

Combating Money Laundering and the Financing of Terrorism

A Comprehensive Training Guide





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Workbook



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Workbook



THE WORLD BANK
Washington, D.C.

© 2009 The International Bank for Reconstruction and Development / The World Bank
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1 2 3 4 12 11 10 09

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ISBN: 978-0-8213-7569-3
eISBN: 978-0-8213-7570-9
DOI: 10.1596/978-0-8213-7569-3

Library of Congress Cataloging-in-Publication Data

Combating money laundering and the financing of terrorism : a comprehensive training guide.
p. cm.

“A World Bank and International Monetary Fund publication.”

Includes bibliographical references.

ISBN 978-0-8213-7569-3 -- ISBN 978-0-8213-7570-9 (electronic)

1. Money laundering. 2. Terrorism--Finance. 3. Terrorism--Prevention. I. World Bank.

II. International Monetary Fund.

HV8079.M64C56 2009

332.1068'4--dc22

2009009952



About the Training Modules

Combating Money Laundering and the Financing of Terrorism: A Comprehensive Training Guide is one of the products of the Capacity Enhancement Program on Anti-Money Laundering and Combating the Funding of Terrorism (AML/CFT), which has been co-funded by the Governments of Sweden, Japan, Denmark, and Canada. The program offers countries the tools, skills, and knowledge to build and strengthen their institutional, legal, and regulatory frameworks to successfully implement their national action plan on these efforts.

This workbook is one of the following training course modules:

MODULE 1: EFFECTS ON ECONOMIC DEVELOPMENT AND INTERNATIONAL STANDARDS

Module 1 introduces the fundamental concepts of money laundering and terrorist financing; their implications for development from economic, social, and governance perspectives; and existing international standards and key international players in the fight against money laundering and terrorist financing.

MODULE 2: LEGAL REQUIREMENTS TO MEET INTERNATIONAL STANDARDS

Module 2 covers satisfying the international standards on AML/CFT and the legislative action that this usually requires. In exploring those implications and possible legislative needs, this workbook answers the following questions:

- What are the international conventions and treaties that deal with AML/CFT?
- What legal and institutional arrangements satisfy international standards?
- What are the legal issues related to international cooperation?
- Where can one find model laws?

MODULE 3A: REGULATORY AND INSTITUTIONAL REQUIREMENTS FOR AML/CFT

Module 3a introduces the regulatory and institutional requirements for AML/CFT and addresses the following issues:

- Responsibility for effective supervision
- Institutions subject to AML/CFT compliance
- The principal regulatory and institutional requirements
- Internal audit and compliance programs
- Professional associations and their roles
- Enforcement of AML/CFT requirements

MODULE 3B: COMPLIANCE REQUIREMENTS FOR FINANCIAL INSTITUTIONS

Module 3b considers AML/CFT from the perspective of a bank or other financial institution and provides the necessary information for employees of such institutions who deal with a wide range of AML/CFT issues. It also provides additional inputs for compliance officers of financial institutions. A separate section of the workbook deals with some issues that are more pertinent to compliance officers.

MODULE 4: BUILDING AN EFFECTIVE FINANCIAL INTELLIGENCE UNIT

Module 4 examines the financial intelligence unit (FIU) and its role in the national AML/CFT regime and addresses the following issues:

- Basic concepts of the FIU, suspicious transaction reports, and how they fit into AML/CFT regimes
- Building FIU functionality
- Coordination and cooperation at the policy and operational levels
- Skills, integrity, and security of FIU personnel

MODULE 5: DOMESTIC (INTERAGENCY) AND INTERNATIONAL COOPERATION

Module 5 introduces the importance of interagency and international cooperation in the fight against money-laundering activities.

MODULE 6: COMBATING THE FINANCING OF TERRORISM

Module 6 focuses on combating the financing of terrorism (CFT), a new area for many countries compared to the anti-money laundering (AML) effort. The workbook starts with a brief review of the CFT issues raised in the previous workbooks, addresses some general questions related to CFT, and then discusses the FATF Nine Special Recommendations on Terrorist Financing in combination with the international obligation of states.

MODULE 7: INVESTIGATING MONEY LAUNDERING AND TERRORIST FINANCING

Module 7 introduces the practice of investigating activities that involve laundering of the proceeds of crime and discusses investigations of terrorist financing activities.

Acknowledgments

The initial work for this training program was provided by Emiko Todoroki and Azuma Miura, the World Bank. Module 3a was further written and developed by Manuel Vasquez, International Monetary Fund. The draft was reviewed by John McDowell, the World Bank and Thomas Grahn, Financial Supervisory Authority of Sweden. Pedagogical guidance was provided by Sheila Jagannathan, and peer review was conducted by Emiko Todoroki, the World Bank. In 2007 and 2008, updates and review were provided by Klaudio Stroligo, Cedric Mousset, Paul Allan Schott, and Emiko Todoroki, the World Bank. Key sources for this workbook include Financial Action Task Force on Money Laundering, “The Forty Recommendations” (2003) and “Special Recommendations on Terrorist Financing” (2005); and Paul Allan Schott, *Reference Guide to Anti-Money Laundering and Combating the Financing of Terrorism, Second Edition*, the World Bank, 2004.

CAPACITY ENHANCEMENT PROGRAM ON ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM

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Composition: Precision Graphics, Champaign, Illinois

Investigating Money Laundering and Terrorist Financing

Module 7 introduces the practice of investigating activities that involve laundering of the proceeds of crime. Module 7 will also discuss investigations of terrorist financing activities. The following key issues will be addressed:

- 1. Basic concepts in investigations of money laundering and terrorist financing** **3**
 - 1.1 What is money laundering? 4
 - 1.2 What is terrorist financing? 4
 - 1.3 How do money laundering investigations differ from terrorist financing investigations? 4
 - 1.4 Who investigates money laundering and terrorist financing cases? 5

- 2. What are the sources of information for money laundering and terrorist financing cases?** **6**
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3.3 Special investigative techniques [27](#)

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This module covers the following Recommendations:

- Financial Action Task Force (FATF) Recommendations 26, 27, 28, 30
- FATF Special Recommendation IX

All of these deal with institutional issues relevant to money laundering and terrorist financing investigation.

At the end of Module 7, you will be able to

- develop leads to a money laundering or terrorist financing case;
- plan a criminal investigation of money laundering or terrorist financing;
- identify evidence to be collected in a criminal investigation of money laundering or terrorist financing;
- describe the variety of investigative techniques that can be used to gather evidence of money laundering or terrorist financing; and
- identify various ways to request and obtain evidence from banks, businesses, and individuals in a foreign country.

1

Basic concepts in investigations of money laundering and terrorist financing



How much do you know?

QUESTION 1. What is the main difference between money laundering and financing of terrorism in terms of their sources of funds?

QUESTION 2. Do international standards require countries to investigate money laundering and terrorist financing cases?

- a) Yes, the FATF and international organizations require countries to do so.
- b) No, there are no specific requirements in this matter.

QUESTION 3. Name two types of reports that the financial intelligence units (FIUs) receive from financial institutions.

QUESTION 4. Name two sources of information that can lead to the opening of a money laundering investigation.

1.1 What is money laundering?

Money laundering is a part of most criminal activities that generate profits (or proceeds) for criminals. Most criminals and criminal organizations, regardless of their crimes or structure, have three objectives related to the proceeds of their illegal activity. These are (1) to pay expenses connected to their illegal activity; (2) to invest their proceeds in furtherance of their illegal activity; and (3) to enjoy the profits of their criminal activity. Laundering illegal funds accomplishes these goals.

Money laundering by a criminal or criminal organization can expose the criminal to investigation and prosecution. It also can expose the higher echelons of a criminal organization—those who make the profit but are not closely involved in the predicate criminal activity

1.2 What is terrorist financing?

Terrorism needs money to operate. Terrorists need funds to purchase weapons, equipment, supplies, and services. Financing for terrorist activity may come from public (government-sponsored terrorism) or private (individuals, businesses, charities, nongovernmental organizations [NGOs]) sources, often in the form of many small donations. Funds may be generated from legal or criminal activity.

Activities to prevent and deter terrorist financing activities are varied and many. The FATF 9 Special Recommendations on Terrorist Financing suggest some methods of combating those activities. Governments are encouraged to put the recommendations into effect.

This module will discuss techniques to investigate the crime of terrorist financing.

1.3 How do money laundering investigations differ from terrorist financing investigations?

Investigations of terrorist financing and money laundering are similar in that both require the gathering of information on financial transactions. That information may come in the form of financial records obtained from domestic and international sources or from the testimony of witnesses.

