Money Laundering:

Making Bad Money Good

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About the Editor

Michael Erbschloe has worked for over 30 years performing analysis of the economics of information technology, public policy relating to technology, and utilizing technology in reengineering organization processes. He has authored several books on social and management issues of information technology that were published by McGraw Hill and other major publishers. He has also taught at several universities and developed technology-related curriculum. His career has focused on several interrelated areas:

- Technology strategy, analysis, and forecasting
- Teaching and curriculum development
- Writing books and articles
- Publishing and editing
- Public policy analysis and program evaluation

Books by Michael Erbschloe

Extremist Propaganda in Social Media: A Threat to Homeland Security (CRC Press)
Threat Level Red: Cybersecurity Research Programs of the U.S. Government (Auerbach Publications)
Social Media Warfare: Equal Weapons for All (Auerbach Publications)
Walling Out the Insiders: Controlling Access to Improve Organizational Security (Auerbach Publications)
Physical Security for IT (Elsevier Science)
Trojans, Worms, and Spyware (Butterworth-Heinemann)
Implementing Homeland Security in Enterprise IT (Digital Press)
Guide to Disaster Recovery (Course Technology)
Socially Responsible IT Management (Digital Press)
Information Warfare: How to Survive Cyber Attacks (McGraw Hill)
The Executive's Guide to Privacy Management (McGraw Hill)
Net Privacy: A Guide to Developing & Implementing an e-business Privacy Plan (McGraw Hill)

Introduction

Money laundering generally refers to financial transactions in which criminals, including terrorist organizations, attempt to disguise the proceeds, sources or nature of their illicit activities. Money laundering facilitates a broad range of serious underlying criminal offenses and ultimately threatens the integrity of the financial system.

The United States Department of the Treasury is combating all aspects of money laundering at home and abroad, through the mission of the Office of Terrorism and Financial Intelligence (TFI). TFI utilizes the Department's many assets - including a diverse range of legal authorities, core financial expertise, operational resources, and expansive relationships with the private sector, interagency and international communities - to identify and attack money laundering vulnerabilities and networks across the domestic and international financial systems. In recent decades, U.S. law enforcement has encountered an increasing number of major financial crimes, frequently resulting from the needs for drug trafficking organizations to launder large sums of criminal proceeds through legitimate financial institutions and investment vehicles.

Cornerstone is Immigration and Customs Enforcement's (ICE) initiative to detect and close down weaknesses within U.S. financial, trade and transportation sectors that can be exploited by criminal networks. Law enforcement entities share criminal typologies and methods with businesses and industries that manage the very systems that terrorists and criminal organizations seek to exploit. This sharing of information allows the financial and trade community to take precautions in order to protect themselves from exploitation.

The El Dorado Task Force consists of more than 260 members from more than 55 law enforcement agencies in New York and New Jersey – including federal agents, state and local police investigators, intelligence analysts and federal prosecutors. The El Dorado Task Force is headquartered at the New York Special Agent in Charge Office and at other locations in the New York/New Jersey Metropolitan area. The Task Force targets financial crime at all levels. Task force agents educate the private financial sector to identify and eliminate vulnerabilities and promote anti-money laundering legislation through training and other outreach programs. Prosecutors use a full range of criminal and civil laws to prosecute targets and forfeit the proceeds of their illicit activity. The El Dorado Task Force uses a systems-based approach to investigating financial crimes by targeting vulnerabilities such as the Black Market Peso Exchange and commodity-based money laundering. ICE leads investigations against corrupt foreign public officials who have used U.S. financial institutions and other investment vehicles to facilitate criminal acts involving the laundering of proceeds from public corruption.

Trade-based money laundering is an alternative remittance system that allows illegal organizations the opportunity to earn, move and store proceeds disguised as legitimate trade. Value can be moved through this process by false-invoicing, over-invoicing and under-invoicing commodities that are imported or exported around the world. Criminal organizations frequently exploit global trade systems to move value around the world by employing complex and sometimes confusing documentation associated with legitimate trade transactions. ICE established the Trade Transparency Unit initiative to target trade-based money laundering worldwide.

History of Anti-Money Laundering Laws

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.

