

Red Alert



Money Laundering Cases and Materials

for Money Laundering Prevention Professionals 2014 Edition Issue 1

By John Cusack

Red Alert

Money Laundering Cases & Materials

Contents

Part 1

Introduction, 1

Contents, 3

Five Recommendations to “Effectively” combat Money Laundering, 5-10

Facts & Figures, 11-12

What is Money Laundering?, 13-18

Section 1 Money Laundering Crimes, 20-126

Section 2 Money Laundering Risks, 128-222

Section 3 Money Laundering Laws & Regulations, 224-279

Section 4 Money Laundering Prevention Programmes, 282-314

Part 2

Introduction, 2

Contents, 4

Section 5 Regions, Countries, Criminals & Terrorists, 318-506

Section 6 Terrorist Attacks, 508-537

Section 7 Criminals/Cases, 540-668

Section 8 Enforcement Cases, 670-738

Breaking News, 739-743

Notes, 745-812

Abbreviations, 813

Index, 814-844

Reviews of this Book, 845-847

Introduction

This Book is intended to serve as a comprehensive source of information for money laundering professionals that wish to better understand, establish or improve their money laundering, terrorist financing, fraud, sanctions, bribery and corruption prevention frameworks (hereafter referred to as money laundering). These issues are of utmost importance and increasingly so, as the international community is relying on money laundering professionals to assist in successfully preventing, detecting and reporting money laundering in order to fight the devastating economic and social consequences of these criminal activities.

No Financial Institution worthy of its license, and mindful of its reputation and the risks, both criminal and civil that exist will deal knowingly with the proceeds of crime. More than that a financial institution will want to assist government authorities in every way in disrupting criminal funds, interdicting criminal flows and gathering intelligence to follow criminal trails. In addition to following the requirements by anti money laundering standard setters, as presented for compliance by applicable laws and regulations, Financial Institutions are faced with the challenge of designing appropriate AML Programmes which respond not only to the law, but should be based on the financial institutions own business activities but also reflect the changing threats posed by criminals and terrorists, to societies priorities championed by various stakeholders and to the pace of change within the Financial Services Industry.

This challenge is not all straightforward and requires a profound understanding of criminal behavior, the actors themselves, their criminal activities and in particular their attitudes and methods used in carrying out their crimes and laundering the proceeds of these crimes. In this criminals have a serious information advantage.

As Sun Tzu wrote in the Art of War, “If you know the enemy and yourself, you need not fear the result of a hundred battles. If you know yourself but not the enemy, for every victory gained, you will also suffer a defeat. If you know neither the enemy nor yourself, you will succumb in every battle.”¹

The Book is intended to reduce the criminals advantage, to alter the current imbalance and to get to know the criminal and his ways better. They provide money laundering prevention professionals, those that design, implement and test and for those that are also interested in combatting money laundering on a day to day basis with a comprehensive basis to improve both their understanding and ultimately improve effectiveness.

This Book is divided into **2 Parts** each divided into **4 Sections**, with, **5 Recommendations to “Effectively” combat Money Laundering; Money Laundering Facts and Figures; and What is Money Laundering?** providing an introduction to Part 1.

Part 1

Section 1 starts by looking at each of the **predicate offences to money laundering**, recognising that whilst the motive for economic crime, for money, may be similar there are many differences that set each of these crimes apart and make them attractive to criminals. For each, a look back through time provides the context in which to place criminal activities and relevant statistics aim to show the scale and size of the profits earned by the criminals, why criminals find these crimes so attractive and how criminals launder their money.

Section 2 focuses on **money laundering risks**, those that a money laundering prevention professional should be most concerned about and is divided into 4 Subsections.

Sub-section 1 contains specific information from **FATF, the US and the EU and then from the Wolfsberg Group** and other sources focussing on the main areas of inherent money laundering risk, customers, products and services and the risk of distribution or channel risk, geography and country risks.

Sub-section 2 focuses in more detail on the main **Customer** types that pose increased risks.

Sub-section 3 analyses in more detail the core **Products and Services** via the main business operations conducted by Financial Institutions. For each of these major lines of business, the most important risks are identified alongside distribution or channel risks as well where appropriate alongside key scenarios identified that may pose the greatest risks and may need to be addressed.

Sub-section 4 deals with **Geography or Country Risk**, looking at methodologies, examples and many of the most important sources, in order to identify relative risk classifications between Countries. Country Profiles themselves particularly countries that are significantly vulnerable and/or exposed to money laundering and/

or where terrorists groups or organised criminal gangs operate or call home are included in Part 2, Section 5 (see later).

tions and treaties that formulate the necessary political agreements and indicate political will to fighting serious crime and on the proceeds of and financial facilitation of crime. This is supplemented by an overview of work conducted over the years by the Financial Action Task Force (FATF) and similarly of that of the leading industry body the Wolfsberg Group, focusing on a chronology of its publications and contributions. Finally a more detailed examination of existing Sanctions and Embargo laws and regulations completes this Section 3.

Section 4 offers suggestions on how to manage and mitigate money laundering risks, with details about **Risk Assessment and AML Programme** design and frameworks for each of money laundering, sanctions compliance, anti-bribery and corruption, and anti-fraud Programmes.

Part 2

Section 5 provides an insight into more than **250** of the most powerful **criminal gangs** and the most dangerous **terrorist groups** operating still today and some of histories most notorious, are profiled. In doing so, it demonstrates the continued prevalence of these groups their menace and it also demonstrates that few areas of the world have escaped the insidious attentions of these parasitical and determined criminal organisations. All **Regions** of the world are included, focussing on some **Key Countries** in these regions, with increased risks and where these organised criminal gangs and or terrorists call home. The gangs and groups include mafia type organisations, street gangs, prison gangs and other gangs that are involved in substantial collective criminality and terrorist organisations, religious, political and ethnic.

Section 6 continues with a focus on Terrorists with a chronology and short summary of the **Worlds Worst Terrorist attacks** over the last 100 Years by the number of fatalities which is also followed by the **Worlds Worst Terrorist Attacks on Airlines** amounting to up to more than **150** major incidents.

Section 7 continues the focus on serious crime, the financial rewards and the laundering of the proceeds of crime by looking at more than **150** of the most renowned **Criminal Cases**, covering all manner of crimes, including corruption, drug trafficking, fraud, insider dealing and market manipulation and robbery, and many more. Whilst these cases can be seen as

often exceptional, they nevertheless have to a large extent driven the legislative and public policy agenda in response to the concerns raised once these cases have come to public attention.

on more than **75 Financial Institution Enforcement Cases**. FIs have been publicly sanctioned and/or fined for money laundering and or sanctions compliance related failings and these are summarised in order to illuminate the pitfalls and the increasing expectations placed on financial institutions.

Final Remarks

The contents of this Book are a work in progress as it has not been possible to include everything of interest and because new revelations will bring to light new areas of concern new areas of vulnerabilities and new areas to focus on. For now it is essential that the current areas of concern highlighted in this Book are considered and where appropriate addressed by all those keen on managing and mitigating money laundering risks.

Note to Reader

Where text is underlined it indicates a more detailed summary or profile can be found in this book, usually identifying a major risk category, instrument of law, an organised criminal gang, terrorist organisation, attack, criminal case or enforcement case.

Further Information

For more information go to www.redalert.org.uk.

Red Alert Test

For readers interested in assessing their financial crime knowledge and testing themselves against the contents of this Book, a multiple choice test is available with approximately 250 tailored questions in aggregate but individual tests covering a number of themes; including: Bribery & Corruption; Organised Crime/Drug Trafficking; Other Crimes; Terrorism Finance; WMD Proliferation Finance; Fraud; Market Abuse; Sanctions; Customer Risks; Products & Services Risks; and Money Laundering Prevention Programmes. For details about how to take the test and receive a Red Alert Certificate of Achievement for one or more modules or for the entire Test, contact the author directly on [jpcusack78@ gmail.com](mailto:jpcusack78@gmail.com).