In other ways, the two types of investigations differ. In money laundering cases, money often follows the path from the criminal activity to the criminal, and often into the purchase of assets (e.g., cars, jewelry, or homes). In terrorist financing cases, monies are traced from their origin (e.g., criminal activity or donations) to a terrorist organization, and then to terrorists or terrorist cells who use the funds to support themselves and/or to carry out their terrorist activities.

1.4 Who investigates money laundering and terrorist financing cases?

Each country determines by law or common practice the authorities that are empowered to conduct money laundering investigations. Some countries have formed special “financial investigative units” to investigate money laundering cases and other financial crimes. Others have authorized their police to investigate money laundering. The police, in turn, assign the investigations to their fraud or financial crime units. Still others have state security officers who investigate financial crimes, including money laundering. In some countries investigating magistrates pursue money laundering crimes. In others, the agency charged with investigating the crime that generated the criminal proceeds (such as a drug or fraud agency) also has the authority to investigate money laundering.

Responsibility for investigating crimes of terrorist financing also varies by country. Some countries have formed task forces composed of representatives from the police, state security, customs, immigration, and the FIU to work together to investigate terrorist financing. Others have given the responsibility to the police or state security agencies.

Several of the FATF 40 Recommendations deal with law enforcement:

FATF Recommendation 27 states, in part, “countries should ensure that *designated* law enforcement authorities have responsibility for money laundering and terrorist financing investigations.” For more information on FATF Recommendation 27, see Appendix B.

FATF Recommendation 30 states, in part, “countries should provide their competent authorities involved in combating money laundering and terrorist financing with adequate financial, human and technical resources.” For more information on FATF Recommendation 30, see Appendix C.

The choice of whether to create a new investigative unit to pursue crimes of money laundering or terrorist financing, or to assign such investigations to an existing investigative unit or police force, is a decision that each country must make. In each case, the unit needs educated, trained, and dedicated investigators who can conduct complex financial investigations. In addition, it must be adequately funded.

2

What are the sources of information for money laundering and terrorist financing cases?

Many different sources can provide information for use in initiating or pursuing money laundering investigations:

- FIUs, or anti-money laundering units—the primary sources in most countries
- Criminal cases, open or closed
- Informants
- Cooperating defendants in civil or criminal cases
- Law enforcement agencies
- Banks and financial institutions
- Cross-border operations from any of the above

Sources of information for terrorist financing investigations are similar to those for money laundering investigations. An additional source for terrorist financing investigations may be intelligence gathered by police or other authorities on terrorist groups and their associates. As you read the material that follows, keep in mind that much of the information on money laundering investigations also applies to terrorist financing investigations.

In conducting investigations of money laundering, terrorist financing, and underlying predicate offences, FATF Recommendation 28 stresses that competent authorities should be able to obtain documents and information for use in those investigations and in prosecutions. For more information on FATF Recommendation 28, see Appendix D.

2.1 Financial intelligence units

FIUs **receive** (and, as permitted, request), analyze, and disseminate to competent authorities financial information that the financial institutions and designated non-financial businesses and professions (DNFBPs) are obligated to disclose in the form of suspicious activity reports or suspicious transaction reports (SARs/STRs).

FATF Recommendation 26 specifies that each country should establish an FIU for the purpose of gathering and analyzing information on possible financial crime and other abuses of the financial system. The FATF also encourages FIUs to join the Egmont Group, which is an association of FIUs formed for cooperation, coordination, and mutual assistance. For more information on FATF Recommendation 26, see Appendix E.

After analysis, the FIU forwards SARs/STRs or case referrals to investigating agencies for review. Under the guidelines of the Egmont Group, and according to FATF Recommendation 40, the FIU also may request information from FIUs in other countries. It may request other FIUs to search their databases for information on a suspect and on a transaction(s). In any investigation of a financial crime, such a database search should be requested.

FIUs prepare reports from information they gather from many sources. Law enforcement authorities should review those reports carefully for information that may warrant initiation of a money laundering investigation. A detailed discussion of FIUs and their operation is contained in Module 4 of this course.

How do FIUs handle referrals?

Review and consideration of FIU referrals

FIUs receive reports of suspected money laundering, terrorist financing, or financial crimes from financial institutions and DNFBDs. The FIU queries its own, government, and commercial databases about the persons, businesses, or entities mentioned in the report. The FIU may also try to determine if any of the subjects has a criminal record by querying judicial or police records.

After compiling all the information from databases and other sources, the FIU prepares a report that includes an analysis of the transaction(s) reported. If the information is available, the FIU will analyze money movement between banks or bank accounts, companies, individuals, and countries. If allowed by the local law, the FIU may also decide to postpone or suspend a suspicious transaction in order to analyze the transaction and confirm the suspicion.

The investigator must review the FIU's report for information that might cause the law enforcement agency to open a criminal investigation on the subject(s) of the report. Certain circumstances are especially likely to lead to the opening of an investigation:

- The subject of the report has a prior criminal record, and the amount of the reported financial transaction is large or very unusual.
- A suspected intermediary—lawyer, accountant, or financial institution—is involved in the transaction.
- The transaction appears to have been made in the name of someone other than the ultimate beneficiary, indicating an attempt to avoid scrutiny by authorities.
- The transaction is of a higher value than might be expected from the individuals concerned, considering their income or business.
- The investigator already has intelligence about the subject of the SAR/STR (or other report).
- The FIU referral details multiple reports of suspicious activities and/or transactions from one or more reporting entities.

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Many factors may go into the decision to open a criminal investigation, but a report (or referral) from an FIU that reinforces or confirms information already available to a law enforcement officer can provide a good reason to open a money laundering investigation.

Investigators should keep an open mind when reviewing an FIU referral, using their experience and intuition to see beyond the bare facts of the referral for indications of criminal activity or terrorist financing.

Often an FIU referral may not relate to information already held by an investigative agency. It can be a good way to identify criminal activity not uncovered previously.

A document prepared by the Egmont Group titled “*100 Cases from the Egmont Group*” details money laundering cases that began as referrals to law enforcement from FIUs worldwide. Since it was prepared before September 11, 2001, the document does not relate to terrorist financing.

Financial transaction reports can be a good source of intelligence for any investigation—for example, the details of the address provided at the time of the transaction can help investigators locate a suspect.

The reports that an FIU receives can be grouped into such categories as:

- SARs/STRs
- Currency transaction reports (CTRs)
- Currency transaction reports by casinos (CTRCs)
- Wire transfer reports
- Cross-border reports

The above list of categories is not exhaustive. Some of the reports are discussed in the following sections.

Suspicious transaction or activity reports

Many countries now require financial institutions and DNFs to report to the FIU suspicious financial transactions, activities, and other transactions, such as significant cash transactions and wire transfers (see module 4). Although the form and content of the report differ from country to country, SARs/STRs generally are excellent leads to possible money laundering, terrorist financing, or other financial crime.

The investigator or analyst reviewing the SAR/STR should first of all look for the following items that raise the intelligence value or investigative potential of a given STR:

- References to known criminals, or to individuals or companies that appear in numerous SARs/STRs
- Reports of the movement of money to countries that are sources of or transit locations for narcotics, or that are international tax havens or money centers

- References to financial activities that are known to be used in money laundering or financial fraud
- Reports from different financial institutions in the same area or region that detail similar financial activity, but by different individuals
- Conflicting data on individuals or entities mentioned in the SAR/STR, or data conflicts between SAR/STRs
- Reports of deposits of domestic or foreign currency to business or individual accounts that are not justified by the size or nature of the business

Currency transaction reports

Many countries require financial institutions and DNFBPs, to file with the FIU a CTR whenever they make cash transactions over a set monetary threshold—such as \$10,000 U.S. dollars, 50,000 Mexican pesos, or 10,000 euros. Analysis of CTRs can identify individuals and businesses that are involved in financing of terrorism or money laundering activities. The investigator or analyst reviewing the CTR should look in particular for the following items that raise the intelligence value or investigative potential of the CTR:

- References to known criminals, or to individuals or companies that appear in numerous CTRs
- Reports of the movement of money to countries that are sources of or transit locations for narcotics, or that are international tax havens or money centers
- CTRs that report financial activity that is a known money laundering technique or financial fraud activity, such as the exchange of small bills for large ones
- Reports from different financial institutions in the same area or region that detail similar financial activity, but by different individuals
- Conflicting data on individuals or entities mentioned in the CTR, or data conflicts between CTRs, indicating an attempt to avoid scrutiny
- Reports of transactions by businesses that are not large enough to justify the amounts deposited
- Reports of individuals who attempted to dissuade the bank or financial institution from filing the CTR