Bank Secrecy Act (1970)

Established requirements for recordkeeping and reporting by private individuals, banks and other financial institutions

Designed to help identify the source, volume, and movement of currency and other monetary instruments transported or transmitted into or out of the United States or deposited in financial institutions

Required banks to (1) report cash transactions over $10,000 using the Currency Transaction Report; (2) properly identify persons conducting transactions; and (3) maintain a paper trail by keeping appropriate records of financial transactions

Money Laundering Control Act (1986)

Established money laundering as a federal crime

Prohibited structuring transactions to evade CTR filings

Introduced civil and criminal forfeiture for BSA violations

Directed banks to establish and maintain procedures to ensure and monitor compliance with the reporting and recordkeeping requirements of the BSA

Anti-Drug Abuse Act of 1988

Expanded the definition of financial institution to include businesses such as car dealers and real estate closing personnel and required them to file reports on large currency transactions

Required the verification of identity of purchasers of monetary instruments over $3,000

Annunzio-Wylie Anti-Money Laundering Act (1992)

Strengthened the sanctions for BSA violations

Required Suspicious Activity Reports and eliminated previously used Criminal Referral Forms

Required verification and recordkeeping for wire transfers

Established the Bank Secrecy Act Advisory Group (BSAAG)

Money Laundering Suppression Act (1994)

Required banking agencies to review and enhance training, and develop anti-money laundering examination procedures

Required banking agencies to review and enhance procedures for referring cases to appropriate law enforcement agencies

Streamlined CTR exemption process

Required each Money Services Business (MSB) to be registered by an owner or controlling person of the MSB

Required every MSB to maintain a list of businesses authorized to act as agents in connection with the financial services offered by the MSB

Made operating an unregistered MSB a federal crime

Recommended that states adopt uniform laws applicable to MSBs

Money Laundering and Financial Crimes Strategy Act (1998)

Required banking agencies to develop anti-money laundering training for examiners

Required the Department of the Treasury and other agencies to develop a National Money Laundering Strategy

Created the High Intensity Money Laundering and Related Financial Crime Area (HIFCA) Task Forces to concentrate law enforcement efforts at the federal, state and local levels in zones where money laundering is prevalent. HIFCAs may be defined geographically or they can also be created to address money laundering in an industry sector, a financial institution, or group of financial institutions.

Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act)

[Title III of the USA PATRIOT Act is referred to as the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001]

Criminalized the financing of terrorism and augmented the existing BSA framework by strengthening customer identification procedures

Prohibited financial institutions from engaging in business with foreign shell banks

Required financial institutions to have due diligence procedures (and enhanced due diligence procedures for foreign correspondent and private banking accounts)

Improved information sharing between financial institutions and the U.S. government by requiring government-institution information sharing and voluntary information sharing among financial institutions

Expanded the anti-money laundering program requirements to all financial institutions

Increased civil and criminal penalties for money laundering

Provided the Secretary of the Treasury with the authority to impose "special measures" on jurisdictions, institutions, or transactions that are of "primary money laundering concern"

Facilitated records access and required banks to respond to regulatory requests for information within 120 hours

Required federal banking agencies to consider a bank's AML record when reviewing bank mergers, acquisitions, and other applications for business combinations

Intelligence Reform & Terrorism Prevention Act of 2004

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

2015 National Money Laundering Risk Assessment

The *2015 National Money Laundering Risk Assessment* (NMLRA) identifies the money laundering risks that are of priority concern to the United States. The purpose of the NMLRA is to explain the money laundering methods used in the United States, the safeguards in place to address the threats and vulnerabilities that create money laundering opportunities, and the residual risk to the financial system and national security. The terminology and methodology of the NMLRA is based on the guidance of the Financial Action Task Force (FATF), the international standard-setting body for anti-money laundering and counter-terrorist financing safeguards. The underlying concepts for the risk assessment are threats (the predicate crimes associated with money laundering), vulnerabilities (the opportunities that facilitate money laundering), consequence (the impact of a vulnerability), and risk (the synthesis of threat, vulnerability and consequence).

Threats

Money laundering[1] is a necessary consequence of almost all profit generating crimes and can occur almost anywhere in the world. It is difficult to estimate with any accuracy how much money is laundered in the United States. However, while recognizing the limitations of the data sets utilized, this assessment estimates that about $300 billion is generated annually in illicit proceeds. Fraud and drug trafficking offenses generate most of those proceeds.

