

Chapter 2

Money Laundering

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Chapter overview



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Activity



Answer to activity



Real world example



Exam focus



Model



Resources



Key questions



Chapter summary



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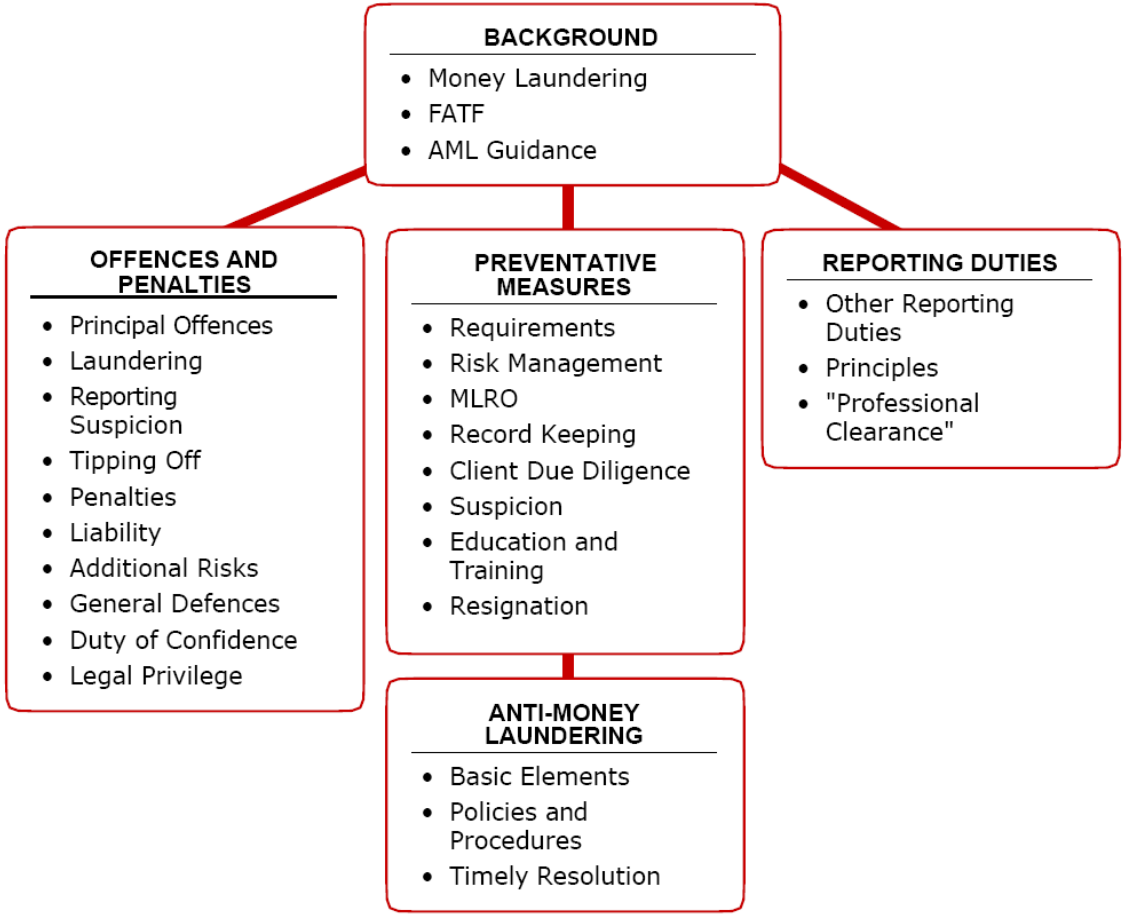
CHAPTER 2: Money Laundering



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Money Laundering

The process by which criminals attempt to conceal the true origin and ownership of the proceeds of crime, making illegal income appear legal



The term includes:

- Possessing; or
- Dealing with; or
- Concealing

the proceeds of crime (“criminal property”)

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Financial Action Task Force (FATF)

An inter-governmental body which sets standards and develops and promotes policies to combat money laundering and terrorist financing

Recommendations

- Legal systems to have adequate scope for dealing with money laundering
- Preventative measures to be taken by financial institutions, non-financial businesses and professions
  - customer due diligence (CDD) and record-keeping
  - reporting suspicious transactions to an external financial intelligence unit
- Transparency of legal persons and arrangements
- International co-operation including mutual legal assistance and extradition