Currency transaction reports by casinos

Some countries require that casinos report to the FIU large currency transactions made by their customers. In the United States, for example, cash transactions within the casino of more than \$10,000 must be reported. Qualifying transactions include buying chips for cash, redeeming chips for cash, paying off a line of credit with cash, or receiving winnings in cash. Analysis of these reports, known as CTRCs, can identify individuals who may be involved in money laundering or other financial crimes. The investigator or

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analyst reviewing the report should look for the following items that raise the intelligence value or investigative potential of the CTIRC:

- References to known criminals or their associates, or to individuals or companies that appear in numerous CTIRCs
- References to financial activities that are known to be used in money laundering or financial fraud, such as the exchange of small bills for large ones
- References to payments made in cash below the designated threshold if such transactions appear to be linked
- Reports on clients who just pretend to play in casinos by purchasing chips in large amounts and then after playing for some time with chips in small amounts they exchange chips back to currency

If investigators know that the subject of a potential investigation is a frequent traveler to another country, they should have their FIU contact its counterpart in the other country to request a database search on the subject. The search should include CTIRCs.

Although many countries do not require casinos to file threshold reports, every casino maintains records. If your investigation indicates that the subject of your investigation has gambled at casinos, records relating to the subject should be obtained. If an employee at the casino can be cultivated as an informant, valuable information may be obtained on criminals who are big gamblers.

Casinos have been included because they are a cash-intensive business and often perform functions similar to financial institutions. For example, they take deposits, extend credit, issue checks, and make wire transfers for customers. Casinos have been involved in many money laundering cases, and criminals are frequent customers. Information from casinos can be very valuable to a criminal money laundering case.

Knowledge check

QUESTION 5. What types of records do casinos maintain?

- a) Casinos maintain records of gambling activity, including gambling histories of “high rollers,” who may receive complimentary rooms, meals, and airfare.
- b) Casinos maintain records of payouts made by check or wire transfer.
- c) If required by local law, casinos maintain records of chips purchased and cashed in, over a certain amount.
- d) All of the answers are correct.

QUESTION 6. Are casinos required to file SARs/STRs?

- a) Yes
- b) No
- c) It depends on national laws and regulations

2.2 Criminal cases

Before you begin this section, answer this question.

QUESTION 7. Can information obtained from a closed criminal case or an open criminal investigation be used to start a money laundering investigation?

- a) Yes
- b) No
- c) It depends on the law of the country

In many countries, information obtained from ongoing criminal investigations (see the subsequent box for more information) or from the files of closed cases (see the subsequent box for more information) can be used to initiate or pursue a money laundering investigation. Financial information obtained from financial institutions, businesses, and witnesses in criminal investigations can be leads to evidence of money laundering activity.

Information from an ongoing criminal investigation

The most direct way to identify money laundering is to follow financial leads in an ongoing criminal case. If the crime involves money and financial transactions, the buying and selling of contraband (narcotics, illegal guns or weapons, stolen property), or criminal services (abuse of power, insider trading, public corruption), investigators should “follow the money.”

Every interview you do in your investigation should include questions about money: “Who paid you?” “Who collected from you?” “Who paid the expenses?” “Who took the money to the bank? Was the person an attorney or an accountant, and if so which one(s)?” “Who counted the money?”

After a few such interviews, a picture of the proceeds of the crime should begin to emerge. You will learn who receives the money, counts it, banks it, and launders it.

Information from closed investigations

Another source of a money laundering investigation is to open a money laundering investigation of a known criminal who is involved in financial crimes. If attempts to prosecute a known criminal failed in the past, conducting a financial investigation of that individual financial activity might make a successful money laundering case.

During the investigation, follow the money! Ask everyone you talk to about the money: Who pays whom? Who collects from whom? Who counts? Who is the banker? Who is the lawyer? Who is the accountant? Where does the money come from? Where does the money go?

WHY ARE OPEN CASES SUCH GOOD SOURCES OF INFORMATION FOR INVESTIGATIONS INTO MONEY LAUNDERING AND TERRORIST FINANCING?

Because most crimes are committed for money, the collection, transfer, and payment of money are part of most criminal activities. Gathering evidence about the movement of money can lead to evidence of money laundering. That is why open criminal cases are excellent sources of information for a money laundering investigation.

Knowledge check

QUESTION 8. What is meant by the phrase “follow the money”? Provide your answer in the space below.

2.3 Informants

QUESTION 9. Can information obtained from an informant be used to initiate an investigation?

- a) Yes
- b) No
- c) It depends on the law of the country

Informants can provide valuable information in a money laundering investigation. An informant is a person who possesses direct or indirect knowledge of criminal or other unlawful activity and who makes that information available to a representative of law enforcement. Some informants may wish to *remain anonymous* and may not want to testify in future criminal proceedings. Some informants provide information to law enforcement officers on an ongoing basis.

The potential role of informants in money laundering investigations should not be underestimated. Informants can reduce the time spent on an investigation. Informants can give investigators valuable insight into the inner workings of criminal organizations and provide leads that would not have been available through other investigative means. They can even be used in undercover situations, where warranted. For example, an informant may be a member of the criminal group under investigation or a friend of the group's members. In such cases, the informant can be used to introduce an undercover police officer to the group so that the officer can collect evidence of criminal activity.

The useful tips in this matter are:

- Thoroughly interview informants who have information on the movement of money from criminals and criminal organizations.
- Be sure to establish the parameters of what the informant can or cannot do to ensure the integrity of the investigation.
- Develop all information provided by the informant to the fullest extent possible.
- Cross-check it with other sources of intelligence.

How to know your informants and be aware of their motives

When cultivating informants, it is important to consider motives. An individual's motives for becoming an informant may be an indicator of reliability or credibility. Generally, an informant's motives will fall into one or more of the following categories:

- *Monetary gain.* The informant may be looking to be rewarded for participating in an investigation.
- *Revenge.* The informant may be attempting to get even with someone by providing information in an investigation.
- *Altruism.* The informant may be concerned about the well being of others.
- *Self-aggrandizement.* The informant may seek to present an exaggerated image of himself or herself.
- *Personal gain.* The person is seeking some sort of personal gain in exchange for his or her cooperation, such as the elimination of his or her competition.

Other motives might include a fascination with law enforcement or the pursuit of some kind of thrill.

—continued

Be aware that an informant may be providing false or misleading information. At times, it may be necessary to verify an informant's credibility by talking with other law enforcement officers or departments who know the individual.

At times, informants may be asked to obtain specific information needed for an investigation. Be sure to know and respect local laws and practices when managing informants. Failure to do so may compromise your investigation.

2.4 Cooperating defendants

Like informants, cooperating defendants can be an invaluable tool in developing leads or otherwise assisting in investigations. Cooperating defendants are persons who have been convicted or are facing legal action for having committed a crime. Their primary motive is usually personal gain. They are looking to “cut a deal” or obtain leniency in exchange for providing information or testimony relative to criminal activity. Like informants, they can offer insight into the criminal operation that may not be available through other investigative means.

In a money laundering investigation, the cooperating defendant can provide valuable information on the movement of money to or from a criminal organization and testimony about the extent of the organization's money laundering. He or she also may be able to identify additional conspirators and professionals, attorneys, or accountants, who have assisted in any money laundering scheme. Finally, such an individual can be useful in identifying assets derived from criminal ventures and in interpreting ledgers, books, and other records maintained by the criminal organization.

2.5 Law enforcement agencies

Other law enforcement agencies are valuable sources of information that can lead to the opening of a money laundering investigation. Narcotics enforcement agencies and customs agencies, in particular, may have valuable information in their case files. Often they are the first to recognize criminal activity linked to financial transactions. Examples of some other agencies are:

- State security services
- Anticorruption agencies
- Tax or other financial police.

We have discussed some of the agencies in the following boxes.

Narcotics enforcement agencies

Narcotics enforcement agencies can be a valuable source of information for money laundering investigations. Because narcotics and money laundering go hand in hand, these agencies can provide raw data or intelligence on narcotics organizations and enterprises. In some instances, they can provide leads to money laundering activities. In checking with the narcotics agency, money laundering investigators may discover that their subject is also a narcotics target. Narcotics agencies can provide information about handlers of narcotics. They can also provide criminal histories, records, and intelligence on users, pushers, and suppliers of narcotics.