Fraud encompasses a number of distinct crimes, which together generate the largest volume of illicit proceeds in the United States. Fraud perpetrated against federal government programs, including false claims for federal tax refunds, Medicare and Medicaid reimbursement, and food and nutrition subsidies, represent only one category of fraud but one that is estimated to generate at least twice the volume of illicit proceeds earned from drug trafficking. Healthcare fraud involves the submission of false claims for reimbursement, sometimes with the participation of medical professionals, support staff, and even patients. Federal government payments received illegally by check can be cashed through check cashing services, some of which have been found to be complicit in the fraud.

Use of the Internet to commit identity theft has expanded the scope and impact of financial fraud schemes. Personal identifying information and the information used for account access can be stolen through hacking or social exploits in which the victim is tricked into revealing data or providing access to a computer system in which the data is stored. A stolen identity can be used to facilitate fraud and launder the proceeds. Stolen identity information can be used remotely to open a bank or brokerage account, register for a prepaid card, and apply for a credit card.

Drug trafficking is a cash business generating an estimated $64 billion annually from U.S. sales. Mexico is the primary source of supply for some drugs and a transit point for others. Although there are no reliable estimates of how much money Mexican drug trafficking organizations earn overall (estimates range from $6 billion to $39 billion), for cocaine, Mexican suppliers are estimated to earn about 14 cents of every dollar spent by retail buyers in the United States. It is the thousands of low level drug dealers and distributors throughout the country who receive most of the drug proceeds.

The severing by U.S. banks of customer relationships with Mexican money exchangers (casas de cambio) as a result of U.S. enforcement actions against U.S. banks between 2007 and 2013, combined with the U.S. currency deposit restrictions imposed by Mexico in 2010, are believed to have led to an increase in holding and using drug cash in the United States and abroad, because of placement challenges in both countries. This shifted some money laundering activity from Mexico to the United States.

International organized crime groups target U.S. interests both domestically and abroad. The criminal activity associated with these groups includes alien smuggling, drug trafficking, extortion, financial fraud,

illegal gambling, kidnapping, loan sharking, prostitution, racketeering, and money laundering. Some groups engage in white-collar crimes and co-mingle illegal activities with legitimate business ventures.

Vulnerabilities

The size and sophistication of the U.S. financial system accommodates the financial needs of individuals and industries globally. The breadth of products and services offered by U.S. financial institutions, and the range of customers served and technology deployed, creates a complex, dynamic environment in which legitimate and illegitimate actors are continuously seeking opportunities.

This assessment finds that the underlying money laundering vulnerabilities remain largely the same as those identified in the 2005 United States Money Laundering Threat Assessment. The money laundering methods identified in this assessment exploit one or more of the following vulnerabilities:

- Use of cash and monetary instruments in amounts under regulatory recordkeeping and reporting thresholds;
- Opening bank and brokerage accounts using nominees to disguise the identity of the individuals who control the accounts;
- Creating legal entities without accurate information about the identity of the beneficial owner; Misuse of products and services resulting from deficient compliance with anti-money laundering obligations; and
- Merchants and financial institutions wittingly facilitating illicit activity.

Cash (bank notes), while necessary and omnipresent, is also an inherently fungible monetary instrument that carries no record of its source, owner, or legitimacy. Cash generated from drug trafficking or fraud can be held or spent as cash. Alternatively, criminals can buy cashier's checks, money orders, nonbank wire transfers, prepaid debit cards, and traveler's checks to use instead of cash for purchases or bank deposits. Transactions with cash and cash alternatives can be structured to stay under the recordkeeping and reporting thresholds, and case examples demonstrate that some merchants will accept more than $10,000 in cash without reporting the transaction as required.

To move funds into an account at a bank or broker-dealer, case examples show criminals may use an individual, serving as a nominee, to open the account and shield the identities of the criminals who own and control the funds. Alternatively, the account may be opened in the name of a business that was created to hide the beneficial owner who controls the funds.

Trade-based money laundering (TBML) can involve various schemes that disguise criminal proceeds through trade-related financial transactions. One of the more common schemes is the Black Market Peso Exchange (BMPE) which involves money brokers making local currency available in Latin America and Asia for drug dollars in the United States. Another form of TBML involves criminals using illicit proceeds to purchase trade goods, both to launder the cash and generate additional profits.

