



## **Dirty Dealing Introduction**

A few weeks before I started writing this version of Dirty Dealing, I was sitting in a Starbucks coffee house in North America. Having just survived a 10-hour transatlantic flight I was trying to beat jet lag and stay awake by drinking numerous cups of cappuccino. I was also taking the time to reflect on the week ahead: delivering a new Anti Money Laundering Training Programme that we had devised. One of my prime thoughts was how to begin each of the Training Sessions. As I drank my coffee and read the local newspaper, I came across a short article which was to provide the introduction for my talks. It told me about Cesare Lombroso, who lived between 1835 and 1909. He is considered by some to be the world's first criminologist. He saw wickedness and criminality as an evolutionary throwback and because of this he argued you could pick out criminals visually. In 1871, he wrote that "a criminals ears are often of a large size, the nose is frequently upturned or of a flattened character." Other signs of criminality according to Lombroso were a sloping forehead; long arms; rodent like incisors; premature wrinkles; excessive hairiness (but only in women). And as for tattoos, only criminals wore them.

The relevance of this material was that one key element of the training sessions was describing to attendees how they could identify suspicions or red flags of money laundering: those elements in a transaction, pattern of transactions and/or customer profile or customer's activities which may indicate possible laundering activity. This is because in the post 9/11 environment, any of the world's anti money laundering procedures are almost wholly dependent on employees identifying suspicions of money laundering and reporting these suspicions to relevant authorities. Whereas five years ago these "regulated" employees would only be working in banks or other financial institutions, now it is almost any employee anywhere who deals with financial transactions who is under an obligation to identify anything which may be suspicious and report it. In general terms, if you work in an auction house, as an accountant, in an estate agency business, as a car dealer or as a jewellery dealer - in fact anyone working in a field which handles other peoples funds or financial relationships - you will find that you have a legal duty to tell relevant law enforcement authorities about suspicious behaviour of clients.

In the United Kingdom (which is fairly typical in terms of anti money laundering requirements in Europe), from 1 March 2004 anyone who works in a business or industry sector which handles other people's money is now a gatekeeper in the fight against money laundering. These obligations are the result of the UK Proceeds of Crime Act 2002, which brought European regulations into UK law. These new procedures also expanded the laundering of money to include any transactions that involves the handling of the proceeds of crime. The obligation to report suspicious activity now includes lawyers, accountants, antique dealers, auction houses, car dealers, casino operators, estate agents and jewellers.

This raises numerous problems but most principally what exactly is suspicious? The definitions of suspicious transactions or people are so broad or non-existent that they are almost unintelligible; or alternatively you have to ask your people to act on their "gut feelings" - as there is no finite list of what may or may not be suspicious. A

further key topic is the bracketing together of terrorist financing and funding (which are in themselves two different mechanisms) with money laundering. On the one hand we are asking people who deal with financial transactions to identify large amounts which could be indicative of washing dirty criminal money whilst on the other hand we need them to spot accounts or relationships with small amounts involved which could be held by frontline terrorists. In respect of terrorist financing it is now clear (as outlined in Chapter Seven) that the likelihood of identifying frontline terrorist accounts whilst they are being used to fund future attacks is very low.

A further problem that has beset those who fall under anti-money laundering regulations is a too narrow focus on complying with the law as opposed to actually trying to identify suspicions. In June 2005 Philip Robinson of the UK FSA was quoted as saying that "I want them to defend against their firm being used by criminals, not against the regulator fining them". Such an attitude though is very common: firms trying to cover their own position rather than uncover suspected money launderers or terrorists.

In formulating the training course that I was going to present in North America, we attempted to define what exactly needed to be told to a company that was under this kind of regulation. One of the initial problems that we encountered was that it was becoming obvious to us that although money laundering was a term which was used in numerous circumstances describing a variety of events and people, the actual meaning of the term had become obscured, confused and complicated. We therefore decided that the only way to approach the introduction to the training program was to go back to basics and try and describe what money laundering is, where the money that needs to be laundered actually comes from and why it is such a global problem. To try and explain the basic issues, these are the types of questions that I usually get asked on the washing of dirty money and the dirty dealing associated with it.

