

ACFE Course Materials

Welcome!

The ACFE would like to welcome you to *Money Laundering Schemes*. We hope you will find this course informative and immediately useful. The materials in this book will not only supplement your learning experience during the class, but will also serve as a reference and reminder for you when you are back on the job.

There are a few important administrative items to keep in mind:

- **Timing and Structure** — Class will start promptly at 8:00 a.m. and end at 5:00 p.m. Beverages and group lunch will be provided.
- **Sign-In Sheet** — Please initial next to your name on the Sign-In Sheet at the registration desk each day of the event.
- **Evaluations** — Course evaluations will be distributed by email. Please take time to provide feedback about the course, venue, and instructor. Your evaluation will help the ACFE make improvements to future training courses.

Thank you for attending. Please let us know if there is anything we can do to make your experience in this class more comfortable, productive, and valuable.

Money Laundering Schemes

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Revised: 9/4/25

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MONEY LAUNDERING SCHEMES

Note: All times listed are Pacific Time (PT).

- 7:45 a.m. – 8:00 a.m. *Registration/Check-In*
- 8:00 a.m. – 8:10 a.m. *Welcome and Chapter Announcements*
- 8:10 a.m. – 9:30 a.m. **A History and Overview of Money Laundering**
- 9:30 a.m. – 9:45 a.m. *Break*
- 9:45 a.m. – 11:05 a.m. **Laws, Regulations, and Guidance**
- 11:05 a.m. – 11:20 a.m. *Break*
- 11:20 a.m. – 12:00 p.m. **Traditional and Current Money Laundering Techniques (First Half)**
- 12:00 p.m. – 1:20 p.m. *Group Lunch*
- 1:20 p.m. – 2:00 p.m. **Traditional and Current Money Laundering Techniques (Second Half)**
- 2:00 p.m. – 2:10 p.m. *Break*
- 2:10 p.m. – 3:30 p.m. **Emerging Money Laundering Risks (Parts 1 and 2)**
- 3:30 p.m. – 3:40 p.m. *Break*
- 3:40 p.m. – 5:00 p.m. **Cryptocurrency Fraud, Digital Assets, and Money Laundering**

MICHAEL SCHIDLOW, CFE
Professor and Lecturer

Michael Schidlow is a compliance and risk management specialist with over 15 years of experience in law, compliance, audit, and consulting. Michael has held leadership roles with Bank of China, HSBC, and Bank of America. His primary practice area is in anti-money laundering, utilizing an integrated approach to compliance, information technology, cybersecurity, and internal ethics. Michael holds the Certified Fraud Examiner (CFE) and Certified AML Audit Specialist (CAMS-Audit) accreditations, is a licensed attorney, and serves as a professor of criminal justice, cybersecurity, and ethics.

Money Laundering Schemes

A History and Overview of Money Laundering

Michael Schidlow, CFE
Professor and Lecturer

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Key Terms

- o **AML**—Anti-money laundering
- o **BSA**—Bank Secrecy Act (U.S. law enacted in 1970)
- o **KYC**—Know your customer
- o **CDD**—Customer due diligence
- o **EDD**—Enhanced due diligence
- o **IT**—Information technology
- o **USA PATRIOT Act**—Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001
- o **Virtual currency/cryptocurrency**—Encrypted and usually decentralized digital currency

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Money Laundering Process

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What Is Money Laundering?

o Generally, money laundering laws globally include three provisions:

**Affirmative
actions and
conduct**

→

Undertaken by
illicit actors
and/or individuals
on their behalf

→

To **hide** the illicit
funds

Facts

- o 91.1% of money laundering offenders were sentenced to an average of 70 months, according to money laundering conviction statistics.
- o Identity theft has become one of the top money laundering trends to both generate and move illicit funds.
- o At least 400 times more currency is laundered in fiat currency than digital currency/cryptocurrency.

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Stages of Money Laundering

o Academic, but not legal definitions (Source: UN Office on Drugs and Crime)

Placement

Moving the funds from direct association with the crime

Layering

Taking action (e.g., conversion, transactions, etc.) to hide the source/owner of the funds

Integration

Funds are available to the illicit actors for use if they are from a legitimate/unknown (but not suspicious) source

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How Much Is Laundered?

- o Approximately \$300 billion is laundered annually in the United States alone, which makes up 15–38% of the money laundered globally.
- o The global estimate from groups such as the IMF, World Bank, and UNODC is a total of \$2 to 3.5 trillion.
- o Only about 0.9% (~\$27 billion) of illicit funds are laundered through cryptocurrency.

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How Much Is Laundered?



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How Much Is Laundered?

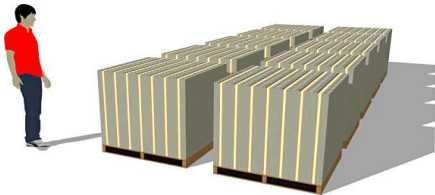


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How Much Is Laundered?



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How Much Is Laundered?



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Not Just a Localized Issue

Is money laundering just a U.S. problem?

- o No, money laundering is a global crime.
- o Money is moved across borders and through accounts continuously.




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Ancient History

- o Rubies, when purchased from different areas in India and Ceylon (Sri Lanka), were called *carbunculus* by the ancient Romans.
- o They were used in holistic medicinal treatments.
- o Around 372–287 BCE, a “very small” (“one of a very small size being prized at forty aurei”) ruby would cost about \$180.
- o Rubies currently sell for approximately \$2,000 per carat (0.2 grams), which is about 20% of the weight of a standard paper clip.



Quotation source: Sydney H. Ball (1877–1949) citing Theophrastus in *Economic Geology* (August 1935), Vol. 30, No. 5, pp. 630–642.

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Ancient History

- o In a first-recorded crime in 300 CE, Greek merchant Hegestratos took out a loan, using his ship full of grain as collateral.
- o Hegestratos's plan was to sink an empty boat, keep the value of the loan, and sell the grain.
- o Instead, Hegestratos was caught in the act of trying to sink the boat and drowned trying to escape authorities.



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Ancient History

- o Over 2,000 years ago, merchants in the Asia-Pacific region laundered trading profits due to regional restrictions and bans on commercial trading.
- o Additionally, merchants and traders were involved in bribery, extortion, and black-market sales.
- o They were also subject to extortion by the bureaucratic class through fees, taxes, forced levies, and other misuses of power.
- o Many times, commercial traders would convert their income into tangible, movable assets.



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Pre-Industrial Revolution Era

- o In the colonial-era United States, the Molasses Act of 1733 and Sugar Act of 1764 imposed stronger customs intervention on molasses and sugar imported from non-British colonies.
- o American colonists were furious over the increase in seizure and confiscation by British authorities under admiralty law if trade rules were violated.
- o This created a black market for the sale of molasses and sugar outside of these restrictions and gave rise to the need for keeping portions of the proceeds off the books.



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1970s to 2000

- o Main narco-trafficking era between geographies and the United States
 - Federal Reserve identified a \$5.5 billion surge in cash in the U.S. banking system
- o Prompted creation of an interagency task force, comprising members of the U.S. Justice Department, Internal Revenue Service, Customs, Drug Enforcement Administration, and U.S. attorneys
 - Identified potential money laundering through the review of Currency Transaction Reports (CTRs) and Currency and Monetary Instrument Reports (CMIRs)



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Operation Greenback

- o Alberto Barrera Duran (aka "Papa Smurf") is credited with inventing *smurfing*—using multiple runners to buy money orders, cashier's checks, and other deposit activity to avoid the currency transaction report threshold.
- o Investigators patched together Duran's money laundering efforts by reviewing financial records and were able to identify a network of 125 co-conspirators.
- o At the time of his arrest in 1981, Isaac Kattan Kassir had laundered \$60 million that year. He was caught with another \$40 million in cash and 20 kg of cocaine.
- o The investigation culminated in the passage of the Money Laundering Control Act of 1986, which criminalized smurfing.



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Operation Greenback—Assets

- o The Money Laundering Control Act led to a broader global initiative.
- o The UN implemented the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.
- o The so-called Vienna Convention served as guidance for the 171 signing countries and 168 implementing countries to develop their own laws criminalizing money laundering.



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2000s to 2010s

- o Heightened implementation of AML program requirements
- o First series of enforcement actions dealing with a bank's failure to detect potentially suspicious activity
- o Mid-2010s brings multi-hundred-million-dollar enforcement actions
- o 2012—First-ever billion-dollar set of fines and deferred prosecution agreement



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2010s to Present

- o Increase in guilty pleas for AML-related activity
- o Emergence of cryptocurrencies and digital payment methods
- o First national money laundering risk assessment
- o Passage of the U.S. AML Act of 2020 and development of eight strategic priorities



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Asset Seizure



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Why Launderers Launder

- o Appearance of propriety
- o Income and expenses
- o Off the books

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Assets and Value

- o Money launderers utilize transfer of funds.
- o Transfer of value can be just as effective.
- o Money launderers will rely on trade and/or redemption of value to move funds, often without transfer of funds.

