PREFACE

The idea of this book is simple. Given the huge complexity of domestic and global money laundering schemes and networks and the increased complexity of the laws designed to prevent and detect money laundering, it has become more difficult for practitioners, courts, and scholars to manage the scope of its ever-changing features. The book is designed to organize and simplify (to the extent possible) the explanation of the laws, regulations, and salient cases. The book also examines the role of the regulatory agencies, U.S. Department of Justice prosecution policies, most common methods of money laundering, and how legitimate financial institutions, in concert with other professionals, facilitate the practically open and notorious operation of money laundering activities. While this book does provide an updated and comprehensive review of the subject of anti-money laundering activity, it does not provide in-depth coverage of the punitive sanction corollary, asset forfeiture. The topic of asset forfeiture is a complex one that deserves a separate treatise on the subject matter and is, therefore, not included in this book. The reader will nonetheless find many references to asset forfeiture in the discussion that follows and useful research citations.1

A. The Moral Imperative and Economic Need

The crime of money laundering is hugely significant both in terms of victim and market impact. Min Zhu, Deputy Managing Director of the International Monetary Fund, recently summarized the need to deal with the global crisis:

Money laundering and the financing of terrorism are financial crimes with economic effects. They can threaten the stability of a country’s financial sector or its external stability more generally. Effective anti-money laundering and combating the financing of terrorism regimes are essential to protect the integrity of markets and of the global financial framework as they

1. For an in-depth discussion of asset forfeiture legislation, see chapter 2, note 3.
help mitigate the factors that facilitate financial abuse. Action to prevent and combat money laundering and the financing of terrorism thus responds not only to a moral imperative, but also to an economic need.2

The impact of the crime, facilitated by global financial networks, is devastating. Money laundering facilitates corruption and organized crime both domestically and globally. Corrupt public officials launder bribes, kickbacks, public funds, and, increasingly, development loans from international financial institutions. Criminal organizations launder the proceeds of drug trafficking and commodity smuggling. Terrorist organizations launder cash to buy arms. The economic, social, and political collateral consequences that follow have proven to be disastrous. Indeed, parallel economic systems operate in defiance of established democratic governments and economic infrastructure. The need for effective enforcements measures is critical.

B. The Scope of the Problem

Money is power. Money also is the main reason for engaging in almost every type of criminal activity. Not surprisingly, since the Watergate scandal, the law enforcement mantra has been “follow the money, find the criminal.” The criminals, along with the legitimate financial institutions and others in the financial system that service their needs for a fee, often obfuscate the trail. By definition, money laundering is the method used to hide or conceal from law enforcement the flow of cash from the illicit activity into some other financial instrument or activity.

Efforts at obfuscation have borne fruit. The most widely quoted figure for the extent of money laundered has been the International Monetary Fund’s “consensus range” of 2 percent to 5 percent of global GDP. As of 2009, it was estimated that all criminal proceeds are likely to amount to some 3.6 percent of global GDP, equivalent to about $2.1 trillion. If only flows related to drug trafficking and other transnational organized crime activities were considered, related proceeds

would approximate $650 billion per year in the first decade of the new millennium, equivalent to 1.5 percent of global GDP or $870 billion in 2009. Thus, the funds available for laundering through the financial system approximate 1 percent of global GDP or $580 billion. Most experts believe this to be a conservative estimate based on the inability to accurately track the activity.

Indeed, additional statistics show that the largest share of income for transnational organized crime comes from illicit drugs, which approximates 20 percent of all crime proceeds, about half of transnational organized crime proceeds. Unfortunately, the figures also show that the “interception rate” for anti-money laundering efforts at the global level remains low. Globally, it appears that much less than 1 percent of the proceeds of crime laundered using the financial system is seized and frozen.

The crisis continues to grow despite the legislative response to the problem in the United States and the joint task force efforts of international organizations at the global level. These law enforcement initiatives are examined extensively in the following pages.

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4. *Id.* at 7–8.