

Postscript on the society of KYC

The obligation to know-your-client and its'
relationship with discipline, modulation and
control

Priya Ghisaidoobe (374409)
Word count: 9991
Supervisor: Gijs van Oenen
Advisor: Jamie van der Klaauw, MA
Main study: Fiscaal recht
Date of completion: 08-07-2024

Double Degree with Philosophy Thesis

Postscript on the society of KYC	2
1. Introduction	2
2. Reducing white collar crime through KYC	4
<i>(Inter)national framework for AML/CTF regulations</i>	4
<i>Wwft and the KYC-Obligation in the Netherlands</i>	5
<i>Controversies, reportage by news outlets, public opinion and privacy</i>	7
3. Foucault, Deleuze and the different types of societies	9
<i>Foucault about sovereign and disciplinary societies</i>	9
<i>Deleuze and the Postscript</i>	9
<i>Historical</i>	9
<i>Logic</i>	10
<i>Types of societies and their analogous machines</i>	11
<i>Societies, machines and capitalism</i>	12
<i>Logic: Societies of control still discipline, because an individual still has to play a different role in each society of control</i>	12
<i>Program</i>	13
<i>Same logic, different program?</i>	13
4. Prevention of financial crime through KYC in light of Deleuze's Postscript	16
<i>Modulation and data science for supervision</i>	16
<i>From discipline of criminal behaviour, to control in the financial system</i>	16
<i>Program of the future of the societies of KYC</i>	18
5. Conclusion	20
Bibliography	22

Postscript on the society of KYC

1. Introduction

I wrote this thesis for my Double Degree Philosophy and Tax Law-programme. The topic of KYC-obligations (Know-your-client) for financial institutions is relevant to my main bachelor programme of Tax Law. KYC-obligations are based on anti-money laundering and counter terrorism financing legislation. Oftentimes tax evasion leads to money laundering. The KYC-obligation also is a part of tax legislation, besides financial institutions, accountants and tax advisors also have the obligation to know their clients. One of the common goals between tax legislation and KYC is the reduction and prevention of money laundering.

In past five decades an (inter)national legal framework with regulatory devices on different legal grounds, has been erected to diminish (financial) crime, more specifically money laundering and terrorism financing. As a result, the Dutch government has given banks and other providers of financial services the obligation to know their client and to be sufficiently informed regarding their clients and their behaviour and their transactions. The banks and financial service providers have specifically been tasked with these obligations, because they are seen as gatekeepers of the financial system. Gatekeepers are seen as facilitators of essential financial services at the centre of the financial (transaction) system.¹ They are given the obligation to report unusual transactions to necessary channels and to take measures to limit money laundering and terrorism financing. To determine when (trans)actions are unusual, gatekeepers analyse behavioural patterns. They compare their clients (behaviour) using data analytics. Clients and their transactions are being judged on their behaviour. They are sorted into usual and unusual “baskets”. Unusual transactions are seen as potential risks of (financial) crimes and have to be reported to National Financial Intelligence Units. Clients and their transactions are (continuously) monitored and reviewed by people and/or algorithms. For their reviews gatekeepers might also contact their clients to question the purpose of their transactions, their corporate structures and/or their (business) relationships.

I analyse the differences and similarities between the types of societies (sovereignty, discipline, control) that Gilles Deleuze identified in *The Postscript on the societies of control*, to determine how KYC-praxes fit in the framework of societies of control. The essential difference between control and discipline, is that discipline operates in enclosures (like moulds), while control modulates itself. Deleuze posits that modulation is replacing enclosures and that control is replacing discipline. I show that if discipline is enclosure, then modulation is a continuously changing enclosure. I argue that both discipline and control operate in enclosures, but in different ways and that control is a modulation of discipline. Because of their shared logic, societies of discipline can keep existing within the framework of societies of control. The existence of societies of control does not threaten the existence of societies of discipline.

KYC was born from the modulation of the existing enclosures in the societies of discipline. In the end I show that KYC can only exist in societies of control. Through modulations of the legal framework, control is infiltrating the disciplinary societies of the traditional financial systems. Gatekeepers are expected to continuously improve the quality and quantity of their data, by supervisory institutions. Data is control, and KYC uses data supervision. The detection of crime is no longer merely the responsibility of police and prosecutors. KYC-regulations have created mechanisms that discourage irregular and abnormal behaviours. Because of supervision control goes beyond illegal actions and behaviours. In the current financial system, control is becoming the dominant technology of power.

¹ Brits, et al. 2022

Discipline of criminal behaviour has modulated into control of the financial system. Data supervision has made it more difficult to be an outlier. This modulation shows that KYC is only possible in societies of control.

2. Reducing white collar crime through KYC

This chapter will explain the main concepts used in the domain of KYC. First the background of KYC and its concepts will be investigated.

KYC (Know-your-client) is a concept that was born in the field of Anti-Money Laundering (AML) and Counter Terrorist Financing (CTF). The concept is mostly based on an international framework and (inter)national regulatory standards. The history of the international framework and the explanation of the international framework of AML/CTF regulations are necessary to explain the origins of KYC practises. Because of the nature of AML and CTF, many of the regulations are meant to guide financial institutions and providers of financial services (gatekeepers of the financial systems). These (government) regulations have been written to regulate and control certain risks for the financial systems starting from the responsibilities of gatekeepers. This text will mostly focus on the Dutch/European regulations and standards to pinpoint what KYC is in the Dutch legal sense and its praxes in the Dutch interpretation of KYC in the (inter)national framework of AML and CTF legislation.

(Inter)national framework for AML/CTF regulations

The start of KYC regulatory history started with the establishment of the Financial Action Task Force (FATF) in 1989 (Paris) by the G7, the European Commission (EC) and eight other countries.²

The goal of this intergovernmental organisation was to examine and develop measures to fight money laundering. The FATF was originally meant to examine money laundering techniques and trends, review actions already taken at an (inter)national level and to set out needed measures to combat money laundering. As a result the FATF published a report called “Forty Recommendations”³ to try to provide a comprehensive plan of action, based on its findings. In 2001 the fight against terrorist financing was added to this mandate. For 18 years FATF operated under a fixed mandate, which was opened up in 2019. The most current set of recommendations can be found on the FATF website.⁴

The *FATF recommendations* are used as standards to guide EU (European Union) legislation. These standards are implemented in directives for EU Member States. The EU directives directly refer to the FATF recommendations.⁵ EU directives in turn, guide national legislation for member states.⁶

Right now *The Fifth Directive on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing* (Fifth directive), is in force for EU member states.⁷

The first directive was very basic as it just stated that member states implement FATF 40 in their national legislation. Since the second directive in 2001, the types of institutions covered by EU AML/CTF regulations has been extended beyond banks to other “gatekeepers” like legal service providers and other types of providers of financial services.⁸ The third directive was implemented in the Dutch Money Laundering and Terrorist Financing Act (Wwft), in 2008.⁹ The current revision of the *Wwft* has been active since 1-11-2022 and it implemented EU AML/CTF legislation up to the *Fifth*

² B Snijder-Kuipers and Tilleman 2019, 1.1 FATF

³ FATF Recommendations 2012 (Last updated February 2023)

⁴ History of the FATF

⁵ Directive (EU) 2015/849 n.d., (4)

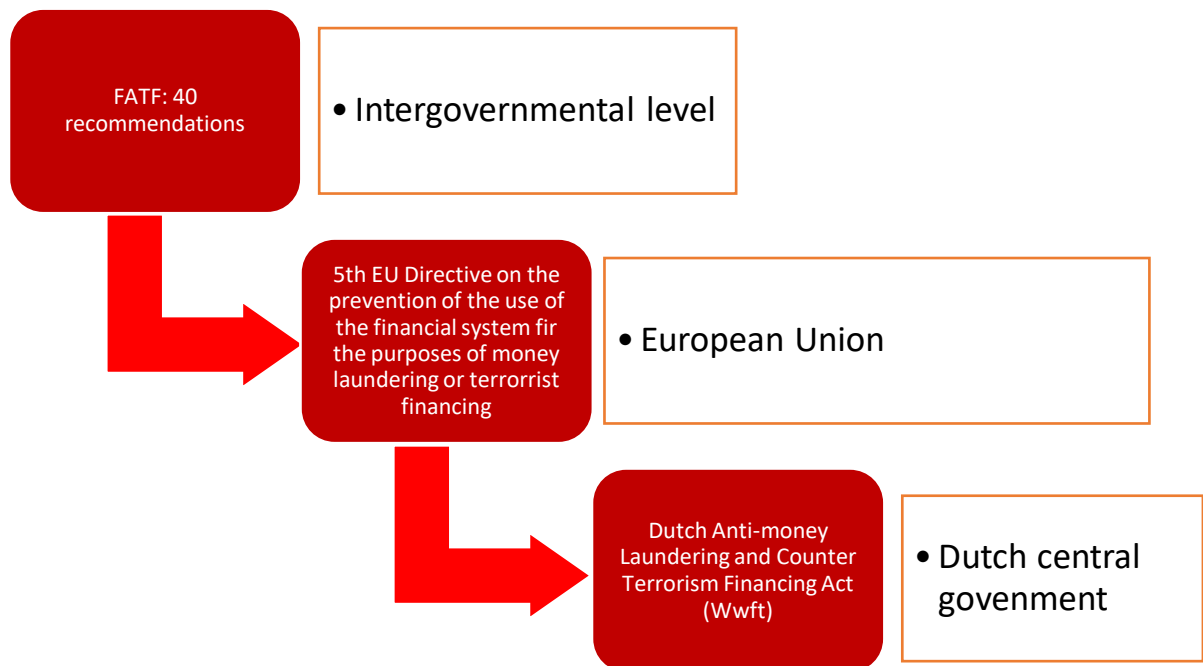
⁶ Snijder-Kuipers and Tilleman 2019, 1.1 FATF