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Assets and Value

```

graph TD
    A[Illicit Funds] --> B[Crypto]
    A --> C[Luxury Car]
    B --> D[Direct Purchase of Consumables]
    B --> E[Redemption]
    C --> F[Collateral for Loan]
    C --> G[Fraud Scheme (car as evidence of wealth)]
    
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- o Retention and transferability of assets allow for “business” and personal use.
- o Money launderers will be able to use illicit funds to purchase consumables, fund their lifestyle, and perpetrate additional crimes.

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Expenses and Expenditures

- o Money launderers/criminals will often rely on off-the-books income to make legitimate income sources seem plausible.
- o Reducing the source of traceable assets limits law enforcement’s ability to seize those assets.

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Seizure of Assets

- o While most money laundering–related offenses result in some imprisonment, the majority of money laundering crime goes undetected.
- o Incarceration (of various durations) does not always serve as a deterrent to future criminal activity.
- o Many criminals can continue running or diversifying their criminal schemes while they are incarcerated.

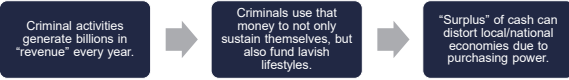
Sources: UNODC, Confiscation; Aylesworth, 1991; Baumer, 2008; U.S. Executive Office for Asset Forfeiture, 1990.

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Seizure of Assets

- Criminals can set up their assets so that they can access them remotely while incarcerated, their family can access the funds, or they can relocate and access the money later.
- Confiscation of assets—money, drugs, guns and ammunition, items purchased with illicit funds—is a tool used by law enforcement to reduce the risk that organized crime’s impact has on the legitimate economy.



Sources: UNODC, Confiscation; Aylesworth, 1991; Baumer, 2008; U.S. Executive Office for Asset Forfeiture, 1990.



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Market Distortion

Housing, business, and economic estimates are skewed by the introduction of illicit cash.

- The average price of a home in London = £523,666/\$648,537 (approximate as of Q1 2023).
- Retail rental space in Los Angeles costs anywhere from \$43.92 to \$410 per square foot.
- NYC housing is 258% more expensive than the U.S average.
- The monthly cost of living in Hong Kong for a family of four is approximately \$6,145, where the average annual salary is \$45,629.95.



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Money Laundering Hot Spots

- **British Columbia, Canada**—Has become a global money laundering hot spot in recent years, with illicit money from the Asia-Pacific region flooding the real estate market in particular
- **Latin America**—“Traditional” hot spot for international narcotics trade in marijuana and cocaine
- **United States**—Massive consumer of illicit goods and transit point for dirty money
- **London, NYC, Miami**—Global hot spots for parking illicit money, generally from Eastern Europe, and often in real estate ventures
- **Dubai**—International transit point and travel destination for money from Europe, the Middle East, and the Asia-Pacific region, with innumerable opportunities for the placement and layering of illicit funds



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Foundational Question

Article 12 of the United Nations Convention Against Transnational Organized Crime and the Protocols Thereto

Article 12 requires the necessary legal framework to permit:

- o Confiscating the proceeds of crime
- o Confiscating property, equipment, or other instrumentalities used in or to be used in crime
- o Identifying, tracing, freezing, and/or seizing proceeds and instrumentalities of crime
- o Confiscating intermingled proceeds
- o "Bank secrecy **shall not** be a legitimate reason for failure to comply." (Art. 12.6)



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Asset Seizure and Forfeiture

- o The U.S. Department of Justice's Asset Forfeiture Program has four primary goals:
 1. Punish and deter crime by confiscating "property used in or acquired through illegal activities."
 2. Ensure cross-agency cooperation of law enforcement.
 3. Compensate victims of crime with confiscated proceeds.
 4. Ensure that the asset seizure/forfeiture program is administered in line with public policy.
- o Since 2000, the DOJ has returned over \$7.2 billion in assets to victims of financial fraud and theft.

Source: USDOJ Asset Forfeiture Program, FY 2021 Performance Budget, Congressional Justification.



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Definitions—Forfeiture

- o **Forfeiture**—Involuntary relinquishment of property without compensation as a consequence for such property's use in a manner contrary to the law. A forfeiture may be either administrative or judicial.
- o **Civil forfeiture**—*In rem* proceeding brought against the property itself, rather than against the wrongdoer personally. The property is forfeitable because of its connection to the offense, and any person with a legal interest in the property may contest the forfeiture.
- o **Criminal forfeiture**—*In personam* proceeding seeking forfeiture of property instituted in conjunction with a criminal charge against a particular defendant. Criminal forfeiture must be alleged in the indictment or other charging document.

Source: USDOJ Asset Forfeiture Program, FY 2021 Performance Budget, Congressional Justification.



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Money Laundering Schemes

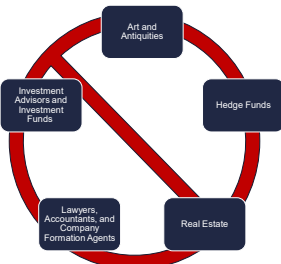
Laws, Regulations, and Guidance

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Regulated Sectors

- o Retail/consumer banking
- o Commercial and corporate banking
- o Casinos
- o Private banking
- o Money services businesses (e.g., wiring money, check cashing, cryptocurrency exchanges)
- o Broker-dealers
- o Insurance



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Laws and Frameworks

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">International Guidance</p> <p>Standards such as Wolfsberg, Egmont, or FATF recommendations</p> <p>Nonbinding (i.e., not laws) but provide a framework</p>	<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Local/Federal Law</p> <p>Binding legal requirements (e.g., Chile's Law No. 19.913/ Anti-Money Laundering Act)</p>	<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Financial Institution's Requirements</p> <p>Risk-based approach comprising the bank's products, services, and geographies</p>
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Frameworks in Action

FATF 40 Recommendations	Bank Secrecy Act/ USA PATRIOT Act	Risk Assessment Methodology
<ul style="list-style-type: none"> Rec. 15: <ul style="list-style-type: none"> Development of internal policies, procedures, and controls; An ongoing employee training program; and An audit function to test the system 	<ul style="list-style-type: none"> Sec. 352: <ul style="list-style-type: none"> Development of internal policies, procedures, and controls; The designation of a compliance officer; An ongoing employee training program; and An independent audit function to test programs 	<ul style="list-style-type: none"> Enterprise level Policies, procedures, and controls

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Laws and Frameworks—Example

Chile	Canada	Cayman Islands
Law No 19.913 (Anti-Money Laundering Act) requires banks and other covered entities to report to the Financial Analysis Unit (UAF): <ul style="list-style-type: none"> Report "suspicious transactions" that they are aware of Cash transactions exceeding \$10,000 on a semiannual basis Documents related to suspicious activity 	Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA): <ul style="list-style-type: none"> Requires covered entities to have compliance regime, engage in recordkeeping, client identification, and suspicious activity reporting Established a centralized FIU 	Anti-Money Laundering Regulations (AMLRs) require: <ul style="list-style-type: none"> Customer due diligence Recordkeeping Implementing a risk-based approach Ongoing monitoring Complying with lists of targeted financial sanctions Internal reporting of suspicious activities Staff screening Staff training Internal controls
Regulators: Commission for the Financial Market (CMF) and the Central Bank of Chile (Central Bank)	Regulator: Office of the Superintendent of Financial Institutions (OSFI)	Regulator: Cayman Islands Monetary Authority (CIMA)

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Comparatively Speaking

Country	Customer Identification <small>(ID and Risk Rate Clients)</small>	National FIU <small>(Repository for SAR/STR)</small>	Regulatory Oversight <small>(Regulators Checking AML Programs)</small>	Suspicious Activity Reporting <small>(File Reports Where Appropriate)</small>
United Kingdom	✓	✓	✓	✓
Brazil	✓	✓	✓	✓
Canada	✓	✓	✓	✓
Chile	✓	✓	✓	✓
Cayman Islands	✓	✓	✓	✓
Hong Kong	✓	✓	✓	✓
UAE	✓	✓	✓	✓
United States	✓	✓	✓	✓

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Hiding

- o Taking affirmative steps (i.e., no such thing as "accidental money laundering")
- o Avoiding mandatory reporting requirements or other methods of detection required by regulation
- o Making the funds appear less suspicious at a minimum but legitimate at best
- o Making the ownership and/or control of the funds appear under the control of a "clean" beneficiary



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Specified Unlawful Activity

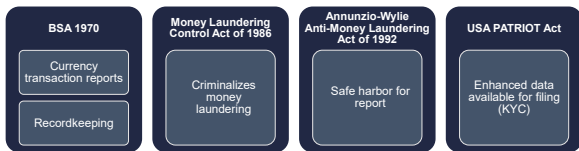
- o Remember: Moving the funds from direct association with the **crime** is key.
- o No matter where in the remaining layering and integration stages the funds are, they exist due to crime.
- o Crime must take place for the funds to have been originated in the first place.



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U.S. Laws



Canada	<ul style="list-style-type: none">• Proceeds of Crime (Money Laundering)/Terrorist Financing Act (PCMLTFA)• Transfer of property/proceeds, knowing it was derived from crime
Cayman Islands	<ul style="list-style-type: none">• Proceeds of Crime Law• Covers hiding, transferring, or disguising the proceeds of crime
Mexico	<ul style="list-style-type: none">• Mexican Anti-Money Laundering Law (LFPIORPI)• Hiding or disguising the proceeds of crime



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Dirty Money

Illicit Proceeds

- o Money generated from specified unlawful activity (18 U.S.C. § 1957)
- o Drugs
- o Kidnap, murder, and arson (broadly)
- o Fraud
- o Corruption (bribery, extortion, and embezzlement)

Source: FRI/CEN

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U.S. DOJ Guidance

Evaluation of Corporate Compliance Programs

- o Issued in 2017; reissued in 2019, 2020, 2023, and again in September 2024
- o Discusses "misconduct"
- o Not specific to compliance
- o Applies to any and all organizational structures, including but not limited to financial institutions
- o Used as a prosecutor's framework to evaluate the strength or weakness of a corporate compliance program

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Tone at the Top

- Is there a demonstrable commitment to compliance? Are expectations communicated?

Resources

- Are there sufficient technological, staffing, and training resources to administer a compliance program?

Risk Assessment

- Is the risk assessment tailored to the unique risks to the organization?

Autonomy

- Is compliance completely independent of influence from the business?

Other Considerations

- Compensation tied to compliance?
- Training program—lessons learned?
- Whistleblower and anti-retaliation programs?
- Independent testing?

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Sanctions Compliance Program

A Framework for the U.S. Office of Foreign Assets Control (OFAC)