Risks

Any financial institution, payment system, or medium of exchange has the potential to be exploited for money laundering or terrorist financing.[2] The size and complexity of the financial system in the United States, and the fertile environment for innovation, create legitimate and illegitimate opportunities. However, the potential money laundering risks are significantly reduced by anti-money laundering regulation, financial supervision, examination, and enforcement. The risks that remain, including those that are unavoidable, are:

- Widespread use of cash, making it difficult for authorities to differentiate between licit and illicit use and movement of bank notes;

- Structured transactions below applicable thresholds to avoid reporting and recordkeeping obligations;
- Individuals and entities that disguise the nature, purpose, ownership, and control of accounts;
- Occasional AML compliance deficiencies, which are an inevitable consequence of a financial system with hundreds of thousands of locations for financial services;
- Complicit violators within financial institutions; and
- Complicit merchants, particularly wholesalers who facilitate TBML, and financial services providers.

IRS Criminal Investigation

IRS Criminal Investigation (CI) is comprised of nearly 3,500 employees worldwide, approximately 2,500 of whom are special agents whose investigative jurisdiction includes tax, money laundering and Bank Secrecy Act laws. While other federal agencies also have investigative jurisdiction for money laundering and some bank secrecy act violations, IRS is the only federal agency that can investigate potential criminal violations of the Internal Revenue Code.

Compliance with the tax laws in the United States relies heavily on self-assessments of what tax is owed. This is called voluntary compliance. When individuals and corporations make deliberate decisions to not comply with the law, they face the possibility of a civil audit or criminal investigation which could result in prosecution and possible jail time. Publicity of these convictions provides a deterrent effect that enhances voluntary compliance.

As financial investigators, CI special agents fill a unique niche in the federal law enforcement community. Today's sophisticated schemes to defraud the government demand the analytical ability of financial investigators to wade through complex paper and computerized financial records. Due to the increased use of automation for financial records, CI special agents are trained to recover computer evidence. Along with their financial investigative skills, special agents use specialized forensic technology to recover financial data that may have been encrypted, password protected, or hidden by other electronic means.

Criminal Investigation's conviction rate is one of the highest in federal law enforcement. Not only do the courts hand down substantial prison sentences, but those convicted must also pay fines, civil taxes and penalties.

The Criminal Investigation strategic plan is comprised of three interdependent programs: Legal Source Tax Crimes; Illegal Source Financial Crimes; and Narcotics Related and Counterterrorism Financial Crimes. These three programs are mutually supportive and encourage utilization of all statutes within CI's jurisdiction, the grand jury process and enforcement techniques to combat tax, money laundering and currency crime violations. CI must investigate and assist in the prosecution of those significant financial investigations that will generate the maximum deterrent effect, enhance voluntary compliance and promote public confidence in the tax system.

Prosecution for Money Laundering Crimes

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(c)(7), or those incorporated by reference from the RICO statute (18 U.S.C. § 1961(1)). Section 1956(c)(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(c)(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(c)(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(c)(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.

PRACTICE TIP: The legislative history indicates, and several cases have held, that each separate financial transaction should be charged separately in an individual count. For example, if an individual earns $100,000 from offense. If he then withdraws $50,000, he commits a second offense. If he then purchases a car with the withdrawn $50,000, he commits a third offense. Each transaction should be charged in a separate count. Charging multiple financial transactions in a single count is duplicitous. See, e.g., United States v. Prescott, 42 F.3d 1165 (8th Cir. 1994); United States v. Conley, 826 F. Supp. 1536 (W.D. Pa. 1993).

In conducting the financial transaction, the defendant must have acted with one of the following four specific intents:

§ 1956(a)(1)(A)(i): intent to promote the carrying on of specified unlawful activity;

§ 1956(a)(1)(A)(ii): intent to engage in tax evasion or tax fraud;

§ 1956(a)(1)(B)(i): knowledge that the transaction was designed to conceal or disguise the nature, location, source, ownership or control of proceeds of the specified unlawful activity; or

§ 1956(a)(1)(B)(ii): knowledge that the transaction was designed to avoid a transaction reporting requirement under State or Federal law [e.g., in violation of 31 U.S.C. §§ 5313 (Currency Transaction Reports) or 5316 (Currency and Monetary Instruments Reports), or 26 U.S.C. § 6050I (Internal Revenue Service Form 8300)].

Prosecutions pursuant to 18 U.S.C. § 1956(a)(2) arise when monetary instruments or funds are transported, transmitted or transferred internationally, and the defendant acted with one of the requisite criminal intents (i.e., promoting, concealing, or avoiding reporting requirements). The intent to engage in tax violations is not included in § 1956(a)(2).

