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Money Laundering: Risks and Counter- Measures

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This paper starts with a discussion of some objectives and problems of measurement. I then summarise very briefly how the UK system works, and finally, I present some of what I regard as key current and future problems and how they might be addressed.

It is an important thing to clarify one's objectives when one contemplates major strategic initiatives such as developing money-laundering regulations, which have major implications for the public's freedom from surveillance by the state as well as for banking costs. What are the strategic objectives, and are they universal or merely national ones?

I want to distinguish between (a) ultimate—or “final”—objectives, and (b) intermediate goals along the way, which are crucial to the achievement of final ones. But the relationship between means and ends is not always as obvious as it seems. For example, if one's final objective is the reduction of narcotics consumption, the arrest of offenders for “drugs trafficking” (which is a highly varied concept) is helpful only if (taken as a whole rather than just looking at any one arrest), it produces real incapacitation or general deterrence. On the other hand, if one's final or intermediate objective is retributive, punishing people who have behaved badly/transgressed the laws irrespective of any effect this may have on crime levels, then arrest is inherently a good thing and you don't need to worry whether it leads to a reduction in the availability or consumption of drugs. In the particular case of money-laundering, I suggest that the “final objectives” are:

- the reduction of crime—though countries vary enormously in precisely which offences they want to see reduced—and
- in the case of AUSTRAC, though in very few other countries (at least officially), the increased revenue from tax collection which otherwise might have been evaded, both on legal-source and illegal-source activities.

The intermediate objectives of money-laundering reporting systems are:

- the triggering of new investigations into offenders who have not been previously known to the authorities;
- the substantial assistance in investigations into known or suspected offenders (and the definition of “major offenders” can be manipulated);
- the ability to stop money from being transferred out of the jurisdiction; and
- frightening off offenders from committing crimes because they anticipate that they will be unable to do anything with the rewards. All of these are hard to measure.

I dislike thinking about “crime reduction” in the global sense. It makes more sense pragmatically to examine sub-categories of crime such as fraud by directors, fraud by junior staff, bankruptcy fraud, burglary, theft, prostitution, drugs trafficking both local and international, and so on.

In assessing the scale of laundering (and asset confiscation), we should note a common error in assuming that laundering equals the sum of proceeds of crime. It does not. It equals that part of the proceeds of crime that offenders receive (which will be substantially less than the cost to victims), which they wish to save and/or invest. They may invest overseas—as for example with capital flight from Latin America—or other countries’ criminals may wish to invest in Australia: Walker (1995, p. 2) usefully distinguishes these as “internal ML”, “incoming ML” and “outgoing ML”. Research suggests that in Britain and the US (and, I would hypothesise, in Australia), except for the major drugs cartels and some of the larger fraudsters and tax evaders, much of this money is spent on the fast life, on cars, boats and home improvements, or kept in cash form or in jewellery and other “moveables” which can readily be transported overseas and is not bulky: media such as gold are especially popular, both for licit-source and illicit-source funds. (This will be even more true if money-laundering controls on suspicious transactions spread.) But it is quite legitimate—when considering how much laundering there is—to double-count the movement of the same funds through various accounts and countries. The proceeds of terrorism (such as extortion) may seldom be laundered (unless it is needed to pay for arms) but simply is used to pay “staff costs” in cash: this applies whether we are discussing Northern Ireland or many of the warring factions in Africa, Asia, and even Latin America. It is a mistake to assume that all proceeds of crime enter the official or unofficial banking systems directly (though they may do eventually, depending on what offenders spend their money on).

In short, the savings ratios of offenders may vary depending on personality and on income levels—the marginal utility of savings rises with criminal as with legitimate income, though those of us who are on middling incomes may be surprised at just how much money people can get through when they are dedicated to having a

good time. Moreover, fraudsters who are already running or working for companies have a pre-designed legitimate front which may arouse less suspicion (especially if they are making wire transfers which is consistent with the bank mandate, even if those transfers are in fact theft or tax evasion) than people in their twenties or thirties depositing large volumes of cash in personal accounts. Drugs traffickers may have to work harder to establish front companies or use existing genuine businesses to merge their large cash deposits into.