Note on support to the National Autistic Society

From any profits generated from the commercial sale of this Book, a contribution will be made to The National Autistic Society (www.autism.org.uk)



What is Money Laundering?

Introduction

Whilst the term “money laundering” was invented and used for the first time only in the 20th Century, money laundering as a practice goes back much further, for example, as long ago as 4000 BC, Chinese merchants found ways of moving their money around in order to avoid identification and confiscation by the rulers of the Chinese State.

Activities that are now predicate crimes, go back as far, as opium usage would have been practiced around this time too and also later in 640 BC coins were counterfeited by clipping alloys and using the shavings to make new coins, the case of Hecgestatos’ Fraud in 300 BC,¹ Roman laws addressing forgery enacted around 80 BC, and slavery, terrorism, murder, smuggling and theft of course not at all uncommon throughout antiquity.

What is the origin and true meaning of the term “Money Laundering”?

Fast forward to the Twentieth Century, the term “money laundering” is often said to have originated during “Prohibition” and from the activities of US gangsters, who needed to find ways to disguise the origins of the large amounts of cash, often in small denominated coins, generated by the illegal import and sale of alcohol and other activities such as gambling and prostitution.

With the Banks’ likely suspicious if large amounts of coins were deposited and the storage of large amounts of money in low value coins a challenge they created businesses, one of which was slot machines, and another of which was laundromats, which of course took coins to operate the machines, and so could pass off the proceeds of crime as proceeds from legitimate businesses. So it is thought by some that the term “money laundering” was born.

One of the first modern examples of money laundering followed the conviction of America’s most wanted at the time, Al Capone. It was the conviction for tax evasion that seems to have led to others fearing the same fate, paying closer attention to the financial side of their criminal businesses and establishing money laundering operations that would protect them and make

any prosecution much more difficult. Meyer Lansky a cohort of Al Capone and known as the mob’s accountant, came up with a scheme that would be copied by many in later years. Lansky not only established offshore accounts with foreign banks, away from the gaze of US

prosecutors, but he also borrowed from these Banks, receiving what looked like legitimate loans, backed by the deposited criminal monies. These loans could even be disclosed to the revenue service and a tax deduction declared if necessary. Even so this scheme and others, were not described using the term, “money laundering.”

Whilst some commentators reject this historical origin for the term, whilst accepting coin operated laundromats may have been used amongst other retail and cash intensive businesses, they prefer a descriptive genesis for the term. For example, Jeffrey Robinson in his 1995 “The Laundrymen” where he considered money laundering mainly the proceeds of drug trafficking was the third largest industry in the world behind foreign exchange and oil and gas, (this is clearly an overstatement, see below), he also alleged that much of the laundered money was reinvested throughout the world by otherwise legitimate businessmen, lawyers, accountants and bankers, describing why it is called as it is, as follows:

“Money laundering is called what it is because that perfectly describes what takes place

*illegal, or dirty, money is put through a cycle of transactions, or washed, so that it comes out the other end as legal, or clean, money. In other words, the source of illegally obtained funds is obscured through a succession of transfers and deals in order that those same funds can eventually be made to appear as legitimate income”.*²

.....Jeffrey Robinson, “The Laundrymen”

Whilst the arguments over the origin of the term will continue, money laundering as a term of expression appears to have been used first, at least as far as we can tell from records available, as part of the reporting of the Watergate scandal in the early 1970s.

Investigating the burglary of the Democratic National Committee Headquarters in Washington’s Watergate building on 17 June, 1972, Washington Post reporters, Bob Woodward and Carl Bernstein, chronicled in *All the President’s Men*, broke the story that led to the resignation of then US President Richard Nixon.

The reporters learned that investigations carried out by Miami Dade County chief investigator Martin Dardis uncovered a cashier’s cheque for US\$25,000 deposited into a Boca Raton bank account of one of the burglars, Bernard Barker. Dardis had subpoenaed the Boca Raton bank records upon learning that Barker was carrying more than US\$5,000 in new, consecutively numbered US\$100 bills when he was arrested. Dardis followed

the new bills back to the Boca Raton bank and uncovered the US\$25,000 cheque payable to Ken Dahlberg deposited in Barker’s account. The reporters pursued the Dahlberg connection and learned Dahlberg was the Republican’s Midwest finance chairman of Nixon’s 1972 re-election campaign. Dahlberg had collected US\$25,000 in cash from a Nixon re-election donor who wished to remain anonymous in order to avoid disclosing the contribution under the new campaign financing laws.

Dahlberg converted the cash into a cashier’s cheque payable to himself and gave the cheque to Maurice Stans, finance chairman for the Nixon campaign. Dardis explained that the new campaign finance law that came into effect on April 7 1972 had triggered a massive effort by Stans to solicit re-election contributions from donors. Stans would tell reluctant donors that if they didn’t want their contributions traced back to them, their anonymity could be ensured by moving their contributions through Mexican banks because Mexico does not allow the US to subpoena bank records. Dardis explained, “It’s called laundering. You set up a money chain that makes it impossible to trace the source. The mafia does it all the time. So does Nixon...This guy Stans set up the whole thing.”³

This system allowed Nixon’s re-election campaign to receive illegal contributions from corporations, and other impermissible or illicit donor groups. Stans used Banco Internacional in Mexico City for the scheme and it was Banco Internacional that issued the US\$25,000 Dahlberg cashier cheque.

As a result an article appeared in the Washington Post on 1 August 1972 headlined: “Bug Suspect Got Campaign Funds”. The story immediately triggered three separate investigations and helped seal Nixon’s fate. As one Post reporter commented: “It [the cheque] was the first real connective glue between Watergate, its funding and the Nixon campaign.”⁴

The expression first appeared in a formal context, in a US court in 1982 in the case *US v US\$4,255,625.39* (1982) 551 F Supp.314. This matter involved a forfeiture case, where it was decided that over US\$4mio in cash currency plus the balance on a bank account in Miami of more than US\$3.6mio could be seized, as a “substantial connection” between the money and narcotics transactions was made. The court in its judgment mentioned the fact that: “Miami has become a centre for drug-smuggling and money laundering.”⁵

Money laundering was first criminalised in the US in 1986 with the passing of the Money Laundering Control Act. In the 1986 Act Money Laundering was described as:

“between money laundering and organised crime. Congress’s primary intent was to criminalise the, “process by which one conceals the existence, illegal source, or illegal application of income, and then disguises that income to make it appear legitimate.”

.....US Money Laundering Control Act 1986⁶

In 1988 in the UN Convention against illicit trafficking in narcotics and psychotropic substances, also known as the Vienna Convention was the first international instrument which included in its purposes criminal asset forfeiture in order to combat serious crime and Money Laundering was defined as:

“the conversion or transfer of property, knowing that such property is derived from any (drug trafficking) offense or offenses, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offense or offenses to evade the legal consequences of his actions; the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from an offense or offenses or from an act of participation in such an offense or offenses; the acquisition, possession or use of property, knowing at the time of receipt that such property was derived from an offense or offenses..or from an act of participation in such offense or offenses.”

.....UN Vienna Convention 1988⁷

In 1999 the UN in its International Convention for the Suppression of the Financing of Terrorism defined “terrorism financing” as follows:

“Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out” (a) An act which constitutes an offence within the scope of and as defined in one of the following treaties: Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.”

