

Anti-Money Laundering Literature Search

Financial/Banking Sector

World Bank Institute

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This document prepared by Christian Eigen-Zucchi, with the assistance of Massimo Mastruzzi and Erin Farnand, under the guidance of Daniel Kaufmann. It draws from a number of sources, including bibliographical information from the International Money Laundering Information Network (IMOLIN) (available at: <http://www.imolin.org/bibliogr.htm#GENERAL>), the Financial Crimes Enforcement Network (FINCEN) (<http://www.fincen.gov/>), the Organization for Economic Cooperation and Development (OECD) (<http://www1.oecd.org/daf/nocorruptionweb/moneylaundering/bib.htm>), and other sources.

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Ali, A. S. 1998. "A Gateway for Money Laundering? Financial Liberalisation in Developing and Transnational Economies." Journal of Money Laundering Control, Vol.1, No.4, April.

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Abstract (from article)

The principle of offshore financial confidentiality is a controversial issue in offshore law. On the one hand, offshore jurisdictions view confidentiality in financial matters as an essential ingredient in the offshore industry which deserves to be protected. On the other, onshore states are increasingly hostile to confidentiality and have been willing to take drastic measures to undermine it.

The offshore confidentiality legal principle has provided the impetus for many of the questions surrounding offshore activity and the catalyst for much litigation. The paper examines the conflicting legal issues of confidentiality and disclosure within the context of regulation of the offshore industry as a whole. It outlines the extent to which offshore investors can legitimately expect confidentiality. The need to balance these competing interests is particularly important in offshore law, given the competitiveness of the offshore sector in the world of international finance. At the same time, the paper explores what can be described as the emerging law of confidentiality in offshore law.

Arzeno, Laura, and Ilona de la Rocha. 1996. La responsabilidad de la banca en el lavado de dinero. Santo Domingo: Banco de Reservas de la Republica Dominicana.

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Abstract

The rise of electronic banking is facilitating the movement of billions of dollars in illicit funds, exposing vulnerabilities stemming from:

- The speed of money movements;
- The secrecy surrounding financial dealings;
- The sheer number of agencies involved which generates jurisdictional issues;
- The failure of government mandated measures, and hence the need for private sector actors to take more responsibility.

Money laundering has been called the world's third largest industry, and is associated with all manner of crime. The approach of the US and the OECD in adopting anti-money laundering measures has been to try and erode financial secrecy and promote greater transparency, but private sector actors, banks and non-banks will need to take more responsibility to eliminate practices that encourage crime, undermine financial systems, and damage their own institutions.

Baker, Raymond W. "The Biggest Loophole in the Free-Market System". *The Washington Quarterly*, Autumn 1999. (Available at: <http://www.twq.com/autumn99/224Baker.pdf>).

Summary

There are many different ways in which money laundering is actually done, including:

- “smurfing,” where random amounts of less than \$10,000 are deposited in many different bank accounts;
- shipping cash using “mules” or people who carry brief cases full of cash;
- mis-pricing imports and exports.

“The bottom line is that anti-money laundering efforts are not working” (p. 31). While estimates vary and are hard to make with any degree of confidence, between \$500 billion and \$1 trillion is laundered annually, with sources differing in the degree of illegality. Funds stemming from extortion and slave trading, for example, cannot knowingly be legally received. In contrast, when the source of the funds is corruption, tax evasion or currency smuggling (all illegal in the sending country), they funds can be legally received.

Of note: it is illegal for a US citizen or company to bribe a foreign official, but it is perfectly legal to bribe someone from the private sector. This effectively amounts to embezzlement by the private sector agent from the company. Illegal capital flight to avoid taxes is also major (paralleling money laundering), and undermines the efforts of the International Financial Institutions to foster development. For example, the World Bank reckons that about 40% of Africa's accumulated wealth resides in foreign accounts.

Addressing the money laundering challenge requires will. Five initial steps involve:

- (i) Western governments becoming more aggressive in exposing and seizing assets of corrupt foreign government officials;
- (ii) Urging multinational corporations to stop facilitating flight capital with over and under invoicing;

- (iii) The World Bank and IMF addressing flight capital more effectively;
- (iv) Requiring two signatures on routine trade documents attesting that the stated price is the actual price.
- (v) Requiring depositors “to sign a document stating that the deposit by any non-citizen, whether individual or a company, is money legally earned and legally transferred” (p. 44).
“The combination of criminal money laundering and illegal flight capital constitutes the biggest loophole in the free-market system” (p. 45).

Baxter, T. C. 1997. "Breaking the billion dollar barrier - learning the lessons of BNL, Daiwa and BCCI". Journal of Money Laundering Control, Vol.1, June.