### WHAT IS MONEY LAUNDERING?

As described in later chapters of this book, the perception that still endures of money laundering is of a suspicious character turning up at the counter of a bank with a suit case (probably helpfully labelled swag) overflowing with used notes. Until recently, the most widely accepted analysis of the problem has attempted to reduce a complex and global process to a neat three-stage technique (placement, layering and integration). It is perhaps only now that it is becoming clear that Money Laundering is a robust, corrosive, all consuming and dynamic activity that has far reaching consequences and effects.

Traditionally, Money Laundering is viewed (in isolation) as the cleaning of dirty money generated by criminal activity; initially in the collective mind set, these crimes were associated with the illegal drugs or narcotics trade. Of course, Money Laundering is this, but it is also a whole lot more. To understand and appreciate the all consuming power and influence of Money Laundering and the people who launder money, one needs to go back to the purpose of the original crimes.

The vast majority of relevant illegal acts are perpetrated to achieve one thing: money. If money is generated by crime, it is useless until the original tainted source of funds can be disguised or preferably obliterated. Thus, the dynamic of Money Laundering lies at the corrupt heart of many of the social and economic problems experienced across the globe.

### WHY IS THE PROCESS CALLED MONEY LAUNDERING?

The phrase probably originated in the United States in the 1920's. Criminal gangs were trying to disguise how they got their money so they took over businesses with high cash turnovers such as laundrettes and car washes. Then they mingled their dirty cash with genuine clean cash receipts. Thus whilst laundering today is associated with washing criminal funds, the original use of the phrase is because of the actual use of the real laundering business. However, the techniques that were used in the beginning are very similar to those of today: co-mingling dirty money with clean funds and trying to pass it off together as legitimate business receipts.

### WHERE DOES THE DIRTY MONEY THAT NEEDS TO BE LAUNDERED COME FROM?

Dirty money comes from every kind of criminal activity on a global basis. As we see later in this book, this includes, but certainly is not limited to, the drugs (illegal narcotics) trade, illegal arms trading, illegal sex business, corruption, fraud, forgery, armed robberies, blackmail, extortion, arts and antique fraud, internet fraud, smuggling, tax fraud and trafficking in human beings.

### WHAT KINDS AND AMOUNTS OF MONEY ARE INVOLVED?

In truth, nobody knows how much dirty money is being laundered or attempted to be laundered on a global basis. I like to think of it like this: Any and every criminal act anywhere on this planet that involves obtaining money illegally produces funds that need to be laundered. In 1999, the United Nations Development Report estimated that organised criminal syndicates made \$1.5 trillion each year. Recent figures from the International Monetary Fund suggest that the amount of global criminal activity which involves a financial component is near to \$2 trillion. The OECD has estimated that money laundering now exceeds \$2 trillion annually. These then are good base figures to begin from – but remember these are probably just the start points.

### WHY IS MONEY LAUNDERING SUCH A GLOBAL PROBLEM?

Money Laundering is an essential follow on from the criminal activities described above, but more crucially, once the funds have been cleaned they then can be reinvested in such activities thus perpetuating the most vicious of circles. Crime can only fully succeed if the funds generated can be utilised without their true source being known. Moreover, criminal activities continue to expand because the washed funds are then reinvested in the businesses. Money Laundering is the critical tool to enable this to happen.

### ISN'T ALL THIS STUFF ABOUT GLOBAL ORGANISED CRIMINAL ACTIVITY A BIT OF AN EXAGGERATION?

In fact, probably the exact opposite is true – this is no media hype story. Numerous organised crime groups are active in each country and on a global basis – the successful ones are being run as effectively as normal businesses. In fact, it could be argued that the clever criminals are running their businesses far more efficiently and effectively than a normal legitimate business. Amongst the groups that we consider in Dirty Dealing are Colombian drug cartels, Mexican drug cartels, Russian criminal groups, Japanese Yakuza, the Italian Mafia, Chinese triads, Turkish and Kurdish gangs, West African / Nigerian fraudsters and Balkan gangs. These are highly organised and sophisticated operations – David Blunkett when he was UK

Home Secretary commented that criminal groups are probably more organised than the official bodies trying to fight and defeat them.

### ARE THERE ANY BUSINESSES THAT ARE PARTICULARLY SUSCEPTIBLE TO MONEY LAUNDERING?

Yes there are. So much so that clever launderers have in the past created dummy businesses just as a front to launder funds, as described in later sections of this book. Traditionally, these are businesses that have a large cash turnover such as Bureau de Change, bars, night-clubs, fairgrounds, car parks and petrol garages. However, the connected global world of the 21<sup>st</sup> Century means that any company could be set up anywhere as a front for launderers. False invoices can be issued from country A to country B seeming to represent legitimate transactions. The proliferation of on-line businesses also presents a remarkable opportunity for criminals to create front companies.

