

Forum: United Nations Office of Drugs and Crime
Issue: The Question of the Fight against Money Laundering
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“Money laundering is giving oxygen to organised crime.”
Enrique Peña Nieto, President of Mexico, in June 2012

INTRODUCTION

Although it is something that we do not often think about, when we talk about money laundering we refer to an act that is a real crime.

Money laundering is the generic term used to describe the process by which criminals disguise the original ownership and control of the proceeds of criminal conduct by making such proceeds appear to have derived from a legitimate source.

The money laundering cycle can be broken down into three distinct stages. However it is important to remember that money laundering is a single process. These stages are:

- Placement, the stage at which criminally derived funds are introduced in the financial system;
- Layering, the substantive stage of the process in which the property is ‘washed’ and its ownership and source is disguised;
- Integration, the final stage at which the ‘laundered’ property is re-introduced into the legitimate economy.

This three staged definition of money laundering is highly simplistic. The reality is that the so called stages often overlap and in some cases, for example in cases of financial crimes, there is no requirement for the proceeds of crime to be ‘placed’.

Generally speaking, money is laundered whenever a person or business deals in any way with another person’s benefit from crime. That can occur in a countless number of diverse ways.

Terrorists and terrorist organisations also rely on money to sustain themselves and to carry out terrorist acts. Money for terrorists is derived from a wide variety of sources. While terrorists are not greatly concerned with disguising the origin of money, they are concerned with concealing its destination and the purpose for which it has been collected. Terrorists and terrorist organisations therefore employ techniques similar to those used by money launderers to hide their money. Terrorist groups use money-laundering channels to get cash to buy arms. The social consequences of allowing these groups to launder money can be disastrous.

In recent years, the international community has become more aware of the dangers that money-laundering poses and many Governments and jurisdictions have committed themselves to taking action. The United Nations and other international organisations are committed to helping them in any way they can.

Criminals are now taking advantage of the globalization of the world economy by transferring funds quickly across international borders.

Rapid developments in financial information, technology and communication allow money to move anywhere in the world with speed and ease. Thanks to technological and communicative progress, financial infrastructure has developed into a perpetually operating global system in which “megabyte money” (money in the form of symbols on computer screens) can move anywhere in the world with speed and ease. This makes the task of combating money-laundering more urgent than ever.

The deeper “dirty money” gets into the international banking system, the more difficult it is to identify its origin. Because of the clandestine nature of money-laundering, it is difficult to estimate the total amount of money that goes through the laundry cycle.

The estimated amount of money laundered globally in one year is 2 - 5% of global GDP, or \$800 billion - \$2 trillion in current US dollars. Though the margin between those figures is huge, even the lower estimate underlines the seriousness of the problem Governments have pledged to address.

KEY WORDS

AML (Anti-Money Laundering) Set of rules whose purpose is to help detect and report suspicious activity including the predicate offences to money laundering and terrorist financing, such as securities fraud and market manipulation.

FATF (Financial Action Task Force) An intergovernmental organisation that designs and promotes policies and standards to fight money laundering. Recommendations created by the FATF target money laundering, terrorist financing, and other threats to the global financial system. The FATF was created in 1989 at the behest of the G7, and is head quartered In Paris.

HSBC: The Hongkong and Shanghai Banking Corporation is a British multinational banking and financial services holding company, tracing its origin to a hong in Hong Kong. It is the world's seventh largest bank by total assets and the largest in Europe and it is organised within four business groups: Commercial Banking; Global Banking and Markets, Retail Banking and Wealth Management; and Global Private Banking . The HSBC is being investigated about its anti-money laundering controls.

BNP Paribas: It is an international banking group with a presence in 75 countries. It is one of the largest banks in the world and serves more than 30 million customers. It has been fined over weaknesses in anti money laundering controls.

GDP: The Gross Domestic Product is one of the primary indicators used to gauge the health of a country's economy. It represents the total dollar value of all goods and services produced over a specific time period.

Proceeds: The amount received from the sale of an asset. The term usually refers to the amount received before deduction of commissions or other costs related to the transaction.

BACKGROUND INFORMATION

The concept of money laundering regulations goes back to ancient times and is intertwined with the development of money and banking. Money laundering is first seen with individuals hiding wealth from the state to avoid taxation or confiscation or a combination of both.

In China, merchants around 2000 BCE would hide their wealth from rulers who would simply take it from them and banish them. In addition to hiding it, they would move it and invest it in business in remote provinces or even outside China.

In the 20th century, the seizing of wealth again became popular when it was seen as an additional crime prevention. The first time was during the period of Prohibition in the United States. This saw a new emphasis by the State and law enforcement agencies to track and confiscate money. Organised crime received a major boost from Prohibition and a large source of new funds that were obtained from illegal sales of alcohol.