Blau, Charles W. 1990. “The Right to Financial Privacy and the Criminal Referral Process: A Conflict in the Terms and Purpose of the Money Laundering Statutes.” Consumer Finance Law Quarterly Report, Winter: pp. 9-21.

Blum, Jack A., Michael Levi, R. Thomas Naylor and Phil Williams. 1998. “Financial havens, banking secrecy and money laundering.” A study prepared on behalf of the United Nations under the auspices of the Global Programme against Money Laundering, Office for Drug Control and Crime Prevention; Vienna, Austria. December. (Available at: <http://www.cf.ac.uk/socsi/whoswho/levi-laundering.pdf>).

Abstract (from the paper (p. 6 –7))

This report examines the world of offshore financial centers and bank secrecy jurisdictions in the context of the control of money laundering and financial crime. It looks at offshore financial centers and bank secrecy jurisdictions as facilitators of money laundering and other forms of crime, elucidates the ways in which they are used by 7 criminals and identifies a series of remedies or counter-measures that would block or at the very least diminish the attractions of these havens. Section II outlines the various stages of money laundering, warns against using the term in a loose or promiscuous manner, and identifies various kinds of secrecy that facilitate money laundering and other crimes.

Section III of the report looks at the legitimate as well as the criminal uses of offshore financial and bank secrecy jurisdictions and explains briefly how bank secrecy and offshore banking evolved. It locates offshore banking and bank secrecy jurisdictions within the global financial system, suggesting that the system is a highly congenial one for both licit businessmen and for those trying to launder and hide the proceeds of crime as well as those who typically exploit loopholes and variations in tax and other laws.

Jurisdictions which offer high levels of secrecy, and a variety of financial mechanisms and institutions providing anonymity for the beneficial owners are highly attractive to criminals for a wide variety of reasons including the potential cover and protection they offer for money laundering and various exercises in financial fraud. Not all offshore financial centers and bank secrecy jurisdictions provide the same services, however, and there are important differences in the schemes they offer to ensure anonymity, the extent of the secrecy they provide, and their willingness to cooperate with international law enforcement investigations. Consequently, this section also provides an overview of what might be termed the geography of offshore banking and bank secrecy.

Section IV looks at the way in which offshore financial centers and bank secrecy jurisdictions are used by criminals, highlighting not only the way in which money is often moved to and through offshore banks or bank secrecy jurisdictions as part of money laundering efforts, but also other ways in which offshore jurisdictions are used by criminals. Section V looks at offshore banking and bank secrecy as inhibitors and facilitators for law enforcement investigations, with attention to both de jure and de facto limits to cooperation. Section VI looks at issues for consideration in relation to preventive and control measures that might be taken to enhance compliance with the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (the '1988 Convention') and to make it more difficult for money launderers and other criminals to exploit particular banking jurisdictions with the ease and benefits they do at the moment.

Summary (from the paper (p. 5-7))

The major money laundering cases coming to light in recent years share a common feature: criminal organizations are making wide use of the opportunities offered by financial havens and offshore centers to launder criminal assets, thereby creating roadblocks to criminal investigations. Financial havens offer an extensive array of facilities to the foreign investor unwilling to disclose the origin of his assets, from the registration of International Business Corporations (IBCs) or shell companies, to the services of a number of “offshore banks” which are not subject to control by regulatory authorities.

The difficulties for law enforcement agents are amplified by the fact that, in many cases, financial havens enforce very strict financial secrecy, effectively shielding foreign investors from investigations and prosecutions from their home country. While bank secrecy and financial havens are distinct issues, they have in common both a legitimate purpose and a commercial justification. At the same time, they can offer unlimited protection to criminals when they are abused for the purpose of “doing business at any cost”.

These two issues are analysed in the present study because the recent history of international money laundering control makes it clear that the indiscriminate enforcement of bank secrecy laws, as well as the rapid development of financial havens, constitute serious obstacles to criminal investigations and jeopardise efforts undertaken by the international community since the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (the '1988 Convention'), which first required the establishment of money laundering as a criminal offence.

The best example of the opportunities, and immunities, offered to money launderers by these means was BCCI - the Bank for Credit and Commerce International - which collapsed in 1991, uncovering the widest money laundering scheme ever and leading to the seizure of more than US\$12 billion. The BCCI case, which is described in more detail in Chapter IV, generated a shock wave in financial markets and among the supervisory authorities of all countries affected by the scandal, forcing them to tighten up regulations to prevent the use of financial markets for money laundering purposes.