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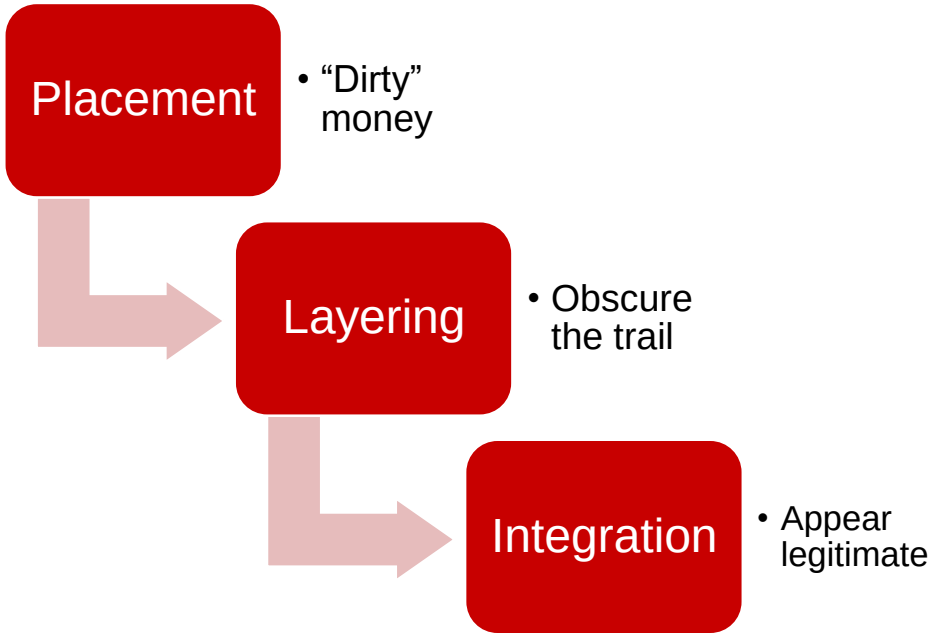
Principal Offences

Three main categories:

1. Laundering
2. Failure to report suspicion
3. “Tipping off”

Also

Failure to take preventative measures



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Laundering

- **Fiscal offences – tax evasion is a crime**
- **Reporting suspicion**
  - A suspicious transaction/activity report alerts law enforcement authorities
  - “Suspicion” is not defined
- **Tipping-off**
  - Includes disclosing/otherwise prejudicing a SAR/investigation to a third person
  - Non-disclosure and non-action could result in tipping off
- **Professional duty of confidence**
  - Accounting professionals will not breach confidence if they report, in good faith, to the appropriate authority

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Activity: Money Laundering Activities

Sparkle Co is a national distributor of domestic cleaning products which are bought from wholesalers. The company employs a team of approximately 650 sales staff around the country who sell to both domestic households and small to medium-sized businesses. Around 75% of Sparkle Co's sales transactions are cash-based and each sales staff prepares a monthly cash report.

To help create "an entrepreneurial spirit" amongst sales staff, the chief executive officer (CEO) is encouraging cash sales to friends and family on a commission basis. Leading the way with this scheme, the CEO recently sold products with a value of $35,000 to a business associate. The funds have been transferred directly into an off-shore bank account in Sparkle Co's name on which the CEO is the sole signatory.

What are the indicators, if any, of money laundering activities?

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Answer to activity: Money Laundering Activities

- High level of cash-based sales (75%)
- High volume of individual sales reports (650 × 12 = 7,800 a year)
- CEO's sale to a business associate ($32,500)
- The size of the transaction
- "Round sum" amount
- Off-shore business arrangement
- CEO is sole signatory to the bank account

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Defences

Possible defences to money laundering offences include:

- A report having been made (to the appropriate authorities or MLRO)
- Intention to make a report but there was a reasonable excuse for not having done so
- That the action by the client of acquiring (or using) property was thought to be in good faith and for adequate consideration



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Preventative Measures

Risk management, internal controls and policies

- A top-down, risk-based, anti-money laundering culture
- Identifying relevant money laundering risks
- Designing and implementing controls to manage and mitigate risks
- Know how to report to MLRO
- MLRO able to judge the reasonableness of suspicions and assess what should be reported to appropriate authority
- Client acceptance procedures should include:
  - identification procedures
  - gathering “know your client” (KYC) information
- Client money procedures should include KYC, commercial purpose of the transaction, source and destination of the funds

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Money Laundering Reporting Officer (MLRO)

Suitably **senior** and **experienced** and responsible for:

- Considering internal reports of money laundering
- Deciding if there are sufficient grounds for suspicion
- Preparing SARs
- Liaising with authorities
- Training employees in AML procedures
- Advising how to guard against tipping off
- Design and implementation of AML procedures



Record keeping

All client identification records/audit trail of all transactions must be kept (five years)

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Client Due Diligence

CDD is relevant when:

- Establishing a business relationship
- Carrying out an occasional transaction
- There is a suspicion of money laundering
- There are doubts over the accuracy and reliability of identification



Sufficient information must be obtained:

- Who is the client?
- Who owns it (ultimately)?
- Who controls it?
- Purpose and nature of the business relationship/client
- Client's sources of funds, and
- Client's business and economic purpose

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Suspicion - Recognition and Reporting

Recognition

- Inconsistent with activities?