So I am starting on a sceptical note, and that is that the level of laundering equals savings from crime, transfers of payments for criminal purchases, and deposits of savings from crime committed overseas, whether it is being repatriated, invested by overseas criminals, or merely temporarily parked. Currently, though Walker (1995) has made an heroic attempt to derive plausible estimate ranges, we have very little idea about how much the proceeds of so-called victimless crimes (drugs trafficking and vice) constitute, whether in Australia or anywhere else; how much offenders save from crime; and only hazy notions about what they do with their money. The more long-term covert operations that the police do, and the more research that is done interviewing offenders about what they do with the money side of their crimes, the more we will find out about such operations: but current de-briefing of offenders about this by busy police or customs investigators is very modest in the UK, and I would guess that this is so for Australia too. And the UK Serious Fraud Office does very little analysis of money movement in its cases

for future proactive use: its only mission is to prosecute the cases. In general, criminal justice only looks backwards at fixing blame, not forwards in strategic thinking about prevention and crime disruption.

How have regulators and legislators responded to the generic threat of money-laundering? The occupational vice of lawyers is to draft the legislation in accordance with the political advice they have been given, and then to assume that the problems have been resolved. In a sense this is true: their personal problems have been resolved, for that is all that they are expected to do. However, the reality is that a new set of problems are about to begin, and these are the problems of implementation and the regulation of implementation. Inasmuch as there is a globalisation of laundering, a logical accompaniment of this is the theme in the Financial Action Task Force (FATF) and in the European Community Directive (echoed also in the Council of Europe Convention) of the importance of there being a “level playing field”. We can start from two positions: one is the diplomatic route, where we start from where we all are now and see how we can best reach a consensus position; the second is to imagine what sort of regulations for financial deposits and transfers we would have in a (relatively) ideal world. Would we, for example, allow anonymous “bearer bonds” to exist at all in an ideal world? What about total confidentiality of the beneficial ownership of corporations and bank accounts? For it is absolutely clear that criminals organise their activities in the interstices of the legitimate society, and will exploit—if they have the necessary skills and connections—any opportunities they are given. The trick of regulation is to minimise the illegitimate exploitation without wrecking the economic dynamism.

The political reality is that at different stages of economic and social development, different countries have different views about the desirability of controlling money-laundering. However, arguments presented elsewhere indicate that some of these reservations about the desirability of control are unfounded. My object here is to discuss how a “regulatory compliance culture” can be created, and how this would be likely to affect money-laundering itself.

The Issues for Regulators

Money-laundering arises from the proceeds of unlawful activities (corruption, drugs, extortion, fraud, terrorism, vice) and from lawful activities (tax evasion, violation of exchange controls on lawful commerce). From a regulatory viewpoint, the core issues are:

- do regulators in different countries communicate adequately with each other?
- do regulators deal adequately with the full range of potential launderers in their own country?
- do compliance officers within financial institutions communicate effectively with, and affect behaviour of, staff in their own institutions?
- do “front line” staff in financial institutions take adequate steps to identify money laundering by customers of their institutions, and either prevent it or communicate it up the line?

In some absolute sense, the answer to all these questions has to be “no”. If this were not so, then there would be little domestic laundering in the “best regulated” countries, and we know that there is, though its extent may be debateable. However, in the light of the recent efforts of the UN, FATF, the European Union, and the Council of Europe, we might re-evaluate our views about likely future effectiveness, for we must appreciate that even within the original G7, there are considerable divergences in practice: we are only a little way down the road of controlling money-laundering. And many people—by no means all of them criminals—have serious reservations about what is the point of this whole phenomenon.