⁷ Snijder-Kuipers and Tilleman 2019, 1.6 Vijfde anti-witwasrichtlijn

⁸ Parkman 2019, 2.1 The International AML and CFT Framework; EU Money Laundering Directives

⁹ B. Snijder-Kuipers 2019, 1.7 van WID tot WWFT

Directive.¹⁰ Besides the existing measures this directive also broadened its scope outside of financial institutions to include other gatekeepers beyond financial service providers.



Even though the Wwft (and the latest iterations of (inter)national regulations) has broadened its scope beyond application to *merely* banks. The scope of the *Wwft* includes banks, crypto service providers, insurance companies and much more. For simplicity's sake, those who must adhere to the *Wwft* hereafter will be referred to gatekeepers. Information regarding Wwft-regulation and KYC-processes is publicly available through channels such as the websites of the Dutch Central government and external Supervisors of the Wwft like De Nederlandsche Bank (DNB) and Authority on Financial Markets (AFM).¹¹

Wwft and the KYC-Obligation in the Netherlands

The *Wwft* is applicable to banks and other financial institutions. I will keep referring to all entities to whom the *Wwft* applies as 'gatekeepers'. Art. 2a *Wwft* a general article brings forth two obligations for banks and other financial institutions. These obligations in the Wwft are meant to prevent ML/TF.¹²

1. The obligation to know and verify the identity of clients (*The KYC-obligation*)
2. To immediately report (planned) unusual transactions to the Dutch Financial Intelligence Unit (FIU-NL).¹³

The Wwft has a broad definition of client: "a natural/legal person with whom a business relationship is entered or who has caused a transaction to be effected."¹⁴ In the articles following article 2a the KYC-obligation is further elaborated upon. Article 3, specifies that gatekeepers conduct client reviews to prevent money laundering and terrorism finance (ML/TF)

¹⁰ Wet ter voorkoming van witwassen en financieren van terrorisme 2022, 1. Inleidende bepalingen

¹¹ Rijksoverheid.nl

¹² Snijder-Kuipers and Tilleman 2019, 11

¹³ Wet ter voorkoming van witwassen en financieren van terrorisme 2022, art.2a-1

¹⁴ Wet ter voorkoming van witwassen en financieren van terrorisme 2022, art.1

Client reviews enable the gatekeeper to: ¹⁵

- to identify the client and to verify their identity.
- for legal entities/corporations to (take reasonable measures) to find out:
 - o who the ultimate beneficial owner (UBO) is.
 - o to gather insight in the ownership and control structure
 - o if the UBO is senior management: to identify and verify the member of senior management.
 - o to record the difficulties and cooperation during the verification process
- to determine the purpose and intended nature of the business relationship.
- ongoing monitoring of the business relationship to be assured that it matches with the knowledge the gatekeeper has of the client and the risk profile of the client. If necessary, this includes investigation of the source of funds which will be used in the relationship of transactions.
- To check if a representative of the client is qualified to do so and to identify and verify the natural person.
- To take reasonable measures to verify if the client acts for its own benefit or for a third person.

The *Wwft* requires a customer review in at least the following cases: ¹⁶

- If the business relationship takes place in or from within the Netherlands
- In case in of the following transactions in or from within the Netherlands
 - o An incidental transaction with a value of at least 15,000 euro
 - o Two or more connected transaction with a value of at least 15,000 euro
- There are indications that the client is involved with ML/TF
- There are doubts about the correctness or completeness of previously from the client obtained information.
- The risks of the clients' involvement with ML/TF gives cause.
- If the country of residence of the client brings increased risks of ML/TF
- In case in of the following transactions in or from within the Netherlands with a value of more than 1000 euro to the client or a trust, where at least one of the risk variables as mentioned in Annex 1 of the 4th Anti-Money Laundering Directive, is present.

In case a low risk of ML/TF a simplified client review is possible.¹⁷ And if the nature of the relationship brings forth a higher risk of ML/TF, more intensive client review is required. ¹⁸.

Art. 28 *Wwft* establishes that the supervisory authority has the obligation to give directions to any party that does not comply with the *Wwft* regulations. Supervisory authorities (for banks DNB) can give gatekeepers a reasonable term to follow specific lines of conduct, impose an order for an (incremental) penalty and/or administrative fine.

The DNB has already used these legal remedies against banks (and other gatekeepers) that were not compliant. Three of the largest Dutch banks have already received directions and administrative fines in the past five years¹⁹. On the 8th of May 2024 DNB has published a guidance for the *Wwft* called "*DNB Q&A's and Good Practises Wwft*". In the guidance DNB clarifies the obligations that arose from

¹⁵ Wet ter voorkoming van witwassen en financieren van terrorisme 2022, art 3-2

¹⁶ Wet ter voorkoming van witwassen en financieren van terrorisme 2022, art. 3-5

¹⁷ Wet ter voorkoming van witwassen en financieren van terrorisme 2022, art. 6

¹⁸Wet ter voorkoming van witwassen en financieren van terrorisme 2022, art. 8

¹⁹ Accountancy Vanmorgen 2021; Vogel, Claire; RTL nieuws 2018; Le Clercq 2022; Aflevering: fraudecontrole van banken schiet door 2020; AFM legt boete op aan Robeco wegens onvoldoende naleving WWFT 2022

Wwft (and the Dutch Sanction Act) and gives tools to implement *Wwft obligations*. For this guidance, the DNB had an open consultation for stakeholders, the answers to which having been added as a supplement to the guidance. The *DNB-Guidance* is not meant to be exhaustive and does not replace the actual law. The *DNB-guidance* is meant to help gatekeepers with the explanation and application of their *Wwft*-obligations, by providing the perspective of the supervisory authority of the interpretation of *those obligations*.²⁰

Controversies, reportage by news outlets, public opinion and privacy

Clients have become more aware of the fact that the bank is one of the gatekeepers of the financial system. Even though the KYC-regulation has existed for at least a decade now, only recently has KYC-regulation become visible to the broad public, because the DNB has forced banks to act (more) strictly in adherence to it. The AFM, DNB and the other *Wwft-supervisory entities now* have pages for the general public on their website explaining KYC and how the *Wwft* works in practise. Some consumer protection organisations have also added explanations for KYC-operations.²¹ In the past five years gatekeepers, mainly banks, have been in the news more often because the consequences of non-compliance to the *Wwft*.²² Banks have also added pages to their websites to explain their KYC-obligation.²³

Some banks were even punished for their inadequate measures to meet their obligations according to the *Wwft*.²⁴ As a consequence these gatekeepers have been given directions to be compliant with KYC-regulation. Compliance to the *Wwft*, has become a necessary and thus essential part of the business of banks. The most severe consequence of non-compliance can be the loss of their licence to operate. Thus, gatekeepers like banks have become more pro-active in meeting their KYC-obligations.

Frightened by the consequences set by the DNB in recent years, gatekeepers have become increasingly more intense in their questioning of transactions and clients. The ongoing review and monitoring of clients has resulted in gatekeepers questioning clients, about their behaviour and/or transactions. Clients that do not cooperate with their review, are notified that the bank can one-sidedly end their contract, because the bank cannot meet its legal obligations from the *Wwft* if the client does not cooperate with the review. Corporate clients of banks also see the consequences of KYC-regulation. One news article²⁵ mentions that in 2021, there were twice as many unilateral contract terminations because banks determined that there were suspicious transactions than five years earlier. In the past three years fifty-five of such cases went to court, and the most used reason was bad press. Bad press where the company as a client of the bank was negatively mentioned in an article. In one third of those cases, the court determined that the termination of the contract was unlawful.

