



Money Laundering Issues and Risks

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FACTS

- **1** If Criminals cannot safely enjoy the monetary proceeds of their crimes then the risk involved in committing repeat crimes will progressively render the criminal enterprise non worthwhile.
- **2** Criminals must therefore robustly disguise the monetary benefit of the crime by cleaning or laundering that benefit in whatever form it exists. This will disassociate its true origins and the criminal can thus present it to the world as legitimate money or value, to be used by the criminal with much reduced risk of discovery or trace back.
- **3** Money laundering is essentially a sequence of actions used by those holding the money or value proceeds of illegal activities, to achieve a robust disguise for these proceeds
- **4** It can cost the Criminal a large percentage of the face value of the criminal proceeds, sometimes up to 40%, to undertake this laundering exercise and thus to obscure its original source, leaving the criminal free to enjoy the illegal benefit and in the light of that, possibly repeat the crime many times.
- **5** No one knows the exact amount of money or value being laundered within the global economy but the few statistics that are available are both thought provoking and horrifying. According to one report available on the web at www.dirtymoney.com and dated 9 years ago, the global value of specifically laundered money is most probably in excess USD 1,500,000,000,000 At the time of that statistic that would evidently have represented about 17% of the entire GDP of the USA ! At the same time the global proceeds of worldwide organized crime evidently equaled almost 20% of the entire GDP of the USA ! Are you starting to see the connection...?
- **6** Not all criminals outsource the laundering process. Some undertake this task themselves. However, many use a variety of agents to launder their criminally derived proceeds and perhaps its not surprising that with these volumes, the laundering industry, able to skim off up to 40% of the value of the criminal proceeds is so profitable and attractive to criminals.
- **FACT 7** Successful money laundering activity spawning yet more crime, exists at a scale that can and does have a distorting and disruptive effect on economies, marketplaces, the integrity of jurisdictions, market forces, democracies etc. Think Mexico, think Columbia, think corrupt politicians It is in short a cancer, existing for one purpose only, to make crime and illegal activity worthwhile.

The Process of the Laundering of Money and Value

There are three stages in the money laundering process. The precise nature of the activity under each of these stages may well differ case by case. However, each stage is generic in its composition and thus provides an unchanging framework upon which the laundering process is devised and constructed and can be recognized and identified. .

The three stages are:

The Placement Stage

This is where the criminal proceeds are first-injected into the system. It is also the stage where those who are educated, briefed and alert to the process of money laundering, have the best chance of detecting what is happening and are thus best able to thwart and disrupt the process at the outset.

At this stage, very often larger amounts of money are divided and distributed into smaller amounts to avoid suspicion and then paid into a series of bank accounts, or used to purchase securities, or life policies or other assets, sometimes many kinds of assets, all to achieve the prime purpose of being able to inject the tainted money or value into the legitimate mainstream financial/business system.

The Layering Stage

After the injection has taken place and the tainted money or value has entered and become mixed up in the main mass of money or value in the financial system, it is spun around different accounts, different names, different ownerships, plus different instruments and investments.

All these movements are designed to disguise the origins of the money or value and thus confuse those who might be attempting to trace the money or value back to the root, criminal source.

Facilitated by the birth of electronic funds transfer technology the fast movement of funds through multiple jurisdictions often with different laws, creates major problems for investigators of identification, access and ultimately achieving successful prosecutions.

The Process of the Laundering of Money and Value (cont.)

The Integration Stage

This is where all the mixed up and blended money or value is reconstituted or drawn together and presented to the public vision as something completely different from its original origin. Of course the new origin of the funds will appear legitimate, thus enabling the proceeds to be enjoyed by the perpetrator of the criminal act.

“Elastic” Features

The detailed activities undertaken in the three stages of the money laundering process can be molded and shaped to suit models that fit almost any circumstances and in this respect they represent a powerful tool for the launderer. Nevertheless, a briefed and aware person can in many cases recognize at least the first two stages and can be sufficiently aware to be suspicious of the third stage.

Always remember, the best chance of detection and alert is at Stage 1. If that is missed then subsequent identification at Stages 2 and 3 whilst not impossible, becomes more difficult.

Two Case studies to think on:

- The Trader
- The Hotelier

Listening to these case studies, see if you can identify the three stages...!

Fertile conditions for money laundering

Remember

- ✦ Water, flowing with energy, will always find the path of least resistance.
- ✦ Criminal activity will in the same way always gravitate to the location where the chance of detection is least.

Dreamland for a Money Launderer:

- ✦ A jurisdiction where there is little political/government acknowledgement of the problem.
- ✦ Where there is no strong and actively enforced anti money laundering legislation.
- ✦ A jurisdiction where there is little focused attempt to educate the financial community as to what money laundering is, why it needs to be prevented and how to undertake prevention.
- ✦ A jurisdiction where there may be lip service but there is little dynamic consensus and cooperation on the subject of anti money laundering between the politicians, the government bodies, the financial institutions and the private sector in general.
- ✦ A jurisdiction where the legal system has little appreciation of, or interest in the preventing of cross border crime or “sequential crime” and instead mainly focuses on visible, tangible crime, with inadequate appreciation that the sequential crime seen in the money laundering process is still a crime against society.
- ✦ A economically and ethnically multilayered society where issues have a better chance of being hidden within ethnic communities and transparency is sometimes less because of it.
- ✦ Where society habitually thinks and reacts by rote, without proactive out of the box thinking,