All regulation has been moving gradually in the direction of targeting resources to where they are most needed and/or where they can be most productively employed. In the light of BCCI (*see* Passas 1996), we should not need reminding that the highest risk for laundering is posed by a loosely regulated international financial institution which has no desire to regulate its own staff. Clearly, part of the problem was the ambivalent interest of the intelligence agencies, but unfocused responsibility was a key feature: although the post-BCCI procedures for “lead regulation” will reduce the risk of another BCCI occurring, we would be foolhardy to believe that this is certain. Beyond this, we need to examine what areas of commercial and social life produce the least rigorous audit requirements: in doing so, we must appreciate that if they are to integrate their funds, launderers need to “unlaunder” them, but there are many people who are quite happy to sell products and services for tax-free cash. Such cash can be spent on a variety of commodities, including illegal ones such as drugs, but also on private school fees as well as more conventional items. They may also gain social credit from friends and relatives in “potlatch¹ ceremonies”, and improve their sex life by donating expensive luxuries to their girlfriends, possibly at the expense of attracting greater attention from the police than is paid to those who lead a quieter and more disciplined life (*see* Gold & Levi 1994; Levi & Osofsky 1995 and some commentary on this in Walker 1995).

What is the nature of “the problem” that regulators are supposed to combat? Although technically, it is a “money-laundering” offence to dispose of one’s own proceeds of crime, much detected activity falling under that label is simple depositing of funds for use, much as one keeps a bank account. It is dramatic in the extreme to describe that as “money-laundering”: unless deposited with BCCI, or—even more dangerously—in banks which are not fully insured by federal or state authorities, it is merely a safer way of keeping cash. This does not mean that we should not seek to control such conduct and use it as a means of investigating offenders:

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A ceremonial festival (among some American Indians of the northern Pacific coast) at which gifts are bestowed on the guests and property destroyed in a competitive show of wealth.

but it is misleading to bring such banal activity as cash deposits within a label that conjures up images of the international repatriation after disguise of origins of source funds.

This brings me to the topic of the role of the regulatory authorities in relation to money-laundering. Some may think that this concern would have been triggered by BCCI, but to the best of my knowledge, that is not so. BCCI was important prudentially as an issue in regulatory co-ordination, and money-laundering for “the wrong people” may have triggered its demise, but was not really a core issue. As I have emphasised, and as the history of Swiss banking illustrates, laundering that is not combined with fraud and/or lending incompetence raises no serious prudential issues for regulators. In this sense, one may argue that morality is divisible, just as people who may happily invest on the basis of “tips” from “people in the know” (aka insider dealing) may balk at “real” fraud. Nevertheless, both the Act and the Regulations give a significant apparent role to regulators which they are understandably puzzling over. (This raises further intriguing issues, for example will detected failure to report suspicions lead to disciplinary action or even de-authorisation of individuals from directing banks or of the banks themselves?)

Scandal may affect banking regulators, who may be impelled by negative publicity to carry out money-laundering compliance reviews, lest they be criticised for inactivity: such reviews (and media publicity) impose considerable compliance costs and divert senior management time to damage limitation. In principle, there is no need for criminal legislation on money-laundering. Compliance can be achieved solely by “reputationally-oriented” self-regulation.

However, this tends to be problematic for marginal institutions—if membership of an association is not compulsory—and for unregulated firms, of which—in many countries—bureaux de change are an example.

Thinking more broadly, it is important to appreciate what proportion of the “criminal market” one is aiming to cover. Major UK Serious Fraud Office and Australian NCA cases demonstrate the ease with which large corporate fronts can transfer vast funds overseas without arousing any suspicion or, if there was suspicion, any reports to the National Criminal Intelligence Service (NCIS). Recent research funded by the British Bankers Association and Price Waterhouse (Gold & Levi 1994) reveals that the area of reporting inter-company transactions has been an almost complete black hole in the system of money-laundering detection, though emerging responses to the Criminal Justice Act 1993 and the Money-Laundering Regulations 1993 suggest that this will be less so in the future: some banks are taking their responsibilities extremely seriously, and have spent large sums of money in enhanced regulation. Whether this money would have been spent without criminal sanctions is questionable.