Gatekeepers have claimed that the DNB is too strict because the increasing intensity with which banks had to survey clients and transactions, has significantly increased the operational costs of banks. One bank spent 250 million euro more just to shrink their bank-log of client reviews and transaction monitoring and had spent 1,2 billion euro between 2016 and 2021, and assigned and hired more employees towards *Wwft* risk analysis which ended up being more than 10 percent of its 43,000 employees.²⁶ The NVB (Dutch Association for Banks) and the DNB have made some arrangements for

²⁰ DNB Guidance on the *Wwft* and the Sanctions Act 2020, Guideline, 2

²¹ Zuurmond 2022

²² Rijksoverheid 2023; Combating Money Laundering and Fraud; About the AFM, What do we do

²³ ABN Amro n.d., ING n.d.; Rabobank n.d.; Swift.com n.d.

²⁴ Supervision of Financial Institutions 2023; Anti-Money Laundering and Anti-Terrorist Financing Act sd

²⁵ Banken bang voor witwassen: derde van beschuldigde bedrijven krijgt gelijk van rechter 2023

²⁶ Le Clercq 2022

a more risk-based approach, since all parties agreed that the Wwft responsibilities should not negatively impact the experience of banking for the 'regular clients'. This novel approach should also positively impact the operational costs for banks. Banks, the Dutch minister of Finance and the DNB have come to an agreement for banks to loosen their Wwft-policies towards the majority of clients, through more risk-based approaches to *Wwft-obligations*. This (more) risk-based approach will bring more focus on those who bring the biggest ML/TF risks.²⁷

Since consumers have started noticing this increased attention to their transactions and behaviour, several people, media outlets and even the Dutch Data Protection Authority²⁸ (DAP, in Dutch: AP) have expressed concerns in different media regarding the privacy of consumers.²⁹ Dutch AP (Autoriteit Persoonsgegevens) was established as an external supervisor to protect the right to privacy in the Netherlands. The bad press consists of articles and reportages in, but not limited to: television, radio, newspapers, and (scientific) journals.³⁰ Because of this media attention, the issue of surveillance by banks and thus also the Wwft have become (more) public and quite controversial.

A newly proposed law³¹, which would allow banks to share (anonymous) information about their finding for a shared transaction monitoring system for banks, has increased those concerns.³² The DAP has also been critical the aforementioned proposal, because it would impose on banks the requirement to share information about high-risk clients, to outsource transaction monitoring and to limit cash handled by traders to 3000 euro. Eventually the concerns also reached the Dutch government. For whom the DAP also acts as an advisor, for the implementation of new regulation. The DAP gave the national government a negative advise, for the sharing of names of clients and their (legally protected special) data (like political affiliations, disabilities etc.), for fear of unprecedented mass-surveillance of citizens. Consequently, the aforementioned propositioned law was amended. In the new proposal banks can only share account numbers without names. The fear was that central control would be a path of no return to mass-surveillance. Some questions³³ from government parties were: "How much privacy are we giving up, to fight money laundering?" and whether sharing information about transactions will create a blacklist too easily and limit the ability to open bank accounts for those who received a "mark" of being high risk or those who are deemed non-cooperative, by one of the banks.

The (public) discussion about surveillance by financial institutions, their governmentally assigned role as gatekeeper of the financial system, and their place in society is well alive. Regulations are increasing the responsibility of gatekeepers like banks; the general public is cautious of these increased responsibilities and banks are worried about their operational costs on the one hand and their license to operate on the other hand. I now want to examine the specific modality of KYC within the societies of control as explained by Deleuze.

²⁷ BNR Webredactie 2023; Banken.nl 2023; van Bekkum 2023; NOS nieuws 2023; De Telegraaf 2023

²⁸ Aflevering: fraudecontrole van banken schiet door 2020; Tiemstra 2022; nieuwe wet opent deur naar ongekende massasurveillance door banken 2022; uitgebreide anti-witwascontroles groot risico voor banken 2022; aflevering gemist: ook jij wordt gesurveilleerd door je bank en straks misschien door alle banken 2023) de Horde en Betlem 2023

²⁹ Snijder-Kuipers, Birgit; Groffen, Kees; Voogt, Constantijn; De Brauw Blackstone Westbroek 2022

³⁰ Autoriteit Persoonsgegevens 2022; Autoriteit Persoonsgegevens 2022, radar.avrotros.nl 2023 Aflevering: fraudecontrole van banken schiet door 2020; de Horde en Betlem 2023; Tiemstra 2022; Houthoff.com 2023

³¹ Rijksoverheid 2022; Nederlandse Vereniging van Banken 2022

³² de Goede 2023

³³ den Hartog 2023

3. Foucault, Deleuze and the different types of societies

This chapter will continue with an analysis of the *Postscript on the societies of control* by Deleuze, so I can explore KYC as a modality within the framework of societies of control.

Foucault about sovereign and disciplinary societies

Foucault identified sovereignty and discipline as modes or techniques of power in *Discipline and Punish*. He noted that discipline became the more dominant form of power, after overtaking the sovereignty as the dominant technique of power.³⁴ But institutions of sovereignty still existed.³⁵ In *Postscript on the Societies of Control* Deleuze added control to this schematic. Deleuze saw control as the new mode of power which was becoming dominant and overtaking the role of discipline, in the different societies. It is therefore important to understand Foucault's concept of discipline, to even somewhat accurately analyze *The Postscript on the Societies of Control*.

For Foucault discipline was a modality for the exercise of power. As a modality it has its own technique of power. A disciplinary society was formed when the disciplinary modality of power had infiltrated all other modalities of power. A modality of power for Foucault is a very specific organization of power, power organized in a specific form. A mode of functioning of power. One of those forms was discipline and societies of discipline came into existence when disciplinary institutions had been generalized to the point that they had become a general formula.³⁶ Disciplinary institutions are integrated systems within society, where discipline is a relational power. In disciplinary societies, disciplinary institutions sustain their existence by its own mechanisms.³⁷ In sovereign societies power was exercised on others, by levying taxes or making judgements on death. In societies of discipline there are mechanisms of power, the actual exercise of power is not visible, but it exists within coercive mechanisms. Discipline trains individuals, it coerces them by making them the object of observation. By observing individuals within enclosed spaces, they can be sorted and categorized. They are formed, produced in specific ways.

Deleuze and the Postscript

The *Postscript on the Societies of Control* was first published in 1990 in *L'Autre journal*. The text is divided into three parts. It starts with the *historical*, then continues with *logic* and finishes with *program*. In *historical*, Deleuze explains how the societies of control are coming up and have been overtaking societies of discipline. With societies of discipline, he means the concept as described by Foucault. In the paragraph called *logic*, Deleuze illustrates the difference in logic that drives the different types of societies and compares them to one another. In the third part, *program*, Deleuze concludes that with the societies of control there has been a change. And it is up to the next generation to figure out how they wish to exist in this new and upcoming society.

Historical

In paragraph 1 of the *Postscript*, 'Historical'³⁸, Deleuze explains how Foucault located disciplinary societies, and that disciplinary societies were a change from previous societies of sovereignty. Deleuze posits that disciplinary societies are in crisis because societies of control are emerging.

The societies of sovereignty had the goal to tax and to rule on death, according to Deleuze. In societies of sovereignty, the sovereign uses power to take things away. Taxes are levied and life is taken by the

³⁴ Foucault 1979, 161-162

³⁵ Foucault 1979, 162; Brown 2008, 68; Lichtenstein 2021, 289 +299

³⁶ Foucault 1979, 135

³⁷ Foucault 1979, 134-169

³⁸ Deleuze 1992, 3-4

sovereign. This is also how Foucault described sovereign power, violence and authority are levied.³⁹ Sovereign power was slowly replaced by the societies of discipline from the eighteenth century, during the industrial revolution, eventually reaching its peak in at the start of the twentieth century. During a state of crisis, these societies were gradually replaced by societies of discipline. Deleuze does not explain what the previous crisis of the societies of sovereignty was, or how the societies of discipline came to replace societies of sovereignty. Societies of sovereignty are merely used as a tool to show that a similar crisis is occurring in enclosures of discipline. For Deleuze this crisis in societies of discipline is a symptom of the fact that new forces are ready to replace this type of organisation of enclosures.