However, six years later, another prominent case was revealed following the bankruptcy of the Antigua-based “European Union Bank”, demonstrating that the problem had gained a new dimension with the application of modern technologies. The European Union Bank was founded by two Russians, and is alleged to have been used to launder the illicit proceeds of the Russian organized crime. This bank, which was operating on the Internet, offered its clients (according to its advertisements on the net) “ the strictest standards of banking privacy in offshore business” and the “financial rewards of offshore banking”. Chapter IV further analyses the case of the European Union Bank.

There are important and sobering lessons to be learned from the experience with European Union Bank. Among the more important are the following:

- Changes since BCCI have helped, but there are still important gaps in the regulation of offshore banking by bank secrecy jurisdictions that can all too easily be exploited by criminals of various kinds.
- The Internet and World Wide Web offers a whole new dimension for encouraging money laundering, fraud and various kinds of scams.
- The experience highlighted that the concept of a bank is becoming increasingly elastic, a development vividly encapsulated in the comments of one auditor that some banks are little more than “closets with computers”.

The central problem with virtual banks is that there is virtually no oversight, not least because it is not clear who has jurisdiction or where the crime is committed. As one observer noted in testimony before the US Congress, European Union Bank operated on a license from the government of Antigua. “The computer server was in Washington, DC. The man who was operating both the bank and the computer server was in Canada. And under Antiguan law, in effect, the theft of the bank’s assets were not illegal. So now the problem is, where is the crime committed, who committed it, who is going to investigate it, and will anyone ever go to jail?”

The willingness of at least some offshore banking jurisdictions to encourage new financial institutions without imposing adequate safeguards or due diligence – a development characterized later in this report as the selling of sovereignty.

In short, bank secrecy and offshore banking offer multiple opportunities for money laundering and various other criminal activities. In the early and mid-1980s the Permanent Investigations Subcommittee of the Committee on Governmental Affairs in the United States Senate held a series of hearings on offshore banking and bank secrecy. The chairman, Senator William Roth, noted that “we have repeatedly heard testimony about major narcotics traffickers and other criminals who use offshore institutions to launder their ill gotten profits or to hide them from the Internal Revenue Service.

Haven secrecy laws in an ever increasing number of cases prevent U.S. law enforcement officials from obtaining the evidence they need to convict U.S. criminals and recover illegal funds. It would appear that the use of offshore haven secrecy laws is the glue that holds many U.S. criminal operations together” . If the immediate reaction to this is that little or nothing has changed in the last decade and a half, a more considered assessment might suggest that, in fact, the situation has deteriorated with a much larger cast of characters now using offshore financial centers for criminal purposes.

Overview

This report examines the world of offshore financial centers and bank secrecy jurisdictions in the context of the control of money laundering and financial crime. It looks at offshore financial centers and bank secrecy jurisdictions as facilitators of money laundering and other forms of crime, elucidates the ways in which they are used by 7 criminals and identifies a series of remedies or counter-measures that would block or at the very least diminish the attractions of these havens. Section II outlines the various stages of money laundering, warns against using the term in a loose or promiscuous manner, and identifies various kinds of secrecy that facilitate money laundering and other crimes.

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Jurisdictions which offer high levels of secrecy, and a variety of financial mechanisms and institutions providing anonymity for the beneficial owners are highly attractive to criminals for a wide variety of reasons including the potential cover and protection they offer for money laundering and various exercises in financial fraud. Not all offshore financial centers and bank secrecy jurisdictions provide the same services, however, and there are important differences in the schemes they offer to ensure anonymity, the extent of the secrecy they provide, and their willingness to cooperate with international law enforcement investigations. Consequently, this section also provides an overview of what might be termed the geography of offshore banking and bank secrecy.

Section IV looks at the way in which offshore financial centers and bank secrecy jurisdictions are used by criminals, highlighting not only the way in which money is often moved to and through offshore banks or bank secrecy jurisdictions as part of money laundering efforts, but also other ways in which offshore jurisdictions are used by criminals. Section V looks at offshore banking and bank secrecy as inhibitors and facilitators for law enforcement investigations, with attention to both de jure and de facto limits to cooperation. Section VI looks at issues for consideration in relation to preventive and control measures that might be taken to enhance compliance with the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (the '1988 Convention') and to make it more difficult for money launderers and other criminals to exploit particular banking jurisdictions with the ease and benefits they do at the moment.

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Bosworth-Davis, R. 1998. "Living with the Law: A Survey of Money Laundering Reporting Officers and Their Attitudes towards the Money Laundering Regulations." *Journal of Money Laundering Control*, Vol.1, No.3, January.

Byrne, John J. 2000. "Know Your Customer: What Happened and What Happens Next?" *Journal of Money Laundering Control* - Vol 3. No.4.

