
An Overview for Auditors and Investigators

Colin May, M.S., CFE, 3CE, INCI



Money Laundering



Defining Moments...

The Definition of Money Laundering



Many Definitions, Same Thing

- *United Nations Conventions*
 - *Against Illicit Traffic in Narcotics (1988)*
 - *Against Transnational Organized Crime (2000)*
- *Financial Action Task Force*
- *Others...*

Money Laundering is the illicit movement of criminal proceeds or gains for the purpose of disguising their illegal origins to legitimize them and make them available for use by their owner.



+

Money Laundering



Basic Money Laundering Concept



Several M.L. Statutes



- *Money Laundering (the “basic” law)*
 - 18 U.S.C 1956(a)(1)
- *International Money Laundering*
 - 18 U.S.C 1956(a)(2)
- *The “Sting” or Undercover Provision*
 - 18 U.S.C. 1956(a)(3)
- *Money Laundering Conspiracy*
 - 18 U.S.C. 1956 (h)
- *Spending Statute*
 - 18 U.S.C. 1957
- *Bulk Cash Smuggling*
 - 31 U.S.C. 5332

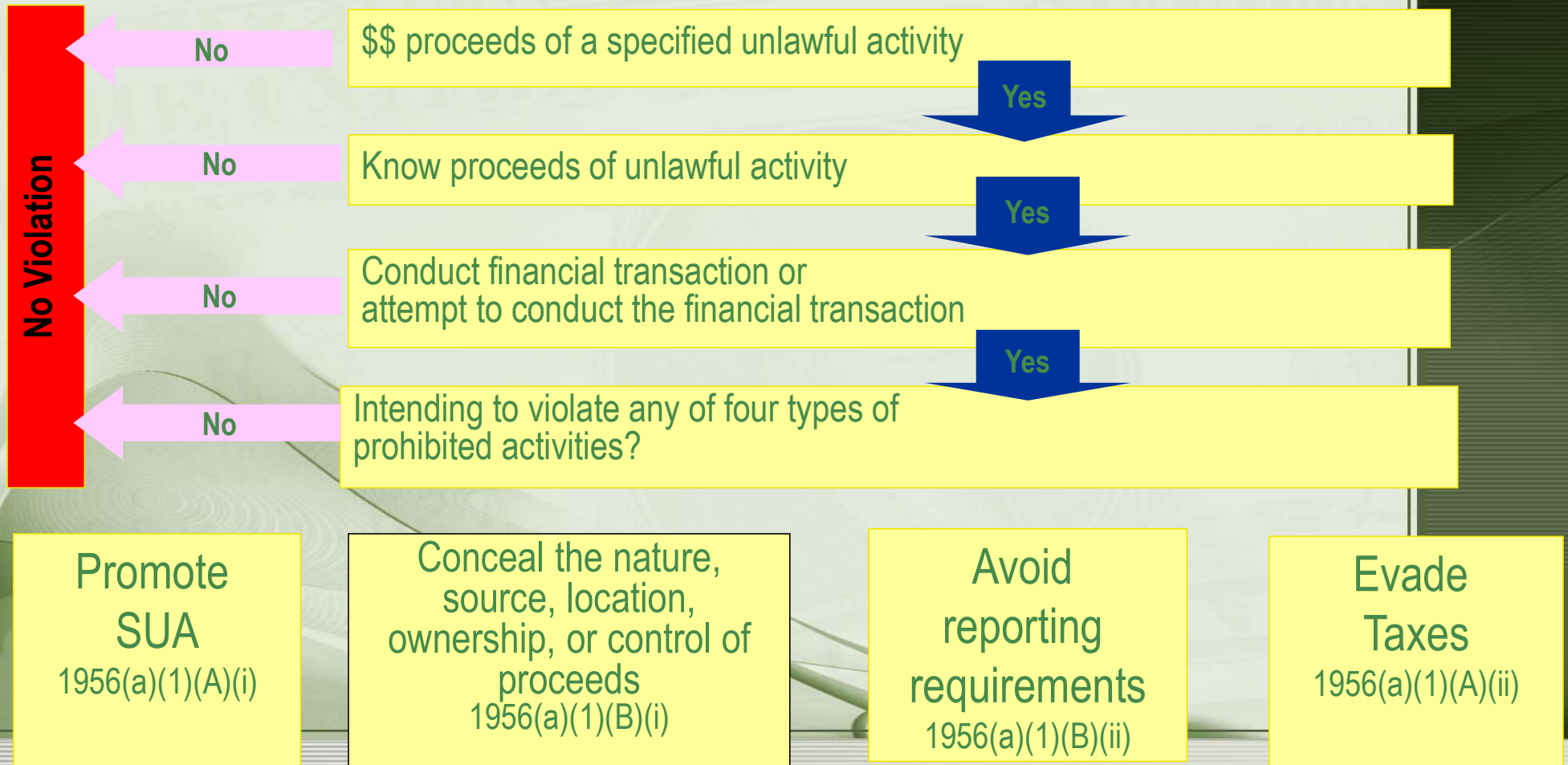
20-year sentence
Fine: \$500,000 (or
twice value of
transaction)