Customs agencies

Customs is another law enforcement agency that can be utilized in your money laundering investigation. Customs agencies monitor imports and exports of goods and services across international borders. In many countries, they also have jurisdiction over movements of cash and “bearer negotiable instruments”—financial instruments payable to the individual holding the instrument. Examples of bearer instruments are checks or other negotiable instruments payable to “the bearer,” rather than a named individual or company.

Among the types of information available through customs agencies are:

- Declarations filed by persons entering the country
- Listings of customs brokers
- Records of official importers and exporters
- Records of persons transporting currency or other monetary instruments
- Records of shippers’ export documents
- Import/export records

“ For discussion ”

Country laws differ, but generally, a defendant may cooperate with government officials and provide information on codefendants and other criminals. In your country, may a defendant cooperate with investigators and prosecutors and provide information on codefendants or other criminals?

In your country, do the narcotics and customs agencies have a role in fighting money laundering?

In your country, can the narcotics and customs authorities forward information about possible money laundering activity to the FIU or agency that investigates money laundering crimes? Most countries do allow their narcotics and customs agencies to share information with the FIU and money laundering investigators.

2.6 Referrals from banks and other financial institutions

Another source of a potential money laundering investigation is referrals from bank and financial services regulators. Regulators of banks and other financial institutions are responsible for ensuring that financial service providers comply with pertinent laws and regulations. They examine financial institutions for safety and soundness, assessing compliance with regulations related to credit practices, liquidity, capital adequacy, and operational risks in a wide range of areas. Examinations shall also include checks of institutions' anti-money laundering and combating the financing of terrorism (AML/CFT) programs.

Most countries require financial regulators to share information about potential money laundering or financing of terrorism with investigators. The FATF encourages countries to promote cooperation in money laundering and terrorist financing matters. For example, in Europe, the third European Union Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing in Article 25 requires member states to ensure that, if in the course of inspections carried out in the obliged entity by the supervisory authorities, or in any other way, these authorities discover facts that could be related to money laundering or terrorist financing, they shall promptly inform the FIU. In your country, can regulators of financial institutions forward information on possible money laundering matters to the FIU?

Information uncovered through examination

In the course of their work, examiners are also likely to do "transaction testing" in risk areas, such as account deposits, wire transfers, loan portfolios, transactions or business relationships with politically exposed persons, correspondent banking relationships, and private banking.

Some examples of information that could be uncovered during transaction testing:

- Suspicious wire transfer activity, such as a high volume of transfers, or simultaneous transfers
- Evidence of account "structuring" not readily observed in daily banking activity
- Incomplete account information, such as omitted identifiers of nationality
- Questionable loans and loan practices
- Early payoffs of large loans
- Cash reserves at a level inconsistent with banking volume
- Transactions with shell banks

2.7 Cross-border operations

QUESTION 10. Can customs, immigration, and state security agencies detect and deter money laundering and terrorist financing activity? Provide your answer in the space below.

Money launderers often smuggle currency, financial instruments, precious stones, or metals from the country in which the crime was committed to another country. The currency or financial instruments are then placed in the other country's financial institutions, such as banks.

The detection of currency smuggling by customs or immigration authorities at borders and entry ports can lead to or assist money laundering or financing of terrorism investigations.

Each country may have different agencies responsible for border control activities and investigations. Each country must decide which agency will investigate illegal cross-border movement of funds related to money laundering or terrorist financing.

Border operations to detect currency smuggling at ports of entry

Many countries' customs services, immigration services, and state security departments conduct enforcement programs at ports of entry to identify currency smuggling operations. Countries that require currency and monetary instruments to be declared or reported upon entry into or exit from the country will often conduct compliance programs to enforce the reporting requirements.

For example, customs officials may conduct enforcement programs to identify currency smuggling at airports hosting flights to or from known money centers, such as London, Moscow, New York, Nassau, and so on.

Currency-smuggling compliance programs may be designed to identify outbound or inbound activity at airports and other ports of entry. Passenger lists and customs declaration forms may be reviewed for passengers who travel frequently between major money centers or known tax havens and offshore banking centers. Foreign visitors who travel frequently to or from your country may be screened. Many techniques can be used to build an "inbound/outbound" compliance program to detect currency smuggling or illegal cross-border movement of currency.

What are the international standards in this matter?

FATF Special Recommendation IX states, in part: “Countries should have measures in place to detect the physical cross-border transportation of currency and bearer instruments, including a declaration system or other disclosure obligation. Countries should ensure that their competent authorities have the legal authority to stop or restrain currency or bearer negotiable instruments that are suspected to be related to terrorist financing or money laundering, or that are falsely declared or disclosed.” For more information on FATF Special Recommendation IX and the Interpretative Note to this Special Recommendation, see Appendix F.

3

The stages of investigation in money laundering and terrorist financing cases

Any criminal investigator who has the authority to investigate serious financial fraud—such as bank embezzlement or check fraud—can investigate money laundering. The difference between money laundering and other financial fraud is the time it may take to investigate the money laundering scheme and the underlying criminal activity that generates the funds. Planning the investigation may also require a great deal of time.

3.1 (a) Planning a money laundering investigation

In any financial investigation (including money laundering) it takes time to obtain bank and business records. Even more time is required if the records are in another country. Proper planning will alert the investigator to seek foreign records early in the investigation and to initiate contact with his or her counterpart in the country in question. Although bank and business records figure in most financial investigations, they rarely provide sufficient evidence, on their own, to justify a conviction.

Planning the investigation

A money laundering case should be guided by a work plan that specifies:

- Witnesses to be contacted
- Domestic and international financial records needed
- Procedures for managing documents
- Surveillance requirements
- Desired evidence of criminal activity and proceeds
- Analysis, summaries, and graphic representations of evidence
- Any special investigative techniques required.

The initial phases of the investigation should proceed as discreetly as possible. Surveillance of the subject and associates early in an investigation can provide valuable leads to evidence. But early disclosure of an investigation can cause the subject and associates to take precautions that may make surveillance useless. It may also cause the suspect or key witnesses to destroy or alter records.

Bank records should be obtained early and discreetly. One set of records usually leads the investigator to seek another. When records are needed from other countries, the delay can be months. Delays in obtaining records can slow an investigation down, so begin collecting them early on in the investigation.

Plan the use of search warrants. Time their execution to maximize chances of obtaining evidence. Surveillance will provide information that can be used to set the time of the search (after a delivery, after a meeting, during a meeting, and so on). Sometimes, it is good practice to interview suspects or witnesses at the time of the search warrant execution.

If allowed by law, consider using special investigative techniques to assist in gathering evidence. The use of undercover operations, wire taps, or consensual telephone monitoring can produce valuable evidence.

3.1 (b) Planning a terrorist financing investigation

Planning an investigation of terrorist financing begins with the formation of the investigative team. Who are its members? In addition to investigators from the police and other investigative agencies, other specialists may be needed, such as intelligence officers and analysts, military officers, financial analysts (representing the FIU), accountants, and auditors. Who will direct and manage the investigation? It could be the police, military, an intelligence service, or another appropriately qualified and authorized government entity. What are the roles and duties of each member of the team? Who gathers evidence from the public (such as banks, charities, NGOs, witnesses)?

The financial evidence gathered in a terrorist financing case is similar to that gathered in a money laundering case. Where was the money obtained? Who gathered it? Who deposited it? Who carried it across the border? Were wire transfers used? What banks or bankers were involved? Were attorneys or accountants involved?

Once evidence from financial institutions, businesses, NGOs, and witnesses is collected, it must be analyzed. Leads to additional evidence may be gathered from informants or with search warrants and special investigative techniques.

Knowledge check

QUESTION 12. What are some of the items that must be addressed when planning an investigation into money laundering or terrorist financing? Provide your answer in the space below.

3.2 Methods of gathering evidence

3.2.1 FINANCIAL INTERVIEWS

Financial information obtained from defendants, witnesses, and informants is critical in money laundering or financing of terrorism investigations.

Types of interviews

Interviews of defendants

Subjects of an investigation often agree to be interviewed. They usually will answer questions on financial matters because they feel such questions are “harmless.” Ask such questions as:

- Where do you bank?
- What type of accounts do you have?
- Do you have investment accounts with a stockbroker?
- Do you have accounts in any foreign countries?
- Who is your accountant?

Asking questions of a financial nature rather than questions on criminal activity often disarms subjects and leads them to talk.