.....United Nations 1999 International Convention for the Suppression of the Financing of Terrorism⁸

The money laundering definition used in the Vienna Convention remains current and are referenced as the standard by FATF in its 2012, 40 Recommendations, where it states

“FATF incorporate the Vienna Conventions technical and legal definition of Money Laundering and recommends expanding the predicate offences to include all serious crimes.” It also states the following in the 40 Recommendations in 2012 referring money laundering to

“The processing of...criminal proceeds to disguise their illegal origin in order to legitimise the ill-gotten gains of crime.”⁹

FATF also include a definition of Terrorist financing which is:

“Terrorist financing is the financing of terrorist acts, and of terrorists and terrorist organisations.”

.....FATF 2012, 40 Recommendations⁹

Other Definitions or Descriptions of Money Laundering / Terror Financing

The following are a selection of definitions and descriptions of “**money laundering**” and “**terror finance**” from all over the world:

“the conversion or transfer of property, knowing that such property is derived from serious crime, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in committing such an offence or offences to evade the legal consequences of his action, and the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from serious crime.”

.....**Article 1 EU First Money Laundering Directive 1991**¹⁰

“Money Laundering is the process by which criminal proceeds are sanitised to disguise their illicit origins. Acquisitive criminals will attempt to distance themselves from their crimes by finding safe havens for their profits where they can avoid confiscation orders, and where those proceeds can be made to appear legitimate. Money laundering schemes can be very simple or highly sophisticated. Most sophisticated money laundering schemes involve three stages: Placement the process of getting criminal money into the financial system; Layering the process of moving money in the financial system through complex webs of transactions, often via offshore companies; Integration the process by which criminal money ultimately becomes absorbed into the economy, such as through investment in real estate. Prosecutions for money laundering can involve any of these stages in the money laundering process.”

.....**UK Proceeds of Crime 1992 Preamble**¹¹

“The basic characteristics of the laundering of the proceeds of crime, which to a large extent also mark the operations of organised and transnational crimes are its global nature, the flexibility and adaptability of its operations, the use of the latest technological means and professional assistance, the ingenuity of its operators and the vast resources at their disposal.”

.....**UN report 1993**¹²

“Money laundering is the process of making illegally-gained proceeds (i.e. “dirty money”) appear legal (i.e. “clean”). Typically, it involves three steps: placement, layering and integration. First, the illegitimate funds are furtively introduced into the legitimate financial system. Then, the money is moved around to create confusion, sometimes by wiring or transferring through numerous accounts. Finally, it is integrated into the financial system through additional transactions until the “dirty money” appears “clean.” Money laundering can facilitate crimes such as drug trafficking and terrorism, and can adversely impact the global economy.”

.....**Fincen**¹³

“Money Laundering is broadly interpreted as feeding the proceeds of crime or corruption into the financial system in order to give it the appearance of proceeds of legitimate activity, and the financing of illegal activities including terrorism through financial systems.”

.....**UBS Global AML Policy since 2004**¹⁴

“... (i) the conversion or transfer of property derived from criminal activity to conceal or disguise its illicit origin; (ii) the concealment or disguise of the true nature, source, location, disposition, movement or ownership of property known to have been derived from criminal activity; (iii) the acquisition, possession or use of property known to have been derived from criminal activity; (iv) the participation, or assistance, in the commission of any of the activities above.”

and....”terrorist financing” means the

“provision or collection of funds to carry out any of the offences defined in Council Framework Decision 2002/475/ JHA on combating terrorism, such as hostage taking, the drawing-up of false administrative documents and the leadership of a terrorist group.”

.....EU Third Money Laundering Directive 2005¹⁵

“Money laundering is the conversion of the proceeds of criminal activity into apparently clean funds, usually via the financial system. This is done by disguising the sources of the money, changing its form, or moving the funds to a place where they are less likely to attract attention. “Criminal activity” includes fraud, corruption, drug dealing and other serious crimes. “

.....EU press Release 2012¹⁶

“Money laundering is the attempt to conceal or disguise the nature, location, source, ownership, or control of money.”

.....MoneyGram¹⁷

“Money laundering is the covert introduction of illegally acquired assets into the legitimate economy with the aim of disguising their true illegal origin.”

.....Swiss Bankers Association¹⁸

“Legitimation (washing) of illegally obtained money to hide its true nature or source (typically the drug trade or terrorist activities). Money laundering is effected by passing it surreptitiously through legitimate business channels by means of bank deposits, investments, or transfers from one place (or person) to another.”

.....BusinessDictionary.com¹⁹

“money laundering is any act or attempted act to conceal or disguise the identity of illegally obtained proceeds so that they appear to have originated from legitimate sources.”

.....Interpol²⁰

“Disguising the source of money generated through illegal activities so that it resembles legitimate income. Money laundering involves breaking up large amounts of cash into smaller transactions, changing its form through investments or deposits into bank accounts, and moving the money through seemingly legitimate businesses to bring it into mainstream economy.”

.....Nasdaq²¹

“Money laundering is generally defined as engaging in acts designed to conceal or disguise the true origins of criminally derived proceeds so that the proceeds appear to have derived from legitimate origins or constitute legitimate assets.”

and

“Terrorist financing may not involve the proceeds of criminal conduct, but rather an attempt to conceal either the origin of the funds or their intended use, which could be for criminal purposes. Legitimate sources of funds are a key difference between terrorist financiers and traditional criminal organisations.....Funding for terrorist attacks does not always require large sums of money and the associated transactions may not be complex.”

.....FINRA²²

“The attempt to conceal or disguise the ownership or source of the proceeds of criminal activity and to integrate them into the legitimate financial systems in such a way that they cannot be distinguished from assets acquired by legitimate means. Typically this involves the

conversion of cash-based proceeds into account-based forms of money.”

.....OECD²³

“Money laundering is the name given to the process by which illegally obtained funds are given the appearance of having been legitimately obtained.”

.....Austrac²⁴

“Money Laundering is the process by which proceeds from a criminal activity are disguised to conceal their illicit origins...involving the proceeds of criminally derived property rather than the property itself.....and Financing of terrorism is the financial support in any form of terrorism or of those who encourage, plan, or engage in it.”

.....The World Bank²⁵

“Terrorist financing refers to the processing of funds to sponsor or facilitate terrorist activity. A terrorist group, like any other criminal organisation, builds and maintains an infrastructure to facilitate the development of sources of funding, to channel those funds to the providers of materials and or services to the organisation, and, possibly, to launder the funds used in financing the terrorist activity or resulting from that same activity. Terrorist organisations derive income from a variety of sources, often combining both lawful and unlawful funding, and where the agents involved do not always know the illegitimate end of that income. The forms of financing can be grouped in two types: Financial support – In the form of donations, community solicitation and other fundraising initiatives. Financial support may come from states and large organisations, or from individuals. Revenue generating activities Income is often derived from criminal activities such as kidnapping, extortion, smuggling or fraud. Income may also be derived from legitimate economic activities such as diamond trading or real estate investment.

The terrorist financier will want to disguise the illegal end of the funds, while trying to maximize the revenues for the organisation sponsored. It may be necessary to disguise the source of the funds, as well, either because such funds have an illegal origin, or because the organisation wants to preserve the continuity of the legitimate financing. The need to camouflage the source of the funds means that terrorist financing has certain similarities with traditional money laundering, namely the use of three stages to place, layer and integrate the funds in the international financial system.”

.....Fides²⁶

“Money Laundering is the process by which criminals attempt to conceal the true origin and ownership of the proceeds of criminal activities. If successful, the money can lose its criminal identity and appear legitimate. Illegal arms sales, smuggling, and the activities of organised crime, including for example, drug trafficking and prostitution, can generate huge sums. Embezzlement, insider trading, bribery and computer fraud schemes can also produce large profits and create the incentive to “legitimise” the ill-gotten gains through money laundering. When a criminal activity generates substantial profits, the individual or group involved must find a way to control the funds without attracting attention to the underlying activity or the persons involved. Criminals do this by disguising the sources, changing the form, or moving the funds to a place where they are less likely to attract attention. In summary, the money launderer wants to: place his money in the financial system, without arousing suspicion; move the money around, often in a series of complex transactions crossing multiple jurisdictions, so it becomes difficult to identify its original source; and then move the money back into the financial and business system, so that it appears as legitimate funds or assets.”