Money Laundering & SUA

- *ML is charged because of other underlying criminal conduct*
 - *Specified Unlawful Activities (SUA)*
- *SUAs are the underlying criminal conduct that generates the proceeds which is then laundered to conceal the origins or purpose of the funds*
- *U.S. Criminal Code has over 214 enumerated SUAs, not counting other predicate crimes and **State felonies***
- *SUAs are listed in the main money laundering statute (18 U.S.C 1956 (c) (7))*

- Sec. 215
(commissions or gifts for procuring loans)
- Sec. 666 (theft or bribery concerning programs receiving Federal funds)
- RICO violations
- Other Title 18 USC violations

Basic Laundering 1956(a)(1)



M.L. Conspiracy 1956(h)

Unlawful agreement to violate 1956 +/-or 1957

2 or more participants, not incl. UCAs-informants

D joined conspiracy

Intended for the conspiracy to succeed

*No overt
act
required!*

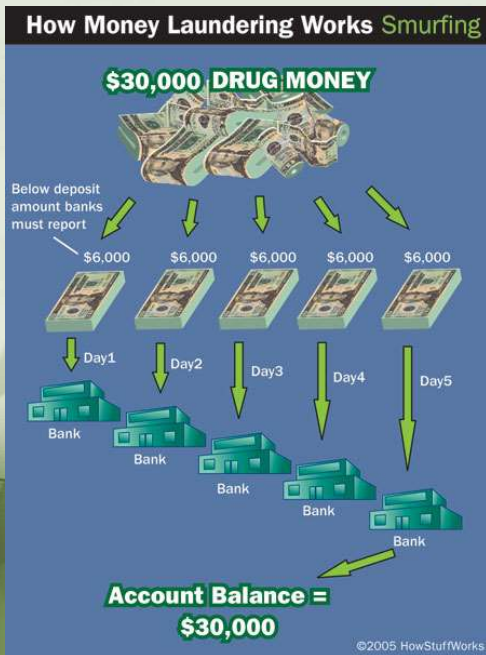
M.L. Spending of Illicit Proceeds 1957

- knowingly engage or attempt to engage in a monetary transaction;
- **know that the transaction involved criminally derived property;**
- value greater than \$10,000;
- Property is derived from a specified unlawful activity; and
- the monetary transaction within the U.S. or outside the U.S. but by a U.S. person.

structuring for
the purpose of evading the
transactions for currency
reporting requirements

- A person acting alone, in conjunction with others, or on behalf of others
- Conducts or attempts to conduct
- One or more transactions in currency
- In any amount
- At one or more financial institutions
- On one or more days
- In any manner
- For the **purpose of evading the reporting requirements**

- 31 CFR 1010.311 (CTR), 1010.313 (Aggregation of transaction totaling more than \$10,000 during one business day), 1020.315 (Transactions of exempt persons by banks), 1021.311 (CTR-Casino), or 1021.313 (Aggregation of transactions totaling more than \$10,000 during any gaming day – casino).



Date	Cash Deposits
12/5/2022	\$17,000
12/8/2022	\$9,000
12/9/2022	\$9,000
12/10/2022	\$8,000
12/12/2022	\$8,000
12/13/2022	\$9,000
12/15/2022	\$8,000
12/22/2022	\$9,000
1/16/2023	\$9,000
1/17/2023	\$9,000
1/21/2023	\$8,000



**Notice to Customers:
A CTR Reference Guide**

Why is the casino asking me for identification and personal information?

Federal law requires casinos and card clubs to report currency transactions over \$10,000 conducted by, or on behalf of, one person, as well as multiple currency transactions that aggregate to over \$10,000 in a single day. These transactions are reported on a Currency Transaction Report by Casinos (CTRC) form. The federal law that requires the filing of these reports was passed to safeguard against money laundering and other financial crime. To comply with this law, casinos and card clubs must obtain personal identification information about the individual conducting the transaction such as a Social Security Number, as well as a driver's license or other government issued document. This requirement applies whether individuals conducting the transactions are wagering on behalf of themselves or someone else.

There is no general prohibition against handling or wagering large amounts of currency in a casino or card club, and the filing of CTRCs is required regardless of the reason for the currency transaction.

Can I break up my currency transactions into multiple, smaller amounts to avoid being reported to the government?