Societies of discipline have productive goals. Discipline sets rules and encloses spaces with those rules, these rules create order and organise society. Discipline sets rules to attain specific goals, such as students, soldiers, workers. Disciplinary rules produce students, soldiers and workers. Societies of control are about 'ultrarapid forms of free-floating control'. There are no such goals, in societies of control. Where disciplines are means to some end (production), in societies of control the goal is control itself.⁴⁰

Logic

In *2.Logic*⁴¹ societies of discipline are seen as analogous with spaces of enclosure, because they share a vocabulary. Both societies of discipline and spaces of enclosures are like moulds. In spaces of enclosure one moves in one building from room to room. Different spaces of enclosure, like different societies of discipline, share a common language. The different moulds have different rules and the individual moves between them. But all moulds work based on the same logic and they have similar goals. Moulds enclose an object and (re)form it with its rigidity. Societies of enclosures are analogous, because of their similar goals and because one can only be in one mould at a time.

One would attend school between certain ages, and dress and act as expected of them. In the next phase of their life, for example as a soldier they would move to the barracks, where they would wear army fatigues, while eating, sleeping, and training at designated times. Following that a person would start their professional career. At work one would go to the office between designated times in professional clothes. The person would do their job and around five P.M., the worker would clock out and go home. At school discipline produced a student, after graduation the army produced a soldier and at work discipline produced a worker. The rules of each disciplinary institution (school/army/work) apply to an enclosure in a specific time and place, they follow similar logics because the goal is to produce a person that fits their specific mould.

Control is numerical and a modulation. Hui suggested that numerical in this sense could have two meanings. Firstly as a number, the individual becomes a number that can be managed and the second meaning could be digital.⁴² This meaning of digital works well for the societies of control because Deleuze saw them as analogical to computers. An individual still has specific roles to play in each enclosure. The aforementioned enclosures have become less physical in societies of control, because they now also exist in the digital sphere. Controls also form or reform an object by using enclosures, but the enclosures of control are not moulds, the enclosures themselves modulate. For Deleuze modulation means adjustment. In societies of control enclosures and their internal rules are constantly adjusting themselves, they monitor to coerce individuals and/or actions.

³⁹ Foucault 1979, 164

⁴⁰ Deleuze 1992, 3-5

⁴¹ Deleuze 1992, 4-5

⁴² Hui 2015, 75

In societies of control there is only one room for everything. The use of the room and the role of the individual is changed for each purpose. In control societies, one is never done with any roles.⁴³ A student who has graduated, still has to keep up with their skills when they enter the workforce. At the same time the graduate is encouraged to learn more. Studying does not end after school and work does not replace learning. Instead school continues into the life of the worker. There is no separation anymore, people are continuously flowing and balancing between different roles.

Both analogical enclosures and numerical controls have their own place relative to other enclosures respectively controls. The relationships between analogical enclosures are (more) rigid, while the relationships between numerical controls are fluid. This shows that controls are also enclosed, but they can modulate their enclosures relative to each other. The societies of controls are a more fluid and thus modulative version of societies of discipline. As institutions are losing the enclosures they rule, they are continuously changing themselves to keep control. This constant change is called modulation.

Types of societies and their analogous machines

In the last paragraph of 2. *Logic*⁴⁴ Deleuze uses types of machines as an analogy to illustrate the logic behind the three types of societies. Deleuze uses examples of actual machines that were invented and became commonplace in a specific time in history. The machines show the logics that rule each type of machine, through their mechanisms. He connected these mechanisms to the logic of sovereign societies, the logic behind disciplinary societies and the logic behind control societies. Deleuze uses the mechanisms of the machines to visualise the mechanisms of power (the logic) of his three types of societies, because both are a result of norms of a specific time and place.

The societies of sovereignty had simple machines so they can be matched with them. The societies of discipline can be matched with machines that involve energy. Societies of discipline have active and passive dangers. The active danger consists of sabotage and the passive danger is entropy. Societies of control correspond with the (increased) presence of computers. That is why the societies of control are matched with computers. The societies of control start after the second world war and might have reached their height in the late 20th century. Societies of control also have active and passive dangers. The active dangers are piracy and viruses and passive dangers are jamming.

The difference between the types of machines as Deleuze describes is one of the scale and different levels of complication. Simple machines in the societies of sovereignty, used simple mechanics and manual power. Deleuze described disciplinary societies as machines involving energy. Since he connects it to the industrial revolution, I will assume that he means machines that work on generated power and more complicated mechanics. Because of this, less manual power was necessary, to produce more than in previous societies. The societies of control correspond with computers. Computers are electrical and highly automated machines.

The types of machines that correspond with societies of discipline and societies of control have some essential similarities. Both types of machines require generated energy. During the industrial revolution that might have been steam, while today most types of machines (including computers) operate on the power of electricity. Both types of machines have remarkably similar active dangers. The active dangers of both types of machines have the same purpose. Viruses and piracy are also sabotage caused by third parties. Piracy is a way to access data one is not entitled to through regular means and some viruses are used to access and/or steal data. Viruses are created with a purpose, they

⁴³ Deleuze 1992, 5

⁴⁴ Deleuze 1992, 6

are coded or written by individuals and maybe more increasingly by artificial intelligence. Viruses can have several ways to sabotage computers, like crashing a system or intercepting data. The active dangers for computers do result in a different type of sabotage, because computers have information on them, and sabotage can cause a loss or theft of information/data. As machines have become more complicated so have the ways to sabotage their workings. Both types of machines have remarkably similar passive dangers. The problem with entropy and jamming is the same, namely that the machine cannot function, that the computer is frozen. The machine is stuck.

The societies of discipline, the societies of control and their corresponding machines have similarities because they are based on the same logic. Computers and the societies of control, operate on the same logic as the machines involving energy and the societies of discipline. Computers are machines involving (generated) energy, their active danger is sabotage and their passive danger is that the computer can get stuck.

Societies, machines and capitalism

Deleuze also connects the machines and types of societies with capitalism. During the time of the societies of discipline, capitalism was based on production and factories. Concentration of all the different aspects of productions would be grouped together in an enclosed space (factory). The workers private lives would also concentrate around their work. In societies of discipline, gaining knowledge could lead to more efficient production. This would lead to more profits.

In the societies of control, capitalism is not driven by production. Production is outsourced to other (mostly developing) countries. Prices are kept low by moving the grunt work. The capitalism in societies of control does not bother with production itself, it purchases finished or partially assembled products and sells services and stocks. Corporations replace factories and profit from taking control of markets. Corporations no longer actively lower costs or specialize their work. They influence exchange rates and raise efficiency. In societies of control, corruption becomes more powerful.

Control societies work on the short term. There is a constant rush to have the highest turnover rate possible within the circumstances. Over time the most important thing is, to be better than the previous period. And this gets realized by having more control, which consists of collecting data to see if things can be done more efficiently and by making sure that nothing and no one is stationary. This includes tracking efficiency, continuously training employees, by tracking every step of work etc.

Logic: Societies of control still discipline, because an individual still has to play a different role in each society of control

Kelly suggested that the aim of discipline was reached in what Deleuze would point out as something specific to control societies. "...the success of discipline itself that people do willingly what they previously had to be cajoled into: It is a case of consensual discipline...This was always the aim of disciplinary power, completely explicit in every disciplinary institution." ⁴⁵

I agree that discipline and control have the same aim. Societies of control still operate on the logic of discipline. Deleuze described disciplinary societies as societies where one was constantly restarting between enclosures. For me it is not clear whether Deleuze describes the following movements between enclosures as spatial (from place to place in the same day), or as temporal (as phases in an individual's life): "From school to the barracks, from the barracks to the factory." ⁴⁶

⁴⁵ Kelly, 160

⁴⁶ Deleuze 1992, 5

The argument against differences in spatial movement: Perpetual schooling and examination have become part of a person's work-life, and work (as internships) has become part of education. If one chooses for a career in the army, the army will educate the soldier. But the roles of student and the role of worker are still different. The role the person plays in that environment, still changes between environments. The function of the enclosure, defines what role a person plays. Even if a worker is a student in a work-related course or examination in their office building, they will be treated and expected to act as a student. When doing their job at the office, the worker is just a worker. If an internship is a mandatory requirement for a diploma, the student will be treated as a worker (less experienced) at their internship and as a student in their courses at school. In the latter situation the spatial enclosure between the school building and the office building is still relevant.

The argument against a change in function in a specific phase of the life of an individual: In control societies an individual still subsequently goes from school to work, the barracks may have been removed as a necessary step because many places do not have mandatory conscription anymore. Students might also have a side-job and on-site education might have become an important aspect of the workplace, but a student is still primarily a student until graduation, after which they will enter the workforce and primarily be a worker. An office worker is still primarily a worker, because mandatory courses are part of their job. The enclosures from the societies of discipline still exist, within the modulations of the societies of control.