..... Financial Supervision Commission Isle of Man²⁷

“Terrorist financing involves the solicitation, collection or provision of funds with the intention that they may be used to support terrorist acts or organisations. Funds may stem

from both legal and illicit sources. More precisely, according to the International Convention for the Suppression of the Financing of Terrorism, a person commits the crime of financing of terrorism “if that person by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out” an offense within the scope of the Convention. The primary goal of individuals or entities involved in the financing of terrorism is therefore not necessarily to conceal the sources of the money but to conceal both the financing and the nature of the financed activity.”IMF²⁸

*“The process of creating the appearance that large amounts of money obtained from serious crimes, such as drug trafficking or terrorist activity, originated from a legitimate source.”
..... Investopedia²⁹*

And many more.....

What are the stages of “Money Laundering”?

So much for the origin of the term “Money laundering” but what is it? According to FATF, money laundering is made up of the following 3 stages;³⁰ placement, layering and integration

Placement

In the initial or placement stage of money laundering, the launderer introduces his illegal profits into the financial system. This might be done by breaking up large amounts of cash into less conspicuous smaller sums that are then deposited directly into a bank account, or by purchasing a series of monetary instruments (cheques, money orders, etc.) that are then collected and deposited into accounts at another location.

Layering

After the funds have entered the financial system, the second – or layering – stage takes place. In this phase, the launderer engages in a series of conversions or movements of the funds to distance them from their source. The funds might be channelled through the purchase and sales of investment instruments, or the launderer might simply wire the funds through a series of accounts at various banks across the globe. This use of widely scattered accounts for laundering

is especially prevalent in those jurisdictions that do not cooperate in anti-money laundering investigations. In some instances, the launderer might disguise the transfers as payments for goods or services, thus giving them a legitimate appearance.

Integration

Having successfully processed his criminal profits through the first two phases the launderer then moves them to the third stage – integration – in which the funds re-enter the legitimate economy. The launderer might choose to invest the funds into real estate, luxury assets, or business ventures.FATF 2012, 40 Recommendations

This 3 stage process, the classic description of money laundering has also been described as “immersion”; generally inserting the proceeds of crime into the legitimate financial system, “heavy soaping” or disguising the trail of the monies as they pass through the financial system and finally the “spin dry” when the funds make it into legitimate income or assets.

Furthermore FATF explain where Money Laundering may occur as follows: ³¹

“As money laundering is a consequence of almost all profit generating crime, it can occur

practically anywhere in the world. Generally, money launderers tend to seek out countries or sectors in which there is a low risk of detection due to weak or ineffective anti-money laundering programmes. Because the objective of money laundering is to get the illegal funds back to the individual who generated them, launderers usually prefer to move funds through stable financial systems.

Money laundering activity may also be concentrated geographically according to the stage the laundered funds have reached. At the placement stage, for example, the funds are usually processed relatively close to the under-lying activity; often, but not in every case, in the country where the funds originate.

With the layering phase, the launderer might choose an offshore financial centre, a large regional business centre, or a world banking centre – any location that provides an adequate financial or business infrastructure. At this stage, the laundered funds may also only transit bank accounts at various locations where this can be done without leaving traces of their source or ultimate destination.

Finally, at the integration phase, launderers might choose to invest laundered funds in still other locations if they were generated in unstable economies or locations offering limited investment opportunities.”

For Terrorism Finance, FATF, in their 2008 Terrorism Financing Typologies Report, also highlighted 3 stages, though these were not Placement, Layering and Integration, but Raising, Moving and Using funds, both criminally originated funds, where the 3 money laundering stages would still apply, but also to legally originated funds.

What is the size of “Money Laundering”?

Money Laundering may be the 10th Largest Industry in the World and one of the most profitable.

It is often quoted and considered as conventional wisdom that money laundering is the third largest industry in global terms behind foreign exchange and oil and gas. In fact, this is clearly overstating its size, with Food, Retail, Energy including Oil and Gas, Financial Services, Tourism, Manufacturing including Automobiles, Telecommunications and Pharmaceuticals/healthcare all substantially larger. Money Laundering is also likely behind also the Arms Industry, but may still just make it into the top 10 at number 10.

| Top 10 Global Industries | |
|--------------------------|--------------------|
| 1 | Food |
| 2 | Retail |
| 3 | Energy |
| 4 | Financial Services |
| 5 | Tourism |
| 6 | Manufacturing |
| 7 | Telecommunications |
| 8 | Healthcare |
| 9 | Arms & Defence |
| 10 | Money Laundering |
| Source: Author | |

Despite its position as perhaps the 10th largest, there is little doubt that it is one of the most profitable with huge margins and of course all proceeds are tax free According to the UN for 2009, out of US\$2.1 trillion in criminal proceeds, approximately US\$1.6 trillion was laundered but only US\$3.1bio was seized, giving an effective tax or clean up rate of 0.2%.³²

The figure of US\$2.1 trillion is a figure that related to classic predicate offences. These numbers ignore bribery and corruption estimated at US\$1 trillion US\$1.6 trillion a year,³³ As predicate offences also now include insider dealing and market manipulation, fraud and tax fraud, these figures could be increased further for fraud by as much as US\$2.75 trillion³⁴ and tax fraud and tax evasion as much as US\$4.75 trillion.³⁵

Final Comments / Conclusion

As criminal activity, beyond drug trafficking become classified as predicate offences to Money Laundering, the original definitions and the classical 3 stages are unlikely to be sufficient to fully describe what money laundering is and how it is carried out, particular when considering, trade based laundering schemes, insider dealing and market manipulation, terrorism finance, tax fraud and tax evasion. Furthermore with advances in technology, electronic and mobile cash and digital currencies, we may need to consider whether money alone remains the principal concern.

Facts & Figures

global 2012 GDP or the size of the World Economy
US\$70 trillion

total assets under management managed by top 500 FIs
US\$62 trillion

Wolfsberg Group member banks total assets combined amounting to around a quarter of the
total assets held by the World's top 1,000 Banks
US\$20.8 trillion

GDP or the size of the world's biggest economy, US
US\$14.9 trillion

total value of assets held on deposit in Banks
US\$11 trillion

tax fraud and tax evasion losses
US\$4.75 trillion

total value of banknotes and coin in circulation
US\$4.2 trillion

average daily turnover of FX transactions
US\$3.9 trillion

total assets under management managed by Blackrock, the largest financial asset management
firm
US\$3.3 trillion

total amount of fraud proceeds
US\$2.75 trillion

total amount invested in Hedge Funds globally
US\$2.3 trillion

total amount of criminal proceeds
US\$2.1 trillion

GDP or the size of the 8th largest economy: Italy
US\$2.1 trillion

total Global Military Expenditures
US\$1.7 trillion

total amount of criminal proceeds laundered perhaps the world's 10th largest industry
US\$1.6 trillion

total amount of bribes paid
US\$1-1.6 trillion

total amount of criminal proceeds generated by Organised Crime
US\$870bio

total amount of money generated from Counterfeiting & Piracy
US\$691.5bio

largest market generating criminal proceeds, the US
US\$620bio

total amount of money generated from Drug Trafficking
US\$411bio

total amount of international money remittances in 2012 largely flowing via Money Services
Businesses
US\$400bio

total amount of money generated from Human Trafficking
US\$240bio

total amount of money generated from Smuggling
US\$162bio

total amount of money generated from Illegal Gambling
US\$140bio

EU VAT fraud costs States lost tax revenues
US\$100bio

total amount of money generated from Environmental Crime
US\$83.5bio

total international trade in conventional arms
US\$60bio

illicit trade in Oil and Gas
US\$54bio

costliest man-made environmental disaster, for BP Oil Spill in the Gulf of Mexico (incl
largest fine of US\$4.5bio)
US\$42-65bio (est)

largest corporate accounting fraud, Enron Corp
US\$40-45bio

illicit trade in tobacco
US\$40.5bio

total value of wildlife smuggling & poaching

US\$32bio

largest amount of funds embezzled by a kleptocrat President Suharto of Indonesia (1967-98)