If the transportation, transmission or transfer was conducted with the intent to conceal the proceeds of specified unlawful activity or to avoid a reporting requirement, the prosecutor must show that the defendant knew the monetary instrument or funds represented the proceeds of some form of unlawful activity. However, if the transportation, transmission or transfer is conducted with the intent to promote the carrying on of specified unlawful activity, the prosecutor need not show that the funds or monetary instruments were actually derived from any criminal activity.

The transportation, transmission or transfer must cross the border -- either originating or terminating in the United States. That term includes all means of transporting funds or monetary instruments, including wire or electronic funds transfers, and the transfer of currency, checks, money orders, bearer securities and negotiable instruments.

Section 1956(a)(3) relates to undercover operations where the financial transaction involves property represented to be proceeds of specified unlawful activity. The proceeds in § 1956(a)(3) cases are not actually derived from a real crime; they are undercover funds supplied by the Government. The representation must be made by or authorized by a Federal officer with authority to investigate or prosecute money laundering violations. The representation may also be made by another at the direction of or approval of a Federal officer. It should be noted that the specific intent provisions in § 1956(a)(3) are slightly different from those in § 1956(a)(1). First, the intent to violate the tax laws is not included in this subsection. Second, subsections 1956(a)(3)(B) and (C) require that the transaction be conducted with the intent to conceal or disguise the nature, location, source, ownership or control of the property or to avoid a transaction reporting requirement, respectively, in contrast to subsections 1956(a)(1)(B)(i) and (ii), which only require that defendant know that the transaction is designed, in whole or in part, to accomplish one of those ends.

Violations of § 1956 have a maximum potential twenty year prison sentence and a $500,000 fine or twice the amount involved in the transaction, whichever is greater. The general sentencing provisions in 18 U.S.C. §§ 3551-3571 should also be consulted.

There is also a civil penalty provision in § 1956(b) which may be pursued as a civil cause of action. Under this provision, persons who engage in violations of subsections 1956(a)(1), (a)(2) or (a)(3) are liable to the United States for a civil penalty of not more than the greater of $10,000 or the value of the funds involved in the transaction. Copies of pleadings in § 1956(b) actions are available from the Section.

Prosecutions under 18 U.S.C. § 1957 arise when the defendant knowingly conducts a monetary transaction in criminally derived property in an amount greater than $10,000, which is in fact proceeds of a specified unlawful activity. Section 1957(f)(1) defines a monetary transaction as a "deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument . . . by, through, or to a financial institution (as defined in section 1956 of this title), including any transaction that would be a financial transaction under section 1956(c)(4)(B) . . . ." Section 1957 carries a maximum penalty of ten years in prison and maximum fine of $250,000 or twice the value of the transaction. There is no civil penalty provision.

The most significant difference from § 1956 prosecutions is the intent requirement. Under § 1957, the four intents have been replaced with a $10,000 threshold amount for each non-aggregated transaction and the requirement that a financial institution be involved in the transaction. Although the prosecutor need not prove any intent to promote, conceal or avoid the reporting requirements, it still must be shown that the defendant knew the property was derived from some criminal activity and that the funds were in fact derived from a specified unlawful activity.

There is extraterritorial jurisdiction for violations of § 1956 if: (1) the transaction or series of related transactions exceeds $10,000; and (2) the laundering is by a United States citizen, or, if by a foreign national, the conduct occurs in part in the United States. See § 1956(f). There is extraterritorial jurisdiction for violations of § 1957 if the defendant is a United States person. See § 1957(d).

Sections 1956 and 1957 include "attempts" as well as completed offenses. Conspiracies are indictable under 18 U.S.C. § 1956(h). It should be noted that, in October 1992, Congress added § 1956(g), which provides a separate offense for money laundering conspiracy. Since Congress inadvertently added two sections designated as § 1956(g), the conspiracy provision was redesignated § 1956(h) in September 1994. The conspiracy provision in § 1956(h) is modeled after the conspiracy provision in 21 U.S.C. § 846. Thus, it should not be necessary to plead overt acts in the indictment. However, the Section recommends that overt acts be included in the indictment if practicable. A set of indictment forms can be found in this Manual at 2106 et seq. Jury instruction forms begin at 2111. See also this Manual at 2100.