Interviews of witnesses and informants

Ask witnesses and informants about the financial activity being investigated.

- Who collected the money involved in the activity under investigation?
- Where was the money stored?
- What bank was used?
- What bankers were involved?
- How were you paid and by whom?

If you concentrate your questions on financial transactions, money handling, and banking activity, a picture will soon emerge of how the individual or group handles money—and of how it may be laundering money.

 **Knowledge check**

QUESTION 13. What is the meaning of the following sentence: “Ask questions about the who, what, when, where, why, and the how of money handling?”

3.2.2 SEARCH WARRANTS

QUESTION 14. Can search warrants be used in a money laundering (or terrorist financing) investigation?

Local law and practice set forth the circumstances under which searches may be made. Use of this investigative technique must follow local law.

Search warrants are used routinely in criminal investigations. If local law permits, they can be used in a money laundering or terrorist financing investigation. If the investigating officer has knowledge of the existence and location of evidence (books, records, or other documents) that can help prove a money laundering or terrorist financing crime, a search warrant often can be obtained and used. Normally a search warrant is obtained through the courts and must be signed by a judge or magistrate. The search warrant authorizes the authorities to search a particular location—house, business location, car, boat—for items that could constitute evidence of money laundering, such as bank records, business records, money counting machines, currency wrappers, currency, or any record that could contain information on the movement of money. Searches can yield investigative leads, evidence, contraband, high-value goods, and even cash. The timing of searches is very important. Should search warrants be executed early or late in an investigation? Should the residence or office to be searched be empty? Or should the search be made when the suspects are present? Should the warrant be executed at night or during the day? The answer to each of these questions varies depending upon the circumstances of each case. Often, the need to protect evidence demands that the action be conducted as soon as possible. In all cases, however, searches must be performed in accordance with local law.

3.2.3 SURVEILLANCE

QUESTION 15. How useful is surveillance of people and places in a money laundering or terrorist financing investigation? Provide your answer in the space below.

If allowed by local laws, surveillance can yield valuable leads and evidence in a money laundering or terrorist financing investigation. It is recommended that the suspect in the investigation, as well as the suspect’s employees or associates, be placed under surveillance. The suspect’s residence and business location are equally important. If a bank or other financial institution or remittance agent is suspected of being used for money laundering or terrorist financing activity, surveillance of the institution can yield evidence of individuals or organizations using the institution to launder money.

Surveillance operations should be conducted by trained operatives working in teams. Operatives should be skilled in surveillance techniques. Where possible, physical surveillance should be combined with electronic surveillance of the suspect, couriers, associates, and premises. Vehicles, luggage, and assets purchased with the proceeds of crime should be tracked electronically, if possible.

3.2.4 TRASH PICKUP

QUESTION 16. Is it permissible to collect trash from a suspect’s residence or business and use it to develop leads or provide evidence in a money laundering case? Provide your answer in the space below.

A “trash pickup” is an investigative technique to obtain evidence or investigative leads. Abandoned trash often contains items that could be used as evidence or leads in a criminal money laundering case.

Planning and executing a trash pickup

- Locate the residence or business at which trash might yield evidence or leads.
- Contact the trash hauler or use surveillance to determine the day and time the trash is collected.
- Through surveillance, learn when trash is placed in cans or containers at the location.
- Through surveillance, determine the best time for an investigator to pick up the trash from the location without being observed. Early morning and late evening are often the best times.

To carry out the pickup, approach the location by foot and pick up the trash bag. A short distance from the pickup location, have a second investigator in a car or van pick up the first investigator and the trash bag. When in a safe location, sort through the trash (wearing rubber gloves) to find discarded items that may have value as leads or evidence. Such items include bank deposit tickets, used airline ticket stubs, hotel receipts, and so on.

3.2.5 ANALYSIS OF BANK RECORDS

QUESTION 17. What role do bank and business records play in an investigation of money laundering or terrorist financing? Provide your answer in the space below.

Bank records are usually essential to an investigation of money laundering or terrorist financing. Bank accounts used to receive the proceeds of crime (or “dirty money”) must be identified—and records of those accounts obtained and analyzed. The legal steps required to obtain bank records are different in each country. Generally, investigators obtain records by a court order or subpoena, or an investigating magistrate or prosecutor. In many countries the bank records are usually enclosed with the FIU’s reports on SARs/STRs sent to the investigators. Check local laws or practices to determine how you should obtain bank records. All money entering the accounts must be identified; all movements of that money traced. Money must be traced from bank account to bank account; and from domestic bank accounts to foreign bank accounts. Records of foreign bank accounts must be obtained and analyzed. Obtaining bank records (or other evidence) from foreign sources is covered in Module 5 of this course.

How are bank records analyzed?

Investigators begin by obtaining documents relating to a particular bank account for the time under scrutiny. These include the document used to open the account, the account application, copies of signature cards, copies of identification documents used to open account, letters of referral or introduction, and so on. Other documents may include monthly statements, cancelled checks, deposit tickets, copies of checks deposited, debit and credit memos, wire transfer instructions and documents, and any documents related to account activity.

Analyzing the bank records requires the investigator to review and record the financial activity presented in the bank account records. Begin by adding up the deposits—by week, month, and year. Is there a pattern?

Look at the deposit tickets and the items making up the deposited items. Are they cash or checks? What percentage is cash and what percentage is check? Is there a pattern of unusual (suspicious) deposits? Were funds wired into or out of the account? Is there a pattern of unusual transfers (suspicious activities or transactions)?

Information obtained from analysis of the bank records will yield the names of witnesses, including the bank employees, to interview and businesses to contact for more information.

- Determine the flow of money and amounts.
- Identify money laundering operators.

3.2.6 FORENSIC SCIENCE

QUESTION 18. How can forensic science assist the investigator in a money laundering or financing of terrorism investigation? Provide your answer in the space below.

Forensic science is sometimes required to analyze evidence in a money laundering or terrorist financing case. A document may be analyzed to determine who prepared it, who signed it, and who handled it.

The types of forensic analysis include:

- Handwriting analysis
- Ink analysis
- Paper analysis
- Typewriter/printer analysis
- Fingerprint analysis

Obtaining foreign evidence

Among the formal methods of obtaining bank records, documents, or testimony from foreign countries are: letters rogatory, legal assistance treaties, and executive agreements. These formal methods of obtaining foreign evidence require written requests between “competent authorities” in government, usually ministries of foreign affairs or justice. Module 5 (laws and regulations) discusses effective international cooperation.

Other methods of obtaining foreign information involve direct contact between other relevant agencies in two countries—for example, among police departments, central banks and other regulators/supervisors of financial institutions, or FIUs, as well as requests made through INTERPOL. The Egmont Group has guidelines for exchanges of information between FIUs and in case of Europe, the Council of Europe Warsaw Convention also contain provisions on cooperation between FIUs. Some of these issues have been covered in Module 4.

All of the above methods of requesting information from foreign countries usually require written requests using specific formats. Check with your ministry of foreign affairs, ministry of justice, or FIU to determine the form of request required in your country. You may also refer to the Guidelines of the Egmont Group on exchange of information between FIUs.

3.3 Special investigative techniques

FATF Recommendation 27 encourages countries “to support and develop, as far as possible, special investigative techniques suitable for the investigation of money laundering, such as controlled delivery, undercover operations and other relevant techniques.” For more information on FATF Recommendation 27, see Appendix B.

Similar provisions are also included in the UN Palermo Convention (see Article 20) and the UN Convention against Corruption (see Article 50), as well as in regional instruments that are applicable to specific regions, for example, the Council of Europe Strasbourg Convention (see paragraph two of Article 4) and the Council of Europe Warsaw Convention (see paragraph three of Article 7).

3.3.1 CONSENSUAL MONITORING

Consensual monitoring is the interception, overhearing, or recording of a private conversation by use of mechanical, electronic, or other device with the consent of at least one of the parties. Listening to and recording the conversation of criminals discussing past or future activity can provide valuable evidence for an investigation. Among the types of exchange subject to consensual monitoring are telephone conversations; live conversations carried on in a public or private place; and Internet messaging.

Local law will dictate whether, and under what circumstances, the technique of consensual monitoring can be used. Use of this technique must follow local law.

3.3.2 UNDERCOVER OPERATIONS

An undercover operation is the infiltration or joining of a criminal enterprise by an informant or law enforcement officer for the purpose of securing information or evidence relating to criminal activity. Local law and practices address the use of undercover operations. Local law will dictate whether, and under what circumstances, undercover operations may be used, as well as any other requirements that must be followed.