US\$15-30bio

finest levied against FIs since 1989 to end-2013

US\$23.45bio

costs and investments by FIs in AML Programme

US\$18bio

largest Ponzi Scheme, Bernie Madoff's Ponzi Scheme

US\$10-17bio

value of authorised small arms & light weapons sales

US\$8.5bio

largest rogue trader losses by Jerome Kerviel at SG

US\$7.2bio

criminal proceeds seized by authorities in 2010

US\$3.1bio

largest diamond producing country, Botswana

US\$3.25bio

largest corruption related fines and penalties for UK's GlaxoSmithKline

US\$3bio

largest AML & Sanctions related fine for a financial institution UK's HSBC

US\$1.96bio

total amount of money generated from kidnap and hostage taking

US\$1.5bio

total amount of money generated from forgery

US\$1.1bio

the largest recorded robbery, the Central Bank of Iraq

US\$1bio

total number of credit, debit and prepaid cards in circulation

US\$1 billion

largest sanctions related fine for a financial institution, UK's Standard Chartered

US\$667mio

the worlds most expensive sale of a private property, the Villa Leopolda on the French Cote D'Azure

US\$650mio

paycheque in 1997 for Drexhel star banker Michael Milken before being charged with racketeering charges

US\$550mio

the Cullinan Diamond is the largest and most expensive diamond ever found owned by De Beers and valued at **US\$400mio**

total number of people using illegal drugs
176-329mio

estimated annual payout to Somali pirates for kidnap for ransom
US\$189mio

the most expensive painting sold at auction is Francis Bacon's portrait of Lucian Freud
US\$142mio

messages per day carried by SWIFT, the leading international interbank message network
15mio

the world's most expensive car sold at auction, a 1957 Ferrari Testa Rossa
US\$12mio

total thefts, largest in the world by country is US
6.2mio

suspicious activity reports (SARs) filed in 2011, nearing
2mio

the no of PEPs listed in the database from Dow Jones
478,000

costs for the AQ attack on America 9/11
US\$400-500,000

most expensive bottle of wine sold at auction, a 1947 Cheval Blanc Bordeaux
US\$300,000

the largest number of murders in the world is in Brazil
44,000

most Kidnappings for Hostage annually – Mexico
18,000

Five Recommendations to “Effectively” combat Money Laundering

Fighting crime has always been tough, increasingly so in a globalised world. In spite of law enforcement efforts, the age-old maxim “crime doesn’t pay” seemingly no longer applies as money laundering¹ continues to hit the headlines and ever greater estimates of criminal proceeds are announced.

According to the UN it estimated that for 2009 Global Criminal Proceeds may amount to US\$2.1 trillion,² (3.6% Global GDP) a figure which exceeds recent figures on illicit trade values of US\$1.79 trillion³ for the amount of black market crime, which is mostly made up from the proceeds from illegal drugs (approx US\$411bio), no longer the largest amount as now surpassed by proceeds from counterfeiting and piracy -prescription drugs, food, clothing, shoes, luxury brands, movies, music, electronics, machine parts

and currency (US\$691.5bio), by human trafficking, -slavery, prostitution, economic migration, child exploitation (US\$240bio), and smuggling -oil and gas, alcohol, tobacco and weapons (US\$162bio), and by illegal gambling -illegal casinos and card clubs (approx US\$140bio).



These figures could even understate the problem, if you also add in Corruption and Fraud. The World Bank has estimated the amount of bribes paid at between US\$1 trillion to US\$1.6 trillion for example.⁴ Whilst there appear few reliable estimates for Fraud, it is clear that significant sums are lost, perhaps as much as US\$2.75 trillion, if you apply available estimates for both the UK⁵ and the US⁶ to other countries. These figures provide a stark reminder of “Follow the money” is 21st Century Crime.

Organised and able to operate effectively across borders, criminals pursue these activities because they generate huge profits. They target markets where demand is strong and wealth is greatest. This means focusing on consumers in countries generating the most economic activity.



Whatever the true numbers, they are large and require a formidable response. It is axiomatic that governments need to design and implement effective measures to reduce both supply of criminal activities and demand for the products and services derived from such activities. However, governments have not succeeded in rolling back global criminal enterprises or successfully addressing the amounts laundered. According to the UN that estimated Global Criminal Proceeds of US\$2.1 trillion, in 2009 they also estimated that money flows laundered was estimated at US\$1.6 trillion and that money flows related to transnational organised crime was estimated at US\$870bio of which US\$550bio was available for laundering through the financial system. Approximately only US\$3.1bio or 0.2% of this amount is being seized.⁷ According to US Senator Carl Levin, as far back as 1999, “estimates are that US\$500bio US\$1 trillion” are moved internationally “and that half of that money comes to the US”.⁸

On the supply side, much has been tried but little has proven to be sufficiently effective. Numerous individual successes can be claimed, but once an organisation is broken, or a leader imprisoned, another quickly takes their place. Precious little has been done to address the demand side of the problem. In response to the challenges faced by conventional law enforcement efforts aimed at limiting supply and apprehending criminals engaged in criminal activity, attention has shifted to identifying, tracing and seizing the proceeds of crime as they make their way through the illicit of economy to the legal one. “Follow the money” is a common term today, but several decades ago phrase and practice was a novel one born out of the difficulty governments were having in tackling criminal enterprises by focusing solely on their criminal acts. This fight against money laundering -or anti-money laundering (AML) - necessarily focuses on the financial system and the legitimate financial institutions that operate it.

The first war against drugs.

The history of combating drug trafficking is an instructive case study for the advent of AML. A hundred years ago, at the US’ behest, the great trading nations of the world came together,

and finally agreed to criminalise the production and distribution of opium. The trade in opium had generated huge profits for trading companies and for States through taxation (none more than for the British Empire). However, the increasing addiction rates of populations, the deleterious effect on productivity, and the immorality of this enterprise led to the signing of the Hague Convention in 1912,⁹ hailed as a remarkable breakthrough when it came into force as part of the Treaty of Versailles in 1919 at the end of the First World War. The focus on supply-side prohibition of opium after significant insatiable demand had been established would be a policy response repeated when other drugs, like cannabis, amphetamines and cocaine, were made illegal.¹⁰

Notwithstanding the repugnance of the drug trade and the good intentions behind delegitimizing it, the net effect of withdrawing supplies of opium to millions of addicts was the creation of a massive illegal market, with huge profits to be made by producers and traders who were prepared to provide illicit supply. This should not have been a surprise, as this very outcome was predicted by British Prime Minister William Gladstone (who liked to take a drop of opium in tea often before giving a speech) in an earlier self-serving defence of the British government's support for its own Empire's addiction to taxes levied on the opium trade when he said "[Opium] prohibition would unleash organised crime, allow others to step in and further the insatiable demand for [drugs]".

