

4.5.4 Money Laundering

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Overview

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The U.S. Treasury, Financial Crimes Enforcement Network provides the following overview of the problem with [Money Laundering](#):

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.

In its mission to “safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering and other illicit activity,” the Financial Crimes Enforcement Network acts as the designated administrator of the Bank Secrecy Act (BSA). The BSA was established in 1970 and has become one of the most important tools in the fight against money laundering. Since then, numerous other laws have enhanced and amended the BSA to provide law enforcement and regulatory agencies with the most effective tools to combat money laundering. An index of anti-money laundering laws since 1970 with their respective requirements and goals are listed below in chronological order.

Money Laundering is an illegal process of converting large amounts of money generated through criminal activity appear to be from a legitimate source. The money from the criminal activity is considered “dirty”, and the process “launders” it to make it look “clean”, thus the use of the term **Money Laundering**.

Money Laundering is a serious financial crime employed by both white-collar and street-level criminals and can be in small amounts or large. Most financial companies (i.e., **Financial Intermediaries**) have [Anti-Money Laundering \(AML\)](#) policies to help detect and prevent this activity.

There are two main tools of the AML:

- [Know Your Customer \(KYC\)](#)
- [Customer Due Diligence](#)

Money Laundering can be divided into three main steps (see [Figure 1](#):

1. Deposit of illicit funds into the financial system

2. Transactions designed to conceal the illicit origin of the funds, known as “layering”
3. Use of laundered funds to acquire real estate, financial instruments or commercial investments



Figure 1: Basic Money Laundering Scheme¹⁾

There are two categories of Money Laundering:

- Domestic Money Laundering
- International Money Laundering

U.S. Laws and Regulations

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Table 1: List of Applicable U.S. Federal and State Laws governing National Security and Money Laundering.

U.S. Federal Laws	
Law / Regulation	Description
Bank Secrecy Act of 1970 (BSA)	The BSA is U.S. law requiring financial institutions in the United States to assist U.S. government agencies in detecting and preventing money laundering.

U.S. Federal Laws	
U.S. Foreign Corrupt Practices Act (FCPA) of 1977	• Under the Foreign Corrupt Practices Act (FCPA), it is unlawful for a U.S. person or company to offer, pay, or promise to pay money or anything of value to any foreign official for the purpose of obtaining or retaining business. • A U.S. person or company may also be any officer, director, employee, or agent of a company or any stockholder acting on behalf of the company. And a foreign official may be a foreign political party or candidate for foreign political office. • Also covered by the FCPA is the authorization of any money, offer, gift, or promise authorizing the giving of anything of value to any person while knowing that all or a portion of it will be offered, given, or promised—directly or indirectly—to any foreign official for the purposes of assisting the U.S. person or company in obtaining or retaining business. • “Knowing” includes the concepts of conscious disregard and willful blindness. • The FCPA also covers foreign persons or companies that commit acts in furtherance of such bribery in the territory of the United States, as well as U.S. or foreign public companies listed on stock exchanges in the United States or which are required to file periodic reports with the U.S. Securities and Exchange Commission. • The FCPA accounting provisions require such publicly listed companies to make and keep accurate books and records and to devise and maintain an adequate system of internal accounting controls. The accounting provisions also prohibit individuals and businesses from knowingly falsifying books and records or knowingly circumventing or failing to implement a system of internal controls. U.S. persons or companies, or covered foreign persons or companies, should consult an attorney or use the Department of Justice Opinion Procedure when confronted with FCPA issues.
Money Laundering Control Act of 1986 (MCLA)	The MCLA makes money laundering, a federal crime, by criminalized money laundering. It also prohibits individuals from engaging in a financial transaction with proceeds that were generated from certain specific crimes, known as Specified Unlawful Activities (SUAs) . Additionally, the law requires that an individual specifically intend in making the transaction to conceal the source, ownership or control of the funds.
Anti-Drug Abuse Act of 1988	The Anti-Drug Abuse Act of 1988 expanded the definition of “financial institution” to include car dealerships and real estate closers. These financial services businesses often handle large amounts of money, so they were attractive options for funneling large sums of money. These entities are now required to file reports on large currency transactions. They are also required to verify the identity of purchasers in amounts of over \$3,000.
Annunzio-Wylie Anti-Money Laundering Act of 1992	The legislation strengthened the sanctions for BSA violations, required verification and recordkeeping for wire transfers, and notably, established the Bank Secrecy Act Advisory Group (BSAAG). Additionally, the legislation required Suspicious Activity Reports (SARs) and eliminated previously used Criminal Referral Forms. https://www.sigmaratings.com/knowledge-center/history-of-aml-laws