In the 1980s, the war on drugs led governments again to turn money-laundering rules to try and seize proceeds of drug crime to catch the organisers and individuals running drug empires. It also had the benefit from a law enforcement point of view of turning rules of evidence upside down. Law enforcers normally have to prove an individual is guilty to get a conviction. But with money laundering laws, money can be confiscated and it is up to the individual to prove that the source of funds is legitimate if they want the funds back. This makes it much easier for law enforcement agencies and provides for much lower burdens of proof.

The September 11 attacks in 2001, which led to the Patriot Act in the US and similar legislation worldwide, led to a new emphasis on money laundering laws to fight terrorism financing. The Group of Seven (G7) nations used the Financial Action Task Force on Money Laundering to put pressure on governments around the world to increase surveillance and monitoring of financial transactions and share this information between countries.

Anti money laundering regulations have become a much larger burden for financial institutions and enforcement has stepped up significantly.

During 2011–2015 a number of major banks faced ever-increasing fines for breaches of money laundering regulations. This included HSBC, which was fined \$1.9 billion in December 2012, and BNP Paribas, which

was fined \$8.9 billion in July 2014 by the US Government. Many countries introduced or strengthened border controls on the amount of cash that can be carried and introduced central transaction reporting systems where all financial institutions have to report all financial transactions electronically.

Nowadays there are factors that facilitated and sponsored the explosion of money laundering.

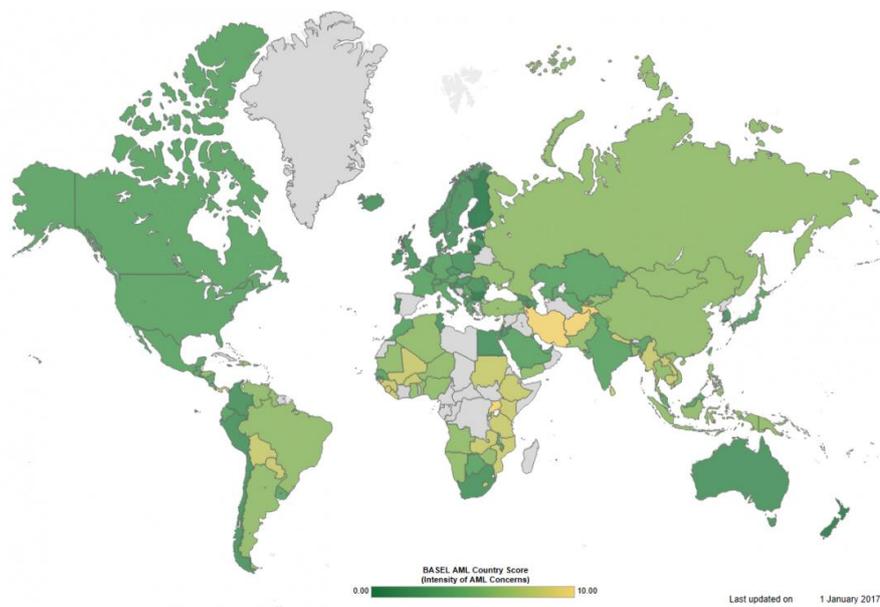
The first one is the globalisation of markets and financial flows, most evident in the advent of the Internet. The creation of the single market means that money can now travel in nanoseconds, meaning that multiple jurisdiction leaps are made effortlessly on a daily basis.

The second factor is the deregulation of financial markets that has bought with it no consistency or coherence in respect of anti-money laundering regulations. Simultaneously today's global market place has bought with it very few if any restrictions.

The last factor regards the globalisation that implies global competition, meaning more competitors and increasing pressure to deliver profits. The proceeds of crime are massive meaning that the people who control them can yield great influence with legitimate businesses, which are hungry, sometimes even desperate for profits.

The funds involved in money laundering are increasing rapidly and the most recent estimate provided by the FATF suggests that the aggregate size of global money laundering is between 2% and 5% of world economic output, or between \$590 billion and \$1.5 trillion, most of which is gained from illicit drug trafficking, but also from corruption, fraud, and organised crime.

ANTI-MONEY LAUNDERING



<https://www.icfp.co.za/article/anti-money-laundering-maps.html>

This map shows where the organisations anti-money laundering work across the world. It comes from AMLMap that has been developed to give the global AML professional a singular, comprehensive and easy to reference resource for AML penalties & actions, from across the world.

Anti-money laundering (AML) refers to a set of procedures, laws or regulations designed to stop the practice of generating income through illegal actions.