Compliance Commitments

Five essential components of compliance:

Management Commitment: Tone at the top, culture of compliance, dedication of sufficient resources	Risk Assessment: Risk-based to geography, products, services, and inclusive of prior risk assessment results	Internal Controls: Sufficiently resourced and adequately tailored to keep organization in line with regulations and its own risk profile	Testing and Auditing: First-, second-, and third-line testing to ensure ongoing sustainability of the customer security program	Training: Risk- and role-based to demonstrate understanding of responsibilities and how to carry those out
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The Anti-Money Laundering Act of 2020

- o Requires reports and records that have a **high degree of usefulness** to law enforcement, regulators, and national security authorities
- o Requires the Treasury Department and the federal functional regulators to use a risk-based approach to setting minimum standards for AML/CFT programs and examining for compliance with those standards

Geographies	Customers	Priorities
APAC Russia Patriot Act, Sec. 311	Art (antiquities) Crypto	Strategic reports (TBA) Shift to intelligence and national security

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Strategic Priorities

From the White House (June 2021)

Combat all forms of illicit finance, reduce offshore financial secrecy, and improving information sharing.

Hold accountable corrupt individuals, transnational criminal organizations, **and their facilitators ...**

- **Corruption**—Misappropriation of public assets, bribery, and other forms
- **Cybercrime**—Including relevant cybersecurity and virtual currency considerations
- **Foreign and domestic terrorist financing**
- **Fraud**—Crimes and the methods used to launder their proceeds
- **Transnational criminal organization activity**—Including the use of professional money laundering networks
- **Drug trafficking organization activity**—Including the use of front companies or couriers
- **Human trafficking and human smuggling**—Including shell companies and funnel account/trade-related activity
- **Proliferation financing**

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International Sanctions

- Sanctions are used by countries as a national policy instrument.
- They include measures and actions taken against a target country or individual to influence its behavior, policy, or actions.
- They have three components: (1) an economic action; (2) taken against a target (a state, class of persons, an individual person, or even a function); and (3) to influence the target's actions.
- Sanctions can restrict trade, financial transactions, diplomatic relations, and travel/entry.

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International Sanctions

Are sanctions just a U.S. issue?

-  **No**, there are sanctions programs, such as those administered by OFAC, that are international.
-  There are also country-level sanctions between different governmental entities.
-  These may or may not overlap with other global sanctions requirements.

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International Sanctions Examples

- Canada**
 - UN member—abides by the UN watchlist and sanctions requirements
- Cayman Islands**
 - Adheres to the UN and EU sanctions requirements
 - Cayman Island Monetary Authority oversees the list and reporting
- Mexico**
 - Federal Criminal Code (Código Penal Federal) dictates the country's sanctions requirements
 - Finance Intelligence Unit (UIF) and General Attorney of the Republic (PGR) each maintain sanctions lists that often overlap with other countries' lists (e.g., OFAC)

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Sanctions Screening

Customers

Identify all clients and parties related to transactions.

- Client
- Counterparty
- Signer
- Beneficiary

Transactions

Screen transactions for the terms on relevant sanctions watchlists.

- Country
- Business
- Vessels
- Individuals

Accounts

Where required, block or reject transactions that generate sanctions exposure and, if possible, freeze the accounts.

Reports

Where required, issue reports to the government reflecting the clients and transactions. Internally monitor the accounts/client lists.

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Risk—Direct and Indirect

Exposure-Based	Onboarding of new clients on watchlists
	Existing clients added to watchlists via regulatory order
	Financing trade/deals/transactions with sanctions exposure

Direct: Exposure based on existing client relationships

Indirect: Exposure based on client's activity outside of the bank

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AML Compliance Programs at a Glance

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Customer Identification

- o Source of funds (where)
- o Source of wealth (how)
- o Risk rating
- o Monitoring
- o KYC refresh

Negative media—Matches in databases or open-source intelligence linking the client to money laundering or crime-related activity

- **Routine**—Revalidate the customer’s KYC data on a time-based review.
- **Deviation**—Examine to see if KYC needs to be refreshed.
- **Potentially suspicious**—Refresh KYC and risk rating.

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Customer Risk

<p>Routine</p> <p>Customer from Toronto transacts in Toronto (merchants, ATM, etc.)</p>	<p>Deviation</p> <p>Same customer from Toronto engages in cash withdrawals and POS purchases in Manhattan</p>	<p>Potentially Suspicious</p> <p>Toronto customer sends numerous, round-dollar wire transfers to Macau, which they've never done before</p>
--	--	--

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What's Next?

<p>Transaction Alert</p> <ul style="list-style-type: none"> • Review • Escalate 	<p>Legal Order Processing</p> <ul style="list-style-type: none"> • Warrant • Subpoena • Sec. 314 	<p>Other</p> <ul style="list-style-type: none"> • Internal • Negative news
--	--	---

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Currency Transaction Reports

- o Financial institutions must report currency transactions conducted by or on behalf of one person via currency transaction report (CTR):
 - Over \$10,000
 - Multiple currency transactions that aggregate to be over \$10,000 in a **single day**

Multiple payments—Even if the initial payment does not exceed \$10,000, the recipient must aggregate the initial payment and subsequent payments made within one year of the initial payment until the aggregate amount exceeds \$10,000.

→

A report must be made each time that previously unreportable payments made within a 12-month period with respect to a single transaction (or two or more related transactions), individually or in the aggregate, exceed \$10,000.

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SAR Filing

- o Insider abuse involving any amount
- o Violations aggregating \$5,000 or more where a suspect can be identified
- o Violations aggregating \$25,000 or more regardless of potential suspects
- o Transactions aggregating \$5,000 or more that involve potential money laundering or violate the BSA:
 - The transaction involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities.
 - The transaction is designed to evade any regulations promulgated under the BSA.
 - The transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

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Suspicious Activity Reporting

- o Highly confidential
- o Filed by covered entities/institutions/business types
- o Sent to a centralized financial intelligence unit within the country (e.g., FinCEN, NCA, etc.)
- o Leveraged by law enforcement and the intelligence community

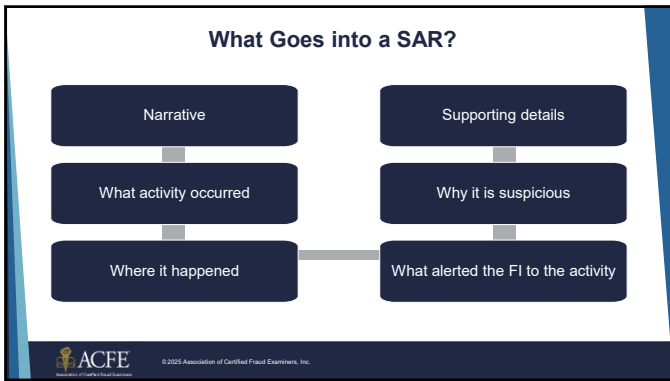
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Form
Details
Categories
Instruments

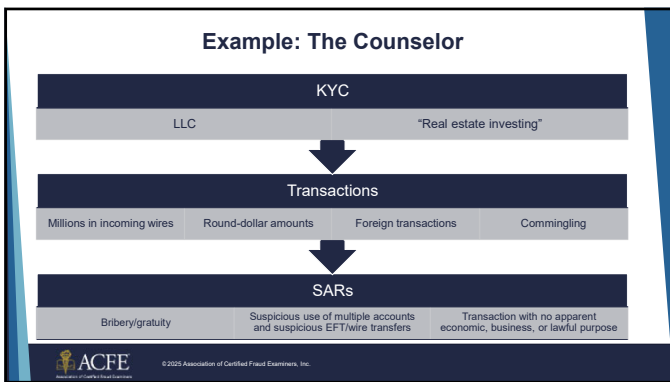
Narrative
Rationale
Reason for suspicion

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U.S. v. Podlucky

- o In 2011, Gregory Podlucky pleaded guilty to:
 - Tax evasion
 - Mail fraud
 - Conspiracy to commit money laundering
- o Podlucky ran Le-Nature's bottling company in Latrobe, Pennsylvania, which went into bankruptcy in November 2006.
- o Evidence at trial showed that investors and lenders lost just under \$700 million due to **misrepresentations** about the financial health of Le-Nature.



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U.S. v. Podlucky

- o Podlucky embezzled millions in loans to the company for personal expenditures, including as much as \$33 million on rare gems and jewelry.
- o Funds were spent in the names of various **accounts, trusts, and businesses** for expenses that were ultimately personal in nature.
- o Podlucky, his wife Karla, and son Jesse were all involved in money movement.
- o "Twilight Palm Canyon Asset Management Trust" was opened as a shell company with Jesse as the trustee.
- o The trio also set up Green Special Advisers LLC and Marantha Trust.

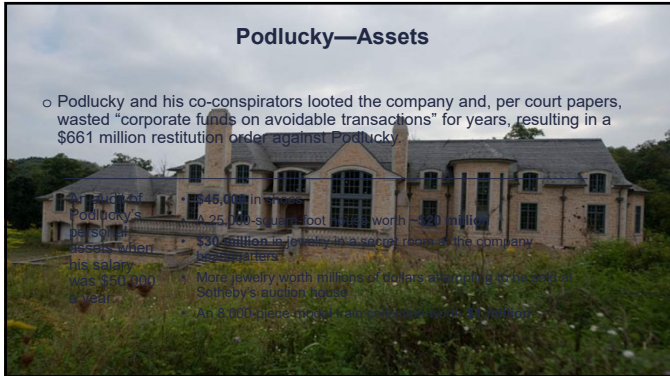


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Podlucky—Assets

- o Podlucky and his co-conspirators looted the company and, per court papers, wasted "corporate funds on avoidable transactions" for years, resulting in a \$661 million restitution order against Podlucky.



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In Lieu of Jewels

- o Claiming to be a representative of Twilight Palm Canyon, Jesse and his father met with Sotheby's employees to sell loose gemstones purchased with embezzled funds.
 - Jesse was aware of the use of a false narrative as to the origin of the jewelry.
 - Money from the auctions of the jewelry was moved out of a Schwab account as part of the conspiracy.
 - Prosecutors seized the Schwab account under U.S. forfeiture laws (Section 853(p)) because it had been used to move money attributed to the gemstones.

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Forfeiture by Law

- o Section 853(p) provides that a court shall order the forfeiture of any other property of a criminal defendant, up to the value of any property made unavailable as a result of any act or omission of the defendant, if any of the following apply:

- (A) It cannot be located upon the exercise of due diligence.
- (B) It has been transferred, sold to, or deposited with a third party.
- (C) It has been placed beyond the jurisdiction of the Court.
- (D) It has been substantially diminished in value.
- (E) It has been commingled with other property which cannot be divided without difficulty.

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The Schwab Account

Based on this, the court found that:

- Jesse Podlucky and/or acts attributable to him through the conspiracy caused funds from the auctions of the jewelry that had been in the Schwab account to be rendered unable to be located upon the exercise of due diligence.
- Karla, who created the shell companies, personally distributed funds to those entities. She then changed the businesses' addresses to make discovery of the assets more difficult.
- They both then caused illicit funds:
 - To be transferred to and/or deposited with third parties; or
 - To be commingled with other property which cannot be divided without difficulty.

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Money Laundering Schemes

Traditional and Current Money Laundering Techniques

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Conversion

- At its core, money laundering requires a transaction.
- The transaction can be as fundamental as a "conversion" of funds.

Placement	Layering	Integration
\$10,000 in \$100 denominations	Deposit \$2,000	Purchase Gift Cards
	Pay \$1,500 credit card balance	Purchase Luxury Goods
	Convert \$2,000	PoS Purchases
		Wire Transfer
		Wire \$1,000
		Additional Branch—Deposit \$1,000

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Conversion