Abstract

There is an essential conflict between strong know-your-customer (KYC) regulations and protecting the privacy of customers. The concept of KYC was agreed internationally as far back as 1988 in a Basel Treaty, and the US Treasury has noted that no amount of regulation can substitute for KYC. The initiative lay dormant for a time, until the issue of money laundering was addressed at a Congressional Hearing, pressing for KYC. The Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, and the Office of Thrift Supervision issued substantially similar KYC proposals requiring banks to:

- Determine the identity of customers.
- Determine the customer's sources of funds
- Determine normal and expected transactions
- Monitor transactions
- Identify transactions that are not normal
- Determine if transactions are unusual or suspicious

Some aspects were difficult, since it is hard to establish when a financial institution was in compliance. In addition, compliance with KYC could lead to infringements of a customer's privacy, if misused. The American Banker's Association opposed the proposals, in part due to this confusion.

Ciancanelli, Penny & Reyes, Jose Antonio. 2000. "Corporate Governance in Banking: A Conceptual Framework." Paper submitted for presentation at the European Financial Management Association Conference. Athens, June. (Available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=253714).

Abstract (from the article)

In the wake of far reaching financial system reforms, almost three fourths of the member countries of the IMF experienced significant episodes of systemic crisis and associated bank failures. Notably absent in the ensuing debates on the correlation between financial system reforms and systemic crisis was discussion of corporate governance in the affected banks and the role it may have played in the provoking financial crisis.

Consideration of corporate governance in banks is, however, apparently easier said than done. While there is a great deal of empirical research on corporate governance, very little of it concerns the behaviour of owners and managers of banks; all of it assumes that banks conform to the concept of the firm used in Agency Theory.

The aim of this paper is to demonstrate the limitations of that assumption and to propose an alternative conceptual framework more suitable to its analysis. We argue that commercial banks are distinguished by a more complex structure of information asymmetry arising from the presence of regulation. We show how regulation limits the power of markets to discipline the bank, its owners and its managers and argue that regulation must be seen as an external force, which alters the parameters of governance in banks.

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D'Ingeo, Magda and Rawlings, Philip. 1998. "Yuppies, Drugs and Tesco: Should the Bank of England Blame Itself for Bank Failures?" Journal of Money Laundering Control. Institute of Advanced Legal Studies. Vol. 2, No. 1, Summer.

Douglass, Joseph D. 1999. "Western Banks and Russian Money-Laundering: Bank Corruption Examined," International Currency Review, Vol. 25, No. 2.

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http://Economist.com/background/displaystory.cfm?story_id=3140**

The Bahamas and several other Caribbean financial havens have landed on three different lists – including the OECD, FATF and the Financial Stability Forum. Concern is growing that these havens are “distorting the financial system on a threatening scale” (p. 1), siphoning off \$50 billion from poor countries every year. Antigua suffered a financial drought when it was put on an advisory list by the US Treasury, and has since taken steps to tighten anti-money laundering laws. Implementation remains a major challenge.

Farley, Hugh T. 1990. “Financial Institutions and the Problem of Money Laundering: A Guide to State and Federal Action: A Report,” Albany, N.Y.: New York State Senate Committee on Banks.

Flight, Howard. 2002. “Taxation and Money Laundering: A Personal View,” Journal of Money Laundering Control, Vol. 5, No. 4: pp. 323-324.

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Hampton, M. 1996. The Offshore Interface: Tax Havens in the Global Economy, Macmillan, Basingstoke. (Available for purchase at: <http://books.global-investor.com/books/3813.htm>)

Abstract (from the book’s Jacket)

This book opens up the secret world of tax havens and offshore finance centers (OFCs), a vast offshore business valued at over one trillion US dollars. It is a timely and original analysis of the role of OFCs in the emerging global economy. The book discusses who uses OFCs, how OFCs work, and what drives their development. Extensive use of case study material from Jersey illustrates the growth of a successful OFC and its impact on a small island.

Haynes, A. 1997. "Securitisation, Money Laundering and Fraud," Journal of Money Laundering Control, Vol.1, No.2, October 1997.

Hinterseer, Kris. 2001. “The Wolfsberg Anti-Money Laundering Principles,” Journal of Money Laundering Control, Vol. 5, No. 1: pp. 25-41.

Hishon, Robert H. and Richard A. Westin. 1993. Tax Fraud and Money Laundering, Houston, Tex.: John Marshall Pub. Co.

International Monetary Fund. 2001. “Financial System Abuse, Financial Crime and Money Laundering - Background Paper.” Prepared by the Monetary and Exchange Affairs and Policy Department and Review Departments in Consultation with Legal and other Department. Feb, 12. (Available at: <http://www.imf.org/external/np/ml/2001/eng/021201.pdf>).