The organised crime syndicates that followed have prospered and become transnational, controlling illegal drug production, transit and distribution. The last 100 years have seen illicit drug supply increase and expand in terms of substances (from opiates to narcotics and so-called psychotropic substances), size, and geographical scope. The organised transnational and local criminal enterprises that operate the drug trade also have expanded into new areas of illicit activity, cited above.¹¹

Advent of AML

To respond to the burgeoning narcotics trade, more than 25 years ago, the "follow the money" idea was conceived and embraced by governments of all shades, leading in 1988, to the Vienna Convention¹² that required "all members to adopt all necessary measures to enable confiscation of criminal proceeds from illegal drugs." One year later, the Financial Action Task

Force ("FATF") was established by the then G7 group of nations to promote global standards on money laundering prevention. FATF has since extended its focus from drug trafficking to corruption, terrorism financing, WMD Proliferation Finance and other major crimes, that, also now include tax crimes. The idea is

a simple one: focus on the money flows, the working capital, and the profit from serious crimes, in order to catch the criminals, to materially disrupt their criminal activities, and to create effective disincentives that will reduce serious crime.

Focusing on the financial proceeds of crime, as opposed to the underlying criminal activity, required fresh thinking, new methodologies and new players. FATF recognised the necessity of novel laws and regulations, as well as unprecedented co-operation among sovereign countries, their numerous law enforcement bodies

and the financial services industry. Enlisting the financial sector was critical because it was assumed that criminals used banks and other financial intermediaries extensively – first introducing criminal proceeds into the sector (placement), then moving these funds to disguise their illegitimate origin (layering) and finally laundering their funds to obscure their illicit origin (integration).¹³ It was presumed that banks, exercising reasonable diligence,

would be uniquely able to spot criminals and their financial activity. To help accomplish this, laws were passed requiring banks and others to introduce money laundering prevention programmes based on (i) knowing their customers -identification and due diligence – (ii) monitoring of transactions to detect suspected criminal activity, and (iii) reporting such activity to government agencies that would launch investigations, prosecutions and seize financial assets.

According to criminologists, a rational person will only commit a crime if he believes the benefits outweigh the costs. In other words, to effectively deter criminal activity the probability of apprehension and conviction times the projected severity of punishment (including forfeiture of gains) must exceed the expected rewards. The hope behind AML efforts was that banks and others could provide enough information to law enforcement authorities who would follow up with successful prosecutions and asset seizures that would check the growth of, and potentially reduce, serious crime.

The first 25 years

Contrary to the perception in some quarters that financial institutions have not done much to prevent criminal enterprises from abusing their services, banks have made significant contributions, perhaps as much as US\$18bio¹⁴ both in terms of the billions of US\$ they have spent and the effectiveness of their actions. All reputable financial institutions, recognise they have an important role to play in combating money laundering, and they support the general strategy charted by governments.

Banks have worked tirelessly with governmental authorities, and international and national standardsetters, to establish and invest in programmes as new threats emerge and priorities change from drug trafficking and organised crime (where measures have increased the risks of detection and the costs of criminal activity) to corruption committed by so-called kleptocrats, who have found their access to the formal financial sector certainly impeded. Extensive efforts have been dedicated to combating terrorism finance and WMD proliferation finance, where automated systems and detailed knowledge of customers and transactions can provide crucial information quickly in response to governmental requests. With respect to the introduction of smart economic sanctions and embargo measures, the involvement of financial institutions has been critical to isolating rogue states and individuals from the formal financial sector. At the same time, the amount of information, in the form of Suspicious Activity Reports (SARs), filed by Banks and others in the industry has risen, year on year, to a level approaching 2 million individual reports a year.¹⁵

These are impressive results and the result of investments made in designing and implementing serious programmes to support the authorities in the fight against money laundering, corruption, terror finance, WMD proliferation finance, sanctions compliance and other serious crimes.

It would be incorrect and unfair to use enforcement proceedings against individual banks to detract from the overall performance and contributions made by the financial industry.

From 1989 to end-2013 financial penalties incurred by financial institutions for failure to comply with money laundering related laws, regulations or expectations, including for sanctions, violations, market abuse and fraud have topped US\$23.45bio, with more than half coming in the last 5 years.¹⁶

Without excusing some serious cases at financial institutions, it is predominantly weaknesses in implementing and complying with complex AML regulations that is the main issue and not aiding and abetting criminal activity. It is the criminals that should remain central to our

concerns. Beyond gains achieved in the areas of terror finance, WMD proliferation finance, and Sanctions Compliance, the substantial efforts of banks have not resulted in the expected gains by others.

According to the “follow the money” strategy, information provided to governmental authorities by the banks and others should lead to prosecutions and asset seizures. With almost 2 million Suspicious Activity Reports (‘SARs’) filed annually, there is no shortage of information. Nevertheless, despite these opportunities, asset seizure and forfeiture rates remain significantly below any form of tipping point. Whilst consistent figures are scarce albeit thankfully climbing in many countries (albeit flattered by forfeiture levies on financial institutions) so is the haul by criminals of the proceeds of crime.

According to the UN based on all available estimates, less than 1% of the total amounts that are being laundered are detected. The UN report issued in 2011¹⁷ found and reported that, “Data collected by the US State Dept suggest that some US\$3.1bio were seized

in connection with money laundering activities in 32 countries out of 62 analysed (2010 or latest data available); more than 80% of this was seized in North America. This would be equivalent to some 0.2% of the best estimate of the extent of money laundering at the global level. In comparison, more than 20% of the globally produced opiates are being seized and more than 40% of cocaine.”

Other figures indicate the seizure rates, particular over the last few years are actually much higher than those reported in the UN study, particularly in the US¹⁸ but also elsewhere¹⁹ though recent increases are not as large. There is evidence however that increases are being made by the targeting of big ticket corporate fraud

and bank enforcement cases which are overshadowing recoveries from the original targets being serious and Organised crime, particularly in the US. In Europe the picture is mixed. Whilst there is relatively little seized and forfeited in many European Countries a recent €1.6bio success against the Italian Mafia, by the Italian authorities is cause for optimism.²⁰

Despite some success it appears that few of these directly relate in some way due to the filings from SARs or at least there is little or no evidence to suggest that this is the case, or that the majority of the seized assets are in the form of banked assets. For example, it is likely that most of all seizures are in the form of physical assets, such as real estate, businesses and cash, or from financial institutions’ forfeiture fines.

In sum, although the situation would have been worse without the last 25 years of anti-money laundering efforts and certain costs have been imposed on offenders, the cost-benefit calculus would appear to still tip decisively in favour of the criminal. Criminals enjoy not only a tax free income, but can expect to retain almost all of their illicit bounty. With large new markets to exploit, both geographic and industrial, the benefits to criminals in committing crime for profit remain compelling and growing.

The next 25 years

In response to the current situation, authorities have called for more of the same. In 2010, UNODC Head Antonio Mario de Costa reiterated his support for this strategy with the words,²¹ “Criminals are motivated by profit, so let’s go after their money,” and in 2012 FATF announced revised recommendations²² extending the “follow the money” approach, essentially increasing the ask on banks for the future even further. But there is no reason to believe that this will lead to materially improved results. Indeed, extension and intensification of the existing strategy may compound difficulties and make the effort, less efficient and no

more effective than today.

What can be done is a genuine evaluation of “effectiveness”. FATF have indeed recognised this and deserve praise for not only making compliance with FATF standards an important part of the next round of Mutual Country Evaluations but also by including effectiveness as a core element that will also be evaluated, this should enable FATF, its sponsors and members, to critically assess the effectiveness²³ of the “follow the money” strategy and develop recommendations for action.