```

    graph TD
      A["$10,000,000"] --> B["Luxury goods"]
      A --> C["Brokerage account"]
      A --> D["$475,000 home"]
      B --> E["Resold/consigned"]
      C --> F["Cryptocurrency"]
      C --> G["Commodities"]
      D --> H["$100,000 in upgrades"]
      F --> I["Traded/sold"]
      G --> J["Resold"]
      H --> K["Home resold for $735,000"]
  
```

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Conversion: To Be Successful

- o Patience is critical.
- o Transactions need to adhere to regulatory timelines and “expectations” (e.g., buy/sell turnaround time).
- o Over-centralization represents risk.



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Fictitious Business

- o Alphonse “Al” Capone is historically credited with “popularizing” money laundering as it is known today. Capone’s bootlegging operations grossed an estimated \$100 million annually.
- o Unfortunately for law enforcement, the government’s efforts to pursue Capone up until and through his conviction gave rise to more-sophisticated money laundering processes.
- o Meyer Lansky went on to create more-complex front businesses to generate, place, and layer funds from criminal activities. Lansky and other notorious criminals went on to effectively develop Las Vegas as what is arguably a front city.



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Fictitious Business

- o Capone’s grandniece believes that potentially millions were left in safe deposit boxes in the United States and Cuba.
- o She also believes that the money might have been used to purchase uncut diamonds, which have been lost to time.



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Cash-Intensive Businesses

- o When operating front businesses, criminals will usually rely on cash-intensive businesses.
- o These businesses typically deal in cash, particularly in volumes that make it worthwhile to leverage for laundering.



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Cash-Intensive Businesses: To Be Successful

The business should:

- o Be located in a low-risk area
 - o Have identifying details to support the legitimacy of the business
 - o Be plausible for volume and value
- o Example: Laundry Time



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Safe Deposit Boxes

- o Generally, safe deposit boxes rely on a rental agreement.
- o Due diligence is conducted on the person renting the box.
- o A log of visits is kept by the hosting bank or branch.
- o Records of the box's contents are not kept.



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Bulk Cash Smuggling

- With the intent to evade a currency reporting requirement
- Knowingly conceals more than \$10,000 in currency or other monetary instruments
- On the person of such individual or in any conveyance, article of luggage, merchandise, or other container
- Transports, transfers, or attempts to transport or transfer such currency or monetary instruments from within a country to another

Exceptions

- o Checks or money orders made payable to the order of a named person that have not been endorsed or that bear restrictive endorsements
- o Warehouse receipts
- o Bills of lading

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Bulk Cash Smuggling: To Be Successful

- o Transportation networks need to be complex and discreet.
- o Networks require reliable transporters and reassurances that the funds will be delivered.
- o According to the U.S. Department of Homeland Security, \$19 billion to \$29 billion is transported between the United States and Mexico annually.
- o *Ruta hormiga* ("ant route") relies on human smugglers and other money movers to transport between \$5,000 to \$10,000 daily, receiving \$500 for their services.

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Stored Value Cards and Digital Currency

- o **Closed loop**—Subject to store- and entity-branded restrictions (e.g., Starbucks, Macy's, etc.)
- o **Open loop**—Utilized anywhere that the supporting payment mechanism is allowed; heavily favored by criminals