No. This is called "structuring." Federal law makes it a crime to break up transactions into smaller amounts for the purpose of evading the CTRC reporting requirement, and this may lead

4 Issues in ML (International)

Reporting & Recordkeeping Requirements

- CTR
- CTR – Casinos
- Form 8300
- CMIR
- SAR
- **SWIFT, CHIPS, FEDWIRE**

Substantive Underlying Criminal Offenses

- Specified Unlawful Activities (SUAs)
- Criminal Code (18 USC)
- Implementing Regulations
- Executive Orders
- **Foreign laws & statutes**
- **U.S. jurisdiction (transnational)**
- **OFAC/Export Control Regulations**

Criminal



MONEY LAUNDERING

Civil

Financial Transaction & Document Analysis

- **Foreign & domestic transactions**
- Banking process
- Business details
- Financial analysis
- **Language issues**
- **Conversion issues**
- **Foreign banking information**
- **Foreign business details**

Legal Procedural Considerations

- Federal Rules of Criminal Procedure
- Federal Rules of Civil Procedure
- Rule G of FRCivP (forfeiture)
- CAFRA
- **Mutual Legal Assistance Treaty Requests**
- **Egmont Process Requests**
- **Extradition & Enforcement**

Who-What-When-Where-Why-How-How Much?

Key Concepts in ML

- **Conceal**—hide or keep from finding out (covering)
- **Disguise**—mask or make it appear what it is NOT
- **Origin**—location it came from
- **Source**—activities it came from
- **Nature**—type, scope, extent, circumstances
- **Location**—foreign or domestic area
- **Disposition**—where the funds ultimately ended up
- **Movement**—transfer or attempted transfer of funds
- **Ownership**—who has **beneficial** or actual right to own
- **Control**—who actually has **authority** or **directs** actions to be taken

Umbrella Crime

- *Money laundering (ML) is known as an “umbrella” crime. Like the Racketeer Influenced & Corrupt Organizations Act (RICO) used against the Mafia and other criminal enterprises, it attacks the underlying criminal activity and support networks that allow these criminals to flourish.*
- *There are 20 designated predicate offenses in the international conventions.*
- *The U.S. calls the predicate offenses “specified unlawful activities” (SUAs)*

Who Commits Money Laundering?

- *Most commonly associated with drug traffickers, off-shore tax evaders and organized crime families*
- *Can also be applied to “juridical persons” which can be “any entity...including...a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organization or group, capable of acquiring rights or entering into obligations.”*
 - *(OAS Module Regulations, Art. 1(6))*



Other Crimes involving ML

- *Terrorism, human trafficking, sexual exploitation, arms trafficking, corruption, fraud, bribery, counterfeiting and piracy of products, insider trading & market manipulation, and others...*





The Wheel Goes Round...

The Money Laundering Cycle



A hand-drawn illustration of a washing machine. The machine is dark grey with a circular door in the center. Inside the door, there is a green recycling symbol (three chasing arrows forming a triangle). Above the door, there are several control icons: two small squares, a horizontal line, and two circles with diagonal lines. The drawing is done in white outlines on a dark background.

TEDEd

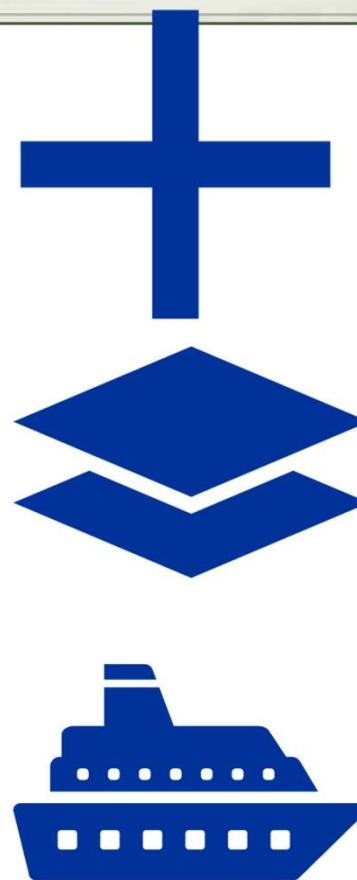
HOW DOES
MONEY
LAUNDERING
WORK?