In the US, new FINCEN Director, Ms Shasky Calvery who until 2010 held the position of Chief of the Asset Forfeiture & Money Laundering Section of the US Department of Justice has begun to ask the difficult questions. In a speech to the American Bankers Association/American Bar Association, Ms Calvery acknowledged that institutions are spending a great deal of time and money on compliance programmes, however, she raised questions whether the money being spent is being spent in the right ways. “Industry and others often ask questions such as how does industry effort on compliance risk compare with illicit financing risks and what is the delta between them.” These are

questions that need to be answered by regulators, law enforcement and industry” in order to answer these questions a “Delta Team” has been established.²⁴

Where FATF and the US are already leading others should follow by ensuring effectiveness is a key theme for 2013 and beyond, reaching out to all stakeholders including financial institutions, establishing their own “Delta Teams” and considering the following

5 Recommendations to effectively combat Money Laundering as part of their work.

5 Recommendations to Effectively Combat Money Laundering

| Five Recommendations to “Effectively” combat Money Laundering | |
|--|---|
| 1 | Set and reach a target for asset seizures (for example, 5% or US\$100bio in 5 years): Focus urgently on implementing all necessary measures to remove obstacles. |
| 2 | New Regulations should apply fully also to non-banks, and ensure international consistency on critical areas, e.g., CID, PEPs, BOs, DNFPBs, Wires; and be subject to a cost benefit analysis |
| 3 | Information on Risks and Threats must be shared and communicated: National Threat Assessments published and tailored for use by FIs, predicate priorities identified, typologies and strategies communicated. |
| 4 | Encourage financial institutions (who must improve cultures of compliance) enhance risk based approaches and provide incentives |
| 5 | Educate Consumers targeting demand as well as supply to refrain from supporting criminal actors in purchasing decisions and in understanding the money laundering broader context |

Recommendation 1

Asset Seizure Targets Firm asset seizure targets could be set with regards to the proceeds of crime. At least 5% of criminal proceeds, approx US\$100bio should be the medium term goal (e.g. after 5 years).

In order to achieve this, enforcement authorities will need to invest additional resources to investigate the information provided from reports already filed by financial institutions that should be a road map for prosecuting many more criminals and seizing criminal assets. As a start, public resources directly employed to these tasks should match at least those invested by the private sector and results should be published.

A detailed study of the problems faced and the impediments to success and recommendations to improve asset seizure and forfeiture the system was conducted by Matrix Insight and released in July 2009, following a request by the European Commission.²⁵ These recommendations should be acted upon.

FATF's 2012 Best Practices on Confiscation and a Framework for Ongoing Work on Asset Recovery²⁶ and the EU's proposed Directive on freezing and confiscation of the proceeds of crime²⁷ are a start but by themselves will make little impact and will not address the problem.

Recommendation 2

Regulations should ensure consistency and subject to Cost Benefit analysis The introduction of new Regulations concerning AML largely falls upon financial institutions, and within FIs on Banks. Non-Bank

FIs²⁸ and non-FIs²⁹ identified as presenting real risks should accept greater responsibility and increase their contributions to match those of the Banks. The Banks should not be expected to provide assurance where regulation is required on third parties.

New regulations are targeted at perceived gaps or perceived risk areas in the money laundering frameworks rather than on any assessment or threshold test, for example a cost benefit or effectiveness test before introduction. In many cases it is unclear whether proposed changes will have any material effect on the underlying levels of crime or criminal proceeds and yet the costs of introduction and compliance are largely ignored.

Regulations are also introduced across jurisdictions often inconsistently. The complexity of trying to comply with international best practices and at the same time national regulations can create confusion, drive up unnecessarily compliance costs and raise complexity. Financial institutions operating globally should be entitled to rely on internationally accepted standards, recognising that such standards may have an element of gold plating.

For core issues, such as, without limitation, (i) the definition of "Customer" (ii) the definition of "beneficial ownership" and definitions such as (iii) PEPs, (iv) wire transfer standards and (v) agreement over types of and approaches towards non-FIs that should be regulated designated entities, these should be universally consistent.

Recommendation 3

Information on Risks and Threats must be shared and communicated It has become a cliché that flow of information sharing should not be a one-way catch everything and winds up missing too much of the street; governments should share information with financial institutions. However, after years of lip service, governmental authorities have made little progress. If governments want to promote successful collaboration to combat financial crime

and achieve more impressive results, they must entrust financial institutions with more information. A robust National Risk and Threat Assessment identifying and prioritising risks and threats honestly is essential as well as identifying where FIs can and should provide assistance. Furthermore, financial institutions should be able to maintain appropriate records, share certain information amongst themselves and across borders, without any conflict with applicable data protection or other laws or regulations. This need not include any individual SAR filing made in another country, though the underlying case facts and details should be included.

Additionally, clear priorities should be set and announced as to the relative importance and targets of effort.

As all agree that actions to be taken are inevitably risk-based, i.e. the areas that present the greatest risk should receive the greatest attention, this is impossible without specific information from governments on their priorities. Currently, because of this lack of information, financial institutions find themselves in a difficult situation and regulators seem unwilling to offer any guidance or safe harbours. If the government doesn't set priorities, or says that everything is a priority which amounts to the same thing then financial institutions cannot accurately assess their risks or concentrate their compliance efforts on those areas that pose the greatest risk, and regulators cannot focus their examination and enforcement efforts on those areas either.

If priorities are set and clearly communicated then banks can and will translate the government's priorities into compliance systems across their mix of products and services, assessing the risks that their various business lines present and designing compliance systems that address those risks.

At the same time, regulators will design examination and enforcement protocols designed to ensure that banks have in place procedures that will adequately identify and control the risks associated with money laundering and terrorist financing. But in order to have a risk-based system, banks must know which crimes or similar activities should be given the highest attention and how regulators will approach Banks judgements in this respect. Absent this information, the result is likely to be in many cases unfocused compliance that tries catch everything and winds up missing too much of the things that are most important.

Based on harms and threats it would appear reasonable to assume that terrorism finance and WMD proliferation finance are indeed major priorities for many governments, though again, these should

be expressly confirmed and remaining priorities enunciated. Based on the amounts of criminal monies derived, there is a case for considering that Counterfeiting and Piracy should increase in priority. Other priorities for inclusion will likely include, Corruption (kleptocracy); Fraud (specific elements, for example VAT Tax Fraud, Cybercrime); Illegal Gambling; Drug Trafficking; Human Trafficking and Smuggling which together make up to 95% of likely criminal proceeds.³⁰

For each, tailored strategies should be developed and the existing one size fits all, with excessive reliance on financial institutions, KYC, Monitoring and SAR filing should be reconsidered.

Recommendation 4

Encourage Financial Institutions – financial institutions must focus on preventing and detecting criminal proceeds, as well as implementing applicable AML Laws and Regulations and ensuring an institutional “culture of compliance” exists which emphasises the important

role banks play

in maintaining the integrity of the international financial system, national security and corporate social responsibility.

Financial institutions should be encouraged to adopt a “risk based approach”, in their design and implementation of AML programmes and should not be second guessed provided such programmes are reasonable and proportionate and ultimately reasonably effective, particularly absent published regulatory specificity.

Contributions by financial institutions should be recognised and where appropriate taken into account when assessing an institution’s record particularly before imposing fines and penalties. Banks should be encouraged to treat AML compliance costs differently than regular business expenses (e.g., facilities costs) and more like important capital investments that promote profitability and critical public goods.

Banks that routinely dedicate resources to efficient and effective compliance should be given direct economic benefits – reduction of examination fees and other supervisory assessments, consideration in calculating capital, or tax advantages.

Recommendation 5

Educate Consumers Someone must educate the public about the true cost of money laundering and how money laundering plays a fundamental role in facilitating the drug trafficker, the organised criminal, the fraudster and the terrorist. Money laundering is not a victimless crime. Whilst it does not have the trauma of a robbery or produce the damage resulting from violent crime, money laundering can only take place after a predicate crime (such as robbery or drug dealing) has taken place. Reinforcing the clear link may also persuade and incentivise otherwise law abiding citizens of the consequences of paying for counterfeit or smuggled goods, use of economic migrants as cheap labour, prostitution, drug taking or involvement in illegal gambling. The economics of crime are no different from the economics of trade and reducing demand will have just as much an impact as disrupting supply.