```

graph TD
    A[Use at point-of-sale terminals] --> B[Portability, wide acceptance by hotels and car rental agencies]
    B --> C[Obtain cash from ATMs worldwide without going through a currency exchange]
    C --> D[High load limits (some as high as $2 million) and few reload restrictions]
    D --> E[Easily transportable with a low likelihood of detection]
    E --> A
  
```

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Offshoring

- o Certain jurisdictions are known as *secrecy havens*.
- o These are countries that have lax AML laws and regulations, often in tandem with weak AML enforcement frameworks.



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Offshoring: To Be Successful

- o Reliable network of money launderers
- o Discreet, well-run recipient institutions
- o Low-scrutiny mechanisms



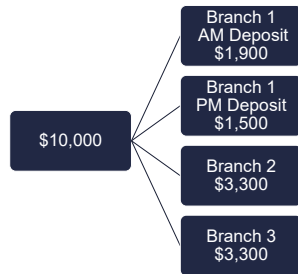
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Structuring

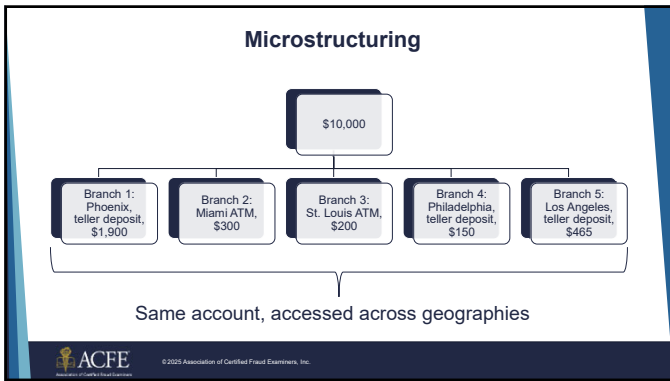
Financial institutions must make a currency transaction report (CTR) for cash or coin transactions when they are:

- o Conducted by or on behalf of one person
- o Over \$10,000
- o Multiple transactions that aggregate to be over \$10,000 in a single day

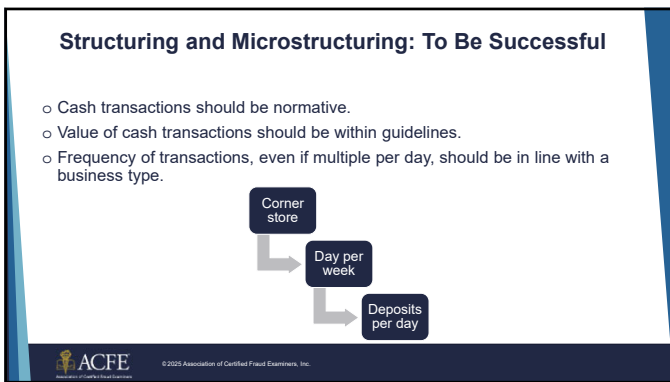


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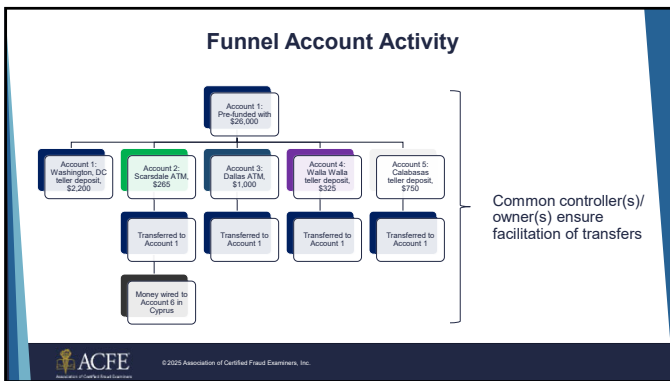
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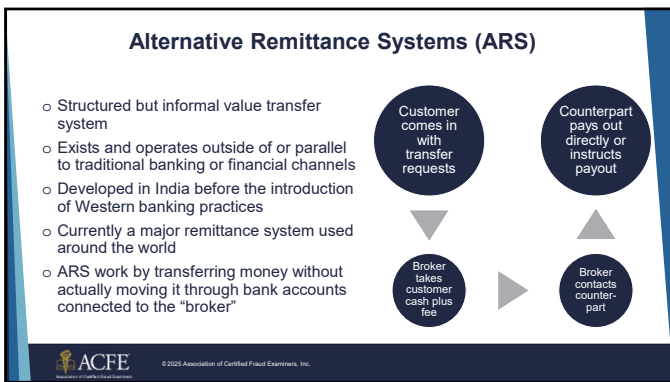
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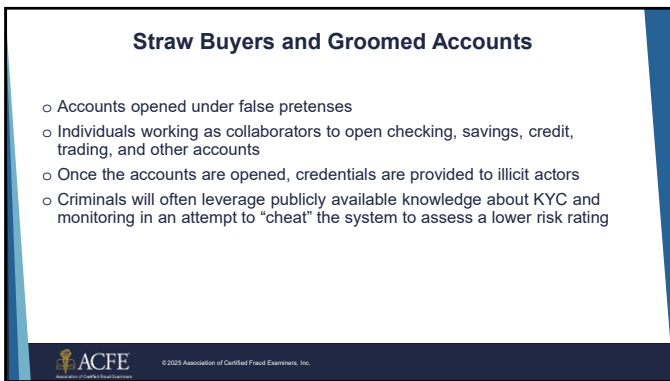
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Straw Buyers and Groomed Accounts: To Be Successful

- o Occupation, source of funds/wealth, identifying information should be low risk.
- o Geography/address of customer should not draw attention.

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Insurance Vehicles

- o Illicit funds are used in part or in whole to fund insurance vehicles.
- o Some products allow for third-party beneficiaries to be added for distribution of funds.
- o U.S. AML rules apply to:
 - Permanent life insurance policies other than group policies that contain a cash value or investment element
 - Annuity contracts other than group contracts or charitable gift annuities, and any other insurance products with features of cash value or investment features

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Insurance Vehicles: Example

- o One investigation found that an offshoot of the 'Ndrangheta Mafia in Calabria, Italy, had staged hundreds of fake car crashes and thefts for years to obtain insurance payouts.
- o The mob group had insurers, doctors, lawyers, and auto body repairers on the payroll to net themselves millions of euros.
- o The same group was connected to a vote-buying investigation, and the individual at the center of the investigation was a suspect in the orchestration of over twenty murders.

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Trade-Based Money Laundering

- o Trade allows for millions of dollars in a single transfer, billions in a contract, and trillions in transactions overall.
- o The value of global trade reached a record level of \$28.5 trillion in 2021.
- o Trade hit \$7.7 trillion in Q1 2022, an increase of about \$1 trillion relative to Q1 2021.


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Trade-Based Money Laundering

Complexities of Trade Transactions


- o Numerous opportunities to integrate a single and/or recurring illicit payments
- o Multiple, layered parties' involvement
- o Limited detectability due to layered and complex paperwork
- o External intervention is stifled by a complex mosaic of international laws


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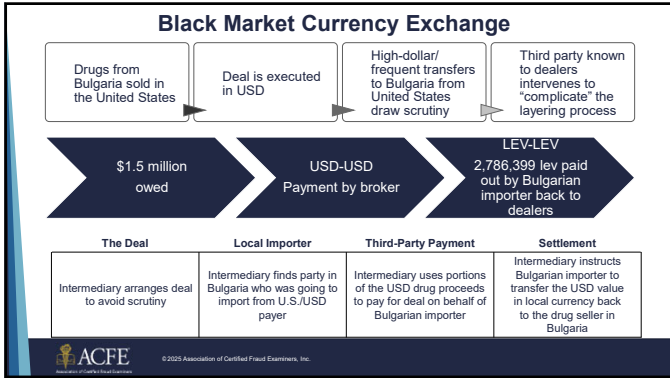
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Trade-Based Money Laundering

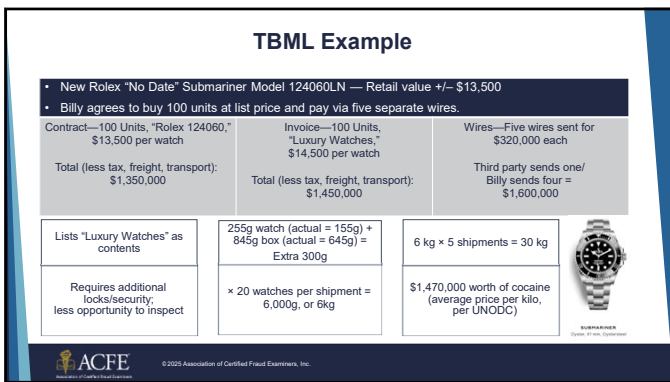
Common Signs of Trade-Based Money Laundering (TBML)	Over- and under-invoicing
	Standby letter of credit/payable abuse
	Over-, under-, and phantom shipments


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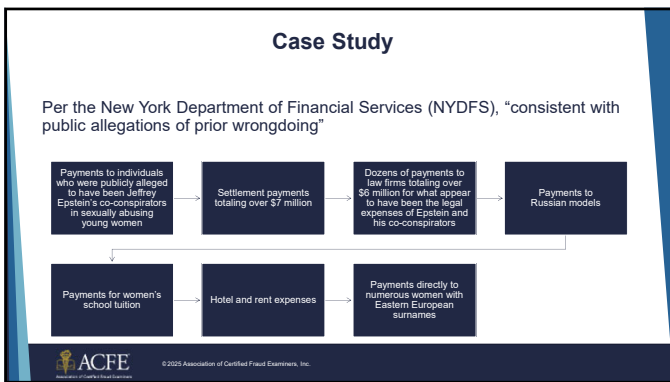
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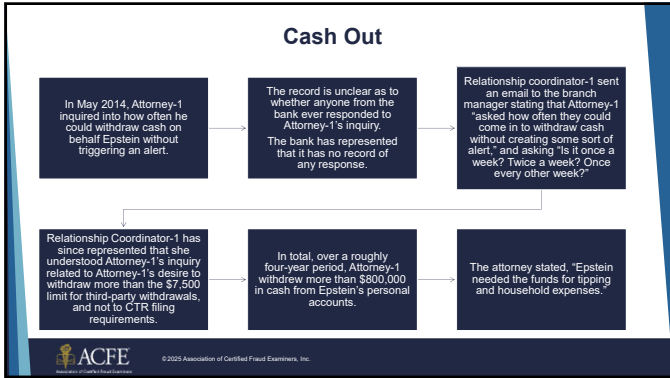


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Money Laundering Schemes

Emerging Money Laundering Risks, Part 1

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1

Place Your Bets

One of these three is a well-known work of art, last selling at auction for seven figures:



1
Duino (1967)
\$6,030,000



2
Untitled (1963)
\$3,940,605



3
Untitled (1990)
\$1,508,685

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2

To the Highest Bidder



Ref. 6536



Ref. 5517

1. Ref. 5517—\$200,000
2. Ref. 1680—\$70,000
3. Ref. 6536—\$49,000

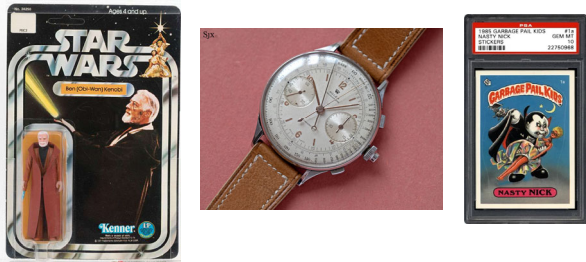


Ref. 1680

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3

Rare Treasures



4

Passage of the AML Act of 2020

- The AML Act amends the Bank Secrecy Act by adding to its definition of *financial institution*: "A person engaged in the trade of antiquities, including an advisor, consultant, or any other person who engages as a business in the solicitation or the sale of antiquities, subject to regulations prescribed by the Secretary."
- From the *Federal Register*:
 - "Crimes relating to antiquities and art may include looting or theft, the illicit excavation of archaeological items, smuggling, and the sale of stolen or counterfeit objects.
 - They may also include money laundering and sanctions violations, and have been linked to transnational criminal networks, international terrorism, and the persecution of individuals or groups on cultural grounds."

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Study of the Facilitation of Money Laundering and Terror Finance Through the Trade in Works of Art

- "There is not always consensus on what constitutes art, and whether a particular item qualifies as art is not always clear. According to one expert, art can be a myriad of things, ranging from pre-civilization artifacts (and thus more connected to archaeology), 17th-century masters, or fine art to modern objects that could be produced even as this report is written."

Source: https://home.treasury.gov/system/files/136/Treasury_Study_WoA.pdf

6

Study of the Facilitation of Money Laundering and Terror Finance Through the Trade in Works of Art

- o **Customs and Border Patrol**—Paintings, drawings, and pastels, executed entirely by hand; original engravings, prints and lithographs; original sculptures and statuary, in any material; postage or revenue stamps, stamp postmarks, first-day covers, postal stationery (stamped paper), and the like; collections and collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, paleontological, ethnographic, or numismatic interest; and antiques more than 100 years old
- o **IRS**—Paintings, drawings, prints, sculptures, antiques, ceramics, glass, decorative arts, textiles, carpets, silver, rare manuscripts, antiquities, ethnographic art, collectibles, coins, archives, and historical memorabilia

Source: https://home.treasury.gov/system/files/136/Treasury_Study_WoA.pdf



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Open Economy

- o **Primary market**—Art/artwork sold directly by the artist to the potential buyer
- o **Secondary market**—Art/artwork resold or traded, and profits are returned to the seller/prior owner, but not the artist
- o **Auction/self-sales platforms**
- o **Art for hire/freelancing**—Supplants "commissioning" of the early days of art



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Value-Based

- o Prices fluctuate based on the provenance—whether the art/work has an ownership history that is credible and can be traced back to the creator/artist.
- o Price is also impacted by an artist's notoriety and whether their works are desirable, based in part on whether they were included in museums, exhibitions, or prestigious collections.
- o Price can also be affected by the reputation of the prior owner(s) if they have a reputation for making well-advised purchases, holding art, or passing it down through family before selling.



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Online Sales

- Online sales of high-value art increased dramatically during the pandemic.
- Online art sales hit \$12.4 billion in 2020, which was a record that eclipsed pre-pandemic spending.
- As a result, most brick-and-mortar galleries are pivoting to a hybrid sales model.

Sales through online art fairs, websites for galleries and auction houses, and other non-art-specialized third-party marketplaces (e.g., social media) and sales listing sites (e.g., eBay)