Summary (from the Introduction)

1. At its September, 2000, meeting the International Monetary and Financial Committee (IMFC), requested that the Fund prepare a joint paper with the World Bank on their respective roles in combating money laundering and financial crime, and in protecting the international financial system. Moreover, the Fund was specifically asked “to explore incorporating work on financial system abuse, particularly with respect to international efforts to fight against money laundering into its various activities, as relevant and appropriate.” (See Annex I). The purpose of this paper is to present background information prior to the forthcoming consideration of this requested joint paper with the World Bank.
2. The IMFC recognized that the Fund has to play its role in protecting the integrity of the international financial system from abuse through its efforts, inter alia, to promote sound financial systems and good governance. The World Bank, consistent with its development mandate and areas of comparative advantage, plays an important role in assisting countries in legal reforms, often in the context of national anti-corruption programs, and in the design and implementation of capacity building programs (e.g., in the context of legal and judicial reform, establishing protection of shareholders’ rights) and the promotion of governance and transparency principles and practices in the financial sector.
3. This paper is organized as follows. Section II reviews current usage and suggests interpretations of various terms such as financial system abuse, financial crime, and money laundering. The empirical evidence on the macroeconomic impact of financial system abuse, focusing on money laundering, is discussed in Section III. The work of other relevant bodies on these issues, especially the Financial Action Task Force (FATF), is presented in Section IV.

International Monetary Fund. 2001. “Survey on Workshop on Financial Abuse and Money Laundering,” March. (Available at: <http://www.imf.org/external/pubs/ft/survey/2001/031901.pdf>).

Abstract

“Fighting money laundering makes it more difficult for criminals to retain the proceeds of their crimes. On February 19, panelists participating in a joint IMF–World Bank workshop on financial abuse stressed this point and gave special attention to multinational efforts to combat money laundering” (p. 85).

The first panel addressed the negative impact of underlying crimes behind money laundering, which retard economic growth, lower foreign direct investment and decrease government resources. These effects can also be politically destabilizing. The second panel investigated the link between money laundering and other financial crimes, emphasizing that measures to combat laundering can also be helpful in addressing other crimes. Narcotics, prostitution and terrorism are the biggest sources of laundered funds. The third panel emphasized that banks are concerned about reputation and legal risks, which means paying attention to money laundering issues. It is worth noting that in developing measures, regulators must balance compliance costs with risks, because there is “a point at which the costs incurred in controlling the risk will outweigh the benefits” (p. 88).

Jackson, Andrew. 2000. “Recognizing and Reporting Money Laundering: How Well Should You Know Your Customer?” Journal of Money Laundering Control - Vol 3. No.4.

Abstract

After illustrating several anecdotes on money laundering, the author notes that the environment the illicit practice has become more difficult, including proactive measures such as know-your-customer (KYC) provisions. Still, KYC is difficult to implement, because there is no obvious end point to the information that would be useful to a bank manager in seeking to prevent money laundering, and it will be hard to deal with third-party introducers (where the main beneficiaries wish to remain anonymous), and it can be hard to balance KYC with a customer’s right to privacy.

Johnson, Jackie. 2001. “In Pursuit of Dirty Money: Identifying Weaknesses in the Global Financial System,” Journal of Money Laundering Control, Vol. 5, No. 2: pp. 122-132.

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Kaufmann, Daniel. 2001. "Governance in Finance and Banking: Confronting the Challenge of Money Laundering" Strategic Considerations, Proposed Approach, and Learning Program Activities for client countries, FY'02. November. (WBI draft).

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Magliveras, Konstantinos D. 2000. "Banks, Money Laundering and the European Community" in J. Norton (editor), Banks, Fraud and Crime, Second Edition, Lloyd's of London Press, London: pp. 173-200.

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Maroldy, Laura M.L. 1991. "Record-keeping and Reporting in an Attempt to Stop the Money Laundering Cycle: Why Blanket Recording and Reporting of Wire and Electronic Funds Transfers is not the Answer." Notre Dame Law Review: pp. 863-92.

Masciandaro, Donato. 1998. "Money Laundering Regulation: The Micro Economics." Journal of Money Laundering Control. Institute of Advanced Legal Studies. Vol. 2, No. 2, Summer.

Masciandro, Donato and Filotto, Umberto. 2001. "Money Laundering Regulation and Bank Compliance Costs. What Do Your Customers Know? Economics and Italian Experience," Journal of Money Laundering Control, Vol. 5, No. 2: pp. 133-145.