U.S. Federal Laws	
Money Laundering Suppression Act of 1994	The Money Laundering Suppression Act of 1994 required banking agencies to enhance training and to review how they refer cases to law enforcement. It also folded “money service businesses” into anti-money laundering laws. These are businesses that cash checks, issue traveler's checks, money orders, or stored value cards, or exchange currency. https://www.findlaw.com/criminal/criminal-charges/money-laundering.html
Money Laundering and Financial Crimes Strategy Act of 1998	Money Laundering and Financial Crimes Strategy Act of 1998 - Amends Federal law governing monetary transactions to redefine money laundering and related financial crimes as either: (1) the movement of illicit cash or cash equivalent proceeds into, out of, or through the United States or through certain U.S. financial institutions; or (2) the meaning given under State and local criminal statutes pertaining to the movement of illicit cash or cash equivalent proceeds. https://www.congress.gov/bill/105th-congress/house-bill/1756
US Patriot Act, Title III: Anti-money-laundering to prevent terrorism of 2001	US Patriot Act, Title III facilitate the prevention, detection, and prosecution of international money laundering and the financing of terrorism. It primarily amends portions of the Money Laundering Control Act of 1986 (MLCA) and the Bank Secrecy Act of 1970 (BSA). It was divided into three subtitles: • The First Subtitle deals primarily with strengthening banking rules against money laundering, especially on the international stage • The Second Subtitle attempts to improve communication between law enforcement agencies and financial institutions, as well as expanding record keeping and reporting requirements • The Third Subtitle deals with currency smuggling and counterfeiting, including quadrupling the maximum penalty for counterfeiting foreign currency.

U.S. Federal Laws	
18 U.S. Code § 1956 - Laundering of monetary instruments	Section 1956(a) defines three types of criminal conduct: domestic money laundering transactions (§ 1956(a)(1)); international money laundering transactions (§ 1956(a)(2)); and undercover “sting” money laundering transactions (§ 1956(a)(3)). See this Manual at 2182. To be criminally culpable under 18 U.S.C. § 1956(a)(1), a defendant must conduct or attempt to conduct a financial transaction, knowing that the property involved in the financial transaction represents the proceeds of some unlawful activity, with one of the four specific intents discussed below, and the property must in fact be derived from a specified unlawful activity. The actual source of the funds must be one of the specified forms of criminal activity identified by the statute, in 18 U.S.C. § 1956©(7), or those incorporated by reference from the RICO statute (18 U.S.C. § 1961(1)). Section 1956©(7)(B) includes in the list of specified unlawful activity certain offenses against a foreign nation. Thus, proceeds of certain crimes committed in another country may constitute proceeds of a specified unlawful activity for purposes of the money laundering statutes. To prove a violation of § 1956(a)(1), the prosecutor must prove, either by direct or circumstantial evidence, that the defendant knew that the property involved was the proceeds of any felony under State, Federal or foreign law. The prosecutor need not show that the defendant knew the specific crime from which the proceeds were derived; the prosecutor must prove only that the defendant knew that the property was illegally derived in some way. See § 1956©(1). The prosecutor must also prove that the defendant initiated or concluded, or participated in initiating or concluding, a financial transaction. A “transaction” is defined in § 1956©(3) as a purchase, sale, loan, pledge, gift, transfer, delivery, other disposition, and with respect to a financial institution, a deposit, withdrawal, transfer between accounts, loan, exchange of currency, extension of credit, purchase or sale safe-deposit box, or any other payment, transfer or delivery by, through or to a financial institution. A “financial transaction” is defined in § 1956©(4) as a transaction which affects interstate or foreign commerce and: (1) involves the movement of funds by wire or by other means; (2) involves the use of a monetary instrument; or (3) involves the transfer of title to real property, a vehicle, a vessel or an aircraft; or (4) involves the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce.
Intelligence Reform & Terrorism Prevention Act of 2004	Intelligence Reform & Terrorism Prevention Act of 2004: The legislation amended the BSA to require the Secretary of the Treasury to prescribe regulations requiring certain financial institutions to report cross-border electronic transmittals of funds, if the Secretary determines that such reporting is “reasonably necessary” to aid in the fight against money laundering and terrorist financing
Financial Action Task Force (FATF)	The FATF is an intergovernmental organization develops standards around Anti Money Laundering (AML) to promotes policies and standards to combat financial crime of money laundering and terrorism funding. Additionally, FATF produces two lists of uncooperative jurisdictions in efforts against money laundering (and terrorism financing).

1)

Virtual Currencies in the Money Laundering Scheme, [Money Laundering Scheme](#), 24 August 2015, Accessed: 7 April 2022,

<https://www.acamstoday.org/virtual-currencies-money-laundering-cycle/money-laundering-table/>

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