Shady business operations may be involved in drugs or in terrorism, rather than fraud. The present legal regime in the UK has politically understandable variations in reporting regulations: it is a crime not to pass on suspicions of drugs-trafficking laundering to the National Criminal Intelligence Service, but bankers are merely released from civil or criminal liability for breach of confidentiality if the suspicion relates to fraud (though there may be some residual liability for constructive trust, if the money comes from fraud.) This is similar to the problems experienced by Australian bankers under their legislation. Thus, to cope with the provision, banks have to establish regular reviews of bank transactions, applying agreed criteria to decide whether or not there is “reasonable cause” to suspect the source of the moneys to be terrorism. It is very difficult to do this on a systematic basis. Drugs funds may be expected to be laundered more evenly throughout the country than terrorist funds, but the objective reasonableness test clearly places greater burdens on bank staff who can no longer plead the “thoughtless idiot” line of defence.

Not too much should be expected from money-laundering controls unless they can have some regulatory impact upon the underground banking “sector” and on the sort of moral neutrality evinced by those who participated in the “movement” of moneys for Robert Maxwell. Under the new legislation, would those banks that acted for Maxwell have been expected to look more closely at the beneficial ownership of the payees? And what would their liabilities have been if they had failed to do so? What is the real risk from regulators in terms of de-authorisation from banking if a bank fails to act upon such conduct by its customers? The point is that without some graduated sanctions including fines and suspension from certain business—as we see in the context of disciplinary action by regulators for financial services misconduct—the threat of complete closure of a bank is too great.

The British Criminal Justice Act 1993

The Act makes it a crime for financial institutions to fail to report matters that they “know or suspect” constitute drugs money-laundering, though how this can be proven remains unclear. It remains voluntary to report suspicions of other crimes, such as fraud, so theoretically, it could constitute a defence to argue that the banker suspected tax evasion but thought that the trafficker was “not a druggie type” (provided that the state of knowledge and assistance was not such as to constitute conspiring with the account-holder to commit crime. As noted earlier,

this differential crime-based liability also constitutes a significant problem in relation to terrorist finance.) This emphasises the significance of training.

But how can we identify suspicious transactions? How, for example, are bankers to treat market traders and other substantial cash depositors from the Indian sub-continent? This, after all, is a major drug exporting as well as arms trafficking region. Market traders are often viewed as being unlikely to declare all their income to the revenue, and it is very difficult to verify the genuineness of the levels of trade that correspond to their currency deposits. They often send money back home to support their families in India and Pakistan. At one level, this is unimportant: non-offenders are unlikely to know that their civil liberties have been invaded, and they suffer no direct harm.

It was clear from our analysis that the overwhelming number of disclosures centred around personal accounts, and that even when business accounts were involved, there was usually some personal account also involved in the transactions reported. In other words, the “visibly” suspicious tended to be relatively unsophisticated transactions involving known individuals. A fair summary is that the typical disclosure involves a large total of cash deposited within a short period which is then usually transferred rapidly. The suspicion is usually aroused by the sheer size of the transaction(s) in relation to the known (or believed) financial circumstances of the customer. It would be a mistake to impute to counter staff or senior management a substantial amount of actual knowledge of their customers’ affairs: unless the customer has volunteered a reason for the “unusual transaction” or has been specifically questioned about it, suspicions are triggered by the way that the transaction looks on paper or by the perceived demeanour of the customer.

I would recommend the adoption of the distinction favoured by Interpol (1993) between unusual and suspicious transactions, though I prefer “suspected” to “suspicious”, the latter being too objective a term. A suspicious transaction or series of them is conduct which “because of the circumstances, have reached a level of suspicion sufficient to identify a criminal offence (for example “subject is suspected of money laundering and drug trafficking or other

stated offence”). An unusual transaction on the other hand is one of several financial transactions of an unusual nature but where a criminal offence has yet to be determined.” By this criterion, most disclosures are of unusual rather than suspicious transactions.