Origins of Money Laundering

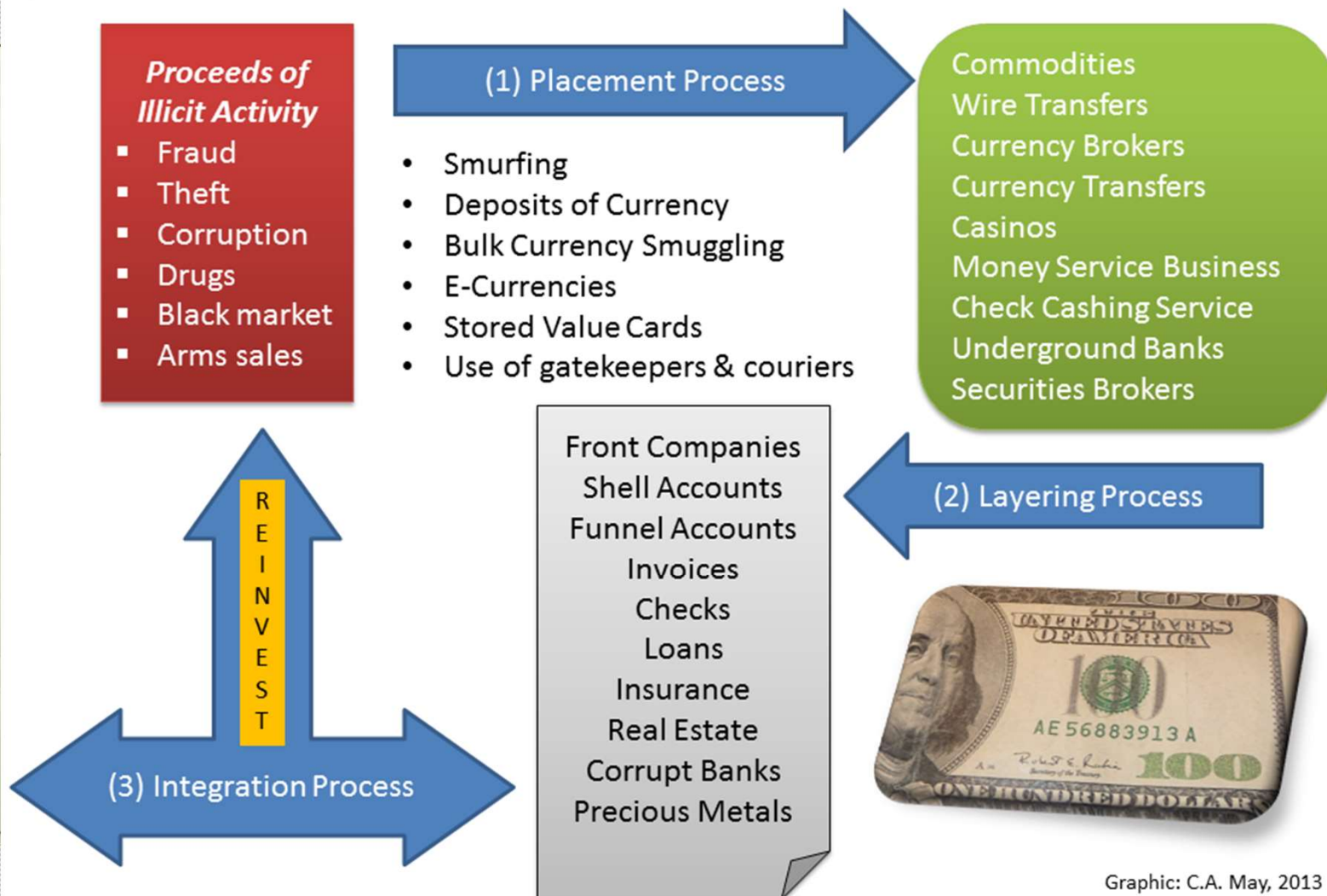
- *Criminals need a way to convert their ill-gotten gains into readily accessible cash that*
 - *(1) looks like it came from a legitimate source*
 - *(2) allows them to continue their criminal activity without detection by law enforcement*
 - *(3) gives them the freedom to purchase items, including cars, yachts, real-estate, jewelry, furs, and other luxury items*
 - *(4) enables them to safe guard their illicit proceeds from other criminals and law enforcement*
- *Al Capone attempted to take control of the Chicago Cleaners & Dyers Institute (the trade association for laundries) in May 1931.*
 - *“For years, the cleaning and dyeing industry has been known as a lucrative field for racketeers.” (Chicago Tribune, 5-13-31)*