The societies of discipline are societies of physical enclosures. One would go to school, the army, to work and finally go home. In each of those physical enclosures an individual had a role to play. One would have to be a student in school, a soldier in the army, a worker in the factory and perhaps a parent and a child at home. This has not changed in societies of control. Even though the enclosures of school and work have started modulating (changing themselves) to (partially) include roles which were previously strictly separated from each other, the roles an individual plays are still dependent on their function in the enclosure. The individual is still disciplined to play a specific role in specific enclosures

Program

In *3.Program*⁴⁷ Deleuze explains that the most essential part for a control mechanism, is knowing where any element is within that open environment is, at any point in time. He gives the example of Guattari's idea of a card that would give access any place. The point of the card was not just that the card carrier could be limited or any 'port' could be closed, but the system would be able to locate the card at any moment in time because everything is accessed through the card.

Deleuze concludes that the mechanisms of control have started to substitute mechanisms of discipline and the leftover mechanisms of sovereignty. The disciplinary mechanisms have been in crisis before, and now is the time for the rise of mechanisms of societies of control. The societies of control are the new system of domination.

People used to be numerical and individual but they're becoming dividual, like something to be controlled not as itself or separate from the rest, but as a part of a controllable substance. Individuals have become dividuals. Deleuze believes that younger people who are proud of their motivation and never-ending effort, should figure out what they are actually doing that for.

Same logic, different program?

The societies of control are a continuous modulation of the logic of the societies of discipline itself and I have found that the modification of disciplinary power is that control has the ability to continuously

⁴⁷ Deleuze 1992, 7

modulate. Control is discipline in modulation, because the societies of discipline and the societies of control operate on the same logic. I have illustrated this with commentary on: the comparison of analogical moulds with numerical modulations and the analogous examples of machines and capitalism as provided by Deleuze. Modulation itself does not change the logic of discipline, but the fact that enclosures now modulate does mark a difference in how disciplining happens. Societies of control are different from societies of discipline, because of the constant modulation of enclosures. Societies of discipline can keep existing within the framework of societies of control, even if the program of control is different.

I infer that since Deleuze established societies of control to be a successor of societies of discipline⁴⁸, it is necessary for control to take over societies of discipline. Once control has infiltrated all modalities of power and is the dominant technique of power, societies of discipline become societies of control. This infiltration of control in societies of discipline is visible when rigid enclosures become modulative.

The modulative nature of enclosures in societies of control does change the behaviours of the institutions, individuals and their interactions within societies. The way in which societies of control exercise power, is different from societies of discipline. The program is different because of the way societies of control exercise power. Discipline uses regulation as rigid mould to produce a certain product, for an individual to fit a mould. In societies of discipline, discipline is used to create a predetermined product or to reach a certain goal in the most efficient way. Control societies do not have one end goal to reach or mould to fill. Control societies operate on constant improvement. Even if goals are set, previous results can change the rules, standards and expectations. If goals are met prematurely, either the goal posts are moved forward, expectations for the next cycle are increased or a combination of those. Societies of control and societies of discipline are not mutually exclusive, because of their shared logic. This also fits within the framework of the societies of discipline as Foucault had originally conceptualised, because Foucault explicitly stated that the different powers do not represent successive societies. Kelly mentions that the shift Deleuze sees in practices of work, does not mean that there is a new power at work, but merely a modification of disciplinary power. Foucault identified disciplinary and sovereign power, which can exist together in relationship.⁴⁹

I analysed the relationship between discipline, control and modulation and the logic Deleuze himself used in *The Postscript on the Societies of Control*. Similar to my analysis, Williams concluded that what separates control societies from societies of discipline was “its dynamic ... of continuously shifting modulation” and that “Control is a deeper, more mobile and more flexible form of discipline”.⁵⁰ The difference between our analyses is that Kelly compared the application of the concepts of sovereignty and discipline by Deleuze, with their original conceptualisations by Foucault.

In the end, even if they are both based on the same logic of power, societies of discipline and societies of control operate differently and they have a different program. I found that control is a modulation of discipline and that discipline and control have similarities, but that this modulation creates enough differences to still separate control mechanisms from mechanisms of discipline. For my thesis it was important to figure out what separates discipline from control and I found that modulation was the essential difference between the mechanisms of discipline and control. Modulation has become the main mode of power in societies of control.

Disciplines (in societies of control) that modulate with this intensity, are a relatively new phenomenon and it is something we can be critical of. If the praxes of KYC exists within the framework of the societies of control and if these KYC-praxes simultaneously operate and exist within societies of discipline, then that is a symptom of control infiltrating societies of discipline. Control is in the process

⁴⁸ Deleuze 1992, 4

⁴⁹ Kelly 2015, 151-154

⁵⁰ Williams 2015, 212

of becoming the dominant mode of power in all types of society. In the next chapter I will show how KYC-praxes simultaneously exists in societies of control as well as societies of discipline.

4. Prevention of financial crime through KYC in light of Deleuze's Postscript

This chapter explains how the concept of societies of control by Deleuze, could be interpreted within the praxes of KYC (KYC-operations). I show that KYC can only exist in societies of control, but that it was born from the modulation of existing enclosures in the societies of discipline.

In his speech at the Data Science Conference of the DNB Data Science Hub, Steven Maijor (Member of the Supervisory Board of the DNB) explains how supervisors can leverage data. He mentions that nowadays there is data on nearly all parts of the financial system. He mentions that KYC-operations have successfully used outlier detection tools and that more data combined with more accurate models can bring better predictive data, which will reduce the costs of KYC-operations. He is a proponent of more data driven supervision.⁵¹

Because data and analytics are an integral part of KYC-research, I will be using parts of the *Update on the Postscript for Big Data and Predictive Analytics* by James Brusseau as a means of discussion.⁵²

Modulation and data science for supervision

Maijor's speech shows that KYC-operations in their current form, can only exist in societies of control. There are multiple layers of supervision that coexist in the speech. Maijor is on the supervisory board of the supervisory institution of the banks. Banks (and other gatekeepers) supervise clients because of their *Wwft* obligations and responsibilities. There are multiple levels of supervision which are sorted in a hierarchal sense, one above the next. What is also noticeable is the amount of importance given to maximizing data for more accurate predictions. DNB as supervisor of gatekeepers is expecting gatekeepers to constantly maximize the data at their disposal to make a 'safer financial system'. More data and better algorithms can make predictions more accurate and thus supervisors will be able to make better decisions. For gatekeepers (and their supervisors) knowledge nowadays in the form of data, is literally control. By having the ability to predict behaviours gatekeepers can control who can access the financial system, and how they can use it, and for which purposes their products can be used. Supervisors enforce the rules that determine this access. Legislation is written in accordance with (inter)national laws, regulations and treaties.

From discipline of criminal behaviour, to control in the financial system

Control societies are reality with *Wwft*-regulations on KYC-supervision. The fight against financial crime is increasingly decentralised. In the current situation, several gatekeepers have become responsible for the workings of the financial system. For now they still have to report notable transactions to the national Financial Intelligence Unit (FIU). When the FIU deems transactions as suspicious, it is on the prosecutor to argue for a guilty verdict in court. After the court of justice finds a person guilty of the (financial) crime, the police comes to confine that person. In the planes of criminal law, KYC still operates within a society of discipline. There are lines between each stop in the process of fighting crime, the responsibility of one party ends, where the next 'crimefighter' continues. But with new *Wwft*-obligations for gatekeepers, the detection of (financial) crimes are increasingly moving towards a situation of multiple societies of control.

KYC-supervision operates on different logics of power. The KYC-responsibilities can be divided. First the gatekeepers notice irregular transactions or behaviour. After that gatekeepers take measures to limit suspicious activity, before it even actually happens. Gatekeepers accept behaviours based on their risks or suspicions. The gatekeepers then, were obligated to report irregular transactions and/or behaviours to the FIU. The FIU then investigates the reports of irregular transactions and behaviour.

⁵¹ Maijor 2022

⁵² Brusseau 2020

When the FIU identifies suspicious behaviour/transactions, a prosecutor is notified. Where one actor's responsibility ends, the responsibility of the process of another begins.

In their current form, banks have the responsibility to know where their clients' money comes from. To figure out if money has a criminal origin, banks analyse their clients (transactional) behaviour and transactions with the use of data science and predictive analytics. Banks regulate the behaviour of their clients and make access to the financial system more difficult for those who bring with them, higher risks of financial integrity. This happens by not opening accounts, one-sidedly terminating existing contracts, blocking accounts, by making certain services which bring higher risks less accessible, more controlled and more expensive. At the same time products, services, behaviour and clients that bring lower risks with them are facilitated, made cheaper, and much easier to gain access to.