One of the greatest strengths of the current operation of the disclosure system is the nature of the working relationship between law enforcement and financial institutions. This special relationship is perceived to be unique to the United Kingdom and all parties are anxious that this relationship is maintained, indeed developed: this relationship is responsible for the escalation in suspicious transaction reports to 15 000 in 1994 (compared to 270 in Australia), and it is anticipated that there will be more. Thus, with a few exceptions, police and Customs officers are just as anxious as bankers for the legislature not to impose further requirements upon financial institutions. In practice, bankers who fall short of active conspiracy are very seldom charged—though there is no occupational breakdown, we have been told that few bankers are among them, but there have been only 65 prosecutions and 27 convictions of anyone for s.24 money-laundering offences between 1986 and the end of 1992—so the threat is more symbolic than real, though bankers are understandably less sanguine about this than are politicians. I have only been given the details of one prosecution of a non-conspiring banker: by contrast, we came across several instances of very questionable banking conduct which has never resulted in a report, even to the Bank of England, let alone a prosecution for failing to report suspicion.

Let us take as an example one case where internal regulation might be described as poor. Subsequent to the issue

of the first set of guidelines by the Joint Money-Laundering Committee in 1990, a man turned up at a branch of a minor bank and opened up a new account depositing several thousands of pounds sterling in cash. The money holdall also held an apparently loaded revolver which accidentally dropped out of it. The cashier unsurprisingly formed a suspicion and reported this event to the manager. For whatever reason, despite what one presumes to have been his own training about money-laundering, he did not disclose it to his head office or to the National Criminal Intelligence Service (NCIS). The customer was subsequently arrested for drug trafficking. When the bank was approached about the customer's financial arrangements, the manager was very open in admitting the circumstances described above. The investigating officers were convinced that as there was no attempt to conceal the facts, the lack of disclosure had to be put down to naivety or ignorance. This interpretation was a generous one: was there not a possibility that he needed that deposit to improve his branch figures? When I asked whether this occurrence had been reported to the Bank of England, the response indicated that there was no desire to disturb the cosy relationship between the police and that retail bank, or indeed the banks in general, which is perceived to be "at risk" from "aggressive policing". Whether the prosecution of such negligence would really alienate the banking community or rather would satisfy those bankers who believe that the guidelines should be enforced is moot: some question the point of (costly) virtue if vice or negligence go unpunished. Suffice it to observe that the obligations imposed under the Criminal Justice Act 1993 ought to clarify managers' minds under such circumstances in the future. Though what liability is there if someone other than a designated "appropriate person" has suspicion transferred to him but then discounts it (or says that he has discounted it)?

Let me mention a further example, to illustrate the weaknesses in the current approach to money-laundering viewed as an international system. No-one is lawfully permitted to take out of Nigeria more than US\$5000 in cash without a very good reason. Yet during 1992 and 1993, Nigerian money-changers were permitted to import and deposit £20-30 million a month in cash at the London branch of a small private

bank, the Banque Française de l'Orient (which is part of the Banque Indosuez group), for exchange into whatever currency they wished and for onward transmission to whatever bank they wished, without arousing any significant UK crime investigation or banking regulatory interest. The Bank of England took the view that the bank was regulated by the Bank of France; the Bank of France considered that this was legitimate money-changing business; and the Banque Française de l'Orient itself (and its parent) were delighted that they had found a lucrative source of business which turned around a poor-performing bank with expensive overheads into a serious money-maker. As regards the "know your customer" principle, they knew their customer—which was a Nigerian money-changer with considerable trade financing business—and (whether or not they ought to have suspected) they claimed that they did not suspect that any of the money was drugs money. The Bank of England did not keep a tally of how much cash the French bank (or, indeed, any bank) took in: the returns to the Bank of England were of "foreign currency bought and sold", so for practical purposes, what was happening was foreign currency arbitrage, and so on. One courier was stopped at Heathrow with US\$2.5 million in cash, en route from Switzerland to Lagos, and was let go when the money-changing firm asserted that he was just transporting money for them as part of their normal business. Because of their concern about money-laundering regulations (and reputational risks), some major banks refused to take the Nigerian money, but the French bank apparently saw nothing wrong with it. (It is not known whether the French bank was aware that the others had refused