ML Process & Cycle

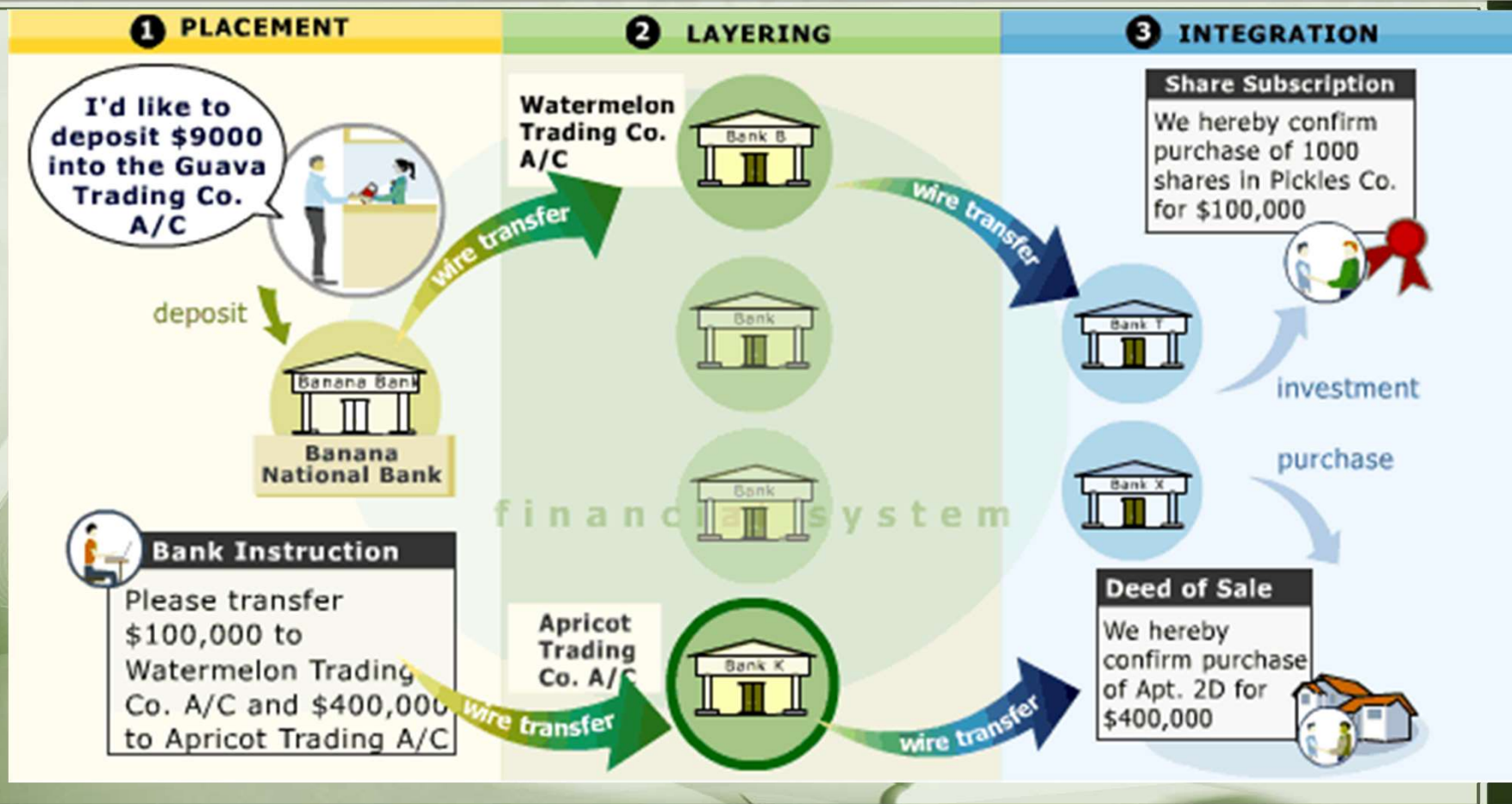
- *Stage 1: Placement*
 - *Take your cash and put it into the financial system*
 - *Usually through a bank or other financial institution*
 - *Most vulnerable to identification and confiscation by authorities*
- *Stage 2: Layering*
 - *Move the money around to disguise its origin & source*
 - *Goal is to further separate the money from its illegal source*
 - *Keep the authorities guessing by many & constant transfers*
- *Stage 3: Integration*
 - *Get the funds back into the legitimate economy*
 - *Make the money appear to come from a legal source*
 - *Buy luxury goods, spend it, invest in other businesses*



Money Laundering: Flow of Funds & Commingling of Illicit Proceeds



The ML Process (illustrated)



Source: Australia Financial Intelligence Unit (AFTRAC)



How Bad Guys Do It...