The gatekeepers are not government bodies but (semi)private providers of financial services for the general public. And yet they have become responsible for safeguarding the financial system from crimes. This shows the move from discipline to control. Instead of punishing crimes, data is now used to predict irregular transactions. Irregular transactions as such are not against the law, but their mere irregularity is now seen as a sign of possible suspicious behaviour. When gatekeepers tell the FIU about irregularities, FIU investigates them and labels some of those irregularities suspicious. Suspicious behaviours are seen as grounds for criminal investigation. Behaviours are controlled on the basis of data and not on pure suspicions or signs.

There are many examples of regulation of behaviours through the modulation of discipline in the financial system. They exemplify modulations of discipline, because the rules of discipline have changed. Not only illegal or unlawful actions are discouraged, but KYC-regulations have resulted multiple mechanisms that discourage irregular and abnormal behaviours. It is not just the police investigating crimes and judges punishing criminals. The laws that aim to prevent criminal behaviours and actions, have also resulted in norms for behaviour that: 1) has not even happened yet, 2) is not against the law and 3) does not fall within the expectations of normal behaviour.

- There have been reports that businesses that operate in a so-called high risk sector such as the second hand car reselling businesses and metal recycling have not been able to open new account at any of the banks. The access to the financial systems was not given to them.
- Raising the price to deposit cash especially for high-risks bills such as five-hundred euro bills, has made it less attractive to store cash and deposit it at the bank unless there is a good reason.
- Some banks have started providing online accounts only as a way to limit the risks of cash. Other banks have made online-first accounts cheaper than other products. For businesses they have created limits for cash deposits and costs, while payment through cards are facilitated by making it a cheaper option for business owners.
- Within the EU, five-hundred euro bills have been proven to mostly be used within criminal circuits. That has led to 500 euro bills to not be produced since 2019.
- From merely practical issues for tax collectors, the fact that governments are losing money that they had planned to collect, have become ethical issues of tax avoidance and tax evasion. Tax evasion-treaties have been signed and ratified between most countries. The scope of tax avoidance (legal) has been shrinking and the scope of tax evasion (illegal) has been growing.

Approaching KYC-supervision from the historic approach, illustrates several changes. In a pure society of discipline, financial institutions would merely be providers of their products and services. The police

or prosecutors would have to find evidence of this crime, before they could get access to the accounts. Eventually a judge in criminal court would determine who is guilty.

The fight against crime, which was previously the responsibility of law enforcement and judiciary powers, has modulated in multiple ways. Over time the meaning of what of crime/criminal behaviour has changed. Crime is no longer limited to physical crimes, digital transactions and movements have become punishable and now even anomalous behaviours and movements are categorized for increased surveillance. Not acting according to existing models, expected patterns and unwritten norms, now gives enough cause for (criminal) investigation. White-collar/financial crimes have become punishable offences. The detection of crime is no longer limited to the responsibility of the police and prosecutors. Furthermore, the amount of actors within the enclosure of KYC has increased. The FIU were added, and the gatekeeper role was assigned to entities who were previously seen as -merely- financial service providers. Following that, gatekeepers were endowed with new obligations. Non-compliance was fought with (threats of) sanctions. These modulations had the purpose of controlling actors and behaviours. This control, as a technique of power, also has aspects of discipline such as administrative sanctions for gatekeepers and punitive sanctions for people who have been proven in criminal court to be guilty of the crime of money laundering and/or terrorism financing. Control in the societies of KYC operates simultaneously in the logic of discipline as well as the logic of control.

Program of the future of the societies of KYC

Supervisory institutions are suspicious about unregulated payment methods like those of block-chain (ex. Bitcoin/crypto). A reason why alternative financial systems may have come into existence, is that supervision has made it more difficult to behave like an outlier. Making alternative payment methods outside of the financial systems a necessity. The established order of financial institutions is not enthused by the fact that after years of working on creating this supervisory framework, a part of the transactions have escaped its control. In the previous situation money always had to be laundered to be usable again. An alternative system can thus be seen as a threat to the current financial system and therefor as a threat to the still reigning societies of discipline. Alternative financial assets are seen as a threat to the global financial stability, by several institutions in the traditional financial systems. Some examples: national banks, governments, commercial banks, the Financial Stability Board of the G20.⁵³ On the other hand alternative financial systems, because of their (digital) structure are necessarily institutions of control. They can literally be seen as “ultrapid forms of free-floating control”. They come with new products and techniques, which can facilitate new modes of financial transactions, but exactly because their new and proprietary techniques facilitate new behaviours, they create new platforms on which individuals actions, movements and behaviours can be subjected to surveillance.

To reduce the possibility of uncontrollable actors, the laws (Wwft, EU etc.) have broadened their scope in the last few years, thereby legitimizing them. Providers of alternative financial products and services have become gatekeepers as well, they are obligated to register themselves with national supervisors of financial institutions. Non-compliance can result in administrative fines.

Another movement we can see with the U.S. Security and Exchange Commission (SEC) which is the supervisory institution for the financial sector in the U.S.A, is that it brings Crypto service providers to court, because according to the SEC these providers already fall sufficiently within the general definitions for financial institutions by the type of services and products that they provide.

⁵³ Badea and Mungiu-Pupazan 2021

It seems like the society of control of the financial system is trying to simultaneously broaden its reach and scope, as a reaction to alternative financial systems because the governments, supervisory institutions and classic (normal) financial institutions are losing their sovereignty on the whole of the financial systems. The current financial systems are modulating their borders and responsibilities to fit alternative financial products and their providers, within the current control societies.

The program of the future is not clear. I do not think it is plausible that a more substantial and separate financial system outside of the current society of control can co-exist alongside the current societies of control, because external systems that exist right now, are -through- modulation being embedded into existing frameworks. This modulation shows that KYC is only possible in societies of control. Societies of control have come into existence because control is becoming the dominant modality of power in what previously were societies of discipline. Control is infiltrating the disciplinary societies of the traditional financial systems and becoming the dominant technology of power, through modulation of the legal framework, that increased the obligations of gatekeepers in the prevention of ML/TF.

5. Conclusion

Foucault first identified sovereignty and discipline as modes or techniques of power. After the industrial revolution, discipline became the more dominant form of power. But institutions of sovereignty still existed. To that schematic, Deleuze added control. He posited that societies of sovereignty, were being replaced by societies of discipline and after the Second World War, there were several changes in the world, which led to the of societies of control. Deleuze posited that during the time that he wrote the Postscript, the societies of discipline were in ongoing generalized crisis, because societies of control were taking over. Deleuze saw control as the new mode of power which was becoming dominant and overtaking the role of discipline, in the different societies.

With this thesis I wanted to figure out how KYC (Know-your-client) exists in the societies of sovereignty, discipline and control as described by Deleuze. I wanted to find out if KYC is something that can only exist in societies of control and whether or not societies of sovereignty and/or discipline still exist within the current framework of KYC.

I start my analysis by illustrating the origins and praxes of KYC. I show that KYC is a legal obligation for gatekeepers, to prevent (the facilitation of) money laundering and financing of terrorism. If gatekeepers do not sufficiently fulfill the duties falling under their KYC-obligation, they risk the loss of their license to operate. The DNB is the Dutch integrity risk supervisor of banks and several other (financial) institutions. The DNB function as a supervisory institution is codified in Dutch anti-money laundering and counter-terrorism financing (AML/CTF) legislation.

The KYC-obligation itself consists of several duties for gatekeepers to fulfil, such as identification and verification of their clients; continuous monitoring of clients, their transactions and their level of risks of money laundering and terrorism financing (ML/TF). This monitoring is risk-based. Risk based client monitoring means that with are low/lesser risks that the client is involved in ML/TF, the client reviews can be less intensive. As the risks of ML/TF increase, clients are investigated more intensively by their gatekeepers.

I showed how the praxes of KYC, correspond with the different types of societies as identified by Deleuze. To do that, it was necessary to determine the differences between the dominant modes of power in the different types of societies. Because of how concise the Postscript is, I had to delve into sovereignty and discipline as modes of power as described by Foucault. From there I tried to identify differences between discipline as described by Foucault and control as described by Deleuze. For Deleuze the difference between discipline and control, was that discipline worked as moulding, while control functioned on constant modulation. I determined that discipline and control are based on the same logic, the logic of enclosure. Thus, the essential difference is modulation. In control societies the enclosures modulate. I tried to show that control societies are merely disciplinary societies that modulate. I argued that this modulation is inherent to discipline itself. I wanted to show that Deleuze did not identify a new mode or schematic of power, and that there is technically no difference between discipline and control, because the difference between modulation and moulding is the flexibility of the enclosure.