The digital art market where art with no physically tangible presence (e.g., NFTs) is traded

Source: The Art Basel and UBS Survey of Global Collecting.

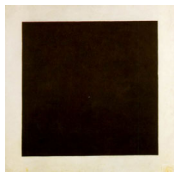


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Historical Challenges: Art

- The global art market is both opaque and elitist, tending to rely on referrals and recurring buyers.
- There are very few restrictions on the trade in art, making global purchasing and selling accessible.
- Auctions tend to generate an inflated value for art, which is already challenging to price accurately and consistently.
- Simplicity and complexity are subjective, making pricing entirely driven by rarity and market demand.
- The market is highly susceptible to fraud and money laundering.



Black Square by Kazimir Malevich hangs in the State Tretyakov Gallery in Moscow, Russia, purchased for \$1 million by now-sanctioned Russian oligarch Vladimir Potanin in 2002.



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Historical Challenges: Antiquities

- Desirability is exacerbated by a highly limited supply of antiquities, and heightened market frenzy can cause buyers to be less vigilant.
 - Limited legal frameworks result in an inconsistent series of definitions and, therefore, categorical protections.
- Some domestic laws apply only to the sourcing and excavation but do not require confirmation of provenance; some laws only pertain to the international transport of goods but not receipt.
- This creates a public market, secondary markets, risk of counterfeiting, and a black market for legitimate goods.



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Historical Challenges: Antiquities

- There is a lack of available expertise to verify authenticity; where verification is available, pricing is still entirely dependent on an item's condition.
 - Partial or incorrect restorations can be difficult for a novice to detect.
- The same collectible can have multiple pricing variations for different dimensions of valuation (e.g., age, boxing, creasing, patina, etc.).
- Trade platforms often rely on third-party authenticity checks that may not necessarily be reliable (e.g., "Authenticity Guarantee is not affiliated with or endorsed by any of the brands sold on eBay.").



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Diversification of Earning: Collectibles

- Organized crime groups have begun intervening in the production, sale, and distribution of both legitimate art and counterfeits/replicas.
- The UNODC has reported that the sale of counterfeit art and fraudulent replicas has fueled economic growth for organized crime groups, such as the Mafia, Triads, and Yakuza.



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Diversification of Earning: Collectibles

- In late 2022, Christie's auction house pulled a Tyrannosaurus Rex skeleton named "Shen" from its upcoming selection, even though it was expected to fetch between \$15 million to \$25 million.
- The 3,000-pound skeleton was said to have replica bones from other T. Rex skeletons. While this is common for such skeletons, Christie's first edited the posting before pulling it completely.



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Conflict Antiquities

- o Paintings, sculptures, literature, or other cultural antiquities that have been looted or stolen from the source country and sold for profit
- o In general, the profits support organized crime and finance terrorism.
- o Some items are so well known that they could not be sold on the open market, which results in a black market.
- o There is an estimated \$10 billion in black market sales annually, according to Interpol.



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Case Studies



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Hobby Lobby

- o The owners of the well-known chain of craft stores had to forfeit thousands of Sumerian objects and were ordered to pay an additional \$3 million in fines.
- o The family behind the company had purchased about 5,500 cultural artifacts from Iraq for around \$1.6 million for the company's Museum of the Bible.
- o The reason that the items had to be returned was that they had come from Umma, one of the world's most heavily looted cultural sites.

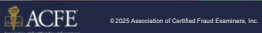


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Hobby Lobby

- o The pieces had their country of origin changed from Iraq and Turkey, and the label of the package was changed to read "tile samples."
- o While the U.S. Department of Justice did not pursue the company criminally, they did note that the cultural expert hired by the company had urged the family to do more due diligence on the cuneiforms' provenance.
- o The company went on to purchase the items without ever meeting or communicating with the purported owner, paying via seven separate wire transfers to personal bank accounts.



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A Nice Whine with Dinner

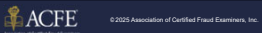
- o In November 2020, Rudy Kurniawan was deported to Indonesia after serving approximately seven years in prison.
- o Kurniawan held the distinction of being the only person arrested at the federal level for "wine fraud."
- o Kurniawan was arrested in 2012 on suspicion of having run an ongoing fraud counterfeiting rare wine vintages.
- o Until then, Kurniawan had been part of the elite collectible wine community and thought of as a go-to person for hard-to-obtain vintages.
- o All told, Kurniawan sold his clients upward of \$30 million in fake wine.



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A Nice Whine with Dinner


- o Kurniawan got into the wine auction trade and sold millions of purported rare vintages to high-net-worth individuals.
- o Like many fraudsters, Kurniawan ostensibly began his career with some legitimacy, using his credit card to buy rare vintages and resell them at a markup.
- o When the genuine vintages began to run out, Kurniawan decided to make his own. He used commercial grade wine blended with a newer counterpart, reused bottles, and printed fake vintage labels.
- o So-called experts and connoisseurs alike tasted the wine and were not able to tell that it was anything other than the genuine product.



21

A Nice Whine with Dinner

- o One of the top buyers, Bill Koch, hired authenticators to review his wine collection (44,000+ bottles).
- o Koch filed a lawsuit against Kurniawan and commissioned private investigators who traveled to Indonesia and learned about Kurniawan's past.
- o Simultaneously, vineyard owner Laurent Ponsot grew suspicious when Kurniawan claimed access to a 1945 and 1917 vintage of Clos St. Denis for \$70,000 per case. The vineyard didn't actually start Clos St. Denis until **1982**.




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A Nice Whine with Dinner

- o In 2010, Koch, Ponsot, and the FBI's suspicions converged.
- o By this time, Kurniawan had purchased an \$8 million house and had spent hundreds of thousands on luxury cars, clothes, and a lavish lifestyle.
- o Eventually, Kurniawan was ordered to pay \$28.4 million in restitution and forfeit \$20 million in property.
- o At trial, an expert testified that up to 75% of fakes around the peak of Kurniawan's activity could be traced back to him. Estimates put the total fraud at anywhere from \$35 million to \$150 million.



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Money Laundering Schemes

Emerging Money Laundering Risks, Part 2



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Cannabis Fraud

Narcotics Sales	Bank Fraud	CBD Fraud
<ul style="list-style-type: none"> Marijuana remains a Schedule 1 narcotic 	<ul style="list-style-type: none"> Wholesale misrepresentation of business type Omission of cannabis-related business details/connections 	<ul style="list-style-type: none"> Fraudulent claims Counterfeit products, goods, and medication

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Incentivized

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Family Tree

- The nature of cannabis as a plant and product is highly complex.
- There is a mixed legalization status that can differ across national and even state borders.
- Legal definitions do not align to practical use.
- Increased market interest and unclear use parameters allow for the historical illegal market, black market, and now legal markets.
- Risk assessment**—Determine the legal framework as it pertains to hemp, cannabis, and marijuana (as well as related products).
- Understanding potential fraud and money laundering risks is critical to companies that want to be involved in marijuana-related business (MRB).