Fertile conditions for money laundering

Dreamland for a Money Launderer (cont.):

- ✦ A jurisdiction where complex and multifaceted financial and value transactions are common place and transparency is light touch.
- ✦ A jurisdiction where a drive for investment and material progress however admirable in itself, progressively sets up an easy culture of “look the other way”.
- ✦ A jurisdiction where the judicial system is slow to decide and execute, can be subject to political meddling and the burden of proof is hard to legally achieve, all of which can be further hampered by the involvement in the layering stage of different jurisdictions.
- ✦ A jurisdiction where political corruption is not rare and is almost accepted.
After all, the proceeds of corruption generally require laundering and why would a corrupt politician want to shoot himself in the foot by making efforts to thwart a system he will at some point need..!

The Financial Action Task Force (FATF)

Birth:

The FATF was created at the 1989 G-7 Summit Meeting in Paris

Purpose:

It is an intergovernmental body established with the purpose of combating Money Laundering and the Financing of Terrorism.

Essentially the FATF is a 'policy making body which works to generate the necessary political will to bring about national legislation and regulatory reform'

Mandate:

The FATF functions under a series of renewable mandates, the current of which was renewed in 2000, to expire in 2012, with a mid term review that took place in April 2008

Members:

Between 1991 and 1992 FATF's membership rose from 16 countries to 28

In 2000 membership expanded to 31 countries

In 2003 membership further expanded to 33 countries

In 2007 membership increased to 34 countries

The Financial Action Task Force (FATF) – (cont.)

Location :

The FATF Secretariat is housed at the Organisation for Economic Cooperation & Development (OECD) headquarters in Paris, France. The OECD is in itself an economic grouping of 30 countries, founded in 1960.

The FATF Presidency : Currently the FATF Presidency is held by Brazil and will switch to the Netherlands in July 2009

FATF's Tools :

FATF works through a series of clearly worded and negotiated Recommendations which all Member Countries agree to comply with.

In 1990 the FATF issued 40 Recommendations providing a comprehensive plan of action with which to fight money laundering

In 2001 with more and more focus on the need to combat the financing of terrorism (CFT) the FATF issued 8 Special Recommendations dealing specifically with CFT.

In 2003 conducted an overall review of its standards and in 2004 added a 9th Special Recommendation to strengthen existing standards with respect to ML and CFT

India and the FATF

India is a member of Asia/Pacific Group on Money Laundering (APG) which in itself holds observer status at the FATF.

India was also welcomed as an Observer at the FATF Plenary Meeting held at the Council of Europe in Strasburg in February 2007.

India in its own right is aiming to achieve full membership of FATF within the near future.

India is thus in close cooperation with the FATF and will shortly becoming fully integrated

So India will need unwavering, sustained focus on the issues in the FATF Recommendations

The responsibility will be across all of the financial, legal, accounting and commercial sectors

Are you all ready ?

Prevention of Money Laundering - Hints and Tips

It must be remembered that whilst the three phases of money laundering, Placement, Layering and Integration are usually distinct from each other, they do apply in varying forms in almost all cases of money laundering. So, whilst there are many variations in the details of the actual laundering transaction and these variations reflect themselves in the precise manner in which the three phases are constructed, with some practice these three phases can always be identified (think back to the Trader and Hotelier examples we have just discussed...).

However, to combat the risk of innocently looking in the wrong direction and missing the indicative signs of money laundering in action, here are just a few of the important concepts and actions that must be focused upon.

Things you should always look for:

- Transactions that make little logical or business sense.
- Sudden variations in activity levels, which cannot be explained by visible business volumes.
- Inadequate, vague or evasive answers to questions relating to transactions and / or volumes.

Things you should always do:

- Undertake deep enquiry (face to face) with respect to who your customer actually is – **Know your customer (KYC)**
- Undertake deep enquiry to understand the precise nature of your customer's business and transactions / volumes – **Know your customer's business (KYCB)**

The above two in-depth enquiries will create an understanding of what is a "normal" transaction and what is a suspicious one. For example, the value of a particular transaction may in the event be considerably higher than the value you expected to see and may happen more frequently than can be justified from the information you have.

It may also be from or to a source which appears to have nothing to do with your customer's business.

- Install suitable software to assist - there are now several software applications on the market which undertake tasks such as tracking specific money movements and also predicting clusters of money movements etc..
Ensure that your organization acquires such quality and effective software to help track suspicious money movements and that you know how to use this software to the best effect!
- Report.. Report..Report ! -- to the appropriate body designated within your jurisdiction – without tipping off the target

Prevention of Money Laundering - Hints and tips : (cont)

Things you should never do :

- ✦ If you are suspicious of a transaction or a person and you file a Suspicious Transaction Report (STR) then always take great care never to alert or tip off the target as to your suspicion and the action you have taken.
This could very likely ruin the possibility of a successful investigation taking place and in some jurisdictions such tipping off is in itself a criminal offence.
- ✦ If you are suspicious then do not fail to file a STR report to the designated authority. Not to do so could be tantamount to actively aiding a money launderer