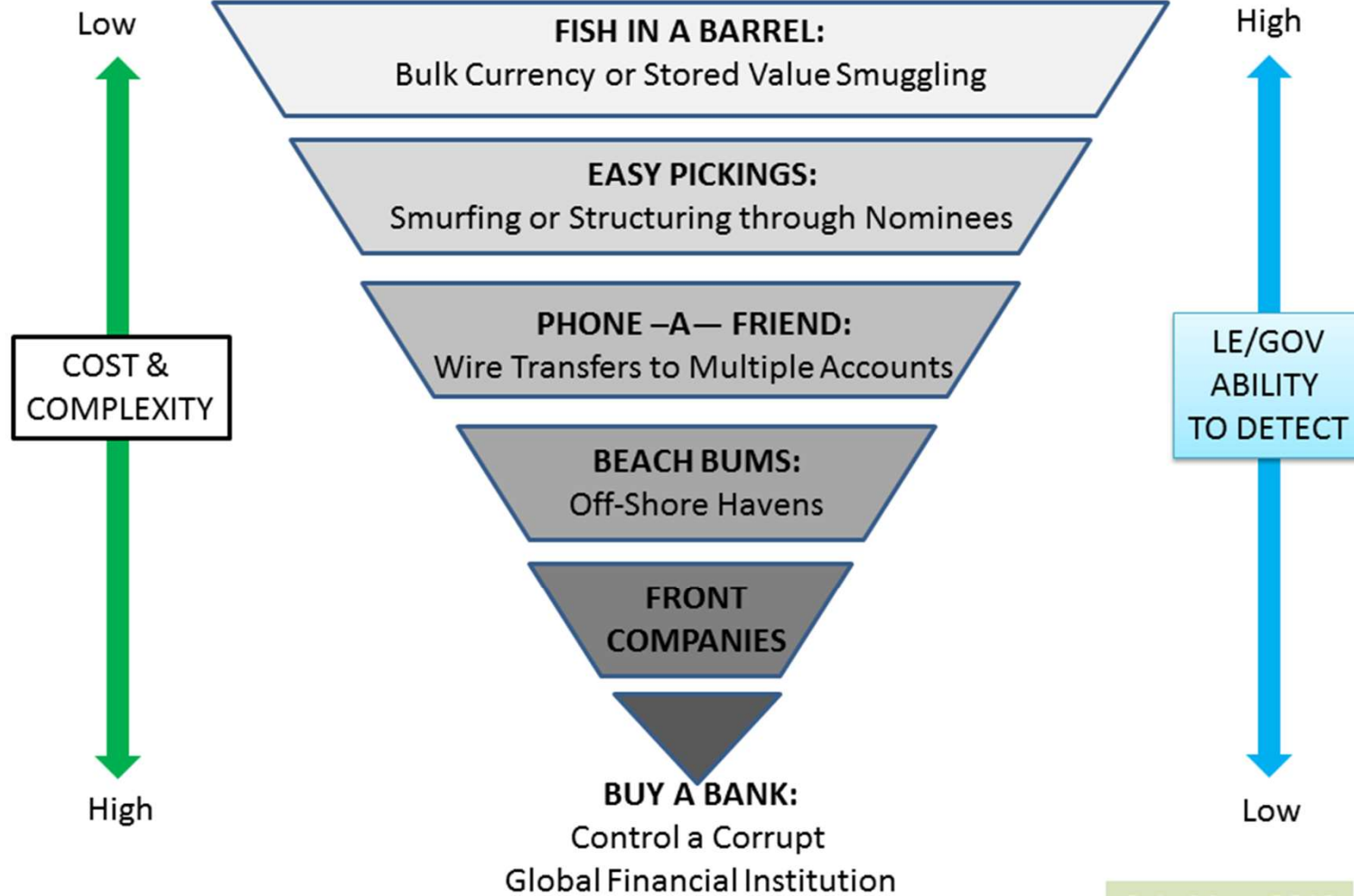
Common ML Schemes



Methods & Typologies

- *Anti-Money Laundering professionals refer to the types of ML schemes as either methods or typologies*
- *Every few years, the FATF (Financial Action Task Force) issues a Typologies Report which includes sanitized cases of actual money laundering cases*
- *ML schemes extend across a spectrum that ranges from obviously simple to exceedingly complex*
- *See the chart for the “ML Universe”*

THE MONEY LAUNDERING UNIVERSE



C.A. May, 2013

Common ML Schemes

- *Nominee*
 - *Get someone to conduct the transaction on your behalf*
- *Smurfing (aka Structuring)*
 - *Having multiple individuals conduct transactions at multiple financial institutions on your behalf, usually just under the currency or recordkeeping reporting requirement*
- *Nominal Business Cover*
 - *Letterhead, business card, and a PO Box to look like a real business; but not registered and convert all “business” checks into your personal account*
- *Bulk Currency Smuggling*
 - *Stick as many \$20 or \$100 bills on your person or in your car as possible and hope you don't get caught*

Nominee (“cut-out”)