Abstract (from the introduction)

The objective of this paper is to point up the link between the effectiveness of anti-laundering regulations and the characteristics of the relative compliance costs for banks, with particular attention to the bank-customer relationships. The work is organized as follows. The second section contains the economic framework, that starts with the assumption that intermediaries have an information advantage and then demonstrates, by means of a principal-agent model, how this advantage can produce collective advantages in the war against money-laundering only if the regulations take the problem of compliance costs into due consideration.

Based on the economic results, then, section three presents an empirical part, comprising a survey conducted in conjunction with an Italian bank present in 11 of Italy's 20 regions, on how banks perceive the relationship of customers with the obligations imposed by the anti-laundering regulations. The survey provides a better understanding of the nature and extent of compliance costs within banking operations. Section four contains the concluding remarks.

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Maynard, Peter D. 2002. "Abuse of Power: Starting the March to Restoring the Competitive Advantage of International Financial Centers," Journal of Money Laundering Control, Vol. 5, No. 4: pp. 325-329.

Mehrez, Gil and Kaufmann, D. 1999. "Transparency, Liberalization and Financial Crises" World Bank Policy Research Working Paper 2286, February.

Mitchell, A & Hinton, N. 1994. "Confiscation inquiries - what the Dickens?", Journal of Criminal Law, Vol. 58: pp. 201-208.

Montano, Elizabeth. 2002. "Wealth Hidden, Tax Evaded: Strategies for Revelation," Journal of Money Laundering Control, Vol. 5, No. 4: pp. 263-265.

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Moscarino, G. J. and M. R. Shumaker. 1997. "Beating the Shell Game: Bank Secrecy Laws and Their Impact on Civil Recovery in International Fraud Actions." Journal of Money Laundering Control, Vol.1, June.

Moscarino, George J., Laura Tuell Parcher and Michael Shumaker. 2000. "To Disclose or Not to Disclose: If That is the Question What is the Answer?" Journal of Financial Crime, Vol. 7, no. 4: pp. 308-323.

Abstract (from the introduction)

The corporate disclosure decision is one of the most difficult decisions any corporation, its management and its counsel will face. If a corporation learns that it or one of its employees has engaged in fraud or crime, the corporation, through its officers and directors, must decide whether it should disclose the fraud or crime to the government. These decisions are fraught with dangers which threaten to expose the corporation and its employees to civil and criminal liability.

While some commentators have discussed the potential advantages to a partial disclosure, this paper argues that a partial disclosure is unreasonably risky and, except in the most unusual of circumstances, is very likely to backfire, causing the company to lose all the benefits it hoped to gain by disclosing.

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Nove, S. "Underground banking systems." *International Criminal Police Review*, July-August 1991; 2-5.

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Priess, Richard T. 1998. "The Consequences of Anonymous Access to the Financial Payments System." *Journal of Money Laundering Control*. Institute of Advanced Legal Studies. Vol. No. 1, Summer 1998.

Riechel, Klaus-Walter. 2001. "Financial Sector Regulation: The Case of Small Pacific Island Countries." IMF Policy Discussion Paper PDP/01/6. (Available at: <http://www.imf.org/external/pubs/cat/longres.cfm?sk=15412.0>).

Abstract (from the paper)

This paper discusses issues of financial sector regulation and supervision in some resource-constrained Pacific Island countries. The author reviews recent international initiatives directed towards offshore financial centers and the fight against money laundering and other financial crime and explores their significance for the Pacific island countries.

Summary (from the Introduction)

Financial sector soundness and stability has emerged as one of the principal themes of economic policy and international cooperation in the world. It encompasses a whole range of subject areas, including in the first place the traditional concern about the appropriate regulation and effective supervision of banks. Increasing attention has over the past decade also been given to measures to ensure the soundness of nonbank financial intermediaries such as development banks, provident funds and insurance companies. More recently, the attention of both international organizations and national authorities has been drawn to the operations, financial impact and prudential issues of offshore financial centers, including their role in the growing problem of tax evasion and money laundering.

The present paper seeks to look at these issues from the perspective of the Pacific island countries (PICs) in order to inform the authorities of PICs about the nature and implications of these international developments and allow them to prepare appropriate action in their own countries and regionally to ensure that they will remain an integrated and respected part of the international financial community. In connection with this assessment, the paper will report on a recent initiative to strengthen regional cooperation and coordination in financial sector regulation and supervision and indicate a number of areas in need of further action.

Sienczlyo-Chlabicz, Joanna and Wojciech Filipkowski. 2001. "The Polish Financial Intelligence Unit: A New Institution in the Polish Legal System," Journal of Money Laundering Control, Vol. 5, No. 2: pp. 150-157.

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Abstract (from the foreward)

Ten years ago the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances placed the issue of the proceeds of crime on the world agenda. Among the Convention's most important and innovative provisions were those that sought to overcome banking and financial secrecy laws where they presented impediments to criminal investigations.