Undercover operations can aid a criminal investigation by:

- Determining the illegal activity from which money is generated
- Identifying unknown violators (including money launderers or those who finance terrorist or terrorist organizations)
- Identifying conspirators and key witnesses
- Identifying and tracing the proceeds from crime or funds to be used in financing of terrorism.

An undercover operation may take one of two forms in a money laundering investigation:

- Law enforcement officers may launder money for a criminal or criminal organization, or
- A money laundering organization may be recruited to launder government money.

The goal of such undercover operations is to gather evidence against the persons handling the money (bankers, attorneys, accountants, or others) or to establish the movement of money (to and from banks, businesses, countries).

Investigation checklist

Identifying and developing leads in money laundering/ financing of terrorism investigations

1. Financial intelligence unit
 - Referral to law enforcement by the FIU
2. Suspicious transaction reports
 - From domestic FIU
 - From foreign FIU
 - Routine analysis
 - Special analysis
 - Geographical
 - Industry
 - Products
 - Services

3. Open investigations
 - Start financial investigation as a parallel investigation to an already open investigation
 - Open a financial investigation on a known criminal involved in economic crimes
4. Referrals from bank or other financial sector regulators or examiners
 - Information found during normal examinations of banks and other financial institutions
 - Analysis of currency flows within financial system (financial institutions likely to be involved in money laundering)
 - Information to trace monies
5. Informants
 - Used to identify criminal organization's money laundering managers
 - Knowledge of finances and money handling
 - Knowledge of illegal activity
6. Cooperating defendants
 - Provide information or evidence relative to a criminal matter in which he or she is involved, including money laundering for the criminal organization
7. Border operations to detect movement of cash
 - Reports of currency or bearer negotiable instruments out of or into the country (forms used when entering/leaving the country)

Investigative techniques for money laundering investigations

1. Financial interviews
 - Defendant/target
 - Witnesses
 - Informants
 - Financial institutions
2. Search warrant
 - Issued by a judge or magistrate
 - Authorizes the search and seizure of records that may reveal money laundering operations or property that constitutes evidence of the commission of a crime, contraband, proceeds (fruits) of the crime, instrumentalities, or things criminally possessed
3. Surveillance
 - Obtain information or evidence
 - Probable cause for search warrants
 - Apprehend violators
 - Develop investigative leads
4. Trash pickup
 - Used to identify leads
 - Gather evidence
5. Analysis of bank/financial records
 - Determine flow of money and amounts
 - Identify money laundering operators

—continued

6. Forensic science
 - Handwriting analysis
 - Ink and paper analysis
 - Typewriting analysis
 - Fingerprints
 - Computer and information technology
7. Analysis of documentary evidence of financial transactions
 - Bank transactions, domestic and foreign
 - Deposits
 - Withdrawals
 - Credit/debit memos
 - Bank checks/money orders
8. Other documentary evidence from:
 - Banks and other financial institutions
 - Currency transactions
 - Wire transfers
 - Safe deposit boxes
 - Currency exchanges
 - Credit card records
 - Management companies
 - Stock brokers, securities dealers
 - Insurance companies
 - Money transfer operators such as Western Union and Money Gram
 - Casinos
 - Automobile, boat, and airplane dealers
 - Investment funds
 - Leasing businesses
 - Other organizations or services that receive, transport, send, exchange, or keep funds
 - Offices that conduct legal, notary, accounting, or financial or banking-type services

 **Check your understanding**

QUESTION 19. List four investigative items to be included in the work plan for a money laundering/terrorist financing investigation. Provide your answers in the space below.

QUESTION 20. List three types of evidence that are needed in a money laundering/terrorist financing investigation. Provide your answer in the space below.

QUESTION 21. List four investigative techniques used to gather evidence in a money laundering/terrorist financing investigation. Provide your answer in the space below.

QUESTION 22. List two methods to request and obtain evidence from banks or businesses in a foreign country. Provide your answer in the space below.

Summary

In this module, we discussed:

- How to find or develop a money laundering or terrorist financing case to investigate
- How to plan a money laundering or terrorist financing investigation
- What type of evidence needs to be collected in a criminal money laundering investigation
- What investigative techniques are used in gathering evidence of money laundering
- How to obtain evidence from a foreign country



Appendix A: References

FATF Recommendations

- The Forty Recommendations (FATF, June 2003)
<http://www.fatf-gafi.org/dataoecd/7/40/34849567.pdf>
- Special Recommendations on Terrorist Financing (FATF, October 2004)
<http://www.fatf-gafi.org/dataoecd/8/17/34849466.pdf>

Useful Websites

- Asia & Pacific Amphetamine-Type Stimulants Information Centre (APAIC)
<http://www.apaic.org>
- Asia/Pacific Group on Money Laundering (APG)
<http://www.apgml.org/>
- Caribbean Financial Action Task Force (CFATF)
<http://www.cfatf.org/eng/>
- Council of Europe
<http://www.coe.int/defaultEN.asp>
- Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) [European regional AML body for Eastern Europe and offshore jurisdictions that are not members of the FATF]
http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Combating_economic_crime/Money_laundering/
- Department of Foreign Affairs and Trade, Australian Government
<http://www.dfat.gov.au/>
- Egmont Group
<http://www.egmontgroup.org/>
- European Union (EU)
<http://europa.eu.int/>
- Fight against Terrorism, Council of Europe
http://www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Fight_against_terrorism/default.asp
- Financial Action Task Force on Money Laundering (FATF)
http://www.fatf-gafi.org/pages/0,2966,en_32250379_32235720_1_1_1_1_1,00.html
- Financial Sector Reform and Strengthening (FIRST) Initiative
<http://www.firstinitiative.org/index.cfm>

- Foreign and Commonwealth Office, United Kingdom
<http://www.fco.gov.uk/>
- International Monetary Fund (IMF)
<http://www.imf.org>
- INTERPOL
<http://www.interpol.int/Default.asp>
- Office of Technical Assistance, U.S. Department of the Treasury
<http://www.ustreas.gov/offices/international-affairs/assistance/enforcement-team.shtml>
- Organisation for Economic Co-operation and Development
http://www.oecd.org/home/0,2987,en_2649_201185_1_1_1_1_1,00.html
- Organization for Security and Co-operation in Europe
<http://www.osce.org/>
- Western European Union
<http://www.weu.int/>
- World Bank
<http://www.worldbank.org>
- World Trade Organization (WTO)
<http://www.wto.org>

Other Useful Web sites

- Centre for Defense and International Security Studies
<http://www.cdiss.org/>
- Economist Intelligence Unit
<http://www.eiu.com/>
- International Crisis Group
<http://www.crisisgroup.org/home/index.cfm>
- Institute for Counter-Terrorism [terrorist organization profiles]
<http://www.ict.org.il/>
- moneylaundering.com
<http://moneylaundering.com/>
- National Memorial Institute for the Prevention of Terrorism (MIPT)
<http://www.mipt.org/>
- MIPT Terrorism Knowledge Base
<http://www.tkb.org/Home.jsp>
- Oanda Foreign Exchange Converter
<http://oanda.com/convert/classic>
- Privacy International [Visit “Privacy and Human Rights”]
<http://www.privacyinternational.org/index.shtml>
- Transparency International [See “Corruption Perceptions Index”]
<http://www.transparency.org/index.html>
- Terrorism Research Center [terrorist organization profiles incidents, attacks and events, country profiles]
<http://www.terrorism.com/>

- UN action against terrorism, United Nations [conventions, declarations, news, and developments]
<http://www.un.org/terrorism/>
- World Fact Book, Central Intelligence Agency (CIA)
<http://www.odci.gov/cia/publications/factbook/index.html>

Reference Documents

- “1999 International Narcotics Control Strategy Report” (Bureau for International Narcotics and Law Enforcement Affairs, U.S. Department of State, March 2000) [Go to the section on Country Reports]
http://www.state.gov/www/global/narcotics_law/1999_narc_report/index.html
- Patterns of Global Terrorism 2003 (U.S. Department of State, April 2004)
<http://www.state.gov/s/ct/rls/pgtrpt/2003/>



Appendix B: FATF Recommendations 27

Countries should ensure that designated law enforcement authorities have responsibility for money laundering and terrorist financing investigations. Countries are encouraged to support and develop, as far as possible, special investigative techniques suitable for the investigation of money laundering, such as controlled delivery, undercover operations, and other relevant techniques. Countries are also encouraged to use other effective mechanisms such as the use of permanent or temporary groups specialized in asset investigation, and cooperative investigations with appropriate competent authorities in other countries.

