Untitled Essay, Research Paper

Financial Accounting For Financial Services AssignmentMoney Laundering

The word money laundering, according to the myth, is derived from Al Capone’s

practice of using a string of coin-operated launderettes in Chicago to disguise

his revenues from gambling, prostitution and protection rackets. It’s a nice

story but not true, money laundering is so called because it perfectly describes

the process of removing the stains and smells which money acquires when criminals

earn it.In this report I will go on to discuss the topic of money laundering in the

following order; firstly, I will begin by explaining what is money laundering?,

why it is done?, and how it is done? I will then go on to explain the effects

of money laundering and the institutions/organisations that are at risk from

these activities. I will also be discussing the current situation in the

UK regarding money laundering and whether anything can be done to prevent

or restrict laundering activities, and will then go on to conclude my

findings.Money laundering is the process by which criminals attempt to conceal the

true origin and ownership of the proceeds of their criminal activities. If

they are successful they can then maintain control over the proceeds and,

so, provide a legitimate cover for their source of income. J.D. Mclean defined

money laundering in the International Judicial Assistance as:”Although the proceeds of crime will be kept as capital for further criminal

ventures, the sophisticated offender will wish to use the rest for other

purposes. If this is to done without running a risk of detection, the money

which represents the proceeds of the original crime must be “laundered”;

put into a state in which it appears to have an entirely respectable

provenance”It is important to bear in mind that money laundering is a process (often

a highly complex one) rather than a single act. In an effort to expose and

analyse this phenomenon it has become common to use a three-stage model which

encompasses an ideal money laundering scheme. The three stages are as

follows:\* Placement Stage

This is where cash derived directly from criminal activity (e.g. from sales

of drugs) is first placed either

in a financial institution or used to purchase an asset.\* Layering Stage

The stage at which there is the first attempt at concealment or disguise

of the source of the ownership of funds.\* Integration Stage

The stage at which the money is integrated into the legitimate economic and

financial system and is camouflaged with all other assets in the system.Money launderers try to prevent authorities from tracing the source of their

ill-gotten gains by moving their funds around financial and economic system.

The funds are then spent as if they were legitimate money. The more blatant

by the money launderer will directly involve a person or a business in the

crime. i.e. A launderer could simply ask someone for permission to use their

account for deposits in return for a fee. Another scenario is for the money

launderer to approach a business and ask them to set up transactions in which

a sum of money is regularly deposited in the company’s account. The business

will then send the money back as a fictitious payment for non-existent goods.

Although this method is very popular amongst the criminal underworld, there

are other ways of laundering money without a business becoming aware of being

involved in a crime. e.g. The money launderer could place an order for an

industrial machine/robot to be manufactured to a specific standard. The company

may ask for a 60% deposit with the understanding that the order won’t be

put through for three months. Before the three months are up the money launderer

cancels the order and gets the deposit refunded minus a penalty. The money

launderer will always be willing to pay the penalty because although he/she

will want to get as much back as possible, what he/she really wants is the

money back clean.Money Laundering is said to be the third biggest industry by value world-wide.

Research in the USA has shown that 90% of currency bills in circulation are

contaminated with narcotics. In the UK, similar research showed 40% to be

contaminated. In 1994, about 15,000 suspicious transactions were reported

to the National Criminal Intelligence Service’s (NCIS) economic crimes unit.

About one in five was found to have some criminal connection.In the UK the following organisations are most vulnerable to fall prey to

the money launderers:\* Deposit-taking institutions

Because of the money launderers need to get rid of cash, deposit taking

institutions are particularly vulnerable to being used. i.e. Banks, Building

Societies, Post offices etc. Hence, many of the efforts to combat money

laundering have concentrated on the procedures adopted by deposit takers.\* Non-bank financial institutions

The introduction of measures to prevent banks being readily used for purposes

of money laundering has, without doubt, made life more difficult by increasing

the costs and the risks for those involved. These are businesses that provide

bank-like services, but are historically less closely supervised than traditional

financial institutions. i.e. Bureau de Change, cheque cashers, money transmission

services, commodities brokers etc.The law is, as in so many areas, complex and set out in various different

statutes and regulations. It deals with the proceeds of drugs trafficking,

terrorist crime and non-terrorist crime slightly differently, but the thrust

of the law for each is similar. Offences are created for those who launder

the money and those who assist them in any way. It also obliges those in

the financial community to take preventative measures. The Criminal Justice

Act 1993 widened the law by extending the expression “criminal conduct” to

any indictable offence committed in the UK. The preventative measures are

contained in the Money Laundering Regulations 1993 (”the Regulations”) which

implement the EC Money Laundering Directive.There are five money laundering offences. These are: assistance, concealment,