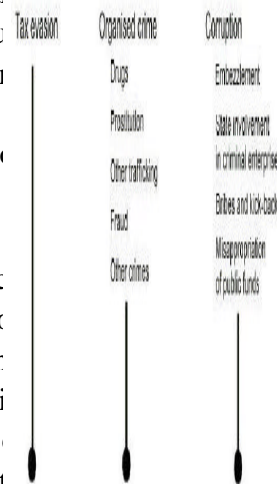
Over the past decade, many Member States have made great efforts to increase the transparency of financial dealings and to make financial and commercial records more accessible for bona fide investigations, with a view to giving effect to the anti-money-laundering provisions of the Convention. Today we may look back at the progress made and the challenges that lie ahead. While there has been a general trend towards enacting money-laundering laws that provide for the lifting of financial secrecy in appropriate cases, such secrecy remains a barrier in many jurisdictions, including some of those that have come to be known as "financial havens". In addition, new laundering techniques have been identified, such as the increased use of professionals, corporate registration secrecy and certain types of trusts.

To give a picture of the problem today, at a time when the United Nations General Assembly, at its twentieth Special Session devoted to countering the world drug problem together, has renewed its commitment to take the profit out of crime, ... four eminent experts ... examine the issues of banking secrecy and financial havens in the context of the fight against money-laundering worldwide. The present study aims to stimulate discussion on bank secrecy and financial havens but is not necessarily intended to reflect the views of the United Nations on the issue.

Summary (from the Executive Summary)

Today, enterprise criminals of every sort, from drug traffickers to corporate embezzlers and commodity smugglers, must launder the proceeds of their crimes for two reasons. The first is that the money trail itself can become the target of law enforcement; the second is that the money per se can be the target of seizure. Regardless of the geographic origins hidden from view, the money trail to foil pursuit; operational and

Figure 1: sources and consequences of the money laundering process

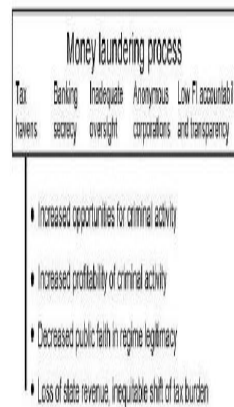


ers to corporate perpetrators of the crime. Regardless of the principles are essentially the same. Money-laundering should be construed as a dynamic process that requires: firstly, moving the funds from direct association with the crime; and, thirdly, making the money available to the criminal through a complex geographic origins hidden from view.

Criminal money is frequently moved abroad and then cycled through various jurisdictions to obscure the audit trail. Despite a myriad of complications, almost all international money-laundering activities during the past decade have often calls on one of the many jurisdictions that offer an incentive to do so. Many sell "offshore" corporations, which are licensed to operate in jurisdictions that offer incorporation, are free of tax or regulation and are protected by bank secrecy laws.

tional payments system structure that underlies the global financial system. The launderer operates as a manufacturing business, producing a service outside the country of origin and then selling it to clients in other countries.

Once the corporation is set up in the offshore jurisdiction in the name of that offshore company, particularly one with bank secrecy laws. Thus, between the law enforcement authorities and the company, one level of corporate secrecy and possibly attorney-client privilege if counsel in the corporate secrecy haven has been engaged. In addition, many laundering schemes involve trusts, which is usually protected by secrecy laws and may form of a "flee clause" that permits, indeed compels, the assets to be moved to the haven country whenever the trust is threatened.



in the haven country, protected by corporate secrecy laws. There is one level of insulation in the form of lawyer-client privilege and the shield of the offshore trust. The level of insulation in the form of the trust

In essence, the rule in successful money-laundering is always to approximate, as closely as possible, legal transactions. As a result, the actual devices used are themselves minor variations on methods employed routinely by legitimate businesses. In the hands of criminals, transfer-pricing between affiliates of transnational corporations turns into phony invoicing; inter-affiliate real estate transactions become reverse-flip property deals; back-to-back loans turn into loan-back scams; hedge or insurance trading in stocks or options becomes matched- or cross-trading; and compensating balances develop into the so-called underground banking schemes. On the surface it may be impossible to differentiate between the legal and illegal variants; the distinction becomes clear only once a particular criminal act has been targeted and the authorities subsequently begin to unravel the money trail.

There have been a number of developments in the international financial system during recent decades that have made the three F's—finding, freezing and forfeiting of criminally derived income and assets—all the more difficult. These are the "dollarization" (i.e. the use of the United States dollar in transactions) of black markets, the general trend towards financial deregulation, the progress of the Euromarket and the proliferation of financial secrecy havens.