```

graph TD
    A[Cannabaceae] --- B[Cannabis ruderalis  
Naturally occurring,  
low-THC cannabis]
    A --- C[Hemp  
Historically, Cannabis  
Sativa L.  
0.3% THC or less]
    A --- D[Marijuana  
Historically, Cannabis  
Sativa, Cannabis  
Indica, with >0.3% THC]
        
```

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Categorizations

Medicinal/ Pharmaceutical

• Tetrahydrocannabinol (THC) and compounds leveraging THC can be utilized in medication/pharmaceuticals where authorized.

Medical

• Marijuana (in common forms— inhaled, pill, etc.) is utilized as complementary, alternative medication.

Decriminalized

• Criminal statutes (i.e., possession, possession with intent to distribute, transport, racketeering) remain in effect.

Legalized

• No citations or prosecution for possession for personal use/ consumption on a state-by-state basis; may allow for in-home plant growth.



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Cole Memo

Main takeaways—Deprioritizing marijuana prosecutions, however:

- o Ensure that there is no cross-state sales of marijuana or sales to minors.
- o Continue to prosecute illegal and organized crime-related marijuana markets.
- o Prioritize DUI and firearms offenses related to the cultivation and distribution of marijuana.



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MRB Red Flags

Red Flags to Distinguish Priority SARs (select provisions; emphases added)

- o MRB appears to be a front or **pretext to launder money** derived from other criminal activity.
- o MRB receives substantially more revenue than may **reasonably** be expected given the relevant limitations imposed by the state in which it operates.
- o MRB takes in **substantially more** revenue than its local competitors or **than might be expected** given the population demographics.
- o MRB is depositing **more cash** than commensurate with the amount of marijuana-related revenue it is reporting for federal and state tax purposes.

Source: FinCEN Advisory: BSA Expectations Regarding Marijuana-Related Businesses



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MRB Red Flags

Red Flags to Distinguish **Priority SARs** (select provisions; emphases added)

- o MRB **unable to produce satisfactory documentation** or evidence to demonstrate that it is duly licensed and operating consistently with state law.
- o Review of publicly available sources and databases about the business, its owner(s), manager(s), or other related parties, reveal **negative information**, such as a criminal record, involvement in the illegal purchase or sale of drugs, violence, or other potential connections to illicit activity.
- o The business, its owner(s), manager(s), or other related parties are, or have been, **subject to an enforcement action** by the state or local authorities responsible for administering or enforcing marijuana-related laws or regulations.

Source: FincEN Advisory: BSA Expectations Regarding Marijuana-Related Businesses



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Bank Fraud and Money Laundering



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Customers by the Books

Grower—ML risks of commingled growth

- Farmer: What percentage of crops/output, licensing, and production adhere to state requirements; no "independent" sales
- Home grower: Lack of licensing, testing, risk of black market sales

Wholesaler—ML risks of commingled products

- Risk of interstate commerce (i.e., source and redistribution)

Distributor/Retailer—ML risks of "pretext business" fraud and black market sales

- Categorization of business (i.e., pharma vs. medical use vs. medicinal and/or recreational)
- Recreational retailer fraud/misrepresentation in type of business



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Customers by the Books

Pharmacy—ML risks of fraud and illicit sales

- Licensure to sell cannabis in excess of Farm Bill limits

Related Business—ML risks of fraud and illicit sales

- Cannabis-infused products: Potential fraud
- Real estate: Percentage of income (e.g., 1 in 5 stores)
- Business as usual (marketing, transport, merchant processing, etc.): Direct versus indirect income



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Know Your Customer (KYC)

Banks will ask standardized questions about:

- Nature of business
- Anticipated product use
- Source of funds and wealth



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Touch the Leaf

Reasonable Belief About the Identity of the Customer

- Customers/dealers will misrepresent the nature of their involvement with cannabis.
 - Farmer—how much of the crops are marijuana?
 - Distributor/retailer—storefronts and vendors
 - Pharmacies and dispensaries—licensed entities?
 - Related business—service providers, etc.
 - Black market


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Cash-Intensive Businesses

- o A potential client seeking to gain access to the U.S. banking system will need to posit a rational basis for their cash use.
- o The anticipated activity needs to be plausible for the location as well as the business type.
- o All transactions (e.g., lending, deposit, payroll, merchant processing) need to be consistent with that risk profile as well as other comparable entities.
- o MRBs tend to be cash intensive, and stories persist of MRB owners making false statements to financial institutions in order to get access to accounts, products, and services.
- o Some MRB owners have opened shell companies to avoid detection and fees, even in states where their product/business is legal.



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Friendly Management Group

Between May 2019 and January 2020, the defendant operated Cannabless, a "leading" medical marijuana company in Oklahoma, which at the time, was not compliant with state medical marijuana laws.

Cannabless was operated by the defendant under the corporate name Friendly Management Group, LLC (FMG), which the defendant held out to be a "wellness and fitness company."

The bank at issue would not have opened the account for FMG but for the defendant's false statements about the nature of his business.

The defendant then structured deposits below the \$10,000 currency transaction reporting (CTR) threshold, depositing over \$770,000 in cash.

The defendant pleaded guilty to making a false statement to a bank; FMG pleaded guilty to money laundering.



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CBD Fraud and Counterfeit Medicinal Products



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Pill Mills

- The global trade in counterfeit goods is estimated to yield anywhere from \$300 billion to \$600 billion.
- The market includes "traditional" counterfeits, such as clothing, jewelry, consumer goods, and movies, but also medicine and medicinal products.
- The World Health Organization (WHO) estimates that as many as 10% of medical products circulating in developing countries are either substandard, ineffective, or fake.
- Sales from counterfeit pharmaceuticals are estimated to generate \$83 billion annually.



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Sweeps and Arrests

- **Criminal rings**—Raids by law enforcement have yielded countless individuals and rings working together to sell counterfeit and/or unlicensed CBD and marijuana products.
- **Operation On the Ropes**—Netted 24 individuals using unchecked processes to infuse THC into candy such as Sour Patch Kids and Nerds Ropes.
 - A single raid seized "21,000 pieces of candy, 1,100 pounds of marijuana, and around 6,500 flavored THC vaporizer cartridges."
 - Another raid found \$224,000 worth of gummies and snacks sold in counterfeited Skittles, Cheetos, and Oreo packaging.

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Case Study

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Transaction Laundering

- o Hamid Akhavan and Ruben Weigand were charged with conspiracy to commit bank fraud in violation of 18 U.S.C. § 1349.
- o Prosecutors alleged that the pair conducted a "transaction laundering scheme" to deceive banks into processing over \$100 million of credit and debit card payments.
- o The payments were billed as benign sales (e.g., makeup, pet toys, etc.) to hide from banks what were actually marijuana sales.



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Offshore Entities

- o Akhavan, Weigand, and others worked with third-party payment processors and offshore acquiring banks to create a series of "phony merchants."
- o The conspirators created seemingly legitimate websites advertising non-marijuana-related goods and services.
- o They used the websites as "evidence" of the company's legitimacy and opened bank accounts to process merchant transactions for those entities.
- o They then applied fraudulent "merchant category codes" to the credit and debit card purchases from their company—Online Marijuana Marketplace Company—to create the appearance that these transactions were not for the purchase of marijuana.



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Arguments

- o Akhavan and Weigand argued that the evidence at trial was insufficient to demonstrate (and no reasonable jury would find) that their misrepresentations were material.
- o The government showed evidence of both the bank and merchant processors' investigations of the transactions as being potentially suspicious and marijuana-related.
- o The financial services providers then closed various offshore relationships due to those transactions.



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Arguments

Fees

The defendants argued that banks only cared whether they *appeared* to be knowingly processing marijuana transactions for which they might be penalized.

Willful Blindness

According to this theory, the banks wanted to remain willfully blind of the true nature of the transactions because it was profitable.

Real Time

The defendants proffered that there was no proof that a bank ever declined to authorize a marijuana transaction, pointing out that banks decide whether to authorize transactions in a fraction of a second, based on little information.

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Government Response on Appeal

- o The court found that a material fact is one "that a reasonable banker would be reasonably likely to consider in making a decision authorizing a bank transaction involving the transfer of money or property."
- o For example, if a perpetrator made misrepresentations designed to make marijuana purchases look like the purchases of other goods, the misrepresentations would be material if, had the banker known that the purchases were disguised and really were for marijuana, such knowledge would be reasonably likely to influence a reasonable banker in deciding whether to authorize the purchases.

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In Conclusion

Proof

A reasonable banker was reasonably likely to consider the fact that these were marijuana transactions.

Not that this consideration would have been dispositive.

Decline

The defendants' arguments about "declining" a transaction were too narrow.

"Even if a bank would have processed any single marijuana transaction based upon accurate information presented about that transaction, the defendants conspired to carry out an extrajurisdictional scheme spanning many transactions."

Referrals

Merchant processors reviewed for the processing of marijuana transactions, and the processors terminated those vendors.

Although this was an indirect refusal to process a transaction, it supports the government's position that the defendants' misrepresentations were material.

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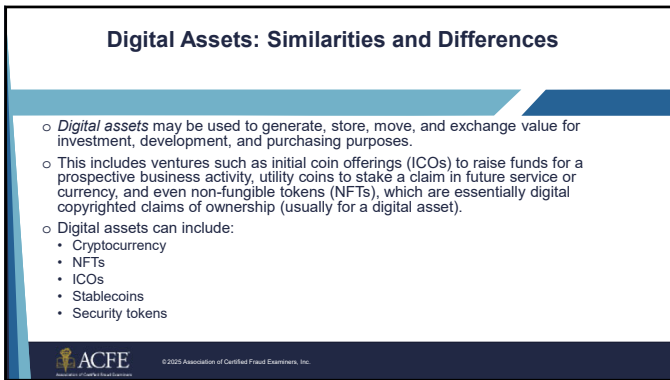


Money Laundering Schemes

Cryptocurrency Fraud, Digital Assets, and Money Laundering

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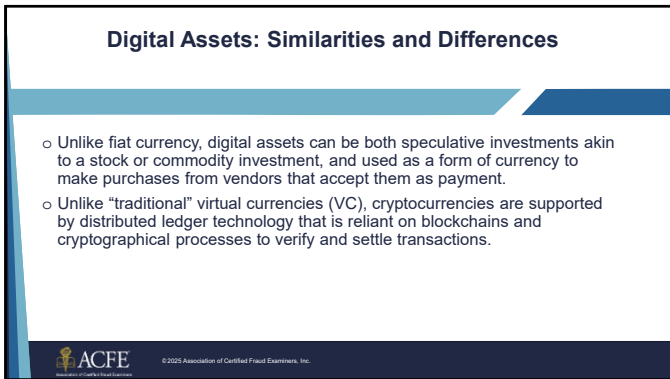


Digital Assets: Similarities and Differences

- o *Digital assets* may be used to generate, store, move, and exchange value for investment, development, and purchasing purposes.
- o This includes ventures such as initial coin offerings (ICOs) to raise funds for a prospective business activity, utility coins to stake a claim in future service or currency, and even non-fungible tokens (NFTs), which are essentially digital copyrighted claims of ownership (usually for a digital asset).
- o Digital assets can include:
 - Cryptocurrency
 - NFTs
 - ICOs
 - Stablecoins
 - Security tokens

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Digital Assets: Similarities and Differences

- o Unlike fiat currency, digital assets can be both speculative investments akin to a stock or commodity investment, and used as a form of currency to make purchases from vendors that accept them as payment.
- o Unlike "traditional" virtual currencies (VC), cryptocurrencies are supported by distributed ledger technology that is reliant on blockchains and cryptographical processes to verify and settle transactions.

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Digital Assets and Cryptocurrency

Shared Traits

- o Unlike fiat currency, VC were developed specifically to be purchased, sold, traded, transferred, and issued without oversight from government authorities or financial institutions.
- o Digital assets, born from VC, share most of the same qualities of their "parent," such as:
 - Decentralized remittance/settlement process
 - Immutable ledger of all asset-related transactions
 - A multi-nodal settlement process
 - Usually reliant on cryptography to verify parties and settle transactions

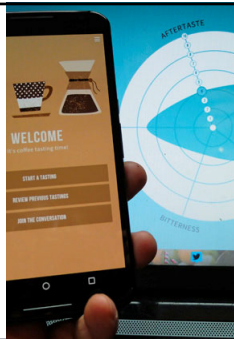


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Definitions and Distinctions

- o Both virtual and cryptocurrencies are digital representations of fiat (i.e., real-world) currency.
- o The terms *digital currency* and *cryptocurrency* are used synonymously, but they are distinct from one another in their properties, uses, and **risks**.
- o Millions of global consumers utilize digital currency in closed, nonconvertible formats (e.g., mobile banking, stored value cards, etc.).