Potentially suspicious transactions:

- Unusually large cash deposits
- Frequent exchange of cash into other currencies
- Unknown counter-party
- Activity inconsistent with normal business
- Off-shore arrangements with no clear business purpose

Reporting

- A legal requirement
- To the appropriate authority
- A **criminal offence** not to do so

No *de minimis*

When giving professional clearance, do not provide information relating to:

- The identity of an entity or individual
- Whether any report of suspicion has been made or contemplated

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Educating and Training

Ensure relevant people know:

- How to report to the MLRO
- How to identify clients
- How to recognise and deal with situations
- The main money laundering offences
- Procedures to prevent problems with:
  - Identification
  - Record keeping
  - Reporting



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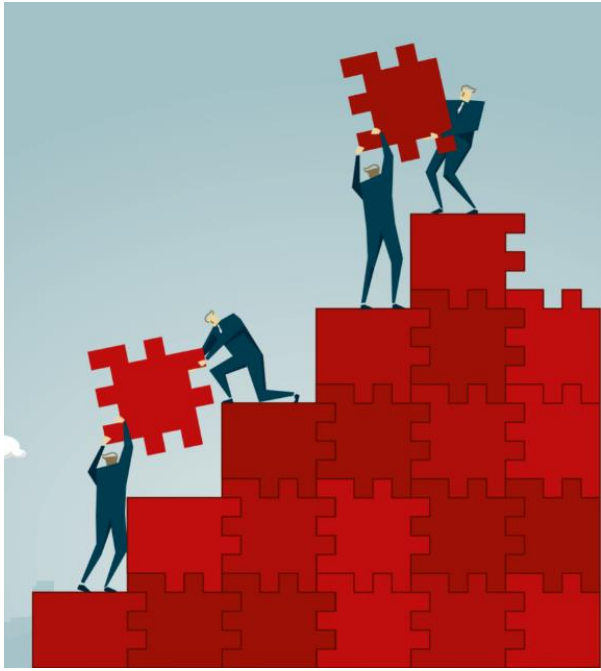
Anti Money Laundering (AML) Programme

Basic elements

- Dedicated resources
- Written policies and procedures
- Comprehensive coverage
- Timely escalation and resolution of matters
- Explicit management support
- Sufficient training and education
- Regular review/audit of the program



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Activity: Money Laundering Offence

Which of the following actions, if committed by an accountant, is a money laundering offence?

- Tipping off
- Possessing the proceeds of crime
- Abetting another person to carry out money laundering
- Failing to appoint a Money Laundering Reporting Officer

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Answer to activity: Money Laundering Offence

Which of the following actions, if committed by an accountant, is a money laundering offence?

- Tipping off
- Possessing the proceeds of crime
- Abetting another person to carry out money laundering
- Failing to appoint a Money Laundering Reporting Officer

ALL OF THE ABOVE

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Real world example: Money Laundering Bulletin

- Click on the following link to visit the Money Laundering Bulletin website to read about real money laundering cases
- Equally valid for your exam is practicing questions and identifying the issues arising in fictional situations
- An accountant must always be alert to money laundering issues, and be ready to act appropriately if they have suspicions



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Exam focus

Part (a) of Clean Co (D18) focused on money laundering.

The requirement had two aspects:

i. Discuss policies and procedures in an AML programme

ii. Evaluated whether there are any indicators of money laundering at the client

The examiner's report stated that candidates did much better in the discussion than in the evaluation.

This demonstrates that students need to improve in **applying** their knowledge.

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Article referring to money laundering

Click the link below to open the article on accaglobal

Technical article

Laws and regulations

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Chapter 2: Summary

- Money laundering involves disguising funds obtained illegitimately as legitimate.
- FATF's 40 Recommendations provide the international AML standard.
- Detailed AML Guidance is published by various bodies.
- Offences include fiscal offences, failure to report and tipping off.
- Professional accountants do not breach their duty of confidentiality if they report, in good faith, any money laundering knowledge or suspicions.
- The professional accountant's approach to AML procedures must be risk-based.
- The MLRO is a dedicated resource responsible for overseeing an AML program.
- Customer due diligence is the process of identifying customers and checking they are who they say they are.

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Practice question: Chapter 2

Study Question Bank	
Money laundering	30 mins *
* includes time for tutor guidance	

For AAA

- **Attempt the Study Question Bank question listed above after studying this chapter**
- **Attempt Revision Question Bank questions in your revision phase, after studying all chapters**

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Thank you

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