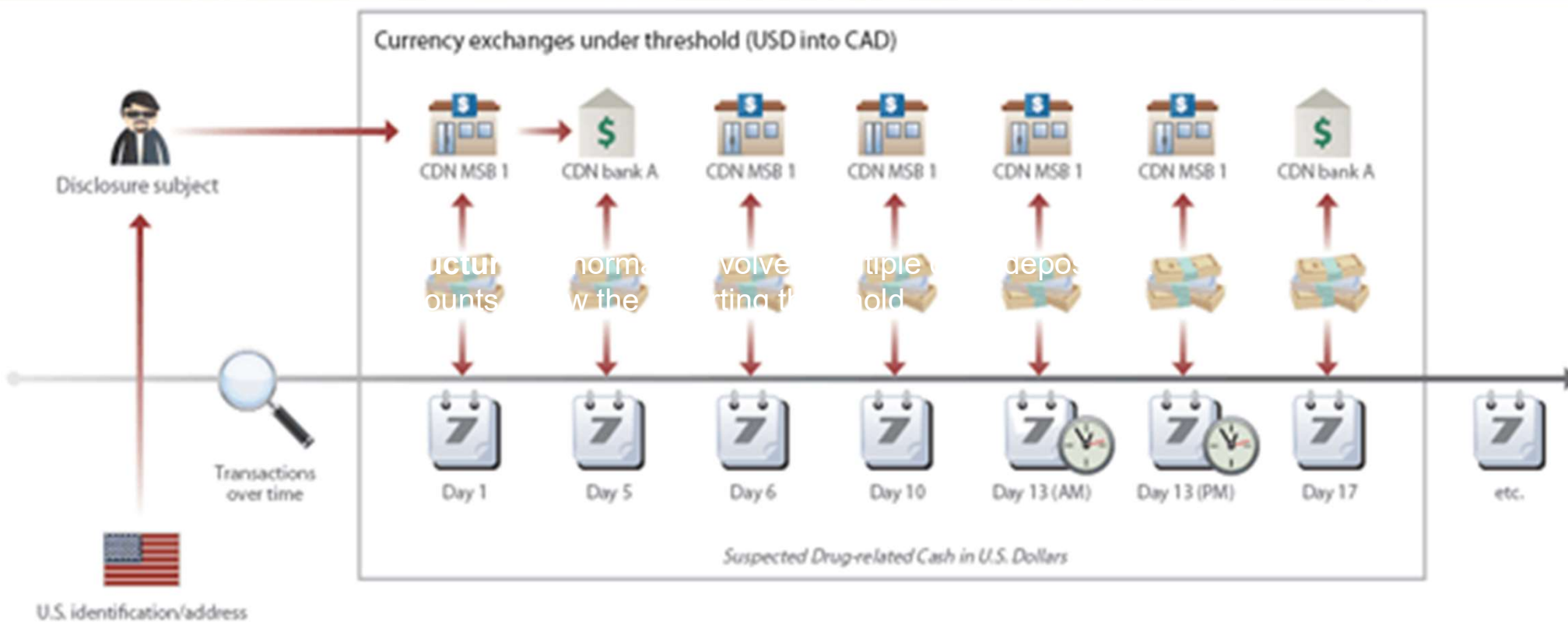


Nominee



In this case, Bob is running a multi-million dollar securities fraud scheme. In order to disguise his ill-gotten wealth, Bob has Rick pay for a new villa on a Caribbean island with a Cashier's Check that is in Rick's name and from Rick's account. Bob supplies Rick with the money and pays Rick a fee for helping him.