Interpretative Note to Recommendation 27

Countries should consider taking measures, including legislative ones, at the national level, to allow their competent authorities investigating money laundering cases to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering. Without such measures, the use of such procedures as controlled deliveries and undercover operations are precluded.



Appendix C: FATF Recommendation 30

Countries should provide their competent authorities involved in combating money laundering and terrorist financing with adequate financial, human, and technical resources. Countries should have in place processes to ensure that the staff of those authorities are of high integrity.



Appendix D: FATF Recommendation 28

When conducting investigations of money laundering and underlying predicate offenses, competent authorities should be able to obtain documents and information for use in those investigations, in prosecutions, and in related actions. This should include powers to use compulsory measures for the production of records held by financial institutions and other persons, for the search of persons and premises, and for the seizure and obtaining of evidence.



Appendix E: FATF Recommendation 26

Countries should establish an FIU that serves as a national center for the receiving (and, as permitted, requesting), analysis, and dissemination of STRs and other information regarding potential money laundering or terrorist financing. The FIU should have access, directly or indirectly, on a timely basis to the financial, administrative, and law enforcement information that it requires to properly undertake its functions, including the analysis of STR.

Interpretative Note to Recommendation 26

Where a country has created an FIU, it should consider applying for membership in the Egmont Group. Countries should have regard to the Egmont Group Statement of Purpose and its Principles for Information Exchange between Financial Intelligence Units for Money Laundering Cases. These documents set out important guidance concerning the role and functions of FIUs and the mechanisms for exchanging information between FIUs.



Appendix F: FATF Special Recommendation IX

Countries should have measures in place to detect the physical cross-border transportation of currency and bearer negotiable instruments, including a declaration system or other disclosure obligation.

Countries should ensure that their competent authorities have the legal authority to stop or restrain currency or bearer negotiable instruments that are suspected to be related to terrorist financing or money laundering or that are falsely declared or disclosed.

Countries should ensure that effective, proportionate, and dissuasive sanctions are available to deal with persons who make false declaration(s) or disclosure(s). In cases where the currency or bearer negotiable instruments are related to terrorist financing or money laundering, countries should also adopt measures, including legislative ones consistent with Recommendation 3 and Special Recommendation III, which would allow for the confiscation of such currency or instruments.

Interpretive Note to Special Recommendation IX: Cash couriers

OBJECTIVES

1. FATF Special Recommendation IX was developed with the objective of ensuring that terrorists and other criminals cannot finance their activities or launder the proceeds of their crimes through the physical cross-border transportation of currency and bearer negotiable instruments. Specifically, it aims to ensure that countries have measures (i) to detect the physical cross-border transportation of currency and bearer negotiable instruments; (ii) to stop or restrain currency and bearer negotiable instruments that are suspected to be related to terrorist financing or money laundering; (iii) to stop or restrain currency or bearer negotiable instruments that are falsely declared or disclosed; (iv) to apply appropriate sanctions for making a false declaration or disclosure; and (v) to enable confiscation of currency or bearer negotiable instruments that are related to terrorist financing or money laundering. Countries should implement Special Recommendation IX subject to strict safeguards to ensure proper use of information and without restricting either: (i) trade payments between countries for goods and services; or (ii) the freedom of capital movements in any way.

DEFINITIONS

2. For the purposes of Special Recommendation IX and this Interpretative Note, the following definitions apply.
3. The term *bearer negotiable instruments* includes monetary instruments in bearer form, such as traveler's checks; negotiable instruments (including checks, promissory notes, and money orders) that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; incomplete instruments (including checks, promissory notes, and money orders) signed, but with the payee's name omitted.¹
4. The term *currency* refers to banknotes and coins that are in circulation as a medium of exchange.
5. The term *physical cross-border transportation* refers to any in-bound or out-bound physical transportation of currency or bearer negotiable instruments from one country to another country. The term includes the following modes of transportation: (i) physical transportation by a natural person, or in that person's accompanying luggage or vehicle; (ii) shipment of currency through containerised cargo; or (iii) the mailing of currency or bearer negotiable instruments by a natural or legal person.
6. The term *false declaration* refers to a misrepresentation of the value of currency or bearer negotiable instruments being transported, or a misrepresentation of other relevant data that is asked for in the declaration or otherwise requested by the authorities. This includes failing to make a declaration as required.
7. The term *false disclosure* refers to a misrepresentation of the value of currency or bearer negotiable instruments being transported, or a misrepresentation of other relevant data which is asked for in the disclosure or otherwise requested by the authorities. This includes failing to make a disclosure as required.
8. When the term related to terrorist financing or money laundering is used to describe currency or bearer negotiable instruments, it refers to currency or bearer negotiable instruments that are: (i) the proceeds of, or used in, or intended or allocated for use in, the financing of terrorism, terrorist acts, or terrorist organizations; or (ii) laundered, proceeds from money laundering or predicate offenses, or instrumentalities used in or intended for use in the commission of these offenses.

¹ For the purposes of this Interpretative Note, gold, precious metals, and precious stones are not included despite their high liquidity and use in certain situations as a means of exchange or transmitting value. These items may be otherwise covered under customs laws and regulations. If a country discovers an unusual cross-border movement of gold, precious metals, or precious stones, it should consider notifying, as appropriate, the Customs Service or other competent authorities of the countries from which these items originated and/or to which they are destined, and should cooperate with a view toward establishing the source, destination, and purpose of the movement of such items and toward the taking of appropriate action.

THE TYPES OF SYSTEMS THAT MAY BE IMPLEMENTED TO ADDRESS THE ISSUE OF CASH COURIERS

9. Countries may meet their obligations under Special Recommendation IX and this Interpretative Note by implementing one of the following types of systems; however, countries do not have to use the same type of system for incoming and outgoing cross-border transportation of currency or bearer negotiable instruments:
 - a. Declaration system: The key characteristics of a declaration system are as follows. All persons making a physical cross-border transportation of currency or bearer negotiable instruments, which are of a value exceeding a preset, maximum threshold of EUR/USD15,000, are required to submit a truthful declaration to the designated competent authorities. Countries that implement a declaration system should ensure that the preset threshold is sufficiently low to meet the objectives of Special Recommendation IX.
 - b. Disclosure system: The key characteristics of a disclosure system are as follows. All persons making a physical cross-border transportation of currency or bearer negotiable instruments are required to make a truthful disclosure to the designated competent authorities upon request. Countries that implement a disclosure system should ensure that the designated competent authorities can make their inquiries on a targeted basis, based on intelligence or suspicion, or on a random basis.

ADDITIONAL ELEMENTS APPLICABLE TO BOTH SYSTEMS

10. Whichever system is implemented, countries should ensure that their system incorporates the following elements:
 - a. The declaration/disclosure system should apply to both incoming and outgoing transportation of currency and bearer negotiable instruments.
 - b. Upon discovery of a false declaration/disclosure of currency or bearer negotiable instruments or a failure to declare/disclose them, designated competent authorities should have the authority to request and obtain further information from the carrier with regard to the origin of the currency or bearer negotiable instruments and their intended use.
 - c. Information obtained through the declaration/disclosure process should be available to the FIU either through a system whereby the FIU is notified about suspicious cross-border transportation incidents or by making the declaration/disclosure information directly available to the FIU in some other way.
 - d. At the domestic level, countries should ensure that there is adequate coordination among customs, immigration, and other related authorities on issues related to the implementation of Special Recommendation IX.
 - e. In the following two cases, competent authorities should be able to stop or restrain cash or bearer negotiable instruments for a reasonable time in order to ascertain whether evidence of money laundering

- or terrorist financing may be found: (i) where there is a suspicion of money laundering or terrorist financing; or (ii) where there is a false declaration or false disclosure.
- f. The declaration/disclosure system should allow for the greatest possible measure of international cooperation and assistance in accordance with Special Recommendation V and Recommendations 35 to 40. To facilitate such cooperation, in instances when: (i) a declaration or disclosure that exceeds the maximum threshold of EUR/USD 15,000 is made; (ii) where there is a false declaration or false disclosure; or (iii) where there is a suspicion of money laundering or terrorist financing, this information shall be retained for use by the appropriate authorities. At a minimum, this information will cover: (i) the amount of currency or bearer negotiable instruments declared/disclosed or otherwise detected; and (ii) the identification data of the bearer(s).

