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UNWRAPPING MONEY LAUNDERING: WHAT YOU NEED TO KNOW

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You've read the news or heard about it. Money laundering has happened in every country and industry. Royalty, politicians, singers, doctors, spouses, and students have all been involved. Banks, exchange houses, cryptocurrencies, universities, hotels, hospitals, real estate, construction companies, consulting firms, clothing manufacturing, and many others have been used to launder money; even the Vatican has been involved! Getting involved in money laundering can happen to any person no matter their gender, age, religion, economical position, or profession. With so many cases happening, we can ask ourselves: Who is the next person or company that will be involved in a money laundering case?

But why does money laundering keep happening? Because people keep minimizing the risk by thinking: "We are too far away from it," "This

won't happen to us," or, "Why bother if we've been operating like this and we have been fine?" Or they ignore it or don't want to admit that they are vulnerable.

All money laundering cases have one common factor: people.

People can be used to launder money or simply facilitate it. Sometimes they get paid, and sometimes people may not realize what they are doing and will end up doing it for free. In both cases, people are helping to launder money.

What is money laundering?

Put simply, money laundering is the process used to make "dirty" money "clean." It's said to be dirty because it comes from illegal or illicit activities — prostitution, kidnapping, organ trading, bribery, illicit firearms, wildlife trafficking, human trafficking (which can become modern slavery),¹ extortion (such as ransomware

attacks), illegal drugs or drug trafficking, and counterfeit goods. The list goes on and on.

Keep in mind that these activities vary from country to country. For example: in the Netherlands, prostitution is not illegal; in Uruguay, marijuana is legal for recreational and medical purposes. Therefore, it is important to know what is legal and illegal in every country where you do business.

Money laundering has three inherent characteristics:

1. It's too much money in any currency. It is so much that the criminals need to expand or create new methods to launder the money more quickly.
2. It happens worldwide. Of course, it starts in one location, but it expands to other countries and continents. Money laundering keeps growing internationally.
3. The criminal makes the money-laundering process complex — as complex as it can be. This happens for two reasons: (a) to hide the source of the funds and (b) to hide the person or ultimate beneficiary owner.

It is estimated that the amount of money laundered in a year is between 2% and 5% of the gross domestic product worldwide, or between USD\$800 billion and \$2 trillion² — and these numbers are increasing daily because most money laundering still goes undetected.

There is another key concept: the politically exposed person (PEP). Internationally, the PEP definition varies, but it is common that it includes the president of a country, senators and deputies, armies, judges, mayors or governors,

royalty, official representatives of international organizations such as the United Nations, the International Monetary Fund, central banks, etc. It also includes family members to some degree, such as spouses and kids.

Politicians have shown us that they can be corrupted. If they are corrupt, then they will either receive or give bribes. A bribe is an illegal activity: dirty money that needs to be laundered. These dirty assets are usually put in the name of family members, a friend, or a representative to protect the money should there be an investigation by authorities into the corrupt individual. Internationally, the PEP designation has an expiration date — an average of two years after the PEP leaves the position, after which they are no longer considered a PEP. That's why a PEP is always considered a high-risk customer.

How does the criminal launder money?

The answer is: creativity. Creativity makes every money laundering case unique. That's why the criminal is always one step ahead of the police. And this explains why law enforcement is reactive rather than proactive — because it reacts only when a scheme is discovered, and when it is discovered or the criminals are caught, they change tactics. That's why it is so difficult to tackle money laundering worldwide.

There are also other factors that help money laundering:

- ◆ **Corruption:** Criminals can bribe authorities and employees of a company. There is always the option to launder money through other media.

- ◆ **Low international cooperation:** If countries don't unite to combat money laundering, there will be legal loopholes that criminals can take advantage of. The criminal knows that they can commit part of a crime in one section of the world and complete it in another, because without international cooperation, the crime can't be prosecuted. For example, if they are caught in international waters transporting drugs or cash, it's unlikely that they will be prosecuted.

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- ◆ **Poorly regulated industries:** Criminals use industries where they know the probability of being caught is low. For example, using cryptocurrencies because not all countries regulate them, or using trade to launder money by shipping large amounts of drugs, cash, or counterfeit goods internationally to reduce the risk of oversight. The criminal even plays with the routes, stopping only in countries that have less surveillance or where controls are lax.



- ◆ **Companies with ineffective controls:** Companies increase the risk of money laundering by not knowing their customers, not training their employees, having weak supervision, not supporting internal audit and compliance areas, etc. This is very important: Any company can be used to launder money, not just the financial sector. Would you suspect a funeral home as a money laundering business? You should. It's a fad due to the pandemic.
- ◆ **Incomplete documentation:** If a company does not have proper documentation, how could you bring a money laundering case against it? Not only is proper documentation required by law, but the lack of document support can dismiss a money laundering case.

- ◆ **Rationalization:** People rationalizing their bad or unethical actions are a key target for criminals. Most people that think that money laundering is a victimless crime justify their actions by thinking, "I am not hurting anyone," "They won't catch me," "I will only do it once," etc. But what they don't realize is that everything in life has a cost.
- ◆ **Fear of reporting:** Even people who know that money laundering is happening won't report it because they are afraid of retaliation or getting into trouble. An important fact to consider is that not receiving reports does not mean everything is fine. On the contrary, without a report, there is no crime to pursue, and money laundering continues.