### WHERE IS IT EASIEST TO IDENTIFY POTENTIAL MONEY LAUNDERING ACTIVITY?

It is actually getting more and more difficult to identify suspicious activity because criminals are becoming increasingly clever in how they wash their dirty money. However, there are some basic steps that form the part of any AML regime.

Two essential anti money laundering procedures are that companies must Know Their Customer (KYC). Secondly, relevant companies should actively look for red flags that signify money laundering such as unusual transactions, large cash payments and movements of funds that have no real logic. There is a big BUT though... while such red flags may identify money laundering, there is no guarantee that they will spot terrorist financing. Moreover, there is no such thing as a definitive list of red flags. As money launderers become more clever, they too are studying the anti money laundering regulations and devising methods of getting the money through without appearing on official radar screens.

### WHAT ABOUT PROFESSIONAL ADVISERS, SUCH AS LAWYERS AND ACCOUNTANTS? SHOULDN'T THEY BE ABLE TO SPOT MONEY LAUNDERING BY THEIR CLIENTS?

Yes, but all the historical data tells us that these professions have not previously done a very good job. They have generated a very low level of reports of suspected money laundering to relevant authorities. On reflection, this is particularly strange as much of their core businesses centre on money and having detailed knowledge of clients together with complex financial systems, products and structures.

### WHY ARE OFFSHORE FINANCIAL CENTRES ALWAYS MENTIONED IN RELATION TO MONEY LAUNDERING?

Offshore financial centres ("OFC"), offshore jurisdictions, tax havens – call them what you will, have always played a vital part in money laundering. However, we should not forget that there are other onshore financial centres such as London that act as a large offshore financial centre to non-UK citizens. OFC's have in the past provided products and services that are described in Dirty Dealing in which the actual account holder is virtually anonymous thus making money laundering and the hiding of assets easier. One could suggest that this still may be the case – where for example, are the fortunes of major terror groups, corrupt politicians and criminal groups and why haven't they been located and frozen yet?

### IS THE FINANCING OF TERRORISM THE SAME AS MONEY LAUNDERING?

No, but since 9/11, this topic has become strongly linked to money laundering. Chapter Seven hopefully provides an evaluation of why it is very dangerous to confuse terrorist financing and money laundering. Traditional ideas on money laundering do not apply to terrorist financing. The basics of criminal money laundering are to wash large amounts of dirty money. However, terrorist funding can and does operate on a shoestring. That being said, the actual funding of terrorism, generating the funds as opposed to supplying them to front line terrorists – does involve large amounts of money. This money is generated through donations, fake charities, front companies, criminal activities and other supply mechanisms. All of this money has to be processed and hidden in the world's financial system. However, as with traditional money laundering, there is mounting evidence that this is being increasingly achieved outside the traditional western banking system through such methods as informal exchange systems (such as Hawala or Hundi), diamond trading and on-line share trading (to name but three). A further key problem is that because the amounts involved in mounting a terrorist operation are remarkably low, it is not necessarily feasible or possible for regulated institutions or companies to identify terrorist customers by analysing their financial transactions.

### WHY IS IT VITALLY IMPORTANT TO STOP MONEY LAUNDERING AND THE FINANCING OF TERRORISM?

Money laundering supports and facilitates global criminal activity; Terrorist financing is the underlying facilitating mechanism of violent attacks by fanatics. If we could ever reduce the financial flows that underpin these activities, we would be able to tackle the problems themselves. Criminals and terrorists have no respect whatsoever for laws, regulations, decency – or ultimately – human life. They will do whatever they need to do to wash the proceeds of their crimes, or in the case of terrorists, ensure that the funds are available when and where they need them to mount their latest outrage.

The history of money laundering, as described in this book by organised criminals is that such groups always surmount any obstacle in their path, using cutting edge technologies and any new product or facility that can be exploited to clean dirty money. Terrorists – with strong and waving ideologists powering them – must be expected to do the same.

### IF THE MONEY LAUNDERING PROBLEM IS SO SERIOUS WHAT MORE CAN BE DONE TO CONTROL IT AND ULTIMATELY STOP IT?

Clever criminals, who are generating substantial sums through their activities, realised a long time ago that if you transfer these funds through numerous countries, you create a very difficult trail for law enforcement agencies to follow.