acquisition, failure to disclose and tipping off. Assistance occurs where

a person is involved in an arrangement with another person and knows or suspects

that the other person is or has been involved in or has benefited from drug

trafficking or criminal conduct if the arrangement helps the other person

to retain or control proceeds directly or indirectly or enables the other

person to use the proceeds or to invest them for his benefit.Concealment is disguising, removing or transferring proceeds (direct or indirect

of drug trafficking or criminal conduct) in order to avoid or help someone

else to avoid prosecution. The offence is committed by a person who assisted

in the offence if he/she knows or has reasonable grounds to suspect the nature

of the property. Acquisition is the offence of use or possession of assets

which you know or have reasonable grounds to suspect to be the proceeds of

drug trafficking or criminal conduct and have acquired at less than full

value.The Act now makes it a specific and separate offence in cases involving drugs

or terrorism not to report a suspicion if the information came to the person’s

attention in the course of his trade, profession, business or employment.

Effectively the duty to report is extended to employees of business institutions

where it is the institutions who may become involved in the arrangements

and not the employees themselves. The question arises as to whether disclosure

is a waiver of professional privilege or a breach of any express or implied

duty of confidentiality owed to a customer or client. It is clear that disclosure

to the police (although not third parties) will not constitute a waiver of

professional privilege nor will it give actionable grounds for a claim for

breach of confidence.Reporting to the police is not much help if the suspect is tipped off about

the investigation. Tipping off, therefore, constitutes an offence when

information or any other matter which might prejudice an investigation is

disclosed to the subject of the investigation (or anyone else) by someone

who knows or suspects (or, in the case of terrorism, has reasonable cause

to suspect) that: a police investigation into money laundering has begun

or is about to begin, or the police have been informed of suspicious activities,

or a disclosure has been made to another employee under internal reporting

procedures.The Regulations require any person who carries out relevant financial business

in a business relationship or a one-off transaction with an applicant for

business to maintain certain administrative and training procedures designed

to prevent money laundering occurring. It is a criminal offence not to maintain

the necessary procedures although it is a defence if the person concerned

took all reasonable steps and exercised all due diligence to avoid committing

this offence. This applies to banks and building societies, investment businesses

and insurance business.Clearly some of this laundering will be assisted by people who know what

they are doing but may not know of the penalties they are risking if they

are caught. Some of it will be helped by people who are not sure what is

going on but are prepared to turn a blind eye for the commission they will

earn. Many advisers will be representing clients who appear to be running

perfectly respectable businesses but are not.The dirty proceeds of drugs trafficking alone throughout the world are estimated

to be around £500bn annually. £2bn each year is thought to be laundered

through Britain. Businesses must know their legal obligations and in particular

providers of financial services must be aware of the new rules they must

obey.Even though you can take effective steps to prevent hackers breaking into

your computers, financial crime often involves insiders. Even using the unique

features of a computer security system, you can only prevent fraud where

a person acts outside his authority. No system prevents a senior officer

with full system access walking off with money or records in his custody.

But now a threat is posed not only by the staff member setting out to steal

from you but also to staff members being susceptible to third party pressure

to use your bank to launder money – by doing nothing outside their normal

authority.Another major problem with the prevention of money laundering is that it

is now spread over an international network and this makes it very difficult

to control or regulate. One countries regulation may prevent/decrease money

laundering but will just drive it towards unregulated territories or economies

that have a vary relaxed attitude towards money laundering. E.g. In exchange

for a minimum $10m “subscription”, the Seychelle islands will grant diplomatic

status to “investors”, making them invulnerable to action by international

law enforcers. This clearly becomes a haven for drug barons and crime bosses,

where they can launder millions and escape prosecution.The world’s third largest industry continues to grow rapidly and uncontrollably.

Factors that affect this growth are the increasing emerging technologies,

international barriers being removed, improved communications networks and

last but not least individual/organisational greed that allows blind eyes

to be turned in order to keep revenue coming in.

Bibliography

Dirty Money

William C. GilmoreMoney Laundering – A practical guide to the new legislation

Rowan Bosworth-Davies and Graham SaltmarshCrooks paradise

Frank Kane, Adrian Levy, and Steve Haynes

Sunday Times, 14th January 1996.Steps against cash crime

Jimmy Burns

The Times, 5th June 1996.Governments gunning for money launderers

Oliver August

The Times, 1st October 1996.