the business.) Despite the fact that “UK plc” did not appear to gain anything from enhancing the profits of the French bank, the Bank of England did not intervene. It was only when the haemorrhaging of 5 billion French francs a year from the Nigerian Central Bank impelled them to stop the trade in African francs that the system stopped. Yet it is hard to believe that these transactions were not benefiting the international narcotics trade. It is this kind of example that leads many to conclude that the system of suspicious transaction reporting is only scratching at the surface of money-laundering.

How does this match against the way that anti-laundering provisions have developed? In general, criminal justice only looks backwards at fixing blame, not forwards in strategic thinking. That is why I am glad that Australia has the foresight to bring in organisations like OSCA to ensure that there is some strategic thinking. At one level, there is harmony. The system, especially in the European Union, relies on self-regulation by the banking industry, backed up by the threat of gaol for failing to report suspicions of drugs money-laundering and/or for failing to have proper systems for identifying customers or dealing with suspicions internally. Such liability attaches to “the appropriate person”, a task similar to the American “Corporate Vice President responsible for going to gaol” under the Foreign Corrupt Practices Act. However, the dilemma for banking regulators is that although the bank’s auditors have to report annually on how satisfactory the bank’s anti-laundering systems are, the Bank of England is hardly likely to de-authorise an institution simply because it makes few reports. And the system can be easily overwhelmed by a mass of reports of suspicions, because except for cases that look on their face to be gross, the police and customs do not have the resources to do more than check their databases to see if the subject of the report is known to them already. Thus, it would not be surprising if the number of new cases generated by the system is modest, and that is precisely what we found in our research in Britain. What we found, *inter alia*, was that about 1 in 200 of the reports per year lead directly to the triggering off of new prosecutions or substantial assistance to existing ones. The system probably has the capacity to do better, but this would take new resources which police and customs are unwilling to make available from existing staffing. This is one of the

attractions in some quarters of bringing MI5 and other intelligence agencies onside.

One problem facing those who wish to enhance the “hit rate” for money-laundering reports is that accountants of small to medium companies—those (Maxwell or, allegedly, BHP notwithstanding) which presumably are most likely to be used as laundering vehicles—tend to be general practitioners and therefore unfamiliar with the trading circumstances applicable to individual areas of commerce. Some retail sectors (such as art and antiques, used cars, jewellery, and clothing) have enormous possible gross profit ranges: even a specialist firm would have difficulty in determining whether the accounts presented for such trades are realistic. When reviewing restaurants, arcades, casinos, and “adult entertainment”, the accountant enters a realm which must surely lend itself to financial magicanship of the highest order. What is the expected turnover and gross profit of a “hostess” bar where drinks may be sold at ten times their wholesale value? This is relevant because unless customs or revenue inspectors or the police are conducting a surveillance operation—which is resource-intensive and costly—the launderer is producing a higher than normal level of business. But it is seldom obvious what the level of trade ought to be, and thus launderers can bribe business people or take over their businesses as “silent partners” and merge the cash into the ordinary trading patterns. Anti-laundering measures must therefore look for higher rather than lower than normal trading.

I was told of the suspected operation of a major drug trafficker in a mid-sized English town. The suspect controlled a large number of slum properties. These

were largely occupied by low paid and “down and outs” who would claim that they were paying high rents (that is most of their benefits), when it was fairly clear that such rents were unrealistic. The owner was believed to be declaring excessive returns but it was impossible—at least without expensive surveillance—to disprove his accounts, as his tenants were an ever shifting but loyal group. The net result is that someone who is in fact a drug trafficker is an apparently model citizen who is promptly paying his mortgage loans and building up an exemplary reputation with financial institutions as a property developer with accumulating assets. This would be an example of “depositing” by intermingling, followed by immediate “integration” without the need for “layering”: in my view, this is a not untypical illustration of the use of the property sector for money laundering.