Money laundering is a world-wide activity. Criminals have embraced the 21<sup>st</sup> century global economy rather more effectively and quicker than governments and lawmakers. Countries still think of this problem in national rather than international terms. Money laundering can only effectively be fought through continuous and effective co-operation between countries and their organisations through such topics

as common laws, sharing of information and co-operation between police forces and other affected countries.

The United States Officer of the Comptroller of the Currency observes that:

"Money is laundered to conceal criminal activity associated with it, including the crimes that generate it, such as drug trafficking or illegal tax avoidance. Money laundering is driven by criminal activities. It conceals the true source of funds so that they can be used freely. It is the support service that allows criminals to enjoy the fruits of their crimes. It allows crime to pay and often pay well".

From the United States office of Comptroller of the Currency, Money Laundering and Bankers guide to avoiding problems. "

On 11 September 2001, as a result of a violent fissure, the world changed. Very soon after the horrific events in the United States, attention moved to the financing of terrorism. Grasping the dictum of Watergate's Deep Throat one essential strand of the war on terrorism became to "follow the money". Nearly every country has subsequently introduced, revised or strengthened its anti-money laundering (AML) regime, bracketing in terrorist financing along the way. In the months after 9/11, various western countries issued reports confirming the amounts of terrorist funds that had been frozen or confiscated. As the years roll on, such self-congratulatory reports become less frequent – and the death toll caused by terrorism mounts with awful regularity.

In the second edition of this book I voiced my pessimism about the progress made in the fight against money laundering. I am now doubly pessimistic: this is because of my overriding reservations about not only the battle against money laundering but also the war on terrorist financing. The realisation that money laundering is a destructive social and economic problem is nothing new though. In 1998 the United States International Narcotics Control Strategy Report observed that:

Money Laundering has devastating social consequences and is a threat to national security because money laundering provides the fuel for drug dealers, terrorists, arms dealers, and other criminals to operate and expand their criminal enterprises. In doing so, criminals manipulate financial systems in the United States and abroad. Unchecked, money laundering can erode the integrity of a nation's financial institutions...Organized financial crime is assuming an increasingly significant role that threatens the safety and security of peoples, states and democratic institutions. Moreover our ability to conduct foreign policy and to promote our economic security and prosperity is hindered by these threats to our democratic and free-market partners.

And have we actually improved this position? A cynical view is that the only change is that to "organized financial crime" referred to in the above quotation you can now add terrorism. In the original version of "Dirty Dealing" (finished in early 2000) I concluded with the following words:

Crime can only succeed if the funds generated can be utilized without their true source being known. Moreover criminal activity continues to expand because the washed funds are then reinvested in the business. Money laundering is the critical tool to enable this. It is a dynamic and robust circular

process. It will only be stopped when the legitimate business world implements strong coherent anti money laundering procedures in a serious way and when drastic action is taken by relevant authorities against the jurisdictions, people and institutions that make the washing cycle possible. This is a severe problem - a business and financial apocalypse - that now merits such draconian.

It could be argued that we now have the "strong coherent anti money laundering procedures" referred to above. Yet such controls appear in the main to be a "one size fits all" solution with high-risk areas/industry sectors not being specifically targeted. Thus I still contend that money laundering (and terrorist financing) are critical yet still unresolved global issues. The laundering of dirty money and the processing and distribution of terrorist funds are so momentous because it is this money which acts as a motor powering the vast majority of the planet's corrosive and destructive activities: such as financial crime, terrorist outrages, the illegal narcotics trade and human trafficking. Immediately prior to the publication of the first edition of "Dirty Dealing" (and thus before 9/11) the US administration were seeking to widen the definition of money laundering to encompass fiscal crimes (specifically tax evasion). Then, as now, I argued that this was a mistake: equally now it is an error to confuse money laundering with terrorist financing hoping that the methods of identifying and halting the washing of dirty criminal money will also work with the funding of terror.

If the first edition of this book was a snapshot of the money laundering world at the start of a new century, this edition aims to provide a history of the subject telling the story of money laundering in all its guises. Yet above all we should not forget that the washing process does not take place in a vacuum; somewhere in the laundering process there will be real human suffering brought about by this dirty dealing.....