Conclusions and Final Remarks

Financial institutions operate on the front line on the right side of a just war on the proceeds of crime, on a battlefield that is constantly changing, against an enemy who remains cunning, elusive and very well resourced, without being provided with much useful intelligence and in constant concern over the risk of friendly fire. This is no way to win a war!

The battle is not yet lost and we have plenty of fight left in us, so let us join once more to address the weaknesses in the strategy and to try to work ever more closely together as banks, regulators, policy makers, law enforcement and governments focusing on the common enemy, criminals and proceeds of their crimes.

Money Laundering Risks

Whilst all financial institution customers, products and services, channels of distribution and geographics present some kind of inherent money laundering risk, there are particular ones that present increased inherent risks. There are also others where risks can be considered as reduced.

FATF and others, including the US, the EU and the Wolfsberg Group have identified particular customer categories or situations, products and services including the channels by which they can be accessed and geographics that may pose additional inherent money laundering risks, as well as some that may present lower risks.

This Sub-section contains specific information from FATF, the US and the EU and then from the Wolfsberg Group before a summary of the responses developed by UBS both to the specific risks identified, UBS Customer/Product Risk Methodology and Response and the most important measures employed in response, for first Customers and then Products and Services.

Then Sub-section 2 focuses on the main customer types that pose increased risks and Sub-section 3 analyses the core products and services via the main business operations conducted by financial institutions. For each of these major lines of business, the most important risks are identified as well as potential channels or distribution risks as appropriate alongside key scenarios identified that pose the greatest risks and should be considered to be addressed.

Sub-section 4 deals with geographics or country risks, looking at methodologies, examples and many of the most important sources, in order to identify relative risk classifications between countries.

Money Laundering Risk Map



Chronology of FI Major Enforcement Cases over last 25 years

1989

Drexel Burnham Lambert fined US\$650mio for market abuse leading also to its closure

1991

BCCI fined US\$10mio as well as forfeiting all American assets (US\$550mio) after pleading guilty to charges of criminal conspiracy through financial fraud
Salomon Brothers (now part of Citi) fined US\$290mio for submitting false bids for T bonds

1996

Daiwa fined US\$340mio arising out of the losses as a result of fraudulent trading by Toshihide Iguchi

1997

NatWest Markets fined £420,000 (US\$684,000) following losses by rogue trader Kyriacos Papouis

Deutsche Morgan Grenfell fined £3mio (US\$4.89mio) in connection with the actions of Peter Young

1998

Sumitomo fined US\$150mio for actions of rogue trader Yasua Hamanaka

2002

Broadway Nat Bank fined US\$4mio for AML failures

2003

Global US Settlement of 10 firms for conflicts of interest between Research and Investment Banking for US\$1.4bio
NY AG case against Canary Capital & Others fined US\$2-3bio+ (Market Timing/Late Trading)
GLG Partners fined £750,000 (US\$1.2mio) for market abuse

2004

Amsouth fined US\$50mio for AML weaknesses

Riggs Bank fined US\$25mio for AML weaknesses, quickly losing its independence and sold to PNC Bank

UBS fined US\$100mio for violating the terms of its FED Banknotes ECI agreement
Citi Japan ordered to shut its private banking operations in Japan due to AML weaknesses
Citi UK fined by UK FSA in connection with Dr Evil market trades £14mio (US\$19mio)

2005

Arab Bank fined US\$24mio for AML weaknesses
BoNY fined US\$38mio for AML weaknesses and paid US\$14mio for additional Russian claims

2006

Israel Discount Bank of New York was fined US\$12mio for AML weaknesses

Bank Atlantic fined US\$10mio for AML weaknesses
Foster Bank fined US\$2mio for AML weaknesses

2007

AMEX Bank Int fined US\$65mio for AML weaknesses
Bank of America fined US\$10.5mio for AML weaknesses
Union Bank of California was fined US\$21.6mio for AML weaknesses

2008

Sigue Corp, a NY based MSB, forfeited US\$15mio (satisfying US\$12mio penalty) for AML weaknesses
ETrade fined US\$1mio for AML weaknesses United Bank of Africa fined US\$15.5mio
Soc Gen fined US\$6.3mio in connection with losses incurred by rogue trader Kerviel

2009

UBS fined US\$780mio for aiding clients evade US taxes
Doha Bank fined US\$5mio for AML weaknesses
CS fined US\$536mio for US sanctions violations
Aon Group fined £5.25mio (US\$8mio) by UK FSA for corruption control weaknesses
Lloyds fined US\$350mio for US sanctions violations
Amaranth Advisers fined US\$7.5mio in connection with losses of US\$6.6mio
Stanford Bank shut down
ANZ fined US\$5.75mio for US sanctions violations

2010

ABN Amro fined US\$580mio (US\$80mio/2005 and US\$500mio/2010) and 2 criminal charges for violating US Sanctions (latter fine paid by RBS)
Goldman Sachs pays in aggregate US\$591.5mio in connection with alleged fraudulent Abacus deals
RBS fined £5.6mio (US\$8.5mio) for sanction weaknesses
Wachovia fined US\$160mio for AML weaknesses later sold to Wells Fargo
Barclays fined US\$298mio for violating US sanctions
Pamrapo Savings Bank fine US\$6mio and pleads guilty to AML violations
Deutsche Bank fined US\$553.6mio for selling fraudulent US tax shelters

2011

JP Morgan Chase Bank fined US\$88.3mio for violations of US sanctions regulations
Merrill Lynch fined US\$10mio for market abuse and misuse of information
Pacific National Bank fined US\$7mio for AML weaknesses
Zions National Bank fined US\$8mio for AML weaknesses
Ocean Bank fined US\$10.9mio for AML weaknesses
Lebanese Commercial Bank forfeits US\$102mio to US government for Hezbollah contacts

2012

Coutts & Co (a subsidiary of RBS) fined £8.75mio (US\$13.25mio) for AML weaknesses
HSBC fined US\$1.98mio (US\$1.92mio by US Regulators/US\$41.8mio by Mexican Regulators and US\$21mio by Argentinian Regulators) for AML weaknesses and violating of US sanctions
ING fined US\$619mio for US sanctions violations
Standard Chartered fined US\$667mio for US sanctions violations
UBS fined £29.7mio (US\$47.6mio) in connection with Adeboli's rogue trading
First Bank of Delaware fined US\$15mio for AML weaknesses
Allianz fined US\$12.3mio for corruption failures

Barclays, RBS & UBS fined re Libor (ICAP and Rabo Bank 2013) in total US\$3.7bio (and by EU Commission US\$2.33bio also with SocGen, Citibank, JP Morgan and Deutsche Bank)

2013

Swiss Bank, Wegelin fined US\$58mio and ceases business after aiding US clients evade US taxes

Hedge Fund, SAC Capital agrees to pay US\$1.8bio to settle civil and criminal insider dealing charges

UBS fined US\$14mio in France for inadequate tax fraud controls

HSBC Argentina fined US\$21mio over 3 years for AML weaknesses

EFG Private Bank fined in UK £4.2mio (US\$6.4mio) for AML weaknesses

BTMU fined US\$258.5 mio for violations of US sanctions

Barclays fined US\$487.9mio for market manipulation in the energy markets

AMEX fined US\$5.2mio for US sanctions violations

Oppenheimer & Co Inc fined US\$1.42mio for Penny Stock compliance violations

Panther Energy Trading fined US\$5.8mio for market manipulation

JP Morgan fined US\$410mio for market manipulation in the energy markets

JP Morgan fined US\$920mio for lax controls over London “Whale”

RBS fined US\$100mio for US sanctions violations

JLT Specialty fined £1.8mio by UK FCA for anti-bribery weaknesses