Although most of the transactions took place in The Netherlands, a large recent case involving the wholesale supply of Ecstasy tablets from Holland to the UK netted the leaders some A\$50 million profit, over a third having been spent on production, personnel, transport, and communications. The organisation employed someone to exchange the funds, mainly sterling. Using a false name and false identity papers, he would periodically visit an affiliate of a prominent Dutch bank to negotiate about the exchange rate. The bank accepted this man as a very respectable businessman who worked a lot with large amounts of cash. The organisation used a foreign expert in corporate legal entities in tax havens and, with the help of auditors and lawyers, he set up limited companies in England, Jersey, the Isle of Man, Gibraltar, Ireland, Hong Kong, Panama, and Delaware, USA, few of which were registered with their local Chamber of Commerce or tax office. The local registrants acted as nominee owners. Although the shell companies were not allowed to do business in the countries where they were incorporated—at least not without paying administration fees and taxes—they could open bank accounts, and much of the money was distributed around in this way. The investigation indicated that the local representatives were not aware of the source of this money. Much property was purchased in The Netherlands and then rebuilt for cash to luxurious standards. Indeed, some of the cash was sent from the overseas companies to Dutch public

notaries who were involved in the purchasing of the real estate. A Dutch administration and tax consultancy office looked after the businesses as a whole, and administered the artificial schemes. Every month, a Dutch firm delivered batches of goods to her foreign enterprise subsidiary for exorbitant prices, resulting in a rising business debt and enormous stocks at the subsidiary. The manager of the subsidiary was induced to take a loan from a foreign investment company (established by the traffickers) for repayment of the business debt. In this way, the drugs money was channelled back and used as trading capital in legal activities. The Dutch administrators apparently never appreciated that the capital deficiency and vast loans which were not underwritten or covered by any official loan agreement was either unusual or suspicious. When arrested, the organisers had begun to set up artificial trading firms to exchange the money. No suspicious transaction reports were filed in the UK or The Netherlands.

On a different tack, taking the current and past NCA workload of corporate cases, how many of the transactions appeared in the AUSTRAC reports and were treated as significant indicators of crime? And just what would anyone have done if Noriega had transferred huge funds into Australia when he was still President of Panama?

Looking over the horizon a little further, what are offenders likely to want to do with their money in the future? Well, one possible response to tougher measures is that they will simply spend the proceeds of crime faster than in the past. Their pensions may not be as great as they want, but they could just have a good time, lots of holidays, and so on. Peter Grabosky (1995) has recently pointed out the unintended consequences of a lot of

criminal justice policies, and one net effect of anti-laundering measures may be to reduce offenders' savings ratios and increase their local popularity. That would mean less investment, with consequent reduction in the menace of "organised crime taking over commerce". Frankly, most offenders need no such encouragement at the moment anyway. But we would not necessarily identify that as an effect, since the increased volumes of expenditure—assuming it was recorded!—would probably not be noticeable overall.

Another thing they might do is to develop a greater interest in cybercash. This partly depends on what, if any, limits are set: customer identification requirements would probably destroy the system by making it unwieldy, but could be circumvented by "smurfing". But it also depends on trust elements. Not only ordinary citizens but also criminals may fear interception and diversion of Internet transfers by computer hackers. By comparison, traditional methods of Hawala or Hundi banking offer the reassurance of social and family networks whose members can be kidnapped, for example, should they misbehave, but equally importantly, they offer trust and flexibility. As Chinese and other ethnic groups spread across the world, we may expect better global coverage.

What else they do depends on what their objectives are. There are three step-objectives that criminals have:

- to commit the crime and get away with the proceeds without getting caught on the spot;
- to avoid arrest or conviction later;
- to retain the funds for later use, by avoiding the tracing of proceeds.