Structuring & Smurfing



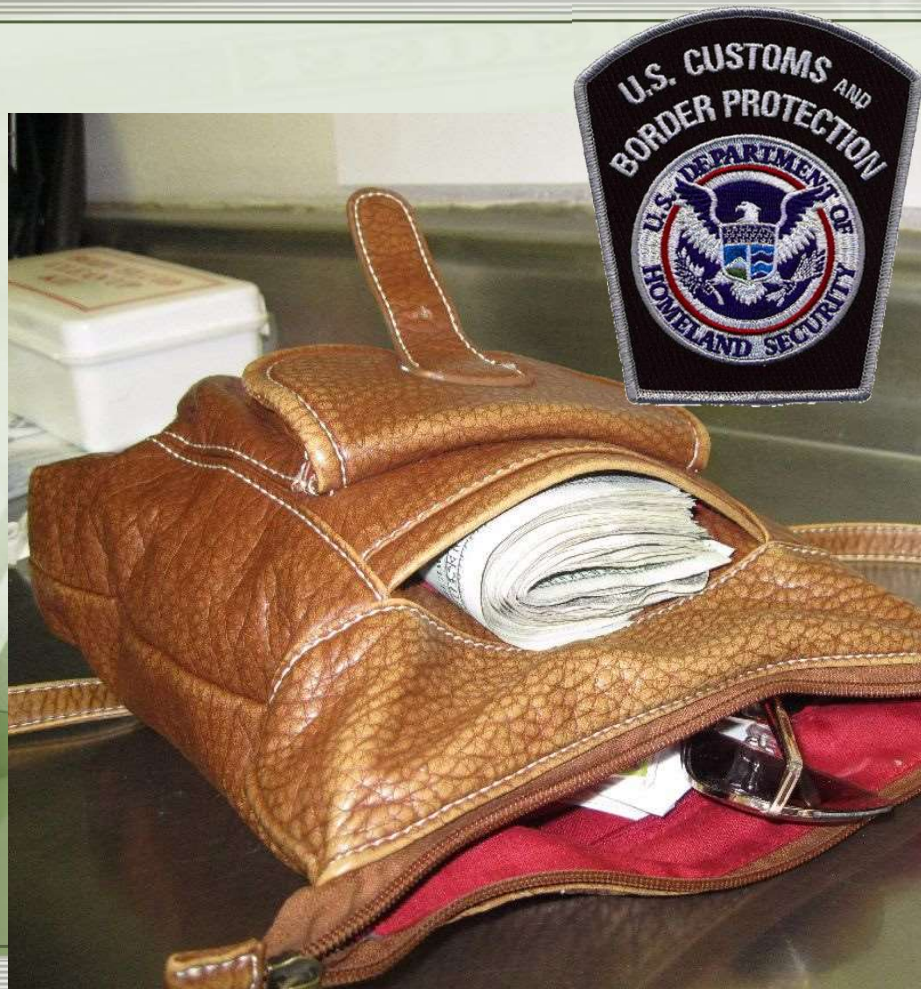
Use of Postal Money Orders



<http://www.fbi.gov/stats-services/publications/mass-marketing-fraud-threat-assessment> (dated June 2010)

<http://www.fox44.com/news/crimetracker/woman-arrested-for-over-400000-in-counterfeit-money-orders-traveler%E2%80%99s-checks>

Bulk Currency Smuggling



Pre-Paid or Stored Value Card

Official: Drug lords using 'gift cards' to smuggle money



Arizona Attorney General Terry Goddard says Mexican drug cartels use gift card technology to smuggle money across the U.S. border.

The state of Arizona is finding itself on the front line of the war against Mexican drug cartels. Their attorney general will meet this week with leaders of other southwestern states to try to stop the flow of drugs across the border with Mexico. To do that, they say they will have to stop the flow of cash as well, including a new way smugglers are trying to get past the cash-sniffing dogs.

Lawmakers say gift card technology is now making it easier for drug lords to move cash across the border undetected. These 'stored value instruments' are often issued by offshore banks and allow large sums of money to be moved throughout the world. Arizona Attorney General Terry Goddard spoke to Kiran Chetry on CNN's "American Morning" Wednesday.



Laundering Money Through a Business

Overstate Expenses

Income Statement Laundering

- Inflate legitimate business expenses
- Pay “ghost” or “no-show” employees
- Uses vague descriptions (“consulting fees,” “services rendered”)
- Business “purchases” supplies, but never delivered/received
- Used as a way to extract funds (integration phase)

Overstate Revenues

Income Statement Laundering

- Tainted funds disguised as cash infusion
- Proceeds appear as normal revenue
- Inflate invoiced/contracted prices (kickback?)
- Create fictitious (sham) transactions

Commingle Funds

Bank Account (“Cash Flow”) Laundering

- Cash or other instruments deposited into business bank accounts
- Deposited to appear as legitimate business revenues
- Can be “sales” revenue or “off-book” transactions
- Disguised through “related-party” transactions
- Commingled with legitimate accounts to conceal traceability

Non-Operating Activities

Balance Sheet Laundering

- Most common form of business-ML
- Utilizes “non-operational transaction”
- Exists outside of revenue-generating business
- Loans, asset acquisition/sale/transfer
- Investment income
- Needs lots of falsified back-up documentation



Money Laundering Case Analysis - 1

- *Who?*
 - *The person or persons involved in the scheme*
 - *Can be natural persons or entities/organizations/businesses*
- *Chronology (when?)*
 - *Sequence of events*
 - *Timeline*
- *What?*
 - *Specific conduct or actions executed or attempted*
 - *Evidence (bank records, emails, surveillance, etc.)*
- *Where? (locations)*
- *Why? (motive)*
- *How? (wire transfer, deposit, ATM withdrawal)*



Money Laundering Case Analysis - 2

- *Bank Secrecy Act – FinCEN*
 - *Suspicious Activity Reports (SARs)*
 - *Currency Transaction Reports (CTRs)*
- *Audits and “Exception Alerts”*
 - *Terminal Operators who are delinquent in reporting*
 - *Any internal control weakness/MICS violation*
- *Outreach*
 - *To Operators, to public, to licensees, employees, contractors*
 - *Identify red flags...have people report odd*
 - *How to write a better SAR – FinCEN data and resources*



Money laundering investigations

1. transaction
2. proceeds
3. knowledge
4. purpose



What is the transaction?

Where does the money come from?

How do we prove that our subject knew the money was dirty?

What was the subject trying to do with the money?

Think in terms of proving both the financial aspect AND the underlying crime

Don't forget asset seizure & forfeiture



All About “Money & Things”

Travel & Transportation

- Hotels (points?)
- Airlines (points?)
- Travel agencies (websites)
- Car rentals
- Car sales
- Boats/cruise lines
- Aircraft rental/purchase

Banking & Finance

- Banks/credit unions/S&L
- Credit cards
- Insurance policies
- Loans/mortgages
- Deposit history
- ATM history (locations)
- Expenditure habits

Communications

- Emails
- Web history
- Search history
- Internet chat (rooms)
- Cell phone
- Texts
- Trap & trace

1) Where do they go?

2) What do they do?

3) What do they buy?