- o In general, **digital currency represents lower risk** for money laundering, terrorist financing, and other illicit activity.



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Shared Money Laundering Risks

- o Unlike "common" digital currency, **cryptocurrency is higher risk**.
- o Cryptocurrencies are open, convertible, and transferrable.
- o Cryptocurrency can be purchased with cash, credit card, etc.
- o Purchases can be traded (e.g., BTC for ETC).
- o Cryptocurrency can be utilized for direct purchases (where accepted).
- o Assets can be converted back to cash.



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Value Added and Value Lost

- o VC's worth is determined by market value; a fiat currency's worth derives from a supporting government/commodity.
- o Both fiat and cryptocurrencies can be bought, sold, exchanged, invested, and used for purchasing, but those actions can be supported or impacted by government backing or market value.
- o Cryptocurrency (excluding a central bank digital currency) can be purchased and sold anywhere in the world where there are no legal restrictions.
- o The purchasing value of cryptocurrency (i.e., merchant sales, not trade/exchange) is tied to the cryptocurrency's value.

Fiat currency would be used to buy/sell a stock at that stock's market value.

Cryptocurrency would be like using that stock to pay for goods and services.

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Virtual Currency: Purchasing Power

Time Flies

- o Purchasing a \$10,000 watch with fiat currency = \$10,000 in currency/denomination.
- o Purchasing a \$10,000 watch with BTC is contingent on current market value.

Initial Plans

Watch would have originally cost 2 BTC at \$10,000 value.

→

Time to Buy

Value drop results in 10 BTC regardless of how much you paid when initially acquired.

→

Value Lost

Example: \$5,000 at acquiring versus \$1,000 at time of purchase.

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Value Added and Value Lost

- o **Both currencies**—Purchasing power and accompanying value are only accepted where allowed
- o **Fiat currency**
 - Government issued and approved, whether legal tender is backed by a commodity or not
 - Broken down in bill denominations (e.g., 1, 5, 10, 20, 50, 100, etc.)
 - Retain their value in the jurisdiction where they are issued
 - Subject only to an exchange rate (e.g., USD to EUR, etc.)

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Blockchain and Distributed Ledger Technology (DLT)

- o Traditional wire/ACH transfers, which are party-to-party transfers, require a remitter, beneficiary, and clearing settlement.
- o DLT decentralizes and distributes virtual ledgers for transfers.
- o Transactions are cleared more quickly because multiple settlement nodes operate more quickly than a monoline transaction between parties.
- o Blockchain = "simply" stacked DLT transactions
- o The blockchain includes a transparent ledger of all covered transactions.

DLT information is:

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Criminal Appeal

- o Proportionally, VC laundering and fraud represent a low-dollar amount of illicit activity overall.
- o One study suggests that approximately **\$23.8 billion** worth of cryptocurrency came from illicit addresses in 2022.
- o Per the same report, "915 unique fiat off-ramping services received illicit cryptocurrency in 2022."
- o The vast majority of VC exchanges are conducted on regulated platforms with AML compliance programs.

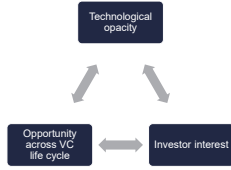
Source: [Chainalysis](#)

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Criminal Uses

- o **Absolutely**—Criminals are reliant on VC as a way to place, layer, and integrate illicit funds.
- o **Less likely**—VC itself will be the only money laundering "tool" used.
- o **Absolutely**—Criminals and would-be criminals will rely on VC market appeal to develop frauds and financial crimes.
- o **More likely**—VC and cyber-enabled crime exacerbate the risks associated with VC.



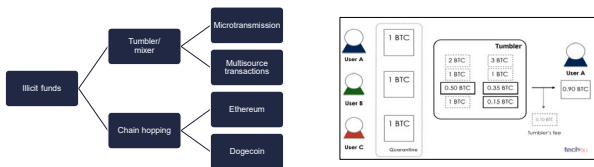
13

VC Money Laundering

- o Ransomware-generated BTC needs to be moved, cleaned, and set up for reuse.
- o The money/value itself is immediately illicit because it was sourced in a crime.
- o The money/value must immediately be laundered in order to have utility.

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VC Money Laundering



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VC Money Laundering

- o P2P tumblers are effectively user forums where the exchange of coins is executed by a collaborative network of participants. Outside of the hosting server, the participants are not made aware of the source coins before they are redistributed.
- o In Q3 2022, the U.S. Treasury Department issued sanctions against Tornado Cash for allegedly laundering \$7 billion worth of virtual currency since its creation, including over \$455 million stolen by the Lazarus Group, \$96 million of malicious cyber actors' funds derived from the Harmony Bridge Heist, and at least \$7.8 million from the Nomad Heist.

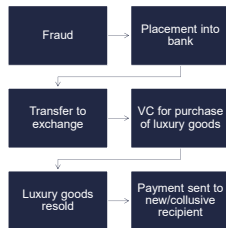


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How Is Laundered Crypto Spent?

- o **Personal use and transferrable value**—Balenciaga, Shopify, Emirates Airline, Tesla
- o **Personal use**—Chipotle, Starbucks, Home Depot, Microsoft
- o At a macro level, personal use and transferrable value goods can be resold, even at partial value, and retain overall worth.
- o Personal use purchases can help keep liquid illicit assets off the books.



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Case Studies



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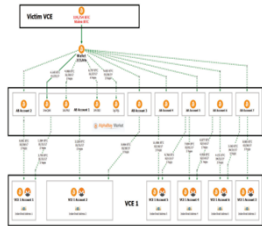
Conspiracy to Launder \$4.5 Billion

- o In February 2022, Ilya Lichtenstein and Heather Morgan were arrested for conspiracy to launder the proceeds of those hacked, stolen BTC.
- o According to court documents, Lichtenstein and Morgan held and moved 25,000 BTC from about the time of the hack onward.
- o Lichtenstein moved the proceeds of the BTC through multiple, layered transactions before they made their way into bank accounts held by him and Morgan.
- o During court proceedings, Lichtenstein admitted he was responsible for the hack. Both Morgan and Lichtenstein pleaded guilty to money laundering, and Morgan pleaded guilty to an additional count of conspiracy to defraud the United States.

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Conspiracy to Launder \$4.5 Billion

- o Bitfindex posted the recipient address of the hack to Reddit and other forums.
- o Components of information were provided to/from investigators, and eventually \$22,000 worth of BTC was found to have moved from that wallet to the dark web marketplace AlphaBay.
- o From there, the BTC from grouped transactions was sent from AlphaBay through two separate exchange accounts.
- o The second account had been opened by Lichtenstein; he had provided a selfie to verify his identity.
- o An FBI warrant traced files held by Lichtenstein, which held the private keys required to access the main digital wallet.



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Conspiracy to Launder \$4.5 Billion

- o Transfers from VCE 4 were also sent to Morgan and a shell company owned by Lichtenstein—Endpass, Inc.
- o Funds from a VCE 4 account also moved BTC to an account in Morgan's name and another in the name of her company—SalesFolk LLC.
- o According to the DOJ, the primary source of funding for Lichtenstein's VCE 7 account came from the transfers from VCE 4 accounts ("the VCE accounts tied to Russian identity documents, opened after the hack of Victim VCE, not from early investment earnings").

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Conspiracy to Launder \$4.5 Billion



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Initial Coin Offering Fraud

- o One study found that for all of the ICOs offered in a single year, all but roughly 20% of the ICOs were fraudulent.
- o The study, prepared by ICO advisory firm Statis Group, found that "over 70% of ICO funding (by \$ volume) to-date went to higher-quality projects, although over 80% of projects (by \$ share) were identified as scams."
- o One cryptocurrency scam called "Pure Bit" absconded with \$2.7 million from its investors.

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Initial Coin Offering Fraud

- o **Pump and dump**—Identical to the traditional scheme but exacerbated due to the opaque and more technical nature of cryptocurrencies. Potential investors do not fully research the offering and are trying to buy low, with some investors buying high, thinking that the ICO will climb further.

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Initial Coin Offering Fraud

- o **URL scams**—Launching similar-sounding websites to legitimate ICOs or other investment entities; victims are asked to transfer money or VC in order to be involved in a pooled investment activity.


Domain Available
mostercard.com is available
\$0.99 ~~\$17.99~~

Domain Available
wellsforqa.com is available
\$0.99 ~~\$17.99~~

Domain Available
storbucks.com is available
\$0.99 ~~\$17.99~~

}

Domain
Email
Website
SEO




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Tomahawkcoin

- o According to the SEC's order, David T. Laurance and Tomahawk Exploration LLC attempted to raise money through the sale of blockchain-based digital tokens called "Tomahawkcoins."
- o The SEC's order finds that the defendants' promotional materials used inflated projections of oil production that were contradicted by the company's own internal analysis and misleadingly suggested that Tomahawk possessed leases for drilling sites when it did not.
- o According to the order, the materials described Laurance as having a "flawless background" and did not disclose his prior criminal conviction for his role in fraudulent securities offerings.




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Tomahawkcoin

- o The order also finds that Tomahawk claimed that token owners would be able to convert the Tomahawkcoins into equity and potentially profit from the anticipated oil production and secondary trading of the tokens.
- o Although the ICO failed to raise money, Tomahawk issued tokens through a "bounty program" in exchange for online promotional services.
- o The SEC's order finds that Tomahawk and Laurance violated the registration and anti-fraud provisions of the federal securities laws. Without admitting or denying the SEC's findings, Tomahawk and Laurance consented to a cease and desist order, and Laurance consented to an officer and director bar, penny stock bar, and a \$30,000 penalty.




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Additional Resources

- o Financial Crimes Enforcement Network (FinCEN), [Application of FinCEN's Regulations to Certain Business Models Involving Convertible Virtual Currencies](#)
- o Florida Court Finds Virtual Currency Subject to Money Service Businesses Law
- o FATF, [Virtual Currencies: Key Definitions and Potential AML/CFT Risks](#)

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Money Laundering Schemes

Cryptocurrency Fraud,
Digital Assets, and
Money Laundering

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ABOUT THE ASSOCIATION OF CERTIFIED FRAUD EXAMINERS

About the ACFE

Founded in 1988 by Dr. Joseph T. Wells, CFE, CPA, the Association of Certified Fraud Examiners (ACFE) is the world's largest anti-fraud organization and premier provider of anti-fraud training and education. Together with more than 95,000 members in over 190 countries, the ACFE is reducing business fraud worldwide and providing the training and resources needed to fight fraud more effectively.

The ACFE provides educational tools and practical solutions for anti-fraud professionals through initiatives including:

- Global conferences and seminars led by anti-fraud experts
- Instructor-led, interactive professional training
- Comprehensive resources for fighting fraud, including books, self-study courses, and articles
- Leading anti-fraud publications, including *Fraud Magazine* and *The Fraud Examiner*
- Local networking and support through more than 200 ACFE chapters worldwide
- Anti-fraud curriculum and educational tools for colleges and universities

The positive impact of anti-fraud training is far-reaching. The best way to combat fraud is to educate individuals engaged in fighting fraud on how to effectively prevent, detect, and investigate it. By educating, uniting, and supporting the global anti-fraud community with the tools to fight fraud more effectively, the ACFE is inspiring public confidence in the integrity and objectivity of the profession.

Membership

Access to world-class anti-fraud knowledge and tools is a necessity in the fight against fraud. Members of the ACFE include accountants, internal auditors, fraud investigators, law enforcement officers, lawyers, business leaders, risk and compliance professionals, and educators, all of whom have access to expert training, educational tools, and resources. Members from all over the world have come to depend on the ACFE for solutions to the challenges they face in their professions. Whether their careers are focused exclusively on preventing and detecting fraudulent activities or they simply want to learn more about fraud, the ACFE provides the essential tools and resources necessary for anti-fraud professionals to accomplish their objectives.

To learn more, visit ACFE.com or call (800) 245-3321 / +1 (512) 478-9000.

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Certified Fraud Examiners (CFEs) are anti-fraud experts who have demonstrated knowledge in four critical areas: financial transactions and fraud schemes, law, investigation, and fraud prevention and deterrence. In support of CFEs and the CFE credential, the ACFE:

- ❑ Provides bona fide qualifications for CFEs through administration of the CFE Exam
- ❑ Requires CFEs to adhere to a strict code of professional conduct and ethics
- ❑ Serves as the global representative for CFEs to business, government, and academic institutions
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