For a comprehensive review of the money laundering statutes and case law, please consult Chapter Three of the Money Laundering Federal Prosecution Manual (June 1994), prepared by the Asset Forfeiture and Money Laundering Section, Criminal Division. Additional resources available from the Section include a newsletter entitled The Money Laundering Monitor, money laundering caselists, sample indictments and jury instructions.

Money Laundering Around the World

Money laundering, both at the country and multilateral levels, remains a significant crime issue despite robust, multifaceted efforts to address it. While arriving at a precise figure for the amount of criminal proceeds laundered is impossible, some studies by relevant international organizations estimate it may constitute 2-5 percent of global GDP. It is a seemingly ubiquitous criminal phenomenon: money laundering facilitates many other crimes and has become an indispensable tool of drug traffickers, transnational criminal organizations, and terrorist groups around the world. Its nefarious impact is considerable: it contributes to the breakdown of the rule of law, corruption of public officials, and destabilization of economies, and it threatens political stability, democracy, and free markets around the globe.

For these reasons, the development and implementation of effective AML regimes consistent with international standards and the ability to meet evolving challenges is clearly vital to the maintenance of solvent, secure, and reliable financial, commercial, and trade systems. Reducing money laundering's threat to U.S. interests is a national security priority reflected in the 2018 National Security Strategy and the 2017 Executive Order 13773, Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking. To that end, the United States, a founding member of FATF, has worked within the organization, and with partner countries and FATF-style regional bodies, to promote compliance with the 49 Recommendations. It has also supported, through technical assistance and other means, the development and implementation of robust national-level AML regimes in jurisdictions around the world.

The 2019 edition of the Congressionally-mandated International Narcotics Control Strategy Report, Volume II: Money Laundering focuses on the exposure to this threat – in the specific context of narcotics-related money laundering – of jurisdictions around the world. As with past reports, it provides a review of the AML legal and institutional infrastructure of each jurisdiction, highlights the most significant steps each has taken to improve its AML regime, describes key vulnerabilities, and identifies each jurisdiction's capacity to share information and cooperate in international investigations. The report also highlights the United States government's provision of AML-related technical assistance.

In view of the experience of jurisdictions included in the 2019 report, identification and reporting of suspicious transactions, identification of the true beneficial owners of legal entities and transactions, and frameworks and practices for international cooperation on money laundering investigations and prosecutions remain as germane today as when the FATF was created.

As new technologies come into use, various crimes, including money laundering, continue to evolve and pose new challenges for societies, governments, and law enforcement. New technologies create opportunities for exploitation by criminals and terrorists. For example, in Africa, South Asia, and some other parts of the world, use of mobile telephony to send and receive money or credit has outstripped owning a bank account. The rapid growth of global mobile payments (m-payments) and virtual currencies demands particular attention in the AML sphere. The risk that criminal and terrorist organizations will co-opt m-payment services is real, particularly as the services can manifest less than optimal financial transparency. Similarly,

virtual currencies are growing in popularity and expanding their reach. For example, key MSBs are exploring how to incorporate virtual or crypto currency (blockchain platform) payments to expedite remittances to locations around the world. Regulators and law enforcement are beginning, in some jurisdictions, to respond to the use of such anonymous e-payment methodologies, but their rapid development poses challenges on the policy, legal, and enforcement levels. Mexico and China have added virtual currency platforms and dealers as covered entities for AML supervision purposes, while Cayman Islands is among the jurisdictions taking action to develop legislation to address their use, and the British Virgin Islands issued a public advisory regarding the risk of investing in virtual currencies. Although virtual currencies are currently illegal in India, the government is exploring a regulatory regime for their use.

Corruption is both a significant by-product and a facilitating crime of the international drug trade and transnational organized crime. While corruption risks occur in any country, the risks are particularly high in countries where political will may be weak, institutions ineffective, or the country's AML infrastructure deficient. Encouragingly, the 2019 Report again highlights action several governments are taking to more effectively address corruption and its links to money laundering. As with money laundering, while legislative and institutional reforms are an important foundation, robust and consistent enforcement is also key, though often lacking. Jamaica, Senegal, Serbia, and Uzbekistan all enacted legislation to address corruption and/or PEPs. Sint Maarten charged a member of parliament with bribery, tax evasion, and money laundering. Argentina and Ecuador continue to investigate and prosecute corruption cases. Malaysia's new government has taken action to prosecute a number of former government officials, including a former prime minister, who allegedly were involved in misappropriations from the state-owned development fund.