In most cases, money launderers hide their actions through a series of steps that make it look like money that came from illegal or unethical sources was earned legitimately. Though AML laws cover only a relatively limited number of transactions and criminal behaviours, their implications are extremely far-reaching. For example, AML regulations require institutions issuing credit or allowing customers open accounts to

complete due-diligence procedures to ensure that these institutions are not aiding in money-laundering activities. The onus to perform these procedures is on the institutions, not on the criminals or the government. International AML bodies expect jurisdictions to criminalise all money-laundering activities and produce a healthy amount of enforcers, regulators and tools needed for constant investigations, exchange of needed information with the international community and the use of law to order financial institutions to control risk, keep records and report any money laundering activity on their watch

ANTI-MONEY LAUNDERING MEASURES BY STATES

As far as we know, some Countries are more involved in money laundering than others. Here you can find reports about States that use the most successful campaigns against money laundering.

Afghanistan

The Financial Transactions and Reports Analysis Center of Afghanistan (FinTRACA) was established as a Financial Intelligence Unit under the Anti Money Laundering and Proceeds of Crime Law passed by decree late in 2004. The main purpose of this law is to protect the integrity of the Afghan financial system and to gain compliance with international treaties and conventions. The Financial Intelligence Unit is a semi-independent body that is administratively housed within the Central Bank of Afghanistan. The main objective of FinTRACA is to deny the use of the Afghan financial system to those who obtained funds as the result of illegal activity, and to those who would use it to support terrorist activities.

To meet its objectives, the FinTRACA collects and analyses information from a variety of sources. These sources include entities with legal obligations to submit reports to the FinTRACA when a suspicious activity is detected, as well as reports of cash transactions above a threshold amount specified by regulation. Also, FinTRACA has access to all related Afghan government information and databases. When the analysis of this information supports the supposition of illegal use of the financial system, the FinTRACA works closely with law enforcement to investigate and prosecute the illegal activity. FinTRACA also cooperates internationally in support of its own analyses and investigations and to support the analyses and investigations of foreign counter parts, to the extent allowed by law. Other functions include training of those entities with legal obligations to report information, development of laws and regulations to support national-level AML objectives, and international and regional cooperation in the development of AML typologies and counter measures.

Australia

AUSTRAC (Australian Transaction Reports and Analysis Centre) is Australia's financial intelligence unit to fight money laundering and terrorism financing. Australian attacks on the money laundering problem exhibit similarly to the majority of western countries. The Financial Transaction Reports Act 1988 requires 'cash dealers' to report specific information to the Australian Transaction Reports and Analysis Centre. The purposes of the Financial Transaction Reports Act 1988 would be frustrated if accounts could be opened in false names, therefore the Act creates the offence of opening or operating an account in a false name. It also establishes rigorous procedures that must be followed when opening new accounts.

AUSTRAC works collaboratively with Australian industries and businesses in their compliance with anti-money laundering and counter-terrorism financing legislation.

Bangladesh

To prevent illegal uses of money, the Bangladesh government has introduced the Money Laundering Prevention Act. The Act was last amended in the year 2009 and all the financial institutes are following this act. Till today there are 26 circulars issued by Bangladesh Bank under this act.

European Union

The fourth and latest iteration of the EU's anti-money laundering directive (AMLD IV) was published on June 2015, after clearing its last legislative stop at the European Parliament. The new directive brings the EU's anti-money laundering laws more in line with the US's, which is welcome news for financial institutions that are operating in both jurisdictions. Lack of harmonisation in AML requirements between the US and EU has complicated the compliance efforts of global institutions that are looking to standardise the Know Your Customer (KYC) component of their AML programs across key jurisdictions. AMLD promises

to better align the AML regimes by adopting a more risk-based approach compared to its predecessor. Certain components of the directive, however, go beyond current requirements in both the EU and US, imposing new implementation challenges on banks. For instance, more public officials are brought within the scope of the directive, and EU member states are required to establish new registries of “beneficial owners” (those who ultimately own or control each company) which will impact banks.

India

In 2002, the Parliament of India passed the Prevention of Money Laundering Act. The main objectives of this act are to prevent money-laundering as well as to provide for confiscation of property either derived from or involved in money-laundering. The recent activity in money laundering in India is through political parties, corporate companies and the shares market. It is investigated by the Enforcement Directorate and Indian Income Tax Department.

United States

The approach in the United States to stopping money laundering is usually broken into two areas: preventive (regulatory) measures and criminal measures. The United States Department of the Treasury is fully dedicated to combating all aspects of money laundering at home and abroad, through the mission of the Office of Terrorism and Financial Intelligence (TFI). TFI utilises the Department's many assets - including a diverse range of legal authorities, core financial expertise, operational resources, and expansive relationships with the private sector, interagency and international communities - to identify and attack money laundering vulnerabilities and networks across the domestic and international financial systems.