I determined that KYC-praxes could not have come into existence without the existence of the societies of discipline, because control is modulative discipline. The increased flexibility of enclosures was made possible by new technologies such as computers and (faster) long distance travel. These new technologies increased the scale and distance of movements of persons and their funds. For financial transactions and services, more funds (money/ value) could be moved increasingly further away with an increase in speed as well. Because of new technologies the movements of funds increased in scale, frequency and speed. With those increases, came an increase of possibilities for unwanted behaviours. With the new technologies that facilitated the movement of funds, it also

became possible for gatekeepers as facilitators, to monitor the transactions of their clients more closely. The volume of clients and transactions made it possible to categorise normal and (ab)normal or suspicious behaviours and transactions.

The current financial systems are modulating their borders and responsibilities to limit ML/TF and to fit alternative financial products and their providers, within the current control societies. Through the implementation of ML/TF-regulations, KYC has become an obligation for gatekeepers. The consequences of non-compliance with ML/TF regulations and thus KYC-obligations, are forcing gatekeepers to embed KYC-operations into their regular business operations. KYC-operations and regulations are only possible within societies of control, because they have risen from these modulations of the traditional financial system. All the modulations of the financial systems, show that control is infiltrating the disciplinary societies of the traditional financial systems and becoming the dominant mode of power.

Finally I explained why KYC can only exist in societies of control. KYC was born from modulations of the legal framework of (traditional) financial institutions in the societies of discipline. The amount of actors within the enclosure of KYC has increased. The detection of crime is no longer limited to the responsibility of the police and prosecutors. KYC-regulations have created multiple mechanisms that discourage irregular and abnormal behaviours. To reduce the possibility of uncontrollable actors, laws within the traditional financial systems have been modulating (i.e. broadening) their scope, by legitimizing alternative financial institutions, to give them KYC-responsibilities as well. Data supervision has made it more difficult to behave like an outlier. Alternative financial assets are seen as a threat to the global financial stability. Gatekeepers are expected by supervisory institutions, to continuously improve the quality and quantity of their data. All the different modulations to fit outliers within the control of the traditional financial system, show that control is becoming the dominant technology of power. Discipline of criminal behaviour has modulated into control of the financial system. KYC is therefore, only possible in societies of control.

Bibliography

- ABN Amro. n.d. *Know your client centre*. Accessed May 7, 2023. <https://www.abnamro.nl/nl/zakelijk/over-abnamro/know-your-client-centre/index.html>.
- Accountancy Vanmorgen. 2021. *ABN-amro betaakt witwasboete van 400 miljoen*. 19 april. Accessed may 10, 2023. <https://www.accountancyvanmorgen.nl/2021/04/19/abn-amro-betaalt-witwasboete-van-480-miljoen/>.
- AFM.nl. n.d. *About the AFM, What do we do*. Accessed april 23, 2023. <https://www.afm.nl/en/over-de-afm/wat-doen-wij>.
- Autoriteit Persoonsgegevens. 2022. *nieuwe wet opent deur naar ongekende massasurveillance door banken*. 21 october. Accessed may 9, 2023. autoriteitpersoonsgegevens.nl/nl/nieuws/nieuwe-wet-opent-deur-naar-ongekende-massasurveillance-door-banken#subtopic-1940.
- . 2022. *uitgebreide anti-witwascontroles groot risico voor banken*. 23 may. Accessed may 9, 2023. autoriteitpersoonsgegevens.nl/nl/nieuws/edpb-uitgebreide-anti-witwascontroles-groot-risico-voor-burgers#subtopic-1940.
- Badea, Liana, and Mariana Claudia Mungiu-Pupazan. 2021. "The Economic and Environmental Impact of Bitcoin." Vol.9: 48091-48104. <https://ieeexplore.ieee.org/document/9385063?arnumber=9385063>.
- Banken.nl. 2023. *Minister Kaag: "Aanpak witwassen schiet op sommige punten door"*. 1 june. <https://www.banken.nl/nieuws/24563/minister-kaag-aanpak-witwassen-schiet-op-sommige-punten-door>.
- BNR Webredactie. 2023. *Banken versoepelen anti-witwasbeleid, 'lieten zich bang maken door DNB'*. 31 may. <https://www.bnr.nl/nieuws/financieel/10514226/banken-versoepelen-anti-witwasbeleid-het-is-nooit-zo-streng-geweest>.
- Brits, Hans, Frans van Bruggen, Charlotte Dijkstra, Richard Hoff, David Keijzer, Joris van Toor, and Lianne Veldhuis. 2022. "From recovery to balance." De Nederlandsche Bank, 15 September. Accessed May 25, 2024. https://www.dnb.nl/media/n5tkzdaqm/74726_dnb_ia-fec_en_web.pdf.
- Brown, Wendy. 2008. "Power after Foucault." In *The Oxford Handbook of Political Theory*, by John S. Dryzek, Bonnie Honig and Annie Philips, 65-84. Oxford: Oxford University Press.
- Brusseau, James. 2020. "Deleuze's Postscript on the Societies of Control, Updated for Big data and Predictive analytics." (Berghahn Books) 67 (164): 1-29.
- de Goede, Agnes. 2023. *Opeens geblokkeerd door je bank: 'We konden niets meer betalen'*. 31 january. <https://www.rtlnieuws.nl/nieuws/politiek/artikel/5362930/witwassen-banken-nieuwe-witwas-wet-minister-kabinet>.
- de Horde, Cor, and Rutger Betlem. 2023. *Nieuwe witwaswet zaait felle verdeeldheid onder voor- en tegenstanders*. 26 january. Accessed may 9, 2023. <https://fd.nl/financieel-markten/1465977/nieuwe-witwaswet-zaait-felle-verdeeldheid-onder-voor-en-tegenstanders>.

- De Telegraaf. 2023. *Banken gaan minder vaak controleren op witwassen*. 31 may. <https://www.telegraaf.nl/financieel/1806798121/banken-gaan-minder-vaak-controleren-op-witwassen>.
- Deleuze, Gilles. 1992. "Postscript on the Societies of Control." 59 (Winter 1992): 3-7.
- den Hartog, Tobias. 2023. *Hoeveel mag een bank van ons weten om witwassen te bestrijden? Kamer twijfelt*. 26 january. <https://www.ad.nl/politiek/hoeveel-mag-een-bank-van-ons-weten-om-witwassen-te-bestrijden-kamer-twijfelt~a5ef930b/?referrer=https%3A%2F%2Fwww.google.com%2F>.
- Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Par.* n.d.
- DNB. 2020. *DNB Guidance on the Wwft and the Sanctions Act*. december. Accessed april 23, 2023. <https://www.dnb.nl/en/sector-information/supervision-laws-and-regulations/laws-and-eu-regulations/anti-money-laundering-and-anti-terrorist-financing-act/dnb-guidance-on-the-wwft-and-the-sanctions-act/>.
- . 2023. *Supervision of Financial Institutions*. 24 april. Accessed 2023. <https://www.dnb.nl/en/reliable-financial-sector/supervision-of-financial-institutions/>.
- DNB.nl. n.d. *Anti-Money Laundering and Anti-Terrorist Financing Act*. Accessed april 23, 2023. <https://www.dnb.nl/en/sector-information/supervision-laws-and-regulations/laws-and-eu-regulations/anti-money-laundering-and-anti-terrorist-financing-act/>.
- . n.d. *Combating Money Laundering and Fraud*. Accessed april 23, 2023. <https://www.dnb.nl/en/reliable-financial-sector/combating-money-laundering-and-fraud/>.
- FATF. n.d. *History of the FATF*. Accessed April 30, 2023. <https://www.fatf-gafi.org/en/the-fatf/history-of-the-fatf.html>.
- FATF Recommendations. 2012 (Last updated February 2023). "The FATF Recommendations. International Standards on Combating Money Laundering and The Financing of Terrorism & Proliferation." Accessed April 30, 2023.
- Foucault, Michel. 1979. "Discipline and punish: The birth of the prison." translated by A. Sheridan.
- Gilbert, Jeremy, and Andrew Goffey. 2015. "Control Societies: Notes For an Introduction." *New Formations* 5-19.
- Goffey, Andrew. 2015. "Towards a Rhizomatic Technical History of Control." *New Formations*, Summer: 57-73.
- Harris, Ron. 2020. *Going the Distance: Eurasian Trade and the Rise of the Business Corporation, 1400-1700*. 1. Princeton University Press. Accessed May 30, 2024. <https://web.p.ebscohost.com/ehost/detail/detail?vid=0&sid=8ed6f834-0d8c-40c6-988f-885f64dd2808%40redis&bdata=JnNpdGU9ZWhvc3QtbGl2ZSzyY29wZT1zaXRl#AN=2160534&db=nlebk>.
- Houthoff.com. 2023. "Dutch Government's MAL policy agenda an dfine for collective licence holder." *Houthoff.com*. 12 june. <https://www.houthoff.com/insights/news-update/dutch-government%27s-aml-policy-agenda-and-fine-for-collective-licence-holder>.