If they are going to spend the money very soon, or are going to save it in a wall safe, and so on, there is no problem. If their objectives are to transfer funds abroad, they can use transfer pricing through beneficial ownership of several corporations, whether the transactions are real or fictitious. Generally, little supervision occurs over the purchase of businesses other than investment services and banking.

Some executives—we cannot know how many—would be more than happy to sell their businesses for cash which they might not declare to the Tax Office or to their ex-wives in divorce settlements: they would also sell their homes to offenders for part-cash, with nominee registration

of ownership. If AUSTRAC is monitoring wire transfers to and from tax haven countries (which may be puzzling but hard to investigate thoroughly), the offenders can always fly the cash out and deposit it in cash there, though they increase the risk of interception and cash confiscation. But in this shrinking world, dominated by FATF instructions, there are fewer and fewer countries with no regulations and serious banking secrecy, especially where drugs are reportedly involved.

Another important factor is informational asymmetries among offenders. Many criminals are never going to be smart enough to think up sophisticated schemes themselves, though with the imprisonment of some white-collar criminals and, who knows, sophisticated launderers caught out in the fall-out from the New South Wales police corruption scandal, they may be able to learn or intimidate the white-collar criminals into passing on some secrets. Or they might be able to find some lawyers or tax-planning accountants who can help them with their schemes, especially if times get rough in the professions and they have to accept marginal business and dodgy clients that they would fight shy of when times were prosperous. Also, with more "downsizing" and "de-layering" in the financial services sector, and increased insecurity among bank employees, it may be easier to find a banker willing to be corrupted than in the old days. The rise in internal fraud among bank staff in the UK and US (and, I would assume, Australia) is an indicator of increased susceptibility to corrupt offers and reduced leverage by employers. Moreover, with casinos opening up all over Australia and even in New Zealand, there are more chances of bank employees and

other professionals getting heavily into debt, with criminals being ever-willing to be generous with their advice to the needy, or strong arms should they be uncooperative. So professionals can “park” money in their clients’ accounts (provided they do not gamble it away), though it remains easier if the money comes in the form of electronic transfer rather than cash, since banks may balk even at lawyers depositing large amounts of cash: this favours the fraudster or the drugs trafficker using front companies. There is also a premium on professionals as investment intermediaries, matching up criminals with cash alongside their clients in need of investment funds.

Cybercash is doubtless another prospect, though I doubt if in the short or medium term, it will become all that popular as a proportion of funds laundered. It is, after all, merely an electronic form of the traditional Hundi or Hawala or “chop” banking practised in South East Asia as a way of evading exchange control, developing trust networks, and so on. In the final analysis, although it may be true that, as one fraudster said to me when I asked him what the Code of the Underworld was “Do your friends first: they’re easier”, most laundering networks operate on the basis of trust and reciprocation. In this sense, they are more socially advanced than nation-states!

There are a series of quite big issues that remain:

- How do we generate the kind of resources necessary to follow through reports that are made? (that is how can we tell whether our suspected positives are false or true?)
- Is there any way—for example, neural networking—in which we can generate a “reasonable” number of plausible suspicions from inter-company funds transfers (that is how can we generate true positives from current negatives?)
- Are there any major areas that we should try to regulate that are not currently regulated (for example solicitors’ clients accounts, car dealers, casinos), and how likely is it that very large sums could be laundered through those media?
- How can we regulate the underground banking system or at least monitor its impact?

All of these have a cost, whether to the public or the private sector. One estimate for the cost to Australia was A\$30 per account. The fact is that suspicion-based techniques are going against the technological stream of banking, which has less and less human observation outside of over-the-counter deposits: hence the attractiveness of using neural networks and knowledge-based systems to develop suspicions electronically. Citibank deals with roughly US\$100 trillion a day. How many bankers have any idea what their customers do, particularly those commercial customers who do not need to borrow money, because they are merging the cash from crime into their businesses. The anti-laundering agencies should be looking at businesses that do not borrow from their banks, as well as at executives who are drawing large sums out in cash because they are stealing it from the company.

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