Protecting yourself and the company from money laundering

The main controls to deter, detect, and prevent money laundering are know your customer, know your third parties, know your employee, sanctions, training, and core values.³

The following are additional controls to help prevent money laundering:

- ◆ **Monitoring:** Your company could use red flags to reveal unusual or suspicious behavior. After red flags are identified, it's important to investigate them. A key factor is how promptly or quickly the investigation starts.⁴ Why? Because it can be a trigger for a deeper investigation, and timing is a key so as not to alert the criminal and to collect all the evidence — or it could be just

a false positive. Regardless of the result, companies should rush to start investigating, because their reputation could be at risk. It's also important to keep an inventory of the red flags that are real. When red flags are found, analyze common factors. This will help identify the cause and possible solutions.

◆ **Supervision:** The best control you can have is to know what staff are doing in real time; therefore, supervision should be frequent and done at random. Don't rely on the assumption that because an employee has been working at the company for many years, they know what must be done. Don't wait for the monthly meeting or the final numbers. Supervise what is being done in the middle. When people know they are being supervised, they tend to do the right thing more frequently. Supervision helps to avoid mistakes and detect ineffective controls; that's why it's so important.⁵

◆ **Policies and procedures:** Are they aligned with each other? Do people know where to find them? Are they written clearly? Are they updated? Many people think that policies and procedures are just one more document, something to mark off the checklist, but their importance lies in the fact that they set the rules and guidelines of the company. So why don't people take them seriously? Because companies do not promote them! Make sure policies and procedures are read and understood by all. Repeat,

repeat, repeat what is right and what is wrong. Make the reminders fun and easy. It has been proven that when a theme is dry or difficult but presented in a simple and easy way, people tend to learn more. Use that!

◆ **The compliance officer:** Usually companies put the responsibility of detecting and preventing money laundering on the compliance officer (if they have one). If not, they'll put it on the legal or financial team. That's not a good practice. The compliance officer should oversee external and internal regulation compliance effectiveness while managing those risks that are more directly related to compliance. A money-laundering scandal could damage the company severely for many years. That's why compliance is so important as a key control, because it could prevent the money laundering risk before it occurs. For a compliance officer to be effective,⁶ they should be accessible (known by everybody inside the company as well as in third parties), discrete, objective, and independent. Then the compliance officer can be seen as a key strategic internal adviser.

Why money laundering affects you in a personal way

Money laundering keeps growing at an international level, using different countries, companies, and people. Therefore, its cost affects all of us. No one is immune! Money laundering can lead to death, violence, sickness, poverty, and unemployment. Money laundering

generates inequality, unfairness, suffering, and insecurity. But above all, it gives organized crime the funds it needs to conduct further criminal activities. It also undermines financial systems and damages economies.

Therefore, money laundering should matter to all of us in a personal way.⁷ Just because we have not been direct victims does not mean we are immune to it — or far away from it.

Just because we have not been direct victims does not mean we are immune to [money laundering] — or far away from it.

Unwrapping money laundering

Money laundering is a complex process. It has so many layers to hide the source of funds and the people responsible. Unwrapping money laundering can be a challenge, but it's not impossible. Criminals make mistakes. And sometimes those mistakes are obvious. It is up to companies to reinforce controls and up to compliance officers to pay attention to the details in order to stop this crime so that it doesn't continue affecting more people. We all can make a difference! 

Endnotes

1. Mónica Ramírez Chimal, "Is your company supporting modern slavery?" *CEP Magazine*, November 2021, <https://compliancecosmos.org/your-company-supporting-modern-slavery>.
2. United Nations Office on Drugs and Crime, "Money Laundering," accessed April 4, 2022, <https://www.unodc.org/unodc/en/money-laundering/overview.html>.
3. Mónica Ramírez Chimal, "How to minimize money laundering, fraud, and terrorist financing risks," *CEP Magazine*, April 2021, 26-29, <https://compliancecosmos.org/how-minimize-money-laundering-fraud-and-terrorist-financing-risks>.
4. Mónica Ramírez Chimal, "Bring them on: Working effectively during investigations," *CEP Magazine*, May 2019, <https://compliancecosmos.org/bring-them-working-effectively-during-investigations>.
5. Mónica Ramírez Chimal, "Oldies but goodies," *Compliance and Ethics Professional Magazine*, April 2016, 67-72.
6. Mónica Ramírez Chimal, "Compliance ambassadors wanted!" *CEP Magazine*, November 2020, <https://compliancecosmos.org/compliance-ambassadors-wanted>.
7. Mónica Ramírez Chimal, "Why should you care about money laundering in a personal way?" *CEP Magazine*, February 2018, <https://compliancecosmos.org/why-should-you-care-about-money-laundering-personal-way>.

Takeaways

- ◆ Money laundering can happen in any country, industry, or company, as well as to any person.
- ◆ Money laundering has three inherent characteristics: too much money in any currency, it happens worldwide, and the complex process makes the criminal hard to track.
- ◆ Some factors that help money laundering continue are corruption, companies with ineffective controls, incomplete documentation, rationalization, and fear of retaliation.
- ◆ Supervision helps to avoid mistakes and detect ineffective controls; in order to be successful, it should be frequent and done at random.
- ◆ Money laundering causes death, violence, sickness, poverty, and unemployment.



How ethical is your workplace culture?

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