- Hui, Yuk. 2015. "Modulation after control." *New Formations* 74-91.
- ING. n.d. *Why KYC*. Accessed May 7, 2023. <https://www.ing.nl/zakelijk/klantenservice/kyc/why-kyc>.
- Isherwood, Neil. 2022. "Moving to a perpetual KYC model: The benefits and the challenges." *Journal of Financial Compliance* 5 (3): 228-236.
- Kelly, Mark G.E. 2015. "Discipline is Control: Foucault contra Deleuze." *New Formations* 148-162.
- Kohn, Margaret, and Kavita Reddy. 2024. "Colonialism." *The Stanford Encyclopedia of Philosophy*. Summer. Accessed May 30, 2024. Summer 2024 Edition.
- Le Clercq, Paul. 2022. *Rabobank: Kwart miljard extra en aparte directeur tegen witwassen*. 10 february. Accessed may 10, 2023. <https://www.rtlnieuws.nl/economie/bedrijven/artikel/5287217/rabobank-witwassen-kyc>.
- Lees-Howell, Zowie. 2023. *Firms must adopt a perpetual KYC model to meet rising fraud threat*. 10 May. Accessed May 30, 2024. <https://www.business-money.com/announcements/firms-must-adopt-a-perpetual-kyc-model-to-meet-rising-fraud-threat/>.
- Lichtenstein, Eli.B. 2021. "Foucault's Analytics of Sovereignty." *Critical Horizons* 287-305. Accessed June 22, 2024. doi:10.1080/14409917.2021.1953750.
- Maijoor, Steven. 2022. "How can supervisors leverage data even better in supervision? ." *dnb.nl*. 13 may. <https://www.dnb.nl/en/general-news/speeches-2022/speech-steven-maijoor-data-science-for-supervision-what-s-in-it-for-us/>.
- Nederlandse Vereniging van Banken. 2022. *Gezamenlijke transactiemonitoring wapen in strijd tegen crimineel geld*. 17 juni. <https://www.nvb.nl/nieuws/gezamenlijke-transactiemonitoring-wapen-in-strijd-tegen-crimineel-geld/>.
- NOS nieuws. 2023. *Banken beloven minder lastige vragen voor gros van klanten*. 31 may. <https://nos.nl/artikel/2477161-banken-beloven-minder-lastige-vragen-voor-gros-van-klanten>.
- Parkman, Tim. 2019. *Mastering Anti-Money Laundering and Counter Terrorist Financing*. 2. FT Publishing International. <https://learning-oreilly-com.eur.idm.oclc.org/library/view/mastering-anti-money-laundering/9781292282374/cover.xhtml> .
- Rabobank. n.d. *Know Your Customer (KYC)*. <https://www.rabobank.nl/particulieren/service/kyc>.
- radar.avrotros.nl. 2023. *aflevering gemist: ook jij wordt gesurveilleerd door je bank en straks misschien door alle banken*. 27 february. Accessed may 9, 2023. <https://radar.avrotros.nl/uitzendingen/gemist/item/ook-jij-wordt-gesurveilleerd-door-je-bank-en-straks-misschien-door-alle-banken/> .
- Radar.avrotros.nl. 2020. *Aflevering: fraudecontrole van banken schiet door*. 21 september. Accessed may 2023, 2023. <https://radar.avrotros.nl/uitzendingen/gemist/item/fraudecontrole-van-banken-schiet-door/> .
- Radarlaw.nl. 2022. *AFM legt boete op aan Robeco wegens onvoldoende naleving WWFT*. 12 april. Accessed may 10, 2023. <https://radarlaw.nl/nieuws/afm-legt-boete-op-aan-robeco-wegens-onvoldoende-naleving-wwft/>.

- Rijksoverheid. 2023. *Aanpak witwassen en terrorisme financiering, veelgestelde vragen*.
<https://www.rijksoverheid.nl/onderwerpen/financiele-sector/aanpak-witwassen-en-financiering-terrorisme/veelgestelde-vragen-wwft>.
- . 2022. *Nieuwsbericht Wetsvoorstel Plan van aanpak Witwassen*. 21 10.
<https://www.rijksoverheid.nl/actueel/nieuws/2022/10/21/wetsvoorstel-plan-van-aanpak-witwassen>.
- Rijksoverheid.nl. n.d. *Wat betekent de Wwft voor bedrijven en klanten?* Accessed June 22, 2024.
<https://wetten.overheid.nl/zoeken/zoekresultaat/rs/2,3,4/titel/wwft/titelf/1/tekstf/1/d/22-06-2024/dx/0>.
- Smith, Daniel, John Protevi, and Daniela Voss. 2023. *Gilles Deleuze*. Summer. Accessed June 25, 2024. <https://plato.stanford.edu/entries/deleuze/>.
- Snijder-Kuipers, B., and A.T.A. Tilleman. 2019. *Handboek WWFT*. Edited by mr. A.T.A. Tilleman LL.M. mr. dr. B. Snijder-Kuipers. Vol. 111. Deventer: Wolters Kluwer.
- Snijder-Kuipers, Birgit; Groffen, Kees; Voogt, Constantijn; De Brauw Blackstone Westbroek. 2022. *Proposal for anti-money laundering action plan submitted to dutch parliament*. 28 october. Accessed may 9, 2023. <https://www.debrauw.com/articles/proposal-for-anti-money-laundering-action-plan-submitted-to-dutch-parliament>.
- Swift.com. n.d. *Meaning of KYC*. Accessed May 7, 2023. <https://www.swift.com/your-needs/financial-crime-cyber-security/know-your-customer-kyc/meaning-kyc>.
- Tiemstra, Tjalling. 2022. *opinie: witwasbestrijding vereist wel degelijk fundamentele herziening*. 25 october. Accessed may 9, 2023. <https://fd.nl/opinie/1453862/witwasbestrijding-vereist-wel-degelijk-fundamentele-herziening>.
- van Bekkum, Dylan. 2023. "De enorme klus van witwastoezicht wordt voor banken een lichtere en gerichtere taak." *www.volkskrant.nl*. 31 may. <https://www.volkskrant.nl/nieuws-achtergrond/de-enorme-klus-van-witwastoezicht-wordt-voor-banken-een-lichtere-en-gerichtere-taak~bb9dda7d/?referrer=https://www.google.com/>.
- Vogel, Claire; RTL nieuws. 2018. *ING schikt zaak over witwaspraktijken en betaalt 775 miljoen euro*. 4 September. Accessed May 10, 2023.
<https://www.rtlnieuws.nl/nieuws/nederland/artikel/4403876/ing-schikt-zaak-over-witwaspraktijken-en-betaalt-775-miljoen-euro>.
- VPRO. 2023. *Banken bang voor witwassen: derde van beschuldigde bedrijven krijgt gelijk van rechter*. 1 may. <https://www.nporadio1.nl/nieuws/onderzoek/89d83ff6-6c5d-401d-a56b-79312212e044/banken-bang-voor-witwassen-derde-van-beschuldigde-bedrijven-krijgt-gelijk-van-rechter>.
2022. "Wet ter voorkoming van witwassen en financieren van terrorisme." 2022 11. Accessed May 28, 2024. <https://wetten.overheid.nl/BWBR0024282/2022-11-01>.
- Williams, Alex. 2015. "Control Societies and Platform Logic." *New Formations* 209-227.
- Wolin, R. 2024. *Gilles Deleuze*. 30 April. Accessed May 25, 2024.
<https://www.britannica.com/biography/Gilles-Deleuze>.

Yin, Jing, and Paul Patton. 2019. *Gilles Deleuze*. 31 July. Accessed May 25, 2024.
<https://www.oxfordbibliographies.com/view/document/obo-9780190221911/obo-9780190221911-0079.xml>.

Zuurmond, Ingrid. 2022. *Banken controleren op witwassen: schending van je privacy?* 1 july.
<https://www.consumentenbond.nl/betaalrekening/banken-controleren-witwassen-privacy>.