UNITED NATIONS EFFORTS

Within the context of United Nations standards, the Global Programme against Money-Laundering, Proceeds of Crime and the Financing of Terrorism aims:

- To assist in the achievement of the objective set up by the General Assembly at its twentieth special session for all States to adopt legislation that gives effect to the universal legal instruments against money-laundering and countering the financing of terrorism;
- To equip States with the necessary knowledge, means and expertise to implement national legislation and the provisions contained in the measures for countering money-laundering adopted by the General Assembly at its twentieth special session;
- To assist beneficiary States in all regions to increase the specialised expertise and skills of criminal justice officials in the investigation and prosecution of complex financial crimes, particularly with regard to the financing of terrorism;
- To enhance international and regional cooperation in combating the financing of terrorism through information exchange and mutual legal assistance;
- To strengthen the legal, financial and operational capacities of beneficiary States to deal effectively with money-laundering and the financing of terrorism.

Through the Global Programme, UNODC encourages States to develop policies to counter money-laundering and the financing of terrorism, monitors and analyses related problems and responses, raises public awareness about money-laundering and the financing of terrorism, and acts as a coordinator of initiatives carried out jointly by the United Nations and other international organisations.

The United Nations moreover established the International Money-Laundering Information Network (IMoLIN), a one-stop anti-money-laundering/countering the financing of terrorism (AML/CFT) research resource. The Law Enforcement, Organized Crime and Anti-Money-Laundering Unit (LEOCMLU) of the United Nations Office on Drugs and Crime (UNODC) now administers and maintains ImoLIN. This multi-faceted website serves the global anti-money-laundering community by providing information about national money-laundering and financing of terrorism laws and regulations and contacts for inter-country assistance. Inter alia, it identifies areas for improvement in domestic laws, countermeasures and international co-operation. Policy practitioners, lawyers and law enforcement officers all regularly use IMoLIN as a key reference point in their daily work. The information on IMoLIN is freely available to all internet users, with the exception of AMLID, which is a secure database.

The Global Programme against Money-Laundering, Proceeds of Crime and the Financing of Terrorism (GPML) co-operates - and frequently acts in partnership - with international and regional organisations involved in anti-money-laundering/countering the financing of terrorism (AML/CFT) activities, in order to complement ongoing activities and avoid duplication of work. GPML works closely with and has conducted numerous joint activities with the World Bank, International Monetary Fund (IMF), Commonwealth Secretariat, Organization for Security and Co-Operation in Europe (OSCE), Asian Development Bank (ADB), Egmont Group of Financial Intelligence Units, UN Counter-Terrorism Executive Directorate (CTED), UN Counter-Terrorism Implementation Task Force (CTITF), INTERPOL, regional development banks, European Union, United Nations Commission on International Trade Law (UNCITRAL), as well as the US Department of Justice (OPDAT), US Department of Treasury - Office of Technical Assistance (OTA), Inter-American Drug Abuse Control Commission of the Organisation of American States (OAS/CICAD), FATF-Style Regional Bodies (FSRBs) and a number of individual country technical assistance providers. Collaboration avoids duplication of efforts and helps ensure that technical assistance is delivered in a structured manner. GPML's internal partners in UNODC are: the Treaty and Legal Assistance Branch; Terrorism Prevention Branch; Law Enforcement, Organized Crime and Anti-Money Laundering Unit; Justice and Integrity Unit and Anti-Human Trafficking and Migrant Smuggling Unit.

POSSIBLE SOLUTIONS

In many countries the problem of money laundering was not taken into account for many years because Governments preferred not to take responsibility. On the other hand, several Countries have been making great efforts in order to fight the problem both at home and abroad.

When dealing with this issue, delegates should try to find strategies on a global point of view, for example granting technical assistance to authorities from developing countries, organising training workshops, providing training materials and transferring expertise between jurisdictions in the countries, in order to prevent and reduce the problems related with money laundering.

Furthermore, delegates should keep in mind that the ability to prevent and detect money laundering is a highly effective means of identifying criminals and terrorists and the underlying activity from which money is derived. The application of intelligence and investigative techniques can be one way of detecting and disrupting the activities of terrorists and terrorist organisations.

USEFUL LINKS

<https://www.unodc.org/unodc/en/money-laundering/index.html?ref=menuside>

<http://www.un.org/en/index.html>

https://en.wikipedia.org/wiki/Money_laundering

<https://www.int-comp.org/careers/a-career-in-aml/what-is-money-laundering/>

<http://www.investopedia.com/terms/m/moneylaundering.asp>

<https://www.hsbc.co.uk/1/2/>

<https://www.treasury.gov/resource-center/terrorist-illicit-finance/Pages/Money-Laundering.aspx>