The transparency of beneficial ownership remains a central focus for AML, arising in the discussions of multilateral fora such as FATF as well as in coverage of some recent high-level corruption allegations. Shell companies are used by drug traffickers, organized criminal organizations, corrupt officials, and some regimes to launder money and evade sanctions. "Off-the shelf" IBCs, purchased via the internet, remain a significant concern, by creating a vehicle through which nominee directors from a different country may effectively provide anonymity to the true beneficial owners. While the 2019 Report reflects that beneficial ownership transparency remains a vulnerability in many jurisdictions, the report also highlights significant steps taken by various jurisdictions on the issue. Cyprus issued circulars to banking, credit, payment, and virtual money institutions advising them to be extra vigilant against shell companies and to avoid doing business with them. To increase the transparency of company ownership, Peru enacted legislation to mandate the disclosure of beneficial ownership. Cyprus and Serbia have new laws addressing centralized records of beneficial owners. Additionally, in an effort to increase transparency, increasing numbers of jurisdictions, such as Argentina and Curacao, are concluding tax information sharing agreements. Others, such as Pakistan, Panama, and Russia are beginning to share financial information under the OECD's Multilateral Competent Authority Agreement. Here in the United States, on May 11, 2018, a new Treasury Department rule on beneficial ownership went into effect, requiring covered entities to identify and verify the identities of beneficial owners of legal entities.

The year 2018 saw increasing scrutiny at the international level of economic citizenship programs, which are also vulnerable to money laundering activity and must be closely monitored and regulated to prevent their abuse by criminals. U.S. law enforcement remains highly concerned about the expansion of these programs due to the visa-free travel and ability to open bank accounts accorded to participating individuals; other vulnerabilities, as well as good practices in countermeasures, have been analyzed in the various 2018 studies and publications on the issue. While Turkey eased its requirements for economic citizenship, St. Kitts and Nevis now uses a regional central clearing house under the auspices of the Caribbean Community to properly vet candidates. Antigua and Barbuda and St. Lucia have established their own vetting units.

Although new technologies are gaining popularity, money launderers continue to use offshore centers, FTZs, and gaming enterprises to launder illicit funds. These sectors can offer convenience and, often, anonymity to those wishing to hide or launder the proceeds of narcotics trafficking and other serious crimes. While the appeal of these institutions translates into their continued appearance across many of the jurisdictions that appear in the 2019 INCSR, many jurisdictions are taking measures to reduce vulnerabilities. In recent years, Dominica revoked the licenses of eight offshore banks. Macau is taking a more stringent approach toward the licensing and supervision of gaming junket promoters. Bahamian gaming authorities can observe operations, including account transactions, in real time from remote locations. In its second criminal prosecution involving money laundering charges, Vietnam prosecuted over 90 defendants associated with a prohibited online gaming enterprise.

To help address these issues, in 2018, the United States continued to mobilize government experts from relevant agencies to deliver a range of training programs, mentoring, and other capacity building support. U.S. government agencies also, in many cases, provided financial support to other entities to engage in complementary capacity-building activities, leveraging those organizations' unique expertise and reach. These U.S.-supported efforts build capacity to fight not only money laundering but also other crimes facilitated by money laundering, including narcotics trafficking, in partner jurisdictions. Depending on the jurisdiction, supervisory, law enforcement, prosecutorial, customs, FIU personnel, and private sector entities benefitted from the U.S.-supported programs. As the 2019 INCSR reflects, these efforts are resulting in an increase in investigations, prosecutions, and convictions, more robust institutions, and stronger compliance with international standards, in addition to raising awareness of cutting edge, emerging issues, such as abuse of new technologies, and sharing good practices to address them.

Looking ahead, FATF's recent focus on the identification of the methodologies currently used by human trafficking networks and terrorist financing and recruiting efforts will likely lead members of FATF and the FATF style-regional bodies to emphasize their endeavors in these areas. FATF notes the continued use of bulk cash smuggling and MVTS transactions in these areas, while crowdfunding is a new source of funding for small terrorist cells or lone wolves.

While the 2019 INCSR reflects the continued vulnerability to narcotics trafficking-related money laundering around the world, including in the United States, it also demonstrates the seriousness with which many jurisdictions are tackling the issue and the significant efforts many have undertaken. Though the impact of the aforementioned efforts manifests through increased