international corporation. I am a **[Norstralia]** resident, but I do business both locally and with some international client, including some in your region. Our business has been growing substantially, and our goal is to limit tax obligations and business liability.

We would like as much business confidentiality as possible in these early stages of formation. **My Internet searches show that the international Financial Action Task**

Force requires disclosure of identifying information. But I would rather not provide any detailed personal information if possible.

So, we would like to know what identifying documents will be required to establish this company. We would also like to know what start-up costs will be.

Due to my travel schedule, email will be the best way to reach me. I look forward to hearing from you soon.

Regards,
[alias]

Penalties Treatment

Dear [name/company]

I am seeking information on how to incorporate an international company. I hope that you might be able to offer what I need.

I am a consultant, and my business associates and I live in [Norstralia]. Much of our business originates here, where we operate, but our company also grows quickly among international clients. Many of them are in your area. So, we feel that incorporation is a necessary option for us. We hope to limit taxes obligations and business liability.

We would like to know if you feel that you will be able to service us with a corporation. What identifying documents will you request for this transaction? We would prefer to limit disclosure as much as possible.

My Internet searches show that the international Financial Action Task Force sets standards for disclosure of identifying information when forming a company. I also understand that legal penalties may follow violation of these standards. But I would like to avoid providing any detailed personal information if possible.

If you could answer these questions and also let us know about your prices, we very much appreciate it. Thank you for the time to address our query. Business obligations make communication difficult, so we would prefer to correspond with email.

Until we speak again,
[alias]

Norms Treatment

Dear [name/company]

I am a resident of [Norstralia] and would like to inquire about your process to form international corporations. With several associates, I operate consulting firm in [Norstralia]. We deal with a growing number of international clients, many that come from your area, and would like to pursue incorporation options for liability and taxes purposes.

We are particularly concerned with keeping business interactions private; thus, we are eager to limit information disclosure as much as possible.

My Internet searches show that the international Financial Action Task Force sets standards for disclosure of identifying information when forming a company and most countries have signed on to these standards. As reputable businessmen, I am sure we both want to do the right thing by the international rules. But I would like to avoid providing any detailed personal information if possible.

Can you please inform me what your start-up costs are and what kind of identification or documents we will need to provide? We are all fairly burdened with commitments, so email communication is preferable.

Thank you in advance,
[alias]

ACAMS Treatment

Dear [name/company]

I am an international consultant living in [Norstralia]. My associates and I have been based in [Norstralia] for some time and we have done extensive international work, especially in your area. After looking at the specific needs of our growing company, we were feeling that it would make sense for us to expand and to set up an international company. We especially hope to limit taxes and reduce liability. We were wondering what you require us to give in order to do this.

My internet searches show that the Association of Certified Anti-Money Laundering Specialists requires disclosure of identifying information when forming a company. But I would like to avoid providing any detailed personal information if possible.

We would like to form this corporation as privately as possible. What identifying documents will you need from us? We would also like to know what your usual prices are. We appreciate the help.

I travel a lot for my work, so I communicate best via email.

I hope to hear from you soon.

Yours,
[alias]

FATF + ACAMS Treatment

Dear [name/company]

I am seeking information on how to incorporate an international company. I hope that you might be able to offer what I need.

I am a consultant, and my business associates and I live in [Norstralia]. Much of our business originates here, where we operate, but our company also grows quickly among international clients. Many of them are in your area. So, we feel that incorporation is a necessary option for us. We hope to limit taxes obligations and business liability.

We would like to know if you feel that you will be able to service us with a corporation. What identifying documents will you request for this transaction? We would prefer to limit disclosure as much as possible.

My internet searches show that international Financial Action Task Force requirements and Association of Certified Anti-Money Laundering Specialists standards mandate disclosure of identifying information when forming a company. But I would like to avoid providing any detailed personal information if possible.

If you could answer these questions and also let us know about your prices, we very much appreciate it. Thank you for the time to address our query. Business obligations make communication difficult, so we would prefer to correspond with email.

Until we speak again,
[alias]