SANCTIONS

11. Persons who make a false declaration or disclosure should be subject to effective, proportionate and dissuasive sanctions, whether criminal civil or administrative. Persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instruments that are related to terrorist financing or money laundering should also be subject to effective, proportionate and dissuasive sanctions, whether criminal, civil or administrative, and should be subject to measures, including legislative ones consistent with Recommendation 3 and Special Recommendation III, which would enable the confiscation of such currency or bearer negotiable instruments.



Answers

Module 7 Answers

Answer 1

The funds used for money laundering purposes are acquired through illicit ways (drug trafficking and other criminal activities), but financing of terrorism can be done with both legal and illegal funds.

Answer 2

a)

Answer 3

Examples are any of the following:

- a) Suspicious Transactions Reports (STRs)
- b) Currency Transactions Reports (CTRs)
- c) Unusual Transaction Reports

Answer 4

Any two of the following:

- a) FIU referral
- b) Open criminal investigation
- c) Informant
- d) Closed criminal case

Answer 5

d)

Answer 6

a) FATF Recommendation 16 requires casinos to report STRs to the FIU.

Answer 7

c) Local law and practice may affect the initiation of money laundering cases. Unless prohibited by local law, an investigator may use information obtained from another case, opened or closed, to open or conduct a money laundering investigation. Local law must be followed.

Answer 8

To an investigator (or analyst, auditor, or bank examiner) “follow the money,” means to gather information about the movement of money within a criminal organization or as ordered or performed by a criminal. In following the money,

investigators uncover evidence of the financial activity surrounding criminal activity; they also develop leads to money laundering activities. Following the money can yield information on assets purchased with the proceeds of crime or terrorist financing. Those assets can be seized by the government if allowed by law. The FATF and other international organizations require countries to enact laws to allow seizure, freezing, and forfeiture or confiscation of assets associated with terrorist financing and money laundering.

Following the money means tracing the flow of money from the criminal activity to the parties involved in the crime. Investigators document the receipt and disbursement of money from the criminal activity by analyzing documents and records, interviewing witnesses and defendants, and questioning informants.

To follow the money during an interview, ask questions of the witness about payments and collections. Who paid you? To whom did you give the money? Did you ever deliver money to a bank, attorney, or accountant? Did you ever count the money? Were you conducting the transaction on another's behalf? What other transactions are related to this transaction? Who was the ultimate beneficiary? Ask who, what, where, when, and how.

Answer 9

c) Local law and practice may affect how money laundering cases are opened. Local law may also address when and how informant information is used. Unless prohibited by local law, an investigator may use information obtained from an informant to open a money laundering investigation. However, the investigator should verify, if possible, the informant's information. The investigator must also assess the credibility and reliability of the informant. Local law and policy must be followed.

Answer 10

Yes, customs, immigration, state security agencies, and police agencies can detect and deter money laundering and terrorist financing by developing compliance programs and other strategies to address these crimes—particularly when money laundering or terrorist financing occurs at borders and ports of entry.

Answer 11

It is a good idea for customs to form an anti-money laundering and financing of terrorism unit to work at ports of entry, particularly airports, that are gateways to “money centers”—that is, cities where currency is most likely to be smuggled. These AML/CFT units should develop expertise in currency smuggling techniques, which are very similar to drug smuggling techniques, and develop the means to identify and seize smuggled currency.

Answer 12

The work plan should specify:

- Witnesses to contact
- Financial records to obtain, domestically and internationally
- Surveillance requirements and expected results of surveillance activity
- Any other special investigative techniques that may be needed
- Evidence of criminal activity and of the proceeds of crime
- Analysis and summaries of evidence

Answer 13

When interviewing someone about money laundering activity (or terrorist financing) ask as many questions as you can about who handled, what was the amount involved, when did the transactions take place, and how the money moved was, where was it deposited, by whom, when, and so on.

Answer 14

If permitted by local law, search warrants may be used to gather evidence in a money laundering investigation. Very valuable evidence can be collected through the use of search warrants executed at residences or businesses used by criminals or criminal organizations. These locations often contain banking documents, travel documents, and miscellaneous records that can prove acts of money laundering or establish the movement of money. Local law must be followed.

Answer 15

Surveillance of people and places can yield valuable leads and evidence in a money laundering investigation. For example, surveillance of the suspect in a money laundering investigation (and of suspect's employees) can identify banks and remittance agents used, attorneys and accountants consulted, locations where money is stored, vehicles used to transport money, flights used to ship money, and so on. If a bank or other financial institution is suspected of being used for money laundering, surveillance of the bank can identify the individuals using the bank for that purpose.

Surveillance of flights from "money centers" can yield leads to individuals who may be involved in cross-border currency smuggling.

Answer 16

To the extent permitted by local law, collecting trash from a suspect's residence or business (after it has been put out for disposal) can yield valuable investigative leads and evidence of money laundering activity. Trash may contain discarded documents, bank records, or other items that can indicate money laundering activity.

Physical items that could indicate money laundering are bank wire transfer records; receipts for mailings to offshore banks, attorneys, or accountants; receipts for money orders, cashier's checks, or travelers' checks in large amounts; and airline ticket receipts for flights to or from offshore or money centers.

Answer 17

Domestic and foreign bank records are often the most valuable documents in every investigation of money laundering or terrorist financing. The documents provide primary pieces of evidence, such as evidence of introduction of the proceeds of crime into the banking system and of the movement of those proceeds between banks and often forms the heart of a money laundering or financing of terrorism investigation.

Answer 18

At times during a money laundering or financing of terrorism investigation, forensic analysis of evidence is needed. Fingerprint analysis and handwriting analysis is often needed to determine who prepared or handled a document. Was it an employee of the money launderer, a banker, or an accountant?

Ink analysis or paper analysis sometimes is needed to date a document or to determine the country in which it was prepared. Investigators look for documents that may yield evidence when subjected to forensic analysis.

Answer 19

Any four of the following:

- List of witnesses to be interviewed and deposed
- Domestic bank and business records needed
- Need for search warrants, and the points in the investigation when they will be required
- Need for surveillance, and the schedule for carrying it out
- Need for foreign bank or business records

Answer 20

Any three of the following:

- Evidence that are the proceeds of crime
- Evidence of money movement to hide or disguise illegal funds
- Witness testimony
- Bank or business documents

Answer 21

Any four of the following:

- Subpoena or court order to obtain bank or business records
- Witness interviews
- Surveillance
- Search warrant
- Undercover operation
- Controlled delivery

Answer 22

Any two of the following:

- Letters rogatory
- Treaties providing for mutual legal assistance
- Memorandums of understanding
- Cooperation between FIUs
- INTERPOL requests

Money laundering and the financing of terrorism are global problems that not only threaten a country's security, but also compromise the stability, transparency, and efficiency of its financial system, consequently undermining its economic prosperity. The annual global estimate for money laundering is more than \$1 trillion, valued in U.S. dollars. Efforts to counter these activities are known as anti-money laundering and combating the financing of terrorism (AML/CFT) programs.

The *Combating Money Laundering and the Financing of Terrorism* training program was developed by the World Bank's Financial Market Integrity Unit, with support from the governments of Sweden, Japan, Denmark, and Canada. The program will help countries build and strengthen their AML/CFT efforts by training all relevant staff in both the public and private sectors, such as staff in financial intelligence units, financial supervisory authorities, law enforcement agencies, and financial institutions.

The training guide's modules are:

Module 1: Effects on Economic Development and International Standards

Module 2: Legal Requirements to Meet International Standards

Module 3a: Regulatory and Institutional Requirements for AML/CFT

Module 3b: Compliance Requirements for Financial Institutions

Module 4: Building an Effective Financial Intelligence Unit

Module 5: Domestic (Inter-Agency) and International Cooperation

Module 6: Combating the Financing of Terrorism

Module 7: **Investigating Money Laundering and Terrorist Financing**

The modules cover all the Financial Action Task Force on Anti-Money Laundering's Forty Recommendations and Nine Special Recommendations, with the original texts. Each module is targeted at a specific group of professionals in a jurisdiction's AML/CFT regime, although they may also benefit from gaining wider knowledge through the other modules included in this program. Each module provides questions at the beginning and end to assess how much has been learned. The training guide contains numerous case studies, discussions and analyses of hypothetical and actual examples of money laundering schemes, and best practices in investigation and enforcement, which will help readers fully understand the implementation of successful AML/CFT programs.



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THE WORLD BANK

ISBN 978-0-8213-7569-3



SKU 17569