Fuelled by advances in technology and communications, the financial infrastructure has developed into a perpetually operating global system in which "megabyte money" (i.e. money in the form of symbols on computer screens) can move anywhere in the world with speed and ease. The world of offshore financial centres and bank secrecy jurisdictions is a key part of this but can also be understood as a system with distinct but complementary and reinforcing components, many of which are readily amenable to manipulation by criminals. These components are examined in detail in the present study.

The characteristics of offshore financial centres and bank secrecy jurisdictions can be understood as a tool kit that can be used not only to launder the proceeds of drug trafficking and other crimes but also to commit certain kinds of financial crime. Not all jurisdictions are equally lax, however, and the study provides a brief overview of the geography of the world of these financial and bank-secrecy havens. This world is in a constant flux that reflects differential responses to the complex balancing act between competitiveness, on the one hand, and high ethical business standards, on the other. The optimum competitive position is one in which the centre is neither too stringent in vetting customers nor too obviously indiscriminate in accepting all custom.

Serious efforts have been, and continue to be, made to create greater transparency in financial matters, but the offshore financial world remains for a large part a "Bermuda triangle" for financial investigations.

Law enforcement success stories presented in this study convey a sense of the imaginative, and sometimes rather crude, ways in which financial havens are used to hide, move and clean the proceeds of crime, in an area usually characterized by criminal successes and law enforcement failures. The cases highlight the advantages, from the point of view of criminals, of collusion with bank employees and the use of professional launderers. They also reveal how criminals are able to exploit what for them has, in effect, become a borderless world. It is this combination of rapid and largely anonymous transfers and protective destinations that anti-money-laundering efforts need to pierce.

In this context, some issues meriting further consideration include:

The misuse of States' sovereignty to provide safe havens for criminal proceeds.

The proliferation of international business corporations (IBCs), which are routinely used in money-laundering schemes because they provide an impenetrable layer of protection around the ownership of assets. They have few commercial or financial justifications, except to conceal the origin and destination of goods in international commerce, to circumvent arms control laws and to evade taxes by moving profits and assets out of the reach of the tax collector.

The abuse of offshore trusts.

The role played by some professionals protected by legal privileges.

The effect of the "dollarization" of the global market and likely effect, in the years to come, of the introduction of the Euro on financial markets.

The usefulness of free trade zones for legitimate purposes, since tariffs have declined.

The vulnerability of casinos to money-laundering operations and the crucial need for the industry be more carefully regulated.

The need to develop and more efficiently exchange financial crime intelligence.

The proposal that financial centre countries publish data, including information on both the asset holdings and the flows of funds through accounts of all types, in a reasonably coordinated way to form a basis for informed answers to serious policy questions.

The quasi-absence of regulation of offshore banking, and excessive bank secrecy protection, that sometimes even block regulators in a country from effectively supervising branches of their home country's financial institutions branches located in those centres.

The importance of improving financial investigators' training in order to equip them to deal complex schemes, and the proposal of an international graduate programme for mid-career law enforcement, legal, judicial and private sector compliance officials.

The common denominator in money-laundering and a variety of financial crimes is the enabling machinery that has been created in the financial havens and offshore centres. The effectiveness of these centres in helping people and companies to hide assets is not the result of any single device. Changing bank secrecy rules alone will not help. Rather, the centres have created a tool kit composed of new corporate instruments, foundations, trusts, trust companies, banks and bank accounts.

The tools are mixed and matched with jurisdictions that have made a point of non-cooperation with the rest of the international community in criminal and tax investigations. What started as a business to service the needs of a privileged few has become an enormous hole in the international legal and fiscal system. If the international community is to develop a rule of law to match the globalization of trade and the global movement of people, the questions raised by this hole in the system will have to be addressed. The world community will have to face the issue of the use of sovereignty by some countries to give the citizens of other countries a way around the laws of their own societies.

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Abstract

The guidelines layout the "Wolfsberg Anti-money Laundering Principles," that were agreed by 12 major international banks meeting in Wolfsberg, Switzerland, in 2000. The banks view these Principles as "important global guidance for sound business conduct in international private banking." A team from Transparency International facilitated the initiative, and the Principles are widely viewed as "an important step in the fight against money laundering, corruption and other related serious crimes."

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Abstract (from the paper)

The Wolfsberg Group of International Financial Institutions has agreed that these Principles constitute global guidance on the establishment and maintenance of Correspondent Banking relationships. The Wolfsberg Group believes that adherence to these Principles will further effective risk management and enable institutions to exercise sound business judgement with respect to their clients. Furthermore, adherence to these Principles will support the aim of Wolfsberg Group members to prevent the use of their worldwide operations for criminal purposes.